

Crown Pastoral Land Tenure Review

Lease name : MT DASHER

Lease number : PO 030

Analysis of Public Submissions

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

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

**ANALYSIS
OF
PUBLIC SUBMISSIONS**

MT DASHER



ANALYSIS OF PUBLIC SUBMISSIONS**Statement Pursuant To Sec 45(a)(iii) Crown Pastoral Land Act 1998****MT DASHER TENURE REVIEW NO 360****Details of lease**

Lease name:	Mt Dasher pastoral lease.
Location:	Located on the Mole Hill Road on the eastern side of the Kakanui Range, approximately 35 kilometers from Oamaru.
Lessee:	Mt Dasher Limited.

Public notice of preliminary proposal

Date advertised:	13 th June 2015
Newspapers advertised in:	
- The Press	Christchurch
- The Otago Daily Times	Dunedin
- The Southland Times	Invercargill
Closing date for submissions:	7 th August 2015, subsequently extended to 11 th December 2015.

Details of submissions received

Number received by closing date:	11
Number of late submissions received/accepted:	Nil.
Cross-section of groups/individuals represented by submissions:	
Seven submissions were received from national or regional organisations, and four submissions were received from private individuals, two of whom owned nearby land.	
Number of late submissions refused/other:	Nil.

ANALYSIS OF SUBMISSIONS

Introduction

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

The following analysis:

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

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

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

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

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

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

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

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

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

Analysis

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

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

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
1	Waitaki District Council commitments in relation to Black Cap Road	1	Disallow	N/A

The Waitaki District Council recorded their understanding that there is no expectation or obligation on Council to provide access to any standard, including a proposed carpark, beyond the existing formed and maintained section of Black Cap Road that terminates at the cattle yards/airstrip, but that the Council is prepared to assist the Department of Conservation with future maintenance of that Black Cap Road extension, subject to negotiation. All costs would need to be met by the Department of Conservation.

Rationale for Allow or Disallow

This point relates to land outside the land under review, and is therefore not a matter that can be considered under the CPLA. The point has therefore been disallowed with respect to tenure review. However, all submissions will be supplied to the Department of Conservation, and they may wish to consider this matter.

Rationale for Accept or Not Accept

N/A

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
2	Statements of support for aspects of the proposal.	2, 5, 7, 10, 11	Allow	Accept

Submitter 2 supported the fact that the Trigs lying in the lease land are proposed to become Crown controlled Conservation Area.

Submitters 5, 10, and 11 confirmed the significant inherent values of area CA1 and strongly endorsed the retention in Crown control of that area, with the proposed grazing concession. Submitter 11 also noted the recreational potential of the area. The submitters also endorsed the proposed monitoring in association with the grazing concession, and that this should be overseen by DOC. Submitters 5 and 10 suggested the monitoring should be by photopoints, with an adequate coverage.

Submitters 5, 10, and 11 also supported the proposed covenant CC1 in Hectors Creek, confirming the existence of significant inherent values, and supporting the no burning and no spraying provisions, with some modifications as discussed in other points.

Submitter 7 supported the proposed designation CA1 and the proposed grazing concession, although with a shorter term, covered in a subsequent point.

Submitters 5, 10 and 11 also supported the wider marginal strip in the Kakanui River South Branch to protect the riparian vegetation and biodiversity.

Rationale for Allow or Disallow

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

Rationale for Accept or Not Accept

Statements of support for aspects of the preliminary proposal can be considered by the Commissioner when formulating the designations for a Substantive Proposal. Point 2 has therefore been accepted for further consideration.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
3	Greater protection should be provided for features of historic significance.	2	Allow	Accept

Submitter 2 considered that there should be a Conservation Covenant to prevent the demolition or removal of Mitchell's Hut, Scout Hut, sheep yards, dog yards, nineteenth century fence line remains (e.g. snowline fence posts), and cairns (particularly the one with the metal cross inscribed 'In Memory James Wing').

Rationale for Allow or Disallow

The point relates to the protection of historic features, which can be significant inherent values, the protection of which is relevant under s24(b) CPLA. The point has therefore been allowed.

