

# **Tenure Review of the Simons Pass Pastoral Lease – Summary of Substantive Proposal**



**August 2020**

## Background

The Simons Pass pastoral lease is in the Mackenzie Basin, east of the Pukaki River and at the southern edge of Lake Pukaki. It is bordered by State Highway 8 to the north and extends to the foothills of the Mary Range. A location map can be found in **Appendix One**.

The pastoral lease consists of 5,575 hectares of flat to undulating land farmed in conjunction with 4,000 hectares of freehold land. The lease is used for a mix of intensive and extensive farming and has recently undergone a dairy conversion and irrigation scheme development.

The lease entered tenure review in July 2006. The Simons Pass preliminary proposal was advertised for public submissions in May 2017 with 13 submissions received. A report analysing the submissions together with full copies of individual submissions can be found [here](#).

Following public notification of the preliminary proposal, a substantive proposal has been put to and accepted by the Holder, Murray Valentine. The Proposal provides for the protection of 3,132 hectares (56%) of the lease as conservation areas – an increase of 1,900 hectares from that provided for in the preliminary proposal. There are also two new conservation covenants over a combined 90 hectares to protect conservation values.

A copy of the substantive proposal can be found [here](#) (the **Proposal**).

## Context

Advice on the inherent values of the lease was provided by the Department of Conservation (DOC) in the form of a [Conservation Resources Report](#) (CRR) in October 2007. That information informed the Simons Pass preliminary proposal.

Since 2007, significant farm development has occurred on Simons Pass including spraying and mechanical removal of indigenous vegetation, numerous crop rotations, pasture development, cultivation, intensified cattle grazing, pivot irrigation and a dairy farm conversion.

In addition, rapid land use change in the Mackenzie Basin during the last decade has increased the threat status of indigenous species and many native ecosystems, including those that occur on Simons Pass. The significance of those remaining has become much greater as a result. There has also been considerable refinement in knowledge of the ecological, scientific and landscape importance of the Mackenzie Basin since the CRR was prepared.

In consideration of these matters and the level of development that had occurred on the lease since the preliminary proposal was put, DOC reassessed the inherent values of the lease and provided additional conservation advice to support the development of a substantive proposal.

## Consultation

Consultation on a substantive proposal for Simons Pass commenced in June 2019. Several iterations of a substantive proposal were developed and consulted on with a range of alternative outcomes considered.

The additional conservation areas identified in the Proposal are in response to public submissions and/or new information obtained on inherent values located within those areas. In the case of

CA3, a decision to seek protection of that area was also influenced by the consent conditions imposed on the use of that land under a Canterbury Regional Council (ECAN) water permit<sup>1</sup>.

In developing the Proposal, all public submissions received on the Simons Pass preliminary proposal were considered. The main points arising from public submissions and how they are addressed in the Proposal is summarised in **Appendix Two**.

## Summary of the Substantive Proposal Designations

A plan showing the substantive proposal designations for Simons Pass together with a copy of the substantive proposal can be found [here](#). The designations are summarised below.

### CA1 – 1,313 hectares to be restored to or retained in full Crown ownership and control as conservation area



Figure 1 – shrubland in the northern extension of CA1 (left) and an ephemeral tarn within CA1 (right)

CA1 contains the highest and youngest (Late Otiran) moraine landforms on Simons Pass, as well as a meltwater channel, inland outwash plains with ephemeral tarns, kettleholes and rock outcrops (as shown in *Figure 1*). It is part of the Pukaki Moraine geopreservation site, which is of national significance. It includes naturally uncommon (Vulnerable<sup>2</sup>) moraine ecosystems that retain indigenous flora and fauna. Several significant botanical species have been identified, including Threatened-Nationally Vulnerable species such as the tiny forget-me not and New Zealand mousetail.

