

Crown Pastoral Land Tenure Review

Lease name : *Bog Roy*

Lease number : PO 310

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 45(a)(iii) Crown Pastoral Land Act

BOG ROY TENURE REVIEW NO TR350

Details of lease

Lease name: Bog Roy Station

Location: Otematata

Lessee: Bog Roy Station Limited

Public notice of preliminary proposal

Date advertised: 4 June 2011

Newspapers advertised in: The Press (Christchurch)
Otago Daily Times (Dunedin)
Timaru Herald (Timaru)

Closing date for submissions: 1 August 2011

Details of submissions received

Number received by closing date:
10

Cross-section of groups/individuals represented by submissions:

Six submissions were received from conservation and recreational user groups, one submission was received from an individual with a conservation perspective, one submission was received from a territorial authority and two submissions were received from statutory boards.

Number of late submissions refused/other:

No late submissions were received in relation to this review.

The total number of submissions received and analysed is therefore 10.

ANALYSIS OF SUBMISSIONS

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 give general support to the designations outlined in the preliminary proposal.	1,2,10	Allow	Accept
<p>Rationale for Allow: The designations provided for in the preliminary proposal were considered in the light of Section 24 CPLA. The point is allowed as it is a matter to be considered in tenure review under the CPLA.</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. The point is therefore accepted.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
2	The submitter expresses concerns re continued grazing within CC1.	1	Allow	Accept
<p>Rationale for Allow: The point raises matters which are relevant to promoting the management of the land in a manner that is ecologically sustainable. The point is allowed as this is a matter to be considered under Section 24(a)(i) CPLA.</p>				
<p>Rationale for Accept: The point raised introduces a perspective not previously considered in relation to the grazing within CC1. In particular the aspect of reduction in tall vegetation by grazing has not been specifically considered. The point is therefore accepted.</p> <p>This point also relates to matters subsequently raised in points 10 and 11.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow
3	The submitter requests that the Waitaki District Council be provided with the results of monitoring within CC1.	1	Disallow
<p>Rationale for Disallow: The provision of monitoring results to a third party is not a matter considered by the CPLA. The point is therefore disallowed.</p>			