Rationale for Accept or Not Accept

The point relates to the objects and matters to be taken into account in the CPLA, and while the protection of historic features has already been taken into account, the submitter has suggested an alternative outcome and given a reason, being their view that the current proposal does not adequately protect these features, which provide a history of the property. The point has therefore been accepted for further consideration.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
4	There is no legal road running across the north-west corner of the land under certificate of title OT14B/231.	3	Disallow	N/A

The submitter contended that the legal road shown running across the north-west corner of OT14B/231 is an error, and that no formed or unformed legal road exists. This relates to what is shown as a legal road on current cadastral plans extending from about the airstrip at the end of the formed Black Caps Road, across to point 'a' on the designation plan, at the boundary of Mt Dasher

pastoral lease. This is the intended access route to join up with the proposed easement a-b-c on the lease land.

Rationale for Allow or Disallow

This point relates to land outside the land under review, and is therefore not a matter that can be considered under the CPLA. The point has therefore been disallowed with respect to tenure review. However, all submissions will be supplied to the Department of Conservation, and they may wish to consider this matter, as the proposed access easements in the tenure review are dependent on legal and practical access to the boundary.

Rationale for Accept or Not Accept

N/A

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
5	Concern about the effect of the proposed covenant CC1 on adjoining land.	3	Disallow	N/A

The submitter owns land adjoining the proposed covenant CC1 and burns off to control tussock. The submitter states that installing a fire break would not be practical, and that the bush in the covenant area is in a good condition even though that block has been burnt in the past.

Rationale for Allow or Disallow

The point relates to land management on land outside the land under review, and does not appear to make any suggestions in relation to any aspect of the proposal. It is therefore not a matter that can be considered under the CPLA, and the point has therefore been disallowed.

Rationale for Accept or Not Accept

N/A

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
6	Objection to clause 6.1 of the easement document whereby the Grantee may temporarily close all or part of the easement.	4	Allow	Accept

The submitter considered that clause 6.1 of the easement document, which enables the Grantee to temporarily close the easement, does not sufficiently take into account the public interest. They considered that long closures should not be permitted, that the public should be fully notified, that such closures should not be up to the Grantee only, and they were concerned that the easement does not indicate acceptable reasons and permitted closure periods.

Rationale for Allow or Disallow

The point relates to public access over the review land which is a matter that can be taken into account under s24(c)(i) CPLA, and has therefore been allowed.

Rationale for Accept or Not Accept

The point relates to the objects and matters to be taken into account in the CPLA, and this clause in the easement document has not received specific attention in the development of the proposal. The point therefore introduces a perspective not previously considered, and has thus been accepted for further consideration.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
7	The locking of gates across easements is opposed.	4	Allow	Accept

The submitter opposed clause 9.2 in the easement document whereby gates installed across easements may be locked. They consider that this creates a barrier to public access. They also considered that if a gate was locked then a suitable alternative pedestrian/horse gate should be provided, and that a notice should be provided so that people know who to contact for the key.

Rationale for Allow or Disallow

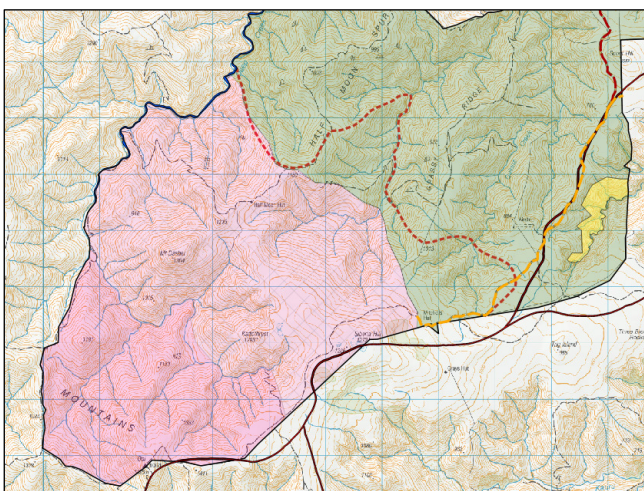
The point relates to public access over the review land which is a matter that can be taken into account under s24(c)(i) CPLA, and has therefore been allowed.

Rationale for Accept or Not Accept

The point relates to the objects and matters to be taken into account in the CPLA, and the detailed provisions relating to the locking of gates has not received specific attention in the development of the proposal to date. The point therefore introduces a perspective not previously considered, and has thus been accepted for further consideration.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
8	An area extending to the north beyond CA1 should have a Conservation Covenant	5, 7, 10, 11	Allow	Accept

Submitters 5, 10, and 11 contended that an area beyond CA1, extending to the boundary of the area defined as having significant landscape values in the Conservation Resources Report, had important landscape and ecological values. The red line on the plan shown approximates the boundary of that area. They noted the occurrence of boulderfields, narrow-leaved snow tussock, and copper tussock, and considered the area also had value for maximising water production, soil conservation, and carbon storage. To protect these values the submitters recommended this area should have a Conservation Covenant with a no-burning provision.



