
PART 3

RELATED OPERATING PROCEDURES - TENURE REVIEW

OVERVIEW

Introduction

In this Part of the Manual you will find a collection of procedures which are either less significant in the review of tenure processes or will be used less often than the procedures in Part 2 of the Manual.

Integration between parts

Where a procedure has links to, or is the same under both Parts 2 and 3 of the CPLA, it has been integrated so that it can be applied to both types of review.

In this part

This part of the Manual contains standard operating procedures showing how you carry out the following actions:

Section	Action	See Page
A	Integrating the marginal strip processes into tenure review.	3-A-1
B	Appointing a marginal strip manager in tenure review	3-B-1
C	Possession of land in tenure review	3-C-1
D	Funding for acquisition of freehold land included in a Part 2 tenure review, and funding the cost of a Part 3 review.	3-D-1
E	Reporting on conservation resources in a review under Part 3 CPLA .	3-E-1
F	Designating special lease, grazing permit areas .	3-F-1

Section 3-A

HOW TO INTEGRATE THE MARGINAL STRIPS PROCESSES INTO TENURE REVIEW

1. Background - New Marginal Strips

- 1.1 Set out in Appendix 1 to this Section is a background statement on how the provisions of Part IVA of the Conservation Act 1987 (CA) apply to the sale or other disposition of land under the CPLA.
 - 1.2.1 The provisions of Part IVA of the CA also apply to other dispositions of land by the Crown. There are therefore other departmental standards and processes which deal in a general way with actions under Pt IVA.
 - 1.2.2 This operating procedure therefore only adds standards for decision making in the CPLA context.

2. Background - Existing Marginal Strips

- 2.1.1 Up until 10.4.90 the sale or other disposition of pastoral land did not create a marginal strip but Crown land was “reserved from sale or other disposition” under the provisions of s.58 Land Act 1948 (commonly called “section 58 strips”).
- 2.1.2 All section 58 strips at 10.4.90 (by an amendment to the CA) were deemed to have become marginal strips. They differ from marginal strips, created after 10.4.90, by not moving with any change of shape of the margin of a lake or reservoir or the alteration of the course of a river or stream.
- 2.2 Such fixed (ex s.58) strips may over time, have become sufficiently separated from the water body to which they were originally attached as to no longer practically serve the purposes of marginal strips.

3. Purpose

The purpose of this procedure is to outline and document how the marginal strip processes of the Conservation Act integrate with the CPLA review processes and to outline standards and accountabilities that all affected DOC staff will follow in achieving that integration.

4. **Process Integration**

4.1 The marginal strips processes need to be integrated at an early stage of the review processes (Part 2 or 3 CPLA) for the following reasons:

- LINZ is obliged under s.24(2A) of the CA to notify the DGC of any **proposal** to sell or otherwise dispose of any Crown land. The sale or other disposition has no effect unless and until that requirement is complied with.
- The CCL has to decide which land each Pt 2 review will relate to, and can include an existing marginal strip in a Pt 2 review with the agreement of the Minister of Conservation (see Section 2-E of this Manual).
- The future provision of marginal strips needs to be known when the CCL is taking into account the objects of Pt 2 or Pt 3 CPLA to make decisions about protecting significant inherent values and securing public access.
- The lessee/licensee, persons consulted by the CCL, and members of the public will want to know at the preliminary proposal stage of a review what provision has been or will be made for marginal strips adjoining qualifying water bodies.
- Land may be designated in a preliminary proposal as land to be restored to or retained in Crown control as a conservation area (marginal strip) subject to the appointment of a manager under s.24H of the CA. [See Section 3-B of this Manual]

4.2 The DGC and the CCL have therefore agreed on the points of process integration.

5. **Process**

5.1 The process to be followed for this activity is shown in the table below. Note, however, that in the case of unused Crown land included in a review, the marginal strip action will have already been completed under LINZ Crown Property Standard 3 – Disposal of Land and LINZ Crown Property Group circular 1997/17. It will not therefore be necessary to go through the process again.

Stage	Who Does It	What happens
1	HCTRM	<ul style="list-style-type: none">• Takes action under Stage 1 of Section 2-E of this Manual to submit views on the inclusion of an existing conservation area (marginal strip) in a review.

Cont'd over

Stage	Who Does It	What Happens
		<ul style="list-style-type: none"> • Takes action under Stages 2 to 5 of Section 2-E of this Manual to deal with any request from the Agent for agreement to inclusion of existing marginal strips.
2	Agent	Serves notice on CRM in accordance with s.24(2A)CA when a disposal is proposed in devising a preliminary proposal.
3	CRM	<ul style="list-style-type: none"> • Arranges for the normal action to be taken under Pt IVA of the CA. • Keeps the HCTRM informed of action taken.
4	HCTRM	Takes into account the outcome of Stage 3 above in co-ordinating action under related procedures.

6. Standards and Accountability

- 6.1 The primary standards and accountability are set out in sections 2-G, 2-E, 2-F, and 3-B of this Manual.
- 6.2 The format for the Stage 2 notice by the Agent is shown in Appendix 3. At Stage 2 of the process, above, the **HCTRM** and the **CRM** will have taken into account that the relevant Delegatee only has 20 working days, commencing on the day after the date of the receipt of the notification, to notify LINZ (through the agent) of whether or not s/he intends to investigate the appropriateness of increasing the width of any strip.
- 6.3 At Stage 2 above (or at any later stage of the CPLA review process before a substantive proposal is approved) the **Agent** may propose, on behalf of LINZ, that a proposed marginal strip be reduced in width or a disposition exempted.
- 6.4 At Stage 3 of the above process the statutory deadlines are to be met and **all officers of DOC** who are involved are to ensure that their contribution to the process is timely. The normal Part IVA CA process is illustrated in Appendix 2.
- 6.5 At Stage 4 the **CRM** (in association with SLM officer dealing with the action) will copy to the HCTRM all correspondence with the Agent, including any notices given to other parties and the final decision(s) of the Delegatee under Pt IVA CA.

Cont'd over

6.6 At Stage 4 above the **HCTRM** will brief reporting officers about existing marginal strips and of action in train or completed relating to future marginal strips, and will consider appropriate designations relating to marginal strips.

7. Legislation

7.1 CPLA - see references in Sections 2-A, 2-E, 2-F and 2-G of this Manual.

7.2 Conservation Act - s.24, 24A, 24AA, 24B, 24BA, 24H as appropriate.

8. Delegations

8.1 See the delegation for the relevant Act. The CCL was notified of the delegations on 12.7.99 (see Head Office file PAS 0041).

8.2 The general conditions and provisions of a delegation apply.

9. Cost Recovery

9.1 LINZ is required by s.24BA(5) CA to pay all the costs of and incidental to the public notification, if required, of any reduction or exemption. The Conservancy may also recover its other costs under the provisions of s.60B of the CA.

9.2 This cost recovery will be through the DOC appropriation for tenure review participation, as a charge against the Land Tenure Reform Account.

9.3 The Conservancy is required to meet the costs of and incidental to the investigation and assessment of increasing the width of any marginal strip [s.24AA(10)].

10. Cross Reference

10.1 Other related procedures in this Manual, in particular 2-A, 2-E, 2-F, 2-G and 3-B.

10.2 Related procedures in other DOC manuals relating to marginal strips to the extent they are consistent with this procedure.

11. Implementation

11.1 This procedure will be implemented as part of the overall tenure review process where applicable to a Part 2 or Part 3 CPLA review.

