

## Crown Pastoral Land Tenure Review

Lease name : SIMONS PASS

Lease number : PT 019

### 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 parties.

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

## ANALYSIS OF PUBLIC SUBMISSIONS

### Statement Pursuant To Sec 45(a)(iii) Crown Pastoral Land Act 1998

#### SIMONS PASS TENURE REVIEW NO TR184

#### Details of lease

Lease name	Simons Pass
Location	Tekapo
Lessee	Murray Graham Valentine

#### Public notice of preliminary proposal

Date advertised	20 May 2017
Newspapers advertised in	Christchurch Press Otago Daily Times Timaru Herald
Closing date for submissions	18 July 2017

#### Details of submissions received

Number received by closing date: 10  
Number of late submissions accepted by the Commissioner of Crown Lands: 3

Cross-section of groups/individuals represented by submissions:

- 6 individuals
- 2 environmental NGOs
- 3 Statutory bodies
- 2 Commercial entities

## 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, 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.

**Analysis**

<b>Point</b>	<b>Summary of point raised</b>	<b>Submission numbers</b>	<b>Allow or disallow</b>	<b>Accept or not accept</b>
1	The submitters show support for the proposal:	1,2,5,6,8,9	Allow	Accept
Rationale for Allow: The point relates to support for the proposal which was prepared in accordance with the objects of Part 2 CPLA. The point is therefore allowed.				
Rationale for Accept: The submitters have indicated support for the proposal. The point is therefore accepted for consideration in the preparation of a substantive proposal.				

<b>Point</b>	<b>Summary of point raised</b>	<b>Submission numbers</b>	<b>Allow or disallow</b>	<b>Accept or not accept</b>
2	The submitters indicate specific support for CA1.	3,5,7,10,11	Allow	Accept
Rationale for Allow: The point relates to support for an aspect of the proposal which was prepared in accordance with the objects of Part 2 CPLA. The point is therefore allowed.				
Rationale for Accept: The submitters have indicated support for an aspect of the proposal. The point is therefore accepted for consideration in the preparation of a substantive proposal.				

<b>Point</b>	<b>Summary of point raised</b>	<b>Submission number</b>	<b>Allow or disallow</b>	<b>Accept or not accept</b>
3	The submitter recommends public access is assured alongside the Pukaki River and notes that there is no information provided regarding marginal strips.	3	Allow in part Disallow in part	Not Accept
Rationale for Allow in part: The point relates to the securing of public access to and enjoyment of reviewable land (s24(c)(i) CPLA). The point is therefore allowed.				
Rationale for Disallow in part: Marginal strips are a matter for the Director General of Conservation to consider in terms of the Conservation Act. Marginal strips are not reviewable land and therefore not a matter that the Commissioner can consider under the CPLA. This aspect of the point is therefore disallowed. It is however noted that marginal strips will be created pursuant to part 4 of the Conservation Act where freehold land is adjacent to qualifying water bodies on the disposition of the land following acceptance of a substantive proposal.				

Rationale for not accept:  
 Public access adjacent to the Pukaki River is via a rough formed vehicle track that is partly within reviewable land and partly on adjoining Crown land within the Pukaki Riverbed. The portion of the track within the reviewable land is within the proposed conservation area CA1 (but outside the boundary fence). This access and the need for further access on the reviewable land was fully investigated in formulating the preliminary proposal and it was determined that access was fully available within current and proposed Crown areas and therefore not required. The submitter has not provided new information, provided a perspective not previously considered or articulated reasons for an alternative outcome. The point is therefore not accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
4	The submitters (being Meridian Energy and Genesis Energy) seek an easement or encumbrance for access to existing water supply lines citing s25 CPLA.	4,13	Allow	Not Accept

Rationale for Allow:  
 Section 25(1)(c) CPLA requires the Commissioner to consider the use of the land for a particular purpose. The point is therefore allowed.

Rationale for Not Accept:  
 The Commissioner has previously investigated this matter and determined that access to these facilities (and the facilities themselves) is protected under other legislation including the State Owned Enterprises Act and the Electricity Act. Therefore no further protection is required as part of tenure review and the point is not accepted.

