

## **Crown Pastoral Land Tenure Review**

**Lease name:**

**MT CECIL – PT 078  
MT STUDHOLME – PT 079  
KAIWARUA – PT 114**

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

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

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

**April 08**

**FINAL ANALYSIS OF PUBLIC SUBMISSIONS**

**FOR PRELIMINARY PROPOSAL**

**KAIWARUA, MT CECIL & MT STUDHOLME PASTORAL LEASES**

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File Ref: PRY-C60-12699-TNR-PT078-A/02 Submission No: CH0287

Submission Date: 8 April 2008

Office of Agent: Christchurch

LINZ Case No: TRO8/52

Date sent to LINZ: 8 April 2008

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**RECOMMENDATIONS**

1. That the Commissioner of Crown Lands **notes** the receipt of this report for land held under Kaiwarua, Mt Cecil and Mt Studholme pastoral leases.
2. That the Commissioner of Crown Lands **approves** the recommendations in this report to accept or not accept the points raised in the submissions received.

**Signed by Opus:**



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Bob Webster  
Tenure Review Consultant

**Peer Review:**



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Mike Todd  
Senior Property Consultant

**Approved/Declined by:**

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Name:

Date of decision:        /        /

**1. Details of leases:****Lease Name:** Kaiwarua**Location:** The Hunter Hills, Kaiwarua Rd, north of Waiho Downs and 25 kilometres northwest of Waimate.**Lessees:** Kaiwarua Station Ltd**Lease Name:** Mt Cecil**Location:** The Hunter Hills, Kaiwarua Rd, north of Waiho Downs and 27 kilometres northwest of Waimate.**Lessees:** Caberfeidh Farms Ltd**Lease Name:** Mt Studholme**Location:** The Hunter Hills, Kaiwarua Rd, north of Waiho Downs and 20 kilometres northwest of Waimate.**Lessees:** Caberfeidh Farms Ltd**2. Public notice of Preliminary Proposal:*****Date, publication and location advertised:***

Saturday 17 November 2005.

- The Press Christchurch
- The Otago Daily Times Dunedin
- The Timaru Herald Timaru

***Closing Date for Submissions:***

6 March 2006.

**3. Details of Submissions received:**

A total of 9 submissions were received. Details of submitters are in Appendix 1.

#### 4. *Final Analysis of Submissions:*

##### 4.1 *Introduction:*

###### *Explanation of Analysis:*

Each of the submissions received has been numbered, and each of the points raised has also been numbered. Where submitters have made similar points these have been given the same point 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.
- Provides a discussion of each point.
- Indicates whether the point was allowed or not allowed for further consultation.
- Indicates whether the point was finally accepted or not accepted

In the preliminary analysis of public submissions, points that were considered to be matters that could be dealt with under the Crown Pastoral Land Act 1998 (CPLA) were allowed for further consultation. Conversely where the matter raised was not seen as a matter that could be dealt with under the CPLA, the point was not allowed.

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

In this final analysis, points that will be reflected in the substantive Proposal are identified as 'accepted', while points that will not be reflected in the substantive Proposal are 'not accepted'. This decision has been made 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).

##### 4.2 *Analysis:*

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Allow or disallow</i>	<i>Accept or Not Accept</i>
1	The head of several tributaries draining east from the crest of the Hunter Hills should be conservation land	1, 6, 7, 8	Allow	Accept in part
<i>Rationale</i>				
Submissions 1, 7, and 8 suggested the conservation boundary should run along the top of the Hunter Hills, on the basis of water quality. Submission 1 also suggested it has landscape values.				
Submission 6 argued that this area was initially indicated as having values worthy of protection, but that the lessee had subsequently damaged the significant inherent values by burning and tracking. They submitted that there was potential for recovery of values and that the land should preferably be retained as conservation land, or alternatively be retained as pastoral lease.				

Retention under pastoral lease is not an option offered by the CPLA. However, Crown retention as conservation land is an option provided under the CPLA and both submissions were concerned with significant inherent values or aspects of ecological sustainability. Consequently the point was allowed for further consideration.