- 11.2 It should be noted that the issue of a grazing permit under s.68A Land Act 1948 is not a disposition for the purposes of s.24 of the CA. A marginal strip will not be created.
- 11.3 The **HCTRM** will normally have anticipated the information requirement for Stage 3 when carrying out reporting (see Section 2-A or Section 3-E of this Manual).
- 11.4 LINZ will identify existing marginal strips when determining (before a tenure review commences) what land is included in or excluded from a pastoral lease or occupation licence.

APPENDICES

APPENDIX 1

OUTLINE OF THE KEY MARGINAL STRIPS PROVISIONS OF PART IVA CONSERVATION ACT AS THEY APPLY TO DISPOSITIONS OF LAND UNDER THE CROWN PASTORAL LAND ACT

Background

The Crown Pastoral Land Act 1998 (CPLA) provides for the sale or other disposition of land in the following manner:

- grant of a further occupation licence (s.14)
- grant of a special lease (s.65(1)(c))
- disposal of land to a specified person (s.69(1))
- disposal of land to any person (s.69(3)).

The CPLA also provides (in tenure review) for the appointment, where appropriate, of managers of existing or proposed marginal strips (see Section 3-B of this Manual).

Both types of action (above) are subject also to the provisions of Part IVA Conservation Act 1987 (CA).

Sale or Disposition of Land By the Crown

Where the Crown proposes to sell or otherwise dispose of any land under the CPLA the Commissioner of Crown Lands (CCL) is required by s.24(2A) CA to notify the Director-General of Conservation of the proposal.

A marginal strip (unless the disposition is exempted) is deemed to be reserved from sale or other disposition in the following circumstances:

- (i) the land extends along and abuts:
 - any foreshore
 - the normal level of the bed of any lake¹ not subject to control by artificial means
 - the bed of any river or any stream (not being a canal under the control of the Electricity Corporation of NZ Ltd for, or as part of any schemes for, the

¹ A body of fresh water whose bed has an area of 8ha or more and which is entirely or nearly surrounded by land.

generation of electricity) being a bed that has an average width of 3 metres or more: or

- (ii) the land extends along and abuts the landward margin of any lake controlled by artificial means.

The width of the marginal strip may be:

- 20 metres (the norm) (s.24 of the CA)
- less than 20m but not less than 3m (s.24A of the CA)
- exceeding 20m (s.24AA or s.24(2) of the CA).

See details below.

Reduction in Width

The CCL may seek a reduction in width of a marginal strip at any time before the disposition of the land.

The Minister of Conservation (but see “Notification Requirement” below) may approve a reduction in width if satisfied that its value in terms of the purposes of a marginal strip will not be diminished. In the case of a river or stream, s/he may do so only if the land in the disposition (including the marginal strip) contains not more than 2ha. This limitation does not apply to a reduction in width abutting the landward margin of the sea or a lake.

Increase in Width

The Minister of Conservation may require the reservation of a marginal strip having (in whole or part) a width exceeding 20m if increasing the width is necessary to:

- provide effective access along the strip
- to maintain its values for conservation purposes (s.24C of the CA).

[See also s.24(2) in relation to lakes controlled by artificial means.]

Statutory time limits are specified in the Act for this sub-process (see Appendix 2).

Exemption of a Disposition

The CCL may seek an exemption from the marginal strip requirement for a particular disposition abutting the bed of **any river or stream** before it takes effect.

The Minister of Conservation (but see “Notification Requirement” below) may declare a disposition to be exempt (s.24B) only if satisfied that

- the land has little or no value in terms of the purposes of a marginal strip; or
 - any value the land has in those terms can be protected effectively by another means;
- or

- the land is required in connection with electricity works.

[See also s.24K and s.24L of the CA in relation to land vested under NZ Railways Corp Restructuring Act 1990 & s.24B(4) CA in relation to ECNZ Ltd core assets and land that is required in connection with electricity works.]

Notification Requirement

The Minister of Conservation is required to consult the relevant Conservation Board and Fish & Game Council over any intention to reduce the width of a marginal strip or grant an exemption.

The Board or Council may require a public notice process (s.24BA) of the CA) if it is reasonable in the circumstances to do so, having regard to:

- the purposes of a marginal strip
- the interest of the public in marginal strips
- the potential costs of notification to the vendor and purchaser.

Purposes of Marginal Strips

S.24C of the CA provides that marginal strips are held under the Act for “conservation purposes”².

It states the following conjunctive purposes in particular:

- the maintenance of adjacent watercourses or bodies of water
- the maintenance of water quality
- the maintenance of aquatic life and the control of harmful species of aquatic life
- the protection of the strips and their natural values
- enabling public access to any adjacent watercourses or bodies of water
- public recreational use of the strip and adjacent water courses or bodies of water.

Appointing a Manager of a Marginal Strip

Under the provisions of sections 67, 71 and 76 CPLA the Minister may appoint a person specified in the approved plan for tenure review (if any) as manager of a marginal strip under s.24(H)(1) of the CA. [See Section 3-B of this Manual:]

In consenting to such an appointment at the preliminary and substantive proposal stages of the tenure review process the Minister of Conservation must have regard to the desirability of appointing:

- the owner (or proposed owner) for the time being of the land adjoining the strip; or
- some other suitable person, if more suitable than the adjoining owner; or
- retention of management by the Crown.

² “Conservation” is defined in s.2 of the CA. “Conservation purposes” are not limited by the particularised purposes given above.

[NB. Retention by the Crown must always be the case with strips around controlled lakes and reservoirs - s.24H(3) CA.]

Management of Marginal Strips by a Manager

The manager of a marginal strip is required (s.24H of the CA) to:

- manage the strip in a way that best serves the purposes of marginal strips; and
- enable members of the public to have access along the strip.

Providing the above requirements (and any specific requirements or restrictions on the appointment) are met the manager may:

- make improvements to the strip (but consent of the Minister of Conservation is required to any significant change to the management regime of the strip and the erection of any significant improvements on the strip).
- request the Minister of Conservation to temporarily close the strip where any operation on the strip will significantly affect public safety or where fire hazard conditions exist.

Resumption of Management

The Minister of Conservation, on behalf of the Crown (s.24J of the CA) may resume the management of the strip, after notice, and on payment of compensation to the manager for any improvements made to the strip by the manager and the manager's reasonable administration costs associated with the resumption.

Concessions over Marginal Strips

Section 52 CPLA specifies circumstances under which the Minister of Conservation may or must not give consent to a proposed concession over a marginal strip. [It is similar in its effect to s.17V of the CA.]

Section 2-C of this Manual contains further details.

Postscript: **Tenure reviews completed before the Crown Pastoral Land Act**

Sale or other disposition of land under the Land Act 1948 (whether in fee simple or by lease or licence) is also subject to Part IVA of the CA. The CCL is obliged to give notice of the proposal under s.24(2A) of the CA. The sale or other disposition has no effect unless and until that requirement is complied with. [This provision became effective 1.7.96.]

