

## **Crown Pastoral Land Tenure Review**

**Lease name: CATTLE FLAT  
(SOUTHLAND)**

**Lease number: PS 071**

### **Final Report on Public Submissions**

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

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

**June**

**06**

**FINAL ANALYSIS OF PUBLIC SUBMISSIONS**

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

**Cattle Flat (Southland) TENURE REVIEW NO 042.01  
The Henroost (Southland) TENURE REVIEW NO 042.02**

**File No: PRY-C60-12661-TNR-Ps17-A**

**Submission No: DN0264          Date 5 May 2006      LINZ Case No:**

**Details of lease**

Lease name: Cattle Flat Southland  
Location: 20 kilometers north of Lumsden, Northern Southland  
Lessee: GA Young & Co Limited

Special Lease name: The Henroost Southland  
Location 20 kilometers north of Lumsden, Northern Southland  
Lessee: GA Young & Co Limited

Crown Land Disused Water Race  
Location: 20 kilometers north of Lumsden, Northern Southland

**Public notice of preliminary proposal**

Date advertised: Saturday 29 January 2005

Newspapers advertised in:

- The Press    Christchurch
- Otago Daily Times    Dunedin
- The Southland Times    Invercargill

Closing date for submissions 5 April 2005

**Details of submissions received**

A total of 22 submissions were received with one submission being received after the closing date.

Cross-section of groups/individuals represented by submissions:  
See Appendix 1.

Number of late submissions refused/other  
The submission that was received late was accepted for inclusion in the preliminary analysis of submissions.

## ANALYSIS OF SUBMISSIONS

### Introduction

#### Methodology

The submissions received have 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 methodology was used to analyse each point:

- A summary of each of the points raised along with the recorded number (shown in the appended tables) of the submitter making the point.
- Discussion of the point.
- Recommendations whether or not to allow for further consultation.

The following approach has been adopted when making the recommendation to allow for further consultation:

The points raised have been analysed to assess whether they are matters that can be dealt with under the Crown Pastoral Land Act. Where it is considered that they are the recommendation is to allow them.

Conversely where the matter raised is not a matter that can be deal with under the CPLA, the decision is to disallow. The Process stopped at this point for those points disallowed.

Further consultation with both the Director General of Conservation’s delegate and the leaseholders has been completed on all those points that were allowed.

Point	Summary of Point Raised	Submission numbers	Allow or disallow	Accept or not accept
1	Concern whilst the Ninth Schedule Property Law Act 1952 is excluded section 126G of that Act is not which could allow modification or extinguishment of easements.	1	Allow	Not Accept

*Rationale*

**Allow/Disallow**

This point concerns securing public access to and enjoyment of the reviewable land and is relevant pursuant to section 24 (c) (i) CPLA 1998 and is therefore allowed.

**Accept/Not Accept**

It is clearly anticipated that the creation of easements under the CPLA is one way the Crown can give effect to s24 (c) (i) of the CPLA, and the future management under the Conservation Act will ensure continuity of public access. The concerns that the submitter has are not accepted. No reason or justification exists to remove the effect of this section of the Act. There would have to be a change in circumstances since the easement was created to give this any credibility and it would involve court action to determine whether the easement should be terminated or not. The point is not accepted for inclusion in the substantive proposal.

<b>Point</b>	<b>Summary of Point Raised</b>	<b>Submission numbers</b>	<b>Allow or disallow</b>	<b>Accept or not accept</b>
2	Concern at absence of any cited legal authority for the provision that enables the Transferee to close all or part of the easement for such a period as is considered necessary.	1	Allow	Not Accept

*Rationale*

**Allow/Disallow**

This point concerns securing public access to and enjoyment of the reviewable land and is relevant pursuant to section 24 (c) (i) CPLA 1998 and is therefore allowed.

**Accept/Not Accept**

An easement is an agreement between two parties. The two parties can agree to close all or part of the easement for any period considered necessary by agreement. The proposed closure period for lambing and stock movement is considered reasonable and follows consultation with the DGC's delegate and the holder. The point is not accepted for inclusion in the substantive proposal.

<b>Point</b>	<b>Summary of Point Raised</b>	<b>Submission numbers.</b>	<b>Allow or disallow</b>	<b>Accept or not accept</b>
3	Easements cannot meet the test of securing public access as required by CPLA and proposal does not meet Public interest.	1,11,12,15,16,17,20,22	Allow	Not Accept

*Rationale*

**Allow/Disallow**

This point concerns securing public access to and enjoyment of the reviewable land and is relevant pursuant to section 24 (c) (i) CPLA 1998 and is therefore allowed.

**Accept/Not Accept**

Easements are provided for in the Crown Pastoral Lands Act 1998 as a mechanism for providing for access. They are an accepted legal mechanism and the documents have been checked by the Crown’s legal advisors to ensure that they are fit for purpose. The point is not accepted for inclusion in the substantive proposal.

<b>Point</b>	<b>Summary of Point Raised</b>	<b>Submission numbers</b>	<b>Allow or disallow</b>	<b>Accept or not accept</b>
4	Easements do not prevent incompatible use by the owner which could lead to further closures.	1	Allow	Not Accept

*Rationale*

**Allow/Disallow**

This point concerns public access to and enjoyment of the reviewable land and is relevant pursuant to section 24 (c) (i) CPLA 1998 and is therefore allowed.

