

FINAL ANALYSIS OF SUBMISSIONS

BEN DHU TENURE REVIEW

1. Details of lease:

Lease name: Ben Dhu

Location: Quailburn Road, Omarama

Lessee: Ben Dhu Station Limited

2. Public notice of preliminary proposal:

Date, publication and location advertised:

Saturday 10 July 2004:

Otago Daily Times	Dunedin
The Press	Christchurch

Tuesday 13 July 2004:

High Country Herald

Closing date for submissions:

3 September 2004

3. Details of submissions:

A total of 11 submissions were received by the closing date. A further submission was received on 6 September 2004 and an amendment to a submission was received on 7 September 2004.

4. Analysis of Submissions:

4.1 Introduction:

Explanation of Analysis:

Each of the submissions received has been reviewed in order to identify the points raised and these have been numbered accordingly. Where submitters have made similar points, these have been given the same number.

The following analysis summarises each of the points raised along with the recorded number of the submitter(s) making the point. Discussion of the point and the decision whether or not to allow/disallow the point follows.

The following approach has been adopted when making recommendations:

(i) To allow/disallow:

The decision to “**allow**” the point made by submitters is on the basis that the matter raised is a relevant matter for the Commissioner to consider when making decisions in the context of the Crown Pastoral Land Act 1998. Conversely, where the matter raised is not relevant in terms of the Commissioner’s consideration, the decision is to “**disallow**”.

(ii) To accept/not accept:

Accept: The outcome of an accept decision is that the point is included in the draft substantive proposal. To arrive at this decision the point has been evaluated with respect to the following criteria:

- The objects and matters to be taken into account in the Crown Pastoral Lands Act 1998 (Section 24 & 25 for Part 2 reviews or Sections 83 & 84 for Part 3 reviews) and;
- The views of all parties consulted and any matters relevant to the particular review, balanced against the objects and matters to be taken into account in the Crown Pastoral Lands Act 1998.

Not accept: The outcome of a not accept decision is that the point is not included in the draft substantive proposal based on consideration of the above criteria. Note that the points that are disallowed in the preliminary analysis are automatically not accepted in the final analysis.

4.2 *Analysis:*

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
1	The lost grazing, resulting from the return of CA1 to full Crown ownership and control, will affect the balance of the property causing a reduction in stock numbers and impact on the financial viability of the property. This land should therefore be available for freehold disposal.	1, 3, 7, 11	Allow	Not accept

Discussion:

This point is raised by several submitters promoting the view that the proposed conservation area CA1 should be included in the area proposed for freehold disposal rather than being returned to full Crown ownership and control. The freehold disposal of reviewable land is a matter for the Commissioner of Crown Lands to consider pursuant to Sections 24 (a) (ii) and 24 (c) (ii) Crown Pastoral Lands Act. Therefore this point is allowed.

This point is not accepted on the basis that the proposed conservation area CA1 has significant inherent values and ongoing pastoral farming would put those values at risk. The proposed conservation area is mostly above an altitude where it could be farmed in an ecologically sustainable manner. Further, the area has been classified as class seven and eight land under the land use capability classification survey meaning it has severe limitations to pastoral use or is unsuited for pastoral use. Freehold disposal of the proposed conservation area CA1 would not be consistent with the objects of the Crown Pastoral Lands Act 1998.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
2	The relative allocation of land between Crown ownership and freehold title is unacceptable and contrary to the provisions of the Crown Pastoral Lands Act.	2	Allow	Not accept

Discussion:

The submitter remarks that there are conservation values within the proposed freehold area and regards this to be contrary to the provisions of the Crown Pastoral Lands Act. The Freehold disposal of land and the protection of conservation values (where they are considered significant inherent values) are matters for the Commissioner of Crown Lands to consider pursuant to Sections 24 (a) (ii), 24 (b) and 24 (c) (ii) Crown Pastoral Lands Act. Therefore this point is allowed.