Point	Summary of point raised	Submission number	Allow or disallow	Accept or not accept
5	The submitter seeks a covenant over the land below the terrace and adjacent to the Pukaki River to ensure ecological sustainability and protection of water quality.	6	Allow	Accept

Rationale for Allow:  
 The point relates to the protection of significant inherent values by a protective mechanism which is a matter to be considered under Section 24(b) CPLA. The point is therefore allowed.

Rationale for Accept:  
 While protection of this area has previously been considered as it was recommended in the Conservation Resources Report prepared for the property, the submitter has raised a perspective not previously considered relating to water quality. The point is therefore accepted for consideration in the preparation of a substantive proposal.

<b>Point</b>	<b>Summary of point raised</b>	<b>Submission number</b>	<b>Allow or disallow</b>	<b>Accept or not accept</b>
6	The submitter believes that no land visible from State Highway 8 should be freeholded.	7	Allow	Not Accept
<p>Rationale for Allow: The point relates to the protection of significant inherent values (in this case landscape) by either protective mechanisms or restoration to full Crown ownership and control which is a matter to be considered under Section 24(b) CPLA. The point is therefore allowed.</p>				
<p>Rationale for Not Accept: Landscape values were considered when preparing the preliminary proposal and it was considered that it was not necessary to designate land outside of CA1 in order to protect these values. Protection is provided through the Mackenzie District Plan which in recent times has been further strengthened in this regard.</p> <p>The submitter relies on reference to the recently completed Conservation Management Strategy (CMS) to reconsider this matter. As the CMS is not a document that forms part of the consideration under Part 2 CPLA, the submitter has not introduced new information, provided a perspective not previously considered or articulated reasons for an alternative outcome, the point is not accepted.</p>				

<b>Point</b>	<b>Summary of point raised</b>	<b>Submission number</b>	<b>Allow or disallow</b>	<b>Accept or not accept</b>
7	The submitters do not believe that the proposal adequately protects SIVs outside of CA1 (including that in the case of submitter 7 this will detract from the experience within CA1). The submitters note a range of SIVs within the proposed freehold and recommend that these are protected through a greater area of land returned to Crown control or through protective mechanisms.	7,10,11	Allow	Not Accept
<p>Rationale for Allow: The point relates to the protection of significant inherent values by either protective mechanisms or restoration to full Crown ownership and control which is a matter to be considered under Section 24(b) CPLA. The point is therefore allowed.</p>				
<p>Rationale for Not Accept: Other than in relation to specific areas of the land (see Point 14) the submitters have relied on the information previously available in relation to SIVs through the conservation resources reports (CRR) and considered in the preparation of the preliminary proposal. The SIVs identified in the initial 2007 CRR were reviewed during consultation and other advice considered. Revised recommendations were provided by DoC in 2009. These</p>				

recommendations included a south easterly extension of CA1 and covenant protection in other areas. During consultation it was concluded that SIVs were represented within the area now defined as CA1. As the submitters have relied on the original CRR that was reviewed and updated they have not provided any new information that has not been fully reviewed, a perspective not previously considered or articulated reasons why an alternative outcome is preferred. The point is therefore not accepted.

Point	Summary of point raised	Submission number	Allow or disallow	
8	The submitter requests caution in relation to the effect of the proposed freehold on downstream freshwater ecosystems outside the reviewable land.	7	Disallow	
<p>Rationale for Disallow:</p> <p>While the submitter does not identify the location of the freshwater ecosystems, these are referred to as "downstream" and therefore land that is not part of the reviewable land. While actions on the reviewable land may affect these values this is not a matter to be considered under Part 2 CPLA. The point is therefore disallowed.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
9	The submitters do not believe that the proposal promotes the management of the land in a way that is ecologically sustainable.	7,10,11	Allow	Not accept
<p>Rationale for Allow:</p> <p>The point relates to promoting the management of the land in a way that is ecologically sustainable which is a matter to be considered under Section 24(a)(i) CPLA. The point is therefore allowed.</p>				
<p>Rationale for Not Accept:</p> <p>The submitters have relied on the information previously available in relation to ecological sustainability and considered in the preparation of the preliminary proposal. This advice was reviewed by a resource management consultant and alongside other land inventory data and measured in the context of the current interpretation of this aspect of the CPLA. The preliminary proposal was drafted in the context of this information. The submitters have therefore not provided any new information; a perspective not previously considered or articulated reasons why an alternative outcome is preferred. The point is therefore not accepted.</p>				

<b>Point</b>	<b>Summary of point raised</b>	<b>Submission number</b>	<b>Allow or disallow</b>	<b>Accept or not accept</b>
10	The submitter asks that a condition is added to the Final Plan to ensure that current and future owners are aware of recorded and potential archaeological sites (and if possible on the designations plan).	8	Allow	Not accept

Rationale for Allow:

The point is related to the protection of significant inherent values (historical) by either protective mechanisms or restoration to full Crown ownership and control which is a matter to be considered under Section 24(b) CPLA. The point is therefore allowed.

