

Crown Pastoral Land Tenure Review

Lease name: HOME HILLS

Lease number: PO 383

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.

October

06

PRELIMINARY ANALYSIS OF PUBLIC SUBMISSIONS
FOR PRELIMINARY PROPOSAL
HOME HILLS PASTORAL LEASE

File Ref: PRY-C60-12450-TNR-PO383-A

Submission No: DN0274

Submission Date: 07/08/06

Office of Agent: Dunedin

LINZ Case No: TR07/21

Date sent to LINZ: 10/08/06

RECOMMENDATIONS

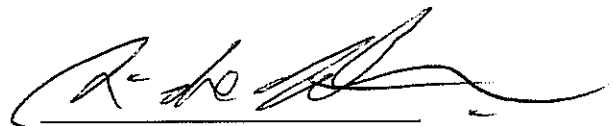
1. That the Commissioner of Crown Lands **notes** the receipt of this report for land held under Home Hills pastoral lease.
2. That the Commissioner of Crown Lands **approves** the recommendations in this report to allow or disallow the points raised in the submissions received.
3. That the Commissioner of Crown Lands **authorises** further consultation with the Director General of Conservations delegate on those points allowed.

Signed by Opus:

Peer Review:

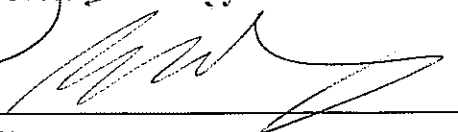


PP Bob Webster
Tenure Review Consultant



Simon de Lautour
Tenure Review Consultant

Approved/Declined by:



Name:

Date of decision: 23 / 8 / 06

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

1. Details of leases:**Lease Name:** Home Hills**Location:** Upper Manuherikia River 8 kilometres east of St Bathans, between the Manuherikia River and the Hawkdun Range.**Lessee:** Euan Sclater Johnstone**2. Public notice of Preliminary Proposal:*****Date, publication and location advertised:***

Saturday 15 April 2006.

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

Closing Date for Submissions:

26 June 2006.

3. Details of Submissions received:

A total of 15 submissions were received. Details of submitters are in Appendix 1.

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.
- Discusses each point.
- Recommends whether or not to allow the point 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 1998 (CPLA). Where it is considered that they are the recommendation is to allow them.

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

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

4.2 Analysis:

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Allow or disallow</i>
1	Unqualified support for the proposal, or for individual land designations.	1, 2, 9, 10, 11	Allow

Rationale

A number of submitters made statements in support of the whole proposal, or of specific parts of the proposal with respect to the future tenure of the land, without qualifying those comments with suggested alterations.

- Submitter 1 supported all aspects of proposal.
- Submitters 2, 10 and 11 made statements in unqualified support of the designation of land to be retained by the Crown as lake bed.
- Submitters 2 and 9 provided unqualified support for CA2.
- Submitters 9, 10 and 11 provided support for CA3, although submitters 10 and 11 did wonder why it was not designated as Recreation Reserve, and noted that if CA1 was extended as they proposed elsewhere, CA3 may become contiguous with other Conservation areas.
- Submitters 10 provided unqualified support for the Conservation Covenant and acknowledged the detailed description of the values to be protected compared to similar documents.

Statements of support for designations that were also qualified by suggested improvements have been tabulated elsewhere. Statements of support for the easements have also been tabulated in a separate point. Points made in favour of aspects of the proposal can be taken into account, along with points made suggesting alterations. This point is therefore allowed for further consideration.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Allow or disallow</i>
2	Unqualified support for the easements as proposed.	2, 4, 7, 9, 10, 11, 15	Allow

Rationale

A number of submitters specifically stated approval of specific easements in the proposal. These have only been identified here as points in support of the easements where they were not qualified by suggested alterations. Suggested modifications to easements are tabulated as points elsewhere.

- Support for the continuation of the existing easement in favour of the Omakau Area Irrigation Company Ltd was indicated by submitters 2, 7, 10 and 11.
- Support for the continuation of the existing easement in favour of the Hawkdun/Idaburn Irrigation Company Ltd was indicated by submitters 2, 4, 7, 10 and 11.
- Support for the continuation of the easement in favour of the Falls Dam Company Limited was indicated by submitters 2, 4, 10, 11 and 15.
- Support for the proposed farm management easement was indicated by submitters 2, 9, 10 and 11.
- Support for the proposed public and conservation management access easement 'a-b' was indicated by submitters 4 and 9.