The advice of the DGC delegate is that the proposed review provides adequate protection for the significant inherent values identified on the property. Consequently this point is not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
3	The proposed conservation area CA1 has high conservation value and justifies being returned to full Crown ownership and control.	2, 4, 8	Allow	Accept

Discussion:

The protection of conservation values (where they are considered significant inherent values) is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (b) Crown Pastoral Lands Act. Therefore this point is allowed.

This point is accepted but does not require a decision by the Commissioner’s delegate to amend the proposal.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
4	The proposed conservation area CA2 has high conservation values and justifies being returned to full Crown ownership and control.	2, 4, 6, 7, 11, 12	Allow	Accept

Discussion:

The protection of conservation values (where they are considered significant inherent values) is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (b) Crown Pastoral Lands Act. Therefore this point is allowed.

This point is accepted but does not require a decision by the Commissioner’s delegate to amend the proposal.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
5	The proposed conservation area CA1 should be extended to include the area to the northern boundary of the property.	2, 4, 6, 8, 9, 12	Allow	Not accept

Discussion:

The submitters note the similarity of the land proposed for conservation and that proposed for freehold on the Diadem Range faces. They consider the whole face, or at least to the

ridge with spot height 1067, should be included in the proposed conservation area CA1. Several of the submitters raise potential reasons for the additional inclusion including protection of significant inherent values, ecological sustainability, soil conservation and water conservation. Ecological sustainability and protection of significant inherent values are matters for the Commissioner of Crown Lands to consider pursuant to Sections 24 (a) (i) and 24 (b) Crown Pastoral Lands Act. Therefore this point is allowed.

This area has been extensively examined on the ground and various proposals discussed. A compromise was reached whereby the area most ecologically vulnerable with significant inherent values vulnerable to continued pastoral farming was proposed for restoration to full Crown ownership and control as conservation area. The remainder was proposed for freehold disposal. The advice of the DGC delegate is that they are satisfied with the compromise reached. Consequently this point is not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
6	Public access to the proposed conservation area CA1 is not achieved.	2, 4, 5, 6, 11	Allow	Not accept

Discussion:

The submitters identify that no provision for public access exists to the proposed conservation area CA1. Public access is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (c) (i) Crown Pastoral Lands Act. Therefore this point is allowed.

Public access to the proposed conservation area is not suitable through the proposed freehold. Various options were considered but no solutions could be found. The advice from the DGC delegate is that more suitable access may be achieved in the future. Consequently this point is not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
7	Both the proposed easements (a-b and c-d) should be available for general public and management purposes.	2	Allow	Not accept

Discussion:

Public access is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (c) (i) Crown Pastoral Lands Act. Therefore this point is allowed.

Public access to the proposed conservation area CA2 is provided via easement a-b. This provides the most practical and direct access to the proposed conservation area while reducing the ongoing impact of access on the farming operation. If vehicle access is desired the public are able to seek permission. Conservation management access requires vehicle access and is provided via easement c-d. Therefore this point is not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
8	The wetland shown on the map in the south-eastern corner of the property should be considered for formal protection.	2, 9	Allow	Not accept

Discussion:

Ecological sustainability and protection of significant inherent values are matters for the Commissioner of Crown Lands to consider pursuant to Sections 24 (a) (i) and 24 (b) Crown Pastoral Lands Act. Therefore this point is allowed.

The wetland area shown on the map in the south-eastern corner of the property was investigated. This area has been significantly modified through cultivation and conversion to permanent pasture. The remaining conservation values do not warrant formal protection. Therefore this point is not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
9	Tenure review in the Omarama area is having an impact on community sustainability.	3	Disallow	Not accept

Discussion:

The submitter argues that the tenure review process has resulted in the loss of several families from the Omarama area and this will impact on community sustainability. The tenure review process under the Crown Pastoral Lands Act does not require the Commissioner of Crown Lands to take into account community sustainability. Therefore this point is disallowed.

