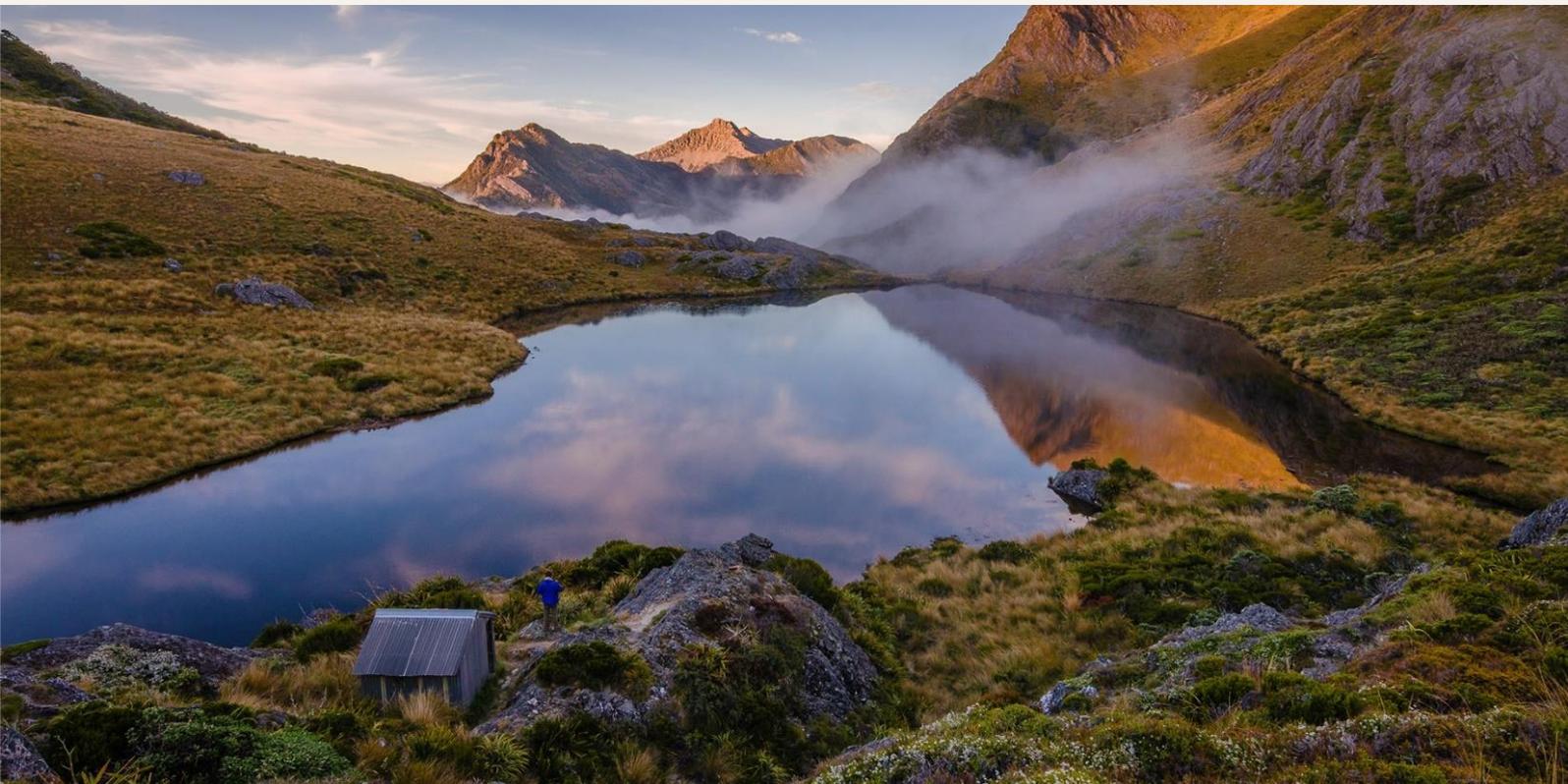


December 2025

Use of Public Conservation Land Report (section 19)

For the referral application for Parkburn FTAA-2105-1123



Department of
Conservation
Te Papa Atawhai

**Te Kāwanatanga
o Aotearoa**
New Zealand Government

Contents

Introduction.....	2
Summary of advice	2
The referral application.....	2
Existing arrangements for the public conservation land.....	4
Risks and potential liabilities to the Crown	5
Section 19(3) consultation	6

Introduction

This report has been prepared by the Department of Conservation (DOC / the Department) in accordance with section 19 of the Fast-track Approvals Act 2024 (the Act). It provides information for the Minister for Infrastructure (the Minister) in relation to the use of public conservation land as part of the consideration of the referral application for Parkburn project by Fulton Hogan Land Development Limited.

As this project includes the use of public conservation land, section 19 of the Act requires that the Minister must obtain and consider a report prepared by the Director-General of Conservation (D-G). Statutory delegations are in place for the Department to provide the report on behalf of the D-G.

