

Crown Pastoral Land Tenure Review

Lease name: MT COOK

Lease number: PT 132

Public Submissions - Part 3

These submissions were received as a result of the public advertising of the Preliminary Proposal for Tenure Review.

May

06

RELEASED UNDER THE OFFICIAL INFORMATION ACT
Addition to Submission # Nine

Tim Broad

From: Hugh Barr [hugh@infosmart.co.nz]
Sent: Wednesday, 7 December 2005 09:58
To: Tim.broad@opus.co.nz
Cc: Dave Hodder; Dianne Brown
Subject: Fw: Mt Cook Station TR

Tim, Three late points we would like to add to yesterday's NZDA submission on Mt Cook Tenure Review
Regards

Dr Hugh Barr
NZDA National Advocate
Tel/Fax: 04 934 2244 Mob: 025 686 0063
hugh@infosmart.co.nz

----- Original Message -----

From: Sonya and David Hodder
To: Hugh Barr
Sent: Tuesday, December 06, 2005 8:23 PM
Subject: Mt Cook Station TR

Hugh,
have no problems with your submission - you made good points re access needs.
a) I sometimes ask for car parking provisions along/at end of any created marginal strips as the 20m strip is insufficient for parking vehicles. eg: Castle Hill station limestone rocks track entrance on SH72.
b) Also were there any station huts on the recovered land?
c) What happens to the wilding pines on the freehold land? If not controlled will re-infest the adjoining Conservation land ?

Regards
David and Sonya Hodder
408 B Barrington Street
Christchurch 8002
Ph 339 7038 Fax 339 7036

Submission # Ten

Received by email
on 6/12/05.

Royal Forest and Bird Protection Society
PO Box 2516
Christchurch Mail Centre
Ph 03 3666 317
Fax 03 365 0788

6 December 2005

Tim Broad
Opus Consultants
PO Box 1482
Hereford St
Christchurch
By email tim.broad@opus.co.nz

Dear Tim Broad

SUBMISSION ON PRELIMINARY TENURE REVIEW PROPOSAL FOR MT COOK PASTORAL LEASE

1. INTRODUCTION

The Royal Forest and Bird Protection Society (Forest and Bird) is New Zealand's oldest and most active voluntary conservation organisation. Formed in 1923 the Society has around 38,000 members in 56 branches around New Zealand. This submission is on behalf of the Society's Central Office.

The Society's constitution requires it to:

"take all reasonable steps within the power of the Society for the preservation and protection of indigenous flora and fauna and natural features of New Zealand for the benefit of the public including future generations."

"Protection of natural heritage includes indigenous forests, mountains, lakes, tussocklands, wetlands, coastline, marine areas, offshore islands and the plants and wildlife found in those areas."

2. PRELIMINARY PROPOSAL

Forest and Bird understands the preliminary proposal to be:

1. Restoration to or retention in full Crown ownership and control of around 1178 ha on the western faces of Burnett Range as Conservation Area (CA) CA 1.
2. Restoration to or retention in full Crown ownership of around 348 ha. of Tasman River flats as CA 2.
3. Restoration to or retention in Crown ownership of part of flats between Micks Point and Black Point as CA3 subject to right of way easement in favour of D.M.C Burnett.

4. Freehold disposal of around 828 ha.

3. SUBMISSION SUMMARY

Forest and Bird supports the protection of CA1, CA2 and CA3 for the values described in the Mt Cook Conservation Resources Report (CRR) ¹ and the Submission and Drafting Instructions (Report CH0210).

Parts of the preliminary proposal which Forest and Bird opposes include:

- The boundaries of CA1 and CA3 and the proposed freehold and the failure to protect adequately, areas of significant indigenous vegetation and fauna habitat and landscape values.
- Inadequate protection of outstanding landscape values of the proposed freehold area, given vulnerability to forestry and pasture development and the weak controls in Mackenzie District Plan.
- No provision for roadend car parking and visitor facilities.
- Absence of any programme or bond to control weeds particularly wildings and crack willow on lease prior to transfer to DoC or on proposed freehold.
- Inadequate public access to conservation land including CA1 and up Jollie Valley.

