The North Canterbury Fish & Game region runs from the Conway River in the north to the Rakaia river in the South. Significant waterways and wetlands in our region are located on crown land under lease in the high country.

Due to the abundance of high value waterbodies in the high country Fish & Game staff spend a lot of time in this area. Every week staff are in the high country. Over the years, particularly the last 15 years, we have seen rapid intensification occurring in the majority of high country stations, including those that are crown land. This intensification has occurred particularly in the river valleys and land with gradients of less than 3% slope. These happen to be valuable habitat for trout and salmon spawning.

There is very little protection for this high country land. District Council rules relating to vegetation clearance are complex, confusing and offer little habitat protection. For example the Selwyn District Council has a large amount of high country land in the Upper Selwyn, Waimakariri and Rakaia catchments. They have had a number of complaints of illegal vegetation clearance over the years yet no compliance action has ever been taken against these properties. The reason is that the rules around vegetation clearance are so poor that they are almost impossible to enforce and councils prefer not to try lest they end up losing.

Regional Council rules offer more protection for waterways but enforcement is difficult in the high country due to the remoteness and inaccessibility of this land and the limited number of compliance staff. Environment Canterbury rely on members of the public to make complaints and do not conduct any proactive monitoring of rules in the high country unless resource consents are held, which often they are not. This is a flawed system that has led to much development occurring under the radar.

There is an extra level of protection for crown pastoral land in that leaseholders must apply to LINZ for a consent to clear vegetation and increase stocking numbers etc. However it has been the experience of North Canterbury Fish & Game that this process does not adequately protected the values of the high country. This will be covered later in the submission.

North Canterbury Fish & Game would like to offer some alternatives to protection of values in the High Country:
1) The purchase of high value Crown Pastoral Leases by the Crown.

1a. North Canterbury Fish & Game would like to see a *fund set up for purchase of properties with high ecological and recreational values*. The purchase of St James Station has been an outstanding success for recreationalists and the protection of habitat in this special area. We would like to see it expended to further properties. This would require significant funds being made available.

1b. Another option we would like to see is the *establishment of a revolving fund*. This is where a pool of money is set aside to buy the lease. After the purchase changes are made to improve protection. This typically would involve the covenanting of areas of high value and providing for public access in perpetuity. Next the lease is sold and the process begins again. This idea has been used to great success in Australia and was recently researched in depth by the CEO of QE11 Trust and the Nature Conservancy New Zealand Office.

2) Improvements to the discretionary consents process:

It has been the experience of North Canterbury Fish & Game that the discretionary consent process does not adequately protected our values of the high country.

The Department of Conservation is the only agency LINZ must consult with over these discretionary consent applications. In many cases they have either received poor advice from the department or have chosen to ignore it, leading to a decline in water quality and habitat on crown land. However it must be noted that Fish & Game have not been informed of what advice is given or of the decisions made by LINZ. Rather we arrive in the high country and see the result – the clearance of matagauri, tussock and other native vegetation. In many cases adjacent to, or upstream of sensitive water bodies.

We suspect that in some cases the staff the department use to provide advice to LINZ are not qualified and experienced ecologists. In summary we are concerned with the lack of good process involved in the decision making.

2b. North Canterbury Fish & Game recommend that the Department of Conservation feedback to LINZ on discretionary consents is always given by a qualified ecologist. That this ecologist is not engaged by the leaseholder, so as to ensure independence. That this advice, and the decision that results, be publicly available.

Another concern with the process is the inability for Fish & Game to provide feedback on discretionary consents. We believe this is an oversight given the importance of the water bodies located on crown land to the fishery, and the protection placed on trout and salmon in the RMA and Conservation Act.

For example the Waimakariri River, due to the presence of salmon, is the second most fished river in New Zealand. This data is collated from annual angler surveys. To protect this valuable recreational resource it is vital to protect the salmon spawning streams that sustain the fishery. Twenty five percent of Waimakariri salmon spawn in Crown Pastoral lease land in the Upper Waimakariri Basin, yet Fish & Game is not consulted over applications to intensify in areas that effect these spawning streams.
In the Rakaia approximately 60% of salmon spawning occurs on land in Crown Pastoral leases, and still no consultation.

In addition, we are concerned that past consideration of discretionary consents has not taken into account the cumulative effects on the environment.

2c. North Canterbury Fish & Game recommend that Fish & Game are consulted over any discretionary consent applications to intensify land use on crown pastoral leases.

2d. It is recommended that cumulative effects are considered when considering discretionary consent applications.

We support the concept of having outcomes for crown pastoral land that places the protection of natural capital above other interests. We would like to see this incorporated into the process for making decisions on discretionary consent applications.

2e. North Canterbury Fish & Game recommend that the outcomes identified in the discussion document are put into legislature. We would also like to see an outcomes that facilitates increased public recreation in lease land.

2f. It is recommended that lease holders cover the cost of this discretionary consent process to enable it to be done adequately.

Other mechanisms for protection:

3. Farm Environment Plans:

Farm Environment/Management Plans could be a good tool for managing crown pastoral land, however there are some caveats. Firstly they are only as good as the rules that they are created under. An example is the FEP’s required by some high country stations under Environment Canterbury rules. These ECan rules do not allow any pugging of streams in the high country but do not specify that stock must be excluded from streams. The result is that Farm Environment Plans may include plans to fence stock out of waterways and these fences may end up being as little as 0.5m back from the waterway, limiting their effectiveness. However because they meet the current ECan rules they are an acceptable element of an FEP. If these type of management plans are included in pastoral land management they should be underpinned by strong outcomes that protect natural capital.

3a. It is recommended that if Farm Environment/Management Plans are used they are required to meet outcomes that provide for the protection of natural capital above other interests. It is also recommended that these plans are available to the public.

4. Ecological Mapping

If natural capital is to be protected it is important that LINZ know what natural capital exists on leasehold land. This could be done by using satellite imagery and high quality aerial photos to map out the areas of moderate and high value biodiversity.

Secondly it is important that an assessment is carried out of the areas that, if intensified, would lead to a decrease in water quality.
This could also be used to provide clarity for lease holders as to which areas are suitable for development and which are not. This would reduce ambiguity.

This mapping could also be used to track the performance of the Commissioner.

This biodiversity mapping is currently being considered by the Selwyn District Council (SDC) as a way to identify areas on planning maps that landowners are able to clear of vegetation and those that cannot due to their biodiversity value.

The SDC and Environment Canterbury are currently working together to scope out the potential for this mapping tool to be used in the district plan. We believe this is the future of natural resource management in New Zealand and encourage LINZ to lead the way by incorporating it into their management of pastoral leases. No one has more capability to do this than LINZ after all.

4a. It is recommended that LINZ use satellite imagery and high quality aerial photos to carry out baseline mapping of critical habitat and then annually assess whether this habitat is being protected.

Thank you for the opportunity to make this submission.
Q1

1a. What are your views on how significant natural values should be protected once tenure review is ended?
It should not be left solely to DoC to decide, they have proved themselves unfit for the purpose. Any outcome will need to consider the rights of lessee's and in likelihood some process like tenure review is required so as land of higher value to conservation/recreation can be separated off working land.

1b. Are there any other mechanisms that could be used to protect significant natural values on Crown pastoral land?
None that would not impede the rights of lessees without compensation being paid though recent events have shown that trampling over minorities and confiscating their property and short circuiting proper legal processes is apparently ok - not that we are bitter :)

1c. Do you have any views on the proposed transitional arrangements for ending tenure review?
Many of the tenure review deals entered into previously were unmitigated disasters for recreationalists and allowed enormous profits to be made off the sale of what was formerly publicly owned land. If binding deals have been entered into then we are probably stuck with them, if they are not past the point of no return then the public access provisions and deals overall should be re-locked at.

Q2

2a. Do you agree with the proposed outcomes? Unsure
Please comment

2b. Do the proposed outcomes capture all the things the Crown should focus on? What’s missing?

2c. Do you agree with the use of “natural capital” rather than ”ecological sustainability” in the proposed outcomes? Yes
Please comment

2d. How do you think the Crown should fulfil its obligations under the Treaty of Waitangi in respect to Crown pastoral land? How do you think Treaty of Waitangi principles should be applied to decision making?
We don't see that there is a choice here. Normal processes should apply surely ?

2e. What are the qualities and features of Crown pastoral land that you value the most?
Recreational opportunities, primarily hunting. Practical affordable access for that hunting activity

2f. What does enduring stewardship mean to you?
sustainable management of the land so as future generations can enjoy the recreational opportunities we can now enjoy whilst still sustaining the ecological well being of the land. It does not mean giving it to DoC to exterminate everything their dogma decides does not belong. Other species are valued beyond natives only.

Q3
3a. Do you agree that the Commissioner should be required to develop a regular Statement of Performance Expectations, approved by the Minister for Land Information? Unsure
Please comment
3b. Do you agree that this proposal will help improve accountability for decision making in the Crown pastoral land regulatory system? Unsure
Please comment
3c. What other mechanisms could be used to improve accountability? Publicity is usually the most effective accountability tool
3d. Which mechanisms do you think would be most effective in improving accountability? as above
3e. Do you think there are any problems with the proposed change?

Q4

4a. Do you agree that the CPLA should be amended so that it explicitly provides for the Commissioner to release additional guidance and standards to support officials and leaseholders to understand and comply with legislative requirements? Unsure
Please comment
4b. Do you agree that this proposal will help improve the transparency of decision making in the Crown pastoral land regulatory system?
4c. What other things do leaseholders, iwi, and stakeholders most need to have clarity about in order to better understand the Commissioner’s decision making?
4d. How should standards be used to help increase transparency? How should guidance be used?
4e. What other mechanisms could be used to improve transparency?
4f. Which mechanisms do you think would be most effective in improving transparency?
4g. Do you think there are any problems with the proposed change?

Q5

5a. Do you agree that the Commissioner should be required to give effect to the proposed outcomes in any discretionary consent decisions? Unsure
Please comment
overly prescriptive rules tend to limit alternative approaches and can harm the ability to meet desired objectives.
5b. Do you think that the proposed approach ensures that decision making will support the proposed outcomes for Crown pastoral land?
5c. What other mechanisms could be used to ensure decision making supports the proposed outcomes?
5d. What specific matters should be considered when deciding whether to approve an application?

Q6

6a. Do you agree that the Commissioner should be required to obtain expert advice and consult on discretionary consent decisions? Yes
Please comment
6b. In what situations do you think the Commissioner should seek information from experts or the public on the impacts of proposed activities? where there is the potential to harm recreational interests or access

6c. Do you think the Commissioner, an independent statutory officer, is the most appropriate decision maker for matters regarding Crown pastoral land? Is there a better decision making model? Please provide the reasons for your view. independent is best, as much as possible the politicians and their biases should be kept out of it.

