



Crown Pastoral Land Tenure Review

Lease name : **Lease number:**

Geordie Hills **Po 053**

Long Acre **Po 188**

Shirlmar **Po 192**

Merivale **Po 193**

Timburn Station **Po 237**

Nine Mile **Po 365**

Report on public submissions

This document includes information on the public submissions received in response to an advertisement for submissions on the tenure review preliminary proposal. The analysis determines if an issue is accepted or not accepted as meeting the objectives of part 2 of the Crown Pastoral Land Act (CPLA) 1998, and if further consideration and consultation should be allowed or disallowed, as per Section 45 CPLA 1998.

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

March 03

ANALYSIS OF SUBMISSIONS
THE LINDIS GROUP TENURE REVIEW

1. Details of lease:

<i>Property Name:</i>	<i>Lessee:</i>
Geordie Hill	M R McCaughan
Longacre	Longacre Station Limited
Shirlmar	Shirlmar Station Limited
Merivale	G R Goodger, Trustee Executors & Agency Company of New Zealand Limited & N J Goodger
Timburn	J C A Lucas & E A Lucas, E A Lucas & H L Pledger
Nine Mile	J G Lucas & M L Lucas, M J C Faulks & M C White
<i>Location:</i>	Lindis Pass, Tarras

2. Public notice of preliminary proposal:

Date, publication and location advertised:

Saturday – 8 June 2002:

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

Closing date for submissions:

2 August 2002

3. Details of submissions:

A total of 7 submissions were received by the closing date. Two late submissions were also received. The details of these submissions are contained in Appendix 3.

4. 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 Appendix 3*) of the submitter(s) making the point. Discussion of the point and the decision whether or not to accept/not accept or to allow/disallow the point follows.

The following approach has been adopted when making recommendations:

(i) To accept/not accept:

The decision to "**accept**" the point made by submitters is on the basis that the matter raised is a relevant matter for the Commissioner to consider when making decisions in the context of the Crown Pastoral Land Act 1998. Conversely, where the matter raised is not relevant in terms of the Commissioner's consideration, the decision is to "**not accept**".

(ii) To allow/disallow:

Where the decision has been made to accept, a further decision has been made as to whether the point made should be "allowed" or "disallowed". The decision has been made to "**allow**" if the point raises new information and should be considered further. Where the matter has previously been decided by the Commissioner, and there is not justification for the further consideration then the decision is to "**disallow**". Further justification for the decision has been made in the discussion paragraph showing the summary for each point.

4.2 Analysis:

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
1	The submitters supported the proposal to restore to full Crown ownership and control the two conservation areas and the two reserve areas.	1,2,5,9	Accept	Disallow

Discussion:

The protection of significant inherent values is one of the objects of the Crown Pastoral Land Act 1998 (*Section 24 (b) CPL Act*). The point is therefore accepted.

The support of the Commissioner's decisions in relation to these areas is acknowledged. However as no new information is provided the point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
2	The submitters are seeking a range of variations to the proposed public and conservation management easements. In particular vehicle access is sought over a number of routes currently proposed for foot and mountain bike access and in some cases public access is sought over easements currently identified as being for conservation management purposes.	1,2,3,5, 7,8	Accept	Allow for further consultation with the DGC delegate and the holders.

Discussion:

The securing of public access and enjoyment of reviewable land is an object of the Crown Pastoral Land Act 1998 (*Section 24 (c) (i)*). The point is therefore accepted.

The creation of a network of easements for public and conservation management access was a major consideration in the development of a Preliminary Proposal for this review. The options in relation to the nature and extent of such access was considered at some length. The extent of the public interest in this proposal and the complex nature of the access provisions indicate that this matter requires further review. The extensive information contained in the submissions provides further information in relation to this aspect of the review and the point is therefore allowed for the purposes of further consultation with the DGC delegate and the possibly the holders.

Some specific aspects are also covered in points 6,10,13,14,16,17,18 and 19. Unless a point is specifically disallowed all other aspects of access will be subject to further consultation.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
3	The majority of the submitters recommended that the large area of the conservation covenant spanning three properties be restored to full Crown ownership and control as a conservation area.	1,2,5, 6,7,8,9	Accept	Disallow

Discussion:

Section 24 (b) Crown Pastoral Land Act 1998 states that an object of Part 2 of the CPL Act *to enable the protection of the significant inherent values of reviewable land – (i) by the creation of protective mechanisms; or (preferably) (ii) by the restoration of the land concerned to full Crown ownership and control.* Significant inherent values have been identified in the area identified and the protection of their use is therefore a matter to be sought under the tenure review. The point is therefore accepted.