Rationale for Not Accept:

The advice from DoC in relation to historic values was considered in the preparation of the preliminary proposal.

Only one of the identified sites (a portion of the Rabbit Fence) is on the reviewable land. It is also noted that part of the rabbit proof fence is to be removed. Affected part consent was granted by the CCL under Authority no 2015/2016/472: H38/13. Part of the fence is to be displayed at the Toitu Early Settlers museum and parts are to be relocated to a location that will enable viewing by the public with an interpretation panel.

The other sites referred to are the "Bullock Track" which is on legal road and therefore not land included in the review, and the Pukaki Inn Site which is on Crown land in the Pukaki Riverbed and therefore not land that is included in the review.

Other than a heritage or conservation covenant for identified features, making provision for potential sites is not possible in the context of the CPLA. Heritage New Zealand has information available to all landholders identifying their responsibilities under the Pouhere Taonga Heritage New Zealand Act.

Within the scope of what can be considered under the CPLA, the submitter has not provided new information, a perspective not previously considered or articulated why an alternative outcome is preferred. Therefore the point is not accepted.

<b>Point</b>	<b>Summary of point raised</b>	<b>Submission number</b>	<b>Allow or disallow</b>	<b>Accept or not accept</b>
11	The submitter expressed concern that too much land was going to conservation under this proposal.	9	Allow	Not Accept

Rationale for Allow:

The point relates to both land capable of economic use being freed from the constraints of a lease and the protection of significant inherent values by either protective mechanisms or restoration to full Crown ownership and control which are both matters to be considered under Section 24 CPLA. The point is therefore allowed.

**Rationale for Not Accept:**  
 The information leading to the restoration of CA1 to full Crown ownership and control was fully considered in the preparation of the preliminary proposal. Initially the Department of Conservation recommended that a greater area of land was retained by the Crown. During consultation the holder suggested a much lesser area and a covenant was proposed over much of the current CA1. As consultation progressed it was accepted that the current proposal for CA1 included a number of SIVs that should be protected and a demand for public access within this area that would make ongoing farming difficult.

The submitter has not provided any new information or a perspective not previously considered. While the submitter prefers an alternative outcome the reasons for this are not articulated. The point is therefore not accepted.

<b>Point</b>	<b>Summary of point raised</b>	<b>Submission numbers</b>	<b>Allow or disallow</b>	<b>Accept or Not accept</b>
12a	The submitters support the proposed easement over CA1 for the conveyance of water.	9,10	Allow	Accept

**Rationale for Allow:**  
 The point relates to a qualified designation under s36 CPLA. The point is therefore allowed.

**Rationale for Accept:**  
 The submitters have indicated support for an aspect of the proposal. The point is therefore accepted for consideration in the preparation of a substantive proposal.

<b>Point</b>	<b>Summary of point raised</b>	<b>Submission numbers</b>	<b>Allow or disallow</b>	<b>Accept or Not accept</b>
12b	The submitter observes that the 4310 ha proposed for freehold disposal and will benefit from irrigation over most of the area.	9	Allow	Accept

**Rationale for Allow:**  
 The point relates to the economic use of land, ecological sustainability and freehold disposal land under s24(a)(ii), s24(a)(i) and s24(c)(ii) CPLA. The point is therefore allowed.

**Rationale for Accept:**  
 The submitter has indicated support for an aspect of the proposal with further information relating to the benefit of the designation. The point is therefore accepted for consideration in the preparation of a substantive proposal.

<b>Point</b>	<b>Summary of point raised</b>	<b>Submission number</b>	<b>Allow or disallow</b>	<b>Accept or not accept</b>
13	The submitter supports the "re-designation" of the area identified as the "Farm Block" in the centre of FH1 from pastoral lease to freehold.	10	Allow	Accept

Rationale for Allow:  
 The point relates to the economic use of the reviewable land which is a matter to be considered under s24(a)(ii) CPLA and the freeholding of land under s24(c)(ii) CPLA. The point is therefore allowed.

