

Crown Pastoral Land Tenure Review

Lease name : SOLDIERS SYNDICATE

Lease number : 00 091

Analysis of Public Submissions

This document includes information on the public submissions received in response to an advertisement for submissions on the Preliminary Proposal. The report identifies if each issue raised is allowed or disallowed pursuant to the Crown Pastoral Land Act. If allowed the issue will be subject to further consultation with Department of Conservation, or other relevant party.

The report attached is released under the Official Information Act 1982.

ANALYSIS OF PUBLIC SUBMISSIONS

Statement Pursuant To Sec 88(d) Crown Pastoral Land Act

Oo091 - SOLDIERS SYNDICATE

Details of licence:

Licence name:

Soldiers Syndicate

Location:

Naseby

Licensee:

Previously held by the Soldiers Syndicate under Unrenewable Occupation Licence: 7657 (Otago Registry)

Public notice of preliminary proposal

Date advertised:

Saturday 2nd October 2010

Newspapers advertised in:

Otago Daily Times – Dunedin

The Press – Christchurch

The Southland Times – Invercargill

Closing date for submissions:

30th November 2010

Details of submissions received

Number received by closing date:

A total of 35 submissions were received by the closing date

Cross-section of groups/individuals represented by submissions:

Submissions were received from six statutory bodies and ten environmental and recreational NGOs. The remaining nineteen submissions were on behalf of one or more individuals with thirteen of these generally supporting the preliminary proposal and six holding different views.

Number of late submissions refused/other:

Nil

ANALYSIS OF SUBMISSIONS

Background

A review of Crown land under Part 3 of the Crown Pastoral Land Act (CPL Act) is conducted in accordance with the objects of Part 3 as set out in Section 83 of the Act:

83 Objects of Part 3 – the objects of this Part are –

- (a) Promote the management of Crown land in a way that is ecologically sustainable; and
- (b) to enable the protection of significant inherent values of Crown land; and
- (c) subject to paragraphs (a) and (b), to make easier –
 - (i) The securing of public access to and enjoyment of Crown land; and
 - (ii) the freehold disposal of Crown land capable of economic use.

This analysis reflects an initial assessment of the public submissions in accordance with these objects. It does not attempt to assess the merit or otherwise of the individual submissions, merely whether or not the submissions raised one or more points that come within the scope of the Objects of Part 3 or are otherwise required to be considered in accordance with the CPL Act. It is noted that the provisions of Part 3 are different to those considered in Tenure Review under Part 2 of the Act.

The presumption when undertaking a review of Crown land under Part 3 of the CPL Act is that the land is either already in 'full' Crown ownership and control or will be so on expiry of any non-renewable licence. In the case of land held under a non-renewable licence (such as the land being reviewed in this case), there is no ongoing right of renewal and the licensee(s) have no pre-emptive rights to the land concerned on expiry of the licence.

The objects of Part 3 must therefore be considered in this context. Unlike in Part 2 (section 24(b)), no preference is expressed in section 83 (b) for restoration to full Crown ownership and control as a means of protecting significant inherent values as the land concerned is already (or will be) in full Crown ownership and control. Object (a) and (b) are of equal value and carry equal weight in terms of consideration, whereas object (c) is subject to both (a) and (b).

Section 84 specifies that in acting under this Part of the Act, the Commissioner of Crown Lands (or his delegate) must take into account the objects of Part 3 and Section 86(5) specifies the ways in which Crown land may be designated under Part 3 of the CPL Act. It is necessary to consider how the potential designations available under s. 86(5) meet the objects of Part 3.

Section 86(5) states:

The land (or various areas of it) must be designated as –

- (a) *Land to be retained in full Crown ownership and control –*
 - (i) *As conservation area; or*
 - (ii) *As a reserve for a purpose specified in the proposal; or*
 - (iii) *For some specified Crown purpose; or*
- (b) *Either or both of the following:*
 - (i) *Land suitable for disposal by special lease (on terms specified in the proposal);*
 - (ii) *Land suitable for disposal in fee simple under the Land Act 1948*

Introduction:

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:

1. Summarises each of the points raised along with the recorded number (shown in the appended tables) of the submitter(s) making the point.
2. Discusses each point.
3. Recommends whether or not to **allow** the point for further consideration.
4. If the point is **allowed**, recommends whether to **accept** or **not accept** the point for further consideration.

The points raised have been analysed to assess whether they are matters that are validly-made, relevant to the tenure review and can be properly considered under the Crown Pastoral Land Act 1998 (CPLA). Where it is considered that they are the decision is to **allow** them. Further analysis is then undertaken as to whether to **accept** or **not accept** them.

Conversely where the matter raised is not a matter that is validly-made or relevant or can be properly considered under the CPLA, the decision is to **disallow**. The process stops at this point for those points disallowed.

The outcome of an **accept** decision will be that the point is considered further in formulation of the draft SP. To arrive at this decision the point must be evaluated with respect to the following:

The objects and matters to be taken into account in the CPLA; and

Whether the point introduces new information or a perspective not previously considered; or

Where the point highlights issues previously considered but articulates reasons why the submitter prefers an alternative outcome under the CPLA; or

Is a statement of support for aspects of the Preliminary Proposal which can be considered by the Commissioner when formulating the designations for a Substantive Proposal.