The Act defines “public conservation land” (PCL) as land to which either or both of the following apply:

- (a) *The land is held, managed, or administered under the Conservation Act 1987, the National Parks Act 1980, the Reserves Act 1977, or the Wildlife Act 1953:*
- (b) *The land is listed in Schedule 4*

This report addresses the information that must be contained in a report in relation to PCL as set out in s19(2)(a) and (b) of the Act and outlines any consultation undertaken as required by s19(3), as outlined in the sections below.

The information required under s19(2)(c) is not required in this report because Fulton Hogan Land Development Limited does not require a ministerial determination under section 24(2) or (4) for new or existing electricity lines as part of the Parkburn project and the referral application is not required to provide information under section 13(4)(q) or (r).

Summary of advice

- There are five existing concessions that apply to the Park Burn Marginal Strip, these arrangements are not specific to the site and do not raise any issues.
- An additional concession for nearby public conservation land may be impacted by the proposal if changes are made to the existing cycleway and this will need to be managed.
- The applicant will need to determine the type of concession that will be required for the proposed works. Section 17V(3) of the Conservation Act 1987 restricts granting of leases over marginal strips.
- The only risks and potential liabilities to the Crown identified are those normally associated with development of infrastructure of this nature, but these should be able to be adequately managed through appropriate conditions and good management practices.

The referral application

The proposal comprises a mixed-use urban development that will facilitate the rehabilitation of the existing Parkburn Quarry, north of Cromwell. It provides for the staged creation of approximately 1,000 residential lots of varying densities, together with a local commercial centre, a potential primary school site, and several reserves. The development will be supported by new roads, intersections with State Highway 6, and associated earthworks and infrastructure, and includes the formation of two small lake coves and restoration works along the stream and lake margins.

The project intends to make use of public conservation land, via an easement over the Park Burn Marginal Strip. Figure 2 shows the location where the project intends to make use of PCL. It is noted

that the key in Figure 2 (supplied by the applicant) appears to incorrectly identify the marginal strip as being administered under section 58 of the Land Act 1948, this should instead refer to section 24(3) of the Conservation Act 1987.

The Park Burn Marginal Strip is a Fixed Marginal Strip administered in accordance with Part 4A of the Conservation Act 1987. Marginal strips are held for conservation purposes under section 24(3) of the Conservation Act 1987, particularly for maintenance of the adjacent water, to enable public access and recreational use of the strip and adjacent water, and/or for protection of the natural values of the strip.

The applicant has indicated that they will apply for a concession, although the specific approval is not specified. The plans DOC has reviewed appear to show a bridge/road over the marginal strip. This infrastructure could be authorised under an easement concession.

It is also noted that section 17V(3) of the Conservation Act 1987 restricts granting of leases over marginal strips. This may create challenges for obtaining a concession for more substantial infrastructure in this area. Due to this, any infrastructure apart from roading or bridging should occur outside of the marginal strip boundary.



Figure 1. Proposed masterplan (reproduced from referral application).

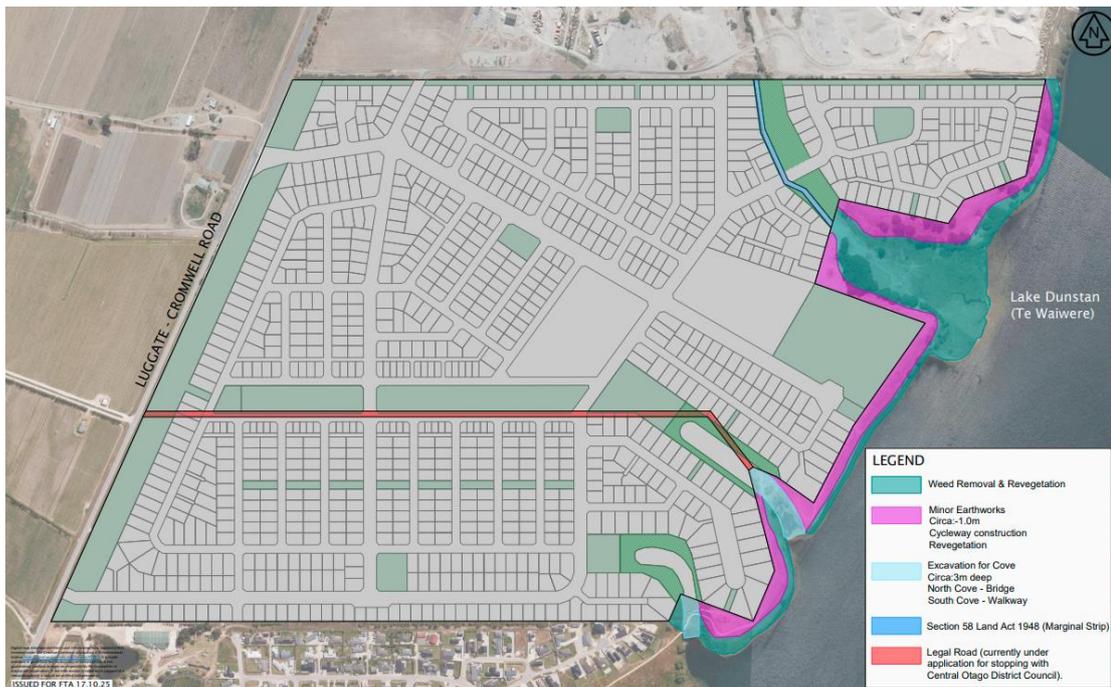


Figure 2. Crown land works overview (reproduced from attachment 10 in referral application).