Native shrublands are present on the north faces above Lake Pukaki, supporting prostrate kowhai, porcupine scrub, native broom, tree daisy, matagouri and small leaved coprosma. Ephemeral wetlands are found in the hummocks – native species found in these areas include Dwarf bedstraw, Gaudichaud's sedge, willow herb, dwarf black cranesbill, dwarf woodrush, the herb *Euchiton traversii* and the rush *Schoenus concinnus*.

An ephemeral tarn on the eastern boundary contains one of the largest known populations of the threatened (Nationally Vulnerable) New Zealand mousetail in the Mackenzie Basin shown in *Figure 1*. Tens of thousands of plants were present when inspected in 2019.

<sup>1</sup> CRC 176720

<sup>2</sup> As per the New Zealand Threat Classification System



Bird species noted include black stilt, grey duck, and black-fronted terns. Other common species present include Australasian harrier, spur-winged plover, Australasian pied stilt and paradise shelduck. Lizards such as the common skink and spotted skink were also found in this area.

Most of CA1 was identified as a conservation area in the Simons Pass preliminary proposal. The eastern boundary has been extended to include the ephemeral tarn described above and an area of indigenous shrubland identified during consultation. A small area identified as FH2 in the preliminary proposal has been removed and included in CA1 as further inspections identified significant inherent values (SIVs) within that area.

CA1 is subject to an **easement** labelled 'i-j' on the Plan to protect an existing stock water pipeline.

**CA2 – 330 hectares to be restored to or retained in full Crown ownership and control as conservation area**



*Figure 2 – healthy fescue tussockland on CA2 dry outwash plain*

CA2 (shown in *Figure 2*) encompasses an inland outwash gravel surface and will, along with CA1 and CA3, protect a continuous geomorphic sequence along the western edge of the lease. It provides essential buffering for botanical SIVs within CA3 from the effects of farming. It includes naturally uncommon (Critically Endangered) outwash ecosystems that retain indigenous flora and fauna.

Botanical SIVs in the area include undeveloped native herbfield-loamfield communities and habitat for four Threatened and ten At Risk plant species. It is a notable habitat for ground-nesting banded dotterel/tūturiwhatu (Nationally Vulnerable) and for black-fronted tern/tarapirohe (Nationally Endangered) flying and feeding over the area. The grasshopper *Sigauss minutus* (At Risk-Declining) and the Carabid *Metaglymma tersatum* have also been noted within this area.

CA2 contains two partially developed pivot circles. Further development of this area would have been highly likely if the land continued to be farmed. Conservation advice suggests that indigenous vegetation will re-establish in the absence of further development

### CA3 – 1,237 hectares to be restored to or retained in Crown control as conservation area



Figure 3– CA3 from SH8 (left) and Pukaki River terraces (right)

The core of this area (shown in *Figure 3*) is known as ‘the Necklace’ and is dominated by the Lake Otiran Mt John outwash surface and the older Early Otiran Balmoral moraine. The Necklace is highly visible from State Highway 8 and contains important landscape values, a wide range of indigenous flora and fauna, and sections of the historic ‘rabbit-proof fence’ and ‘bullock track’.

CA3 extends over alluvial terraces adjacent to the Pukaki River, which have high landscape, botanic and invertebrate SIVs as well as being of recreational importance for access along the Pukaki River. The terraces are a Critically Under-Protected land environment and an important location for the Nationally Vulnerable Mackenzie skink. The terraces are largely unaffected by farm development that has occurred elsewhere on the lease.

CA3 has been retired from grazing as a condition of ECAN consent CRC176720. The consent expires in 2025 so does not provide enduring protection of the area – however, this area will be protected under the Proposal through its designation as a conservation area.

The ECAN consent imposes obligations on the consent holder, Simons Pass Station Limited, to promote the restoration and recovery of the area. Those obligations will continue to apply to this land when it becomes a conservation area and provision has been made for this through the granting of an **access concession** to Simons Pass Station Limited.

CA3 is also subject to a **farm management access easement** shown as ‘a-b’ on the Plan.