APPENDIX 2

**NORMAL PROCESS FOR DEALING WITH MARGINAL STRIPS ON DISPOSAL -
 UNDER PART IVA CONSERVATION ACT 1987**

STAGE	WHO DOES IT	WHAT HAPPENS
1	Responsible Dept.	<ul style="list-style-type: none"> • notifies DOC of a proposed sale or other disposition (compulsory) (s.24(2A)) (see Stages 2 to 4) • applies for exemption or reduction (optional) (s.24B or s.24A) (See also Stages 4-8)
2	Authorised Officer	<ul style="list-style-type: none"> • Notifies responsible department (compulsory) whether or not the proposed sale will be investigated to ascertain whether or not it is appropriate to increase the width of any marginal strip (s.24AA). (Within 20 working days of receipt of Stage 1 notice). • Investigates or arranges investigation of the width/exemption/reduction. • Writes report or arranges report to the Delegatee on the notification/application. • Also begins Stage 4 where appropriate (first bullet point)
3	Delegatee	<p>Makes a decision on whether or not to increase the width of the strip (compulsory) (s.24AA). (Within 20 working days of giving notice under Stage 2).</p>
4	Authorised Officer	<ul style="list-style-type: none"> • When an exemption or reduction is recommended at Stage 2, following investigation - carries out consultation with the relevant Conservation Board and Fish and Game Council (s.24BA) and then makes recommendation to delegatee. • Notifies the Responsible Department of the decision made at Stage 3. • Notifies the District Land Registrar and Chief Surveyor if increased width approved (s.24D). (This ends the s.24AA action).

NOTE TIME LIMITS

Cont'd over

STAGE	WHO DOES IT	WHAT HAPPENS
5	Delegatee	Determines (as a result of the consultation) whether the proposal will be publicly notified or not (s.24BA(3)).
6	Authorised Officer	<ul style="list-style-type: none">• When advertising is required - arranges cost recovery from the Responsible Department for public notice (s.24BA(5)).• When advertising is required - arranges public notice [see Conservation Act objections process].
7	Delegatee	Makes a decision on the reduction or exemption (s.24A/s.24B).
8	Authorised Officer	<ul style="list-style-type: none">• Notifies responsible department of the decision.• Notifies the District Land Registrar and the Surveyor if reduction or exemption is approved (s.24D(2A)).

APPENDIX 3

NOTIFICATION OF THE INTENTION TO DISPOSE OF CROWN PROPERTY (PASTORAL LAND) THROUGH TENURE REVIEW

In accordance with Section 24(2A) of the Conservation Act 1987 notification is hereby given that the Commissioner of Crown Lands proposes to sell or otherwise dispose of the Lessor's interest in the property described below under the provisions of Part of the Crown Pastoral Land Act 1998.

1. Area:

2. Land Description:

3. CT Ref: Vol. folium
(refer s.82 Land Act 1948 - Search copy attached (where available))

4. Location:

5. Local Authority:

6. Waterways:

[Either] Based on the tenure review status check the land does/does not adjoin a waterway to which s.24 applies.

[or] Details of adjoining or internal waterways to which s.24 applies.

7. Existing Marginal Strips or Esplanade Reserves which have a common boundary with the property, including those outside the property exist as follows:

8. View of Fish & Game Council at time of F & G Resources Report on review:

Plans supporting the notice are enclosed.

[Signed]

[Designation]

[Postal Address]

Section 3-B

HOW TO APPOINT A MARGINAL STRIP MANAGER IN TENURE REVIEW

1. Background

- 1.1 Set out in Appendix 1 to Section 3-A of this Manual is a background statement on how the key provisions of Part IVA of the Conservation Act (CA) apply to tenure reviews. You should note in particular that the manager of a marginal strip is required to manage it in a way that best serves the purposes of marginal strips (see Section 3-A) and enables members of the public to have access along it.
- 1.2 This operating procedure only deals with integrating the general Pt IVA requirements into the Part 2 CPLA tenure review process. It does not necessarily include all standards for decision-making.
- 1.3 The following designations in a Part 2 CPLA preliminary proposal are relevant to this procedure.

Section of CPLA Acct	Land Status/Proposal
36(2)	Land to be restored to or retained in Crown control subject (if it will be marginal strip) to the appointment as manager under s.24H(1) of the CA of a person specified in the proposal.
37(2)	Existing marginal strip included in a review - land to remain conservation area subject to the appointment of a specified person as a manager under s.24(H)(1) of the CA.

- 1.4 There is no designation provision for such appointments in the process for a Part 3 CPLA review.
- 1.5 Both the above designations by the CCL (where relevant to a review) require the provisional consent of the Minister of Conservation at the preliminary proposal stage. Prior written consent is also required at the substantive proposal stage.
- 1.6 The normal consultation requirements (between the Agent and the HCTRM) apply (see Section 2-G of this Manual).

1.8 **The purpose of this procedure** is to outline and document the process, standards and accountabilities that all affected DOC staff will follow in the appointment of a manager of a marginal strip in a Part 2 CPLA tenure review.

2. Process

2.1 Use of this procedure will usually result from the initiative of a lessee or a third party¹ (directly or through the Agent) rather than the Department.

2.2 It is therefore unlikely that such proposals will be included in the Department’s report on conservation resources (see Section 2-A of this Manual).

2.3 The process to be followed is set out below.

Stage	Who Does It	What Happens
1	Lessee or third party	In discussion of preliminary proposal (or earlier) expresses interest in an appointment.
2	HCTRM/Agent	Deal with consultation on a s.36(2) or 37(2) designation in the preliminary proposal in accordance with Section 2-G of this Manual.
3	Agent (para. 7.2)	Seeks consent (after CCL has accepted the draft preliminary proposal).
4	CRM (para. 3.4)	Makes recommendation(s) to the Delegatee on the proposal.
5	Delegatee	Makes a decision on the recommendation(s) ² .
6	HCTRM (para 3.2)	Conveys the decision to the Agent ³ .
7	HCTRM/Agent	Deals with consultation on a s.36(2) or s.37(2) designation in the substantive proposal in accordance with Section 2-G of this Manual.

¹ A third party may be the fish and game council, iwi authority or public interest group (but see para. 3.5)

² If a consent is not given at Stage 5 or 10 of the process the CCL may ask for a review of the decision.

³ If provisional consent is declined the process will stop.

8	Agent	Seeks consent and provides information under s.45 CPLA.
9	CRM	Makes recommendation(s) to the Delegatee on the proposal.
10	Delegatee	Makes a decision on the recommendations. ²
11	HCTRM	Conveys the decision to the Agent.
12	HCTRM	Arranges implementation of the s.36(2) or s.37(2) designation in accordance with Section 2-H of this Manual if the proposal proceeds through to registration of the approved plan (s.64 CPLA).

3. Standards and Accountabilities

- 3.1 Provisional consent must not be given by the **Delegatee** to a designation in a preliminary proposal unless the Delegatee is satisfied that it is reasonably likely that consent would be given to a substantive proposal containing the designation [c.f. s.41(2) CPLA].
- 3.2 The statement of consent (if given) must be in writing. It must be conveyed by the **HCTRM** to the Agent at Stage 6 with all the terms and conditions (of the proposed agreement to be entered into with the intended strip manager).
- 3.3 It would be unusual for the **Delegatee** to change the terms and conditions at the Stage 10 consent.
- 3.4 At Stage 4 the **HCTRM** is to provide a written report covering the following:
- any existing improvements (lawful or otherwise) and their owner(s) [see s.24(4) CA]
 - the current management regime for the land affected
 - how (if possible) any adverse impacts of the current regime might be avoided, remedied or mitigated
 - discussion (after consultation with the proposed manager but see Section 2-G para. 5.2.2) of the need, if any, for reasonable requirements or restrictions to be imposed on the appointment to protect the strip, having particular regard to the

maintenance of riparian vegetation, wildlife, water quality, the health of aquatic life and to maintain access to and recreational use of the strip [s.24H(8)].