Existing arrangements for the public conservation land

This section reports on matters as set out in section 19(2)(a) of the Act. The Park Burn Marginal Strip is subject to five active arrangements of use. These are listed in the Table below:

<i>Holder</i>	<i>ID</i>	<i>Status</i>	<i>Description</i>
Central Otago District Council	114884-FIL	Active	Filming within the Otago Conservation Management Strategy region to build and maintain a library of visual assets for promotional purposes
Individual	71046-FAU	Active	Capture, hold, transfer, release and take samples of all types of lizard species pursuant to Section 53 of the Wildlife Act 1953.
Individual	93529-FAU	Active	Wildlife Act application to catch and handle lizards while undertaking site management work in all private land in the South Island and all PCL in the South Island (except nature reserves and scientific reserves).
Osprey New Zealand Limited	64146-FAU	Active	National authorisation for trapping (leghold, kill and live capture) ferrets and possums on

			all land managed by the Department or the purpose of Bovine TB Eradication.
New Zealand Institute for Bioeconomy Science Limited	119322-RES	Active	Global research and collection permit for Public Conservation Land in all of New Zealand. Proposed Term: 10 years

While not directly impacting the Park Burn Marginal Strip, an additional concession exists for the construction of the Wānaka Link cycle trail on parcels of public conservation land between Smith's Way and Luggate Rocks along the Clutha River. While this begins approximately 4km north of the Parkburn proposal, it is part of a regional cycle network, connecting to the existing cycle track at the Parkburn site. The existing trail occurs on the lakeside margin on land administered by LINZ.

Risks and potential liabilities to the Crown

This section reports on matters as set out in section 19(2)(b) of the Act.

Risk of non-completion, failure, inability to remediate land

Partial non-completion or failure of activities on public conservation land resulting in land disturbance, contamination and sedimentation, hazards, stranded assets and infrastructure can create significant financial, legal, health and safety, and reputational risk for the Crown. It can also create significant demand on Department of Conservation resources in terms of staff time and operating budget. For example, if a project fails the Crown will have to manage the land and impacted adjacent lands in accordance with the statutory purpose for which those lands are held, and this may require remediation of the land.

There may be reputational risk to the Crown, and for the fast-track process as a whole, if a granted proposal is not technically feasible or there is an inability to progress the proposal or any part of it; particularly if those parts constitute offsetting or compensation for effects. There may also be a reputational risk for the fast-track process if the process is abused, for example if there was no intention to progress the development but approval is used to, for example, inflate land value.

Issues to consider in this application include:

- **Construction of a bridge or road on a marginal strip**

The applicant has indicated either a bridge or road is proposed to be built on the marginal strip. While DOC has been consulted on the proposed works, DOC has not received an application for an easement concession from the applicant or received confirmation of the chosen infrastructure. Therefore, at this time, the risks and potential liabilities to the Crown are unknown until further information is received from the applicant.

- **Frustration of pre-existing activities**

If a fast-tracked activity frustrates pre-existing actors operating with lawful authority from carrying out activities on the land, the Crown is exposed to legal, financial and reputational risk. If a legal challenge succeeds against the Crown, the remedies a court may order will vary in accordance with the degree of frustration, the type of lawful authority the pre-existing actor was operating under and other contextual factors.

Frustration of concessions in the form of a lease, licence to occupy or easement may lead to an order for specific performance of the lease, licence to occupy or easement and/or monetary damages and costs. It may also lead to pre-existing lessees suing the operators of the fast-tracked activity for nuisance or trespass. FTAA Schedule 6 cl 7(3)(b) states that approval must be declined if “giving effect to the approval would result in the conferral of an interest in land that is incompatible with an existing interest in land.”

Frustration of the activities of those operating under contracts with the Director-General (entered pursuant to s 53(2)(i) Conservation Act 1987) in respect of the land may lead to an order for injunctive relief, specific performance, damages and costs.

Frustration of concessions in the form of permits and other statutory authorisations that do not create an interest in land may lead to equitable estoppel and specific performance, compensation and costs.

The concessions relating to the public conservation land affected in this project are nationwide activities that are not specific to the project area. Therefore, there is a **low risk** that these activities will be impacted.

Section 19(3) consultation

Section 19(3) requires the reporting on matters required by sections 19(2)(a) and 19(2)(b) is prepared in consultation with every owner, administrator, or manager of the affected public conservation land who is not the Crown.

DOC has not identified any owner, administrator, or manager of the affected public conservation land who is not the Crown.