

## **Crown Pastoral Land Tenure Review**

**Lease name: RIVERSLEA**

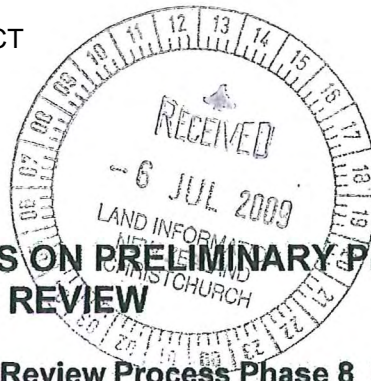
**Lease number: PO 178**

### **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.

**July 09**



# ANALYSIS OF PUBLIC SUBMISSIONS ON PRELIMINARY PROPOSAL FOR TENURE REVIEW

Report in accordance with Tenure Review Process Phase 8\_7.5

## RIVERSLEA

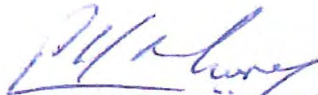
File Ref: CON/50344/12487 (TR348) Submission No: AT9011 Submission Date: 6 June 2009

Contractor's Office: Alexandra LINZ Case No: TR09/68 Date sent to LINZ: 6/7/09


### RECOMMENDATIONS:

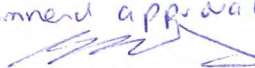
1. That the Commissioner of Crown Lands (*or his delegate*) **note** the public submissions received and approve the preliminary analysis of submissions attached as Appendix 1.
2. That the Commissioner of Crown Lands (*or his delegate*) **approve** consultation with the DGC delegate and the Holder on the preparation of a draft substantive proposal for Riverslea on the basis of the attached analysis.

Signed for DTZ:

  
 \_\_\_\_\_  
 Phil Murray:

Approved/~~Declined~~ (pursuant to a delegation from the Commissioner of Crown Lands) by:

  
 \_\_\_\_\_  
 MATTHEW CLARK  
 Name:  
 Date of decision: 9-7-09

I recommend approval  
  
 9/7/09  
**DR STEPHEN CHARLES URLICH**  
 TECH LEAD TENURE REVIEW  
 CROWN PROPERTY MANAGEMENT  
 c/o LINZ, CHRISTCHURCH

**APPENDIX 1:**

**ANALYSIS OF SUBMISSIONS**

**STATEMENT PURSUANT TO SECTION 45(a)(iii) CROWN PASTORAL LANDS ACT 1998**

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**ANALYSIS OF SUBMISSIONS  
STATEMENT PURSUANT TO SECTION 45(a)(iii) CROWN PASTORAL LANDS ACT 1998  
RIVERSLEA TENURE REVIEW (TR346)**

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**1. Details of lease:**

**Lease Name:** Riverslea  
**Location:** Rock and Pillar Range, Otago  
**Lessee:** S H Andrews & Sons Limited

**2. Public notice of Preliminary Proposal:**

**Date advertised:**

Saturday – 6 December 2008:

**Newspapers advertised in:**

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

A copy of the notice is attached as Appendix 1.

**Closing date for submissions:**

24 February 2009

**3. Details of submissions received:**

A total of 11 submissions were received by the closing date. A list of submitters is attached as Appendix 2 which references the submitters to the points raised in their submission.

**4. Analysis of submissions:**

**4.1 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 to **allow** the point for further consideration.
4. If the point is allowed, recommends whether **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, 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 can 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.

**4.2 Analysis:**

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Allow or disallow</i>
1	Riverslea Pastoral lease area should be recognised as being prospective for minerals and the Commissioner should give consideration to some form of transitional provisions to ensure future explorers and developers have a right to access to Crown and freehold land on reasonable terms for the purpose of carrying out prospecting and exploration activities and subsequent mining development.	1	Disallow

**Rationale for Allow or Disallow:**

Right of access for the exploration and development of minerals is not a matter the Commissioner can consider under the CPL Act 1998. Provision is made under the Crown Minerals Act 1991 for access arrangements over freehold and Crown land for this purpose. The point is therefore disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
2	Support return to full Crown ownership and control the entire Top Block (810ha) as Conservation Area.	2, 5, 7, 9, 10	Allow	Accept

2.1	Support return to full Crown ownership and control entire Top Block conditional on the boundary of the Conservation area being amended to follow the contour to preserve landscape values.	11	Allow	Not Accept
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Point 2:

Rationale for Allow or Disallow:

This point deals with designations of the reviewable land which is a relevant matter for the Commissioner to consider when making a decision under the CPL Act 1998 and therefore is allowed.

