

## **Crown Pastoral Land Tenure Review**

**Lease name : HAPPY VALLEY**

**Lease number : PO 361**

### **Analysis of Public Submissions**

This document includes information on the public submissions received in response to an advertisement for submissions on the Preliminary Proposal. The report identifies if each issue raised is allowed or disallowed pursuant to the Crown Pastoral Land Act. If allowed the issue will be subject to further consultation with Department of Conservation, or other relevant party.

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

**ANALYSIS  
OF  
PUBLIC SUBMISSIONS**

**HAPPY VALLEY**



**ANALYSIS OF PUBLIC SUBMISSIONS****Statement Pursuant To Sec 45(a)(iii) Crown Pastoral Land Act 1998****HAPPY VALLEY TENURE REVIEW NO 294****Details of lease**

Lease name:	Happy Valley pastoral lease.
Location:	Hawksburn Road, Bannockburn, approximately 16 kilometres from Cromwell
Lessee:	Duncan George Henderson and Rae Henderson

**Public notice of preliminary proposal**

Date advertised:	23 November 2013.
Newspapers advertised in:	
- The Press	Christchurch
- The Otago Daily Times	Dunedin
- The Southland Times	Invercargill
Closing date for submissions:	11 February 2014.

**Details of submissions received**

Number received by closing date:	7
Number of late submissions received/accepted:	2
	LINZ provided approval for these late submissions to be included within the analysis.
Cross-section of groups/individuals represented by submissions:	
	Submissions were received from nine parties comprising non-government environmental organisations, Crown entities, a recreation group, a registered company and a private individual.
Number of late submissions refused/other:	Nil.

## ANALYSIS OF SUBMISSIONS

### Introduction

Each of the submissions received has been reviewed in order to identify the points raised and these have been numbered accordingly. Where submitters have made similar points, these have been given the same number.

The following analysis:

1. Summarises each of the points raised along with the recorded number (shown in the appended tables) of the submitter(s) making the point.
2. Discusses each point.
3. Recommends whether or not to **allow** the point for further consideration.
4. If the point is **allowed**, recommends whether to **accept** or **not accept** the point for further consideration.

The points raised have been analysed to assess whether they are matters that are validly-made [i.e. relates to the right property and tenure review], relevant to the tenure review and can be properly considered under the Crown Pastoral Land Act 1998 (CPLA). Where it is considered that they are the decision is to **allow** them. Further analysis is then undertaken as to whether to **accept** or **not accept** them.

Conversely where the matter raised is not a matter that is validly-made or relevant or cannot be properly considered under the CPLA, the decision is to **disallow**. The process stops at this point for those points disallowed.

The outcome of an **accept** decision will be that the point is considered further in formulation of the draft SP. To arrive at this decision, the point must be evaluated with respect to the following:

The objects and matters to be taken into account in the CPLA; and

Whether the point introduces new information or a perspective not previously considered; or

Where the point highlights issues previously considered but articulates reasons why the submitter prefers an alternative outcome under the CPLA, or

Is a statement of support for aspects of the Preliminary Proposal which can be considered by the Commissioner when formulating the designations for a Substantive Proposal.

How those accepted points have been considered will be the subject of a Report on Public Submissions which will be made available to the public. This will be done once the Commissioner of Crown Lands has considered all matters raised in the public submissions in formulating a Substantive Proposal.

## Analysis

The submissions have been numbered in the order in which they were received and the points have been arranged so similar points are grouped together.

Appendix III provides a table of the points raised by the various submitters.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
1.1	Statements of support for aspects of the proposal.	1,2,3,4,5,6,9	Allow	Accept

Various submitters made specific statements of support for either the entire proposal or particular aspects of the proposal, as follows:

Submitter 1 supports proposed easements 'a-b' and 'd-e', freeholding 2240 ha of lower altitude country, conservation covenants CC1 and CC2 and also continuation of the existing right to convey water.

Submitter 2 provides support for CA1 stating that it will be a valuable addition to the adjoining Old Woman Conservation Area. They also support:

- CC1 with the associated public access easement 'a-b',
- CC2 to protect the shrubland and Galaxias habitat for which they consider the proposed monitoring prescription will be satisfactory,
- freeholding the other lower altitude country below CC3, and
- continuation of existing water rights.

Submitter 3 supports the creation of CA1, they applaud the "wander at will" provision for CC1 as they state it will allow the public to explore the historic features that exist there and they support the proposed access "d-e" within CC3 as they consider it represents a pleasant walk in summer and is occasionally skiable in winter.

Submitter 4 also fully supports creation of CA1 noting it will make a logical addition to the existing and proposed conservation areas. They also support:

- CC1 in principle and applaud the provision for public access within the covenanted area.
- CC2 for protecting the shrublands and galaxiid habitat, also that the stocking rate for the covenant area is set by the Minister of Conservation and provisions relating to the treatment of the costs and results of monitoring.
- Easement 'd-e'

Submitter 5 supports the direct management of the historic/archaeological values on Happy Valley as proposed, particularly for the CC1 covenant area.

Submitter 6 agrees that the land proposed for return to Crown control (CA1) is appropriately allocated. They also support CC1 and CC2 together with public access easement 'a-b' and 'c-d'.

Submitter 9 express enthusiastic support for creation of CA1, especially for the recreational opportunities associated with the adjoining Old Woman CA. They also express support for the two proposed public access easements, conservation covenants CC1 (including the wander at will provision) and CC2.

Some of the above submitters also suggest other changes to the proposal, which are covered in subsequent points in this analysis.

Rationale for Allow or Disallow

In providing support for aspects of the proposal, most submitters mentioned aspects related to the protection of significant inherent values, or public access. The protection of significant inherent values is identified in section 24(b) CPLA, and the making easier of public access is indicated in section 24(c)(i) CPLA. These matters can therefore be properly considered under the CPLA. The point has therefore been allowed.

