

Final Report to Community Relations Manager

**Application to grant Concessions for the Lower Selwyn
Huts**

Released under the Official Information Act 1992



Department of Conservation
Te Papa Atawhai

1.0 Introduction

1.1 The Application

This report seeks your final approval, following public notification, to the granting of concessions for 58 hut sites at the lower Selwyn hut settlement

The application was processed pursuant to Part III B of the Conservation Act and the Minister's intention to grant the concession was notified for public comment pursuant to s17T(4) of the Conservation Act 1987 on 16 June 2004

Public submissions on the intended granting of the concession closed on 13 August 2004. No submissions or objections were received

2.0 Relevant Legislation; Matters of Relevance

The "First Determination" attached as appendix (ii) details the statutory tests relevant to this application.

3.0 Summary of Submissions and Recommendations as to the Extent to Which they should be Allowed, or Accepted – Section 49(2)(d)

None

4.0 Conclusions

No submissions or objections were received in respect of the intended granting of this concession

5.0 Applicants Comments

A draft of the lease conditions has been sent to the hutowners for comment. Where appropriate their comments have been incorporated into the lease document.

6.0 Recommendation

- (1) It is recommended that, pursuant to a delegation dated 29 October 2004 that the Community Relations Manager approve/~~decline~~ the granting of 58 concessions for hut sites on the Lower Selwyn huts subject to the Department's standard concession conditions and the special conditions detailed above.

Steve Sharman

Date: 07 October 2004

Conservancy Solicitor comments:

The lease document has been developed in consultation with the Conservancy Solicitor and approved by him.

Date:

Recommendation Approved / Declined



Community Relations Manager

Date 8 October 2004

Released under the Official Information Act 1992

**First Determination Report to The Community Relations
Manager
(Approval in Principle/Decline)**

**Application to grant Concessions for the Lower Selwyn
Huts**



Department of Conservation
Te Papa Atawhai

Released under the Official Information Act 1992

Released under the Official Information Act 1992

1.0 Introduction

1.1 The Application

The Department wishes to grant leases for 58 hut sites at the Lower Selwyn huts settlement. This is a renewal of existing concessions

The purpose of this report is to consider the application in accordance with the relevant legislation and recommend whether the application should be approved in principle, or declined.

1.2 The Law

Part IIIB of the Conservation Act 1987 sets out the provisions dealing with concessions. These include:

- *Section 17S - 'Contents of the application'*. This is discussed in section 2 of this report.
- *Section 17T - 'Process for a complete application'*. This requires the Minister to decline an application within 20 working days of it being deemed complete, if the "...application does not comply or is inconsistent with the provisions of this Act or any other relevant conservation management strategy or plan..." It is discussed in section 2.6 of the report
- *Section 17U - 'Matters to be considered by the Minister'* - This includes, but is not limited to, the consideration of the effects of the proposal (s17U(1)(b)); measures that can be taken to avoid, remedy, or mitigate, any adverse effects of the activity (s17U(1)(c)); and the purpose for which the land is held under the relevant legislation (s17U(3)). These matters are discussed more comprehensively in section 3 of this report.
- *Section 17W - 'Relationship between concessions and conservation management strategies and plans'*. This is discussed in section 4 of this report.

2.0 Contents of the Application - Section 17S

Under section 17S of the Conservation Act 1987 the applicant is required to outline details relating to the application. These are outlined in this section.

2.1 The Applicant

Lower Selwyn hut owners

2.2 Description of the Activity - Section 17S(1)(a)

Holiday/recreational bach settlement.

1922 there were 15 huts, licensed on a yearly basis. The number of sites increased to 40 in 1935 and 59 in 1946. Tenure moved from annual licences to 5 year licences in 1954 and then to a 9 year lease in 1990. The 58 remaining huts are used, under the terms of their leases, for temporary recreational accommodation by fishers and game shooters and their families.

3.2 **Effects of Activity - Section 17U(1)(b) and any Measures to Avoid, Remedy, or Mitigate Effects - Section 17U(1)(c)**

In the last few years a number of issues have been identified as needing to be resolved as part of the issuing of longer term leases for the hut settlement.

In 2002 a working party was established with representation from DOC, The Lower Selwyn Hutowners Association, Fish & Game, District Council, Regional Council, Taumutu Runanga, and Te Runanga O Ngai Tahu. The function of the Working Party was to identify issues and suggest solutions that could be incorporated into the new leases.