Statements both in support of aspects of the proposal, as well as statements in opposition, can be considered under the CPLA process, and the points are therefore allowed for further consideration.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Allow or disallow</i>
3	Area CA1 should be extended further south over land currently designated for freehold disposal.	2, 4, 10, 11, 13	Allow

Rationale

Three distinctive suggestions were made which have been divided into the following sub points.

- (a) Submitters 10 and 11 suggest the conservation area should be extended as far the fenceline running east-west, south of Gate Creek.
- (b) Submitters 2 and 4 suggested CA1 should be extended down to Johnstones Creek and its shrublands.
- (c) Submitter 13 suggests this Conservation area should be much more extensive, joining up CA1, CA2 and CA3. This submitter did not suggest changes to current boundary of CA2 other than suggesting CA1 be extended to meet CA2, however their attached plan shows the area currently designated as CA2 extending further east.

Reasons provided for an extension to include this land included matters relating to reserve design, significant inherent values, and recreation opportunities. Submitters 2, 4 and 11 identified that the enlargements they suggested provided the opportunity to create one single Conservation area encompassing CA3 and CA1. Submitter 13 indicated the lower slopes down to and including CA2 contain significant inherent values on threatened and under protected ecosystems and suggested an enlarged area joining up all three proposed Conservation areas.

The protection of significant inherent values and the enjoyment of the reviewable land are relevant matters for consideration under the CPLA and thus the point is allowed for further consideration.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Allow or disallow</i>
4	The grazing concession over CA1 should be of a more limited nature.	2, 4, 5, 10, 13	Allow

Rationale

Submitter 2 suggested the term should be for 5 years rather than 10 and that no top dressing should be allowed after three years, on the basis that this should be adequate to maintain productivity and adjust the farming operation to the new situation. Submitters 4 and 10 also suggested there is a case for restricting the term to 5 years. Submitter 5 suggested the term should be 3 years to allow for faster tussock and shrubland recovery. Submitter 13 proposed that this conservation area should encompass a much larger area, and in recognition of the greater impact on farming from the potential loss of this land have suggested a 10 year concession may be acceptable, with sheep only, and reducing stock numbers.

The terms of such designations can be taken into account in the tenure review process under the CPLA so the point is therefore allowed for further consideration.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Allow or disallow</i>
5	The western boundary of the area to be freeholded should be an existing “new” fence where it adjoins area CA3, and there should not be a separation between CA1 and CA3.	7	Allow

Rationale

The submitter was concerned with the freehold/conservation boundary in an area of specific interest to them. It is interpreted that the submitter’s reason for the proposed boundary is for a clear separation between proposed freehold land and the proposed Conservation Area containing the huts.

The appropriate determination of boundaries is a matter that can be considered under the CPLA, with respect to the objects of tenure review, and therefore the matter is allowed for further consideration.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Allow or disallow</i>
6	Conservation Area 2 should be extended slightly on its northern and eastern boundary.	4, 10, 11	Allow

Rationale

Submitters 4 and 11 suggested that instead of the new fence F-G an existing fence a little further up the hill should be the boundary. Submitter 10 noted that the slopes to the north of CA2 up to about 800 metres were identified in the (CRR) as having significant inherent values, and suggested this area should be included in CA2 if those values still exist.

This point relates to the protection of significant inherent values and is therefore allowed for further consideration.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Allow or disallow</i>
7	Modifications are suggested to the proposed covenants.	2, 4, 11, 13	Allow

Rationale

Submitters 2 and 4 supported the covenants and suggested their lateral boundaries should be extended up-slope to the top of the steep faces.

Submitter 2 suggested that there should be a condition in the covenants to require grazing to cease or fencing to be erected at shared cost, where grazing shows adverse effects. Submitter 11 made a similar suggestion, restricting their concern to cattle grazing. Submitters 4 and 13 also noted that there is no provision for fencing if monitoring showed deterioration in the shrublands. Submitter 4 suggested the covenants should ideally be fenced off anyway, and identified an existing fence above the true right of the creek south of Johnstones Creek that may be used in that area. Submitter 13 suggested the covenants should be incorporated into CA1 and indicated their proposal was shown on the attached plan; their plan appears to not include the entire extent of the proposed covenants.