The Conservation Resources Report identified the extent of significant inherent values within the properties subject to this tenure review. In considering the appropriate mechanism for protection of these a conservation covenant was proposed over the land contained within the Dunstan Creek catchment. Restoration to full Crown ownership and control was considered for an area known as the Blue Cliffs Block on Shirlmar.

In consultation with the DGC delegate and the holders the covenant protection was confirmed for the Dunstan Creek catchment and extended to include the area on the Blue Cliffs Block. It is noted that the submitters focussed primarily on the area contained in the Dunstan Creek catchment.

The submitters have not provided any information not previously considered through the Conservation Resources Report and subsequent preparation of the Preliminary Proposal. While there is a weight of submissions on this point, this aspect of the review has been very carefully considered and developed and nothing further would be achieved by revisiting this aspect. As no new information has been provided the point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
4	That protection of landscapes in the Lindis Gorge under a conservation covenant should be considered as a designation in the reviews of Nine Mile and Geordie Hills Pastoral Leases.	2	Accept	Allow

Discussion:

The protection of significant inherent values is an object of Part 2 CPL Act (*Section 24 (b)*). In this context the landscape could be considered a significant inherent value therefore the point is accepted.

A review of the information previously considered and the submission made suggests that this is new information that has not previously been considered. The point is therefore allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
5	That a previously unrecorded gold mining site on Geordie Hills be given formal protection under a conservation covenant.	2	Accept	Disallow

Discussion:

Historic values are considered an inherent value for the purposes of the CPL Act. The submitter maintains that this mining site is a significant inherent value and therefore protection should be sought pursuant to Section 24 (b) CPL Act. The point is therefore accepted.

This site was noted in the Conservation Resources Report, but in preparing the Preliminary Proposal for this review it was not considered sufficiently significant to pursue protection. The submitter has not provided any new information to strengthen the case for protection of this area and the point is therefore disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
6	The submitters would like to see the continuation of vehicle access for the general public. They further submit that with clearly defined and well used tracks already in existence in the area this is an appropriate case for continued freedom of vehicle access.	4	Accept	Disallow

Discussion:

This point is an extension of the point already discussed under 2 above. The securing of public access and enjoyment of reviewable land is an object of the CPL Act (*Section 24 (c) (i)*). The point is therefore accepted.

The nature of this submission suggests that the access previously enjoyed through the generosity of the landholders may be withdrawn on the completion of tenure review. The consideration of wide ranging 4WD access within these properties was considered during the preparation of the Preliminary Proposal and was not considered appropriate due to the nature of the tracks and the impact on the farming operations within the proposed freehold. The decisions made to date do not preclude 4WD clubs and similar from approaching landholders for the continuation of public access as was previously enjoyed. The submitters have not provided any new information that was not previously considered and therefore the point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
7	The submitters supports the proposed access to Lindis Peak.	6,7	Accept	Disallow

Discussion:

The securing of public access and enjoyment of reviewable land is an object of the Crown Pastoral Land Act 1998 (*Section 24 (c) (i)*). The point is therefore accepted.

The support of the submitters is noted, however as no new information has been provided the point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
8	The submitters noted that amongst the rocks in and around the summit of Lindis Peak there is still a diverse number of interesting plants living in a fire refuge. The submitters therefore suggested that a fence should be erected within a radius of 300 - 400 metres off the summit to enable further recovery of the native plants in this area.	6,7	Accept	Allow

Discussion:

The protection of the significant inherent values is an object of the Crown Pastoral Land Act 1998 Act pursuant to Section 24 (b). The point is accepted.

The protection of this area has not previously been considered. The submitters have noted some interesting botanical features relating to this area for which consideration should be given to their protection. This is new information and the point is therefore allowed to enable consideration to be given.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
9	The submitter considers that the landscape values of the entire area contained in this review is significant. They would therefore like to see an overall landscape covenant to protect the values from inappropriate or insensitive planting of pines or firs which can be seen from State Highway 8 as the landscape protection provisions of the Transitional Central Otago District Plan are not adequate to ensure this.	7	Accept	Allow

Discussion:

The protection of a significant landscape is an object of Part 2 of the CPL Act (*Section 24 (b)*). The point is therefore accepted.