4. SPECIFIC CONCERNS

4.1 Conservation Area 1

Rock Etam, Black Point

As the CRR notes (p5) Rock Etam is a "*particularly impressive and intriguing landscape feature*". It provides spectacular views from an elevated viewpoint over the Tasman Valley to the Main Divide. It has highly natural sub alpine shrublands and tussocklands. DoC's Values Map identifies Rock Etam as having landscape and botanical values deserving protection.

Rock Etam appears to be proposed for freeholding against DoC advice because the lessee Mr Burnett wanted to protect the site of his father's grave². There appears to have been no discussion at the consultation meeting of other mechanisms to respect and acknowledge this significant grave and historic site or the benefits 50 or 100 years hence of having the land in public ownership. Owners change. DoC's statutory responsibilities as a Crown agency for historic and other significant sites are likely result in the land and the grave being better protected and respected than it would be if the land was owned by a disinterested absentee overseas owner.

Decision sought

Extend CA1 to include the Rock Etam area and associated land. See Map 1 attached.

Discuss with the lessee methods of protecting and respecting the Burnett grave as conservation land. A management agreement requiring consultation with the Burnett

¹ Department of Conservation (May 2003) *Mount Cook Pastoral Lease Conservation Resources Report*.

² *File Note DPP Consultation Meeting for Mt Cook 29 March 2004* in A Blackburn and M Todd, *Report on Consultation CPL Commencement of Tenure Review Standard 7*.

family is one option. If agreement cannot be reached, provide for a Conservation Covenant over the freehold land which prohibits indigenous vegetation clearance and forestry, and allows public foot access.

4.2 Conservation Area 3

The proposed straight line eastern boundary of CA3 between Waits Creek south of Black Point and north of Micks Point is inappropriate for the following reasons:

- Areas with high SIVs are not protected as s24 CPLA requires. This is inconsistent with the Government's High Country Objectives (g) (Cabinet Policy Committee POL (05)14) "*ensure that conservation outcomes for the high country are consistent with the New Zealand Biodiversity Strategy*" especially in relation to freshwater biodiversity.
- The boundary fails to follow any natural contour, despite the leasee's request during negotiations for "the foot of the hill" to be adopted as a freehold boundary in the Tasman Flats and Black Point area and the benefits of "using a natural boundary to get a clear and unambiguous legal boundary."³
- It fails to protect important lowland shrubland and riverflats habitats, including extensive areas of tall matagouri shrublands which are likely to be decades if not centuries old. These were recommended by DoC for protection.
- It results in a narrow wedge of freehold land between CA1 and CA3 which fragments the landscape with potentially conflicting land management regimes in a small area and impedes access to conservation land higher on the Burnett Range.
- It prevents the protection of a complete altitudinal sequence from the sub-alpine and scree slopes of existing conservation land on the tops of the Burnett Range to the Tasman Riverbed. No similar extensive areas of riverflat vegetation occur at the base of the much steeper slopes of the range north of Black Point.
- The CRR (p4) describes the existing landscape values of the flats as appearing "highly natural and intact" with high legibility and coherence and being an integral part of the Tasman River floodplain. By chopping the significant landform of the river flats in two, the boundary will degrade landscape values, especially if land use intensifies post freeholding. There is a high risk of bright green cultivated pasture on one side of the boundary and more natural vegetation on the other.
- The lack of any new fencing on the eastern CA3 boundary exposes proposed new conservation land to the impacts of continued stock grazing.
- It requires unnecessary additional expenditure by the Crown on proposed fence "T-U" between Andrew Creek and McLeod Creek when an existing fence on the 600 m asl contour at the base of the slope would provide an appropriate fenced boundary.

The Values Map identifies the river flat proposed for freeholding as deserving having botanical, fauna and landscape values. This congruence of values highlights the need for protection and the proposal's inconsistency with s24(b) CPLA because of this. The

³ Mt Cook Consultation Meeting 2 December 2003 Notes in A Blackburn and M Todd, *Report on Consultation CPL Commencement of Tenure Review Standard 7*.

Values Map shows the existing 600m asl fenceline as the eastern boundary of the area with these overlapping values.

The Consultation Notes record DoC's recommended boundary being changed simply the request of the lessee. No reasons as to why the change was needed are given.