This area of land was subsequently reconsidered. While the significant inherent values have been modified by farm developments, a covenant over these areas has now been included in the proposal, to prevent further burning, tracking, and any other soil disturbance. The covenant allows for oversowing and top dressing, and spraying of weed infestations. It allows for the Department of Conservation to undertake a monitoring programme to ensure that the ecological integrity and conservation values are maintained, and for grazing levels to be adjusted if conditions are deteriorating. This outcome is considered to achieve both the protection of the significant inherent values present, as indicated in s24(b) CPLA, and to enable economic use through freeing up the land from pastoral tenure, as indicated in s24(a). It is considered that, in the absence of the major farm impacts of burning or other earth disturbance, both the significant inherent native vegetation values and ecological sustainability will be protected and enhanced. From an economic use perspective, this area will form a valuable complement to other areas being freeholded. While this is a water supply catchment, submitters did not identify any current problems with downstream water quality related to this area, and the retirement under full Crown ownership and control of most of the land, along with the covenant, should ensure that water quality and ecological sustainability is promoted further by the proposal.

Since the proposal provides for the protection of this area, although not through retaining the area as conservation land, the point has thus been accepted in part.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Allow or disallow</i>	<i>Accept or Not Accept</i>
2	Concern over the management of noxious weeds & pests under Conservation management in the absence of grazing.	2	Disallow	Not Accept

*Rationale*

The submitter was concerned that management of weeds and pests could be a problem on retired land and questioned whether pest management had been realistically costed by the Department of Conservation. This concern really relates to the internal resourcing of the Department of Conservation, and their management strategies after tenure review. These concerns are not issues that can be resolved within the CPLA tenure review process, so the point was therefore disallowed for further consideration under this tenure review, and not accepted as part of the proposal. However, all submissions are provided to the Department of Conservation.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Allow or disallow</i>	<i>Accept or Not Accept</i>
3	Many of the areas proposed for conservation designations have potential for economic use as forestry land.	2	Allow	Not accept

*Rationale*

The submitter argued that much of the land proposed for conservation has potential for commercial forestry or carbon capture as either exotic or indigenous forest. Freeing up land capable of economic use from the constraints of pastoral tenure is one of the objects of the CPLA tenure review process, and the point was therefore allowed for further consideration.

Both the Department of Conservation and the Holders recognised that the areas proposed for retention had significant inherent values that would be lost if the land was developed for forestry. In this location, the objective of protecting significant inherent values was seen as more important than the objective of freeing up the land for the economic use of forestry. Disposal of further areas for the purpose of forestry was thus not accepted into the proposal. However, the retention of such areas should promote the regeneration of indigenous shrubland and forests, which may itself assist with carbon capture.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Allow or disallow</i>	<i>Accept or Not Accept</i>
4	Supports access provisions of the proposal as they provide comprehensive public access.	3, 5, 6, 7	Allow	Accept in part

*Rationale*

The submitters supported the extensive public access provisions. Submitter 7 acknowledged that access may need to be limited from time to time due to factors such as lambing or mustering. Public access across and to the land under review is a matter that can be taken into account under the CPLA, so the point was allowed for further consideration.

Public access came in for considerable attention as a result of public submissions. While most submissions were in favour of the access provided, submission 9 suggested that some of the easement routes would result in conflicts with farming operations (see point 12). These concerns were strongly expressed by the Holders in subsequent consultation. Given the obvious importance placed on good public access it was determined that, while farm concerns could be taken into account, the final proposal needed to have access provisions at least as good as in the preliminary proposal. The only change to the proposal has been to move the proposed easement marked 'c-d' in the preliminary proposal to a different spur further to the north. This will ensure the public do not interfere with the farm operation in the south-west part of the current Kaiwarua lease. It provides equivalent public access to the Hunter Hills up another 4wd track. Overall, while reducing the likelihood of conflict with farming, it may also be a better outcome for the public, since it ensures access to both the southern and northern parts of the Hunters Hills inside the review area. Making this change has also enabled agreement that none of the easements will be subject to any lambing closures.