- any known plans the proposed manager has for significant change to the management regime of the strip, or significant improvements, if appointed.
- whether or not the proposed manager should be required to fence off the strip at the Crown's expense [s.24H(9)]
- the suitability of the proposed manager

3.5 In assessing suitability of the proposed manager, the **CRM and the Delegatee** are to take into account:

- the need to manage the strip in a way that best serves the purposes of marginal strips [s.24H(4)]
- the need to enable members of the public to have access along the strip [s.24H(4)]
- the ability of the proposed manager to meet management expenses [s.24H(12)]
- (if a third party) why that party would be a more suitable manager than the adjoining owner [s.24H(2)(b)]
- the requirement of s.4 of the CA to give giving effect to the principles of the Treaty of Waitangi.

3.6 The decision on consent at the substantive stage will be informed by information provided to the Minister of Conservation under s.45 CPLA.

3.7 Note in particular (see Section 2-C) that a marginal strip manager appointment may be preferred to a concession over a marginal strip (s.51(1) CPLA). Use of a marginal strip by its manager for forestry or farming associated with or incidental to any farming or forestry carried out on the adjoining land is not possible by way of concession (s.51(2) CPLA).

4. Legislation

- 4.1 Designations - s.36(2) or s.37(2) CPLA
Consultation - s.26 CPLA
Consent - s.41 or s.57 CPLA
Implementation – s.67 or s.71 or s.76

5. Delegation

- 5.1 Statutory powers and responsibilities have been delegated.
- 5.2 The general conditions and provisions of the delegation apply.

6. Cross References

- 6.1 Other related procedures in this Manual, in particular Section 3-A and Section 2-C.
- 6.2 Related procedures in other DOC manuals for appointing managers of marginal strips - to the extent they are consistent with these procedures.

7. Implementation

- 7.1 This procedure will be implemented as part of the overall CPLA (Pt 2) tenure review process when applicable. The format of submissions for consent to the appointment of a marginal strip manager are shown in Appendices 1 & 2 to this Section of the Manual.
 - 7.2 Action at Stage 3 cannot be finalised until matters dealt with in Section 3-A of this Manual are sufficiently advanced for the tenure review in question.
 - 7.3 An appointment proposal which arises after the putting of a preliminary proposal it is to be dealt with by the **CRM** under the CA (not the CPLA). The action is to be separated from (but can run alongside) the tenure review in question.
 - 7.4 The appointment of a manager under a CPLA designation is implemented in accordance with Section 2-H of this Manual at Stage 12 above.
-

APPENDIX I: Consent To Preliminary Proposal

..... Conservancy

[Option 1]

Report to Minister of Conservation (Delegated to Conservator) on Application by the Commissioner of Crown Lands for a Provisional Consent to Designate any Land to which section 35 CPLA applies (which will become a Marginal Strip) as Land to be Restored to or Retained in Crown Control as a Conservation Area, Subject to the Appointment as Manager under s.24(H)(1) Conservation Act 1987 of the Person Specified in the Proposal.

[Option 2]

... Designate [part of] an Existing Marginal Strip as Land to Remain Conservation Area, Subject to the Appointment of a Specified Person as Manager under s.24(H)(1) Conservation Act.

1. Application

- 1.1 The application has arisen as a result of the tenure review under Part 2 CPLA of the [name] lease contained in certificate of title Volume ... folio
- 1.2 There is no controlled lake or reservoir included in the proposal (s.24H(3)).
- 1.3 [If heading option 2 above]. On / / you agreed to inclusion of the marginal strip in the review. See copy of decision attached.
- 1.5 Name of [person/body] specified in the designation:
- 1.4 See plan attached illustrating the [marginal strip/proposed] strip in relation to the tenure review proposal.

2. Matters to be Considered

- 2.1 Information about proposed manager: [name and – if not the adjoining owner why that person/body is more suitable –s.24H(2)(b)]
- 2.2 Management expenses: [describe the ability of the specified person/body to meet these – s.24H(12)]

- 2.3 S.4 Conservation Act matters: [also see para. 4.2]
- 2.4 The proposed manager [should/should not] be required to fence off the strip at the Crown's expense – s.24H(a):
- 2.5 Plans for change or improvements by proposed manger: [detail any significant known plans – particularly relevant to the purposes of marginal strips and enabling public access along the strip]
- 2.6 Use for farming or afforestation or purposes incidental to those carried out on the adjoining land: [if applicable describe proposed activities on strip and likely impacts on purposes of strip/public access]
- 2.7 CMS or CMP:

3. Description/Future Management

- 3.1 Current management regime for the land affected: [describe]
- 3.2 Adverse impacts of current management: [describe and state whether or not they can be avoided, remedied or mitigated]
- 3.3 Need for requirements or restrictions on appointment – s.24H(8): [detail and justify]

4. Consultation

- 4.1 The CCL has consulted with the HCTRM (delegated from the DGC) and the [holder of the lease /third party] in devising the preliminary proposal. The HCTRM [describe advice given at that stage]
- 4.2 [cover s.4 Conservation Act “informed decision” issue – see para 2.3]

5. Conclusion

[Draw together the different threads into a narrative statement making a judgment on the application]

6. CCL's Comments (if recommendation is to refuse consent)

The CCL was sent the draft report for comment on Comments were received on The comments and the CRM's response are set out in the [second] attachment.

7. Recommendation

7.1 You note that you must not consent provisionally to a designation in a preliminary proposal unless satisfied that it is reasonably likely that the Minister would consent to a substantive proposal containing the designation (s.41(2) CPLA).

7.2 [Option 1]

That pursuant to s.41(1) [(d) or (g)] CPLA you give written consent to the designation appointing [name] as manager of the marginal strip subject to the following requirement(s) or restriction(s) on the appointment under the provisions of s.24H(8) Conservation Act 1987: [specify]

[Option 2]

That pursuant to s.41(1) [(d) or (g)] CPLA you refuse consent to the proposed designation for the following reason(s): [state – based on information contained in the report].

Signed:

Community Relations Officer (SLM)

Date:

Conservancy Solicitor comments:

Signed:Date:

HCTRM comments:

Signed:Date:

8. Decision

8.1 Recommendation Approved/Declined.

Conservator Conservancy

Date: / /

APPENDIX 2: Consent To Substantive Proposal

..... Conservancy

[Option 1]

Report to Minister of Conservation (Delegated to Conservator) on Application by the Commissioner of Crown Lands for a Consent to Designate any Land to which section 35 CPLA applies (which will become a Marginal Strip) as Land to be Restored to or Retained in Crown Control as a Conservation Area, Subject to the Appointment as Manager under s.24(H)(1) Conservation Act 1987 of the Person Specified in the Proposal.

[Option 2]

... Designate [part of] an Existing Marginal Strip as Land to Remain Conservation Area, Subject to the Appointment of a Specified Person as Manager under s.24(H)(1) Conservation Act.

1. Application

- 1.1 On / / you gave provisional consent to the appointment of a marginal strip manager in the preliminary proposal for the review of the [name] lease. A copy of the decision/report is attached.
- 1.2 On / / the CCL applied for consent to the designation in the substantive proposal.

2. Matters of Relevance

- 2.1 [Outline any new information which may have become available since the provisional consent was given and state whether or not it changes the justification for the proposal and, if so, how. Take into account the information provided by the CCL.]

3. Information provided by the CCL

- 3.1 Information provided by the CCL under the provisions of s.45 CPLA is tagged for your reference on file

It consists of:

- copies of all written submissions on the preliminary proposal for this tenure review.
- a summary of all matters raised by an iwi authority during consultation on the preliminary proposal.
- a statement as to the extent to which objections to and comments on the proposal raised during the consultation have been allowed or accepted or disallowed or not accepted by CCL.
- a statement as to the extent to which objections to and comments on the proposal, contained in the written submissions, have been allowed or accepted or disallowed or not accepted.