**Accept/Not Accept**

The easements provide for access for the public with the exception of closure periods for lambing. The land owner cannot prevent access that is allowed for by undertaking activities that are incompatible with the provisions of the easement. This point is not accepted for inclusion in the substantive proposal.

Point	Summary of Point Raised	Submission numbers	Allow or disallow	Accept or not accept
5	Concern that access arrangements in favour of anglers for 4wd do not meet public access requirements and that Fish and Game Southland could request extinguishment.	1,5,10,11,15,17,20,21,22	Allow in part	Accept in part

*Rationale*

**Allow/Disallow**

This point concerns public access to and enjoyment of the reviewable land and is relevant pursuant to section 24 (c) (i) CPLA 1998 and is therefore allowed.

**Accept/Not Accept**

Foot, horse and non motorised vehicles access is available to the public for most of the year with the exception of a period for lambing. This provides for public access. 4WD access for anglers was proposed to assist anglers to access the river further upstream.

Following consultation with the holder, the DGC's delegate and Fish and Game 4WD access for the period Friday before Labour weekend until the 30 April for the portion g-h on the proposed designations plan is now proposed to be for the Public rather than merely anglers.

This is an easement arrangement in addition to the public access easement for foot, horse and non motorised vehicles. The DGC has advised that he is only willing to retain 4WD vehicle access while Fish and Game are willing to provide the funding for the maintenance of the track. Should Fish and Game decide that the track is too expensive to maintain or it no longer requires the easement then the 4WD easement could be terminated. A risk to the easement is that the Mataura River could erode the Marginal Strip that links the end of the legal road to g-h making 4WD access impractical. The marginal strip to the south of 'h' is on a small strip of flat land adjoining a steep bank. If the marginal strip was eroded then it would not be practical to move the physical access. Reinstatement on the existing alignment may be very expensive.

The change to public access should satisfy some of the submitters concerns. We believe that Fish and Game should retain the right to request extinguishment of the public vehicle component of the easement in the event that they consider ongoing maintenance or reconstruction of the formation to be either uneconomic or impractical. We further note that that the DGCs

delegate has made I clear that DoC will not fund maintenance of public vehicle access and have only agree to facilitate the easement on the basis of Fish and Games commitment to fund maintenance. The ability to terminate the easement has been included at the insistence of the DGC's delegate as a means of ensuring DoC will not ultimately be liable for ongoing maintenance of the formation.

This point should be accepted in part for inclusion in the substantive proposal.

<b>Point</b>	<b>Summary of Point Raised</b>	<b>Submission numbers</b>	<b>Allow or disallow</b>	<b>Accept or not accept</b>
6	Access up Mataura River is incomplete in that it does not provide for continuous public access up the river bed and across freehold land in the same name as the lessee.	1,5,10,17,21	Allow in part	Accept in part

*Rationale*

**Allow/Disallow**

This point concerns public access to and enjoyment of the reviewable land and is relevant pursuant to section 24 (c) (i) CPLA 1998. It is accepted in part in relation to continuous access and is therefore allowed. The part in relation to the river be is land outside of the tenure review and is not a relevant matter pursuant to section 24 (c) (i) CPLA 1998 and is therefore not allowed.

**Accept/Not Accept**

Following consultation with the holder and the DGC's delegate public access for foot, horse and non motorised vehicles has been obtained over the reviewable land adjoining the Mataura River. The access is for all but a lambing period between 1 September and the Thursday before Labour Weekend and up to 2hr periods during the shifting of stock. This should meet the submitters concerns in part and should therefore be accepted in part.

The part in relation to land outside of the reviewable land was disallowed and this part of the point is automatically not accepted.

Point	Summary of Point Raised	Submission numbers	Allow or disallow	Accept or not accept
7	In relation to Mataura River would like to see existing fixed marginal strips exchanged for marginal strips as provided by part IVA Conservation Act.	1,17,21,22	Not Allow	Not Accept

*Rationale*

**Allow/Disallow**

The creation of marginal strips is not a matter that can be dealt with under the CPLA 1998. However it is noted that the disposal of all land out of tenure review is subject to part 4A of the Conservation Act. This deems that Marginal strips will be reserved from any land being disposed of that borders complying waterways. Such provisions will apply to any stream banks which have moved beyond an existing fixed s58 marginal strip, or which may do so in the future.

**Accept/Not Accept**

As the decision has been made to not allow this point is automatically not accepted.

Point	Summary of Point Raised	Submission numbers	Allow or disallow	Accept or not accept
8	The submitter questioned whether Crown Land north of Section 112 should be included in the review, so as to allow the provision of access across that land.	1	Allow	Not Accept

*Rationale*

**Allow/Disallow**

This point concerns the inclusion of Crown Land and is relevant pursuant to section 29 CPLA 1998 and is therefore allowed.

**Accept/Not Accept**

The Crown Land to the north of Sec 112 is not part of the reviewable land. The river is not actually legally defined immediately north of Sec 112. Access



is available over the riverbed and adjoining land. If this land was ever sold it would be subject to Part IVA Conservation Act 1987 which would provide for continuation of access. As the river has the ability to change back this land cannot be justified for inclusion. The point is therefore not accepted.