How those accepted points have been considered will be the subject of a Report on Public Submissions which will be made available to the public. This will be done once the Commissioner of Crown Lands has considered all matters raised in the public submissions in formulating a Substantive Proposal.

Analysis:

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
1	The submitters support the proposal for a special lease	1,2,4,7,9,13,15,16,17,26	Allow	Accept
<p>Rationale for Allow: The point relates to the issue of a special lease which is a designation for the Crown land that can be considered by the Commissioner in terms of Section 86(5)(b)(i) CPL Act. The point is therefore allowed.</p>				
<p>Rationale for Accept: The point has been accepted as it is a statement of support for an aspect of the preliminary proposal which can be considered by the Commissioner when formulating the designations for a substantive proposal.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
2	The submitters do not agree with the three huts (and in some cases the other improvements) being taken out of the control and ownership of the Syndicate	2,9,11,13,16,17,21,26,30,31	Allow	Accept
<p>Rationale for Allow: The Commissioner is required to consider the future status of any improvements on the subject land subject to Section 95 CPL Act. The point is therefore allowed.</p>				
<p>Rationale for Accept: In this case the point as raised highlights issues previously considered but articulates reasons why the submitters prefer an alternative outcome under the CPLA. The alternative outcome promoted is that the improvements be held by the current holders in light of their development of such improvements. It is noted that the land is proposed for disposal under the preliminary proposal thereby Section 95(3) of the CPL Act may apply. The point is therefore accepted to allow consideration of these factors.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
3	The submitters support the proposed public access provisions of the special lease	3,6	Allow	Accept
<p>Rationale for Allow: One of the objects of Part 3 of the CPL Act is to secure public access to and enjoyment of Crown land pursuant to Section 83(c)(i). The point is therefore allowed.</p>				
<p>Rationale for Accept: The point is a statement of support for an aspect of the preliminary proposal which can be considered by the Commissioner when formulating the designations for a substantive proposal.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
4	The submitters support the proposed public use of the huts (Submitter 4 notes that this should be limited only by the reasonable requirements of the farming operation)	3,4,6	Allow	Accept

Rationale for Allow:
The point relates to the securing of public access to and enjoyment of Crown land which is considered as one of the objects under Part 3 of the CPL Act (Section 83(c)(i)). The point is therefore allowed.

Rationale for Accept:
The point is a statement of support for an aspect of the preliminary proposal which can be considered by the Commissioner when adopting a substantive proposal. The point is therefore accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
5	The submitters seek unfettered public access subject only to the reasonable requirements of farming operations	4,8	Allow	Accept

Rationale for Allow:
The point raised relates to the provision of public access and enjoyment of the Crown land as provided for under Section 83(c)(i) CPL Act. The point is therefore allowed.

Rationale for Accept:
The point raised highlights an issue previously considered but articulates reasons why the submitters prefer an alternative outcome under the CPLA. This additional information relates to the wider use of the Crown land area whilst acknowledging the restrictions that may be required for the farming operation. The point is therefore accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow
6	The submitters note the economic effect on Syndicate members if the lease is not granted	5,16,17	Disallow

Rationale for Disallow:
The economic effect on the Syndicate members is not a matter that the Commissioner can take account of pursuant to Section 84 CPL Act. The point is therefore disallowed.

Point	Summary of point raised	Submission numbers	Allow or disallow
7	The submitters note community benefits of an ongoing pastoral lease	5,26	Disallow
<p>Rationale for Disallow: The community benefit of the pastoral use of the Crown land is not a matter to be taken account of by the Commissioner pursuant to Section 84 CPL Act. The point is therefore disallowed.</p>			

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
8	The submitters note the positive effects of grazing on flora and fauna including the reduction of weeds	5,7,10,13,16,17	Allow	Not Accept
<p>Rationale for Allow: The point relates to the protection of significant inherent values of the Crown land which is an object under Part 3 of the CPL Act (Section 83(b)). The point is therefore allowed.</p>				
<p>Rationale for Not Accept: In this case the submitters have not provided any new information or a perspective not previously considered nor have they indicated an alternative outcome. The point is therefore not accepted.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow
9	The submitters note the importance of "onsite" managers (lessees) for public safety and management	5,13,26	Disallow
<p>Rationale for Disallow: The point raised by the submitter is not a matter to be taken account of by the Commissioner under Section 84 CPL Act, nor is it covered by any of the objects outlined in Section 83. The point is therefore disallowed.</p>			

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
10	The submitters support the public use of holder improvements with consent (or in one case by way of a recreation permit)	5,9,11,16,17	Allow	Accept
<p>Rationale for Allow: The point relates to the enjoyment of the Crown land as provided for under Section 83(c)(i) CPL Act. The point is therefore allowed.</p>				

Rationale for Accept:
 This point is distinctly different from point 4 which assumed public ownership of the improvements. In this case it is assumed that the improvements will be owned by the holders. The point highlights issues that have previously been considered but also articulates reasons why the submitters prefer an alternative outcome under the CPLA. In particular the reasons relate to the ownership of the improvements and the nature of any ongoing use of these by members of the public. The point is therefore accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
11	The submitter proposes a "permanent" lease subject to monitoring	5	Allow	Accept

Rationale for Allow:
 The disposal of the land by special lease is a designation available to the Commissioner under Section 86(5)(b)(i) CPL Act. The point is therefore allowed.