4. Conclusion

4.1 [Make judgment about whether or not consent should be given and state reasons].

5. Consultation

5.1 The CCL has consulted with the HCTRM (delegation from DGC) about devising the substantive proposal. The HCTRM [summarise advice given at that stage].

5.2 The CCL has also consulted the [holder/third party] in devising the substantive proposal.

6. CCL's comments (if recommendation is to refuse)

6.1 The CCL was sent a draft report for comment on Comments were received on The comments and the CRM's response are set out in an attachment.

7. Recommendation

7.1 Note that you gave provisional consent on the basis that it was reasonably likely that the Minister would consent to a substantive proposal containing the designation (s.41(2) CPLA).

7.2 [Option 1]

That pursuant to s.57 [(a) or (b)] CPLA you give written consent to the proposed designation in the substantive proposal on the [amended] terms and conditions in the CCL's application.

[Option 2]

That pursuant to s.57 [(a) or (b)] CPLA you refuse consent to the proposed designation in the substantive proposal for the following reasons: [specify].

Signed:

Community Relations Officer (SLM)

Date:

Conservancy Solicitor comments:

Signed:Date:

HCTRM comments:

Signed:Date:

8. Decision

8.1 Recommendation Approved/Declined.

Conservator Conservancy

Date: / /

Section 3-C

POSSESSION OF LAND IN TENURE REVIEW

Operational issues –

When does DOC start managing land under designations which will create conservation areas or reserves?

When does legal protection apply to land to be disposed of subject to a covenant?

When do the public start to have legal access rights over proposed easements?

When do proposed concessions, special leases or grazing permits start to take effect from?

When does conservation area or reserve to be exchanged cease to be managed by DOC?

1. Background

- 1.1 Possession of the land in a tenure review under **Part 2** CPLA does not transfer from the occupier at the point a substantive proposal is accepted. At that point the Commissioner of Crown Lands (CCL) provides a written notice of acceptance to the District Land Registrar. This notice becomes binding in a similar way to a caveat, and protects the future interest of the Crown. It does not immediately change the right of the holder to occupy and use the land. The right changes at the stage of tenure review implementation (see para 2.1 below).
- 1.2 In the case of a **Part 3** CPLA review the CCL signs a statement to the effect that a written substantive proposal is adopted. It takes effect, and possession is given, in accordance with s.89 CPLA (see 2.2 below).
- 1.3 Before implementation occurs (see Section 2-H of this Manual) a boundary/title survey is normally undertaken and a survey plan and a final review plan is approved. Conveyancing may also be required. These actions may take some time after the substantive proposal is accepted.
- 1.4 Prior to implementation of a review the lessee, licensee or owner remains the “occupier” for the purpose of the Rating Powers Act 1988.
- 1.5 The “fire authority” (Forest and Rural Fires Act 1977) also stays the same, e.g. land to become conservation area or reserve does not become a “State Area” at this point.

1.6 The public, and DOC officers, do not enjoy any rights of access which are different to those they held before acceptance of the substantive proposal.

1.7 The **purpose of this procedure** is to provide staff involved in tenure review under the CPLA with guidance on when the Crown (DOC) takes possession of land or gains an interest in land, and to answer related operational questions.

2. Possession

2.1 This table shows when the Crown (DOC) takes possession of land in a Part 2 CPLA tenure review or gains an interest in land.

Designation of Land	Section of Act	Effective Date
Lease or licence - Restored to Crown ownership as conservation area or reserve	65	On registration of the approved plan [s.64]
Unused Crown land - Retained in Crown ownership as a conservation area or reserve	70, 71, 72	On registration of the approved plan [s.64]
Disposed of subject to a protective mechanism (covenant and /or easement.)	80	On registration of the relevant document creating the interest in land.
Freehold to be restored to the Crown as conservation area or reserve.	81	On registration of the transfer of ownership.

2.2 This table shows when the Crown (DOC) normally takes possession of land in a Part 3 CPLA review or gains an interest in land.

Designation of Land	Section of Act	Effective Date
Unrenewable occupation licence - Retained in full Crown ownership as conservation area or reserve	92	On registration of the approved plan [s.90] or when the licence expires, whichever is the later.
Unused Crown land - Retained in Crown ownership as a conservation area or reserve	92	On registration of the approved plan [s.90].
Disposed of subject to a protective mechanism (covenant and /or easement.)	93	On registration of the relevant document creating the interest in land.

3. Advance Possession

- 3.1 The holder (lessee) of a reviewable instrument is not able to enter into an agreement under s.38 or s.85 Reserves Act or s.29 Conservation Act because the purposes of such agreements are not consistent with the rights of use the holder has over the land (e.g. s.4 or s.12 CPLA).
- 3.2 The above mechanisms cannot therefore be used by the holder to allow DOC to manage (spend money on) the land between the time a substantive proposal is accepted and the effective dates referred to in the tables above.
- 3.3 The above limitation does not apply to specific empowerment of holders in s.76(1) (protected private land) or s.77(1) (conservation covenants) Reserves Act over Crown land. Such mechanisms do, however, require registration against the relevant title. Since that would require survey, they have no practical use in the interim period between acceptance and the normal effective date of possession.

4. Cross Reference

- 4.1 This procedural supports and must be had regard to in the use of Section 2-I of this Manual.
-

SECTION 3-D

FUNDING FOR ACQUISITIONS OF FREEHOLD LAND INCLUDED IN PART 2 TENURE REVIEWS AND FUNDING OF THE COST OF PART 3 REVIEWS

1. Background

- 1.1.1 The CCL may (with the prior written agreement of the owner) include in a tenure review under Part 2 CPLA (s.30) neighbouring freehold land held by the same owner as the holder of the reviewable instrument concerned.
- 1.1.2 Such freehold land can be designated (s.35) along with other land included in the review. These designations can include restoring the land to full Crown ownership with or without a concession (s.36(1)(a)); or the creation of a sustainable management covenant (s.36(3)(a) CPLA).
- 1.1.3 If the freehold land is designated as land to be disposed of to a specified person (s.35(2)(c)) the designation may be subject to protective mechanism(s) e.g. a conservation covenant (s.40(1)(c) CPLA).
- 1.2 Part 3 CPLA reviews and the acquisition of freehold in a Part 2 CPLA tenure review are not funded out of the Land Tenure Reform Account (see Section 1-A of this Manual).
- 1.3 The consequences of the above are that the Conservancy concerned has to meet the following costs:
 - The transfer value of any freehold land which becomes conservation area or reserve, or the value of a conservation covenant or easement in favour of the Minister of Conservation.
 - The non-recoverable cost of participating in a Part 3 CPLA review.
 - A proportion of the cost of survey (excluding water boundary of marginal strip) relative to defining the boundaries of land to become conservation area or reserve in a Part 3 CPLA review.
 - A half share of the cost of any agreed fencing of the boundaries of new reserves or conservation areas (excluding marginal strips) with areas being disposed of in a Part 3 CPLA review.
- 1.4 Any land, in a Part 3 CPLA review, which becomes conservation area or reserve will result in a financial adjustment through the Crown Accounts in accordance with LINZ

CCPO Standard 10 of 1 July 1998. This involves a book adjustment in the year the transfer is programmed.

1.5 The purpose of this procedure is to outline and document the process, standards and accountabilities that affected DOC staff will follow when dealing with the provision of funds for tenure review activities outside the scope of the Land Tenure Reform Account.