Rationale for Accept or Not Accept:

This point supports the current designations. Statements of support for aspects of the Preliminary Proposal can be considered when the Commissioner is formulating the designations for a Substantive Proposal. The point is therefore accepted.

Point 2.1:

Rationale for Allow or Disallow:

This point deals with the designations of the reviewable land and is therefore allowed.

Rationale for Accept or Not Accept:

This point has been considered at some length previously in consultation with DoC and the Holder. The submission provides no new information to consider. The point is therefore not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
3	Support area proposed for disposal by freehold disposal to the holder.	2, 5	Allow	Accept

Rationale for Allow or Disallow:

This point involves the designations of the reviewable land which is a relevant matter for the Commissioner to consider when making a decision under the CPL Act 1998. It is therefore allowed.

Rationale for Accept or Not Accept:

The point supports the proposed designations. Statements of support for aspects of the Preliminary Proposal can be considered when the Commissioner is formulating the designations for a Substantive Proposal. The point is therefore accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
4	Support the grazing concession in the current form	2	Allow	Accept
4.1	Support the grazing concession in the current form provided it is not allowed to run on beyond the four year term	2, 5, 7	Disallow	

4.2	Support the grazing concession in the current form provided it is not on sold.	9	Disallow	
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Point 4:

Rationale for Allow or Disallow:

This point is concerning the granting of a grazing concession that is a qualified designation which is a relevant matter for the Commissioner to consider when making a decision under the CPL Act 1998. The point is therefore allowed.

Rationale for Accept or Not Accept:

The point supports the proposed designation and is accepted in consideration in formulating the substantive proposal.

Point 4.1:

Rationale for Allow or Disallow:

This point concerns a decision regarding the renewal of the grazing concession after it expires from its current proposed term which is a decision for the Director General of Conservation subsequent to the tenure review and is not a matter the Commissioner can consider under the review. The point is therefore disallowed.

Point 4.2:

Rationale for Allow or Disallow:

This point concerns the transfer of the grazing concession to another party. Grazing concessions are non transferable. Even if they were this is not a matter the Commissioner could consider under the CPL Act 1998. The point is therefore disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
5	Support easement concession for farm management purposes	2, 5, 7, 9	Allow	Accept

Rationale for Allow or Disallow:

This point concerns a qualified designation which is a relevant matter for the Commissioner to consider under the CPL Act 1998. The point is therefore allowed.

Rationale for Accept or Not Accept:

The point supports the current proposal. Statements of support for aspects of the Preliminary Proposal can be considered when the Commissioner is formulating the designations for a Substantive Proposal. The point is therefore accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
6.1	The entire upper valley system of the Cap Burn should be restored to full Crown ownership and control as Conservation Area	3	Allow	Accept
6.2	The shrublands in the mid Cap Burn should be protected by covenant	5, 7, 9, 11	Allow	Accept

6.3	The boundary of the Conservation Area should be amended to include some of the "high quality lower value vegetation" towards the Cap Burn.	11	Allow	Accept
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**Rationale for Allow or Disallow:**

These points deal with the protection of significant inherent values which is a relevant matter for the Commissioner to consider under the CPL Act 1998. These points are therefore allowed.

**Rationale for Accept or Not Accept:**

The matter of the protection of shrublands in the upper Cap Burn has been considered previously at some length in consultation with DoC and the Holder, however the submitters have provided reasons for why they prefer an alternative outcome under the CPLA. These points are therefore accepted.