Rationale for Accept or Not Accept

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

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
2.1	CA1 should be extended to include the lower portion of RAP 1/5 "Bannock Burn – Old Woman".	1,2	Allow	Accept

Submitter 1 indicated this would provide protection for the full altitudinal sequence of communities from montane tussock and scrub through to high alpine cushionfield. They also pointed out this additional area is already fenced on both sides.

Submitter 2 suggest the reduced values in the northern part of RAP 1/5 referred to in the Conservation Resources Report should be re-evaluated in light of the importance originally placed on the values in this RAP, to ensure that there is good and sufficient reason to exclude the area below CA1. They also state inclusion of the whole RAP would provide a valuable altitudinal sequence.

Rationale for Allow or Disallow

This point relates to the protection of significant inherent values, which is an object of tenure review under section 24(b) CPLA. The point is therefore relevant to tenure review and can be properly considered under the CPLA, and is therefore allowed.

Rationale for Accept or Not Accept

The point relates to objects and matters that can be taken into account in the CPLA. The submitters have suggested an alternative outcome, and provided reasons for such an outcome, possibly leading to wider protection of ecological values. The point has therefore been accepted for further consideration.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
2.2	CA1 should be extended northward to include proposed conservation covenant CC3	1,2,4,6,9	Allow	Accept

Submitter 1 comments that this area contains a similar vegetation cover to that in the CA1 area. They suggest the current degraded state of the area should be allowed to recover and regain its potential for maximizing water production and that it also contains part of the historic Carrick Water Race.

Submitter 2 suggests the land proposed to be freeholded in the head of Duffers Gully is very similar to the adjacent land comprising CA1. Additionally, as both areas are above 1,100m and classified as LUC Class VIIe land they consider that area to be unsuitable for freeholding.

Submitter 4 consider CC3 should be part of CA1 with a phase out grazing concession as for CA1. They state, consistent with many other tenure reviews, land above 1000m altitude is not suitable for pastoral use and should be managed principally for natural resource conservation area purposes. They point out this is proposed for CA1 and the range summit areas on Craigroy adjoining to the west. They consider there is nothing different about the CC3 area that would support a divergent approach and suggest the CC3 proposal would not promote ecologically sustainable land use. They state no provision in Part 24(a) (b) or (c) (of the CPLA) supports the freeholding of this area and continued grazing, suggesting grazing conflicts with part (a)(i) and part (b)(ii) and (c)(i) and it does not satisfy (a)(ii) or (b)(i).

Submitter 6 state the majority of this area is subject to the same considerations as CA1, being mostly above 1000m and with similar values to CA1. They point out the CPLA has an explicit preference for full Crown ownership and control as the preferred protection method. They recommend that all or a substantial part of this area be added to CA1.

Submitter 9 consider that the land within CC3 should be incorporated within CA1 as it is unsuitable for freeholding because:

- the visual and ecological values are very similar to the adjacent CA1 area,
- the soils are classified as LUC VIIe with serious limitations for pastoral use,
- it is not economic to apply fertiliser necessary to replenish nutrients meaning they believe the land to be incapable of supporting ecologically sustainable pastoral use,
- there is evidence of past overgrazing and degradation, and
- any loss of production related to the loss of this area of undeveloped, unproductive, high altitude land would be small.

Rationale for Allow or Disallow

This point relates to the protection of significant inherent values, which is an object of tenure review under section 24(b) CPLA. The point is therefore relevant to tenure review and can be properly considered under the CPLA, and is therefore allowed.

Rationale for Accept or Not Accept

The point relates to the objects of tenure review, as discussed above. Although the outcome suggested by the submitters has previously been considered, the submitters have provided reasons for this alternative outcome, being to allow the vegetation to recover and regain its potential for maximising water production and concerns related to ecological sustainability. The point has therefore been accepted for further consideration.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
2.3	The grazing concession for CA1 should be reduced and there should also be changes to the stocking and monitoring provisions.	1,2,4,9	Allow	Accept

Submitter 1 suggests the proposed 15 year term is unacceptable as it would delay substantially the vegetation and ecological improvement that could be expected from the cessation of sheep

grazing. They suggest a term of 5 years continued grazing would be appropriate. They also suggest the period of grazing should be between 1 Feb and 30 April rather than 1 Feb and 31 May.

Submitter 2 also does not consider a further 15 years of grazing will allow any immediate vegetation recovery and suggest a shorter period in line with the 5 year period negotiated for the adjoining Craigroy lease.

Submitter 4 suggests the grazing concession should be similar to the Craigroy concession which they point out is for 5 years with a reduction in stocking after 2 years. They state the grazing concession should be limited to 5 years at the same rate proposed initially but with a stepped phase out of grazing, inclusion of provision for immediate cessation if required and stronger measureable objective monitoring conditions with prescribed thresholds and corrective measures.

Submitter 9 state the grazing concession is not acceptable because it does not allow for vegetation recovery, but instead allows for continued degradation. They consider that if grazing is unable to be ceased on disposition of the property, which is their preference, then the grazing term should not exceed 5 or at the very most 10 years. They also point out discrepancies in the information relating to the proposed grazing regime which needs to be addressed.

Rationale for Allow or Disallow

This point relates to the management of the land in a way that is ecologically sustainable and protection of significant inherent values, which are objects of tenure review under section 24(a) & (b) CPLA. The point is therefore relevant to tenure review and can be properly considered under the CPLA, and is therefore allowed.