This point relates to the protection of significant inherent values under the CPLA and is therefore allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Allow or disallow</i>
8	Public access easement “a-b” should allow for public motor vehicle access.	2, 5, 10, 11, 13	Allow

Rationale

Submitters 5 and 10 requested public access from the top of Fiddlers Flat Road along the length of the lake, which would appear to be already provided by easement ‘a-b’, and they suggested this should include vehicle access. Submitter 2 also suggested easement “a-b” should allow for public vehicle access. Submitters 11 and 13 suggested the route should allow for public use of 4WD vehicles. The submitters saw this as a convenient route which would support such access. Public access is a matter that can be taken into account, and the point is therefore allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Allow or disallow</i>
9	Provision should be made for vehicle access to launch boats in Falls Dam.	14	Allow

Rationale

The submitter suggested that vehicle access to allow boat launching should be provided for a distance of approximately 480 metres north from the dam wall. This point relates to public access and enjoyment of the land and is therefore allowed for further consideration.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Allow or disallow</i>
10	The land between the existing access track along Falls Dam Lake down to the lakeshore should be marginal strip.	4	Disallow

Rationale

The submitter suggested that the land between the existing track (proposed public access easement 'a-b') and the lake shore should become marginal strip, to facilitate public access to the lake at any point along the shore. The proposal already indicates that a marginal strip will be created along the lake shore, but to ensure that no gaps remain between this strip and the easement it may be necessary to create a wider marginal strip. The process for the creation of a wider marginal strip is governed by the Conservation Act rather than the CPLA, and therefore the point must technically be disallowed. However, the Department of Conservation may wish to consider this point.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Allow or disallow</i>
11	An easement should be provided for public access to Trig F on the crest of Home Hills.	2, 4, 10, 11, 13	Allow

Rationale

Submitters suggested an easement should be created up the existing farm track to Trig F in the area proposed for freehold disposal, indicating that the location provides magnificent views. Public access and enjoyment of the land are matters that can be taken into account under the CPLA and the point is therefore allowed for further consideration.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Allow or disallow</i>
12	Public vehicle access should be permitted along the two tracks leading upslope from the existing road to the water race and a safer foot crossing should be created across the water race.	9	Disallow

Rationale

The submitter contended that the provision of vehicle access to the foot of the Hawkdun Range would be a considerable advantage to the public. However, this is really a management matter for consideration by the Department of Conservation after tenure review, and hence the point is disallowed for further consideration within the tenure review.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Allow or disallow</i>
13	Home Hills Run Road is off its legal alignment and should be corrected to provide public access.	5	Allow

Rationale

Submitter 5 noted that the Conservation Resources Report has identified that Home Hills Run Road is not on the legal alignment and suggested this lack of legal access should be corrected in some way in the tenure review. As this relates to the provision of public access across the reviewable land it is a matter that can be considered under the CPLA and the point is therefore allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Allow or disallow</i>
14	Access to the huts by Falls Dam should be preserved across CA1.	7	Allow

Rationale

The submitter wishes to maintain secure access to the huts by Falls Dam. The submitter was particularly concerned with the security of access along the dirt track on CA1 and along to CA3. While the CPLA does not enable the creation of legal roads, the submitter has separately suggested more generally that public access should not be able to be revoked within the terms of the proposed designation. More secure access across proposed Conservation land can be enabled through the CPLA through mechanisms such as easement concessions, where there is sufficient reason. The point is therefore allowed for further consideration.

→
Disallow

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Allow or disallow</i>
15	Unformed legal roads should be retained as legal roads and some formed roads that are not legal roads should be formalised as legal roads.	7	Disallow

Rationale

The submitter suggested that various unformed legal roads over land designated for retention by the Crown, or to be disposed of, should not have their legal road status changed. The submitter also suggested that parts of the Home Hills Run Road and existing tracks in the CA3 area that are not legal roads should be formalised as legal roads.

Legal roads, whether formed or unformed, are not included in the land under review. Such land cannot be dealt with as part of the tenure review. In addition, the CPLA does not provide a mechanism for the creation of legal roads. Consequently this point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Allow or disallow</i>
16	Action needs to be taken to ensure that lignite explorers and developers have a right to access the land contained in CA1 for exploration and mining activities, under current or subsequent permits.	3	Disallow

Rationale

The submitter identified that area CA1 is in an area of great potential for lignite which could provide considerable local and national economic benefit. The submitter contended that gaining access to land that has transferred into the Conservation estate for mining activities can be very difficult. In the interests of the potential economic benefits, the submitter requested that some action should be taken to ensure that exploration and mining options are not effectively closed off through transferring CA1 into the Conservation estate.