<b>Point</b>	<b>Summary of Point Raised</b>	<b>Sub No</b>	<b>Allow or disallow</b>	<b>Accept or not accept</b>
7	The public access easement document should be amended as follows:			
7.1	Remove clause 12(b) as there are no species that would be adversely affected by the presence of dogs	4	Allow	Not Accept
7.2	Amend clause 13 to provide for public vehicle access between 16 November-30 September (i.e. lambing period closure only)	4	Allow	Not Accept
7.3	Include provisions in the document that ensure the track is kept in good navigable condition during use period	4	Disallow	
7.4	Amend clause 14 to provide for DoC to post keys to those requiring vehicle or horse access or alternatively install a numerical code padlock	4	Allow	Not Accept

**Rationale for Allow or Disallow:**

With the exception of clause 7.3 these points are concerning the securement of public access to and the enjoyment of the reviewable land which is a relevant matter for the Commissioner to consider under the CPL Act 1998. They are therefore allowed.

Point 7.3 is concerning the ongoing maintenance of the track which is an administrative matter for the Minister of Conservation subsequent to the review and is not a matter for the Commissioner to consider under this review. This point is therefore disallowed.

**Rationale for Accept or Not Accept:**

With regard 7.1 this issue has previously been considered in consultation with DoC and the Holder and this submission introduces no new information. There may be other reasons the Minister of Conservation may wish to control dogs on Conservation land such as their



potential to stray onto farm land over which the easement is registered. The point is therefore not accepted.

With regard point 7.2, this matter has been previously considered in consultation with the Holder and DoC and this submission introduces no new information. As it stands the proposal excludes vehicle access in the period 1 May – 31 October due to the potential hazards that exist with using the track over winter when ice and snow are common on this route and due to lambing in the period 1 September to 31 October. Also prohibiting vehicle access over this period reduces the likelihood of damage to tracks and therefore the ongoing cost of track maintenance. The submission does not provide a compelling case that these are not reasonable justifications for confining the period of vehicle access. The point is therefore not accepted.

With regard point 7.4, clause 14 does not prohibit the posting of keys to the public which is an administrative decision of the area manager for the Department of Conservation. It is not necessary for this matter to be determined by the review. This point is therefore not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
8	Support the proposed Conservation covenant	5, 7, 9, 11	Allow	Accept

Rationale for Allow or Disallow:

This point relates to a protective mechanism which is a matter the Commissioner can consider under the CPL Act 1998. The point is therefore allowed.

Rationale for Accept or Not Accept:

The point supports the existing proposal. Statements of support for aspects of the Preliminary Proposal can be considered when the Commissioner is formulating the designations for a Substantive Proposal. The point is therefore accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
9	Support the proposed public access easement a-b-c and b-d	5, 7, 9, 11	Allow	Accept

Rationale for Allow or Disallow:

The point relates to the securing of public access and is therefore a matter the Commissioner can consider under the CPL Act 1998. The point is therefore allowed.

Rationale for Accept or Not Accept:

The point is in support of the current proposal. Statements of support for aspects of the Preliminary Proposal can be considered when the Commissioner is formulating the designations for a Substantive Proposal. The point is therefore accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
10	Support the proposal	6, 10	Allow	Accept

10.1	Have concerns that the public have no right to contest the changes to access conditions agreed between DoC and the landowner.	10	Disallow	
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**Rationale for Allow or Disallow:**

Point 10 relates to the designations which is a relevant matter for the Commissioner to consider when making a decision under the CPL Act 1998. The point is therefore allowed.

With regard 10.1 this point deals with a matter that may arise in an agreement between the Minister of Conservation and the land owner subsequent to the tenure review. This is not a matter the Commissioner can consider under the CPL Act 1998. The point is therefore disallowed.

**Rationale for Accept or Not Accept:**

Point 10 supports the current proposal. Statements of support for aspects of the Preliminary Proposal can be considered when the Commissioner is formulating the designations for a Substantive Proposal. The point is therefore accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
11	Need provision in public access easement for negotiated access during the winter months for skiing.	7	Allowed	Accept

**Rationale for Allow or Disallow:**

This point concerns the securing of public access to and enjoyment of the reviewable land which is a relevant matter for the Commissioner to consider when making a decision under the CPL Act 1998. The point is therefore allowed.