2. Process

2.1 The process to be followed is shown in the table below.

Stage	Who Does It	What Happens
1	HCTRM	<ul style="list-style-type: none"> • Arranges business planning provision for participation in Part 3 reviews. • Participates in any consultation process over Part 2 tenure reviews including freehold land, or over the undertaking of a review of land under Part 3 (see Section 2-G of this Manual)¹.
2	Agent	Informs HCTRM either that: <ul style="list-style-type: none"> • freehold land has been included in a Part 2 tenure review; or • the CCL has approved a Part 3 review being commenced.
3	HCTRM	<ul style="list-style-type: none"> • Arranges for reporting in accordance with Section 2-A or 3-E of this Manual.² • On the basis of the report produced, requests the CRM to seek funding to cover the applicable costs listed in para. 1.3 above.
4	CRM	CRM seeks funding and notifies HCTRM of the outcome.

Cont'd over

- ¹ Generally at Stage 1 of that process. The land will need to be included in a review before preliminary proposals are put to the holder.
- ² Further action would only occur if funding was available. Stage 5 may lead through to implementation action (see Sections 2-H, 2-I and 3-C of this Manual as appropriate to the Stage reached).

Stage	Who Does It	What Happens
5	HCTRM	<ul style="list-style-type: none"><li data-bbox="699 384 1409 451">• Notifies Agent whether or not funding will be available.<li data-bbox="699 495 1409 562">• Takes action, as appropriate, under other procedures in this Manual.²

3. Standards and Accountabilities

- 3.1 The views of the **HCTRM**, conveyed to the CCL through the Agent at Stage 1 above, must be expressed as subject to funding being obtained and the conditions of any funding approval being met. That must also be made clear in any discussion with the owner of any freehold land.
- 3.2 A decision on funding should be made available to the CCL by the **HCTRM** before any preliminary proposal is put or devised. If the **CCL** proceeds without that decision, or regardless of it, DOC does not accept any funding obligation.
- 3.3 The standards to be applied by the **HCTRM** in recommending acquisition, and the **CRM** in seeking funding, are those determined by the source of funding (e.g. LAF).
- 3.4 Note that the objects of Part 2 CPLA (s.24) apply only to “reviewable land”, which excludes freehold land.
- 3.5 The CCL has agreed to consult the HCTRM over:
- deciding the consideration to be paid for any freehold land to protect significant inherent value.
 - the cost of survey and fencing associated with a Part 3 review.

4. Legislation and Delegations

- 4.1 Crown Pastoral Land Act - Part 2 or Part 3 provisions appropriate to the stage of the review.
- 4.2 The freehold land is designated by decision of the CCL and requires acceptance by the owner following the substantive proposal stage. These decisions do not involve the Minister of Conservation.

5. Cross References

- 5.1 Other related procedures in this Manual, in particular Sections 2-G and 2-H.
- 5.2 Related procedures in other DOC manuals for land purchase and covenant funding.

6. Implementation

- 6.1 This procedure will be implemented as part of the overall CPLA tenure review process, where applicable.
- 6.2 Instructions for the provision of information and accounting treatment in respect of property transfers between departments is found in Treasury Circular 1993/16 of 1.11.93 – see Section 2-F (appendix 1).

SECTION 3-E

HOW TO REPORT ON CONSERVATION RESOURCES IN A REVIEW UNDER PART 3 CPLA

1. Background

- 1.1 In 1986 Government specifically charged the Department of Conservation with undertaking “the identification of preservation and conservation values” on pastoral leasehold lands “in close liaison with” the agency responsible for the lessor’s interest.
- 1.2 This activity included land in pastoral leases (see Section 2-A of this manual) and pastoral occupation licences. Tenure review of leases, prior to the Crown Pastoral land Act (CPLA), was provided for in a 1989 procedure adopted by the Commissioner of Crown Lands (CCL). A draft procedure for the review of licences was also adopted by the CCL in the same year.
- 1.3 The 1989 procedures were replaced by provisions in Parts 2 and 3 of the CPLA. Section 29 and s.86(1)(b) CPLA also extend the reviews to unused Crown land.
- 1.4 The Director-General of Conservation (DGC) and the CCL have agreed that, as part of the review process under Part 3 of the CPLA, the Department will identify and report on a range of significant inherent values on **unrenewable occupation licence and/or unused Crown land**.
- 1.5 As part of this procedure (but by way of a separate report) the High Country Tenure Review Manager (HCTRM) prepares proposals for designations which will be had regard to by the DGC in submitting his/her views to the CCL on a preliminary proposal (see Section 2-G of this Manual).
- 1.6 Definitions - The terms “occupation licence”, “unrenewable occupation licence” and “unused Crown land” have a special meaning where they are used in the CPLA. It is defined in s.2 of the Act (see the Glossary section at the back of this Manual).
- 1.6

The purpose of this procedure is to outline the process, standards, and accountabilities for staff undertaking reporting on significant inherent values in reviews under Part 3 CPLA.

2. Process

2.1 The reporting process on each tenure review is shown in the table below.

Stage	Who Does It	What Happens
1	HCTRM (see para. 6.3)	<ul style="list-style-type: none"> • Arranges provision for resource assessment and reporting in the annual programme of work in the relevant conservancy business plan(s) in accordance with CCL decision under s.86 CPLA. • Arranges and co-ordinates internal and external contributions to field inspections and the preparation of the reports.
2	Contributors	Provide their solicited contributions to the HCTRM.
3	HCTRM	<ul style="list-style-type: none"> • Drafts the reports, using the contributions, to meet the standards of this procedure. • Arranges completion of Stages 1 to 3 in the process table in Section 2-B. • Provides the report to the CCL's Agent (see Section 2-G of this Manual)..

3. Reporting Objectives

3.1 For each tenure review the Department will meet the following objectives in reporting:

- provide sufficient information about the agreed range of significant inherent values to facilitate the development by the CCL of a preliminary proposal under s.86(4) CPLA;
- record any special matters that will need to be dealt with by the CCL in devising a preliminary proposal;
- propose designations (for the purposes of consultation) relating to significant inherent values for conservation reasons, and public access.

4. Standards Attaching to the Objectives

4.1 Provide sufficient information about the agreed range of significant inherent values to facilitate the development by the CCL of preliminary proposals under s.86 CPLA.

4.1.1 "Significant inherent values" are to be identified on the basis shown in Appendix 2 of Section 1-A of this Manual. The agreed range on which DOC will report is set out in Appendix 4 of Section 2-A.

4.1.2 The formatting of the information is to be in accordance with the standard report shown in Appendix 1.

4.1.3 The areal extent of land having significant inherent values (within the agreed reporting range) is to be illustrated on map(s).

4.2 Record any special matters that will need to be dealt with by the CCL in devising a preliminary proposal.

4.2.1 A prescriptive standard is not being set for this objective.

4.2.2 Relevant matters may include issues surrounding:

- marginal strips
- existing access (e.g. road legalisation)
- third party occupation
- encroachments/boundaries
- existing land status
- differing views of stakeholders (where known)

4.3 Propose designations (for the purposes of consultation) relating to significant inherent values and public access.

4.3.1 The development of each of these proposed designations will take into account tenure review policies and the objects of Part 3 CPLA (see Part 1-A of this Manual).

4.3.2 The future sustainability of management (of areas designated to protect significant inherent values) of the land under the Reserves Act or the Conservation Act (as appropriate) will be had regard to.