Rationale for Accept:
 In this case the submitter has suggested a permanent lease which is a slight variation on the lease proposed in the preliminary proposal. This is a perspective relating to the term of the lease that has not previously been considered and is noted for consideration by the Commissioner when adopting a substantive proposal. The point is therefore accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
12	The submitters support the multiple use of the Crown land including farming and recreational opportunities	5,10,18	Allow	Accept

Rationale for Allow:
 The point relates to the securing of public access to and enjoyment of Crown land as provided for under Section 83(c)(i) CPL Act and also the designations available under Section 86(5)(b). The point is therefore allowed.

Rationale for Accept:
 The specific nature of the multiple use proposed by the submitters has not been previously considered in any detail. This is therefore the introduction of new information and a perspective not previously considered. The point is therefore accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow
13	The submitter expresses disappointment at the proposal and anticipates a further review in the future	6	Disallow

Rationale for Disallow:
 Part 3 of the CPL Act provides for the process of undertaking a review of other Crown land including that previously held on occupation licence. Any subsequent review is not part of this process. The point is therefore disallowed.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
14	The submitter seeks extended winter use of the Crown land area	6	Allow	Accept
<p>Rationale for Allow: The point relates to the securing of public access to and enjoyment of Crown land as provided for under Section 83(c)(i) CPL Act. The point is therefore allowed.</p>				
<p>Rationale for Accept: While winter use of the Crown land area has previously been considered the submitter in this case articulates reasons why the submitter prefers an alternative outcome under the CPLA, noting in particular the fact that the area is not utilised for farming during this period. The point is therefore accepted.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow
15	The submitter notes issues regards process of review undertaken to reach this point	7	Disallow
<p>Rationale for Disallow: The point appears to relate to an internal process matter undertaken by the Commissioner. This is not a matter to be taken into account by the Commissioner pursuant to Section 84 CPL Act and therefore the point is disallowed.</p>			

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
16	The submitters express concerns about conditions of lease that adversely affect the viable use of the area (rent, outgoings, stock management, monitoring, stock limitation, [arbitrary reduction], use of huts, insurance and maintenance)	7,11,16,17	Allow	Accept
<p>Rationale for Allow: Under Section 86(5)(b)(i) CPL Act the Commissioner can designate the land as being suitable for disposal by special lease (on terms specified in the proposal). In this case the submitter is raising issues in relation to the terms specified in the proposal and the point is therefore allowed.</p>				
<p>Rationale for Accept: A review of the information identifies that there are aspects of the conditions of the lease that have not been considered in light of the information now provided by the submitters. This is therefore new information and a perspective not previously considered therefore the point is accepted.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
17	The submitters refer to and favour the previously advertised proposal that saw the land retained in full Crown ownership and control (submitter 33 refers to this outcome although not specifically referring to the previously advertised proposal)	8,19,22,23,25,28,32,33	Allow	Not Accept
<p>Rationale for Allow: The current proposal and that previously advertised both relate to a proposal that meets the objects of Part 3 as specified in Section 83 CPL Act. The previously advertised proposal included the designation of the land to be retained in full Crown ownership and control as a conservation area as provided for under Section 86(5)(a)(i) CPLA. This alternative outcome is therefore a legitimate alternative under the CPL Act and the point is allowed.</p>				
<p>Rationale for Not Accept: The submitters have not introduced any new information in relation to this aspect nor a perspective not previously considered. While the submitters prefer an alternative outcome they have not articulated any reasons not previously considered. The point is therefore not accepted.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
18	The submitters provide a detailed review of the SIVs present on the Crown land	8,20,22,24,25,27,28	Allow	Not Accept
<p>Rationale for Allow: The Commissioner is required to enable the protection of significant inherent values of Crown land pursuant to Section 83(b) CPL Act. The point is therefore allowed.</p>				
<p>Rationale for Not Accept: While the submitters have provided a detailed review of the SIVs present these have essentially endorsed the previous advice received from the Department of Conservation. The submitters have therefore not introduced any new information in relation to these SIVs and the point is not accepted.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
19	The submitters consider continued grazing inappropriate in terms of ecological sustainability	8,19,20,22,23,25,27,28,34	Allow	Not Accept
<p>Rationale for Allow: The Commissioner is required to promote the management of Crown land in a way that is ecologically sustainable pursuant to Section 83(a) CPL Act. The point is therefore allowed.</p>				

Rationale for Not Accept:
 While the submitters have raised a valid issue they have not introduced any new information in relation to this matter. Nor have they introduced a perspective that has not previously been considered. While an alternative outcome is preferred by the submitters they have not articulated any reasons that have not already been visited in relation to this outcome. The point is therefore not accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
20	The submitters support DoC reports prepared for the area	8,23,25,27	Allow	Not Accept

Rationale for Allow:
 The DoC reports that have been prepared for the area provide advice to the Commissioner of Crown Lands in relation to the management of the Crown land in a way that is ecologically sustainable and identify significant inherent values of the Crown land that should be protected. This advice is in accordance with Sections 83(a) and 83(b) CPL Act, therefore the point has been allowed.