#### CA4 – 252 hectares to be restored to or retained in Crown control as conservation area



*Figure 4 – CA4 with CA1, CA3 and FH3 in background*

CA4 (shown in *Figure 4*) consists of the foot-slopes of the Mary Range and a series of glacial outwash channels, including portions of the Balmoral Moraine and Tekapo Outwash Surface – forming part of the internationally significant bio-geomorphological landforms around Lake Pukaki. The area is highly visible from State Highway 8 and contains important landscape values. It includes naturally uncommon (Vulnerable) moraine ecosystems that retain indigenous flora and fauna. Several significant botanical species have been identified, including Threatened - Nationally Vulnerable species such as the tiny forget-me not and New Zealand mousetail.

CA4 is subject to a five-year sheep **grazing concession**. Provision has been made for a **farm management easement** to enable the movement of stock and farm vehicles through this area. It will also be subject to an **easement concession** to protect an existing branch of the main Pukaki Irrigation Scheme pipeline (which supplies water to multiple properties) running through CA4. The easements are shown as a green broken line on the Plan.

#### CC1 – freehold land subject to a conservation covenant

CC1 consists of six areas totalling 80 hectares, located along the boundary of CA3 and FH3. The purpose of the covenant is to provide a buffer between CA3 and the operational areas of pivot irrigators in FH3 - the covenant includes an acknowledgement that some irrigation drift may occur. It also secures the protection of SIVs located in these areas, which are similar to those found in CA3 and described above.

The covenant requires the areas to be fenced off from FH3 and permanently retirement from farming with no grazing or stock access permitted.



## CC2 – freehold land of nine hectares subject to a conservation covenant



Figure 5 – Outwash plain in CC2 containing native fescue tussockland-herbfield-loamfield supporting a *Lepidium solandri* population

CC2 (shown in Figure 5) comprises a small area between FH1 and CA3. Populations of the (Threatened-Nationally Critical) New Zealand cress *Lepidium solandri* have been identified in this area.

The covenant provides for stock movement through the area for farm management purposes but otherwise prohibits pastoral activities. As with CC1, it includes an acknowledgement that the area is adjacent to irrigated areas and irrigation drift may occur. It requires the landowner to fence populations of *Lepidium* (and other Threatened or At Risk plants) as directed by the Minister of Conservation to ensure their protection from stock.

## FH1 – freehold land of 986 hectares



Figure 6 – Boundary between FH1 and CA3 (left) and looking north towards CA1 (right)

FH1 is shown in Figure 6 and contains farm buildings, a milking shed, and effluent ponds. The south-eastern portion of FH1 is irrigated and under permanent pasture. The remaining two pivot areas adjacent to CA2 have been sprayed and sown in exotic feed crops, grasses and clovers, but are not irrigated. Farming infrastructure has been installed with laneways and underground pipelines in place.

Pockets of residual indigenous vegetation have been identified within inter-pivot areas in FH1. Consideration was given to the protection of these areas – however, it was not considered a

workable outcome given their relationship with surrounding developed farm blocks, their role in providing buffers between irrigated land and CA3/CA2, and their importance for stock movement.

Conservation management **access** is provided across FH1, as shown on the Plan. The boundaries between FH1 and CA2/CA3 will be fenced.

### **FH2 – freehold land of 94 hectares**



*Figure 7– CA4 shown in the foreground, with FH2 beyond the leading ridge (arrowed)*

This area (shown in *Figure 7*) consists of over-sown and top-dressed hill country farmed in conjunction with existing freehold land to the south and east. It includes a 13 hectare forestry block. No SIVs were identified within this area. The boundary between FH2 and CA4 will be fenced.

### **FH3 – freehold land of 1,262 hectares**



*Figure 8 – FH3*

FH3 (shown in *Figure 8*) is mostly under permanent pasture or crops. The area is fully consented for nine pivot irrigators, some of which are operational. An irrigation storage dam is located at the northern point of FH3 and the area contains irrigation pipelines servicing other parts of the property and existing freehold land.