<b>Point</b>	<b>Summary of Point Raised</b>	<b>Submission numbers</b>	<b>Allow or disallow</b>	<b>Accept or not accept</b>
9	Disagrees with CRR assessment that sees no recreation value over Henroost and considers that minimal extensions to Mataura Range Scenic Reserve do not meet the needs for public recreation.	1,5,17,20, 24 & 35	Allow	Accept

*Rationale*

**Allow/Disallow**

This point concerns public access to and enjoyment of the reviewable land and is relevant pursuant to section 24 (c) (i) CPLA 1998 and therefore allowed.

**Accept/Not Accept**

Following further consultation with the with the holder and the DGC's delegate public access for foot, horse and non motorised vehicles has been obtained over the southern boundary of the Henroost for the enjoyment of the reviewable land and also provides access to the Tomogalak Conservation Area. This should meet at least in part the submitters concerns. This point is accepted for inclusion in the substantive proposal.

<b>Point</b>	<b>Summary of Point Raised</b>	<b>Submission numbers</b>	<b>Allow or disallow</b>	<b>Accept or not accept</b>
10	Concern that covenant over the Henroost will not be effective.	1	Allow	Not Accept

*Rationale*

**Allow/Disallow**

The protection of SIV's is relevant pursuant to Section 24(b) CPLA 1998 and is therefore allowed.

**Accept/Not Accept**

The DGC’s delegate did not identify any significant inherent values within the Henroost. The issue for the Henroost is one of ecological sustainability, namely soil and water conservation. A sustainable management covenant has been drafted to protect the soil and water values. This has provisions for benchmarking and if the soil and water values are affected then the covenant has provisions for the stock numbers to be reduced or stock removed entirely until the land recovers. We believe that the covenant does provide effective protection for soil and water conservation and therefore this point is not accepted for inclusion in the substantive proposal.

<b>Point</b>	<b>Summary of Point Raised</b>	<b>Submission numbers</b>	<b>Allow or disallow</b>	<b>Accept or not accept</b>
11	Submitter would like to see change to boundary between proposed Scenic Reserve 1 and adjoining Mataura Range Scenic Reserve and removal of easement p-q.	2,10,20	Allow	Not Accept

*Rationale*

**Allow/Disallow**

The protection of SIV’s is an object of Section 24(b) CPLA 1998 and is therefore allowed.

**Accept/Not Accept**

The boundary to the reserve was changed during consultation to create a reserve addition which is less than desirable. This change followed substantial consultation between the DGC’s delegate and the holder. While the reserve design is not ideal the holder was adamant that he would not proceed without the amendment to the reserve. This matter was considered again following public submissions and in view of the extensive discussions to reach the compromise boundary and proposed easement p-q, no change to the boundary is proposed. This matter was reviewed again with further consultation with both the DGC’s delegate and the holder and the status quo was the agreed outcome recognising that it is not entirely satisfactory for either party.

This point is not accepted for inclusion in the substantive proposal.

Point	Summary of Point Raised	Submission numbers	Allow or disallow	Accept or not accept
12	Proposed Scenic Reserve 2 is endorsed.	2,10,20	Allow	Accept

*Rationale*

**Allow/Disallow**

Although this point does not require a decision by the Commissioner it is relevant in terms of section 24 (a) (i) CPLA 1998 and is therefore allowed.

**Accept/Not Accept**

The point raised in these submissions support this part of the preliminary proposal.

As noted above it is considered that the point raised is a matter that is relevant to section 24 (a) (i) CPLA 1998.

This point is accepted for inclusion in the substantive proposal.

Point	Summary of Point Raised	Submission numbers	Allow or disallow	Accept or not accept
13	Proposed Conservation area supported	2,16, 20	Allow	Accept

*Rationale*

**Allow/Disallow**

Although this point does not require a decision by the Commissioner it is relevant in terms of section 24 (a) (i) CPLA 1998 and is therefore allowed.

**Accept/Not Accept**

The point raised in these submissions support this part of the preliminary proposal.

As noted above it is considered that the point raised is a matter relevant to section 24 (a) (i) CPLA 1998.

This point is accepted for inclusion in the substantive proposal.

Point	Summary of Point Raised	Submission numbers	Allow or disallow	Accept or not accept
14	Considers eight crossings on tributary of Tomagalak Stream to be excessive and suggests reduced number.	2,10,20	Allow	Not Accept

*Rationale*

**Allow/Disallow**

This point concerns the freehold disposal of land subject to easements and is relevant pursuant to section 24 (c) (ii) CPLA 1998 and is therefore allowed.

**Accept/Not Accept**

The crossing points allowed for in the proposal are for two crossings on the main farm track over Blacks Creek, which is the tributary to the Tomagalak, four other crossings over a distance of 3km and two crossings on the main farm track over tributaries to Blacks Creek. These crossings have been established in consultation with the holder and the DGC's delegate. The crossings are considered necessary for farm management and have been inspected by the DGC's delegate who is happy with the justification for the number of proposed crossings.

This point is not accepted for inclusion in the substantive proposal.

Point	Summary of Point Raised	Submission numbers	Allow or disallow	Accept or not accept
15	Supports the freeholding of much of the Cattle Flat pastoral lease subject to change of boundary of scenic reserve 1.	2	Allow	Accept in part

*Rationale*

**Allow/Disallow**

This point concerns the freehold disposal of land subject to easements and is relevant pursuant to section 24 (c) (ii) CPLA 1998 and is therefore allowed.