Rationale for Accept:  
 The submitter has indicated support for an aspect of the proposal. The point is therefore accepted for consideration in the preparation of a substantive proposal.

<b>Point</b>	<b>Summary of point raised</b>	<b>Submission number</b>	<b>Allow or disallow</b>	<b>Accept or Not accept</b>
14	The submitter proposes that two areas; one on the Mary Range at the north eastern end of the property and one at the south eastern end are freeholded subject to a covenant.	10	Allow	Accept

Rationale for Allow:  
 The point relates to the protection of significant inherent values by a protective mechanism which is a matter to be considered under Section 24(b) CPLA. The point is therefore allowed.

Rationale for Accept:  
 The submitter is a little vague as to the precise location of these areas. By interpretation the Mary Range area appears to extend beyond that identified for protection in 2007 and would therefore warrant further investigation. The south eastern area appears to relate to an area of moraine features beyond those identified for protection in 2007 and again would warrant further investigation. The submitter has introduced information that requires further investigation in developing a substantive proposal. The point is therefore accepted for consideration in the preparation of a substantive proposal.

<b>Point</b>	<b>Summary of point raised</b>	<b>Submission number</b>	<b>Allow or disallow</b>	<b>Accept or Not accept</b>
15	The submitter recommends that the land within FH1 other than that in points 13 and 14 is restored to full Crown ownership on the basis of SIVs and public recreation.	10	Allow	Accept in part, not accept in part.

Rationale for Allow:  
 The point relates to the protection of significant inherent values by restoration to full Crown ownership and control under Section 24(b) CPLA and also the securing of public access to and enjoyment of reviewable land is a matter to be considered under Section 24(c)(i) CPLA both of which are matters to consider in tenure review. The point is therefore allowed.

Rational for Accept in part:  
 While SIVs in relation to this area were previously considered in formulating a preliminary proposal, the recreation opportunity was not explored. The point is therefore accepted for

consideration of recreation opportunity in the preparation of a substantive proposal.

Rationale for Not Accept in part:  
 The SIVs in this area, apart from the recreational opportunities mentioned above were fully considered in the preparation of the preliminary proposal. A comprehensive conservation resources report was prepared by DoC in 2007 and DoC identified areas where SIVs should be protected. With the possible exception of the areas referred to in Point 14 this information formed the basis of consultation. During the consultation the areas for protection were refined and it was also recognized that with changes to farming practice the location of some SIVs was better identified. The submitter has not provided information beyond that which was contained in the Conservation Resources Reports. As the submitter has not provided any new information, a perspective not previously considered or articulated a reason why the alternative was preferred. To this extent the point is therefore not accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
16	The submitter believes that FH2 should not be adopted.	10	Allow	Not Accept

Rationale for Allow:  
 The point relates to the protection of significant inherent values by either protective mechanisms or restoration to full Crown ownership and control which is a matter to be considered under Section 24(b) CPLA. The point is therefore allowed.

Rationale for Not Accept:  
 This area was not specifically surveyed in preparation of the CRR, but as it is small in extent is considered in the wider context of the area now identified as CA1. When this area was promoted by the holder for freehold disposal it was separately assessed by a botanist and it was determined that there were no SIVs within this area. The submitter has relied on the information relating to the adjacent CA1 area in seeking this change. As the submitter has not provided any new information, a perspective not previously considered or articulated a reason why the alternative was preferred. The point is therefore not accepted.

Point	Summary of point raised	Submission number	Allow or disallow
17	The submitter requests that fencing within the proposal is realigned to the designations proposed in points 13-16 above.	10	Disallow

Rationale for Disallow:  
 While the Commissioner may undertake fencing in order to implement a tenure review this is not a CPLA matter. The point is therefore disallowed. As fencelines are a means of implementing the designations the final fencelines will be aligned to the designations adopted in the substantive proposal.