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
4	The submitter expresses concern about the lack of detail provided regards monitoring in the proposal.	1	Allow	Accept
<p>Rationale for Allow: The point relates to the promoting the management of the land in a manner that is ecologically sustainable. The point is allowed as this is a matter to be considered under Section 24(a)(i) CPLA.</p> <p>Rationale for Accept: The details of the proposed monitoring are not fully developed in the draft covenant document provided with the preliminary proposal. The point is accepted for consideration in developing the substantive proposal as this is information and a perspective not previously considered.</p> <p>This point also relates to point 10 discussed subsequently.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
5	The submitter considers that the proposed conservation areas would be better designated as recreation reserves.	2	Allow	Not Accept
<p>Rationale for Allow: The Commissioner is required to designate land as part of a tenure review. Under Section 35(2)(a)(ii) one of the designations available is to designate the land as reserve. As this is a recognized designation the point has been allowed.</p> <p>Rationale for Not Accept: The appropriateness of the proposed designations being conservation area and/or reserve were fully considered during the development of the preliminary proposal. In this case the submitter has not provided any new information nor a perspective not previously considered. Neither has the submitter articulated reasons why an alternative outcome is preferred. The point is therefore not accepted.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
6	The submitters provided general support for conservation area CA1.	3,4,5,9,10	Allow	Accept
<p>Rationale for Allow: The point relates to the protection of significant inherent values by restoration to full Crown ownership and control pursuant to Section 24(b)(ii) CPLA. The point is allowed as it is a matter to be considered in tenure review under the CPLA.</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. The point is therefore accepted.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
7	The submitters support the proposal for conservation area CA2.	3,4,5,7,10	Allow	Accept
<p>Rationale for Allow: The point relates to the protection of significant inherent values by restoration to full Crown ownership and control pursuant to Section 24(b)(ii) CPLA. The point is allowed as it is a matter to be considered in tenure review under the CPLA.</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. The point is therefore accepted.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
8	The submitters support the proposal for conservation area CA3.	3,4,5,7,10	Allow	Accept
<p>Rationale for Allow: The point relates to the protection of significant inherent values by restoration to Crown control pursuant to Section 24(b)(ii) CPLA. The point is allowed as it is a matter to be considered in tenure review under the CPLA.</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. The point is therefore accepted.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
9	The submitters have no objection to the granting of the concession easement as a qualified designation. Submitter 4 provides conditional support.	3,4,5,10	Allow	Accept
<p>Rationale for Allow: The point relates to the granting of a qualified designation as provided for in Section 36(1)(a) CPLA. The point is allowed as it is a matter to be considered in tenure review under the CPLA.</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. The point is therefore accepted.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
10	The submitters consider the monitoring of CC1 to be essential, over either the entire or part of the area (noting the potential effect of point 11).	3,5,10	Allow	Accept
<p>Rationale for Allow: The point relates to the management of the land in a manner that is ecologically sustainable and also the protection of significant inherent values. The point is allowed as it relates to Sections 24(a) and 24(b) CPLA.</p> <p>Rationale for Accept: At the preliminary proposal stage the draft covenant document considered monitoring to be optional. The submitters have raised new information and a perspective not previously considered plus articulates reasons for an alternative outcome. The point is therefore accepted for consideration in formulating the substantive proposal.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
11	The submitters recommend that part of CC1 be added to CA1.	3,4,5,10	Allow	Accept
<p>Rationale for Allow: The point relates to the protection of significant inherent values and considers the alternatives allowed under Sections 24(b)(i) and 24(b)(ii) CPLA. The relevant designation is a matter to be considered under the CPLA therefore the point is allowed.</p> <p>Rationale for Accept: While the submitters express varying views as to the amount of CC1 that should be incorporated into CA1 there is a general focus on an area at the eastern end. In this regard the submitters provided new information regards the significant inherent values that are present. The point is therefore accepted as this introduces new information and a perspective not previously considered and also the submitters' articulate reasons why they prefer an alternative outcome under the CPLA.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
12	The submitters support the creation of the easement. In the case of submitter 8 this is conditional support.	3,4,5,7,8,9,10	Allow	Accept
<p>Rationale for Allow: The point relates to the securing of public access to and enjoyment of reviewable land. This is a matter to be considered under Section 24(c)(i) CPLA. 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. The point is therefore accepted.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
13	The submitters support the continuation of the existing easement registered against the Bog Roy lease.	3,4,5	Allow	Accept
<p>Rationale for Allow: The point relates to the continuation in force of an existing easement which is a qualified designation under Section 36(3)(c) CPLA. 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. The point is therefore accepted.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
14	The submitters recommend that conservation covenant CC1 is extended to include additional land on the Lake Benmore faces.	3,4,5,9	Allow	Accept
<p>Rationale for Allow: The point relates to the protection of significant inherent values which is a matter to be considered under Section 24(b) CPLA. The point is therefore allowed.</p> <p>Rationale for Accept: The extension of CC1 was previously considered. The submitters have not provided new information in relation to this area, nor have they given a perspective not previously considered. They have however articulated reasons for an alternate outcome. The point is therefore accepted.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow
15	The submitters recommend the provision of public access within conservation area CA3. Three submitters favour vehicle access adjacent to the fence line marked "U-V" whereas the fourth (submitter 7) supports public access including foot, horse and cycle as well as motor vehicle.	4,7,9,10	Disallow
<p>Rationale for Disallow: While the point does relate to the provision of the securing of public access to and enjoyment of reviewable land, the creation of access within a conservation area is a matter for the Department of Conservation subsequent to tenure review. Post tenure review management is not considered in the CPLA therefore the point is disallowed. It is noted that the design of conservation area CA3 is such to allow for the creation of public access (including vehicles) at a future date.</p>			