Q7

7a. Do you agree that the CPLA should be changed to allow for fees to be charged for all discretionary consents? Yes
Please comment
but fees need to be fair and reasonable and not set so great as to deter applications.
7b. How might charging application fees for all classes of discretionary consents impact on applicants? Please provide the reasons for your view. see above comment

Q8

8a. Do you agree that the Commissioner should be required to regularly report against a monitoring framework? Yes
Please comment
8b. What other mechanisms could be used to ensure the outcomes of the Crown pastoral land regulatory system are better understood? perhaps a decent website, perhaps associated with the land on line system
8c. What information do you think is most valuable to understand system performance?

Q9

9a. Do you have any feedback on the preliminary analysis in section 6?
9b. Are there any other comments you’d like to include in this submission? thanks for the opportunity and sorry for the brevity, running out of time, lots of distractions for hunters lately.
15th April, 2019

Updated Submission to:

Attn: Crown Pastoral Land Consultation
Land Information New Zealand
PO Box 5501
WELLINGTON 6145
Email: cplc@linz.govt.nz

SUBMISSION - ENDURING STEWARDSHIP OF CROWN PASTORAL LAND

1. New Zealand Deerstalkers Association Incorporated

Founded in 1938, the New Zealand Deerstalkers Association Inc. advocates for recreational big game hunting for its 10,000-odd members spread across almost 50 Branches around New Zealand.

The NZDA is strongly motivated to strive to have a positive influence on whatever outcome arises for the enduring stewardship or disposal of crown pastoral land – as it is both a significant threat – and a significant opportunity – for retention, maintenance and enhancement of public recreational hunting access, certainly in the South Island.

The New Zealand Deerstalkers Assn has, as some of its objectives:

- To obtain to the greatest possible degree, access to the recreational game herds of New Zealand for all
- To negotiate with the landholders of private land for the right of access to the game herds thereon
- To maintain the principle of recreational use as of right for all outdoor sports men/women of all unoccupied land held by the Crown and other public bodies
- To oppose the freeholding of Crown lands held under pastoral lease or licence – for all recreational land and wetlands – unless satisfactory public access has been retained in Crown ownership / control.

Recreational hunting is a legitimate activity that contributes significantly to the benefits of recreation, economic, ecological protection, and enjoyment of significant inherent cultural values / natural capital (harvesting of resources). Recreational hunting therefore commands a rightful expectation of reasonable, practical, certain and enduring public access - across Crown-owned land, for example - (hereinafter referred to unless otherwise stated as “public access”), for the purpose of this activity.
NZDA therefore advocates, in the strongest possible terms, that LINZ has a powerful obligation – on behalf of the people of New Zealand – to effectively negotiate to secure such public access across reviewable land to crown / public conservation land (hereinafter referred to as "PCL") and recreational hunting grounds beyond, as part of any future enduring stewardship or disposal of crown pastoral land. The cessation of Tenure Review – and resumption of any other form of enduring stewardship of crown pastoral land – provides a significant opportunity, in terms of the restoration, preservation and/or enhancement of the public’s expectation (in our egalitarian society) of such public access. Any failure by LINZ to provide for such public access – as part of any future enduring stewardship or disposal of crown pastoral land – represents a missed opportunity and failure to meet the requirement currently enshrined in the Crown Pastoral Land Act of “securing of public access to and enjoyment of reviewable land”.

2. General acceptance of Enduring Stewardship of Crown Pastoral Land

NZDA has previously accepted the legal situation – and the broad aims of Tenure Review as specified under the Crown Pastoral Land Act 1998 - including the appropriate enabling of reviewable land capable of economic use to be freed from the management constraints (direct and indirect) resulting from its tenure under reviewable instrument - and the appropriate freehold disposal of such reviewable land.

Our concern has always been and remains that any opportunity must be properly taken, to ensure that the objectives of the Act and the revocation, amendment or introduction of any new legislation that may arise – and what is right and proper as regards public access expectations - are otherwise met. In particular, that the opportunity is properly met to optimally support recreational hunting as a means to achieve the objectives around ecological protection, protection of significant inherent values / natural capital, and recreational public access.

NZDA’s view is that LINZ must properly consider the ongoing (public) access interests – and the appropriate legal mechanisms to reasonably safeguard and protect such access interests - as would any other landowner whether by way of enduring stewardship of crown pastoral land, or disposal thereof by whatever means (as has previously occurred with the freehold disposal of reviewable land). Every opportunity should be taken to put the appropriate legal mechanisms into place.

Failure to do so misses an important opportunity – and responsibility.

These areas are the focus of this submission.

3. The NZ Recreational Hunter

A long-serving DOC Field Officer once commented that in his observations over several decades, the vast majority of people making use of the DOC Estate - and indeed any land for recreational purposes – will range up to a maximum of three (3) hours walk, from where they can park their vehicle (although some will always venture further). Whilst empirical data to support this observation may be difficult to obtain – NZDA strongly advocates from its understandings from its membership - that this is highly likely to be true. Including of recreational hunters (underpinned by justifications for vehicle access explained elsewhere in this submission, for example the time constraints imposed by busy lives on modern recreationalists). This redoubles the importance of reasonable, practical, certain and enduring public vehicle access “to the bottom of the hill” – as this effectively defines the penetration of the vast majority of recreational activities (including
recreational hunting), onto the PCL. In the case of recreational hunting in particular, this is vitally important – as it strongly influences the impact that the vast majority of recreational hunting effort will have – on harvesting of game animals, and thus population management. What recreational hunters do not achieve in terms of game animal harvesting – may often require culling at the taxpayers expense.

NB: Reasonable, practical, certain and enduring public vehicle access is hereinafter referred to unless otherwise stated as “public vehicle access”.

Definition of expression “to the bottom of the hill”: this expression is intended to mean “to the limit of practicable vehicle access, due to the nature of the terrain”. It does not mean, literally, just to the bottom of the hill – it can also mean to the back of farmland, to the limit of practically useable formed tracks. It certainly means to the end of formed tracks on reasonably flat terrain. Recreational Hunters are generally experienced in 4WD travel on rugged tracks and terrain, and often have capable 4WD vehicles, for this purpose. Quad bikes and “side-by-side” ATV’s are also very often utilised – greatly extending safe 4WD travel, especially during winter / wet periods.

NZDA advocates that recreational hunting is a far more important activity as part of Kiwi culture than it is often given credit for, for reasons including:

1. Assisting to keep a sector of the population fit, active and healthy (in this day and age of increasing population obesity and diabetes);
2. Passing on practical outdoor and back country health and safety skills and interest from generation to generation (these skills are then fed back into the community in a myriad of different ways, eg through participation in Search and Rescue Teams, firearm safety and bushcraft training – and may be lost otherwise);
3. Assisting ecological protection and conservation values through wild animal population management (including assisting with TB control, mustelid extermination, wild cats and other pests that hunters know to destroy on sight, wherever possible);
4. Harvesting of New Zealand’s wild big game animals specifically represents enjoyment of significant inherent cultural values (harvesting of resources by local residents);
5. Keeping alive a tradition that is very close to the heart of what it means, to be a Kiwi.

These permeate our national culture at almost every level. For example, many rugby players - including All Blacks past and present - have spent time with harvested wild game animals on their backs.

4. Public (Recreational Hunting) Access – A Vital Part of New Zealand Land Management

Best available estimates based upon empirical research suggest that perhaps 50,000 recreational big game hunters in New Zealand harvest between 150,000-200,000 big game animals (deer, tahr, chamois and pigs) annually. These numbers – if anything – are likely to be conservative.

Anecdotal evidence indicates this harvest could easily be increased by as much as 50% (at least) - with nothing more than improved access to wild animal populations.

As noted elsewhere in this submission – cessation of even a fraction of such a large number of animals harvested annually would be considered “a disaster for conservation”.

3
Thwarting this harvest – including failing to put the appropriate legal mechanisms in place to protect the necessary public access to enable recreational hunting to occur – would be similarly disastrous for conservation.

Wild big game animals spread far and wide – into every nook and cranny of the land. So – quite apart from important safety considerations - to hunt effectively and efficiently, recreational hunters need multiple access points, widespread vehicle passage “to the bottom of the hill”, and rights for both the carriage of firearms, and the accompaniment of dogs. No other public recreational access activity needs this breadth and depth of access.

Nor does any other public recreational access activity form such a vital part of New Zealand’s sustainable land management.

The basic principle NZDA advocates for - is that every opportunity should be pursued to provide lateral access into PCL areas every 1/2 day (3-4 hours) or so’s walk apart (from wherever a vehicle may be parked) . Certainly, to allow a day hunt to be undertaken from one legal access point, to the next. Marginal Strips may be included in such access point consideration. This is to allow hunters to harvest animals uniformly across the PCL, and prevent build-up of animal numbers in less accessible areas (the location of which may vary with the seasons, and across the decades). It also serves an important purpose in spreading hunters apart, and allowing them to separate themselves from other recreational users - thus, from a health and safety perspective.

For these reasons, NZDA has previously advocated that public access particularly for recreational hunting must be afforded a priority for Tenure Review under the Crown Pastoral Land Act. This remains equally valid for any future form of enduring stewardship of crown pastoral land, or process for disposal thereof. Currently, this falls under / impacts all of the objects of Part 2 of the existing Crown Pastoral Land Act as specified in s.24, in particular:

(a) to -
(ii) promote the management of reviewable land in a way that is ecologically sustainable;

(b) to enable the protection of the significant inherent values of reviewable land (whether by the creation of protective mechanisms; or 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

It is in this regard that NZDA has rejected the previous / historical stance apparently taken by LINZ and the Commissioner – that the realignment of legal roads with formed tracks was a matter for the local authority. This would certainly be true under “business as usual”. But Tenure Review was far from “business as usual”. So while this may have been true prior to Tenure Review – and it may have remained true after Tenure Review – during Tenure Review, the Commissioner is / was in a unique position to exercise his responsibility “to make easier the securing of public access to and enjoyment of reviewable land”.

NZDA therefore saw any failure by the Commissioner to effect such realignment during Tenure Review as a failure to properly exercise all reasonable options available to him, under s.24.
5. The Key Historical Issue

A key issue for the public – including recreational hunters and NZDA members in particular - is restoration or preservation (and where possible, enhancement) of a reasonable expectation of customary, traditional and historical practical access.

Particularly, access across privately-controlled land – to the adjoining PCL beyond.

Indeed, this expectation appears particularly valid – where access is across effectively publicly-owned reviewable land (ie land under pastoral lease) under the Crown Pastoral Land Act.

