

Crown Pastoral Land Tenure Review

Lease name:

CATTLE FLAT (Southland)

Lease number: PS 071

Preliminary Report on 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 CPLA. 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.

February

06

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) 042.01 /

THE HENROOST 042.02

1 Details of lease:

Lease Name: Cattle Flat (Southland)
Location: 20 Kilometres north of Lumsden, Northern Southland
Lessees: GA Young & Co Limited.
Lease Name: The Henroost
Location: 20 Kilometres north of Lumsden, Northern Southland
Lessees: GA Young & Co Limited.

2. Public notice of Preliminary Proposal:

Date, publication and location advertised:

Saturday 29 January 2005.

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

Closing Date for Submissions:

5 April 2005.

3. Details of Submissions received:

A total of 21 submissions were received by the closing date.
Details of submitters are in Appendix III.
One late submission was received.

4. Preliminary Analysis of Submissions:

4.1 Introduction:

Explanation of Analysis:

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:

- Summarises each of the points raised along with the recorded number (shown in the appended tables) of the submitter(s) 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.

4.2 Analysis:

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
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

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.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
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

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.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
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

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.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
4	Easements do not prevent incompatible use by the owner which could lead to further closures.	1	Allow

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.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
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

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. Walking and mountain bike access is available for most of the year with the exception of a period for lambing. This provides for public access. The 4WD access is the form of access that was proposed to assist anglers to access the river further up by vehicle.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
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.

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 freehold land is land outside of the tenure review and is therefore not allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
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

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.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
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

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

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
9	Disagrees with CRR assessment that sees no recreation value over Henroost and considers that minimal extensions to Mataura Range Scenic Reserve does not meet the needs for public recreation.	1,5,17,20	Allow

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.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
10	Concern that covenant over the Henroost will not be effective.	1	Allow

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

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
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

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

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
12	Proposed Scenic Reserve 2 is endorsed.	2,10,20	Allow

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.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
13	Proposed Conservation area supported	2,16, 20	Allow

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.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
14	Considers eight crossings on tributary of Tomagalak Stream to be excessive and suggests reduced number.	2,10,20	Allow

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.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
15	Supports the freeholding of much of the Cattle Flat pastoral lease subject to change of boundary of scenic reserve 1.	2	Allow

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.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
16	Submitter would like to see The Henroost allocated to full Crown ownership and control.	2,10,20	Allow

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

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
17	The submitter would like to see provision made to allow for mineral exploration to continue to be undertaken.	3	Not Allow

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.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
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

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.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
19	Loop track for walkers and mountain bike accessible for less than 6 months per annum.	5	Allow

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.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
20	Wishes to confirm that physical road alignment is does not encroach on land to be freeholded.	8	Not Allow

The Public Works Act and Local Government Act provides 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.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
21	Opposed vehicle access over Beech Tree Flat (1st Mataura River Flat).	9	Allow

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.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
22	Opposes Mountain Biking over south end of property and suggests an alternative route.	9	Allow

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.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
23	Opposes permanent arrangements for cribs.	9	Allow

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.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
24	Extend public access over l-a1 and out to Conservation Area	10	Allow

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.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
25	Easements requested for Access to crib sites and Camping adjoining crib sites.	13	Allow

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.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
26	Supports access proposal including 4WD access provisions.	14	Allow

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.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
27	Access for management covered by two easements.	15	Allow

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.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
28	Would like to see Henroost retained in Crown Ownership and Control.	15	Allow

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.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	Decision
29	Grantor should not have to pay for Wilding Pine problem from Mid Dome	15	Allow

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.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	Decision
30	Concern at the effect of afforestation on freehold land.	16	Allow

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.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	Decision
31	No provision for landscape provisions.	16,17	Allow

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.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	Decision
32	Access up true right bank to include horses and cyclists.	17	Allow

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.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	Decision
33	Beech totara and regenerating shrublands below track to the airstrip to be incorporated in Reserve 1.	20	Allow

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.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	Decision
34	Concern over a number of issues in relation to the conditions of the sustainable land management covenant.	20	Allow

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.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
35	Public access for foot and mountain bike over a1-1 to enable access to Black Hill, Cupola and onto Mid Dome.	20	Allow

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.

5. Discussion and Conclusion

A total of 21 submissions were received on or before 5 April 2005 with a further submission being received after the closing date. A total of 34 points were raised in submissions. Of these 31 were allowed in full or in part and 3 have not been allowed. The main issues were access which included preferential 4WD access, the crib sites, concerns over the proposed designation of the Henroost and marginal strips.

**REPORT IN ACCORDANCE WITH TENURE REVIEW PROCESS
PRELIMINARY ANALYSIS OF SUBMISSIONS THROUGH PUBLIC NOTICE
OF PRELIMINARY PROPOSAL FOR TENURE REVIEW
CATTLE FLAT (SOUTHLAND)/ THE HENROOST**

File Ref: CON/50000/16/12661/00/A-ZNO 2005 - CON/50000/16/12667/00/A-ZNO
Submission No: DN0250/1 Submission Date: 8 April 2005
Office of Agent: Dunedin LINZ Case No: Date sent to LINZ: 21 April 2005

TR05/106.

RECOMMENDATIONS

1. That the Commissioner of Crown Lands **notes** the submissions received and the receipt of this report for land held under pastoral lease Cattle Flat Ps71 (Southland) The Henroost Ss454.
2. That the Commissioner of Crown Lands **approves** the analysis of the submissions to allow or disallow the points raised in the submissions received.
3. That the Commissioner of Crown Lands **authorises** further consultation with the Director General of Conservations delegate and the holder on those points allowed.
4. That the Commissioner of Crown Lands or his delegate further instructs Opus on submissions received after the closing date.

Signed by Opus:

Peer Review:



Robin Whelan
Property Consultant



Dave Payton
Property Consultant

Approved/Declined by:



Name: **ROBERT JOSEPH WEBSTER**

Date of decision: *27 / 4 / 05*

PRELIMINARY ANALYSIS OF IWI SUBMISSIONS
Statement Pursuant To Sec 45(a)(iii) Crown Pastoral Land Act 1998

CATTLE FLAT (SOUTHLAND)
THE HENROOST

1. Details of lease:

Lease Name: Cattle Flat (Southland)
Location: 20 Kilometres north of Lumsden, Northern
Southland
Lessees: GA Young & Co Limited.

Lease Name: The Henroost
Location: 20 Kilometres north of Lumsden, Northern
Southland
Lessees: GA Young & Co Limited.

2. Public Notice of Preliminary Proposal:

Date, publication and location advertised:

Saturday 29 January 2005.

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

Closing Date for Submissions:

5 April 2005.

3. Details of Submissions received:

A submission dated 5 April 2005 was received on 5 April 2005.

4. Preliminary Analysis of Submissions:

4.1 Introduction:

Explanation of Analysis:

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(s) 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.

4.2 Analysis

Point	Summary of point raised	Submission numbers	Allow or disallow
1	Wishes to discuss the advantages/disadvantages of the marginal strip compared with other protection and access mechanisms for the Mataura River.	1	Allow
This relates to access. The protection of access is an object of section 24 (c) (i) CPLA 1998 and is therefore allowed.			

Summary and Conclusion

The submission requests that the advantages and disadvantages of access to the Mataura River be discussed further in relation to other access provisions.