While the Conservation Resources Report does consider the overall context of the Lindis landscape the overall protection of this landscape has not previously been considered. The information provided by the submitters is therefore new information and the point is allowed to enable consideration of this aspect to proceed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
10	That public access should be provided to the two proposed small parcels of conservation land.	1,2,5,7, 8	Accept	Disallow

Discussion:

The securing of public access and enjoyment of reviewable land is an object of the CPL Act (Section 24 (c) (i)). The point is therefore accepted.

The two conservation areas referred to are confined gorge areas which have been identified for protection in order to protect the native fishery. In establishing these two conservation areas it was considered that public access was inappropriate to the purpose for these areas being retained by the Crown. The aspect of public access has therefore been considered, and no new information has been provided. The point is therefore disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
11	The submitters noted that there were quite a few remnant wetlands on Longacre and Shirlmar with one on Shirlmar having some copper tussock as well as Carex. The submitters would like to see the larger areas protected by fencing them off to protect the vegetation and riparian values from particularly the cattle.	7,8	Accept	Allow

Discussion:

The protection of significant inherent values is a matter for the CCI to consider in relation to Section 24 (b) CPL Act. As these are matters that the Commissioner considers in tenure review the point is accepted.

The submitters are not clear as to the precise location of these wetlands. The point is therefore allowed to enable further investigation of the location and nature of these wetlands to enable investigation of the inherent values to be undertaken and the need for protection to be considered.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Nos</i>	<i>Decision</i>	
12	The submitters seek greater determination of marginal strips as part of the tenure review.	8,9	Not accept	

Discussion:

Marginal strips where appropriate will be created on disposition of the land, by this is a matter for the Director General of Conservation in terms of Part IV of the Conservation Act. The Commissioner does not have jurisdiction in relation to marginal strips and therefore the point is not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
13	The submitter believes there is ambiguity in the relationship of the access provisions in the proposed covenanted area as opposed to the proposed easements.	8,9	Accept	Disallow

Discussion:

The securing of public access and enjoyment of reviewable land is an object of the Crown Pastoral Land Act 1998 (*Section 24 (c) (i)*). The point is therefore accepted.

The question of public access within the covenanted areas was carefully considered during the preparation of the Preliminary Proposal. The submitter here appears confused by the wording of the generic documents. Public access within the covenant areas is provided for by virtue of the easements. The submitter further identifies that there are restrictions on the public access and enjoyment within the covenant areas. It is not the intent of the conservation covenant to provide for public access. This matter has been fully traversed previously and the submitter provides no new information, therefore the point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
14	The submitter requests that the terms of the covenant require the owner to provide free public foot and mountain bike access, to not charge such for such activities, albeit they be using tracks provided by the owner.	8,9	Accept	Disallow

Discussion:

The securing of public access and enjoyment of reviewable land is an object of the CPL Act (*Section 24 (c) (i)*). The point is therefore accepted.

This point is related to number 13 above. The purposes of the covenant have been clearly identified in the Preliminary Proposal. Wander at will public access throughout the covenant area was not considered appropriate for the protection of the significant inherent values nor the overall public enjoyment. Free public to and through the covenant areas is provided for by a number of easements. Access right through the area to Dunstan Creek is available on a year round basis.

Unrestricted access to the covenant area would be incompatible with both the protection of the significant inherent values and the availability of the area for farming. The easements do however provide for access without any charge. The submitter has not provided new information which challenges this view. The point is therefore disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
15	The submitter is concerned that Diagram F of the Preliminary Proposal does not coincide with the area proposed for Crown retention in the Designations Plan, or Diagram G. The Designations Plan depicts continuous Crown retention between the historic (R3) and recreation reserve (R4), whereas the small scale Diagram G does not.	9	Not Accept	

Discussion:

The point raised by the submitter appears to be somewhat confused. There is no linkage between the proposed reserves R3 and R4. The Lindis River lies between the two. The submitter further suggests that "narrow strip" of land between the state highway and the river should be retained by the Crown.

Our maps do not identify such a narrow strip. The maps do show an area of proposed freehold between the state highway and the river on the opposite bank of the Lindis River to R3 but this is quite a significant area of farmland. The underlying colours of the map may have led to this confusion. The submitter does not identify any significant inherent values that such a proposition would seek to protect nor has he identified any particular access issues related to this. As there is no information for the Commissioner to consider in terms of the CPL Act, the point is not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
16	The submitter raises a number of issues regards the easement documents and believes that these need to be changed in relation to public notification of changes, exclusions in relation to Section 126G Property Law Act, temporary closures and various other matters regards the nature of the instrument.	9	Accept	Disallow

Discussion:

Public access is a matter for the Commissioner to consider pursuant to Section 24 (c) (i) CPL Act. Therefore the point is accepted.