Existing exploration or mining permits will continue to exist after tenure review over land being retained as Conservation Area. In relation to future activities, gaining economic benefits from the mineral wealth beneath the land is not an objective required to be taken into account under s24 of the CPLA. In addition, gaining future exploration or mining access agreements can be achieved over Conservation land, and the provisions of the Crown Minerals Act 1991 and the Conservation Act 1987 provide the appropriate framework for the assessment of such proposals. Since the point is not a matter to be dealt with under the CPLA the point is disallowed for further consideration.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Allow or disallow</i>
17	The submitter wishes to draw attention to the intention of OtagoNet to register a Deed of Easement for electricity in favour of OtagoNet over land in the pastoral lease.	6	Allow

Rationale

The submitter has advised of an impending electricity easement likely to be registered shortly in favour of OtagoNet over land in the pastoral lease. While the submitter has not actually made any point in favour of, or against, any aspect of the proposal, it is apparent that they wish to ensure that the proposed easement persists after tenure review. The continuation in force of existing easements can be specifically provided for through the CPLA. The proposal already allows for the continuation in force of an easement in favour of the Falls Dam Company Limited covered by caveat 5971197.1. If this easement is registered before the substantive proposal, the CPLA provides the mechanism for its continuation in force. The point is thus allowed for further consideration.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Allow or disallow</i>
18	The submitter has requested further information relating to the tenure and future of the huts, and has asked to be kept informed of any planned changes in relation to the irrigation easements.	7	Disallow

Rationale

The tenure review process allows for public involvement in the form of submissions to the advertised proposal. The process does not include the provision of legal advice to other parties, or further consultation with individuals or groups unless authorised by the Commissioner. Therefore this point is disallowed for further consideration in the tenure review process.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Allow or disallow</i>
19	Concern that the proper functioning of the Hawkdun/Idaburn irrigation race could be compromised by overgrowth, flow blockages, or inappropriate use of the irrigation bench by other users, when the land becomes Conservation area.	8	Disallow

Rationale

The management of this water race and adjoining land is prescribed in an existing easement. Tenure review under the CPLA allows for the continuation in force of an existing easement, and such action is proposed in this case. However, the concerns of the submitter are related to issues beyond the objects of tenure review. The point is therefore disallowed. However, the submitter could take action outside of the tenure review process to vary the terms and conditions in the easement, either before or after tenure review is completed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Allow or disallow</i>
20	That allowances be made within the proposal for the raising of Falls Dam for irrigation purposes.	12	Allow in part

Rationale

The submitter indicated that the Falls Dam Company is investigating the possibility of raising the Falls Dam for irrigation by a height of 5 metres. They sought the following requirements in the proposal:

- (a) the continuation in force of existing easement in favour of the Falls Dam Company Limited
- (b) that the area designated as Crown Land for the purpose of lake bed be increased, with associated adjustments in proposed easements
- (c) adjustments to the covenant areas
- (d) amendments to the existing terms and conditions of the existing easement in favour of Falls Dam Company Limited to allow for the construction, operation and maintenance of an auxiliary spillway for Falls Dam
- (e) that the provision for water storage conditions be for a reservoir water level up to 6 m higher than the current level
- (f) that the access road along the eastern shore be provided for through the easements.

It is noted that the proposal to raise the lake is currently just a concept. No decision or agreement to the implementation of this project has been made by Falls Dam Company or any other party, and further design work, consultation with affected parties, and the raising of finance has yet to be carried out. It is simply an investigation.

Furthermore, decisions in tenure review must be made on the basis of specific objectives, set out in s24 of the CPLA. The raising of this dam for irrigation purposes would not meet any of the objectives set out in the CPLA. However, there is a provision for the continuation in force of existing easements after tenure review, where considered appropriate.

Consequently the point must be disallowed for further consideration in this tenure review, except for request (a), being the continuation in force of the existing easement in favour of Falls Dam Company Limited. The point is thus allowed in part.

Other methods are available to progress such developments over reviewable land, or over land that has already passed through tenure review.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Allow or disallow</i>
21	Pioneer Generation require legal access to their power generation facility.	15	Disallow

Rationale

The submitter noted that inside the pastoral lease the Fiddlers Flat Road deviates from the legal road and they request that as a consequence access to their power plant be legalised for them.