It cannot be stressed enough how untenable it is considered to be that this historical / customary / traditional public expectation of access is denied, or excessively restricted - especially where this is to effectively provide (or where as a consequence this does provide) an exclusive benefit to the adjoining landholder. Whether this benefit be exercised by himself / for himself – or to provide exclusive access for commercial guiding, for example.

It is noted that public access expectations are based upon 150 years of egalitarian access reasonably provided by New Zealand landholders - such egalitarian values having formed a basis of European settlement of New Zealand. And that by and large have been part of our New Zealand culture, throughout our recent history.

Public vehicle access “to the bottom of the hill” is vitally important for the public – recreational hunters – and NZDA members in particular, for a number of reasons – including but not limited to:

1. to maintain access for older and/or disabled participants (these people must be included in public access envisaged by s.24 of the Crown Pastoral Land Act and thus be protected from access discrimination – we may all hope to make it into this category, one day!);
2. to enable recreational hunting trips to occur – when time is scarce (the definition of public access under the CPLA must surely be effective public access);
3. to enable meat to be recovered – particularly, in both of the above circumstances;
4. importantly, for health and safety reasons (to allow ready extraction of a climber, tramper or hunter who may have for example suffered a fall, or in case of other accident or injury);
5. public vehicle access assists ecological protection and conservation values by facilitating efficient game population management (an important consideration).

6. Enough is Enough

NZDA has previously strongly advocated that “enough is enough”. Witness has been borne of substantial historical erosion of practical public and recreational hunting access (including the right to carry firearms for a legitimate recreational purpose, and public vehicle access “to the bottom of the hill”), as part of past Tenure Review processes. A substantial opportunity to improve public recreational access outcomes was often missed. LINZ acts on behalf of its constituents – ultimately the public of New Zealand – and was considered to have thus failed these constituents, in this regard. It remains that we do not want history to record that we are the generation that gave away the legitimate expectation of public access (and legally documented / entrenched that loss), via these processes – or any other future form of enduring stewardship of crown pastoral land, or process for disposal thereof.
NZDA continues to call upon LINZ to achieve more effective outcomes, for the practical and workable public and recreational access needs identified in this submission.

In this regard, NZDA previously noted that whereas the objects of Part 2 of the Crown Pastoral Land Act 1998 had to be given effect to and that though information flow was vital to an optimal outcome, tenure review was never (intended to be) a bargaining process to produce sub-optimal and seriously compromised outcomes.

No landholder should have the opportunity – presented to them via any future form of enduring stewardship of crown pastoral land, or disposal thereof – to deny the public of New Zealand what is rightfully and traditionally theirs. This being the expectation of negotiation for provision of recreational public access (including across reviewable land freeholded by any future means) to the PCL beyond.

7. Unfair Restrictions

There is nothing more demoralising as an activity for a recreational hunter to have to undertake – than lugging animals and equipment down a perfectly good 4WD track. Indeed, this is so demoralising (not to mention time-consuming) that it very effectively limits the number of recreational hunters who will participate. Landholders know this – and therefore know that restriction of reasonable and practical vehicle access “to the bottom of the hill” supports and enhances an exclusivity of use of adjoining PCL (that may then be exploited for commercial gain).

This supports the need for public vehicle access to be provided for – to achieve effective public access.

8. Health and Safety

Hunters will hunt – and provision is made for them to lawfully be able to do so.

As mentioned elsewhere – multiple lateral access points to PCL serve an important purpose in spreading hunters apart. This reduces the probability of hunters encountering other hunters or backcountry users - and thus obvious associated risks, however minor.

Also, while most trampers and other backcountry users are unfazed by encountering hunters – lawfully carrying firearms and perhaps laden with animal carcasses or meat – some may prefer to avoid this experience. The more spread out hunters are able to be – the more the probability of backcountry users encountering each other is reduced.

Thus, the responsibility to make provision for not only public access to PCL, but also multiple access points to that PCL (whether under CPLA Part 2, s.24 – or any future form of enduring stewardship of crown pastoral land, or disposal thereof) is important from a health and safety perspective.

9. Free Game Management

The public – recreational hunters – and NZDA members in particular – play an important part in introduced game animal management. This management is provided free-of-charge and at the participants own cost (thus avoiding the need for significant amounts of NZ taxpayer’s money).
Indeed, some 50,000 Recreational Big Game Hunters – spending an average of about $3,600 per annum (Big Game Hunting in New Zealand: Per Capita Effort, Harvest and Expenditure in 2011–2012, GN Kerr & W Abell) suggests annual expenditure of some 180 million dollars. It is important to note that this is expenditure only – and excludes any allowance for labour cost.

As just one quoted example, an NZDA (Rakaia Branch) recreational hunting trip in late 2015 culled in excess of 160 tahr in a single weekend, from the Ben McLeod Range. Recreational Hunters have a significant impact on Tahr, harvesting many thousands per annum – reducing the need for spending of taxpayers’ money, on culling and population control.

This submission, and the public access and public vehicle access it advocates for, greatly supports ecological protection and conservation values (through game animal management) in any lands where such public access is made available. The particular focus being on any Public Conservation Land immediately adjacent to any privately controlled land (including Pastoral Leases – where provision for public access through the Pastoral Lease exist). Securing this game animal management demands reasonable and practical public recreational hunting access “to the bottom of the hill” for the purposes of such game animal management.

The direct, tangible benefits provided by recreational hunters have been highlighted by the Department of Conservation themselves. Expressing concern in April 2015 that the feral deer WARO industry in Fiordland may then have been on the brink of collapse – Alan Munn, DoC’s Southland director was quoted as saying this would be “a potential disaster for conservation”. WARO operators take just a fraction of what recreational hunters achieve, in their harvest.

10. Recent Restricted Public Access Irrelevant

As noted elsewhere, NZDA gratefully acknowledges that existing landholders may have generally been very good about generously accommodating and being permissive in response to public access requests, eg for recreational fishing or hunting.

However, many landholders have and continue to actively restrict public recreational access (including access for recreational hunters). It is asserted that whether or not current and/or past landholders have allowed recent practice of public access across pastoral lease lands (to get to the PCL beyond) is irrelevant to legitimate current and future public expectations around access.

From time to time, land changes hands. New owners – who may be non-resident foreigners – may bring a completely different attitude to land stewardship. Hunting opportunity can be a major draw card for foreign owners to purchase land – as access to hunting grounds can be very expensive and sought after, overseas. The opportunity to restrict public access over private land to the PCL beyond – thus creating effective exclusivity of access to the PCL - can just be too tempting. We have learned we must assume that land may change hands – and the new owners may be as obstructive as they legally can be, towards public recreational access (including access for recreational hunters). It is for this reason – as much as any other - that public access outcomes must be legally enshrined at every opportunity, to uphold the public’s expectation for “reasonable, practical, certain and enduring public access”.

7
11. Limited Practical Public Access Less Problematic than Excessive Restrictions

Longstanding high country landholder Bob Brown (previous owner of Glenthorne Station, in Canterbury) once wisely remarked that after all of his experience over several decades managing public access to the high country, he had learned the following:

1. allowing unrestricted public access causes problems, for the landholder;
2. trying to excessively restrict public access causes even worse problems, for the landholder;
3. limited public access (ie via designated pathways) is the best strategy, for the landholder.

As such, NZDA advocates that trying to totally restrict (prevent) practical public recreational access (including the right to carry firearms and 4x4 public vehicle access “to the bottom of the hill”) across Crown Pastoral Lease land may from time to time cause avoidable problems and friction. The best approach is to provide limited but practicable public access (via restricted pathways). This is what NZDA seeks.

12. Illegal Hunting

Illegal hunting is becoming a greater concern in New Zealand. Contentiously, part of the reason for this – is undoubtedly the greater access restrictions being imposed on recreational hunting.

Previous, poor Tenure Review outcomes - by not adequately providing for public access points (across freehold land to the PCL beyond) - has been a contributor to greater restrictions on public recreational hunting access.

Wherever wild game animal populations exist on PCL (which may change from time to time) – recreational hunters will have a reasonable expectation of access, to enable them to be hunted.

Perhaps counter-intuitively - the more Recreational Hunters are restricted, by definition, the greater becomes the probability that illegal hunting may occur. (Conversely – if there were no public recreational hunting access restrictions – then illegal hunting could not possibly occur!)

Therefore, implied in providing public access to PCL - is the need to secure provision of an adequate number of public access points to PCL to allow enjoyment to occur, while minimising risk of infringement of the law.

13. Readily Accessible Recreational Hunting Grounds Adjacent To (Immediately Beyond) Crown Pastoral Lease Land of Particular Interest

Often, Crown Pastoral Lease land effectively controls access to adjacent readily accessible recreational hunting grounds. Generally favourable terrain and relatively close proximity heighten accessibility to public recreationalists / recreational hunters, and thus such land becomes of particular interest to NZDA’s membership. As such - greater focus and effort is warranted to ensure superior practical recreational hunting access is secured, wherever possible.

As said elsewhere in this submission, access is a key issue for recreational hunters. Responsible clubs have the opportunity to negotiate access on behalf of their membership. In 100% of cases, recreational hunters are targeting introduced species – and are thus providing a service to landholders, and New Zealand taxpayers at large (assisting to control wild animal populations). It is
a proven fact that the existence of negotiated access to recreational hunting grounds in relatively
close proximity and with favourable terrain, supports membership of responsible clubs and
organisations. Recreational hunters will hunt anyway. The more these recreational hunters are
couraged and provided with reasons to join a responsible club or organisation – the better it is, for
all parties.

14. Quiet Enjoyment Does Not Mean No Public Access

All Landholders in New Zealand may be entitled to “quiet enjoyment” of their land possession.

This was asserted by the Courts – as regards Pastoral Leases - in Fish and Game Council v. Attorney
General and Others (2009).

Somehow, this has come to be argued to be a sacrosanct principle – that Pastoral Leasees have the
unilateral right to exclude the public.

This is despite the fact there is nothing that explicitly confers the specific right to exclude public
access, in the Crown Pastoral Land Act.

Therefore – NZDA asserts the right to quiet enjoyment of a Pastoral Lease does not necessarily mean
the total exclusion of public access.

The land remains owned by the Crown on behalf of the public – it seems reasonable that the public
should have limited / restricted rights of access (eg to pass through the land via appropriate
corridors to get to adjacent PCL) – and there are mechanisms by which the owner of land may seek
to agree (or if necessary, impose) rights of access.

There are some 150,000 kilometres of formed public roads in New Zealand. Although many of these
dissect privately-owned land – this is not considered to compromise “quiet enjoyment” of the
possession of that land. It just means that public access is specifically provided for, in an agreed
manner. This is generally accepted – and everybody just gets on with it.