<b>Point</b>	<b>Summary of point raised</b>	<b>Submission number</b>	<b>Allow or disallow</b>
18	<p>The submitters raise a number of matters relating to the tenure review process including:</p> <ul style="list-style-type: none"> <li>• Unlawful application of the decision making framework.</li> <li>• Incorrect interpretation of key terms and definitions underpinning tenure review such as the interpretation of "ecological sustainability".</li> <li>• Reliance on material that is inconsistent with the objects.</li> <li>• Basing decisions on inadequate and insufficient information.</li> <li>• Giving insufficient reasons for decisions reached and designations proposed.</li> <li>• Failure to consider alternatives.</li> </ul>	10,11	Disallow

**Rationale for Disallow:**

The matters raised in the point relate to the overall process of tenure review rather than specific to Simons Pass and the matters to be considered under Part 2 CPLA. The point may be considered in another forum, but is disallowed in relation to this review.

<b>Point</b>	<b>Summary of point raised</b>	<b>Submission numbers</b>	<b>Allow or disallow</b>
19	The submitters suggest that the review is discontinued (a substantive proposal is not put).	10, 11	Disallow

**Rationale for Disallow:**

The point relates to the conduct of tenure review and could be considered in relation to the discontinuance of reviews under s33 CPLA, however it does not relate to the preliminary proposal that the Commissioner has publicly notified. The point is therefore disallowed.

<b>Point</b>	<b>Summary of point raised</b>	<b>Submission number</b>	<b>Allow or disallow</b>
20	The submitter requests that an independent economist(s) be commissioned to undertake a review (and update if required) of the valuation approach applied in tenure review to land value and lease value.	11	Disallow

Rationale for Disallow:  
 The point relates to the overall practice of tenure review rather than being specific to Simons Pass and the matters to be considered under Part 2 CPLA. The valuation process applied to tenure review is not a matter considered under the CPLA, but rather an administrative activity of Government. The point is therefore disallowed as this is not a matter that can be addressed through the Simons Pass tenure review.

<b>Point</b>	<b>Summary of point raised</b>	<b>Submission number</b>	<b>Allow or disallow</b>
21	The submitter seeks a moratorium on tenure review until the process is reviewed.	11	Disallow

Rationale for Disallow:  
 The point relates to the overall practice of tenure review rather than being specific to Simons Pass and the matters to be considered under Part 2 CPLA. The point is therefore disallowed as this is not a matter that can be addressed through the Simons Pass tenure review..

<b>Point</b>	<b>Summary of point raised</b>	<b>Submission number</b>	<b>Allow or disallow</b>
22	The submitter requests that the Commissioner and LINZ approach and participate in consultation advocating for achievement of the objects of tenure review and noting that failure to do so is unlawful.	11	Disallow

Rationale for Disallow:  
 The point relates to the overall practice of tenure review rather than being specific to Simons Pass and the matters to be considered under Part 2 CPLA. The point is therefore disallowed as this is not a matter that can be addressed through the Simons Pass tenure review.

<b>Point</b>	<b>Summary of point raised</b>	<b>Submission number</b>	<b>Allow or disallow</b>
23	The submitter asks to be included in the consultation on the substantive proposal.	11	Disallow

Rationale for Disallow:  
 The point relates to the ability of the Commissioner to consult under s26 CPLA which requires the Commissioner to consult with the Director General of Conservation, iwi and other parties relevant to an individual review.  
  
 This is not a matter relating to the designations established in the Simons Pass proposal but rather an administrative decision by the Commissioner. The point is therefore disallowed as this is a different part of the Commissioner's tenure review process.

<b>Point</b>	<b>Summary of point raised</b>	<b>Submission number</b>	<b>Allow or disallow</b>
24	The submitter requests that the Commissioner applies the s25 decision-making framework and also applies a different interpretation of s24. The submitter indicates that if clarification is required this be by way of declaratory proceedings in the High Court.	11	Disallow

Rationale for Disallow:  
 The point relates to the overall practice of tenure review rather than being specific to Simons Pass and the matters to be considered under Part 2 CPLA. The point is therefore disallowed as this is not a matter that can be addressed through the Simons Pass tenure review.

<b>Point</b>	<b>Summary of point raised</b>	<b>Submission numbers</b>	<b>Allow or disallow</b>	<b>Accept or not accept</b>
25	The submitter has referred to the Conservation Resources Reports and Recommendations prepared by the Department of Conservation with the view that the proposal should implement these recommendations.	11	Allow	Not Accept

Rationale for Allow:  
 The Conservation Resources Reports were prepared to advise the Commissioner on the SIVs present on the reviewable land to enable him to prepare a preliminary proposal in accordance with s24 CPLA. The point is therefore allowed.