The level of public access is considered to be at least equal to what existed in the preliminary proposal, although it is acknowledged that it is not exactly the same as what existed in that proposal. Consequently, the point has been accepted in part.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Allow or disallow</i>	<i>Accept or Not Accept</i>
5	Statement of support for the proposal as advertised	4	Allow	Accept in part.

*Rationale*

Support for the proposal as advertised is a matter that can be taken into account in the tenure review process under the CPLA and the point was thus allowed for further consideration.

The fact that some public submissions provided support for the proposal as it stood was taken into account in the subsequent review of the proposal. This submitter did not provide any detail as to any reasons why any parts of the proposal should necessarily stay as they were. Some aspects of the proposal have been changed in response to other submissions. Consequently this point has been accepted in part.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Allow or disallow</i>	<i>Accept or Not Accept</i>
6	Support for the proposed conservation area	5, 6, 7	Allow	Accept

*Rationale*

The submitters supported the proposed conservation designation.

Submitters 6 and 7, while supporting the restoration of the proposed areas to conservation, suggested that more of the land under review should be retained for conservation. These arguments are considered separately in later points.

Submitter 5 indicated that there are few extensive such areas in this region, and says that there will be good recreational hunting opportunities.

Support for the proposal, and recreational opportunities are matters that can be taken into account under the tenure review, and the point was therefore allowed for further consideration.

The final proposal includes Crown retention of all areas proposed to be retained in the preliminary proposal, and protects further areas by covenant. The point has therefore been accepted. Details of the specific arguments in favour of greater protection, and how they have been dealt with, are covered in later points.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Allow or disallow</i>	<i>Accept or Not Accept</i>
7	Concerned that the legal road adjoining the Mt Cecil lease is blocked by an existing deer fence and forestry operation	5	Disallow	Not Accept

*Rationale*

Public access is a matter that can be taken into account in tenure review. However, the legal road mentioned is not included in the land to be considered under this tenure review. Since the matter is not something that can be dealt with through tenure review under the CPLA the point was disallowed for further consideration and not accepted into the proposal.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Allow or disallow</i>	<i>Accept or Not Accept</i>
8	Several western valleys draining into the North Branch Waihao River have values deserving protection.	6, 7, 8	Allow	Accept

*Rationale*

Submission 6 provides a detailed argument on the extensive depletion of *Chionochloa rigida* grasslands in the Southern Alps and their under-representation in protected areas. It is argued that certain areas under review (marked A,B,C,D,E on maps in submission 6) have such snow tussock grasslands and that they deserve protection on the basis of their health, extent, and naturalness. They argue that freeholding them will result in continued biodiversity loss and exacerbate their continued decline.

Submission 6 also argues that there are lowland shrublands worthy of protection and that the proposal should allow for expansion and restoration of sequences of native woody vegetation. They also argue for the protection of this land on the basis of halting the decline in biodiversity and the NZ Biodiversity Strategy. They also submit that these areas are outside the area that has been significantly modified by burning, oversowing and top dressing.

Submissions 6 and 8 also suggest that freeholding these areas will not promote ecologically sustainable management, since farming developments such as burning can degrade the snow tussock and have an effect on soil conservation and water yield. Submission 8 submits that this area would be likely to regenerate over a relatively short period, as have other areas of the eastern and western Hunter Hills. Submission 6 suggests that the provisions in the Waimate District Plan do not provide adequate provisions for protection of such environments, and that forestry would be unsustainable due to potential erosion and impacts on water yield.

Submission 7 identifies an area of shrublands just above the North Branch of the Waihao River north of the access track to Mt Blyth that they feel should be retained by the Crown. They also identify a deep valley on the south side of that track that they feel should be protected under Crown control. More generally they submit that all significant snow tussock areas be retained as conservation land.