Similarly, public access through Crown land should be better provided for – as part of any future
form of enduring stewardship of crown pastoral land, or mechanism for disposal thereof.

In some cases, there are existing Unformed Legal Roads. As noted elsewhere – the Commissioner of
Crown Lands has historically regarded these as a matter for the local territorial authority. However
NZDA - as a representative of New Zealand hunters and members of the NZ public - has and
continues to contest that this is not the case.

The Commissioner (or whoever else may be the custodian of Crown land in the future) has or should
have a responsibility to make provision for public access – and to resolve any public access disputes.
A classic example is where an Unformed Legal Road is misaligned with an adjacent Formed Track.
Unformed Legal Roads are intended to provide for public access. It is a legislative requirement
under the CPLA “to make easier the securing of public access to and enjoyment of reviewable land”.
It stands to reason that the Commissioner should step in – resolve any dispute – and make provision
for public access, wherever possible.

Once any such issues are resolved – and if an Unformed Legal Road is deemed to be aligned with a
Formed Road (or Track) – then this may become a matter for the local territorial authority.
15. **Identification and Withdrawal of Qualifying Water Bodies from Leases**

In many situations arising from Tenure Review, the establishment of Marginal Strips along Qualifying Water Bodies has provided good outcomes – including providing Public Access corridors across / through Crown Pastoral Lease (or Freehold) Land, to adjacent Public Conservation Land beyond.

This has established a worthwhile precedent – that should now be extended to all Crown Pastoral Land. As part of enduring stewardship (or subsequent disposal) – the withdrawal of Qualifying Water Bodies from Crown Pastoral Leases makes perfect sense.

There are many purposes of Marginal Strips – and thus reasons to withdraw Qualifying Water Bodies from Pastoral Leases – these are set out in s.24C of The Conservation Act 1987.

**EXTRACT FROM THE CONSERVATION ACT 1987:**

24C Purposes of marginal strips

Subject to this Act and any other Act, all marginal strips shall be held under this Act—

(a) For conservation purposes, in particular—
   (i) The maintenance of adjacent watercourses or bodies of water; and
   (ii) The maintenance of water quality; and
   (iii) The maintenance of aquatic life and the control of harmful species of aquatic life; and
   (iv) The protection of the marginal strips and their natural values; and

(b) To enable public access to any adjacent watercourses or bodies of water; and

(c) For public recreational use of the marginal strips and adjacent watercourses or bodies of water.

Such Marginal Strips should, in the first instance, be transferred for administration / management purposes to any public agency responsible for any adjoining land. In most cases, this will be the Department of Conservation (so, Marginal Strips should effectively be an extension of the Public Conservation Land they adjoin – and thus effectively provide Public Access to).
16. Recommendations Summary (Specifically Submitted Recommendations for Enduring Stewardship or Disposal of Crown Pastoral Land)

That any future model or regime for enduring stewardship or disposal of crown pastoral land should reflect the following, as regards particularly public access:

16.1 **Further Legal Entrenchment of Rightful Expectation of Public Access across a Pastoral Lease to Public Land Beyond** – Tenure Review provided an opportunity (not always optimally or effectively realised) for legal entrenchment of a rightful expectation of Public Access over reviewable land.

Any new regime for Enduring Stewardship (or Disposal) of Crown Pastoral Land should see the principle of enhancing Public Access across Pastoral Lease Land to any Public Land beyond further legally entrenched as a valid and legitimate outcome – that cannot unreasonably be ignored. This should be an important outcome of the Review and for the Crown’s ongoing management of Pastoral Leases.

It is acknowledged at the same time that this should not unreasonably encroach – not so much on “quiet enjoyment” per se – but on Pastoral Lease farming operations. There are countless examples where Public Access is not considered to impact on “quiet enjoyment” (for example, most if not all of the 150,000km of Public Formed Roads in New Zealand)

16.2 **Improved Transparency** – there should be greater opportunity for public engagement, participation, transparency and accountability in the provision of reasonable, practical, free, certain and enduring Public Access across Pastoral Lease Land.

There should be a reporting regime for the Commissioner to be required to regularly report on progress in enhancing such Public Access.

16.3 **Mechanism for Public Access Application** – there should be a formal mechanism to provide for a Public Access Application across Pastoral Lease land. Such Applications could be to apply for:

16.3.1 an additional requested Public Access (where one does not already exist) – which could then be formalised using a legal mechanism (eg easement)

16.3.2 opening up an existing Public Access (eg clarification around misalignment of an Unformed Legal Road with a Formed Track)

16.3.3 a change to the terms of an existing Public Access (eg to request allowance for the passage of vehicles, carriage of firearms, or accompaniment of dogs).

16.3.4 Of course, there would need to be simple rules to provide reasonable protections to ensure that a property does not become criss-crossed with a myriad of tracks and walkways. However, if similar principles are applied as we see with public roads – then there is no reason why this should not be a manageable issue.
Such Applications could be handled in the first instance by, say, the Walking Access Commission—who could be required to provide the Commissioner with expert advice and recommendations as to then be made to LINZ / the Commissioner.

Upon recommendation and once approved (which there should be a rightful expectation that many reasonable requests would be) – then the Commissioner would invoke the appropriate legal mechanism to assure reasonable, practical, certain and enduring public access.

This may then become a matter for the local territorial authority (if a road has been opened up).

16.4 **Removal of Qualifying Water Bodies from Leases and Creation of Marginal Strips**

A formal review process should be undertaken to:

16.4.1 Identify and withdraw Qualifying Water Bodies from Pastoral Leases;

16.4.2 Create Marginal Strips alongside such Qualifying Water Bodies;

16.4.3 Transfer responsibility for such Marginal Strips to any Agency responsible for any adjoining land (most commonly, the Department of Conservation);

16.4.4 Update the Walking Access Commission’s mapping system to reflect additional Public Access provided by such Marginal Strips.

16.5 **Public Access always sought to include Practical Access for Recreational Hunting** – NZDA can make no secret of the fact that – in the context of Public (Recreational Hunting) Access – access is not access unless it provides for the carriage of firearms (as a bare minimum) – and wherever practically possible, the passage of vehicles, and /or the accompaniment of dogs.

17. **Additional Security Assurance Measures**

NZDA recognises the management and security needs of landholders – and that concerns around these needs may not be met by general public access provisions.

NZDA also asserts that public (recreational hunting) access requirements may be considered to be in a class apart from general public access provisions, for the following reasons (as also outlined elsewhere in this submission):

1) public (recreational hunting) access is required as part of wild big game animal management (effectively, part of land management);

2) public (recreational hunting) access enables a crucial contribution to necessary ecological protection;

3) public (recreational hunting) access assists in meeting s.24 (a) and (b), as well as (c) (i);
4) Public (recreational hunting) access has unique requirements, namely for vehicle access, the carriage of firearms, and the accompaniment of dogs.

Therefore, NZDA would be prepared to discuss – as an alternative to or separate from general public access provisions - a separate legally registered access mechanism for membership card-carrying recreational hunters who are financial members of a nationally-affiliated organisation offering the following:

1. Significant Public Liability Insurance (NZD 10 million).

2. Membership bound by a Code of Conduct with mechanisms to oust members for non-compliant behaviour.

NZDA recognises that provisions such as the above would provide the landholder with general assurance of a better-than-average standard of conduct, when compared with the public-at-large – for persons coming onto the freehold property (including vehicle access, the carriage of firearms, and the accompaniment of dogs) to access the PCL for recreational hunting purposes.

18. Negotiation Process / Resources

NZDA are willing and prepared as much as possible to provide voluntary resources and representation to work with DOC, LINZ, Landholders and other parties to further propose and assist with the negotiation process around the acceptable provision of requested access.

NZDA have recently restructured access advocacy resources in Canterbury (including the formation of the South Island Access Committee, representing all South Island Branches and a direct membership approaching 3,500 – also acting on behalf of NZDA’s total national membership of 49 Branches and around 10,000 members), to more effectively be able to work with parties to assist with securing and retaining optimal recreational hunting access.

19. Verbal Submissions

As an organisation representing almost 50 Branches and around 10,000 members nationally - NZDA strongly seeks to avail itself of any opportunity to speak to this submission – and particularly the recommendations in Point 16. above.

NZDA appoints as its representatives for the purposes of this submission the South Island Access Committee - refer contact details below.

Yours faithfully

James Steans – Convenor
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12 April 2019

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Submission on enduring stewardship of Crown pastoral land

1. This submission is made on behalf of Otago and Central South Island Fish and Game Councils. The Councils manages sports fish and game bird resources in Otago and Central South Island Fish and Game Regions respectively. As the LINZ discussion document notes the majority of Crown pastoral leases occur in Otago and Canterbury.

2. Fish and Game Councils are established and operate under the Conservation Act. We have a significant ongoing interest in Crown pastoral lease management and have had a long-running involvement in tenure reviews.

3. The proposal that tenure review in the high country should end and be replaced by a new regime is supported.

In considering elements of a new regime it is worth looking at past problems encountered both in tenure review and pastoral lease management:

a. Low priority given to public access in tenure review (including vehicle access) resulting in poor public access outcomes

b. Scope of tenure review generally restricted to the individual pastoral lease property under review. Little consideration of public access through a pastoral lease to another landscape feature – a river, a Crown reserve or conservation area. Little consideration of linking or using unformed public roads within but not part of the property under review.

c. Over reliance on easements for public access in tenure review without proper consideration of the existing networks of unformed legal roads in the area. (eg Ben Nevis and Craigmoy Stations in Otago)

d. Establishment of landlocked reserves and public water – (eg. Dingle Lagoon on Dingle Burn Station, Otago)

e. ‘Substantive proposals’ on tenure review not made public until survey and freeholding is completed so that there is no opportunity to challenge final decisions.

f. Poor linkage between marginal strip establishment under Conservation Act s24 triggered by tenure review or lease renewal.

g. Incremental development of pastoral values so that inherent values are degraded or lost over time. For example, pastoral development on pastoral leases in the Upper

Statutory managers of freshwater sports fish, game birds and their habitats

Otago Fish and Game Council
Cnr Hanover & Harrow Sts, PO Box 76, Dunedin 9054, New Zealand. Telephone (03) 477 9076
www.fishandgame.org.nz
Pomahaka catchment has seen significant loss of tussock and scrublands and is considered to be contributing to declines in the upper Pomahaka River trout fishery.

h. Non-transparent processes for issuing of discretionary consents including recreation permits
i. Little or no use of existing provisions of Land Act for taking of easements or reserves on leasehold properties (Land Act s60, s117).

j. Small streams in freeholded land often remain unprotected because they don’t qualify for marginal strips.