Rationale for Not Accept:  
 The submitter has endorsed the information previously considered. This information formed the basis for consultation with both the Department of Conservation (for the Director General) and the holder. This also included consideration of further ecological advice commissioned by the holder. This information was fully consulted on in order to develop the preliminary proposal. In this context the submitter has not provided any new information or a new perspective. In relation to this point no reasons are articulated for an alternative outcome. The point is therefore not accepted.

<b>Point</b>	<b>Summary of point raised</b>	<b>Submission number</b>	<b>Allow or disallow</b>	<b>Accept or not accept</b>
26	The submitter considers that updated assessments of SIVs, ecological sustainability and appropriate management are required at a property and (Mackenzie) Basin level.	11	Disallow in part Allow in part	Not Accept in part

**Rationale for Disallow in Part:**  
 The Commissioner can only consider the reviewable land as part of a specific review, therefore an assessment at the "basin" level is not a matter to be considered in this review and to that extent the point is therefore disallowed.

**Rationale for Allow in Part:**  
 The Commissioner takes every opportunity to be informed in order to meet the objects of s24 CPLA. The point is therefore allowed to the extent that it relates to Simons Pass.

**Rationale for Not Accept in Part:**  
 The Department of Conservation provided a detailed Conservation Resources Report in 2007 and formally reviewed this in 2009. An additional report on ecological sustainability was also prepared by SCION for the Commissioner. In addition an ecological report prepared on behalf of the holder in 2009 was also available for consideration. DoC staff participated in a number of site visits, the most recent in 2016 where the SIVs were reviewed as part of consultation. As the SIVs and ecological sustainability have been regularly reviewed during tenure review a further assessment is not required. Refer also points 7 and 9. As the submitter has not introduced new information, provided a new perspective or articulated reasons for an alternative outcome the point is not accepted.

<b>Point</b>	<b>Summary of point raised</b>	<b>Submission number</b>	<b>Allow or disallow</b>
27	The submitter challenges the validity of the Cabinet Minute that relates to the conduct of tenure review.	11	Disallow

**Rationale for Disallow:**  
 The point relates to a matter of governance outside the activity of this tenure review. The point is therefore disallowed.

<b>Point</b>	<b>Summary of point raised</b>	<b>Submission numbers</b>	<b>Allow or disallow</b>	<b>Accept or not accept</b>
28	The submitter considers the reasons given for the preliminary proposal are inadequate because they do not: a) Explain how and to what extent the hierarchy in s24 CPLA has been taken into account. b) Explain how and to what extent the Treaty of Waitangi has been taken into account c) Address why DoC's recommendations to designate the majority of FH1 to Crown ownership and control has been ignored, or	11	Allow	Not Accept

	<p>the progressive reduction in the area designated to Crown ownership and control.</p> <p>d) Explain why the proposed designations are the best way to achieve the objects of tenure review and what other alternative designation options (including the use of protective mechanisms) have been considered.</p> <p>e) Set out what if any additional information has been considered in reaching a decision on the preliminary proposal.</p> <p>f) Acknowledge or address the significant inherent values experts have identified on FH1.</p> <p>g) Identify how freehold ownership will enable protection of SIVs on FH1.</p> <p>h) Give supporting evidence and rationale for the conclusion that the land is capable of ecological sustainable management under a pastoral regime in its present state (in particular when that conclusion is contrary to DoC's recommendations and no ecological sustainability report provided).</p> <p>i) Address how the conclusion that encouraging investment in the area proposed for freehold will promote management that is ecologically sustainable.</p> <p>j) Explain how freeholding land to enable further development is consistent with promoting ecological sustainability and enabling the protection of significant inherent values.</p>			
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Rationale for Allow:  
 The matters raised in this point are all matters that the Commissioner is required to consider under s24 or s25 CPLA. The point is therefore allowed.

Rationale for Not Accept:  
 These matters were all addressed during the consultation that led to the preparation of a preliminary proposal and contained in reports to the Commissioner. The submitter has not provided any new information or a new perspective. While an alternative outcome is suggested the reasons are not articulated other than in a generic form. The point is therefore not accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow
29	The submitter refers to the current degraded state of the land as not being justification for freehold and points out the responsibilities of a lessee in terms of the lease.	11	Disallow

Rationale for Disallow:  
 The matters referred to relate to the statutory management of the lease rather than tenure review. The statutory management of the lease is considered by the Commissioner under Part 1 of the CPLA, the Land Act 1948 and the terms of the lease. The point is therefore disallowed.