The deviation of the legal road from the formed road will not be an issue requiring action as far as public access is concerned, since this section of road is proposed to become Conservation area. Beyond that, provision of access to a power generating company would in this case meet no objective of tenure review under the CPLA, and therefore the point must be disallowed.

Private companies requiring legal access can take actions to have an easement created in their favour over reviewable land which has not yet gone through tenure review, or over land that has passed through tenure review. This is outside the tenure review process. However, the Department of Conservation may wish to consider this point.

4.3 *Summary of submissions:*

Submissions were received from a wide range of interested groups and individuals including interested individuals, non government environmental and recreation groups, users of huts along the shore of Falls Dam, and companies with irrigation channel interests over the land. In addition there were a number of submissions received from organisations with interests in irrigation or power generation from Falls Dam.

A number of submitters suggested minor extensions to proposed Conservation Areas 1 and 2, with one submission suggesting a much larger area of land should be protected. A shorter term to the grazing concession over Conservation Area 1, and some minor modifications to the covenants were suggested by a number of submitters. Many submitters were particularly interested in public access provisions, and the main interest in this respect was the importance of public access along the eastern shore of the lake, with a number of submitters suggesting the proposed easement should allow public access by motor vehicle. Most of the points raised by submitters relating to access or protection of significant inherent values were able to be allowed for further consideration.

Some of the submitters with interests in power generation or irrigation were seeking changes to the proposal based on objectives which are outside the purpose of tenure review, and which are more correctly achieved through other mechanisms.

PRELIMINARY ANALYSIS OF IWI SUBMISSIONS

Statement Pursuant to Sec 45(a)(i) & (ii) Crown Pastoral Land Act 1998

HOME HILLS TENURE REVIEW NO TR 139

Details of lease

Lease name: Home Hills

Location: Upper Manuherikia River 8 kilometers east of St Bathans,
between the Manuherikia River and the Hawkdun Range.

Lessees: Euan Sclater Johnstone

Public notice of preliminary proposal

Date advertised Saturday 15 April 2006

Newspapers advertised in:

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

Closing date for submissions: 26 June 2006

Details of submissions received

A copy of the proposal and information pack was sent to TRoNT on 13 April 2006. No reply was received by the closing date of submissions.

TRoNT were reminded to respond to the proposal on 18 July 2006 by Opus.

TRoNT were reminded again on 4 August by email and subsequent phone calls on 4 August and 9 August.

TRoNT subsequently provided a brief response which was received on 10 August 2006 and is analysed in this report.

ANALYSIS OF SUBMISSIONS

Introduction

The approach taken in the analysis of submissions is to review each submission in order to identify the points raised and then number these points accordingly. Where submitters make similar points these are given the same number.

The following analysis:

- Summarises any points raised
- Discusses all points raised.
- Recommendations whether or not to allow for further consultation.

The following approach is adopted in a preliminary analysis when making a recommendation to allow for further consultation:

The points raised are 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.

Further consultation with both the Director General of Conservation's delegate and the leaseholders has to be completed on all those points that are allowed.

A final analysis of submissions is then made, with a recommendation to accept or not accept the allowed points, taking into account the views of all parties consulted and any other matters relevant to the review, balanced against the objects and matters to be taken into account in the Crown Pastoral Lands Act 1998 (Sections 24 and 25 of the Act).

Analysis

Point	Summary of point raised	Allow or disallow
1	The values identified in the Cultural Values Report have been appropriately integrated into the proposal.	Allow
<p>Rationale</p> <p>TRoNT have reviewed the proposal against the Cultural Values Report, and consider that the values in that report have been appropriately integrated into the proposal. The objects of the Crown Pastoral Land Act include the protection of significant inherent values, which can include cultural values. The view expressed is thus relevant under the Crown Pastoral Land Act, and is thus allowed for further consideration.</p>		

Summary and Conclusion

The submission received supports the proposal as advertised.

I recommend approval of this analysis and recommendations

For Opus


Peer Reviewed



Simon de Lautour
Tenure Review Consultant

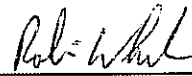
Date 10/15/06

Approved / Deelined



LINZ Assessor

Date 18/8/06



11 Dave Payton
Tenure Review Contract Manager

Date 10/8/06

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