Rationale for Not Accept:
 The point is an indication of confirmation of the previously provided advice. This does not constitute new information, or a perspective not previously considered, therefore the point is not accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
21	The submitters oppose ongoing lease and supports retention of the land in full Crown ownership and control. They do however acknowledge the impact on the farming activities of the holders and support a short term concession	8,19,20,23,24, 25,27,28,29,32, 35	Allow	Not Accept

Rationale for Allow:
 The point that is articulated by submitters relates to the promotion of the management of the Crown land in a way that is ecologically sustainable and the protection of significant inherent values. The aspects are covered under the objects under Section 83(a) and (b) CPL Act. The point also relates to the disposal of the land on special lease as provided for under Section 86(5)(b)(i) CPL Act. The point is therefore allowed.

Rationale for Not Accept:
 The submitters have not introduced any new information or a perspective not previously considered. While the submitters do prefer an alternative outcome under the CPLA they have not articulated any reason for this that has not previously been considered. The point is therefore not accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
22	The submitters recommend that the stock numbers on the lease remain at 6,500 and note that this is supported by improved condition of land	7,9,11,16,17,21,30.31	Allow	Accept
<p>Rationale for Allow: Under Section 86(5)(b)(i) CPL Act the Commissioner is able to specify terms of a special lease contained in the proposal. These terms include in this case the establishment of a stock limitation. The point is therefore allowed.</p>				
<p>Rationale for Accept: The submitters in this case have included new information relating to the improved condition of the land. This is the basis for an alternative outcome that they then articulate. The point is therefore accepted.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow
23	The submitter indicates support for Syndicate	10	Disallow
<p>Rationale for Disallow: While the support of the Syndicate is noted the Commissioner is not required to take account of the particular occupiers of Crown land under Section 84 CPL Act. The point is therefore disallowed.</p>			

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
24	The submitter proposes public access by way of an easement in favour of the Walking Access Commission	11	Allow	Accept
<p>Rationale for Allow: Under Section 83(c)(i) CPL Act an object of the review is the securing of public access to and enjoyment of Crown land. The point is therefore allowed.</p>				
<p>Rationale for Accept: The creation of access utilising the provision of the Walking Access Commission is a perspective not previously considered as the Walking Access Commission as a party to tenure review is a recent addition to the CPL Act. The point is therefore accepted.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
25	The submitters note that the "review" led to a special lease and refers to the outcome of legal proceedings that were required to bring this forward	11,17	Allow	Not Accept

<p>Rationale for Allow: The High Court reviewed the process undertaken in relation to the review of this area of Crown land. The Court ruled that the Commissioner had made a decision as a result of that review to issue a special lease pursuant to Section 86(5)(b)(i) CPL Act. The special lease is a provision of the CPL Act and this point is therefore allowed.</p>
<p>Rationale for Not Accept: By virtue of the High Court proceedings this matter has been fully considered previously and the submitters have not provided any new information, a perspective not previously considered nor have they articulated reasons for an alternative outcome. The point is therefore not accepted.</p>

Point	Summary of point raised	Submission numbers	Allow or disallow
26	The submitter suggests that previous submissions obtained in relation to this review should be disregarded	11	Disallow

Rationale for Disallow:
 The point raised by the submitter is not relevant information and the Commissioner's deliberations under Part 3 of the CPL Act. The point is therefore disallowed.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
27	The submitters express concern that the summary of the preliminary proposal does not provide a balanced report	11,17,26	Allow	Not Accept

Rationale for Allow:
 Pursuant to Section 88(b) CPL Act and Section 43 CPL Act the Commissioner is required to give public notice of preliminary proposals. As the information pack relates to the public notice of the preliminary proposal and is part of the Commissioner fulfilling this requirement the point is allowed.

Rationale for Not Accept:
 While the submitters have questioned the information provided they have not introduced any new information or a perspective not previously considered. The point is therefore not accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
28	The submitter discusses the monitoring provisions of the special lease and notes changes to the original criteria provided to the holders	11	Allow	Accept

Rationale for Allow:
 The proposed monitoring within the special lease could be regarded as a "term specified in the proposal" as provided for under Section 86(5)(b)(i) CPL Act. The point is therefore allowed.

Rationale for Accept:

The submitter in this case has introduced additional information in relation to the monitoring provisions to be contained in a special lease which is a recognised designation under this proposal. The monitoring provisions of the special lease have not been fully developed to date therefore this is new information and a perspective not previously considered. The point is therefore accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow
29	The submitters noted an error in the identification of the huts on the plan included in the public information	11,17,26	Disallow

Rationale for Disallow:

While the error in relation to the identification of the huts on a plan is noted this is a not a matter for the Commissioner to take account of under Section 84 CPL Act. The point is therefore disallowed.

Point	Summary of point raised	Submission numbers	Allow or disallow
30	The submitter comments that proposal does not comply with LINZ S45004	11	Disallow

Rationale for Disallow:

The Commissioner has developed operating standards such as LINZ S45004 to assist in the process of undertaking a review. This however is not a matter for him to take into account under Section 84 CPL Act. The point is therefore disallowed.

Point	Summary of point raised	Submission numbers	Allow or disallow
31	The submitter notes the mineral resources and requests no limitation on access for mineral exploration and mining	12	Disallow

Rationale for Disallow:

The point relates to mineral exploration and mining on the land post review. Access to the land for mineral exploration and mining is covered by the Crown Minerals Act and not CPL Act. It is therefore not a matter that the Commissioner can consider in adopting a substantive proposal and the point is disallowed.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
32	The submitter provides a summary of high fishery and game bird values associated with the Otematata River headwaters	14	Allow	Accept

Rationale for Allow:
 The point relates to the protection of significant inherent values of the Crown land as provided under Section 83(b) CPL Act. The values identified do fit the definition of an inherent value as provided under Section 2 of the CPL Act. The point is therefore allowed.