The terms and conditions of easement documents have been subject to wide review by the Commissioner, therefore the point is disallowed. The final part for this point suggested that to avoid potential OSH and ACC issues public access should be by way of "public paths" rather than easements. This alternative mechanism does not appear in the CPL Act. The specific decision in relation to the use of Section 12 Reserves Act is as follows:

Conservation Act relates to the purpose of the easement and the land it relates to. Conservation Act easements are used where the appurtenant land is proposed conservation land. Conversely Reserves Act easements are used where either the appurtenant land is proposed reserve or the easements are in gross.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
17	The submitter is most disappointed that no provision has been made for horse riding along any of the easements.	9	Accept	Disallow

Discussion:

Public access is a matter for the Commissioner to consider pursuant to Section 24 (c) (i) CPL Act. The point is therefore accepted.

The provision of horse riding within the proposed easement was carefully considered during the preparation of the Preliminary Proposal. The final analysis was that as of right horse riding was incompatible with the adjoining land uses. The fact that horse riding is not provided for in the easements does not preclude horse riders coming to private arrangements with the holders or access. The submitter has not provided any new information in relation to this activity, therefore the point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
18	The submitter is disappointed that closures are proposed 10 October to 5 December annually over so many of the public easements. The opening of further easements on a year round basis is recommended.	9	Accept	Disallow

Discussion:

Public access is a matter for the Commissioner to consider pursuant to Section 24 (c) (i) CPL Act. Therefore the point is accepted.

The submitter does welcome the provision of year round public access over some routes. The point raised is that this right should be extended to further routes. This matter was considered at some depth during the preparation of the Preliminary Proposal. It was noted that some access is available to the key points on a year round basis. The only route where an alternative is not available applies to the easement leading to Lindis Peak. The submitter accepts the need for a restriction on this particular easement. This matter has been carefully considered previously and the submitter has not provided any new information in relation to the need for further year round access. Therefore the point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
19	The submitter is concerned with provision in the public easements for the locking of gates with transferee (Crown) agreement. Such gates would provide an obstruction to heavily laden cycles, and certainly to motor vehicles over easements "l-k" and "k-m".	9	Not accept	

Discussion:

While public access is a matter for the Commissioner to consider pursuant to Section 24 (c) (i) CPL Act the point raised by the submitter is one of ongoing management and the proposed locking of gates can only be carried out with the agreement of the Department of Conservation as the easement manager. This is a management matter for the Department of Conservation to consider in its ongoing management of the easements. As this is not specifically a point for the Commissioner to consider the point is not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
20	The submitter chooses to take the opportunity to remind the Department of Conservation of its commitments given in the CMS for Otago in relation to this area.	2	Not accept	

Discussion:

The Conservation Management Strategy is not a matter for the Commissioner to consider in the context of the Crown Pastoral Land Act 1998. The point is therefore not accepted.

(5) Discussion and conclusions:

Discussion relative to the particular points has been made above under each point for simplicity and clarity. There are very few major themes identified through the public process in relation to this review. The majority of the submitters had some comment to make in relation to the public easements. The network of easements proposed within this review is very complex and in order to make sure that no aspects are missed the point has been allowed for further consultation. The second major theme related to the alternatives of either a protective mechanism or restoration to full Crown ownership and control of the Dunstan Creek catchment and secondly the Blue Cliffs area. This was a matter that was given serious consideration during the preparation of the Preliminary Proposal and all angles carefully considered. The submitters did not provide new information in relation to this so this point has been disallowed.

The points raised by the submitters have been carefully analysed and full consideration given to them.

Appendix 3

RELEASED UNDER THE
OFFICIAL INFORMATION ACTLinda Group - List of submitters

Sub No.	Submitter	Date Received:	Points
1	Mark, Alan F	09-Jul-02	1,2,3
2	Federated Mountain Clubs	28-Jul-02	1,2,3,4,5,20
3	Central Otago 4WD Club	01-Aug-02	2
4	The Land Rover Owners Club	01-Aug-02	6
5	Otago Conservation Board	01-Aug-02	1,2,3,
6	Turnbull, John L	02-Aug-02	3,7,8
7	Forest & Bird - Upper Clutha	02-Aug-02	2,3,7,8,9,10,11
Late Submissions			
8	Forest & Bird - Southern office	15-Aug-02	2,3,8,11,12,13,14,
9	Public Access NZ	19-Aug-02	3,12,15,16,17,18,19

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