This point is automatically not accepted because it has been disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
10	Safety issues may arise as a result of tenure review.	3	Disallow	Not accept

Discussion:

The submitter raises the concern of safety issues resulting from tenure review including rural road conditions and crime. The tenure review process under the Crown Pastoral Lands Act does not require the Commissioner of Crown Lands to take into account safety issues. Therefore this point is disallowed.

This point is automatically not accepted because it has been disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
11	A short term grazing lease over conservation land may be appropriate, allowing time for land development to compensate for the loss of grazing.	4	Allow	Not accept

Discussion:

A grazing concession is put forward as a short term option to enable the landholder time to adjust management practices to the loss of high altitude grazing if more area is added to the proposed conservation area CA1. This point is related to the management of reviewable land in a way that is ecologically sustainable. This is a matter for the Commissioner of Crown Lands to consider pursuant to Sections 24 (a) (i) Crown Pastoral Lands Act. Therefore this point is allowed.

This point is not accepted as no further area has been added to the proposed conservation area CA1 and ongoing pastoral use on the proposed conservation area is not considered desirable.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
12	The proposed conservation area CA2 should have public foot and vehicle access at all times.	5, 6	Allow	Not accept

Discussion:

Public access is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (c) (i) Crown Pastoral Lands Act. Therefore this point is allowed.

Public foot access will be provided as of right via the proposed easement to CA2. Vehicle access to this area is not considered necessary. If vehicle access is desired, the public are able to seek permission to drive to the area. Therefore this point is not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
13	Both CA1 and CA2 should be fenced off and allow no grazing.	5	Allow	Accept

Discussion:

The protection of significant inherent values is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (b) Crown Pastoral Lands Act. Therefore this point is allowed.

This point is accepted but does not require a decision by the Commissioner’s delegate to amend the proposal (the areas will be fenced and grazing removed as put forward in the preliminary proposal).

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
14	Access signs and interpretation panels should all be in place within 12 months of a signed agreement.	5	Disallow	Not accept

Discussion:

This is not a matter for the Commissioner of Crown Lands to take into account under the Crown Pastoral Lands Act. Therefore this point is disallowed.

This point is automatically not accepted because it has been disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
15	The proposed conservation area CA1 has been oversown with Maku Lotus and this is likely to smother out tussock communities if grazing is removed.	7, 11	Allow	Not accept

Discussion:

The submitter raises concerns about the vegetative response to destocking the proposed conservation area CA1. Ecological sustainability and protection of significant inherent values are matters for the Commissioner of Crown Lands to consider pursuant to Sections 24 (a) (i) and 24 (b) Crown Pastoral Lands Act. Therefore this point is allowed.

The advice of the DGC delegate is that this is not a matter of concern. Consequently this point is not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
16	Access to the proposed conservation area CA2 should be restricted to adjacent to the boundary with Quailburn Downs.	7	Allow	Not accept

Discussion:

Public access is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (c) (i) Crown Pastoral Lands Act. Therefore this point is allowed.

Public access is proposed along the boundary adjacent to Quailburn Downs. Conservation management access is proposed via the existing track through the homestead area. This is because vehicle access is required for conservation management of the proposed conservation area. This point is therefore not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
17	Provided the proposed freehold area is adequately managed this area could be regarded as ecologically sustainable.	8	Allow	Accept

Discussion:

Ecological sustainability and the freehold disposal of land are matters for the Commissioner of Crown Lands to consider pursuant to Sections 24 (a) (i) and 24 (c) (ii) Crown Pastoral Lands Act. Therefore this point is allowed.

This point is accepted but does not require a decision by the Commissioner’s delegate to amend the proposal.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
18	Public vehicle access should be provided to the proposed conservation area CA2 with permission from the owner.	8	Allow	Accept

Discussion:

Public access is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (c) (i) Crown Pastoral Lands Act. Therefore this point is allowed.