Rationale for Accept or Not Accept

The point relates to objects and matters that can be taken into account in the CPLA. The submitters have suggested an alternative outcome, being a 5 year grazing concession with additional protective provisions. Although the term of the proposed grazing concession has been well considered the submitters have articulated reasons why they prefer an alternative outcome, being the more immediate improvement in the vegetation and ecological values and consistency with a similar concession negotiated on an adjoining pastoral lease property. The point has therefore been accepted for further consideration.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
2.4	CA1 should be gazetted as Scenic Reserve until a Conservation Park incorporating also the existing adjoining conservation land is deemed appropriate.	1,2,9	Allow	Accept

Submitter 1 notes the upper boundary of CA1 adjoins the Old Woman Conservation Area and suggests once tenure review is completed the enlarged conservation area should be gazette as a Scenic Reserve until such time as a formal Conservation Park is deemed appropriate. They consider that action would increase its security as conservation land over what stewardship-land status apparently confers.

Submitter 2 suggests that this area will be a valuable addition to the Old Woman Conservation Area and designation as a Scenic Reserve should be considered to give it better protection than is provided as stewardship land.



Submitter 9 also consider designating CA1 as Scenic Reserve to be appropriate to provide stronger protection of SIV's than is able to be achieved as DoC Stewardship land.

Rationale for Allow or Disallow
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This point relates to the protection of significant inherent values, which is an object of tenure review under section 24(b) CPLA. The point is therefore relevant to tenure review and can be properly considered under the CPLA, and is therefore allowed in respect to the reviewable land. For clarity, consideration of the protective status of the adjoining existing conservation land is not however a relevant matter that can be properly considered under the CPLA. Consideration of that aspect of the point is therefore not allowed.

Rationale for Accept or Not Accept
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The point relates to objects and matters that can be taken into account in the CPLA. The submitters have introduced a perspective not previously considered and articulated reasons why they prefer an alternative outcome, being an increase in the security and level of protection for the values able to be achieved by an alternative designation. The point has therefore been accepted for further consideration in respect to the reviewable land.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
3.1	The 1 Oct – 10 Dec lambing closure for easement 'a-b' should be reduced.	1,4,9	Allow	Accept

Submitter 1 states that the proposed 10 week lambing closure seems unreasonably long and recommends that this be reduced to no more than 1 month.

Submitter 4 states that a period of 70 days seems excessive for closure for lambing considering spring is a good time of year for visiting lower altitude areas and in their experience ewes and lambs more than 3-4 weeks old get used to people passing through. They suggest the lambing closure be only from 1 October to 21 November.

Submitter 9 considers the lambing closure should be limited to a maximum of one month.

Rationale for Allow or Disallow
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The point relates to the provision of public access, which is relevant to tenure review and can be considered under the CPLA. The point has therefore been allowed.

Rationale for Accept or Not Accept
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The provision of public access is an object of tenure review under s24(c)(i) CPLA. While the duration of the proposed lambing closure has been previously considered the submitter has provided reasons for reducing the closure period, relating to the suitability of spring for accessing lower altitude areas and their belief that public disturbance of ewes with lambs older than 3-4 weeks can be relatively minor. The point has therefore been accepted for further consideration.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
3.2	Extend public access to CC2 and also the lower boundary of CA1 from below.	1,2,4,7,9	Allow	Accept

This Point also relates to Point 3.10.

Submitter 1 states extension of easement 'a-b' along the alignment of the management access easement 'b-c' is required in order to provide public walking access to CC2 and also on to the lower boundary of Conservation Area CA1.

Submitter 2 also suggests walking access be permitted from 'b-c' to allow any committed botanists to access the covenant shrublands(CC2), or else that some provision be made for such people to apply for vehicle access permission on a one-off basis.

Submitter 4 states there should be access to CA1 from below to enable round trips and better public enjoyment of CA1. They suggest two possible options. Firstly, use of the existing 4WD track up the open spur on the true left of the Bannock Burn via an easement from CC1 for foot traffic only. Secondly, via the formed 4WD track up the true right of Duffers Gully which comprises the proposed management access easement 'b-c' and also enables access through CC2.

Submitter 7 suggests easement 'b-c' should also provide for public foot, horse and non-motorised vehicle access.

Submitter 9 recommends that easement 'b-c' should be made available for public walking access only.

#### Rationale for Allow or Disallow

The point relates to the provision of public access and enjoyment of the reviewable land, which is an object of tenure review under s24(c)(i) CPLA. The point has therefore been allowed.

#### Rationale for Accept or Not Accept

Public access is a matter to be taken into account in tenure review, under s24(c)(i) CPLA. While the provision of public access to CA1 has been considered the submitters have provided reasons for extending public access, relating to enabling public access to CC2, creating a loop track to CA1 and enabling better public enjoyment of CA1. The point has therefore been accepted for further consideration.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
3.3	That public access be provided over the existing 4WD track running between Round Hill and Hill 818.	4,7	Allow	Accept

Submitter 4 state that this would create a loop track that should provide for foot and mountain bike access. They consider that more easily accessible lower altitude recreational areas such as this are important when winter snow and short days limit use of the tops.

Submitter 7 suggests this additional easement should provide for foot, horse and mountain bike access. They point out it would join up with the marginal strip along the tributary of the west Bannock Burn thereby creating an alternative public access loop that would greatly enhance the recreational opportunity and public enjoyment of the land. They suggest this additional access should be a gazetted walkway (under the Walking Access Act 2008) as they consider this would assist the landholder to manage the competing uses of recreation and farm operations.

Rationale for Allow or Disallow
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This point relates to the provision of public access and enjoyment of the reviewable land, which is an object of tenure review under s24(c)(i) CPLA. The point has therefore been allowed.