**Accept/Not Accept**

The point raised in this submission largely supports this part of the preliminary proposal with the exception of reserve 1. The boundary to the reserve was changed during consultation to create a reserve addition which is less than desirable. This change followed substantial consultation between the DGC's

delegate and the holder. While the reserve design is not ideal the holder was adamant that he would not proceed without the amendment to the reserve. This matter was considered again following public submissions and in view of the extensive discussions to reach the compromise boundary and proposed easement p-q no change to the boundary is proposed. This matter was reviewed again with further consultation with both the DGC’s delegate and the holder and the status quo was the agreed outcome recognising that it is not entirely satisfactory for either party.

This point is accepted in part for inclusion in the substantive proposal.

<b>Point</b>	<b>Summary of Point Raised</b>	<b>Submission numbers</b>	<b>Allow or disallow</b>	<b>Accept or not accept</b>
16	Submitter would like to see The Henroost allocated to full Crown ownership and control.	2,10,20	Allow	Not Accept

*Rationale*

**Allow/Disallow**

This point concerns the freehold disposal of land and is relevant pursuant to section 24 (c) (ii) CPLA 1998 and is therefore allowed.

**Accept/Not Accept**

The DGC’s delegate did not identify any significant inherent values in the Henroost. The issue for the Henroost is one of ecological sustainability, namely soil and water conservation. A sustainable management covenant has been drafted to protect the soil and water values. This has provisions for benchmarking and if the soil and water values are affected then the covenant has provisions for the stock numbers to be reduced or stock removed entirely until the land recovers. The land is capable of economic use and the covenant is proposed to ensure that economic use of the land remains ecologically sustainable.

This point is not accepted for inclusion in the substantive proposal.

<b>Point</b>	<b>Summary of Point Raised</b>	<b>Submission numbers</b>	<b>Allow or disallow</b>	<b>Accept or not accept</b>
17	The submitter would like to see provision made to allow for mineral exploration to continue being undertaken.	3	Not Allow	Not Accept.

*Rationale*

**Allow/Disallow**

The extension of access rights over and above what is provided in the Crown Minerals Act is not material to meeting the objects of the Crown Pastoral Land Act. Section 54 of the Crown Minerals Act sets out the requirements for negotiating access for mineral extraction. The point is therefore not allowed.

**Accept/Not Accept**

As the decision has been made to not allow this point is automatically not accepted.

Point	Summary of Point Raised	Submission numbers	Allow or disallow	Accept or not accept
18	Would like to see the huts excluded from the freehold with options incorporating into road strip, a reserve or sale to hut owners group.	4,6,7,18,19,21	Allow	Not Accept

*Rationale*

**Allow/Disallow**

This point concerns the freehold disposal of land subject to easements and is relevant pursuant to section 24 (c) (ii) CPLA 1998 and is therefore allowed.

**Accept/Not Accept**

The huts have been placed on the property in an informal manner. The hut owners do not have any lease or other arrangement with either the pastoral lease holder or the Commissioner. The huts have been on the property at the pleasure of the pastoral lease holder for many years.

A total of seventeen huts are on the property. Twelve are in one group, three are located nearby and two are located in two different locations further up the Mataura River.

The construction standard of the huts is variable and individually the huts are unlikely to be able to be subdivided. An overlay of the cadastral data from Terraview over aerial photos indicates that some of the huts encroach onto legal road.

The cost to establish separate legal entity for the huts from would be expensive and would have a number of practical and statutory issues, such as the Ngai Tahu Claims Settlement Act 1998, to overcome.

A large number of submitters wished to see the huts separated from the land to be freeholded however in view of the issues involved this is not considered practical nor a matter for tenure review.

Following consultation with the DGC's delegate and the holder no action to separate out the huts from the freehold is proposed.

This point is not accepted for inclusion in the substantive proposal.

Point	Summary of Point Raised	Submission numbers	Allow or disallow	Accept or not accept
19	Loop track for walkers and mountain bike accessible for less than 6 months per annum.	5	Allow	Accept

*Rationale*

**Allow/Disallow**

This point concerns public access to and enjoyment of the reviewable land and is relevant pursuant to section 24 (c) (i) CPLA 1998 and is therefore allowed.

**Accept/Not Accept**

The access for the loop track has been reviewed and the holder has reached agreement with the Department of Conservation for alternative access to the top of the Mataura Range Scenic Reserve through the Reserve. This will remove public access from the main farming track.

Following consultation with the holder and the DGC's delegate closure periods for the loop track are now only restricted by a closure for lambing during the period 1 September to 15 November and along the flats closure periods for up to two hours for the movement of stock.

While public access is not unrestricted the changes now provide for the track to be open for nine and a half months of the year and in part meets the submitters concerns.

This point is accepted for inclusion in the substantive proposal.

Point	Summary of Point Raised	Submission numbers	Allow or disallow	Accept or not accept
20	Wishes to confirm that physical road alignment does not encroach on land to be freeholded.	8	Not Allow	Not Accept

*Rationale***Allow/Disallow**

The Public Works Act and Local Government Act provide mechanisms for dealing with public roads and it is not considered to be a relevant matter under the CPLA. The change of land tenure has no effect on the ability of the Council to use the relevant legislation to resolve any issues in relation to the land tenure. The point is therefore not allowed.

**Accept/Not Accept**

As the decision has been made to not allow this point is automatically not accepted.