Rationale for Accept:
 The specific values identified by the submitter is new information and a perspective not previously considered and therefore the point is allowed for consideration by the Commissioner in adopting a substantive proposal.

Point	Summary of point raised	Submission numbers	Allow or disallow
33	The submitter requests that marginal strips are laid off alongside major rivers	14	Disallow

Rationale for Disallow:
 Marginal strips are a matter for consideration by the Director General of Conservation and therefore not a matter that the Commissioner can properly consider under the CPL Act. The point is therefore disallowed.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
34	The submitter requests public access to the Otematata River from the Ranfurly area	14	Allow	Not Accept

Rationale for Allow:
 Section 83(c)(i) identifies the securing of public access to and enjoyment of Crown land as an object and review under Part 3 of the Act. The point is therefore allowed.

Rationale for Not Accept:
 In this case the submitter has not provided any new information nor a perspective not previously considered. While an alternative outcome has been indicated by the submitter no new reasons have been articulated for this outcome. The point is therefore not accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
35	The submitter requests Fish and Game management access to the Otematata River from the Ranfurly area	14	Allow	Not Accept

Rationale for Allow:
 Section 83(c)(i) identifies the securing of public access to and enjoyment of Crown land as an object and review under Part 3 of the Act. The point is therefore allowed.

Rationale for Not Accept:
 In this case the submitter has not provided any new information nor a perspective not previously considered. While an alternative outcome has been indicated by the submitter no new reasons have been articulated for this outcome. The point is therefore not accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
36	The submitter notes that early gold workings are pre 1890 features and therefore protected under the Historic Places Act 1993	15	Allow	Accept
<p>Rationale for Allow: The historic workings are regarded as a significant inherent value pursuant to Section 2 CPL Act. The Commissioner is required to enable to protection of significant inherent values of Crown land pursuant to Section 83(b) CPL Act. Therefore the point is allowed.</p>				
<p>Rationale for Accept: The review of the historic attributes of the Syndicate is not well identified in previous reports. In particular the perspective of the age of these workings has not been considered and this is therefore new information and a perspective not previously considered. The point is therefore accepted for consideration by the Commissioner in adopting a substantive proposal.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
37	The submitter notes possible historic significance of the huts and requests that older huts, while used should not be overly modified	15	Allow	Accept
<p>Rationale for Allow: The historic workings are regarded as a significant inherent value pursuant to Section 2 CPL Act. The Commissioner is required to enable to protection of significant inherent values of Crown land pursuant to Section 83(b) CPL Act. Therefore the point is allowed.</p>				
<p>Rationale for Accept: The review of the historic attributes of the Syndicate is not well identified in previous reports. In particular the perspective of the age of these workings has not been considered and this is therefore new information and a perspective not previously considered. The point is therefore accepted for consideration by the Commissioner in adopting a substantive proposal.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow
38	The submitters note that DoC staff have made statements re the imposition of untenable conditions into a special lease	16,17	Disallow
<p>Rationale for Disallow: Statements made by DoC staff are not a matter for the Commissioner to take account of under Section 84 CPL Act. The point is therefore disallowed.</p>			

Point	Summary of point raised	Submission numbers	Allow or disallow
39	The submitter expressed general concerns about Crown dealings with Syndicate	17	Disallow

Rationale for Disallow:
 The relationship between the members of the Syndicate and the Crown is not a matter for the Commissioner to take account of in undertaking a review of the Crown land under Part 3 of the CPL Act as identified under Section 84 of the Act. The point is therefore disallowed.

Point	Summary of point raised	Submission numbers	Allow or disallow
40	The submitter expresses concerns about conservation management of the Crown land area	17	Disallow

Rationale for Disallow:
 While the Crown land can be managed by the Department of Conservation post review (and indeed this would follow if the area were designated as a conservation area or a reserve), the management of this land by a particular Government Department is not a matter for the Commissioner to take account of under Section 84 CPL Act. The point is therefore disallowed.

Point	Summary of point raised	Submission numbers	Allow or disallow
41	The submitter refers to the intent of CPL Act as identified in cabinet papers	17	Disallow

Rationale for Disallow:
 In undertaking a review of the Crown land the Commissioner must take account of the matters identified under Part 3 of the CPL Act. While the matters outlined by the submitter may have been considered by Cabinet they were not carried forward into the Act and are therefore not matters for the Commissioner to take account of in undertaking a Part 3 review. The point is therefore disallowed.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
42	The submitters do not support the rights of renewal contained within the special lease	18,20	Allow	Not Accept

Rationale for Allow:
 Pursuant to Section 86(5) the Commissioner is required to designate the Crown land. In particular the special lease is proposed pursuant to Section 86(b)(i) CPL Act which also allows the Commissioner to identify the terms of the lease within the proposal. The point is therefore allowed.

Rationale for Not Accept:
 The terms of the special lease were considered in the preparation of the preliminary proposal. The submitters have not introduced any new information nor a perspective not previously considered. While they prefer an alternative outcome they have not articulated any particular reasons for this. The point is therefore not accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
43	The submitters do not support the initial 14 year term and in one case propose an alternative of 10 years	18,20	Allow	Not Accept

Rationale for Allow:
 Pursuant to Section 86(5) the Commissioner is required to designate the Crown land. In particular the special lease is proposed pursuant to Section 86(b)(i) CPL Act which also allows the Commissioner to identify the terms of the lease within the proposal. The point is therefore allowed.