Rationale for Accept or Not Accept
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Public access is a matter to be taken into account in tenure review, under s24(c)(i) CPLA, as discussed above. While the provision of public access over the route suggested by the submitters has previously been considered they have provided reasons for extending public access, relating to enabling public access to easily accessible lower altitude country during winter and creating a loop track that would in their view greatly enhance the recreational opportunity and public enjoyment of the land. Also, use of the Walking Access Act 2008 can be properly considered under the CPLA as the definition of a protective mechanism within the CPLA means an easement created under sections 26-29 of the Walking Access Act 2008. It also represents a perspective not previously considered and the submitter articulates reasons for that outcome, being that they consider it would assist the landowner to manage competing uses. This point has therefore been accepted for further consideration.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
3.4	Public access be provided to Hill 818.	4	Allow	Accept

Submitter 4 points out that Hill 818 provides a great vantage point to overview the CC1 heritage area and wider Old Woman Range landscape. They consider there should be public access along the existing 4WD track to the first good vantage point which they indicate equates to at least the first 500-600m of this hill. They do not specify whether they consider that access should include mountain bikes but as the proposed access would represent an offshoot of the loop track this submitter proposes under Point 3.3 it is assumed they would also expect mountain bike use for this short section of new easement.

Rationale for Allow or Disallow
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This point relates to the provision of public access and enjoyment of the reviewable land, which is an object of tenure review under s24(c)(i) CPLA. The point has therefore been allowed.

Rationale for Accept or Not Accept
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This point relates to objects and matters that can be taken into account in the CPLA, as discussed above. The submitter has introduced a perspective not previously considered and articulated reasons why they prefer an alternative outcome, being the creation of a short additional easement to access what they consider to be a good vantage point to overview the CC1 heritage area and wider landscape. The point has therefore been accepted for further consideration in respect to the reviewable land.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
3.5	Public wander at will access should be provided over all the land above the Carrick water race.	4	Allow	Accept

Submitter 4 notes there is provision for wander at will access over the land above the Carrick Water race on the neighbouring property (Carrick) and suggest that form of access should also be provided on Happy Valley to enable enjoyment of the reviewable land in the event the entire CC3 area does not become conservation land.

#### Rationale for Allow or Disallow

This point relates to the provision of public access and enjoyment of the reviewable land, which is an object of tenure review under s24(c)(i) CPLA. The point has therefore been allowed.

#### Rationale for Accept or Not Accept

This point relates to objects and matters that can be taken into account in the CPLA, as discussed above. The submitter has introduced a perspective not previously considered and articulated reasons why they prefer an alternative outcome, being the creation of wander at will access over the land above the Carrick Water race to enable enjoyment of the reviewable land. The point has therefore been accepted for further consideration in respect to the reviewable land.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
3.6	Consideration be given to providing public access along the historic water races of the lower Bannock Burn to their inlets.	4	Allow	Accept

Submitter 4 suggests this additional access is required to enable the public to appreciate the engineering and heritage value of the existing water races.

#### Rationale for Allow or Disallow

This point relates to the provision of public access and enjoyment of the reviewable land, which is an object of tenure review under s24(c)(i) CPLA. The point has therefore been allowed.

#### Rationale for Accept or Not Accept

The point relates to objects and matters that can be taken into account in the CPLA, as discussed above. While the provision of public access along some of water races suggested by the submitters has previously been considered they have provided reasons for extending access in those area. Those reasons relate to enabling the public to appreciate the engineering and heritage values of the existing water races. This point has therefore been accepted for further consideration.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
3.7	Clarification is required to ensure that there is enduring practical public access along easement 'a-b'	7	Allow	Accept

Submitter 7 indicates aerial imagery suggests that the formed track in Tuckers Gully branches off the existing easement (shown V on SO 458706 that provides access to point 'a') just to the north of the pastoral lease boundary. They suggest this apparent divergence between the existing easement and formed access route should be addressed by confirming it is already provided for, or by establishing a new section of track to be indicated within the proposed easement or if necessary creating an additional easement over the adjoining freehold land (section 3 SO 458706).

#### Rationale for Allow or Disallow

This point relates to the provision of public access and enjoyment of the reviewable land, which is an object of tenure review under s24(c)(i) CPLA. The point has therefore been allowed.

#### Rationale for Accept or Not Accept

The point relates to objects and matters that can be taken into account in the CPLA, as discussed above. While this point highlights an issue that has previously been considered the submitter introduces new information relating to the potential absence of continuity of secure legal public access that was thought to exist to the commencement of the proposed easement at point 'a' on the northern boundary of the reviewable land. This matter may need to be addressed by adjustments to the current proposal in respect to the reviewable land and the point has therefore been accepted for further consideration.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
3.8	Easements should provide for a wider range of public access options.	4,7	Allow	Accept

Submitter 4 suggests that mountain biking should be permitted in addition to foot access. They state that mountain biking is a growing recreational activity and circuits for that use (as suggested in Point 3.3) are limited in the Cromwell basin. They also state that more easily accessible lower altitude recreational areas such as this are important when winter snow and short days limit use of the tops.

Submitter 7 notes that the existing easement on the adjoining freehold property (that provides access to point 'a' on the northern boundary of the Happy Valley pastoral lease), provides for horse and non-motorised vehicle access in addition to foot access. They seek inclusion of provisions to enable those forms of access to continue from Tuckers Gully to the lower boundary of CA1. They suggest this is required to provide multipurpose recreational access options that will enable greater public enjoyment of the land and provide a continuation of the public access opportunities that were envisaged when the easement over the adjoining property was created.

#### Rationale for Allow or Disallow

This point relates to the provision of public access and enjoyment of the reviewable land, which is an object of tenure review under s24(c)(i) CPLA. The point has therefore been allowed.

## Rationale for Accept or Not Accept

The point relates to objects and matters that can be taken into account in the CPLA, as discussed above. While the provision for a wider range of public access options has previously been considered for the proposed easements the submitters have provided reasons for expanding the current foot and management access to include the use of mountain bikes and horses. Those reasons relate to the growth in mountain biking as a recreational activity and the need to provide continuity of multipurpose recreational access options that will enable greater public enjoyment of the reviewable land. This point has therefore been accepted for further consideration.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
3.9	The width of marginal strips established on disposition should be increased to greater than 20m to enable practical access in those places where a lesser width would make public horse and non-motorised access difficult.	7	Disallow	N/A

Submitter 7 consider that it is critical that the width of marginal strips to be created on disposition be widened beyond 20m to mitigate any difficult access for practical walking, horse and non-vehicular access.