**Rationale for Accept or Not Accept:**

The submission introduces information concerning access for skiing that has not been adequately considered in the consultation process previously. The point is therefore accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
12	The possibility of continued limited grazing of the proposed Conservation area by sheep should be left open.	8	Allow	Accept

**Rationale for Allow or Disallow:**

The point concerns enabling land capable of economic use to be freed from the management constraints resulting for the current tenure review. The point may also relate to the protection of significant inherent values if grazing were to contribute to this objective. These are matters the Commissioner may consider under the CPL Act 1998. The point is therefore allowed.

**Rationale for Accept or Not Accept:**

The principal objectives of the CPL Act are to promote ecologically sustainable land management and to protect significant inherent values. The point raises the issue of whether these objectives can be achieved in the long term while accommodating ongoing grazing.

Further advice on this specific issue needs to be sought from the DGC delegate. This point is therefore accepted for further consideration.

<b>Point</b>	<b>Summary of Point Raised</b>	<b>Sub No</b>	<b>Allow or disallow</b>	<b>Accept or not accept</b>
13	The proposed public access easement should be amended to confer the same access rights for management purposes to F & G as it does to DoC.	4	Allow	Accept

**Rationale for Allow or Disallow:**

The point concerns the enabling of protection of significant inherent values which is a relevant matter for the Commissioner to consider under the CPL Act 1987. The point is therefore allowed.

**Rationale for Accept or Not Accept:**

This is a matter that has not previously been considered and warrants consultation with DoC to confirm whether the existing clauses confer rights to F&G or whether an additional clause in indeed required. The point is therefore accepted.

<b>Point</b>	<b>Summary of Point Raised</b>	<b>Sub No</b>	<b>Allow or disallow</b>	<b>Accept or not accept</b>
14	There is an obligation to test the hypothesis that pastoral farming on unimproved tussock grasslands is ecologically unsustainable on the specific area in question.	8	Allow	Accept

**Rationale for Allow or Disallow:**

The point concerns the matter of the management of the land in a way that is ecologically sustainable which is a relevant matter for the Commissioner to consider under the CPL Act 1987. The point is therefore accepted.

**Rationale for Accept or Not Accept:**

This matter has previously been considered in some detail however the submitter raises a number of points that justify further consideration being given to this issue. The point is therefore accepted for further consideration in the preparation of a Substantive Proposal.

<b>Point</b>	<b>Summary of Point Raised</b>	<b>Sub No</b>	<b>Allow or disallow</b>	<b>Accept or not accept</b>
15	Support the continuation in force of the existing easement in favour of Ian Fraser and Owen McDonald which is necessary for irrigation and stock water.	7	Allow	Accept

**Rationale for Allow or Disallow:**

The point concerns the designation of the land which is a relevant matter for the Commissioner to consider under the CPL Act 1987. The point is therefore accepted.

Rationale for Accept or Not Accept:

This point supports the current designations. Statements of support for aspects of the Preliminary Proposal can be considered when the Commissioner is formulating the designations for a Substantive Proposal. The point is therefore accepted.

**5. Summary and conclusion:**

**Overview of analysis**

A total of 11 submissions were received by closing date for submissions with 24 points being raised in those submissions. These points dealt with 15 specific topics. Of the 24 points the following have resulted from the analysis:

5	Disallowed
15	Accepted
4	Not accepted

Three submissions supported the proposal while a further 4 submissions supported the principal designations under the proposal while seeking protection of shrublands in the mid Cap Burn by conservation covenant or by amendment to the proposed conservation area boundary. There was general support for the proposed public access easement however some submitters suggested amendments to the period in which vehicle access is available and to conditions included in the easement document. No submitters opposed the proposal outright.

**Generic issues**

No issues generic to the tenure review process were raised.

**Gaps identified in the proposal or tenure review process**

None.

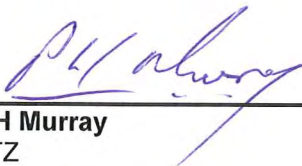
**Risks identified**

None.

**General trends in submitters' comments**

There was general support for the proposal expressed in the submissions. Protection of lowland shrublands was a common issue raised.

I recommend approval of this analysis and recommendations



**P H Murray**  
DTZ

Date 6/7/09

Approved/Declined

\_\_\_\_\_  
Commissioner of Crown Lands

Date \_\_\_\_\_