Point	Summary of Point Raised	Submission numbers	Allow or disallow	Accept or not accept
21	Opposed vehicle access over Beech Tree Flat (1st Mataura River Flat).	9	Allow	Not Accept

*Rationale***Allow/Disallow**

This point concerns public access to and enjoyment of the reviewable land and is relevant pursuant to section 24 (c) (i) CPLA 1998 and is therefore allowed.

**Accept/Not Accept**

Following consultation with the holder and the DGC's delegate access for public four wheel drive vehicles is proposed over the first flat. The only restriction is a closure period for lambing between 1 September and 15 November. Public vehicle access for four wheel drive vehicles has been sought especially by Fish and Game to make it easier to access the Mataura River for fishing by its members.

This point is not accepted for inclusion in the substantive proposal.



Point	Summary of Point Raised	Submission numbers	Allow or disallow	Accept or not accept
22	Opposes Mountain Biking over south end of property and suggests an alternative route.	9	Allow	Not Accept

*Rationale*

**Allow/Disallow**

This point concerns public access to and enjoyment of the reviewable land and is relevant pursuant to section 24 (c) (i) CPLA 1998 and is therefore allowed.

**Accept/Not Accept**

Following consultation with the holder and the DGC's delegate access for public non motorised vehicles at the southern end of the property is now proposed to be through the Mataura Range Scenic Reserve.

This is subject to an agreement being completed between the holder and the Department of Conservation to fund construction of a track through the Mataura Range Scenic Reserve as an alternative to the proposed access i-j-k. This provides a viable alternative to the use by the public of the main farm access at the southern end of the property.

This point is not accepted for inclusion in the substantive proposal.

Point	Summary of Point Raised	Submission numbers	Allow or disallow	Accept or not accept
23	Opposes permanent arrangements for cribs.	9	Allow	Accept

*Rationale*

**Allow/Disallow**

This point concerns the freehold disposal of land subject to easements and is relevant pursuant to section 24 (c) (ii) CPLA 1998 and is therefore allowed.

**Accept/Not Accept**

The huts have been placed on the property in an informal manner. The hut owners do not have any lease or other arrangement with either the land

holder or the Commissioner. The huts have been on the property at the pleasure of the land holder for many years.

A total of seventeen huts are on the property. Twelve are in one group, three are located nearby and two are located in two different locations further up the Maitaura River.

The construction standard of the huts is variable and individually the huts are unlikely to be able to be subdivided. An overlay of the cadastral data from Terraview over aerial photos indicates that some of the huts encroach onto road.

The cost to separate the huts from the pastoral lease would be expensive and would have a number of practical and statutory issues such as the Ngai Tahu Claims Settlement Act 1998 to be overcome.

A large number of submitters wished to see the huts separated from the land to be freeholded however in view of the issues involved this is not considered practical.

Following consultation with the DGC's delegate and the holder no action to separate out the huts from the freehold is proposed.

This point is accepted for inclusion in the substantive proposal.

Point	Summary of Point Raised	Submission numbers	Allow or disallow	Accept or not accept
24	Extend public access over I-a1 and out to Conservation Area	10	Allow	Accept

*Rationale*

**Allow/Disallow**

This point concerns public access to and enjoyment of the reviewable land and is relevant pursuant to section 24 (c) (i) CPLA 1998 and is therefore allowed.

**Accept/Not Accept**

Following consultation with the holder and the DGC's delegate access for public foot, horse and non-motorised vehicles over the reviewable land along the southern boundary of The Henroost is proposed. The only restriction is a closure period for lambing between 1 September and 15 November. This should meet the submitters concern.

This point is accepted for inclusion in the substantive proposal.

Point	Summary of Point Raised	Submission numbers	Allow or disallow	Accept or not accept
25	Easements requested for access to crib sites and camping adjoining crib sites.	13	Allow	Not Accept

### *Rationale*

#### **Allow/Disallow**

This point concerns public access to and enjoyment of the reviewable land and is relevant pursuant to section 24 (c) (i) CPLA 1998 and is therefore allowed.

#### **Accept/Not Accept**

The huts have been placed on the property in an informal manner. The hut owners do not have any lease or other arrangement with either the land holder or the Commissioner. The huts have been on the property at the pleasure of the land holder for many years.

A total of seventeen huts are on the property. Twelve are in one group, three are located nearby and two are located in two different locations further up the Mataura River.

The construction standard of the huts is variable and individually the huts are unlikely to be able to be subdivided. An overlay of the cadastral data from Terraview over aerial photos indicates that some of the huts encroach onto road.

The cost to separate the huts from the pastoral lease would be expensive and would have a number of practical and statutory issues such as the Ngai Tahu Claims Settlement Act 1998 to be overcome.

A large number of submitters wished to see the huts separated from the land to be freeholded however in view of the issues involved this is not considered practical.

Following consultation with the DGC's delegate and the holder no action to separate out the huts from the freehold is proposed. No easement is required because the huts occupation is not proposed to be formalised as part of tenure review.

This point should not be accepted for inclusion in the substantive proposal.

Point	Summary of Point Raised	Submission numbers	Allow or disallow	Accept or not accept
26	Supports access proposal including 4WD access provisions.	14	Allow	Accept

*Rationale*

**Allow/Disallow**

This point concerns public access to and enjoyment of the reviewable land and is relevant pursuant to section 24 (c) (i) CPLA 1998 and is therefore allowed.