## Rationale for Allow or Disallow

Marginal strips will be laid off on qualifying waterbodies as determined by the surveyor at the time of implementation of the tenure review outcome. Consideration of the need for an increase in the standard 20m width of those marginal strips is dealt with by the Minister of Conservation under the Conservation Act 1987. Whether marginal strips will apply to streams and the determination as to the need for any increase in the width of those strips is not a matter that can be considered under the CPLA. The point is therefore disallowed.

However, a copy of this analysis together with all submissions will be provided to the Minister of Conservation and that will enable them to consider this matter.

## Rationale for Accept or Not Accept

N/A

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
3.10	Horse and non-motorised access should be provided for within all of CC1 or alternatively foot, horse and non-motorised access be provided over either of two 4WD tracks between CC1 and the lower boundary of CA1	7	Allow	Accept

This Point also relates to Point 3.2.

Submitter 7 states the two suggested tracks would provide an attractive loop option to the marginal strips. It appears they are seeking horse and mountain bike access to be included as part of the wander at will provisions of CC1 or, the same access (including foot) up to the lower boundary of CA1 along one of two 4WD tracks but not both.

Rationale for Allow or Disallow

This point relates to the provision of public access and enjoyment of the reviewable land, which is an object of tenure review under s24(c)(i) CPLA. The point has therefore been allowed.

Rationale for Accept or Not Accept

The point relates to objects and matters that can be taken into account in the CPLA, as discussed above. The submitter has introduced a perspective not previously considered. Also, in respect to the suggested use of the two 4WD tracks they have articulated reasons why they prefer an alternative outcome, being the creation of an attractive loop track option. The point has therefore been accepted for further consideration in respect to the reviewable land.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
3.11	Oppose public access along the embankment or near the Carrick water race, being easement 'd-e'.	8	Disallow	N/A

Submitter 8 (being the Carrick Irrigation Company to whom an easement over the Carrick water race has been granted to convey water) state that they will not permit access along the embankment or near the race as they have trouble now with people interfering with by-washes and other structures on the race. They point out they have installed an expensive water metering system at Duffers Saddle and they do not want any damage done to that equipment. They also raise the question as to who would be liable in the event someone gets hurt while using the proposed access and suggest if the Commissioner or his agents were to consider paying a maintenance grant for use of this section of race they may reconsider their objections.

Rationale for Allow or Disallow

The submitter holds an interest over the Happy Valley pastoral lease but potential risks to their infrastructural assets together with potential liability issues are considered to be implementation or post tenure review management issues for DoC and the landowner to address. The point is therefore not relevant to tenure review and cannot be properly considered under the CPLA. It is therefore disallowed.

The submitters views will however be conveyed to DoC for consideration in implementing any public access proposals in the vicinity of the Carrick water race.

Rationale for Accept or Not Accept

N/A

<b>Point</b>	<b>Summary of point raised</b>	<b>Submission numbers</b>	<b>Allow or disallow</b>	<b>Accept or not accept</b>
4.1	CC1 should be designated as an Historic Reserve	1,4	Allow	Accept

Submitter 1 suggests that given the rich history, including an intact miners hut and other artifacts and features within CC1 the area should perhaps be designated as Historic Reserve with grazing rights.

Submitter 4 states that Historic Reserve status with sheep grazing concession would provide a much more enduring and robust legal protection. Further reasons provided in support of that designation are the site has great potential for interpretation and that reserve status is proposed for a comparable area (Whites Reef on Obelisk station). However, they also state that if a protective covenant is to be utilised the Special Conditions and Schedule 3 need to provide for:

- unimpeded survey and recording,
- analysis, assessment and active heritage management of the gold workings complex
- community partnerships as an option for active heritage management

#### Rationale for Allow or Disallow

This point relates to the protection of significant inherent values, which is an object of tenure review under section 24(b) CPLA. The point is therefore relevant to tenure review and can be properly considered under the CPLA, and is therefore allowed.

#### Rationale for Accept or Not Accept

The point relates to objects and matters that can be taken into account in the CPLA. The submitters have suggested an alternative outcome, and provided reasons for such an outcome, possibly leading to more robust protection of the values. The point has therefore been accepted for further consideration.

<b>Point</b>	<b>Summary of point raised</b>	<b>Submission numbers</b>	<b>Allow or disallow</b>	<b>Accept or not accept</b>
4.2	Preference is for sheep grazing only within CC1	2,4	Allow	Not accept

Submitter 2 would prefer to see sheep grazing only but also acknowledge the monitoring and related provisions that have been included to mitigate potential risks posed by cattle.

Submitter 4 accept the condition allowing a finite period for continued cattle grazing but would prefer cattle to be excluded earlier.

#### Rationale for Allow or Disallow

This point relates to the protection of significant inherent values, which is an object of tenure review under section 24(b) CPLA. The point is therefore relevant to tenure review and can be properly considered under the CPLA. It is therefore allowed.

#### Rationale for Accept or Not Accept

The point relates to objects and matters that can be taken into account in the CPLA, as discussed above. However, this matter has previously been considered in great detail during consultation.



The submitters do not introduce new information and nor do they provide any reasons for their point.

The point can therefore not be accepted for further consideration in the formulation of 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>
4.3	Need for systematic survey and record of array of artefacts plus provision for their active management to protect their heritage values prior to the area being opened to the public.	4	Allow	Not accept

Submitter 4 comments that to date there has been no systematic survey and record of various remains and artifacts nor any provision for their active management. They consider it is important that this is done before the area is opened to the public because of risks associated with the removal of artifacts or damage to sensitive elements.