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
16	The submitters support the freehold of the land containing land use capability classes IV and VI.	4,5	Allow	Accept
<p>Rationale for Allow: The point relates to the promotion of the management of the reviewable land in a way that is ecologically sustainable and also the freehold disposal of reviewable land. The point is allowed as these are matters contemplated under Section 24 CPLA.</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. The point is therefore accepted.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
17	The submitter considers that the land classified as land use capability class VII should be returned to full Crown ownership and control. This point has some relationship to points 11 and 14 previously discussed.	4	Allow	Accept
<p>Rationale for Allow: The point relates to promoting the management of reviewable land in a way that is ecologically sustainable. This is matter to be considered under Section 24(a)(i) CPLA and the point is therefore allowed.</p> <p>Rationale for Accept: While alternate areas for restoration to full Crown ownership and control have been considered in the preparation of the preliminary proposal, the particular perspective made by this submitter has not been specifically addressed. This is therefore a perspective not previously considered and also the submitter articulates reasons why an alternative outcome is preferred. The point is therefore accepted.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
18	The submitter recommends a full field based archeological inspection of Bog Roy is undertaken.	6	Allow	Accept
<p>Rationale for Allow: The point relates to the protection of a significant inherent value. This is a matter to be considered under Section 24(b) CPLA and the point is therefore allowed.</p> <p>Rationale for Accept: There is no indication in the file record that a full archeological inspection has been undertaken or considered. The submitter has therefore provided a perspective not previously considered and also articulated reasons for an alternative outcome under the CPLA. The point is therefore accepted.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow
19	The submitter seeks to have better plans provided identifying adjoining properties and showing legal roads and marginal strips.	7	Disallow

Rationale for Disallow:

The point relates to the identification of adjoining properties, legal roads and marginal strips. None of these areas are reviewable land in terms of the CPLA. This is therefore a matter that lies outside the consideration for tenure review and the point is therefore disallowed.

Point	Summary of point raised	Submission numbers	Allow or disallow
20	The submitter seeks to have Backyards Road surveyed.	7	Disallow

Rationale for Disallow:

Legal roads are not a matter for consideration by the Commissioner under the CPLA. The survey and identification of such roads is not a matter to be considered and the point is disallowed.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
21	The submitter seeks practical access from the Otematapaio Recreation Reserve to CA1.	7	Allow	Not Accept

Rationale for Allow:

The point relates to the securing of public access to and enjoyment of reviewable land as provided for under Section 24(c)(i) CPLA. This is therefore a matter for the Commissioner to consider in tenure review and the point is allowed.

Rationale for Not Accept:

Access as indicated by the submitter has previously been considered. In this case the submitter has not introduced new information nor a perspective not previously considered. Neither has the submitter articulated reasons why an alternative outcome is preferred. The point is therefore not accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
22	The submitter seeks additional public access on the ridgeline overlooking Lake Benmore.	7	Allow	Not Accept

Rationale for Allow:

The point relates to the securing of public access to and enjoyment of reviewable land as provided for under Section 24(c)(i) CPLA. This is therefore a matter for the Commissioner to consider in tenure review and the point is allowed.

Rationale for Not Accept:

Access as indicated by the submitter has previously been considered. In this case the submitter has not introduced new information nor a perspective not previously considered. Neither has the submitter articulated reasons why an alternative outcome is preferred. The point is therefore not accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
23	The submitter seeks additional access be provided on the southern boundary for vehicles, foot, cycle and horse access.	7	Allow	Accept

Rationale for Allow:

The point relates to the securing of public access to and enjoyment of reviewable land as provided for in Section 24(c)(i) CPLA. This is therefore a matter to be considered by the Commissioner and is allowed.

Rationale for Accept:

There is no indication that access on the routes identified has previously been considered. This is therefore new information and a perspective not previously considered. The point is therefore accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
24	The submitter asks that traditional routes remain available to horse riders.	8	Allow	Accept

Rationale for Allow:

The point relates to the securing of public access to and enjoyment of reviewable land as provided for in Section 24(c)(i) CPLA. This is therefore a matter to be considered by the Commissioner and is allowed.

Rationale for Accept:

There is no indication that access by horse on the routes identified has previously been considered. This is therefore new information and a perspective not previously considered. The point is therefore accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow
25	The submitter recommends a vehicle barrier in the vicinity "V" to prevent vehicle access in the Otematapaio Valley.	9	Disallow

Rationale for Disallow:

The point relates to the management of conservation land post tenure review. This is therefore not a matter for the Commissioner to consider in undertaking tenure review and the point is therefore disallowed.