4. **Crown Pastoral Lease Status and Tenure Review**
   Crown pastoral lease status has always had the capacity to provide protection for inherent values but the LINZ management regime to date has failed in the implementation. Contributing factors are a lack of clear management objectives, insufficient monitoring and a lack of transparency.

While tenure review has resulted in large areas of the high country becoming conservation land under the control of DOC this needs to be seen as a shift to more appropriate protection for land with high inherent values rather than a nett gain for conservation.

Tenure review as a process has been a blunt instrument because the high country does not neatly split into conservation land and pastoral land categories. Large areas of lease lands have a mix of both pastoral and conservation values and when tenure reviews occur there are losses of both opportunity for pastoral farming on one side and inherent values, recreational opportunity and public access on the other.

5. **Response to Questions in Consultation Document**

5.1 **How to manage implications of ending tenure review?**
Increased protection for areas of high inherent value has been an important aspect of tenure review and retention of methods to restrict activities on pastoral leases (lease conditions, covenants and easements) as well as ways to acquire lease land for the conservation estate (through purchase) need to be retained if not enhanced.

Full Crown ownership should be seen as the primary objective for high value high country land with covenants having a secondary role.

For public access it is important to create or improve linkages between management of pastoral leases (including changes in lease conditions for access purposes) and the existing network of uniformed legal roads. The ULR resource is commonly overlooked when considering public access solutions because they are not part of pastoral leases even though they might cross through lease properties. Part of the problem is that district councils who manage ULRs have little interest in the recreational access those roads provide.

Similarly, the linkage between Conservation Act marginal strips and pastoral lease management can be improved through increased consultation on those marginal strip reservations which occur on pastoral lease renewals as well as on freeholding through tenure review. Reserving of marginal strips has been conducted as a low profile almost automatic DOC process where the Crown land concerned meets the ‘sale or disposition’
statutory criteria requiring strips to be laid off. There is no external consultation. But given the power to both reduce and increase the width of marginal strips from the standard 20 metre width and the importance of marginal strips statutory purposes which go far beyond public access to include waterway protection, there is real value in a more considered approach including consultation with stakeholders so that marginal strips are tailored to each.

The full potential of Crown pastoral lease status as a protective mechanism needs to be realised in order to both provide protection and enhancement of inherent values and public access and allow pastoral farming at the appropriate level on mixed value high country lease land.

However, there is also a place for a mechanism to provide for freeholding of pastoral lease land on a case by case basis where there is no reason to retain land as lease land. This should be limited in scope and should not become tenure review under another name.

5.2 Proposed high-level outcomes for the South Island high country
The high country is the roof of New Zealand. It is important to stress the original drivers for the Lands Act 1948 and establishment of Crown pastoral leases in the high country as outlined on page 9 of the discussion document, namely: --
- better stewardship of the land
- leaseholder security of tenure resulting in a longer term (sustainable) approach to management
- soil conservation or more correctly water and soil conservation

It is this last point which again has to be established as a key outcome from pastoral lease management by LINZ. From a Fish and Game point of view land stability and recognition of the crucial importance of the high country in sustaining stream and river flows from well vegetated tussock covered catchments. It is time to stop and reverse the relentless development of tussock or scrublands at ever higher altitudes to be replaced by improved pasture to the detriment of catchment water yield.

Good quality public access outcomes in the high country have often been the poor relation of tenure review decisions and have been squeezed out in negotiations over important conservation values and land for freeholding. Under the proposed new regime public access should be put on the same footing as other high-level outcomes. Access outcomes can be achieved by use of existing mechanisms (Land Act s60 and s117; a more considered use of Conservation Act s24 provisions on lease renewal; linkages between pastoral lease management and use of the existing network of unformed legal roads.)

The high-level outcomes in the text box on page 23 of the Discussion Document are supported but needs to be expanded to explicitly cover environmental outcomes for the high country (both on-site and downstream including catchment water yield and soil conservation and public access.

The use of the broader concept of ‘natural capital’ instead of the narrower ‘ecological sustainability’ is an improvement but it is not clear whether the term natural capital goes far enough in covering environmental and access values.
Fulfillment of the Crown’s responsibilities under the Treaty of Waitangi in setting high level outcomes for the high country is supported.

5.3 **Statement of performance expectation for Commissioner**
The lack of accountability mechanisms in place for the Commissioner of Crown Lands performance and the lack of transparency over the CCL’s decision-making has been an issue. Proposal 2, on page 29 of the Discussion Document is supported ahead of alternatives. Public consultation is a desirable element but consultation with other agencies managing natural resources in the high country, namely DOC and Fish and Game is essential. The statement of performance expectations needs to be matched by a monitoring and reporting regime.

To enhance transparency the rationale for CCL decisions should be treated as public information.

We agree that farm plans for pastoral leases could be a useful mechanism for the CCL and leaseholders to explicitly record agreement on things like limits on pastoral intensification and to manage cumulative effects and catchment scale issues. However, the value of such non-statutory plans is limited due to a lack of formal enforceability.

5.4 **Amendments to CPLA to provide for CCL’s release of guidance and standards on legislative requirements.**
We support proposal 3. Development of such guidance documents or standards are important where decision-making relates to discretionary consents. In the past this area has lacked transparency and decisions have cut across the statutory role of other agencies.

Development of guidance documents and standards requires consultation with other Crown agencies where there are cross boundary issues.

5.5 **Commissioner to be required to give effect to proposed outcomes in discretionary consent conditions**
We support proposal 4. Decision-making over discretionary consents is an important area because it reflects the diversification of commercial activities occurring on Crown pastoral lease land, particularly the commercialisation of recreational opportunities. Conflicts do arise between maintenance of inherent values including no-commercial recreation and expansion of commercial activities beyond pastoral farming. For example, issuing a recreation permit for angling guiding or fishing lodge development may conflict with Fish and Game’s objectives of managing a high-quality wilderness fishery in the high country. Public access may become more difficult where secure access is lacking, and a lessee has a commercial interest in restricting non-commercial recreational pressure.

Increasingly ownership of Crown pastoral leases is driven by remoteness, high landscape values and proximity to quality recreational opportunities rather than an interest in pastoral farming. This new wave of leaseholders includes foreign investors whose aspirations may conflict with high level outcomes relating to public access and recreation.
5.6 Commissioner to be required to take expert advice and consult discretionary consent conditions.

There needs to be a requirement to consult where CCL’s decision-making may impact on the statutory management of another Crown agency such as Fish and Game, DOC, Heritage NZ or on Ngai Tahu interests. Wider (public) consultation may be appropriate depending on the scale or potential impact of the proposal.

With appropriate checks and balances the CCL’s role as decision-maker seems appropriate.

5.7 Change CPLA to allow charging for discretionary consent.

Proposal 5 involving changes to the CPLA to allow charging for all discretionary consents is supported. We agree with application of the ‘benefit pays’ principle.

There also needs to be a monitoring regime in place to ensure conditions of discretionary consents are complied with and a review mechanism so that adverse impacts can be rectified with adjustments to consent conditions. Monitoring costs should also fall on the consent holder.

5.9 Commissioner to report against a monitoring framework

We support the proposal to require the Commissioner to report against a monitoring framework. This is essential if CCL performance is to be measured successfully. Monitoring the state of Crown pastoral lands is going to be a complex process.

6. Conclusions

The general thrust of the proposed changes to the stewardship of Crown pastoral land including ending tenure review is strongly supported along with setting of explicit high-level outcomes for Crown pastoral land. There is no doubt that continued pastoral farming can be compatible with maintenance of high country values but public interest values must be first priority.

Water yield and soil conservation - A high-level outcome for management of pastoral leases is water and soil conservation in recognition of the important ecosystem service provided by high country land in water yield and conserving soil, thereby limiting adverse effects from silt and nutrients and maximising water yield both on-site and downstream.

Public Access - Public access needs to be explicitly integrated into those high country values to be protected. As a term ‘inherent values’ has not proven to be inclusive enough in the past with public access being treated as a second order priority in CCL decision-making.

Improved linkages with other public land categories/processes - To achieve high quality public access outcomes there need to be better linkages between pastoral lease management and other complementary public land categories and related processes, particularly Conservation Act s24 Marginal Strips and the existing network of unformed legal roads in the high country (which are not part of pastoral lease lands). Reservation of marginal strips is a DOC process which has greater potential given the flexibility in the Conservation Act to increase and reduce their width.
Greater controls on discretionary consents - Decision-making on discretionary consents needs to be more transparent and open and should involve consultation in cases where activities might impact on the statutory interests of other agencies including Fish and Game. Charging for discretionary consents is supported. There is a need for monitoring and review of concessionary consents

Yours sincerely

[Signature]

Ian Hadland, Chief Executive, Otago Fish and Game Council

[Signature]

Jay Graybill, Chief Executive, Central South Island Fish and Game Council
Title of Submission: Consultation on enduring stewardship of Crown pastoral land

Submitter: Otago Conservation Board
Chairperson Mr Pat Garden
Postal Address: C/Department of Conservation—Te Papa Atawhai
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Queenstown 9348

Submitters Credentials

The Otago Conservation Board (“the Board”) is appointed by the Minister of Conservation. The functions and powers of Conservation Boards are included in the Conservation Act 1987. With direct relation to this submission the role of the Board is to represent community interests including advocating for the protection of terrestrial and freshwater biodiversity, recreational opportunities and the conservation of natural and historic resources throughout Otago.

The Board has a strong interest in the “Enduring stewardship of Crown pastoral land review” and was briefed by DoC and LINZ officials at its Board Meeting on 04/04/2019.

The OCB actively reviews and makes submissions on most conservation-related proposals within Otago, including numerous Tenure Review Preliminary proposals and field inspections.

Section 6M of the Conservation Act (1987) sets the Functions of Boards:
(1) The functions of each Board shall be—
(a) to recommend the approval by the Conservation Authority of conservation management strategies, and the review and amendment of such strategies, under the relevant enactments;
(b) to approve conservation management plans, and the review and amendment of such plans, under the relevant enactments;
(c) to advise the Conservation Authority and the Director General on the implementation of conservation management strategies and conservation management plans for areas within the jurisdiction of the Board;
(d) to advise the Conservation Authority or the Director General (i) on any proposed change of status or classification of any area of national or international importance; and (ii) on any other conservation matter relating to any area within the jurisdiction of the Board.