The main issues the LSHWP considered were:

- The unsatisfactory practice of grey water disposal into soak pits or onto the ground
- The problems with the increasing numbers of 'permanent' residents
- Unauthorised building works, alterations to huts, fences, plantings etc
- The uncertainty of any sea level/lake level rises on the long term viability of the site for leasing

As a result of discussions over the last 2 years, a number of recommendations were made by the LSHWP for inclusion in the new leases, ie

Term - 5 years with 3 rights of renewal. The rights of renewal are dependant on the effects of sea/lake level rises. If the department considers that levels have risen to such an extent as to make the site unfit for continued occupation, the leases will be terminated.

Grey Water - all hutowners will be required to install collection tanks for grey water and have these emptied periodically by an approved contractor for disposal off site. These are to be in place by 31 December 2004.

Building Standards - A list of building standards will form part of the proposed leases. The standards cover such things as maximum size and height of buildings, acceptable building materials, shape, colour and design of buildings, number of outbuildings, landscaping etc

Permanent residents - restrictions on hut use will generally prohibit the occupation of huts on a permanent basis provided that up to 3 occupiers may be given authority to occupy huts permanently for safety/security reasons

Released under the Official Information Act 1992

- (a) *The lease or licence relates to one or more fixed structures and facilities (which structures and facilities do not include any track or road except where the track or road is an integral part of a larger facility); and*
- (b) *In any case where the application includes an area or areas around the structure or facility, -*
- (i) *Either:*
- (A) *It is necessary for the purposes of safety or security of the site, structure, or facility to include any area or areas (including any security fence) around the structure or facility;*
- or
- (B) *It is necessary to include any clearly defined area or areas that are an integral part of the activity on the land; and*
- (ii) *The grant of a lease or licence granting an interest in land is essential to enable the activity to be carried on.*

Comment

It is considered that the issue of individual site leases relate to fixed structures on the land and are essential to enable the existing activity to be carried on.

3.12 Exclusive Possession – Section 17U(6)

Section 17U(6) provides that:

“ No lease may be granted unless the applicant satisfies the Minister that exclusive possession is necessary for-

- (a) *The protection of public safety; or*
- (b) *The protection of the physical security of the activity concerned; or*
- (c) *The competent operation of the activity concerned.”*

For the purposes of subsection (6) of this section, the competent operation of an activity includes the necessity for the activity to achieve adequate investment and maintenance.

Comment

It is considered that exclusive possession of the hut sites is necessary to protect the physical security of the existing buildings and for the competent operation of the hut settlement.

The concession document has a number of special conditions relating specifically to the operation of the hut sites. These are set out in the concession document attached.

4.0 Planning Instruments

4.1 Relationship between Concessions and Conservation Management Strategies and Plans - Section 17W

Section 17W(1) provides *“Where a conservation management strategy or conservation management plan has been established for a conservation area and the strategy or plan provides for the issue of a concession, a concession shall not be*

granted in that case unless the concession and its granting is consistent with the strategy or plan."

Section 17W(3) of the Conservation Act states that *"the Minister may decline any application, whether or not it is in accordance with any relevant conservation management strategy or conservation management plan, if he or she considers that the effects of the activity are such that that a review of the strategy or plan or the preparation of a strategy or plan is more appropriate."*

4.2 Conservation Management Strategy

The Canterbury CMS recognises the need to look at the status and tenure of the site - *"This will involve liaison with hut owners, North Canterbury Fish and Game Council, Selwyn District Council, Canterbury Regional Council and other interested groups"*. The Working Party process has addressed these issues and has recommended the granting of long term leases. Continued leasing of the settlement is also supported by the DOC/Ngai Tahu prepared Te Waihora Joint Management Plan.

Comment

This application is not inconsistent with the Canterbury Conservation Management Strategy. It is not considered that the effects of this activity are such that a review of the strategy is appropriate.

5.0 Conclusion and Special Conditions

The information provided is complete enough to allow further consideration.

The use of the land for the purposes of a hut settlement is not inconsistent with the purpose for which the land is held.

In addition to the Department's standard concession conditions the special conditions outlined in the attached draft concession document are considered appropriate.

There appears to be no reason why the Minister cannot publicly notify his intention to grant concessions with a final decision on this application being made subject to the applicant's acceptance of the attached conditions and the outcome of the public notification process.

6.0 Applicants Comments

The draft concessions document was sent to the Hutowners association and some comments received. Where appropriate these have been incorporated into the lease document.

7.0 Recommendation

Pursuant to the delegation dated 29 October 1997 it is recommended that you approve **in principle** the granting of a 58 hut site concessions subject to the outcome of public notification process, and the standard and special conditions identified in the attached draft concession document.

Steve Sharman
Community Relations Officer (Statutory Land Management)

Conservancy Solicitor comments:

The concession document has been developed in consultation with the Conservancy Solicitor and approved for use by him.

Date:

Recommendation Approved / Declined

...

Date...

Released under the Official Information Act 1992