Submitter 7 was less definitive about actual areas, but suggested there were areas downslope of CA1 that should be protected either by being retained in full Crown ownership and control or by covenant, due to ecological and landscape values, including wetlands, boulderfields, and the existence of 'at risk' and 'critically underprotected' land environments.

Rationale for Allow or Disallow

The point relates to the protection of significant inherent values which is relevant under s24(b) CPLA. The point has therefore been allowed.

Rationale for Accept or Not Accept

The point relates to the objects and matters to be taken into account in the CPLA, and while the protection of a wider area north of CA1 has been considered, the submitter has suggested an alternative outcome to the current proposal, and provided a reason, being the protection of values which they have identified in that area. The point has therefore been accepted for further consideration.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
9	Public access provisions should be improved, due to the distance of the proposed conservation area from public road access points.	5, 6, 7, 8, 9, 10, 11	Allow sub points 9(a), 9(c), and 9(d). Disallow 9(b).	Accept sub points 9(a), 9(c), and 9(d)

Point 9(a). That there should be public non motorised and motorised access along the same route proposed for conservation management access from 'd' up to CA1.

On the basis of the remoteness of the proposed conservation land, submitters 5 and 10 suggested there should be public access along the Mole Hill Road across the proposed freehold portion of the property and then up to CA1. The submitters noted that the Mole Hill Road was maintained by the leaseholder, and suggested the public access could be discretionary, so long as it was not unreasonably withheld, with a fee for maintenance, and that this could include walking, mountain biking, and perhaps horse access and 4 wheel drive access.

Submitter 6 also noted the distances involved in reaching the conservation area, and suggested one option would be to allow vehicle access on the Mole Hill Road across the proposed freehold with appropriate compensation to the landowner.

Submitter 7 also suggested there should be public access along the route proposed for conservation management access (d-b-c), and that this should be motorised, due to the distance of proposed conservation land from public road access points.

Submitter 8 also suggested public access should be provided via 'd-b-c', as they indicated the proposed route to point 'a' from outside Mt Dasher pastoral lease via Black Cap Road did not actually follow the legal road, was single lane, with no room to turn around or pass, was not in a good state of repair, and would need to be upgraded. They also stated that Black Cap Road, outside the lease, was unfenced for approximately 6km, which would create tensions between public and farm use.

Submitter 9 also suggested that d-b should provide public motorised and non motorised access including horses, on the basis of their view that there is formed legal access outside the lease on the Mole Hill Road to point 'd'.

Submitter 11 did not specifically oppose the proposed public access, but regretted that the public would be unable to use the Mole Hill Road across the proposed freehold, and noted that the Black Cap legal road access up to the lease boundary would make for a long walk to reach the Conservation area.

Point 9(b)

Submitter 7 suggested that the legal road should be formed for motorised access from the airstrip at the end of the formed Black Cap Road up to the lease boundary at 'a', and thence to 'b' and 'c'.

Point 9(c)

Submitter 9 suggested that proposed easement 'a-b-c' should allow vehicle and horse access, since other sections of the route are already legal road, thus enabling such forms of access.

Point 9(d) – The review should be stopped since public access provisions are so poor.

Submitter 6 considered that public access provisions were so poor that the whole proposal should be withdrawn, with a new proposal that adequately provides for public access. The submitter contended that under the preliminary proposal public foot access to CA1 from motorised access points beyond the lease boundary would take too long, and rule out any other users apart from mountain bikes and horses. They also considered this would pose a safety issue. They indicated one option that would improve public access, covered in 9(a).

Rationale for Allow or Disallow

Sub points relating to the provision of public access over the review land via easements and their terms and conditions are matters that can be taken into account under s24(c)(i) CPLA. Consequently points 9(a) and 9(c) can be allowed.

Any decision to form roads whether on the review land or on land outside the review, is outside of the matters that can be considered in tenure review, so point 9(b) must be disallowed.

While Black Cap Road is outside of the review land, comments about the practicality of access to the commencement of proposed easements are clearly matters that DOC must take into account.

The discontinuance of a tenure review by the Commissioner is enabled under s33 CPLA. Consequently 9(d) is a matter that can be considered under the CPLA and must therefore be allowed.