The CRR (p14) notes that the two large gentle streams on the Mt Cook lease provide "the most significant habitat for fish, both in terms of the diversity of native fish species and the presence of the threatened upland longjaw galaxies." One of these, the large gentle stream near Micks Point is proposed for freeholding leaving it vulnerable to stock trampling of banks with erosion and loss of streamside vegetation, and degradation of water quality and habitat values.

The Biodiversity Strategy (February 2000) notes that "*very few lowland river systems have any form of protection*". A Desired Outcome for 2020 is "*The extent and condition of remaining natural freshwater ecosystems and habitats are maintained. Some degraded or scarce habitats, such as lowland river systems, important wetlands and riparian area, are restored or increased in area. Intact natural freshwater areas are protected and their natural character is maintained.*"

Decision sought

Extend CA3 to include all of the river flats between Joes Creek (south of Micks Point) and the unnamed creek northwest of spot height 685 and make the eastern boundary the existing fence at 600 m asl. and the toe of the hill slope (See Map 1 attached). This would be a more obvious and boundary which follows a natural feature. Money saved from fencing could be used for wilding control.

4.3 Landscape values inadequately protected

The CRR (p3) notes the regional significance of the Burnett Range and the Range's contribution to the iconic view of Aoraki/Mt Cook, Lake Pukaki and the Tasman River bed and being important in views when approach Aoraki/Mt Cook National Park and in views from the park. The CRR (pp4-6) notes that that subdivision fencing, burning, pastures development, shelter planting and wilding tree spread are the major threats to landscape values.

These outstanding values will not be adequately protected on the proposed freehold. The CRR (s3.2, p 19-20) incorrectly assesses the Mackenzie District Plan. It overstates the Plan's ability to restrict activities which compromise landscape values. The CRR demonstrates a fundamental misunderstanding of the Resource Management Act and the way in which district plans are written and applied. Over much of the area proposed for freeholding, earthworks, tracking, building, and forestry either do not require resource consent, or are subject to only limited controls.

The Mackenzie District Plan's controls over such activities are weaker and less extensive than the CRR claims. For example, section 3.3 (p19) of the CRR summarises the Plan rules as providing for "*no clearance of indigenous vegetation, no earthworks exceeding 20 m³, and no pastoral intensification etc...*" This is incorrect. None of these activities are prohibited by the District Plan.

Plan rules frequently provide for named activities to be permitted, controlled, restricted discretionary or discretionary, or non-complying. The activity status is often determined by whether the activity complies with specific performance standards. Plan rules, such as those in the Mackenzie Plan are drafted in the negative so that, for example, if earthworks of more than 20m³ are proposed above 900 m, this will be a discretionary activity requiring resource consent. In various Environment Court cases, discretionary status has been held to mean that the activity is generally regarded as appropriate in the zone, although not every type or intensity of earthworks (for example) at every location will be necessarily be appropriate and granted consent.

A significant part of the proposed freehold between Big Hill and Black Point is below 900 metres asl. and outside any Significant Natural Area. Accordingly forestry is a restricted discretionary activity which requires consent, making it generally appropriate in the area... Earthworks and tracking are permitted activities not requiring consent (other than within a 10 metre riparian setback, 50 metre lakeside setback, or on land with more than a 25 degree slope). Cultivation and burning of up to 40 ha. of short tussock grasslands is permitted every five year period...

The benefits for nature conservation and landscape values of the past conservative grazing and farm management regime are acknowledged. Forest and Bird is grateful to the Burnett family for this. There is no certainty, however, that past practices will continue especially if owners change and if land is sold post freeholding as has occurred with other newly freeholded land. Different owners may have different views and different commercial imperatives for land use. Mr Butterfield's claims that "*arrangements have been made*"⁴ for the current regime to continue are not substantiated by any evidence or other documentation. As freehold future ownership and management 20 or 30 years hence cannot be predicted.

Decision sought

Direct DoC to ensure that Conservation Resource Reports include an accurate analysis of the provisions of District Plans, their meaning of rules and their effect.

Extend the eastern boundary of CA3 to the fenceline at 600 metres asl as sought above to protect the outstanding landscape values of the Tasman river flats (preferred)

Alternatively, apply a landscape covenant which prohibits exotic forestry, burning and vegetation clearance and cultivation to all of the proposed freehold land, particularly the wedge of land between CA1 and CA3 between Andrew Creek and Micks Creek.