#### Rationale for Allow or Disallow

This point relates to the protection of significant inherent values, which is an object of tenure review under section 24(b) CPLA. The point is therefore relevant to tenure review and can be properly considered under the CPLA, and is therefore allowed.

#### Rationale for Accept or Not Accept

The point relates to objects and matters that can be taken into account in the CPLA. The need for survey and recording of the historic values together with active management of public access are matters for the Department of Conservation to consider after tenure review, and are not issues that can be considered in tenure review under the CPLA. The point is therefore disallowed.

The comments of the submitter will however be referred to the Department of Conservation to assist in their consideration of post tenure review management requirements.

<b>Point</b>	<b>Summary of point raised</b>	<b>Submission numbers</b>	<b>Allow or disallow</b>	<b>Accept or not accept</b>
4.4	Conservation management of CC1 needs to include regular visual survey for cattle damage and potential use of existing shrub cover as a short term protective mechanism.	4	Allow	Accept

Submitter 4 considers that monitoring for damage by stock within CC1 should include visual inspection as well as photo points. They also state the presence of shrubs serve to protect structures from cattle and sheep and removal of shrubs overgrowing structures should be carried out with caution as the structures might be better protected with the shrubs as long as stock are present.. Additionally, they note that fenced enclosures can be used to prevent cattle related damage.

## Rationale for Allow or Disallow

This point relates to the protection of significant inherent values, which is an object of tenure review under section 24(b) CPLA. The point is therefore relevant to tenure review and can be properly considered under the CPLA. It is therefore allowed.

## Rationale for Accept or Not Accept

The point relates to objects and matters that can be taken into account in the CPLA, as discussed above. While covenant provisions for monitoring and mitigating the risk of cattle damage have been previously considered the submitter has provided reasons for also conducting regular visual inspections and to potentially utilise shrub cover as a short term protective mechanism. This point has therefore been accepted for further consideration.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
4.5	That bulls be excluded from CC1.	4	Allow	Accept

Submitter 4 considers that bulls should be excluded for CC1 for public safety reasons as they state bulls and people do not mix very well.

## Rationale for Allow or Disallow

This point relates to the provision of public access and enjoyment of the reviewable land, which is an object of tenure review under s24(c)(i) CPLA. The point has therefore been allowed.

## Rationale for Accept or Not Accept

The point relates to objects and matters that can be taken into account in the CPLA, as discussed above. While the potential impact of cattle on the historic values have been previously considered in considerable detail, the submitter has identified specific public access safety concerns associated with the presence of bulls which represents a perspective not previously considered. The point has therefore been accepted for further consideration in respect to the reviewable land.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
4.6	That the full extent of interconnected heritage features be included in CC1.	4	Allow	Accept

Submitter 4 considers an area of tailings downstream of the Bannock Burn confluence should be included within CC1. They note that these tailings are not mentioned in the Conservation Resources Report (CRR) or in Schedule 3 of the covenant.

## Rationale for Allow or Disallow

This point relates to the protection of significant inherent values, which is an object of tenure review under section 24(b) CPLA. The point is therefore relevant to tenure review and can be properly considered under the CPLA. It is therefore allowed.

## Rationale for Accept or Not Accept

The point relates to objects and matters that can be taken into account in the CPLA, as discussed above. The submitter introduces new information relating to the presence of an additional area of tailings that was not identified within the CRR and not encompassed within covenant CC1. The point has therefore been accepted for further consideration.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
4.7	Oppose Special condition 4 permitting blanket chemical spraying within CC1.	4	Allow	Accept

Submitter 4 does not support blanket spraying as they consider it does not protect the existing values and significantly detracts from the amenity of the heritage setting as well as wider landscape values. They state the native shrub species have important ecological value as insect, lizard and bird habitat and in their own right as part of a Chronically to Actutely Threatened Land Environment. They also identified the presence of several shrubs of *Coprosma intertexta* within CC1 (close to the western fenceline, near the Bannock Burn confluence) and state this species, which was not recorded within the CRR, is a Declining species that deserves full protection. They point out that following completion of tenure review there is no protection of indigenous shrublands from clearance under the district plan and consider the conditions of CC1 should provide for only limited spraying of exotic woody species and selected matagouri in accordance with a prescriptive management plan. They provide a prescription for the threshold for removing matagouri but suggest expert advice is needed to define this threshold.

## Rationale for Allow or Disallow

This point relates to the protection of significant inherent values, which is an object of tenure review under section 24(b) CPLA. The point is therefore relevant to tenure review and can be properly considered under the CPLA. It is therefore allowed.

## Rationale for Accept or Not Accept

The point relates to objects and matters that can be taken into account in the CPLA, as discussed above. While covenant provisions relating to spraying been previously considered the submitter has provided reasons for opposing blanket spraying. Those reasons include the potential threat to the protection of existing indigenous shrubland values and that it significantly detracts from the amenity and heritage setting as well as the wider landscape values. This point has therefore been accepted for further consideration.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
4.8	Hut sites should be fenced off to prevent cattle damage.	5	Allow	Accept

Submitter 5 states that cattle cause incremental damage to stone structures and suggest fencing using warratahs and 3 wires as a simple method of reducing such damage.

## Rationale for Allow or Disallow

This point relates to the protection of significant inherent values, which is an object of tenure review under section 24(b) CPLA. The point is therefore relevant to tenure review and can be properly considered under the CPLA. It is therefore allowed.