Otago Conservation Management Strategy (CMS)

The purpose of a conservation management strategy is to implement general policies and establish objectives for the integrated management of natural and historic resources, including any species, managed by the Department under the Wildlife Act 1953, the Marine Reserves Act 1971, the Reserves Act 1977, the Wild Animal Control Act 1977, the Marine Mammals Protection Act 1978, the National Parks Act 1980, Hauraki Gulf Marine Park Act
2000, or this Act, or any of them, and for recreation, tourism, and other conservation purposes

The Board recognises that the approved Otago Conservation Management Strategy (CMS) possibly provides insufficient references to the potential opportunities for conservation on Pastoral leasehold lands. A selection of relevant references follows:

The Otago CMS covers a wide and diverse area and stretches from the dramatic landscapes of the eastern coasts and rainforests of The Catlins, westward through the ancient block mountains and drylands of Central Otago, to the beech forests and tussock grasslands of the lakes and mountains of the Southern Alps/ Kā Tiritiri o te Moana, centred on Mount Aspiring National Park which is part of the Te Waihipounau World Heritage property.

The CMS make the observation that Otago has a character distinct from other regions of New Zealand and a vast diversity of landscapes, ecosystems, species and climates, which contribute to New Zealand’s international identity and reputation.

Of direct relevance to this submission is the reality that, of the 26 active Tenure Reviews currently at different stage of consideration, 10 of these are in Otago.

Several polices in the CMS are directly relevant to this submission:

POLICIES

2.6.1 Work collaboratively with others to achieve active management to protect dryland habitats including:

a) indigenous or semi-indigenous riparian vegetation;

b) habitats of threatened indigenous plants and animals or naturally rare ecosystems;

c) areas of indigenous vegetation that link with indigenous ecosystems or adjoining upland areas, providing wildlife corridors, altitudinal vegetation sequences and landscape integrity;

d) saline and limestone ecosystems; and

e) wetlands and their margins.

2.6.2 Once tenure reviews have been substantially completed, review land status of public conservation lands and waters within this Place in accordance with the Conservation Act 1987, Reserves Act 1977 and National Parks Act 1980 to better reflect the values.

2.6.3 Encourage further investigations into the unclassified invertebrate species endemic to Central Otago.

The OCB strongly advocates that the CMS be recognised as part of the process for working across a range of ecosystems and tenures to achieve necessary conservation outcomes.

International Context

The OCB contend that several options that have been developed and applied over the last 2 decades need to be considered.

International thinking, theory, commitments and practice for the establishment and management of landscape-scale approaches and areas of connectivity and the OCB
contend that these would be a useful consideration. The theme for the 2019 Environment Defence Society (EDS) Conference THROUGH NEW EYES: Rethinking landscape in Aotearoa is indicative of an emerging realisation that New Zealand’s distinctive land and seascapes are an integral component of our wellbeing and identity. They provide deep cultural connections, physical and spiritual respite, and havens for biodiversity. They are a big part of the New Zealand export brand and a major drawcard for international visitors.

As well as the above, there are several contemporary conservation designations that have been formulated and applied to protect natural, and semi-natural landscapes, freshwaterscapes and seascapes. These include Connectivity Conservation\(^1\) approaches that offer a structure to link protected areas into connected matrices and provide opportunities to reduce fragmentation, enable migratory flows, and conserve ecological processes that are often missed by traditional protected area designations. The approach provides a fundamental contribution to maintaining the integrity of protected areas and the habitats and species they conserve.

This approach introduced the concept of establishing ‘ecologically representative’ networks of protected areas. This change in thinking is reflected in a series of international obligations that New Zealand has signed up to in relation to the management of the terrestrial environment. Examples include Under the Convention on Biological Diversity, ratified by New Zealand in 1993, the country is required to establish a system of protected areas and to regulate where necessary for the protection of threatened species and populations. The outcomes of the seventh meeting of the Conference of the Parties to the Convention on Biological Diversity (2004) New Zealand committed included the establishment of ‘comprehensive, effectively managed, and ecologically representative national and regional systems of protected areas. Likewise, the Operational Guidelines for the Implementation of the World Heritage Convention stipulate a range of relevant obligations for State Parties. Refer http://orcp.hustoj.com/2017/06/18/2016-operational-guidelines/

The OCB strongly advocates that:

- connectivity of both PCL and CPL be taken into account in the management of these lands to ensure improved outcomes.
- State Party World Heritage commitments, with particular reference to Section II.E Integrity and/or authenticity, II.F Protection and management, and Boundaries for effective protection, be reviewed and taken into account.
- World Heritage considerations are particularly pertinent to landscape and land use planning in the Mackenzie Basin – which, to all intents and purposes, provides the dramatic frontage to Aoraki Mt Cook National Park foreground.

**OCB specific comments:**

**Fully protected dryland heritage areas and conservation parks**

New Zealanders value the wide-open tussock drylands of our high country. Given land-use changes that have already occurred, it is now urgent that a full range of habitats are identified and protected.

\(^1\) https://en.wikipedia.org/wiki/Landscape_connectivity
The OCB call on the Government to advance action on the creation of an Otago Tussock / Dryland Conservation Park. This will require the strategic purchase of CPL land, complemented by a range of other protective mechanisms such as covenants.

Protection of the intrinsic values of high-country dry ecosystems, including native and indigenous species, should be prioritised. Noting the reality that a considerable amount of Otago’s dryland / tussock ecosystems and biodiversity has already been lost and / or modified, it is essential that the future management of CPL prioritises the protection of native species and other intrinsic high-country values.

Many dryland species are cryptic and are / have been overlooked in the past. Otago drylands are home to threatened or at-risk plant species. The outcomes proposed for remaining CPL should focus on safeguarding indigenous biodiversity, natural landscapes and ecosystem services such as water yield for future generations.

The OCB strongly advocates that the process should ensure that all decisions made about CPL land achieve, or at least, contribute to that outcome.

CPL reviews in process

The OCB has an interest in several specific reviews being completed with the OCB rohe. These include:

- Beaumont Station
- Glenary Station
- Mt Burke Station

The OCB submit that a process should be established to advance these (and possibly other important) reviews

Natural environments within leasehold lands are still being degraded.

In the past, lessees have been given permission by LINZ to carry out activities that have not afforded adequate protection / conservation of the land and its special natural features.

The OCB contend that LINZ needs to be better informed of the scale and condition of natural features on each CPL area.

Coupled with this is the requirement to formulate and implement effective monitoring, compliance and enforcement processes to ensure CPL natural resources are safeguarded by lessees.

Enhanced decision making, that is consistent and in accordance with best practise environmental policy and based on accurate information, is a prerequisite.

The OCB is aware that DoC is often a critical source of information concerning biodiversity, and high-country natural values.

The OCB submit that DOC’s expert advice about the natural values of CPL should be a fundamental component during all phases of decision-making processes.

Accountability and transparency:

The OCB submit that a precondition for effective decision is systems that provide for public input. A generally accepted function for the management of publicly owned land a recognition and right for public input including during significant discretionary and recreation consent applications.
The OCB supports the proposal for the Commissioner of Crown Lands to be required to develop a Statement of Performance Expectations, to report regularly against a monitoring framework, and to obtain and take expert advice on discretionary consent decisions.

**The OCB strongly advocates that the Commissioner give effect to environmental policy that prioritises protection of the high country.**

**Practical access:**

Free and unimpeded access rights to public conservation land for recreation is a fundamental expectation that is close to the heart of most New Zealanders. Engagement with the land is a key pillar of conservation – the two are inextricably linked.

The OCB advocates that additional easements should be negotiated over remaining CPL areas, both to access adjoining conservation lands and to access leasehold land with recreational values, especially those that are not being farmed, or farmed lightly as is the case with much of the Otago high country, so that current and future generations can experience the qualities of these iconic places.

Better mechanisms should be developed to enable public access through negotiation. These mechanisms require oversight and monitoring, which should be a role for the newly established LINZ High Country Advisory Group.

**The OCB strongly advocate that improved mechanisms should be developed to enable public access.**

**Nature Heritage Fund acquisitions:**

The OCB strongly advocates that the Nature Heritage Fund be resourced so that strategic purchases of all or parts of CPL which have high natural and or recreational values can be negotiated and, where feasible, purchased.

Yours sincerely,

Pat Garden
Chair
Otago Conservation Board
Submission on: Proposed Changes to the Crown Pastoral Land (CPL) Act 1998 and the Land Act 1948 to ensure Crown can take an enduring stewardship role to CPL and manage it in the best interests of all New Zealanders.

From: QEII National Trust

Contact Details: Postal Address: QEII National Trust, Wellington Office, Level 4 138 The Terrace, Wellington, 6140

Organisation Type: Non-government Charitable Trust

QEII National Trust – Our Role in Land Protection and Stewardship.

QEII National Trust (QEII), is New Zealand’s leading agency charged with securing biodiversity protection on private land. QEII is an independent charity established forty years under our own Act. QEII operate independently from Government however we work closely with DOC and have a funding agreement to support the Minister of Conservation in protection of private land and the enhancement of natural and cultural heritage on private and leasehold land for present and future generations of New Zealanders.

QEII achieves this goal through establishing open space covenants with individuals on land or waterbodies to ensure perpetual protection of natural landscape features for aesthetic, cultural, recreation, scenic, scientific and social value. Covenant agreements run with land title and are legally binding on present and future owners and occupiers of the land. Such covenants are ‘indefeasible’ once registered and provide a very high level of protection as demonstrated through recent case law. Key facts about QEII are:

- QEII is a non-government agent and legal protector of NZ’s privately-owned land, ecosystems and biodiversity for over 40 years, working alongside landholders.
- QEII has over 4,500 protected areas on private and leasehold land, including 11 offshore islands of New Zealand, providing protection for over 168,885 hectares.
- QEII’s role to protect NZ’s ecosystems and biodiversity in partnership with the Crown and covenantors requires ongoing relationships to support shared stewardship actions including monitoring and land enhancement activities.

1 Queen Elizabeth the Second National Trust Act, 1977
2 [2018] NZSC 115 SC 84/2016 Green Growth No.2 Ltd vs QEII National Trust.
1. Enduring Stewardship of Crown Pastoral Lease Land

- QEII recognises our long-standing partnership to legally protect CPL land in the South Island’s high-country and we continue to support wider use of covenanting and new protection tools.
- QEII’s reinforce and support our ongoing active contribution as a partner for establishing new approaches to long-term stewardship in CPL lands, such as:
  - Landscape scale covenants; A national revolving land purchase fund; Co-design NZ focused, internationally aligned conservation goals with NZ/Overseas investors.
- QEII’s regional and national workforce recognises the range of proposed changes to the CPL Land Act 1998 and the Land Act 1948 and understands there will be no further freeholding of CPL lands other than properties already in an extensive proposal stage.
- QEII’s primary focus is inspiring land protection, thus QEII does not have a position on the Tenure review process. However, we note the Crown’s new position for increased long-term involvement in CPL land is in contrast to the Crown’s previous objective of divesting of CPL land by way Tenure Review with options for full purchase of property for lessees.
- QEII’s continued support of LINZ and the Minister for Conservation through the use of Open Space covenants enables collective interests, shared outcomes & stewardship for CPL land to be achieved.