Point	Summary of point raised	Submission numbers	Allow or disallow
30	The submitter provides a detailed analysis of the concept of ecological sustainability and suggests an alternative definition to that adopted in tenure review.	11	Disallow

Rationale for Disallow:  
 The point relates to the overall practice of tenure review rather than being specific to Simons Pass and the matters to be considered under Part 2 CPLA. The point is therefore disallowed as this is not a matter that can be addressed through the Simons Pass tenure review.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
31	The submitter provides a review of the ecology and a landscape assessment of the Mackenzie Basin.	11	Allow	Not Accept

Rationale for Allow:  
 The point relates to promoting the management of the land in a manner that is ecologically sustainable and the protection of significant inherent values which the Commissioner considers pursuant to s24(a)(i) and s24(b) CPLA. The point is therefore allowed.

Rationale for not accept:  
 The submitter has not provided new information specific to Simons Pass or provided a perspective not previously considered. As the information does not specifically relate to Simons Pass reasons for an alternative outcome on Simons Pass are not articulated. The point is therefore not accepted.

<b>Point</b>	<b>Summary of point raised</b>	<b>Submission numbers</b>	<b>Allow or disallow</b>	<b>Accept or not accept</b>
32	The submitter comments on the adequacy of the various conservation reports and identifies areas for reassessment. Specific reference is made to a report that contributed to the CRR.	11	Allow	Not Accept

Rationale for Allow:  
 The point relates to protection of significant inherent values which the Commissioner considers pursuant to s24(b) CPLA. The point is therefore allowed.

Rationale for not accept:  
 The Department of Conservation provided a detailed Conservation Resources Report in 2007 and formally reviewed this in 2009. An additional report on ecological sustainability was also prepared by SCION for the Commissioner. In addition an ecological report prepared on behalf of the holder in 2009 was available for consideration. DoC staff participated in a number of site visits during the consultation and reviewed the SIVs as consultation progressed. As the SIVs have been regularly reviewed during tenure review a further assessment is not required. Refer also points 7, 9 and 26. As the submitter has not introduced new information or provided a new perspective the point is not accepted. While reasons for an alternative outcome are articulated this has been covered during the consultation process that lead to the development of a preliminary proposal.

<b>Point</b>	<b>Summary of point raised</b>	<b>Submission numbers</b>	<b>Allow or disallow</b>	<b>Accept or not accept</b>
33	The submitter provides a review of the landscape attributes of Simons Pass.	11	Allow	Not Accept

Rationale for Allow:  
 The point relates to the protection of significant inherent values which the Commissioner considers pursuant to s24(b) CPLA. The point is therefore allowed.

Rationale for not accept:  
 While the submitter has elaborated on previous DoC landscape assessments this does not contribute information not previously considered or provided a perspective not previously considered. While the reasons for an alternative outcome are articulated, this reasoning has previously been considered. The point is therefore not accepted.

Point	Summary of point raised	Submission number	Allow or disallow	Accept or not accept
34	The submitter (being Genesis Energy) seeks an easement for an existing 33kv power line over the land.	13	Allow	Not Accept

Rationale for Allow:  
 Section 25(1)(c) CPLA requires the Commissioner to consider the use of the land for a particular purpose. The point is therefore allowed.

Rationale for Not Accept:  
 The Commissioner has previously investigated the need to secure the facilities and has determined that access to these facilities (and the facilities themselves) is protected under the Electricity Act 1992. Therefore no further protection is required as part of tenure review and the point is not accepted.

### Summary and Conclusion

Overview of analysis:

The 13 submitters made a total of 35 points including one sub-point in relation to the Simons Pass tenure review. Of the 35 points, 22 plus one in part related to matters that the Commissioner could consider under the CPLA. These points were allowed. Twelve points plus two in part were outside the scope of the CPLA and are not considered further in this analysis.

Of the points that were allowed, thirteen (plus three in part) related to matters previously considered and as no new information was provided, a perspective not previously considered or reasons for an alternative outcome were promoted, these points are not considered further. Eight points (including one point in part and five points that provided support for aspects of the preliminary proposal) have been accepted for further consideration in the preparation of a substantive proposal.