**Accept/Not Accept**

The point raised in this submission support this part of the preliminary proposal. It is noted that the 4WD provisions are proposed to be amended to provide for public use rather than restricted to anglers. As noted above it is considered that the point raised is a matter relevant to section 24 (c) (i) CPLA 1998.

This point should be accepted for inclusion in the substantive proposal.

Point	Summary of Point Raised	Submission numbers	Allow or disallow	Accept or not accept
27	Access for management covered by two easements, only one necessary.	15	Allow	Accept

*Rationale*

**Allow/Disallow**

This point concerns public access to and enjoyment of the reviewable land and is relevant pursuant to section 24 (c) (i) CPLA 1998 and is therefore allowed.

**Accept/Not Accept**

Access for management may now be able to be combined into one easement document. It does not matter if the management easements are covered by one or several easements.

Further consultation with the DGC's delegate confirms that one easement for management is adequate.

This point should be accepted for inclusion in the substantive proposal.

Point	Summary of Point Raised	Submission numbers	Allow or disallow	Accept or not accept
28	Would like to see Henroost retained in Crown Ownership and Control.	15	Allow	Not Accept

*Rationale*

**Allow/Disallow**

This point concerns the freehold disposal of land subject to easements and is relevant pursuant to section 24 (c) (ii) CPLA 1998 and is therefore allowed.

**Accept/Not Accept**

The DGC’s delegate has not identified any significant inherent values in the Henroost. This is an area that is capable of economic use. A covenant is proposed to protect the soil and water values associated with the land as in the past it has been subject to grazing restrictions under the Special Lease to enable it to recover. A baseline will be established for the condition of the Henroost and if the property is shown to go below the standard when the land is freeholded stocking can be reduced below the level initially set or suspended until the property recovers to the baseline level.

This point is not accepted for inclusion in the substantive proposal.

Point	Summary of Point Raised	Submission numbers	Allow or disallow	Accept or not accept
29	Grantor should not have to pay for Wilding Pine problem from Mid Dome	15	Allow	Not Accept

*Rationale*

**Allow/Disallow**

This point concerns the freehold disposal of land subject to easements and is relevant pursuant to section 24 (c) (ii) CPLA 1998 and is therefore allowed.

**Accept/Not Accept**

If the Henroost is freeholded the covenant for the property will require the landowner to control wilding pines on the property as the current Special

Lease currently does. The holder may seek Crown assistance to undertake this work however that is an issue that is outside of Tenure Review.

This point is not accepted for inclusion in the substantive proposal.

Point	Summary of Point Raised	Submission numbers	Allow or disallow	Accept or not accept
30	Concern at the effect of afforestation on freehold land.	16	Allow	Not Accept

*Rationale*

**Allow/Disallow**

This point concerns the freehold disposal of land subject to easements and is relevant pursuant to section 24 (c) (ii) CPLA 1998 and is therefore allowed.

**Accept/Not Accept**

The land that is proposed to be freeholded is capable of economic use and does not have significant inherent values. The future use of the land will be up to the property owner. Providing the property use complies with the District Plan.

This point is not accepted for inclusion in the substantive proposal.

Point	Summary of Point Raised	Submission numbers	Allow or disallow	Accept or not accept
31	No provision for landscape protection provisions.	16,17	Allow	Not Accept

*Rationale*

**Allow/Disallow**

This point concerns the freehold disposal of land subject to easements and is relevant pursuant to section 24 (c) (ii) CPLA 1998 and is therefore allowed.

**Accept/Not Accept**

The Sustainable Management Covenant will in part assist with this concern. The previous surrender of pastoral lease land to form part of the Mataura Range Scenic Reserve protects the key area in the location with the highest natural landscape values.

This point is not accepted for inclusion in the substantive proposal.

Point	Summary of Point Raised	Submission numbers	Allow or disallow	Accept or not accept
32	Access up true right bank to include horses and cyclists.	17	Allow	Accept

#### *Rationale*

#### **Allow/Disallow**

This point concerns public access to and enjoyment of the reviewable land and is relevant pursuant to section 24 (c) (i) CPLA 1998 and is therefore allowed.

#### **Accept/Not Accept**

Following consultation with the holder and the DGC's delegate access for public foot, horse and non-motorised vehicles is over the reviewable land up the true right bank of the Mataura River. The only restriction is a closure period for lambing between 1 September and Thursday before Labour weekend inclusive, plus provision for 2 hour closures for moving stock. This should meet the majority of the submitters concerns.

This point is accepted for inclusion in the substantive proposal.

Point	Summary of Point Raised	Submission numbers	Allow or disallow	Accept or not accept
33	Beech totara and regenerating shrublands below track to the airstrip to be incorporated in Reserve 1.	20	Allow	Not accept

#### *Rationale*

#### **Allow/Disallow**

This point concerns the freehold disposal of land subject to easements and is relevant pursuant to section 24 (c) (ii) CPLA 1998 and is therefore allowed.

#### **Accept/Not Accept**

It is neither practical nor efficient to protect every remnant of native vegetation on the property through tenure review. Further consultation with the DGC's delegate and the holder confirms that exclusion of this small area is an acceptable outcome.

This point is not accepted for inclusion in the substantive proposal.