4.4 Land needed for roadend facilities

The proposal does not appear to provide any conservation land close to the end of the Braemar-Mt Cook Station road for facilities for day or short stay visitors (eg toilets, campground, accessible picnic area) eg family groups not interested in tramping or hunting. After a long drive visitors come to the end of the road and without a 4WD or advanced outdoor skills there is nothing to do but turn around. This is likely to frustrate

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members of the public or lead to intrusions on the landholder's privacy. The south eastern boundary of CA2 appears to be riverbed rather than a grassy or similar area suitable for road end facilities. While such facilities may not be needed or developed for many years the proposal should recognise the likely need for them 20 or more years hence.

Decision sought

Expand CA2 on the Jollie fan to include an accessible grassy area for roadend facilities such as camping and carpark area for day and short stay visitors.

4.5 Wilding trees and other problem plants

The CRR describes the wilding spread problem and its consequences for landscape and ecological values in halting natural succession processes and converting tussock grasslands and shrubland to exotic forest. Other weed locations are described.

Controlling the spread on the lower hill slopes south of Tasman Point and in the Jollie Valley is a major challenge for DoC and for the lessee on proposed freehold, especially close to Big Hill. Yet the Preliminary Proposal contains no measures to deal with wildings or other weeds so fails to protect SIVs as the CPLA requires.

In 2000⁵ DoC estimated the cost of wilding control in the South Island generally as:

- <\$10/ha for where tree density/ha was < 10,
- \$10-100/ha where tree density was \$100-1000; and
- \$300-\$1000/ha where tree density was 1000-5000/ha. and contract clear felling was required.

Lack of wilding control leads to costs escalating, potentially from an estimated \$2/ha to at least \$1,500/ha in less than 20 years as wildings spread and become denser.⁶ Failure to undertake wilding control can result in loss of conservation values, reduced stream yield, restricted access for recreation, major landscape change and degradation and reduced profitability for pastoral farming.

All infestations appear to have been established through wilding spread from planted stands on the property⁷. LINZ and its predecessors as the Crown agency responsible for managing pastoral leases should ensure that sustained control is undertaken prior to any change in land status given the potential for the problem to become more severe very rapidly.

Decision sought

LINZ should provide adequate funding to develop a wilding management plan (if not already prepared) for Mt Cook and to undertake a sustained control work as part of developing a Substantive Proposal. Control efforts to contain and substantially reduce wilding spread should occur prior to any change in land status. Negotiations should be undertaken with the lessee to determine their contribution to wilding control costs.

⁵ Department of Conservation (2000) *South Island Wilding Conifer Strategy*, Department of Conservation.

⁶ Ibid.

⁷ CRR p 12.

The Proposal should be amended to include a bond for weed control and/or covenant conditions to ensure wilding conifers and crack willow in particular are controlled on the proposed freeholded land. The bond should be for a fixed term (e.g. six years) and should be adequate to cover the costs of control by LINZ or DoC if the new freehold owner does not undertake this by the expiry of the term.

4.6 Public access needs improving

Jollie Valley

The Jollie River is a popular tramping and access route. Proposed access to the valley and conservation land is not secure as the CPLA requires. This is because:

- A section of the Braemar -Mount Cook Station Road formation south of the Mt Cook homestead does not follow the legal road;
- the legal road at the southwestern toe of Big Hill does not provide practical access given the density of wilding spread and lack of any track formation on the roadline

The request for improved and secure access up the Jollie Valley was clearly expressed at the Early Warning meetings in 2002 but has not been provided for.

Decision sought

The Consultation Notes⁸ record that the lessee's preference is "*that a public easement be put in place over an existing track on the Cox's Down side of the Jollie.*" This track already has an easement in favour of Braemar Station. This would be a sensible and practical solution as it would minimise the number of different easements over the proposed freehold and as a formed track it would provide practical public access, protect the landholders' privacy by being reasonably distant from the farm buildings.

Access across freehold from CA3 to CA1

The proposed wedge of freehold land between CA3 and CA1 means that trampers and walkers wanting to access Mt Burnett have to climb up the steep slopes on the true right of the Jollie or go all the way north of Black Point to reach conservation land and then back track south along the new conservation land.