## Rationale for Accept or Not Accept

The point relates to objects and matters that can be taken into account in the CPLA, as discussed above. While this matter has been previously considered and the proposed covenant includes provisions that would enable hut sites to be fenced off to prevent cattle damage if monitoring indicates that to be necessary, the submitter has provided reasons for fencing those structures presumably prior to any cattle damage being detected. Those reasons being, that cattle cause incremental damage to stone structures and that upright free standing structures are particularly vulnerable and sensitive to this activity. This point has therefore been accepted for further consideration.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
4.9	Schedule 3 of the CC1 covenant document should be amended to include a timetable for monitoring of historic sites and to enact solutions to detected site damage.	5	Allow	Accept

Submitter 5 suggests the creation of a timetable for monitoring, for example photo-points should be established within one month of the Tenure Review proposal being accepted by the Lessee as well as a schedule for regular monitoring. They also suggest there is a need to include a timetable to enact solutions to site damage citing for example if damage to a hut site was occurring the site should be temporarily fenced off within one month of the damage being reported and permanently fenced within six months of the damage being reported.

## Rationale for Allow or Disallow

This point relates to the protection of significant inherent values, which is an object of tenure review under section 24(b) CPLA. The point is therefore relevant to tenure review and can be properly considered under the CPLA. It is therefore allowed.

## Rationale for Accept or Not Accept

This point relates to objects and matters that can be taken into account in the CPLA, as discussed above. The submitter has introduced a perspective not previously considered being the creation of a prescribed timetable for monitoring. The point has therefore been accepted for further consideration in respect to the reviewable land.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
4.10	The lessee should be informed that work affecting archaeological sites on the land is subject to the archaeological authority process under the Historic Places Act 1993.	5	Disallow	N/A

Submitter 5 states as historic features are located on the land proposed for disposal to the lessee it is important to advise that any activity by the owner of the land that may modify, damage or destroy an archaeological site(s) would require an authority from NZHPT.

Rationale for Allow or Disallow

The statutory protection of any archaeological sites referred to by the submitter is a matter that is properly addressed under the Historic Places Act 1993. The point is therefore not relevant to tenure review and cannot be properly considered under the CPLA. It is therefore disallowed.

Rationale for Accept or Not Accept

N/A

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
4.11	Special conditions and Schedule 3 of CC1 should provide for unimpeded survey, recording, analysis, assessment and active heritage management, including heritage partnerships.	4	Allow in part	Not accept

Submitter 4 states there should be no impediment to any ongoing protection work being undertaken. They also state that Special Condition 6 should make this clear especially in relation to heritage related combined DoC-community partnerships.

Rationale for Allow or Disallow

In promoting management access part of this point relates to the protection of significant inherent values, which is an object of tenure review under section 24(b) CPLA. That part of the point is therefore relevant to tenure review and can be properly considered under the CPLA and it is allowed. Use of heritage partnerships however represents a post tenure review management decision for DoC and it is not a matter that can be properly considered under the CPLA. That aspect of this point is therefore disallowed.

Rationale for Accept or Not Accept

The allowed part point relates to objects and matters that can be taken into account in the CPLA, as discussed above. DoC management access has however previously been considered and is provided for within the CC1 covenant. Also, the submitter does not introduce new information or provide reasons for any alternative management access proposal. The point can therefore not be accepted for further consideration in the formulation of the Substantive Proposal.

4.12	Provision should be included for termination of cattle grazing should adverse effects be detected.	9	Allow	Accept
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Submitter 9 notes the inclusion of the requirement for photo-point monitoring to determine whether there are any detrimental effects as might be caused for example by cattle grazing and suggests the inclusion of provision for the termination of cattle grazing should adverse effects be detected.

Rationale for Allow or Disallow

This point relates to the protection of significant inherent values, which is an object of tenure review under section 24(b) CPLA. The point is therefore relevant to tenure review and can be properly considered under the CPLA. It is therefore allowed.

Rationale for Accept or Not Accept

The point relates to objects and matters that can be taken into account in the CPLA, as discussed above. This matter has been previously considered and the proposed covenant includes provisions that would enable measures to be implemented to prevent cattle damage if monitoring indicates that to be necessary. The submitter has however provided reasons for terminating cattle grazing, being to prevent adverse effects on the historic values. This point has therefore been accepted for further consideration.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
5.1	Adjust the boundaries of the CC2 covenant area to enable them to be easily determined on the ground and support a higher level of visual coherence of the landscape.	4	Allow	Accept

Submitter 4 considers the proposed boundaries of CC2 are not natural nor practical. They suggest the boundaries should follow natural lines or run between obvious natural features so the resultant patterns have coherence and legibility in the landscape, and so they can be readily established on the ground. They provided a plan depicting proposed revised boundaries.

Rationale for Allow or Disallow

This point relates to the protection of significant inherent values, which is an object of tenure review under section 24(b) CPLA. The point is therefore relevant to tenure review and can be properly considered under the CPLA. It is therefore allowed.

Rationale for Accept or Not Accept

The point relates to objects and matters that can be taken into account in the CPLA, as discussed above. While the position of the covenant boundaries have been previously considered the submitter has provided reasons an alternative outcome which would involve realignment of the proposed boundaries. Those reasons include that the covenant boundaries should be easily determinable on the ground and have coherence and legibility in the landscape. This point has therefore been accepted for further consideration.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
5.2	Adjust the provisions of Schedule 3 of CC2 to ensure goals are met and monitoring is effective, consistent, objective and timely.	4	Allow	Accept

Submitter 4 comments that while it would be preferable to have no stock grazing they accept that light stocking of sheep only may allow a certain level of regeneration to occur and they acknowledge that the shrubland is regenerating. They consider the conditions for monitoring need to be amended to be effective, specifically:

- comprehensive monitoring must occur at least every 5 years,
- a reference point survey and assessment at the time the covenant is established to provide a base line for future measurements,
- inclusion of provision for the Minister to organise the monitoring to be carried out at the right time if the owner is not able to do so as it is critical that work is undertaken in a consistent, objective and timely manner.
- the monitoring provider must be appropriately qualified.
- the area should be inspected on foot by an experienced ecologist every two years to pickup any obvious deterioration and provision for more targeted survey work if any deterioration is observed.