Point	Summary of Point Raised	Submission numbers	Allow or disallow	Accept or not accept
34	Concern over a number of issues in relation to the conditions of the sustainable land management covenant.	20	Allow	Accept in part

*Rationale*

**Allow/Disallow**

This point concerns the freehold disposal of land subject to easements and is relevant pursuant to section 24 (c) (ii) CPLA 1998 and is therefore allowed.

**Accept/Not Accept**

The issues raised by the submitters have been considered and the following items in italics considered with the proposed changes noted.

*Suggested that a purpose should be included in the introduction.  
 “To enhance the vegetation cover (excluding weeds) and including revegetation and restoration of the extensive areas of bare soils.*

This issue is considered to be largely covered in the introduction of the SMC in B and C and clause 16 of the Second Schedule.

*Clause 3.2 Rent charge. This to be inflation adjusted.*

Provision for the rent charge to be inflation adjusted has been added. This should satisfy the submitters concerns.

Items in relation to Schedule 2 of SMC

*Clause 1 Term “commit waste” not defined. Can this be made clearer.*

The SMC has been amended by deleting the term “commit to waste” and adding “do or omit to do any act or admission which causes a lasting alteration to the nature of the land”. This amendment should meet the submitters concerns.

*The Grantor shall not in any way deplete or degrade the soil or water quality.*

The SMC contains provision to monitor the use of the land to ensure that there is no general deterioration of the soil/vegetation. Water quality is not specifically monitored however it is accepted that monitoring soil/vegetation is



relevant and directly related to water quality. This should meet in part the submitters concerns.

*Clause 7 refers to the Soil Conservation and Rivers Control Act of 1941. Specific sections to be spelt out as most of act repealed.*

Covering specific sections was not considered necessary as the SMC requires compliance with the Soil Conservation and Rivers Control Act 1941. This is considered a reasonable approach.

*Clause 9 refers to vermin. Vermin to be defined to include deer, possums, rabbits, pigs, goats, thar, chamois, and hares.*

The SMC has been amended in the Interpretation Section (g) for the definition of vermin it include deer, possums, pigs, goats, thar, chamois and hares'. This should meet the submitters concerns.

*Clause 9 Replace wilding conifers with trees with the potential for wilding spread.*

The SMC Second Schedule (g) has been amended to provide for "all trees for the potential for wilding spread".

*Clause 9 DoC should be given right of access for purposes of weed control at all times. (as per clause 10).*

Provision has now been included to enable DoC access for this purpose within the SMC. This should meet the submitters concern.

*Clause 16 The ability to vary the deed is restricted to there having been a general deterioration to soil/vegetation caused by grazing. This should be broadened to include no improvement to existing soil/vegetation and not limited to that caused by grazing.*

Clause 16 of the Second Schedule has been amended by deleting "general deterioration in" and including "either a general deterioration or no improvement in the "and the words "due to the grazing of the land" have been deleted. This should meet the submitters concerns.

*Who should bare costs.*

The responsibilities of the parties are provided for in Clause 14. These are considered reasonable and are not proposed to be changed.

*CCL can only ever restrict grazing. CCL to cause the permanent or temporary cessation of grazing.*

Under the Second Schedule the CCL can restrict the numbers, ages, or types of stock permitted to graze on the land and restrict the time or times of year during which stock may be permitted to graze on the land. If there is a

deterioration this would be for however long the land took to recover. This approach is considered reasonable as should cover the concerns raised by the submitter.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
35	Public access for foot and mountain bike over a1-l to enable access to Black Hill, Cupola and onto Mid Dome.	20	Allow	Accept

*Rationale*

**Allow/Disallow**

This point concerns public access to and enjoyment of the reviewable land and is relevant pursuant to section 24 (c) (i) CPLA 1998 and is therefore allowed.

**Accept/Not Accept**

Following consultation with the holder and the DGC's delegate access for public foot, horse and non-motorised vehicles is proposed between a1- l and l - a4. This will provide the access required by the submitter. The only restriction is a closure period for lambing between 1 September and 15 November. This should meet the majority of the submitters concerns.

This point is accepted for inclusion in the substantive proposal.

**Summary and Conclusion**

Overview of analysis

A significant number of submissions were received for this report from conservation and recreation groups including the users of huts located on the property.

Generic issues

The submissions mainly covered access provisions, the Henroost and a large number of submissions were received on the future status of the huts.

Gaps identified in the proposal or tenure review process

The submissions received did not identify any significant gaps or admissions in the proposal as advertised.

Risks identified

A large number of submitters have expressed opposition to the freeholding of the huts. This matter has not been able to be dealt with in a manner that will satisfy all of the submitters.

The risks to the soil and vegetation of the Henroost have been raised by a number of submitters and the SMC put in place may not satisfy all of the points raised by the submitters.

General trends in the submitters' comments

Improved provision for access was a significant issue and a large number of the submitters concerns have been addressed through the extension of access easements in some locations. The relocation of an access track through the Mataura Range Scenic Reserve has enabled a better access option for an extended period and a change from vehicle access for anglers only to members of the Public for access up the first flat has dealt with most access issues.

The freeholding of the huts has been raised by a large number of submitters and the concerns raised have not been able to be addressed as no practical alternative to including the huts in the freehold was considered to be viable.

Of the points allowed these will generally be considered to be those that have improved the proposal from the preliminary proposal although the hut owners are likely to be disappointed.

I recommend approval of this analysis and recommendations.