This is impractical and creates a very long and frustrating day. A route which allows trampers and walkers to ascend the front (western) faces of the Burnett Range to the main ridge and onto Mt Burnett is likely to be a popular and satisfying climb given the spectacular landscape and dramatic views. The lack of any access easement across proposed freehold between CA1 and CA3 prevents this.

Decision sought

If CA3 is not extended as requested above create a public foot access easement from CA3 to CA1 perhaps on the true right of McLeod Creek.

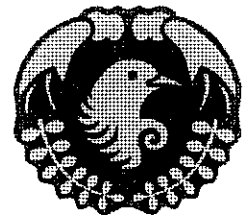
Yours sincerely

Eugenie Sage
Regional field officer

⁸ Mt Cook Consultation Meeting 2 December 2003.

Attachment : Map 1 Forest and Bird's Desired Changes to Preliminary Proposal

546 1033100



**FOREST
& BIRD**

Royal Forest and Bird
Protection Society
of New Zealand Inc

Royal Forest and Bird Protection Society
PO Box 2516
Christchurch Mail Centre
Ph 03 3666 317
Fax 03 365 0788

6 December 2005

Tim Broad
Opus Consultants
PO Box 1482
Hereford St
Christchurch
By email tim.broad@opus.co.nz

Submission emailed
minus map 6/12/05
Hard copy including
map 9/12/05

Received
12/12/05
TS

Dear Tim Broad

**SUBMISSION ON PRELIMINARY TENURE REVIEW PROPOSAL FOR MT
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4.1 Conservation Area 1 Rock Etam, Black Point

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members of the public or lead to intrusions on the landholder's privacy. The south eastern boundary of CA2 appears to be riverbed rather than a grassy or similar area suitable for road end facilities. While such facilities may not be needed or developed for many years the proposal should recognise the likely need for them 20 or more years hence.

Decision sought

Expand CA2 on the Jollie fan to include an accessible grassy area for roadend facilities such as camping and carpark area for day and short stay visitors.

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- \$300-\$1000/ha where tree density was 1000-5000/ha. and contract clear felling was required.

Lack of wilding control leads to costs escalating, potentially from an estimated \$2/ha to at least \$1,500/ha in less than 20 years as wildings spread and become denser.⁶ Failure to undertake wilding control can result in loss of conservation values, reduced stream yield, restricted access for recreation, major landscape change and degradation and reduced profitability for pastoral farming.

All infestations appear to have been established through wilding spread from planted stands on the property⁷. LINZ and its predecessors as the Crown agency responsible for managing pastoral leases should ensure that sustained control is undertaken prior to any change in land status given the potential for the problem to become more severe very rapidly.

Decision sought

LINZ should provide adequate funding to develop a wilding management plan (if not already prepared) for Mt Cook and to undertake a sustained control work as part of developing a Substantive Proposal. Control efforts to contain and substantially reduce wilding spread should occur prior to any change in land status. Negotiations should be undertaken with the lessee to determine their contribution to wilding control costs.

⁵ Department of Conservation (2000) *South Island Wilding Conifer Strategy*, Department of Conservation.

⁶ Ibid.

⁷ CRR p 12.

The Proposal should be amended to include a bond for weed control and/or covenant conditions to ensure wilding conifers and crack willow in particular are controlled on the proposed freeholded land. The bond should be for a fixed term (e.g. six years) and should be adequate to cover the costs of control by LINZ or DoC if the new freehold owner does not undertake this by the expiry of the term.

4.6 Public access needs improving

Jollie Valley

The Jollie River is a popular tramping and access route. Proposed access to the valley and conservation land is not secure as the CPLA requires. This is because:

- A section of the Braemar -Mount Cook Station Road formation south of the Mt Cook homestead does not follow the legal road;
- the legal road at the southwestern toe of Big Hill does not provide practical access given the density of wilding spread and lack of any track formation on the roadline

The request for improved and secure access up the Jollie Valley was clearly expressed at the Early Warning meetings in 2002 but has not been provided for.