4.3.3 Cost assessment for future management is to be carried out in accordance with Section 2-B of this Manual.

5. General Standards for Reporting

5.1 The standards which follow are to be met by **contributors** who prepare information for or give advice on the reports. (The **HCTRM is accountable** for the finished output and for bringing these standards to the attention of all officers whom he invites to contribute).

The standards are that:

- (i) the objectives of reporting (to the extent that they apply to the contribution being made) are met in accordance with the standards set in para.4 above.
- (ii) the contribution is made by the date set by the **HCTRM**, to enable the report to be provided to the CCL's agent in a timely manner after all relevant preliminary stages in the approved review process are completed.
- (iii) professional standards and quality control are maintained, in terms of accuracy and conservation advocacy, and best practice is followed.
- (iv) any involvement with stakeholders in sharing information on inherent values (for the purposes of reporting) does not lead to a breach of the Department's Code of Conduct of December 1998. (see "Consultation" on pg 2-A-9).
- (v) contributions suit the model formats to be used in reporting.
- (vi) requests for release of the reports or drafts of the reports are dealt with in terms of the Official Information Act and departmental procedures for that purposes while having regard to any protocol agreed from time to time between the CCL and the DGC (see paras 10.2 on pg 3-E-5).

6. Funding

- 6.1 The cost of DOC participation in Part 3 reviews is not covered by the Land Tenure Reform Account. It is not therefore taken into account in the special appropriation item which is charged to the Account.
- 6.2 The participation cost is to be provided for in normal business planning.
- 6.3 The general timing of reviews of unrenovable occupation licences is set in accordance with s.86(2) CPLA, and the more specific timing in accordance with the decisions of the CCL under s.86(3) CPLA. This timing will enable the **HCTRM** to fit the work into the business planning cycle for a particular financial year.

7. Legislation

- 7.1 This is not a statutory procedure provided for in the CPLA.
- 7.2 It is akin to resource assessment under section 4 Reserves Act 1977, and section 53 Conservation Act 1987

8. Delegations

- 8.1 There is no statutory power to be delegated.

- 8.2 The proposals in the Proposed Designations Report (PDR) are re-evaluated under the statutory process described in section 2-G of this Manual.

9. Cross References

- 9.1 See the other procedures in this manual. Section 3-A deals with the integration of the marginal strip process in relation to the width, or any exemption from provision of a marginal strip, if a designation for disposal is involved.

10. Implementation

- 10.1 You will find instructions for completing the standard reports in Appendix 1 of Section 2-A of this Manual, but adapt to suit the more limited format of the PDR on page 3-E-8.
- 10.2 Stage 3 of the process above is associated with the consultation process dealt with in Section 2-G of this Manual.
- 10.3 The PDR is to be endorsed as “FOR OFFICIAL USE ONLY” [see “Information Security: Policy and Procedures” DOC August 1996]. The release of reports to the CCL’s Agent is the prerogative of the **officer exercising the delegation** under s.26(1) CPLA.
- 10.4 At this reporting stage of the Part 3 review process there is to be no discussion by DOC officers with the licensee about possible review designations in the preliminary proposal. Such action might prejudice the review and the exercise of the CCL’s discretion. The officer dealing with any request for the reports must have regard to the provisions of s.14 Official Information Act and the closer connection of the Office of the Commissioner of Crown Lands to the function of identifying significant inherent values and formulating designations for preliminary proposals.
- 10.5 That officer (if the request is not transferred) must consider whether the reports need to be withheld under section 9(2) Official Information Act 1982 until a preliminary proposal has been publicly notified³. Legal advice must be obtained, in each case, by the officer dealing with the information request if it is to be declined (but see para. 10.3).
- 10.6 Any information or umbrella group views about inherent values, obtained after report(s) have been sent to the Agent, will be immediately copied and passed on to the Agent by the **HCTRM**. If the information affects the DGC’s views on a

³ This temporary limitation would allow the Crown’s interest to be discussed with the licensee by the CCL, before a proposal is made known to third parties. Free and frank expressions of opinion between officials of DOC and the CCL’s agent are an essential part of the process. Arising from these consultative discussions a preliminary proposal is publicly notified by the Agent on behalf of the CCL.

preliminary proposal which has not yet been put, then the HCTRM will let the Agent know.

APPENDIX 1: REPORT FORMAT

1. The standard formats for reporting are set out below.
2. In Appendix 1 of Section 2-A of this Manual (pg 2-A-7) there are instructions which (with allowance for the differences in Part 4 of the report) will provide you with guidance on how to complete each part of the report.
3. In the Proposed Designations Report add additional, sequentially numbered proposals in the appropriate place as required.

DOC CONSERVATION RESOURCES REPORT ON
..... PASTORAL OCCUPATION LICENCE/CROWN LAND

PART 1

INTRODUCTION

1.1

PART 2

INHERENT VALUES: DESCRIPTION OF CONSERVATION RESOURCES AND ASSESSMENT OF SIGNIFICANCE

2.1 Landscape

2.2 Landforms & Geology

2.3 Climate

2.4 Vegetation

2.5 Fauna

2.6 Historic

2.7 Public Recreation

2.7.1 Physical Characteristics

2.7.2 Legal Access

2.7.3 Activities

PART 3

OTHER RELEVANT MATTERS

3.1 Consultation

3.2 Regional Policy Statements & Plans

3.3 District Plans

3.4 Conservation Management Strategies & Plans

3.5 Freshwater Fisheries Plans

PART 4 MAPS ETC.

4.1 Additional Information

4.2 Illustrative Maps

4.2.1 Topo/Cadastral

4.2.2 Resources

<p>PROPOSED DESIGNATIONS REPORT: TENURE REVIEW OF THE PASTORAL OCCUPATION LICENCE/CROWN LAND UNDER PART 3 CROWN PASTORAL LAND ACT</p>
--

(For Official Use Only)

1 Recommendations

- 1.1 That the proposals described below be submitted to the CCL's Agent, during the consultation process on the preliminary proposal for this review, as representing the views developed under delegated authority from the Director-General of Conservation.
[Note that additional proposals, developed after the initial report is written, may also be put forward at the consultation stage.]
- 1.2 Note that statutory consents will be required before the CCL can include (in the preliminary proposal for this review) the designation(s) set out in paragraph, below.
- 1.3 Note that any disposition of land by the Crown will be subject to the relevant provisions of Part IVA Conservation Act.

2 Proposals and Justification

2.1 Land to be Retained in Full Crown Ownership and Control

- 2.1.1 Name:
Existing Status:
Authority: s.86(5)(a) () CPLA
Proposal:
Description:
Justification:
Management and boundary issues:

2.2 Land Being Disposed of Subject to a Protective Mechanism

- 2.2.1 Name:
Existing Status:
Authority: s.88(a) CPLA
Description:
Justification:
Management and Boundary issues:
Attachment: Terms and conditions

3. Exemption or Variation of a Marginal Strip Width

- 3.1 Name:
Existing Status:
Description:
Justification:
Management and boundary issues:

4. Other Matters

5.1. Additional Information

- (i) Terms and conditions of protective mechanism
- (iii)

5.2. Illustrative Map(s)

SECTION 3-F

DESIGNATING SPECIAL LEASE AND GRAZING PERMIT AREAS

1. Background

1.1 Any designation of land under s.35 CPLA (in a Part 2 tenure review) as land to be restored to or retained in Crown control may be further designated under s.36 as subject to:

- the granting of a specified special lease under s.67(2) Land Act 1948 to a person specified in the proposal.
- the granting of a specified grazing permit under s.68A Land Act 1948 to a person specified in the proposal.
- the continuation in force of an existing special lease.
- the continuation in force of an existing grazing permit.