Rationale for Not Accept:
 The terms of the special lease were considered in the preparation of the preliminary proposal. The submitters have not introduced any new information nor a perspective not previously considered. While they prefer an alternative outcome they have not articulated any particular reasons for this. The point is therefore not accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow
44	The submitters seek further public input for renewals of the lease	18,20	Disallow

Rationale for Disallow:
 The CPL Act does not provide for public input in the ongoing management of Crown leases. This is therefore not a matter that the Commissioner can take into account under Section 84 CPL Act. The point is therefore disallowed.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
45	The submitters express concern about the monitoring regime and/or recommend more independence in monitoring	18,20,23,24,27, 28,29	Allow	Accept

Rationale for Allow:
 Pursuant to Section 86(5)(b)(i) the Commissioner can identify the terms that would apply to a special lease. This includes monitoring. The point is therefore allowed.

Rationale for Accept:
 In this case the submitters have introduced new information, a perspective not previously considered and articulated reasons for an alternative outcome in relation to the monitoring regime to be contained within the special lease. In particular the submitters have included specific information that should be considered when undertaking the monitoring. The point is therefore accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
46	The submitters are opposed to granting a lease	19,25	Allow	Not Accept
<p>Rationale for Allow: The Commissioner can designate the land as being suitable for disposal by special lease pursuant to Section 86(5)(b)(i) CPL Act. The point is therefore allowed.</p>				
<p>Rationale for Not Accept: While the submitters clearly prefer an alternative outcome they have not articulated reasons for this nor have they provided new information or a perspective not previously considered. The point is therefore not accepted.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
47	The submitters note that High Court decision should not detract from meeting the objects of the CPLA	20,23,25	Allow	Not Accept
<p>Rationale for Allow: The point relates to the objects of a Part 3 review as set out in Section 83 CPL Act. The point is therefore allowed.</p>				
<p>Rationale for Not Accept: While the point relates to the objects of the CPL Act it also refers to the review of conduct of this Part 3 review by the High Court. The submitters have not raised any new information in relation to this that has not previously been considered nor have they offered an alternative perspective or outcome. The point is therefore not accepted.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
48	The submitters disagree with proposed stocking levels and/or stock management	20,23,24,25	Allow	Accept
<p>Rationale for Allow: The Commissioner is required to identify the terms of a special lease pursuant to Section 86(5)(b)(i) CPL Act. This can include the setting of a stock limit. The point is therefore allowed.</p>				
<p>Rationale for Accept: The submitters in this case have introduced new information in relation to the terms of the lease and in particular the appropriate stock management. This information has not previously been considered and is therefore noted for consideration during the adoption of a substantive proposal. The point is therefore accepted.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
49	The submitters seek 4WD, horse and mountain bike access on the existing tracks (including access for hunting)	20,22,23,25,35	Allow	Accept
<p>Rationale for Allow: An object of a review under Part 3 of the CPL Act is the securing of public access to and enjoyment of Crown land (Section 83(c)). In this case both public access and enjoyment are involved. The point is therefore allowed.</p> <p>Rationale for Accept: The submitters have introduced aspects of public access that have not previously been considered. The point is therefore accepted for consideration by the Commissioner when adopting a substantive proposal.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
50	The submitters seek wander at will access over the Crown land area. In some cases this is extended to other non-motorised access. Some of the submitters suggested that the access be during the non grazing period others suggested that it be year round with restrictions on hunting during the grazing period.	20,22,23,28,29, 32,34	Allow	Accept
<p>Rationale for Allow: An object of a review under Part 3 of the CPL Act is the securing of public access to and enjoyment of Crown land (Section 83(c)). In this case both public access and enjoyment are involved. The point is therefore allowed.</p> <p>Rationale for Accept: The submitters have introduced aspects of public access that have not previously been considered. The point is therefore accepted for consideration by the Commissioner when adopting a substantive proposal.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
51	The submitters do not consider the proposal to provide suitable public outcomes particularly in relation to access	22,23,24,25,27, 28	Allow	Not Accept
<p>Rationale for Allow: The objects of Part 3 of the CPL Act as provided in Section 83 provide for a range of public outcomes. These include amongst other things the securing of public access to and enjoyment of Crown land pursuant to Section 83(c)(i). The point is therefore allowed.</p>				

Rationale for Not Accept:

While the submitters note a number of public outcomes they have not in this instance provided any new information, a perspective not previously considered nor any specific alternate outcomes to be considered. The point is therefore not accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow
52	The submitters consider the land should become part of Oteake Conservation Park (often with cross reference to Otago Conservation Management Strategy)	22,23,24,27,28, 29,33	Disallow

Rationale for Disallow:

Neither the Oteake Conservation Park nor the Otago Conservation Management Strategy are matters to be considered by the Commissioner under Section 84 CPL Act. The point is therefore disallowed.