Rationale for Accept or Not Accept

The allowed points relate to the objects and matters to be taken into account in the CPLA. While the possibility of public access along the Mole Hill Road (point 9(a)), methods of transport over the proposed easement (point 9(c)), and adequacy of the proposal in general (point 9(d)) are all matters that have been considered, the submitters have provided reasons for their suggestions, relating to practical access to CA1. Points 9(a), 9(c), and 9(d) have therefore been accepted for further consideration.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
10	All land transferred to full Crown control should be classified appropriate to it's values rather than as stewardship land.	5, 7	Allow	Accept

Submitters 5 and 7 suggested that all land transferred to full Crown control should be classified appropriate to its values, such as Scenic Reserve, rather than simply as Conservation Area, which as stewardship land the submitter considers holds negligible conservation status.

Rationale for Allow or Disallow

This point relates to the appropriate designation of land, and is therefore a matter that can be considered under the CPLA. The point has therefore been allowed.

Rationale for Accept or Not Accept

The point relates to the objects and matters to be taken into account in the CPLA and the submitter has suggested an alternative designation and has given a reason, that they consider stewardship land has little conservation status. The point has therefore been accepted for further consideration.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
11	The term of the grazing concession should be reduced.	7	Allow	Accept

Submitter 7 suggested that the term of the grazing concession GC1 should be reduced to 5 years, to allow for the protection of natural and recreational values.

Rationale for Allow or Disallow

The point relates to the terms and conditions of a proposed grazing concession, which is an appropriate matter to consider as part of tenure review under the CPLA. The point has therefore been allowed.

Rationale for Accept or Not Accept

The point relates to the objects and matters to be taken into account in the CPLA, and while the length of the grazing concession has been considered previously, the submitter has suggested an alternative term, and given a reason, being that a shorter term would better protect values. The point has therefore been accepted for further consideration.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
12	Significant natural values along Deep Creek should be given appropriate protection.	7	Allow	Accept

Submitter 7 identified that in Deep Creek north of CA1 there were aquatic habitats supporting natural fish and invertebrate communities and that the land environment was 'critically underprotected' with vegetation of high naturalness with 'at risk' species. They suggested that parts of this area should be protected by either full Crown control or by covenant.

Rationale for Allow or Disallow

The point relates to the protection of significant inherent values which is relevant under s24(b) CPLA. The point has therefore been allowed.

Rationale for Accept or Not Accept

The point relates to the objects and matters to be taken into account in the CPLA, and while the appropriate designation of this area has been considered, the submitter has suggested an alternative outcome to the current proposal, and provided a reason, being the protection of values which they have identified in that area. The point has therefore been accepted for further consideration.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
13	Significant natural values in Quinns Creek and its catchment should be given appropriate protection	7	Allow	Accept

Submitter 7 stated that the Quinns Creek catchment has moderately high visual resource value and 'at risk' and 'critically underprotected' land environments. They stated that there is an extensive area of mixed broadleaf forest, shrubland, and tussockland at the confluence of Quinns Creek and the Kakanui River South Branch. They considered that the Quinns Creek watershed should be protected by either full Crown ownership and control or by another appropriate instrument.

Rationale for Allow or Disallow

The point relates to the protection of significant inherent values which is relevant under s24(b) CPLA. The point has therefore been allowed.

Rationale for Accept or Not Accept

The point relates to the objects and matters to be taken into account in the CPLA, and while the appropriate designation of this area has been considered, the submitter has suggested an alternative outcome to the current proposal, and provided a reason, being the protection of values which they have identified in that area. The point has therefore been accepted for further consideration.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
14	Kakanui River South Branch should be protected by either full Crown control or by covenant.	7	Allow	Accept

Submitter 7 stated that the lower slopes of the Kakanui River South Branch have scattered indigenous plant communities, and the waterway is important for the threatened longfin eel. They suggested this area should be full Crown ownership and control or covenant.

Rationale for Allow or Disallow

The point relates to the protection of significant inherent values which is relevant under s24(b) CPLA. The point has therefore been allowed.

Rationale for Accept or Not Accept

The point relates to the objects and matters to be taken into account in the CPLA, and while the appropriate designation of this area has been considered, the submitter has suggested an alternative outcome to the current proposal, and provided a reason, being the protection of values which they have identified in that area. The point has therefore been accepted for further consideration.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
15	A buffer should be created around covenant CC1.	5, 7, 10, 11	Allow	Accept

Submitter 7 suggested there should be a no-spraying, no-burning buffer around the covenant, to mitigate against the small size, extensive boundary, and lack of fencing around the covenant. This would effectively mean an enlargement of the covenant.