2. QEII’s Role in Protecting Crown Pastoral Lease Land

- QEII covenants over CPL land protect almost 57,500 Hectares of the South Island’s high country in within the Canterbury Otago and Southland regions. These covenants account for around 31% of the total land area protected under QEII covenant.
- These protected CPL lands include alpine, tussock, scrub, wetlands, remnant and modified forest ecosystems and include iconic landscapes rich in cultural, historical and biological heritage. Many protected ecosystems (ie: wetlands), are refuges for New Zealand’s threatened/at risk native species.
- To date, 18 QEII covenants have been established with 10 progressing on the 171 CPL lands in the South Island’s high country. These covenants provide for permanent protection of open space values.
- QEII acts as a broker through the covenant establishment process working alongside lessee’s and crown agents responsible for administration of CPL lands.
- QEII provides an independent contribution to the Tenure review process. The Trust is experienced in facilitating shared management arrangements between leaseholders, LINZ (as lessor) and ourselves. Open Space covenants enshrine long-term stewardship actions, such as regular monitoring, fence maintenance, pest and weed management providing all parties with confidence that values on protected lands are maintained or enhanced.
3. Alternative Options for Future Management of Crown Pastoral Lease Land

- **Landscape covenants.** QEII supports the concept of landscape covenants. We note that in some instances where non-pastoral land use developments have occurred, there has been a negative impact on the landscape’s amenity values.

- **Combine collective efforts.** The Mahu Whenua Open Space covenants over four large pastoral leases in the Queenstown-Wanaka region protect a range of landscape, biodiversity and historic values on a landscape scale. On these destocked lands, conservation and ecosystem service outcomes exceed those achieved where a piecemeal approach to protection of values is adopted. The Mahu Whenua concept of a similar scale to our public conservation and national parks, with the local community heavily involved in this project.

- **QEII as an intermediary.** Crown support of intermediary organisations such as QEII are critical to connect project investors, developers, not for profits and community groups. Government support for intermediary agents to implement landscape scale, innovation and capacity building projects allows for a collaborative approach that harnesses the role of the intermediary to aggregate smaller deals with the wide range of stakeholders and brings landscape scale initiatives into fruition such as that seen in Mahu Whenua.

- **New Zealand Environmental Land Fund.** There is a real opportunity for the Crown to show its commitment to New Zealand’s biodiversity by providing capital investment in a New Zealand environmental land fund. One of the main criticisms of Tenure review was how ineffective it is in protecting sensitive landscapes. The Crown could ensure funding is leveraged against other funding sources (ie. Transport tax) to incorporate ongoing income source, including an environmental levy. This capital fund could then be used as the capital funds for a National Revolving Land Fund.

- **Create a National Revolving Land Fund.** This is a proven method for achieving direct conservation that has been very successful in Australia. It is largely a national self-sustaining fund that provides national baseline investment fund in year one and buys-back CPL lands. Once the land is purchased, it identifies and protects areas of biological, cultural, ecological and landscape significant and then on-sells the property on real estate market. It allows the purchase, protection and on-selling of properties with protection over recognised areas of significance, while replenishing the funds through the on-selling of land. This option is self-sustaining (past initial investment) through the proceeds of sale, and potentially periodic top-ups from philanthropy or government (if/as needed). Similar funds operate in the United States; for example, the Trust for Public Lands (who purchase land to be added to the public lands network) and the Nature Conservancy (who purchase land and in some cases on-sell with conservation covenants or easements as referred to in the US).

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4 The Trust for Public Land website, USA. [https://www.tpl.org/#sm.0000zzfku9zmxf7iqmz1hw5milt6lw](https://www.tpl.org/#sm.0000zzfku9zmxf7iqmz1hw5milt6lw)
4. Proposed Outcomes for Crown Pastoral Land

- Proposal 1 – Crown's newly set outcomes for CPL lands including the management outcome to maintain or enhance natural capital and cultural and heritage values. Secondly to non-pastoral activities that support economic resilience and sustain communities. Enable the Crown to obtain a fair financial return.

- QEII has a role as a broker of local relationships within the CPL land regulatory system. We act as an intermediate party and mediator with a long history of paddock street-cred with landowners, covenants and local communities.
- QEII’s independent, non-government role in the tenure review process, provides Crown agents, lessees and other community groups with confidence to agree to secure legal protection of areas of high natural heritage value.
- Identifying & establishing protection areas on CPL land requires collective efforts and regular dialogue amongst QEII, lessees, LINZ, the Commissioner of Crown Lands (CCL) and the Minister of Conservation (MoC), in order to reach consensus amongst all involved parties.
- QEII covenants provide legal protection and set out the long-term commitments and contribution of all parties' efforts to maintain or enhance CPL lands.
- QEII supports development of a set of engagement principles\(^5\) to help guide parties (QEII, CCL and MoC) through the covenanting process. This requires three-way dialogue and agreement to milestones to show progress. The agreement process can be lengthy; however, it is a robust method to set out stewardship roles and responsibilities, ensure lessee input into the management of CPL lands, sets out all monitoring requirements and is fundamental to the covenant process.
- QEII acknowledges that care must be taken to ensure that covenants are being entered into for the right reasons. Care must be taken not to include ‘special conditions’ that may allow for activities which in time prove to be at odds with protection of the agreed covenant values. Registering poorly drafted covenants can create tensions between maintaining landowner relationships and achieving meaningful protection.
- QEII seeks to have an ongoing role in covenanting on Crown Pastoral land, where either lessees and/or the Crown wish to protect values on their leases with meaningful, effective and enduring conditions.
- QEII understand that there are some gnarly issues in the high-country e.g. should sensitive alpine lands be grazed, should cattle graze wetlands, what should the stock limit be for an individual pastoral lease. These issues can create ongoing tensions and requires a clear process to work through these matters.
- QEII supports strengthening of tri-partite agreements through the Crown’s proposed changes to support a principle-based negotiation process to occur\(^5\) (see attachment). This can enable all parties to work towards a set of shared objectives and long-terms goals for CPL lands, identify suitable management tools and agree on best practice approaches to sustainably manage CPL land on a long-term basis.

\(^5\) 2010, LINZ, QEII and DOC Agreed Operating Principles on the Use of Covenants in Tenure Review (see attachment).
5. Recognising the Treaty in Proposed Crown Pastoral Leased Land

- QEII sees a risk for the Crown in ending tenure review without meaningful engagement with Ngai Tahu and other iwi whose customary tribal areas coincide with CPL lands and are who are likely to be impacted by the proposed legislative changes. QEII supports a partnership approach to occur amongst the Crown and the relevant Iwi who make up the South Island Treaty partners impacted from these proposed changes.
- In alignment with a partnership approach, QEII suggests alternative options such as the National Revolving Land Fund Initiative to protect both Crown and Iwi Rights & Interests as set out and provided for under Treaty Settlement Acts as well as the proposed changes to the CPL land Act 1998 and the Land Act 1948.
- QEII considers the National Revolving Land Fund Initiative as a viable alternative option to protect both parties’ rights & interests, while as ensuring a genuine, shared commitment to the long-term health and integrity of the landscapes and ecosystems that both Treaty partners and others can achieve collectively.

6. Increased Authority of Commissioner Crown Lands for Crown Pastoral Leased Land

| Proposal 2 – Require Commissioner to develop statement of performance expectations approved by Minister of Lands |
| Proposal 4 - Require CCL to give effect to Crown outcomes in any discretionary consents’ applications |
| Proposal 5 - Require CCL to obtain advice and consult on discretionary applications |
| Proposal 7 – Require CCL to regularly report against monitoring framework. |

Types and Nature of Commissioner Discretionary Consent Decisions.

The Crown propose increased Commissioner powers to provide discretionary consent decisions.

- **Easements for Public Access.** This proposed policy change may allow the Commissioner to be the only person able to provide for public access. If this is the case it goes against a ‘fair and transparent’ process. If the Commissioner is the only party able to decide/allow public access on CPL land, then the goodwill and commitment of all other vested parties will be diminished, with no ability for non-Crown parties to contribute to decisions to allow for public access or not and/or negotiate the terms and conditions of public access. With no power for non-Crown parties to negotiate the conditions of the lease, including public access. The uptake and willingness of the lessee to effectively manage the land will be diminished and the Crown risks increased non-compliance of lease conditions.

- **To Graze or not to Graze?** Vegetation composition on unimproved native country managed for grazing can be unstable. For example, maintaining an open tussock cover to promote the recruitment of palatable inter tussock grasses and herbs can render areas vulnerable to invasion by weeds such as hawkeweed. QEII cautions against establishing covenants where continued grazing is likely to degrade or retard regeneration towards a resilient native vegetation cover. In other situations, there may be conservation benefits to maintaining monitored grazing; for example, where threatened plant species would likely be smothered by an exotic grass sward in the absence of grazing.
• Managing complex CPL lands. QEII are concerned that CPL lands that contain uncertain land conditions (ie. Landslides) and have complex land management regimes⁶ require intense monitoring which is currently under resourced. QEII support Crown investment into resources to provide expertise, time, efforts, technology to implement a monitoring regime that aligns with the ecological complexity of CPL land managed under covenants and with and/or uncertain land conditions.

Enduring Covenant Management & Monitoring

• Enduring Objectives. As a perpetual trustee, QEII needs to be confident that objectives set today to protect CPL lands are relevant in 100 years. For covenanted CPL lands, legal clauses such as “Grazing subject to monitoring” will require very clear agreed objectives that include robust, scientifically defendable, and often complex monitoring programmes to ensure long-term effective land stewardship.

• Monitoring Costs. QEII are concerned that future monitoring costs are not well considered and that it is unclear where the monitoring role will fall.

• Intensive monitoring. QEII note, intensive Crown-led monitoring programmes on CPL lands have not endured. For example; Lands and Survey/Landcorp Property Ltd employed an inhouse specialist rangeland monitoring team who for some 20 years, established and routinely measured transects and plots throughout the South Island High Country. LINZ then dropped this programme in the early 1990’s as monitoring was not viewed as a statutory requirement for the department.

• Monitoring vs Management. Establishing monitoring can be a substitute for making hard land use decisions. In many situations, committing resources towards land purchases or weed and pest control achieves a more tangible outcome than monitoring and needs to be considered when identifying long-term land objectives.