#### Rationale for Allow or Disallow

This point relates to the protection of significant inherent values, which is an object of tenure review under section 24(b) CPLA. The point is therefore relevant to tenure review and can be properly considered under the CPLA. It is therefore allowed.

#### Rationale for Accept or Not Accept

The point relates to objects and matters that can be taken into account in the CPLA, as discussed above. While this point relates to an issue that has previously been considered the submitter introduces new information relating to the detailed specifications of the proposed monitoring. That information relates to suggested amendments to ensure the proposed monitoring is effective, consistent, objective and timely. The point has therefore been accepted for further consideration.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
6.1	A prescriptive shrubland management condition in the form of a covenant be applied to those remaining parts of the proposed freehold that support native shrubland cover.	4	Allow	Accept

Submitter 4 is concerned there is no protection mechanism to provide for the protection of the extensive and often diverse native shrublands outside of CC2 including those in the lower part of RAP1/5 (Point 2.1). They state this is contrary to National Priority 1, the protection of remaining indigenous vegetation in Acutely and Chronically Threatened Environments. They submit that the shrublands and associated landscape values in this area are a significant inherent value and that these values have been underestimated. They also state protection of these shrublands must be effected through tenure review as there is no restriction on removal of indigenous shrubland under the Central Otago District Plan on land freeholded out of tenure review as it is assumed by the Plan that all SIVs have been protected already as a tenure review outcome. They state the exact

parameters for the additional covenant needs to be developed by an experienced ecologist but suggest the following:

- spraying or other forms of clearance shall only occur as part of a shrubland management plan approved by the Minister of Conservation.
- shall not include removal of any native shrubs except matagouri
- any woody vegetation removal programme shall focus on exotic woody species and ensure a robust, well interconnected and buffered network of native shrubland remains or has the potential to develop over at least 20-30% of each grazing block.
- native shrubland shall not be removed within 50m of any gully centre except for occasional crossings for stock
- existing dense patches of native shrubland (defined as 70% or more canopy cover) of more than 30m<sup>2</sup> around rock outcrops shall not be destroyed.
- Monitoring by photo points along with 5 yearly inspection with provision for carrying out more detailed survey assessment if required.
- a base line measurement and record of shrub cover.
- provision for the Minister to require changes in pastoral management in response to monitoring outcomes.

#### Rationale for Allow or Disallow

This point relates to the protection of significant inherent values, which is an object of tenure review under section 24(b) CPLA. The point is therefore relevant to tenure review and can be properly considered under the CPLA. It is therefore allowed.

#### Rationale for Accept or Not Accept

The point relates to objects and matters that can be taken into account in the CPLA, as discussed above. While this point relates to an issue that has previously been considered the submitter articulates reasons why they consider formal protection should be afforded to the wider area of indigenous shrublands occurring within the proposed freehold. Those reasons being the shrublands and associated landscape values in this area are a significant inherent value and that those values have been underestimated. They also point out that protection of these shrublands must be effected through tenure review as there is no restriction on removal of indigenous shrubland under the Central Otago District Plan on land freeholded out of tenure review. The point has therefore been accepted for further consideration.

### Summary

#### Overview of analysis:

Submissions were received from nine parties comprising non-government environmental organisations, Crown entities, a recreation group, a registered company and a private individual.

One of the most common responses, in terms of the number of submissions received from different submitters, was support for aspects of the proposal. Seven out of the nine submitters expressed statements of support. The level of support was almost equal for the protective and access related components of the proposal with six submitters expressing support for aspects of the proposed protective provisions and also the public access provisions. Five submitters expressed specific support for the area proposed to be retained in Crown control.

Most submitters who expressed support for aspects of the proposal however also requested some amendments to aspects of the proposal.



The extent of the land proposed to be retained in Crown ownership and public access to that land represented the main areas for suggested changes with five submitters suggesting extension of CA1 and four submitters also suggesting the inclusion of additional public access to this area. Four submitters also suggested changes in the 15 year grazing concession proposed for this area.

Matters raised relating to conservation covenant CC1 produced the largest number of suggested amendments with 12 points, mainly relating to provisions associated with mitigating risks associated with the impact of cattle grazing, being raised by submitters.

There was also significant interest in public access with 10 points identified by a total of six submitters suggesting changes, mainly to the extent and nature of the proposed public access.

From the 31 points derived, 28 were allowed for further consideration. Of these 28 allowed points, 25 were accepted for further consideration in the formulation of the draft Substantive Proposal.

Appendix III lists the points raised by each submitter.

Generic issues:

Overall, there was a fairly high degree of support for the Happy Valley proposal. Where alternative outcomes were sought, this mostly related to providing improved protection of significant inherent values and more extensive opportunities for public access.

Gaps identified in the proposal or tenure review process:

One submitter identified that the Conservation Resources Report omitted to include reference to an area of tailings within the proposed freehold and consequently the protective and public access requirements for that historic feature have not been considered.

Another submitter identified an issue associated with continuity of legal access, pointing out that recent cadastral information indicates an easement expected to be created as part of the tenure review of the adjoining Carrick pastoral lease does not appear to provide a linkage to the commencement point of the proposed public access easement at the northern boundary of Happy Valley in Tuckers Gully.

No other gaps in the proposal or process were identified.

Risks identified:

No risks were identified.

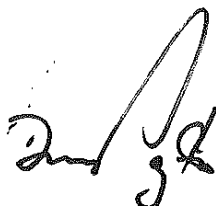
General trends in the submitters' comments:

Discussed under generic issues above.

List of submitters:

A list of submitters is included in Appendix II and a summary of the points raised by submitters is included in Appendix III.

I recommend approval of this analysis and recommendations:



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Dave Payton – Tenure Review Contract Manager

Date: 10/04/2014

Peer reviewed by



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Simon deLautour – Tenure Review Consultant

Date: 10/04/2014

Approved/Declined

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Commissioner of Crown Lands

Date:

**Appendices:**

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