Submitters 5, 10 suggested there should be an adequate buffer around the woody vegetation protected by covenant, although it is unclear whether the submitter was seeking an expansion of the area shown as covenant.

Submitter 11 suggested there should be an additional no-burning buffer upstream, downstream, and upslope around the proposed covenant.

Rationale for Allow or Disallow

The point relates to the protection of significant inherent values over land under review, which is a relevant matter for consideration under the CPLA. The point has therefore been allowed.

Rationale for Accept or Not Accept

The point relates to the objects and matters to be taken into account in the CPLA, and while the appropriate designation and boundary of this area has been considered, the submitters have suggested an alternative outcome to the current proposal, and provided a reason, being the protection of values within the core covenant area. The point has therefore been accepted for further consideration.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
16	Public access should be provided to covenant CC1	7	Allow	Accept

Submitter 7 suggested there should be access to and within the covenant CC1, for those interested in visiting the covenant area.

Rationale for Allow or Disallow

The point relates to public access over the review land which is a matter that can be taken into account under s24(c)(i) CPLA, and has therefore been allowed.

Rationale for Accept or Not Accept

While public access provisions have already been considered, the submitter has suggested an additional easement, to benefit those interested in visiting CC1, thereby being an alternative outcome, with a reason. The point has therefore been accepted for further consideration.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
17	The actions of the Minister of Conservation listed in clause 5.1 of the CC1 covenant document should be mandatory rather than discretionary.	11	Allow	Accept

Submitter 11 noted that clause 5.1 of the CC1 covenant document stated that the Minister **may** provide technical assistance and prepare management and monitoring plans. The submitter considers the clause should state that the Minister **shall** carry out those actions.

Rationale for Allow or Disallow

The point relates to the appropriate terms of a conservation covenant, which relates to the protection of significant inherent values over land under review, which is a relevant matter for consideration under the CPLA. The point has therefore been allowed.

Rationale for Accept or Not Accept

The point relates to the objects and matters to be taken into account in the CPLA, and making the proposed DOC actions mandatory rather than discretionary is not a matter that has been considered. The point has therefore been accepted for further consideration.

Summary

Overview of analysis:

Five submitters made points in favour of the protection of significant inherent values over various additional areas, but overall there was a reasonable level of support for the Mt Dasher preliminary proposal. Eight submitters expressed a desire for improved public access provisions, and the desirability of gaining public access along the Mole Hill Road was mentioned by seven submitters.

Appendix III lists the points raised by each submitter.

Generic issues:

Changes sought were generally of a minor nature, with most submitters providing general support for the proposal. Most changes sought related to improved public access and greater protection of values.

Gaps identified in the proposal or tenure review process:

Three submitters raised issues relating to access to the lease boundary. While technically these matters cannot be considered within the Mt Dasher tenure review, they are nonetheless issues that require resolution. In particular, submissions of nearby landowners indicate that the Black Cap Road approach may need further investigation by DOC. One submitter noted that Black Cap Road did not always follow the legal alignment and was in places not fenced out of the farmland, while another argued that there was no legal road at all, formed or unformed, extending from the airstrip at the end of Black cap Road up to the lease boundary and point 'a'.

Risks identified:

Submissions of nearby landowners indicate that there may be issues that require investigation in relation to the use of the Black Cap Road access route. Where these concerns relate to land outside the review they have been disallowed as they cannot be dealt with inside of tenure review under the CPLA. However, such concerns may warrant investigation outside of tenure review, since appropriate public access routes within the tenure review depends on their being secure practical access to such routes from outside the review land.

General trends in the submitters' comments:

Apart from one submission, the general trend in submitter's comments was that the adjustments sought were of a minor nature, with overall support for the proposal being expressed by most submitters.

List of submitters:

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

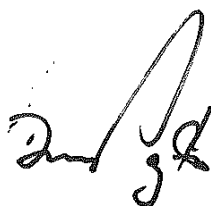
I recommend approval of this analysis and recommendations:



Bob Webster – Tenure Review Consultant

Date: 11/1/2016

Peer reviewed by



David Payton – Opus Tenure Review Contract Manager

Date: 11/1/2016

Approved/Declined

Commissioner of Crown Lands

Date:

Appendices:

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