1.2. (Option 1) A designation under s.35(2)(b), for land to be restored to or retained in Crown control as a conservation area or reserve, may therefore have a qualified designation of one of the above types.

This means that, if a proposal (with such a s.35/36 designation) proceeds through to completion, the reserve or conservation area will be subject to a right granted by the CCL under the Land Act.

This combination of designation is not, however, available under s.86 CPLA, in a Part 3 review.

1.3 (Option 2) If the designation under s.35(2)(b) is for land to be restored to or retained in Crown control under the Land Act 1948 one or more of the qualified designations in para. 1.1 above can be applied.

This means that the land would remain subject to the Land Act 1948 and would not have reserve or conservation area status.

The designation combination (in para. 1.3 above) is also available under s.86 CPLA in a Part 3 review, but only as to **new** leases or permits.

1.4 The DGC is consulted under the CPLA about any proposal including one or more of the above designations, but the MoC does not have a power of consent.

1.5

The purpose of this procedure is to set out standards and accountabilities that all affected staff will follow when the Director-General of Conservation is being consulted about special lease or grazing permit designations.

2. Process

2.1 The general consultation process is set out in section 2-G of this Manual.

3. Consultation Standards and Accountabilities

3.1 The same general consultation standards and accountabilities apply as those set out in Section 2-G of this Manual, to the extent applicable.

3.2 More specifically, the **HCTRM** (before giving views to the CCL on a special lease or grazing permit designation) will need to consider whether or not:

- significant inherent values will be sufficiently maintained under the management regime provided for in the lease or permit conditions (e.g. Appendix 1).
- adequate rights of public access will be available (e.g. see Appendix 2).
- the designation will promote the management of the land in a way that is ecologically sustainable.
- if the designation is to be for a conservation area or reserve, the lessee is aware that the special lease will not be a “reviewable lease” for the purposes of the CPLA.¹

4. Legislation

4.1 S.36 or s.86 CPLA; s.67 Land Act 1948 or s.68A of that Act.

5. Delegation

5.1 See Section 2-G of this Manual in relation to consultation. There is no other applicable delegation to officers of DOC.

6. References

6.1 Pastoral Lease Management Team papers on (DOC) HO file PAS 0042.

6.2 McKendry, P J and O'Connor, K F 1990. The Ecology of Tussock Grasslands for Production and Protection. Unpublished Department of Conservation report.

¹ The reason for this is that, if land held under a special lease becomes conservation area or reserve, it ceases to be a “reviewable lease” for the purposes of the CPLA. The lessee does not have the right to apply for a subsequent tenure review. This limitation does not apply if the land remains subject to the Land Act 1948.

- 6.3 Parliamentary Commissioner for the Environment 1991. Sustainable Land Use for the Dry Tussock Grasslands in the South Island: Final Report of Review of the Rabbit Land Management Programme.

7. Cross Reference

- 7.1 See other procedures in this Manual and in particular Section 2-G.

8. Implementation

- 8.1 This process is to be implemented within the overall CPLA review processes.

APPENDIX 1

Guideline on the Type of Conditions which the Department will expect to see in Special Leases or Grazing Permits over Land to Become Conservation Area or Reserve

1. Background

- 1.1 The guidelines in this Appendix are relevant to para. 3.2 of the procedure and set out expectations about the content of relevant conditions of the lease, or permit, as follows:

2. Grazing Strategies

- 2.1 The relevance and utility of grazing strategies are considered in the landscape system to which they are to be applied. (see para. 6.2 above).
- 2.2 Such strategies must take into account among other things:
- i the different grazing impacts of different types of animals;
 - ii the effects of the lease or permit on reasonable public access for established and likely future recreational uses (e.g. see Appendix 2 on pg. 3-F-6 below).
 - iii the protection of pockets of fragile natural areas (e.g. fish spawning areas, wetlands, forest margins);
 - iv controls on adverse change to the land (e.g. over-sowing, topdressing, burning).

3. Stock Limitations

- 3.1 Enforceable stock limits on an annual basis are set, where required, with the right of the lessor/permittor to reduce numbers or change the stock type or destock part of the land, subject to rental adjustment;
- 3.2 Stock limits have a seasonal requirement when necessary to achieve the objects of Part 2 or Part 3 of the Act.

4. Management Prescription

- 4.1 A management prescription in the lease/permit conditions provides, over the full term: the specific goals of management of the land consistent with the nature of the

lessee/permittee activity (covering vegetation, landscape, historic, public recreation, soil and water); a description of how the goals are to be met; a detailed description of the type and condition of the vegetation at the commencement; a description of the monitoring programme (of activity effects) to be carried out (for vegetation and - if needed - historic features); a specification concerning grazing systems, including identification of vegetation trends and how that will affect the grazing systems.

5. Lease/Permit Boundaries

- 5.1 Any fencing of the boundaries which is required as a condition of the lease/permit to confine grazing animals does not detract from significant landscape and habitat values, or public access opportunities.

6. Administrative (Lease)

- 6.1 A right of renewal (if necessary to achieve adequate investment and maintenance) is provided for only if the conditions of the lease have been complied with, and if the lessor is satisfied that some other use than grazing should not have priority in the public interest.

APPENDIX 2

PUBLIC ACCESS CONDITIONS IN A SPECIAL LEASE OR PERMIT

1. The Land Act 1948 provides as follows in s.67A in relation to special leases:

[67A. SPECIAL LEASES MAY LIMIT OR EXCLUDE TRESPASS RIGHTS--

- (1) A lease under section 67 may provide that specified people or kinds of people have the right to enter and remain on the land held under it or any specified part of it without the consent of the lessee, either unconditionally or subject to the observance of any conditions specified in the lease; and in that case--
 - (a) Subject to paragraph (b), when any person (or person of the kind) specified enters or remains on the land or part, the Trespass Act 1980 applies as if the person were not a trespasser on it; but
 - (b) If the right is subject to the observance of a condition and the person fails or refuses to observe it,--
 - (i) The lessee (or any employee or other person acting under the lessee's authority) may orally notify the person of the failure or refusal and warn the person to leave the land or part, to stay off the land or part, or both; and
 - (ii) At any time after the warning, the person does not have the benefit of paragraph (a); and
 - (iii) If the person was warned to leave the land or part, the warning has effect as a warning under section 3 of that Act; and
 - (iv) If the person was warned to stay off the land or part, the warning has effect as a warning under section 4 of that Act.
- (2) A lease under section 67 may empower the Commissioner to authorise people (whether specified people or people of any specified kind) to enter and remain on the land held under it or any specified part of it without the consent of the lessee, either unconditionally or subject to the observance of any conditions specified in the authority; and in that case--
 - (a) Subject to paragraph (b), when any person (or person of the kind) authorised enters or remains on the land or part, the Trespass Act 1980 applies as if the person were not a trespasser on it; but

- (b) If the authority is subject to the observance of a condition and the person fails or refuses to observe it,--
 - (i) The Commissioner, the lessee, or any employee or other person acting under the authority of the Commissioner or the lessee, may orally notify the person of the failure or refusal and warn the person to leave the land or part, to stay off the land or part, or both; and
 - (ii) At any time after the warning, the person does not have the benefit of paragraph (a); and
 - (iii) If the person was warned to leave the land or part, the warning has effect as a warning under section 3 of that Act; and
 - (iv) If the person was warned to stay off the land or part, the warning has effect as a warning under section 4 of that Act.]
- 2. In the case of a grazing permit the permittee should not have exclusive possession and the public should have freedom of entry and access.