Remnant native plant communities have been identified within inter pivot areas and the undeveloped outer edges of FH3. Consideration was given to the protection of the values identified, in particular those located along the boundary of CA1 - however, this was not considered a workable outcome given the relationship of those areas with surrounding developed farm blocks, their importance for stock movement and the need to adopt practical boundaries. The plant communities identified within those areas are well represented in CA1.

Consideration was given to a conservation covenant over FH3 to protect remaining landscape values – however, this was not pursued on the basis that the management regime required to protect remaining values could not be achieved in the context of consented land uses.

The boundary between FH3 and CA3 is deer fenced. Fencing between FH3 and CA1 will be upgraded to boundary fence standard.

#### **FH4 – freehold land of four hectares**



*Figure 9 – Fenced laneway within FH4*

FH4 (shown in *Figure 9*) is required for farm access between FH1 and FH3. It is fenced on both sides, and an irrigation pipeline runs underneath the track. No SIVs have been identified in this area. Provision has been made for a public and DOC management **access easement** over FH4 to enable access to and from CA3.

## Objects of Part 2 of the Crown Pastoral Land Act 1998

Section 25 of the CPLA requires the Commissioner of Crown Lands (Commissioner) to take into account the objects of tenure review as set out in section 24 of the Crown Pastoral Land Act 1998 when developing a tenure review proposal:

- (a) to –
  - (i) promote the management of reviewable land in a way that is ecologically sustainable;
  - (ii) subject to subparagraph (i), enable reviewable land capable of economic use to be freed from the management constraints (direct and indirect) resulting from its tenure under reviewable instrument; and
- (b) to enable the protection of the significant inherent values of reviewable land –
  - (i) by the creation of protective mechanisms; or (preferably)
  - (ii) by the restoration of the land concerned to full Crown ownership and control; and
- (c) subject to paragraphs (a) and (b), to make easier –
  - (i) the securing of public access to and enjoyment of reviewable land; and
  - (ii) the freehold disposal of reviewable land.

The Proposal is considered to meet these objects as it:

- Promotes the management of the land in a way that is **ecologically sustainable** (section 24(a)(i)) by returning most of the undeveloped areas on Simons Pass to full Crown ownership and control as conservation areas, preventing pastoral intensification and grazing pressures on remaining indigenous vegetation and ecosystems. The proposed freehold land has undergone an extensive programme of development and is substantially modified. The continuation of irrigated pastoral uses on that land is considered to be ecologically sustainable if appropriate inputs are maintained. The impact of those uses on SIVs within the proposed conservation areas will be mitigated by the adoption of boundaries that ensure 200 metre buffers are created between those areas and adjacent irrigation pivots;
- Enables land considered to be capable of **economic use** (section 24(a)(ii)) to be freed from the management constraints of pastoral lease tenure by providing for that land to be freeholded. As noted above, this land is considered to be capable of economic uses that are ecologically sustainable in the context of consented land uses;
- Enables the **protection of the SIVs** of the lease (section 24(b)), including inland outwash gravels, ephemeral wetlands and moraines, one of the largest populations of New Zealand mousetail in the Mackenzie Basin, populations of the Nationally Critical New Zealand cress *Lepidium solandri*, an important habitat of the Nationally Vulnerable Mackenzie skink, and many other landscape, botanic and invertebrate SIVs. Notably, the Proposal protects SIVs unaffected by the intensive farm development that has occurred elsewhere on the lease, including SIVs within two partially developed pivot circles.

Areas supporting indigenous vegetation have been identified within the land designated for freehold disposal. The Proposal does not provide for the protection of these values due to their fragmented nature, the practicalities of protecting these values within the context of surrounding land uses and need to adopt practical and workable boundaries;

- Secures **public access** to and enjoyment of the reviewable land (section 24(c)(i)). Conservation areas CA1, CA3 and CA4 can be accessed directly from State Highway 8. Public access to CA1 and CA3 is also available from the Pukaki River Road, which runs along the western boundary of the lease. CA2 can be accessed via CA3. Public access along the full length of the Pukaki River terraces within the lease will be achieved; and
- Provides for 2,435 hectares of land to be **freeholded** (section 24(c)(ii)). These areas have been developed for farming and include management buffers to minimise the impact of farming activities on adjacent conservation areas. Some areas within the proposed freehold land will be subject to conservation covenants – CC1 and CC2.