Point	Summary of point raised	Submission numbers	Allow or disallow
53	The submitters do not regard ongoing farming use as economically viable	22,28	Disallow

Rationale for Disallow:

While Part 3 of the CPL Act does provide for the freehold disposal of Crown land capable of economic use the specific economics of a particular use are not considered. The point is therefore not one that the Commissioner can consider under Section 84 CPL Act and the point is disallowed.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
54	The submitters believe the proposal does not adequately address the historic elements of the Crown land	22,23,24	Allow	Accept

Rationale for Allow:

The historic attributes of the Crown land are regarded as a significant inherent value in terms of Section 2 CPL Act. An object of Part 3 of the CPL Act is to enable the protection of significant inherent values of Crown land (Section 83(b)). The point is therefore allowed.

Rationale for Accept:

The submitters have provided additional information in relation to the historic sites on the Crown land. This information can be considered by the Commissioner when adopting a substantive proposal. The point is therefore accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow
55	The submitters believe the proposal does not consider the land in its geographical context	22,24,29	Disallow
<p>Rationale for Disallow: The Commissioner of Crown lands is required to consider the land subject to the review. While the geographic context does set the framework for the land this is not a matter that the Commissioner is able to consider in relation to Section 84 CPL Act. The point is therefore disallowed.</p>			

Point	Summary of point raised	Submission numbers	Allow or disallow
56	The submitter believes that the proposed access should link to adjacent conservation areas	22	Disallow
<p>Rationale for Disallow: While on the surface the matter appears to relate to the securing of public access to and enjoyment of Crown land (Section 83(c)), the point relates to land that is not contained in this review. It is therefore not a matter that the Commissioner can take account of under Section 84 CPL Act and therefore the point is disallowed.</p>			

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
57	The submitters note the water harvesting potential of the Crown land	20,23,27,28	Allow	Accept
<p>Rationale for Allow: The water harvesting potential of the land could be considered "a value arising from an ecological characteristic of the natural resource existing by virtue of the confirmation of the land". In accordance with Section 2 CPL Act this is an inherent value and could be considered significant also by virtue of Section 2. Section 83(b) requires the Commissioner to enable to protection of significant inherent values of Crown land. The point is therefore allowed.</p>				
<p>Rationale for Accept: The water harvesting values of this area of land have not been clearly identified to date. Reference is made to wetland and bog areas, but the attribute of water harvesting is not considered. This is therefore new information to be considered by the Commissioner in adopting a substantive proposal. The point is therefore accepted.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow
58	The submitters recommend that the special lease should transfer to and be managed by DoC	23,32	Disallow

Rationale for Disallow:

The CPL Act deals with the designation of land not the administering body. While under certain designations the land will be managed by the Government's conservation agency (currently DoC) the decision as to the allocation of land held under special lease is not a matter for the Part 3 review. The matter is not one for the Commissioner to consider under Section 84 CPL Act therefore the point is disallowed.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
59	The submitters suggest more stringent management constraints in any special lease	23,25,27,29,32,33	Allow	Accept

Rationale for Allow:

The point relates to the terms to be specified for a special lease as provided for under Section 86(5)(b)(i) CPL Act. The point also relates to the management of the Crown land in a way that is ecologically sustainable and the protection of significant inherent values of Crown land pursuant to Sections 83(a) and 83(b) CPL Act. The point is therefore allowed.

Rationale for Accept:

The submitters have advised additional matters that should be considered in relation to the terms of any special lease granted in relation to this review. This is new information. This point is to some extent the inverse of Point 16 and should be considered alongside that point. The point is therefore accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
60	The submitters expand on the recreational opportunity of the area	23,28	Allow	Accept

Rationale for Allow:

The point relates to Section 83(c) CPL Act which includes making easier the securing of public access to and enjoyment of Crown land. The point is therefore allowed.

Rationale for Accept:

The submitters have included additional information in relation to the recreational use of the area that was not previously understood or included in earlier reports. This is new information to be considered and the point is therefore accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
61	The submitter cites information on SIVs from DoC submission to CODC district plan hearing	27	Allow	Not Accept

Rationale for Allow:

The point relates to the protection of significant inherent values which is identified as an object of Part 3 CPL Act via Section 83(b). The point is therefore allowed.

Rationale for Not Accept:
 While the source of information was not previously referred to, the information provided was not new information and was covered elsewhere in the data sourced for this review. The submitter did not provide a perspective not previously considered nor an alternative outcome therefore the point is not accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow
62	The submitters note potential adverse effects on adjacent land due to unfenced boundaries	27,28	Disallow

Rationale for Disallow:
 This Part 3 review is limited to the land under consideration and does not include consideration of the adjacent land. This is therefore not a matter to be considered under Section 84 CPL Act and the point is disallowed.

Point	Summary of point raised	Submission numbers	Allow or disallow
63	The submitters note that the proposal does not take account of carbon sequestering	27,28	Disallow

Rationale for Disallow:
 Carbon sequestering is not identified as a significant inherent value under Section 2 CPL Act. This issue is therefore not a matter for the Commissioner to consider under Section 84 CPL Act and the point is disallowed.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
64	The submitters do not believe the proposal addresses alternative economic benefits	27,28	Allow	Accept

Rationale for Allow:
 Section 83(c)(ii) allows the freehold disposal of Crown land capable of economic use. While this is subject to earlier provisions relating to ecological sustainability and protection of significant inherent values the matter is one for the Commissioner to consider. The point is therefore allowed.