This point relates to significant inherent values and ecological sustainability which are matters to take into account under the CPLA, and appropriate designations that can be achieved under the CPLA. As such, the point was allowed for further consideration.

As a result of further inspection and negotiation, the substantive proposal provides protection by covenant for two further areas draining into the North Branch Waihao River that are considered to have values worthy of protection. These covenants encompass the main areas over which protection was sought in the public submissions. The new covenant CC1b protects a full altitudinal sequence on a shady slope in Mt Cecil lease, extending from the Waihao River up to the main ridge of the Hunter Hills. This slope supports good quality narrow leaved snow tussock and shrublands, and contains significant landscape values, due to its naturalness and intactness. Further to the north in Kaiwarua pastoral lease, a larger covenant CC1c protects the catchments on either side of the access track to Mt Blythe. Values are similar to those in CC1b. The covenants do not prevent grazing or oversowing and top dressing, but such activities tend to be focused on the more open country with lesser values. The covenants prevent burning, but allow for control of weed



pests. In covenant CC1c, north of the Mt Blythe access track, spraying of regrowth matagouri is to be allowed in some specific areas that are defined in the covenant, where it may proliferate as a direct result of future oversowing and top dressing. Both covenants allow for vegetation monitoring to ensure values are maintained. The point has therefore been accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Allow or disallow</i>	<i>Accept or Not Accept</i>
9	The granting of development consents during tenure review has undermined the integrity of the tenure review process, and such actions are opposed.	6	Allow in part	Accept in part

*Rationale*

The submitter indicates that track bulldozing and tussock burning has been allowed to proceed subsequent to the Conservation Resources Report, and that such actions undermine the integrity of the tenure review process and encourage lessees to destroy or compromise identified significant inherent values in order to freehold such areas.

The granting of consents for burning of vegetation and other activities affecting the soil are covered under sections 15 and 16 of the CPLA. On this basis the point falls within the defined criteria by which a point is allowed. However, the granting of such consents is not a matter than can be dealt with under the tenure review process, and it is also noted that the development on this review land has already occurred. The point was thus allowed to the extent that such consents are covered under the CPLA, and that the matter should be referred to LINZ as a matter they may wish to consider that could affect future tenure reviews.

The submitters concerns were passed on to the LINZ staff involved with pastoral lease statutory land management. The potential conflict between certain development consents and tenure review goals has already been acknowledged within LINZ, and actions taken to resolve such conflicts. A process now exists whereby an agreement is sought with tenure review leaseholders that they will not carry out actions which may threaten the values the Crown is trying to protect in the tenure review proposal. Such an agreement has been reached with the leaseholders using the land under this review, which will apply until the review outcome is implemented. However, so long as the land is held under pastoral lease the lessee does have the right to use the land for farming purposes, and have their applications for development consents considered under s18 CPLA, which requires the Commissioner to take into account the desirability of making it easier to farm the land, as well as the desirability of protecting inherent values. The point has therefore been accepted in part.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Allow or disallow</i>	<i>Accept or Not Accept</i>
10	Legal roads and marginal strips should be marked on the PP maps.	6	Allow	Accept

*Rationale*

The submitter has requested that legal roads and marginal strips be displayed on the designations plans. The appropriate preparation of designations plans is an integral of the tenure review process under the CPLA, and the point has thus been allowed.

Tenure review designation plans use land status plans as their background, which show cadastral boundaries, although legal roads are often not particularly obvious due to scale factors. Since the date of this submission, LINZ has instituted a process whereby marginal strips that will be laid off on disposition are identified by survey before the preliminary proposal, and are shown the designation plans. The substantive proposal designation plans show such anticipated marginal strips. The point has therefore been accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Allow or disallow</i>	<i>Accept or Not Accept</i>
11	Marginal strips should be laid down along the river banks of the Waihao and that there should be public access along these river margins.	7	Allow in part	Accept in part.