Peer reviewed

Robin Whelan  
Property Services Manager  
Manager

Dave Payton  
Tenure Review Contract

Approved/Declined

\_\_\_\_\_  
LINZ Assessor

Date \_\_\_\_\_

## FINAL ANALYSIS OF IWI SUBMISSIONS

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

**Cattle Flat (Southland) TENURE REVIEW NO 042.01  
The Henroost (Southland) TENURE REVIEW NO 042.02**

### Details of lease

Lease name: Cattle Flat Southland  
Location: 20 kilometers north of Lumsden, Northern Southland  
Lessee: GA Young & Co Limited

Special Lease name: The Henroost Southland  
Location 20 kilometers north of Lumsden, Northern Southland  
Lessee: GA Young & Co Limited

Crown Land Disused Water Race  
Location: 20 kilometers north of Lumsden, Northern Southland

### Public notice of preliminary proposal

Date advertised: Saturday 29 January 2005

Newspapers advertised in:

- The Press Christchurch
- Otago Daily Times Dunedin
- The Southland Times Invercargill

Closing date for submissions 5 April 2005

### Details of submissions received

Number received by closing date: A total of 1 submission was received from TRoNT.

## ANALYSIS OF SUBMISSIONS

### Introduction

#### Methodology

The submission received has been reviewed in order to identify the points raised and these have been numbered accordingly.

The following methodology was used to analyse each point:

- A summary of each of the points raised along with the recorded number (shown in the appended tables) of the submitter making the point.

- Discussion of the point.
- Recommendations whether or not to allow for further consultation.

The following approach has been adopted when making the recommendation to allow for further consultation:

The points raised have been analysed to assess whether it is a matters that can be dealt with under the Crown Pastoral Land Act. Where it is considered that they are, the recommendation is to allow them.

The following approach has been adopted when making the recommendation to allow for further consultation:

The points raised have been analysed to assess whether they are matters that can be dealt with under the Crown Pastoral Land Act. Where it is considered that they are the recommendation is to allow them.

Conversely where the matter raised is not a matter that can be deal with under the CPLA, the decision is to disallow. The Process stopped at this point for those points disallowed.

Further consultation with both Ngai Tahu, the Director General of Conservation's delegate and the leaseholders has been completed on all the points that were allowed.

**Analysis of Submissions**

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
1	Wishes to discuss the advantages/disadvantages of the marginal strip compared with other protection and access mechanisms for the Maitara River	1	Allow	Accept

*Rationale*

**Allow/Disallow**

This relates to access. The protection of access is an object of section 24 (c) (i) CPLA 1998 and is therefore allowed.

Cultural values have been identified on the lease, which Ngai Tahu consider represent significant inherent values. TRONT wishes to reinstate the area and discuss with LINZ adequate access mechanisms to determine if and how

these values should be protected in terms of the objects of Section 24 (b) (i) CPLA 1998.

Ngai Tahu consider the values on the Mataura River to be of immense cultural, historical and traditional significance.

### **Accept/Not Accept**

The main issue is that Ngai Tahu have continued access to the Mataura River. Currently the river has a number of fixed marginal strips however these do not in all cases adjoin the river which has obviously changed course on a number of occasions. Access up the river over the marginal strips is not possible at present.

The Pastoral lease does not adjoin the Mataura River all the way up as Marginal Strips, the Mataura Range Scenic Reserve and areas of Crown land adjoin the Mataura River. Only the reviewable land is being dealt with and access for foot, horse, non motorised vehicles powered by a person has been provided for. Access up the Mataura River is proposed to be via a combination of access over Marginal strips, Mataura Range Scenic Reserve, Crown land and easements over pastoral lease land proposed to be freeholded.

A closure period for lambing (1 September – Thursday before Labour weekend) has been provided for in the proposal. Apart from that an up to 2hr closure periods have also been provided for moving stock through g-f on the proposed designations plan. In addition a 4WD easement for members of the public up to point g has been provided for the period Friday before Labour Weekend to 30 April inclusive.

Ngai Tahu have advised that these proposals meet their requirements.

This point is to be accepted for inclusion in the proposal.

### **Summary and Conclusion**

#### Overview of analysis

Only one point was raised by Ngai Tahu and this was in relation to access to the Mataura River. The Mataura River is of immense cultural, historical and traditional significance to Ngai Tahu and Ngai Tahu wished to consider the differences between reliance on marginal strips and any the benefits or otherwise of easements.

#### Generic issues

The issue raised by Ngai Tahu was in relation to access provisions.

#### Gaps identified in the proposal or tenure review process

No gaps were identified.

Risks identified  
No risks were identified

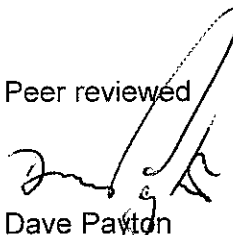
The point allowed is generally considered to have improved the proposal from the preliminary proposal.

I recommend approval of this analysis and recommendations



Robin Whelan  
Property Services Manager  
Manager

Peer reviewed



Dave Payton  
Tenure Review Contract

Approved/Declined



LINZ Assessor

Date \_\_\_\_\_

11/5/06

Dr STEPHEN CHARLES URLICH  
TENURE ASSESSOR  
CROWN PROPERTY MANAGEMENT  
C/-LINZ, CHRISTCHURCH