Public foot access is provided via an easement to the proposed conservation area. The public will have the right to seek permission to gain vehicle access to the proposed conservation area from the landowner. As this right currently exists, it is unnecessary to amend the proposal. Therefore this point is accepted but does not require a decision by the Commissioner’s delegate to amend the proposal.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
19	The proposed conservation area CA1 should be available for freehold disposal, rather than create an isolated block of Crown land, on which it will be difficult to maintain the SIVs that are relatively common elsewhere and are in harmony with the seasonal grazing.	10	Allow	Not accept

Discussion:

The freehold disposal of land and protection of significant inherent values are matters for the Commissioner of Crown Lands to consider pursuant to Sections 24 (c) (ii) and 24 (b) Crown Pastoral Lands Act. Therefore this point is allowed.

This point is not accepted on the basis that the proposed conservation area CA1 has significant inherent values and ongoing pastoral farming would put those values at risk. The proposed conservation area is mostly above an altitude where it could be farmed in an ecologically sustainable manner. Further, the area has been classified as class seven and eight land under the land use capability classification survey meaning it has severe limitations to pastoral use or is unsuited for pastoral use. Freehold disposal of the proposed conservation area CA1 would not be consistent with the objects of the Crown Pastoral Lands Act 1998.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
20	The proposed conservation area CA1 is capable of economic use through grazing.	11	Allow	Not accept

Discussion:

Economic use of reviewable land is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (a) (ii). Therefore this point is allowed.

This point is not accepted on the basis that the proposed conservation area CA1 has significant inherent values and ongoing pastoral farming would put those values at risk. The proposed conservation area is mostly above an altitude where it could be farmed in an ecologically sustainable manner. Further, the area has been classified as class seven and eight land under the land use capability classification survey meaning it has severe limitations to pastoral use or is unsuited for pastoral use. Ongoing pastoral use of the proposed conservation area CA1 would not be consistent with the objects of the Crown Pastoral Lands Act 1998. To promote the management of reviewable land in a way that is ecologically sustainable and to enable the protection of significant inherent values come before the object to enable reviewable land capable of economic use to be freed from the management constraints resulting from tenure under reviewable instrument.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
21	The proposed conservation area CA2 should be enlarged to take in the outlier stands of the same habitat.	12	Allow	Not accept

Discussion:

The submitter argues that the proposed conservation area CA2 should include the outlying remnants of bog pine as one continuous area to improve the viability and ecological sustainability of the remnants. Ecological sustainability and protection of significant inherent values are matters for the Commissioner of Crown Lands to consider pursuant to Sections 24 (a) (i) and 24 (b) Crown Pastoral Lands Act. Therefore this point is allowed.

The outlying remnants of bog pine have been investigated in detail. The advice of the DGC delegate is that the proposed boundary is that which is most practical and that which is best for viability and management. Therefore this point is not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
22	The proposed conservation areas do not take in the full range of land environments identified as having important ecological values in the Conservation Resources Report.	12	Allow	Not accept

Discussion:

The submitter argues that several sites were identified in the conservation resources report as having important ecological values and these sites are within land environments different to those represented by the proposed conservation areas CA1 and CA2. The submitter proposes additional conservation area to include land environments not currently included in the proposed conservation areas. Ecological sustainability and protection of significant inherent values are matters for the Commissioner of Crown Lands to consider pursuant to Sections 24 (a) (i) and 24 (b) Crown Pastoral Lands Act. Therefore this point is allowed.

This matter was investigated. The additional areas proposed for conservation are highly modified with little conservation value. Much of the area has been cultivated to improved pasture. Consequently this point is not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
23	The proposal does not provide protection for the springheads and headwater wetlands and therefore the water quality and instream values of the Hen Burn and Quail Burn.	12	Allow	Not accept

Discussion:

The submitter demonstrates the importance of protection for springheads and headwater wetlands for the long term protection of water quality and instream values. This is related to Point 8, but considers further wetland and spring head areas within the property and associated instream values. Ecological sustainability and protection of significant inherent values are matters for the Commissioner of Crown Lands to consider pursuant to Sections 24 (a) (i) and 24 (b) Crown Pastoral Lands Act. Therefore this point is allowed.