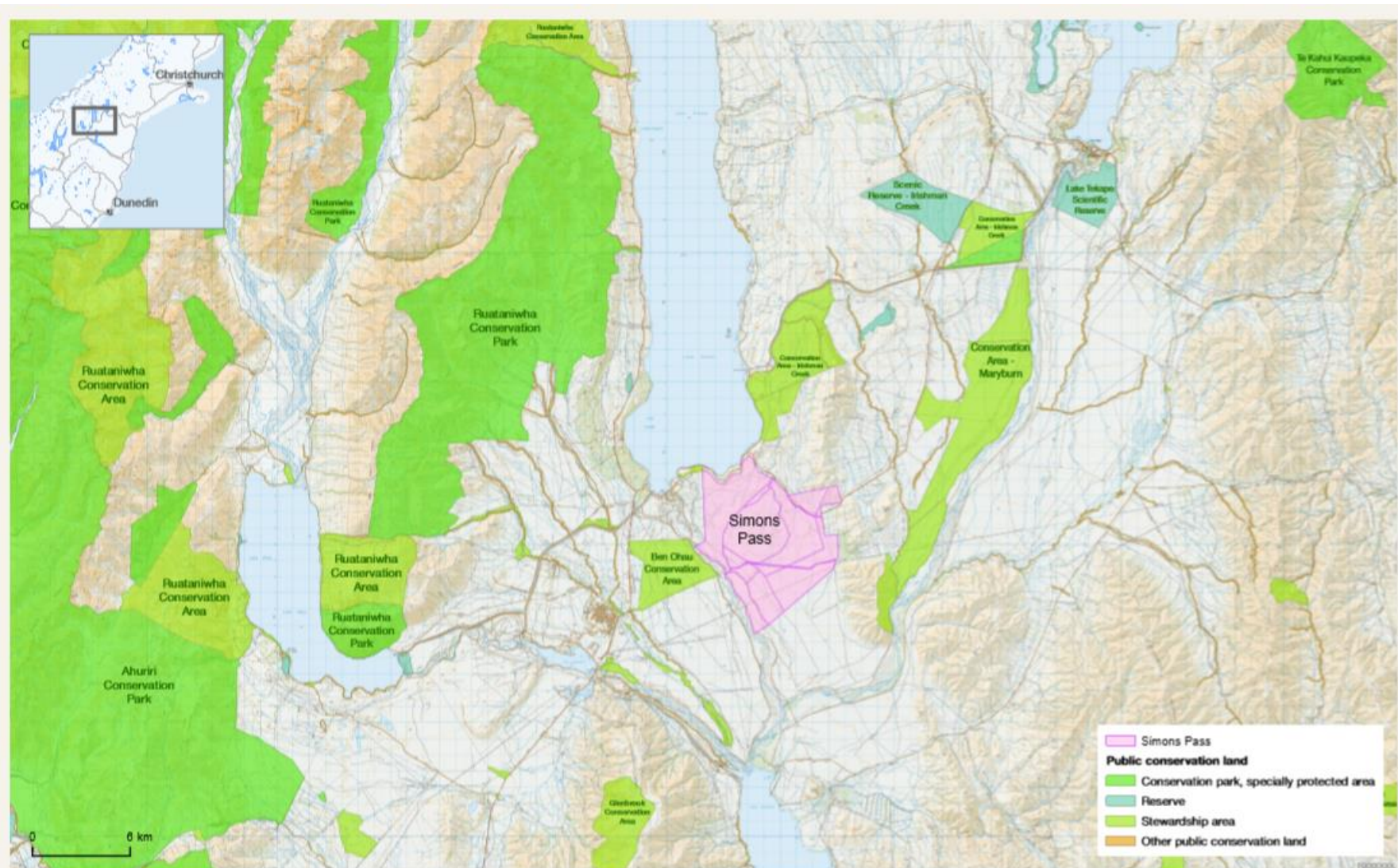
## Other matters taken into account

Section 25 of the CPLA also requires the Commissioner to take into account:

- The principles of the Treaty of Waitangi. A Cultural Values Report was obtained from Te Rūnanga o Ngāi Tahu, which has informed the development of the Proposal. Te Rūnanga o Ngāi Tahu was also consulted on the preliminary proposal as required under section 44 of the CPLA and provided further advice that informed the development of the Proposal.
- Whether the land or any part of it is used or intended to be used by the Crown for any particular purpose. Eight hectares of the lease has been designated for roading with the support of the New Zealand Transport Agency, as part of State Highway 8 is not on the legal alignment. This is shown in red on the Plan. This land will be declared to be road and passed to the New Zealand Transport Agency to manage. No other Crown purposes have been identified for the land.



## Appendix One – Simons Pass Location Map



## Appendix Two – Summary of main public submissions and how they have been considered in the Proposal

Submission Points	Response
One submitter sought a covenant over land below the terrace adjacent to the Pukaki River.	This point was accepted as it raised a perspective not previously considered relating to water quality. A conservation covenant was considered for this area but an inspection of the area determined that a greater level of protection was necessary. The area is now proposed for protection as part of CA3.
One submitter believed that no land visible from SH8 should be freeholded.	This point was not accepted as landscape values had already been considered when preparing the preliminary proposal.  However, further inspections of portions of the land alongside SH8 determined that the land contains landscape, botanic and invertebrate SIVs warranting greater protection – this land is now designated as CA3 and CA4.
Three submitters did not believe the proposal adequately protected SIVs outside of CA1. The submitters noted a range of SIVs within the proposed freehold area and recommended these were protected through a greater area of land returned to full Crown control, or through protective mechanisms.  Another point also sought reconsideration of significant areas of the land identified for freehold disposal in the preliminary proposal.	Some of this land is now designated as conservation area, and the total area of land designated as conservation area has increased from 1,265 hectares in the preliminary proposal to 3,132 hectares in the Proposal.  Other parts of the property identified in this point are within the proposed freehold land. These areas have undergone further development since public notification of the preliminary proposal.
One submission recommended the land within FH1 other than three areas (part of the Mary Range at the north-eastern end of the property, part of the south-eastern end, and the centre of FH1) should be restored to full Crown control on the basis of SIVs and public recreation.  This submitter also recommended that the two areas at the Mary Range and the south-eastern end should be freeholded subject to a covenant.	This point was accepted as the submitter introduced information about public recreation opportunities that required further investigation.  As above, the total area of land designated as conservation area in the Proposal has increased significantly from what was advertised in the preliminary proposal. The Proposal also provides for the protection of the two areas at the Mary Range and the south-eastern end of the property as conservation land.
Five points indicated support for all or some of the Proposal.	Support for aspects of the designations was considered during consultation.
Several submitters raised multiple issues relating to the tenure review process in general, including: <ul style="list-style-type: none"> <li>the application of the decision-making framework</li> <li>interpretation of key terms and definitions</li> <li>basing decisions on inadequate/insufficient information</li> <li>giving insufficient reasons for the decisions reached</li> <li>failure to consider alternatives</li> <li>concerns with the valuation approach</li> <li>seeking a moratorium on tenure review</li> <li>the validity of the Cabinet minute</li> <li>that the tenure review should be discontinued</li> </ul>	These points relate to the overall process of tenure review, rather than the preliminary proposal for the Simons Pass tenure review as notified by the Commissioner.  They may be considered in another forum but were disallowed in relation to this review.