7. Guidance to Assist Enduring Aspects of Crown Pastoral Lease Land

• Proposal 3 – Provide for the commissioners to publicly released guidance/standards to assist officials/ lessees to understand/comply with legal requirements.

• Decisions regarding grazing and other farming activities should be made by LINZ after working through a process with lessees. Once broad parameters have been set QEII has the experience and expertise to play a valuable role in securing protection of values.

• As with covenants derived from RMA decisions (with respect to district councils), there is a risk that LINZ could see QEII as a cost-effective way to lessen their administrative burden.

• QEII support LINZ developing clear guidelines and minimum standards for monitoring Crown pastoral land and consider monitoring requirements should be aligned with the level of complexity of the land and should be resourced accordingly.

• QEII recognise that managing amenity values can be fraught when attempting to balance public versus commercial demands.

• Easements to secure public access on Crown pastoral leases are likely to lead to, or through iconic landscapes and scenic areas suitable for covenanting. These areas are also sought after for conducting commercial tourism ventures on CPL land by pastoral lessees and third parties.

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⁶ Complexity includes managing a collective of covenanted lands, scale, land use change and grazing practices.
• Covenants over such areas may need to protect amenity values where the land can be accessed by the public. For example; Aircraft landings may need to be excluded or limited to protect quiet enjoyment and remote values at some locations.

8. General Comments

• The proposed options in lieu of tenure review will require a more ‘hands on’ role for LINZ in terms of managing CPL land. QEII have some reservations on the department’s capability to undertake the new ‘hands on’ responsibilities, provide transparent decisions and regularly engage as required with the proposed changes.

• QEII understand the current options to increase the Crowns involvement in CPL land include:
  o **Current Practice - Tenure Review** (to end once legislative change comes into effect). Tenure review is a statutory process administered by an independent statutory officer and under current legislation is for is a voluntary process. Only a proportion of leases have gone through tenure review process (4-10 years).
  o **A Covenant:** A legally binding tool to protect land and land use for a range of objectives; and/or
  o **Land easements:** Changes to lease conditions.

• QEII recommend LINZ explore alternative options to tenure review, in particular the creation of a National Revolving Land Fund, and the range of alternative options provided. We will be happy to meet with LINZ staff to discuss and provide further information relating to these alternative options.

• There are a wide range of views on ending Tenure review on CPL land, most views concern public access to crown owned lands.\(^7\)
  o Currently, a Crown Pastoral Lease is provided with the right of pastoral use and to quiet enjoyment (exclusive occupation).
  o This means under current Crown pastoral leases, there are no rights of public access.
  o QEII consider that revisiting rights of public access to leases is a matter to be dealt with directly between lessor and lessee. We suggest that in some instances public access can be catered for and managed by way of covenant conditions.
  o Once an agreed decision between the Crown and Lessee has been made, then other parties can be included in further discussions as to how to implement outcomes.

• Some environmental groups are concerned that covenants do not provide the degree of permanence and active management as Crown owned and managed the land.
  o However, QEII’s 40 years of experience shows that covenants provide enduring legal protection on land title which remains even if land is passed on to new owners or if there are multiple owners. Our regular monitoring visits ensure covenants objectives are actively managed on the long-term.
  o QEII continues to work closely with all Crown agents and private landowners to regularly visit and monitor covenants to ensure our covenants successfully provide long-term land protection.

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Submission on enduring stewardship of Crown pastoral land

April 2019

Submitter details:

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<th>Name of contact person:</th>
<th>[redacted] – Advocacy Manager</th>
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Email: [redacted]

Submission:

**Introduction**

1. The New Zealand Recreation t/a Recreation Aotearoa is a registered charity and the organisation responsible for providing leadership, advocacy and professional development
opportunities for those involved in the broader recreation sector. We work at an agency, industry and professional level to build capability, develop partnerships, and equip individuals and organisations with the skills they need to deliver high quality recreation experiences that engage participants.

2. Recreation Aotearoa’s membership includes recreation policy makers, territorial local authorities, voluntary organisations, regional sports trusts, outdoor recreation businesses, and others involved in the delivery of recreation throughout New Zealand.

3. Our role is to champion high-quality recreation for the benefit of New Zealand.

4. Our vision is that by 2020 New Zealand will have a strong recreation industry that meets the needs of current and future participants, so that through recreation, New Zealanders are active, healthy, and connected.

5. Recreation Aotearoa believes recreation is vital to New Zealand society. Recreation is not just about enjoyment, it is about being healthy, engaged, stimulated, and interacting with others, and this occurs via outdoor recreation, community recreation, parks, and aquatic and facility-based recreation centres.

6. Recreation is a major contributor to the physical and mental health of individuals, and to the resilience of our communities. 90 per cent of New Zealanders believe that by being active they are in turn maintaining a good level of health and fitness, and this helps to relieve stress.

7. A thriving recreation industry can also help our nation prosper socially and economically. Sport and active recreation contributes $4.9 billion or 2.3% to our annual GDP, and the sector employs more than 53,000 New Zealanders. The nation’s recreation values and opportunities are fundamental to the nation’s tourism industry. Approximately 50% of international visitors to New Zealand participate in one form of outdoor recreation or another.

8. Recreation is part of what it is to be a New Zealander. Many of us are members of clubs and groups that enjoy recreation for fun, health and social reasons. 84% of New Zealanders believe sport and physical activity bring people together and create a sense of belonging.

9. For individuals, recreation contributes to physical and mental wellbeing and provides an opportunity to meet new people. People define themselves and their communities through their recreation opportunities. Recreation fosters community cohesion and resilience and supports the integration of social groups such as diverse ethnic groups. 74% of New Zealanders agree that sport and physical activity help build vibrant and stimulating communities.

10. Investment in recreation generates tourism opportunities and supports regional development by encouraging skilled professionals and migrants to consider business options in and beyond the main centres.
11. Research shows that recreation makes a significant contribution to social resilience. It allows individuals to thrive, and to connect with each other. This, in turn, makes communities stronger. A society in which people are active and healthy is also more economically sound.

12. Physical inactivity is associated with loss of productivity, health costs, as well as associated costs such as pain and suffering. Healthier, happier individuals are more likely to do well in other areas of their lives, whether it is in social or professional situations. This has a positive flow-on effect for communities and society as a whole.

13. Greater understanding of these benefits and their downstream impacts, along with awareness of how laws and regulations can influence recreation delivery, are key to ensuring that New Zealand’s recreation opportunities remain among the world’s best.

General Comments:

14. Recreation Aotearoa has long-held concerns around issues of public access to and across Crown Pastoral land during the Tenure Review process.

15. In 2016, we wrote a letter to the CEO of Land Information New Zealand which included the following: “…..the tenure review process does not adequately maintain or enhance access to areas of recreational interest, that was otherwise available when the farms were leasehold. This perception was held by hunters, trampers, people interested in fishing, outdoor education providers and to a lesser extent, those interested in kayaking. ....we also note that the consultation partners in stage 2 are asked to make comment on protection which seems to imply values associated with biodiversity and ecosystems, not recreational access. We also note that when considerations of easements and public access are considered by LINZ, there are no specific consultation partners mentioned.

16. Additionally, in 2016 Recreation Aotearoa wrote to various Conservation Boards expressing: “It is our belief that there may have been cases of tenure review being tacitly approved by various Conservation Boards, without adequate credence and provision given to recreational access to Public Conservation Land beyond the freehold farm land. While we recognise that in almost all cases, DoC has sought to include an easement of some form, these are often only convenient to the farmer and not the recreational user. We encourage all Conservation Boards involved in the tenure review process to pay particular care when considering proposals, to ensure that the access interests of the community are provided for and that we can all enjoy reasonable access to our Public Conservation Land.”
17. As such, Recreation Aotearoa submits that improving access for Outdoor Recreation on Crown pastoral lease land should be a central outcome of this review.

18. Recreation Aotearoa submits that Outdoor Recreation is a key driver of conservation and environmental awareness amongst New Zealanders. Appreciation for our natural heritage and its protection is often a result from people enjoyment of our natural spaces via recreation. Public access opportunities for outdoor recreation contribute to long term conservation.

19. Recreation Aotearoa submits that public access for Outdoor Recreation is clearly articulated as an outcome of the management of Crown pastoral land.

**Feedback in detail:**

20. Recreation Aotearoa submits that the mechanisms for ensuring public access for Outdoor Recreation were already weak, and in some cases, ineffectual under Tenure Review. We submit that under the transition from Tenure Review, recreational access interests will further deteriorate.

21. Recreation Aotearoa supports the establishment of clear outcomes that provide for environmental sustainability, public access for recreation and economic viability. We submit that there is inadequate reference to, or regard for, public access across Crown Pastoral land.

22. Recreation Aotearoa supports that the involvement of iwi in the governance of Crown pastoral land is welcomed by the Board. The proposed language of taking Treaty principles “into account” is relatively weak. Recreation Aotearoa submits that LINZ could go a step further by committing to a full partnership approach to fulfilling its Treaty of Waitangi obligations.

23. Recreation Aotearoa supports the use of the term ‘natural capital’ as it pertains to the pan-government Wellbeing Framework.

24. Recreation Aotearoa supports the development of a regular Statement of Performance Expectations for the Commissioner of Crown Lands, approved by the Minister of Land Information.

25. Recreation Aotearoa submits its support for enhanced monitoring arrangements, especially with regard to public access for Outdoor Recreation. We note that previous monitoring, which has often been outsourced to third parties, has been sub-optimal. Recreation Aotearoa submits that there may be a requirement for LINZ to establish a uniformed operational cadre of staff to carry out this function.
26. Recreation Aotearoa submits that the role and content of Farm Plans could be broadened and universalised. It makes sense that a single Farm Plan is suited to all the relevant regulatory bodies - LTAs, LINZ and DoC. Recreation Aotearoa submits that Farm Plans should include a section on Public Access that is considered on an equal basis to environmental sustainability and economic viability.

27. Recreation Aotearoa submits that there are various mechanisms and incentives that could be put in place to encourage and allow for public access for Outdoor Recreation. Some of these lie in the realm of mitigation and offsetting. Rent discounts are a mechanism that could be applied to establish and preserve public access to and across Crown Pastoral Land.

28. Recreation Aotearoa notes that many public access issues on Crown Pastoral Land centre on unformed legal ‘paper’ roads. We submit that LINZ has a role to play in conjunction with LTAs and the Walking Access Commission to resolve these issues on a case-by-case basis.

29. Recreation Aotearoa supports the proposal that would allow fees to be charged for discretionary consent applications. This should be on a cost-recovery basis.