The areas identified as springheads and headwater wetlands have been significantly modified through cultivation and much of the area is now improved pasture. Marginal Strips will be applied where appropriate. However, there is little conservation value within the areas identified and consequently this point is not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
24	Limited grazing should be granted for six weeks of the year within the proposed conservation area CA1	5 Amendment	Allow	Not accept

Discussion:

This point is put forward by the submitter to allow some recovery of the lower paddocks over the autumn. This point is related to the management of reviewable land in a way that is ecologically sustainable. This is a matter for the Commissioner of Crown Lands to consider pursuant to Sections 24 (a) (i) Crown Pastoral Lands Act. Therefore this point is allowed.

This point is not accepted on the basis that the proposed conservation area CA1 has significant inherent values and ongoing pastoral farming would put those values at risk. The proposed conservation area is mostly above an altitude where it could be farmed in an ecologically sustainable manner. Further, the area has been classified as class seven and eight land under the land use capability classification survey meaning it has severe limitations to pastoral use or is unsuited for pastoral use. Ongoing pastoral use of the proposed conservation area CA1 would not be consistent with the objects of the Crown Pastoral Lands Act 1998.

5. Discussion and conclusions:

A total of twelve submissions and one amendment were received. Out of which, 24 points were raised, with 21 being allowed. Consultation has been carried out with the DGC delegate and the holder over the points allowed in the preliminary analysis of public submissions. The public submissions have raised several issues that are of importance in this review.

The first is the proposed conservation area CA1. Point 1 demonstrates the viewpoint that the proposed conservation area should be available for freehold disposal, while Point 5 demonstrates the opposing viewpoint that the proposed conservation area should be enlarged to include similar land. The effect destocking will have on the vegetative communities of

CA1 is raised, while another submitter contends that the area is capable of economic use. Several submitters raise the possibility of a grazing concession over CA1.

It was noted that the most appropriate boundaries for the proposed conservation area CA1 had been identified through a thorough field investigation and that those put forward in the preliminary proposal should be retained. Further protective mechanisms were not considered necessary. The advice of the DGC delegate is that the Maku Lotus does not present a major risk to the conservation values.

Related to the above is the issue of public access to the proposed conservation area CA1. Several submitters have noted that no provision for public access to this area exists in the preliminary proposal. Public access concerns were considered during consultation with the holder and the DGC delegate and it was accepted that no formal access will be provided to the proposed conservation area CA1 as the routes within this property are not practical. More practical access may be achieved in the future.

The proposed conservation area CA2 has drawn strong support with no submissions opposing the provision. One submission suggested an enlarged area. The outlying remnants of bog pine have been investigated in detail. The advice of the DGC delegate is that the proposed boundary is that which is most practical and that which is best for viability and management.

Access to the proposed conservation area CA2 has however drawn several submissions. Viewpoints range from more confined access to a greater access allowance including public vehicle access. This was considered during consultation and the agreed outcome was a minor alteration of the conservation management access easement route to avoid a farm bridge over the Quail Burn. Public access is proposed via the boundary adjacent to the Quailburn boundary. This is the most practical and direct access. Formal public vehicle access is not considered necessary. Vehicle access will be available with the consent of the land owner as currently exists.

Several related points raise the issue of additional areas that should be considered for inclusion in land to be returned to full Crown ownership and control. These areas are considered by the submitters to have conservation and water resource value. The areas suggested for further protection have all been heavily modified through cultivation and conversion to permanent pasture. The advice of the DGC delegate is that remaining conservation values do not warrant formal protection.

Several points were raised that cannot be considered under the Crown Pastoral Land Act and have consequently been disallowed. These are, the impact of tenure review on the Omarama community, safety issues arising from review outcomes and implementation timelines.

The points raised by the submitters have been carefully analysed and full consideration given to them. The outcome of consultation is a tenure review proposal that meets the objects with respect to Section 24 Crown Pastoral Land Act 1998 and is acceptable to the holder.