Decision sought

The Consultation Notes⁸ record that the lessee's preference is "*that a public easement be put in place over an existing track on the Cox's Down side of the Jollie.*" This track already has an easement in favour of Braemar Station. This would be a sensible and practical solution as it would minimise the number of different easements over the proposed freehold and as a formed track it would provide practical public access, protect the landholders' privacy by being reasonably distant from the farm buildings.

Access across freehold from CA3 to CA1

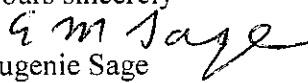
The proposed wedge of freehold land between CA3 and CA1 means that trampers and walkers wanting to access Mt Burnett have to climb up the steep slopes on the true right of the Jollie or go all the way north of Black Point to reach conservation land and then back track south along the new conservation land.

This is impractical and creates a very long and frustrating day. A route which allows trampers and walkers to ascend the front (western) faces of the Burnett Range to the main ridge and onto Mt Burnett is likely to be a popular and satisfying climb given the spectacular landscape and dramatic views. The lack of any access easement across proposed freehold between CA1 and CA3 prevents this.

Decision sought

If CA3 is not extended as requested above create a public foot access easement from CA3 to CA1 perhaps on the true right of McLeod Creek.

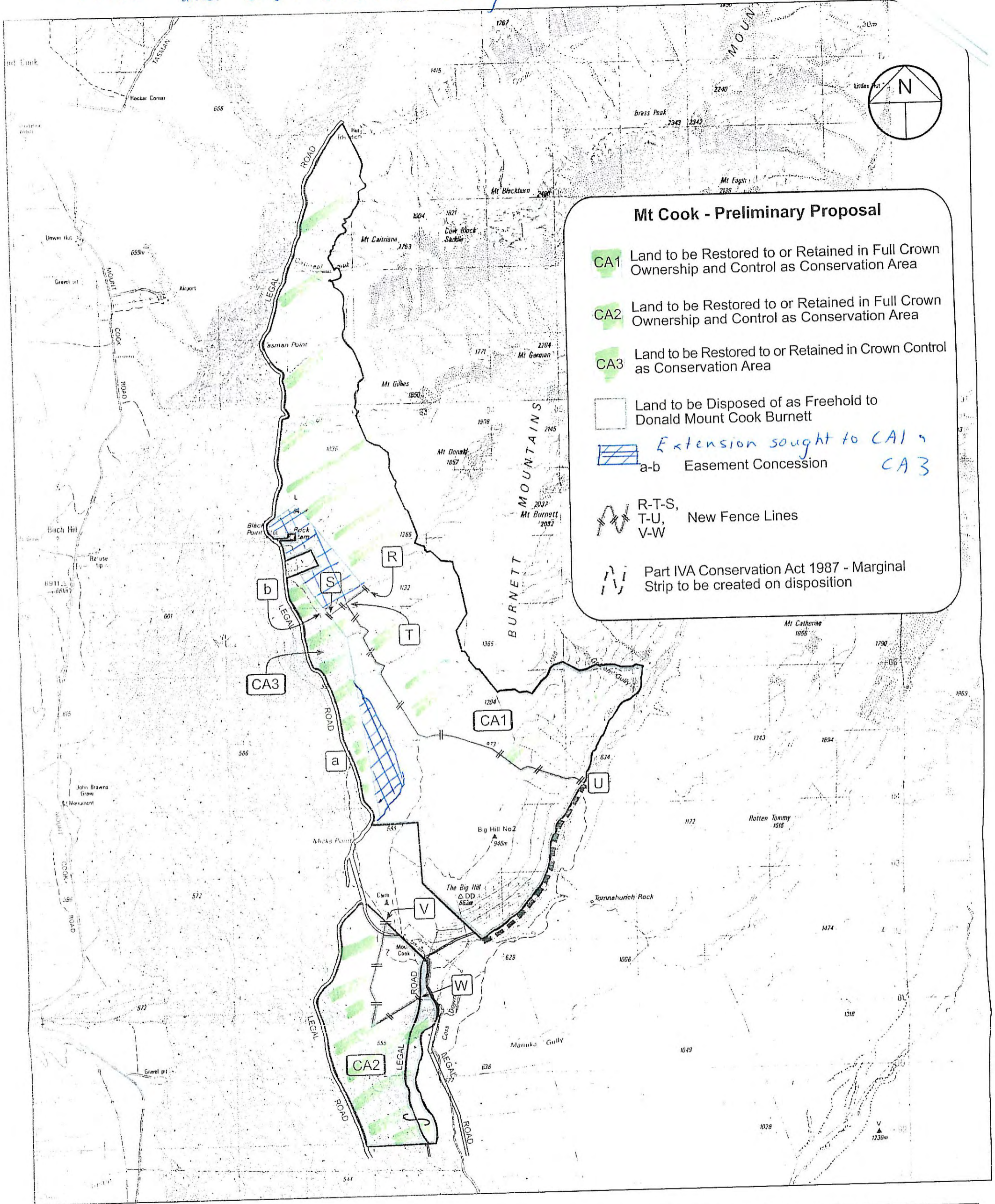
Yours sincerely


Eugenie Sage
Regional field officer

⁸ Mt Cook Consultation Meeting 2 December 2003.

Attachment : Map 1 Forest and Bird's Desired Changes to Preliminary Proposal

Map 1
 Forest and Bird's Desired Changes to Preliminary Proposal

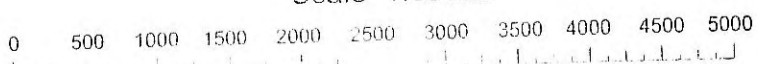


Mt Cook - Preliminary Proposal

- CA1 Land to be Restored to or Retained in Full Crown Ownership and Control as Conservation Area
- CA2 Land to be Restored to or Retained in Full Crown Ownership and Control as Conservation Area
- CA3 Land to be Restored to or Retained in Crown Control as Conservation Area
- Land to be Disposed of as Freehold to Donald Mount Cook Burnett
- ▨ Extension sought to CA1 & CA3
a-b Easement Concession
- R-T-S, T-U, V-W New Fence Lines
- ▭ Part IVA Conservation Act 1987 - Marginal Strip to be created on disposition

Mount Cook