Rationale for Accept:
 The only economic use given consideration in the preparation of the preliminary proposal relates to pastoral use. The submitter has provided new information in relation to other economic benefits from the proposal which could influence the designations. The point is therefore accepted for consideration by the Commissioner in adopting a substantive proposal.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
65	The submitter expresses concerns about earlier decisions made in relation to the review	27	Allow	Not Accept
<p>Rationale for Allow: The point relates to decisions made in accordance with Part 3 CPL Act. These decisions underlie the proposal advertised as a preliminary proposal. As these matters were made in accordance with the CPL Act the point is allowed.</p>				
<p>Rationale for Not Accept: The submitter expressed a view which did not include new information, a perspective not previously considered or an alternative outcome. The point is therefore not accepted.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow
66	The submitter considers the process to be legally complex	29	Disallow
<p>Rationale for Disallow: The point relates to an opinion expressed by the submitter which is not a matter to be considered by the Commissioner under Section 84 CPL Act. The point is therefore disallowed.</p>			

Point	Summary of point raised	Submission numbers	Allow or disallow
67	The submitter refers to the history of occupancy noting that there are no ongoing occupational rights	29	Disallow
<p>Rationale for Disallow: The point did not relate to history as an inherent value but rather as an observation on previous lease arrangements. A review under Part 3 CPL Act is not required to consider the previous leasing arrangements in proposing designations. Therefore there is no matter for the Commissioner to consider under Section 84 CPL Act and the point is disallowed.</p>			

Point	Summary of point raised	Submission numbers	Allow or disallow
68	The submitter considers the lease should reflect the values associated with the adjacent Oteake Conservation Park, guided by the objects of the CPLA	29	Disallow
<p>Rationale for Disallow: The values of the Oteake Conservation Park are not relevant to a consideration of the land under review. The review of Crown land under Part 3 CPL Act must be undertaken in relation to the subject land and in accordance with Part 3. The point is therefore disallowed.</p>			

Point	Summary of point raised	Submission numbers	Allow or disallow
69	The submitter recommends that all stock should be trucked to and from the lease	29	Disallow
<p>Rationale for Disallow: The point does not relate to matters to be taken into account by the Commissioner under Section 84 CPL Act. The point specifically relates to off site issues that cannot be considered. The point is therefore disallowed.</p>			

Point	Summary of point raised	Submission numbers	Allow or disallow
70	The submitter recommends that all costs associated with the process should be born by the tenant	29	Disallow
<p>Rationale for Disallow: The cost associated with the review process is not a matter to be taken into account by the Commissioner under Section 84 CPL Act. The point is therefore disallowed.</p>			

Point	Summary of point raised	Submission numbers	Allow or disallow
71	The submitters indicate that the High Court decision applies only to the preliminary proposal and that the substantive proposal could adopt an alternative outcome	32,33	Disallow
<p>Rationale for Disallow: While the High Court proceeding has influenced the preliminary proposal as advertised the process for adopting a substantive proposal is an administrative process that the Commissioner is required to undertake in relation to Part 3 rather than a matter relating to Sections 83 or 84 CPL Act. The point is therefore disallowed.</p>			

Summary and Conclusion

Overview of analysis:

The 35 submitters raised a total of 71 points in relation to this review. Of these 42 points related to matters to be considered within a review under Part 3 CPL Act and were allowed. Of these 3 points were statements of support for aspects of the review and 22 provided new information or perspectives to be considered in adopting a substantive proposal. These 25 points were accepted. Twenty nine of the points allowed did not provide new information or a perspective not previously considered and were not accepted. The 29 points disallowed related to matters that the Commissioner is unable to consider when making decisions under Part 3 CPL Act.

Generic issues:

The issues raised largely relate to whether or not a lease providing ongoing grazing by domestic stock will meet the objects of "promote the management of Crown land in a way that is ecologically sustainable" and "enable the protection of significant inherent values of Crown land". The submitters are split in their views in this regard. The second issue relates to the extent of and management of public access and enjoyment of the land. The majority of submitters seek greater access than that proposed in the preliminary proposal.

Gaps identified in the proposal or review process:

The process of this review has attracted a degree of criticism from both submitters supporting the preliminary proposal and those opposed to it. This relates to both consideration of the objects and statutory process.

Risks identified:

Process related risks as outlined above.

General trends in the submitters' comments:

Submitters are split on their view as to whether or not a lease providing ongoing grazing by domestic stock will meet the objects of "promote the management of Crown land in a way that is ecologically sustainable" and "enable the protection of significant inherent values of Crown land". A number of submitters seek greater access within the land than that proposed in the preliminary proposal, while others seek greater control. Ownership of the improvements on the land was of concern to a number of submitters.

I recommend approval of this analysis and recommendations



K R TAYLOR
Darroch Limited

Date

Peer reviewed by

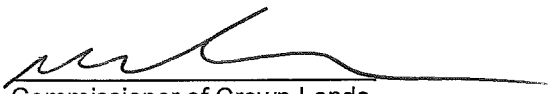


Caroline Mason
Darroch Limited

11 January 2011

Approved/Declined

I recommend approval
KML
11/2/11


Commissioner of Crown Lands

KARYN MICHELLE LEE
PORTFOLIO MANAGER
CROWN PROPERTY MANAGEMENT
C/- LINZ, CHRISTCHURCH

Date 18/2/11

Appendices

1. Copy of Public Notice
2. List of Submitters
3. Copy of Annotated Submissions

Mathew Clark (Manager Pastoral)
Land Information New Zealand
Under delegated authority of the
Commissioner of Crown Lands.