Six of the thirteen submitters supported the proposal as a whole with a further five supporting the proposed conservation area. Five submitters sought the protection of additional areas where they considered SIVs were present.

Matters carried forward for consideration in preparing a substantive proposal include: the five points supporting the proposal; a review of protection of the land below the terrace adjacent to the Pukaki River; further investigation into the designation of areas on the Mary Range and at the south eastern end of the property; and, a review of the public recreation attributes of the land outside of CA1,

Generic issues:

A number of submitters focused on wider issues relating to the Mackenzie Basin with one submitter focusing on generic issues surrounding tenure review and perceived failings in the current process. In general these are matters for a wider forum rather than the Simons Pass proposal. These are matters for the Commissioner to consider in the context of the ongoing administration of tenure review.

Gaps identified in the proposal or tenure review process:

One submitter focused on a number of perceived gaps in the tenure review process relating to the identification of SIVs, assessment of ecological sustainability, justification of outcomes and valuations.

Risks identified:

The general issues surrounding tenure review in the Mackenzie Basin.

General trends in the submitters' comments:

A balance between support for the proposal and the generic issues referred to above relating to the Mackenzie Basin and tenure review in general.

I recommend approval of this analysis and recommendations

*Ken Taylor*

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Ken Taylor

Date:

Approved/~~Declined~~

*A. Hing*

Commissioner of Crown Lands

Date 12/03/2018

## Appendices

1. Copy of Public Notice
2. List of Submitters
3. Copy of Annotated Submissions

**Appendix 1**  
**Copy of Public Notice**



## CROWN PASTORAL LAND ACT 1998

### SIMONS PASS TENURE REVIEW

#### NOTICE OF PRELIMINARY PROPOSAL

Notice is given under Section 43 of the Crown Pastoral Land Act 1998 by the Commissioner of Crown Lands that he has put a preliminary proposal for tenure review to Murray Graham Valentine as lessee of Simons Pass pastoral lease.

#### ***Legal description of land concerned:***

Pastoral lease land:

Part Run 86 being all the land contained in Instrument of Title CB 529/5 (Canterbury Land Registry) comprising 5,575.2867 hectares more or less.

#### ***General description of proposal:***

1. An area of approximately 1,265 hectares to be restored to or retained in Crown control as Conservation Area pursuant to Section 35(2)(b)(i) Crown Pastoral Land Act 1998.
  - 1.1 An easement to convey water and right of way for irrigation purposes to be registered pursuant to a decision to grant an easement of the Commissioner of Crown Lands under s60 Land Act 1948, dated 23 February 2017.
  
2. An area of approximately 4,310 hectares to be disposed of by freehold disposal to the lessee of Simons Pass pastoral lease, pursuant to Section 35(3) Crown Pastoral Land Act 1998; subject to:
  - 2.1 Part IVA of the Conservation Act 1987;
  - 2.2 Section 11 of the Crown Minerals Act 1991.

Further information including a copy of the Proposal document which includes the designations plan plus the draft easement document is available on the LINZ website [www.linz.govt.nz](http://www.linz.govt.nz). Queries may be directed to LINZ on the following contact information:

Commissioner of Crown Lands  
Land Information New Zealand Crown Property  
CBRE House, 112 Tuam Street  
Private Bag 4721  
CHRISTCHURCH 8140  
Phone: 0800 665 463 (Option 2 then Option 4)  
Email: [pastoral&tenurereview@linz.govt.nz](mailto:pastoral&tenurereview@linz.govt.nz)

**Inspections:**

Any person wishing to inspect the lease should contact LINZ in the first instance at the above address by 9 June 2017. It is proposed that an inspection of the property is undertaken on Saturday 17 June 2017.

**Submissions:**

Any person or organisation may send a written submission on the above Proposal to the Commissioner of Crown Lands at the above address.

All submissions are being collected and held by LINZ either directly or through its agents or contractors.

Submitters should note that all written submissions may be made available, in full, by LINZ to its employees, agents and contractors, the Department of Conservation and the public generally.

**Closing date of submissions:**

Written submissions must be received by the Commissioner at the above address no later than 5pm Tuesday 18 July 2017.

**Appendix 2**  
**List of Submitters**