Scale 1:50000



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Version	1	2	3	4	5
Canterbury Land District					Sheet 1 of 1
Topographic Map 260 - H36, H37					Date 22/03/02



5th December 2005

Submission

#

*Twelve
Eleven*

Tim Broad
Property Consultant for Southern Regional Manager
Opus International Consultants Ltd
P O Box 1482
CHRISTCHURCH

Received 7/12/05

Dear Tim

TENURE REVIEW – MOUNT COOK PASTORAL LEASE

Thank you for your letter CON/50000/16/12730/00/A-ZNO concerning the tenure review of Mt Cook Pastoral Lease.

Meridian Energy Ltd has checked the layout of the land subject to review and it appears that there is no overlap with the operating easement of Meridian Energy which overlays the lake.

We therefore have no further comment to make concerning this review.

Thank you.

Yours sincerely

Paul Cain
Land & Property Officer
Twizel Office

RELEASED UNDER THE OFFICIAL INFORMATION ACT

Mike Todd

From: David O'Connell [david.oconnell@ngaitahu.iwi.nz]
Sent: Monday, 30 January 2006 10:05
To: Mike Todd
Subject: RE: Mt Cook - Preliminary Proposal

Kia ora Mike,

Apologies re this one - I thought that in all the balls I'm juggling in my left hand I'd responded to this one!

Upon reviewing the preliminary proposal Te Rūnanga, in consultation with ngā Runanga, consider that the proposal adequately provides for those values identified in the Cultural Values Report.

Should you any further queries please feel free to contact me.

David

-----Original Message-----

From: Mike Todd [mailto:Mike.Todd@opus.co.nz]
Sent: Wednesday, 25 January 2006 4:55 p.m.
To: David O'Connell
Cc: 'Tim Broad'
Subject: Mt Cook - Preliminary Proposal
Importance: High

Hi David,

This review has been advertised and we are now processing public submissions. Notification of the PP was sent to you on 20/10/05 with submissions closing 6/12/05.

We have not received a submission from TRoNT. Jeremy Barr has asked me to advise you that the process of analysing submissions will be completed within the next few weeks and the review will then have to be moved on. If TRoNT wishes to make a submission it will be necessary for you to submit one within the next couple of weeks for it to be considered.

Can you please advise ASAP what the position is.

Regards



Mike Todd
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158 Hereford Street
PO Box 1482
CHRISTCHURCH