*Rationale*

The creation of marginal strips is not an optional process under the CPLA. They will be automatically created upon disposition, under the Conservation Act, along complying streams. To that extent this point is disallowed. However, the submitter has separately indicated that they would like public access along the river margins. This may or may not be satisfied by the creation of a marginal strip. Since public access is a matter that can be taken into account under the CPLA the point has been allowed in part for further consideration.

The entire length of the Waihao River has a legal road laid off along the true left bank. Therefore legal access is available up the river. Generally physical travel up the riverbed is also quite straightforward. Marginal strips will only be laid off where land for disposal out of tenure review actually adjoins qualifying waterways. Since public access is provided along the Waihao, but marginal strips will not be laid off, the point is accepted in part.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Allow or disallow</i>	<i>Accept or Not Accept</i>
12	Public access easement a-b and c-d will come into conflict with farm activities and requires more consideration with respect to public safety. However, easement h-i would be more than adequate, although this would be better located on a ridge to the east with access to Mt Studholme summit.	9	Allow	Accept in part

*Rationale*

The submitter was concerned with the appropriate location and nature of public access, along with the future economic use of the land. These matters can be considered under the CPLA tenure review process, and the point has therefore been allowed for further consideration.

It should be noted that the lettering used in the preliminary proposal, and referred to above, differs from the lettering which will appear in the final designations plan. With respect to 'a-b' and c-d', the submitter was referring to an easement which was proposed near the southern boundary of Kaiwarua. The submitter's concerns have been taken into account, and the public access is now provided up an alternative tracked spur further to the north. With respect to 'h-i' the submitter was referring to a proposed easement across the Mt Cecil land. The alternative route suggested by the submitter was explored. However, it was considered that the easement proposed provides better access, and this has been retained in the proposal. Consequently, one of the points raised by the submitter has been accepted into the proposal, and the other point has not. The point is therefore accepted in part.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Allow or disallow</i>	<i>Accept or Not Accept</i>
13	Land ex Kaiwarua for Crown ownership is all capable of economic use and all the significant inherent values could be protected with other mechanisms available under the CPLA	9	Allow	Not Accept

*Rationale*

This point relates to appropriate designations with respect to economic use and significant inherent values, which are matters that can be taken into account under the CPLA. The point has therefore been allowed for further consideration.

The designations in all three properties have been reconsidered subsequent to public submissions. While some protection may be achievable through freehold ownership of areas proposed for retention, it has been concluded that better protection for the areas indicated by the submitter will be provided by retaining the land in question under full Crown ownership and control, which is also the preferred option where significant inherent values are identified, as indicated in section 24(b) CPLA. The point has therefore not been accepted.

Some other areas that were previously proposed to be freeholded unencumbered have now been proposed for protection by covenant. These are areas where there is a greater mixture of attributes, with some areas being quite modified and clearly having economic use as farmland, and other areas having significant conservation values warranting some protection.

**4.3 Summary of submissions:**

In relation to the designations, the most common suggestion was for the inclusion of the headwaters of tributaries draining east from the crest of the Hunters Hills to be included in the conservation land, based largely on water quality concerns. Several submissions argued in

favour of protecting more of the catchments draining west from the Hunter Hills, with Forest and Bird providing quite extensive submissions on this point. Many submitters indicated support for the public access provisions in the proposal. However, not all submissions argued this way, and some suggested more land should be freeholded, or that the access provisions could be reduced.

Subsequent to public submissions, further protection has been enabled for land draining both east and west from the main crest of the Hunters Hills, using a number of additional covenants. This outcome is seen as providing better protection for the land concerned than in the preliminary proposal, yet enabling some economic use of the covenant areas.

Public approval of the access provisions has been acknowledged, as have concerns about problems associated with public passage through farm areas. This has led to the shifting of a proposed easement linking the Waihao River to the crest of the Hunters Hills to a spur further to the north. It is considered that the substantive proposal provides public access at least as good as in the preliminary proposal, while overcoming concerns relating to the potential impact of public access on the farm activities.