Point	Summary of point raised	Submission numbers	Allow or disallow
26	The submitter requests a change to the conditions of conservation covenant CC1 requiring the owner to keep the land clear of wilding conifers.	10	Disallow
<p>Rationale for Disallow:</p> <p>The control of wilding conifers maybe a condition required by the Department of Conservation in relation to a conservation covenant however this is a matter to be considered in terms of regional pest management plans. These are not matters for the Commissioner to consider in completing tenure review and the point is therefore disallowed.</p>			

Summary and Conclusion

Overview of analysis:

Ten submitters have raised 26 points in relation to this tenure review. Of the 26 points 20 have been allowed as they relate to matters to be considered under Part 2 CPLA. Six points have been disallowed as they do not deal with matters that are able to be considered under Part 2 CPLA. Of the 20 points allowed, eight included statements of support for the proposal and were accepted for consideration in the formulation of the substantive proposal. A further nine points raised issues or provided new information that needs to be considered in the formulation of the substantive proposal and these points were also accepted. Three points related to aspects of the review that had been fully traversed previously and the submitters did not provide any additional information or new perspectives in relation to these points. These points were therefore not accepted.

In general there was significant support for much of the proposal. The key area identified by the submitters related to the extent of conservation covenant CC1 and whether or not a portion of this covenanted area should be incorporated into CA1.

Generic issues:

The only generic issue arising from the submissions related to the nature of protection provided by CC1. Aspects around this related to the monitoring proposal and also whether or not parts of the area should be restored to full Crown ownership and control. Single submitters made some comment in relation to additional public access.

Gaps identified in the proposal or tenure review process:

No specific gaps were identified.

Risks identified:

No specific risks were identified.

General trends in the submitters' comments:

As noted above the submitters were generally supportive of the proposal; however they did raise issues in relation to conservation covenant CC1 as outlined above.

I recommend approval of this analysis and recommendations



Ken Taylor
DARROCH LIMITED

Date

Peer reviewed by



David Paterson
DARROCH LIMITED

Date 22-8-2011

Approved/~~Declined~~



Commissioner of Crown Lands

Date 7/9/2011

For and on behalf of the
Commissioner of Crown Lands
and acting pursuant to
delegated authority

Appendices

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

APPENDIX 1



CROWN PASTORAL LAND ACT 1998

BOG ROY TENURE REVIEW

NOTICE OF PRELIMINARY PROPOSAL

Notice is given under Section 43 of the Crown Pastoral Land Act 1998 by the Commissioner of Crown Lands that he has put a Preliminary Proposal for tenure review to Bog Roy Station Limited as lessee of the Bog Roy Pastoral Lease.

Legal Description of land concerned:

Pastoral Lease land:

Part Run 744 situated in Benmore and Gala Survey Districts and Sections 6, 7 & 8 Block III Gala Survey District being all the land contained in Crown Interest Register OT2D/450 comprising 2860.2309 hectares more or less

General description of proposal:

- 1 100ha approximately to be designated as land to be restored to full Crown ownership and control as conservation area (under Section 35(2)(a)(i) Crown Pastoral Land Act 1998).
- 2 35ha approximately to be designated as land to be restored to Crown control as conservation area (under Section 35(2)(b)(i) Crown Pastoral Land Act 1998) subject to a qualified designation.

Qualified Designation:

(i) A concession easement to convey water in favour of Bog Roy Station Limited (under Section 36(1)(a) Crown Pastoral Land Act 1998).

(ii) Continuation in force of the easements created by Transfer 325135 and the Land Improvement Agreement registered as 843125 (under Section 36(3)(c) Crown Pastoral Land Act 1998).

- 3 2,725ha approximately to be disposed of by freehold disposal to Bog Roy Station Limited (under Section 35(3) Crown Pastoral Land Act 1998) subject to a protective mechanism and a qualified designation.

Protective Mechanism:

(i) A conservation covenant over an area of approximately 500ha (under Section 40(1)(c) and 40(2)(a) Crown Pastoral Land Act 1998).

Qualified Designation:

(ii) An easement in gross to provide for public, foot, mountain bike and horse access and conservation management access (under Section 36(3)(b) Crown Pastoral Land Act 1998).

(iii) Continuation in force of the easements created by Transfer 325135 and the Land Improvement Agreement registered as 843125 (under Section 36(3)(c) Crown Pastoral Land Act 1998).

Further information including a copy of the designations plan plus the draft concession, covenant and easement documents is available on request from the LINZ contractor at the following address:

The Manager
Darroch Limited
P O Box 27
ALEXANDRA

Phone (03) 440 - 0168
Fax (03) 448 - 9099
Email: luana.pentecost@darroch.co.nz

Inspections:

Any person wishing to inspect the lease should contact the LINZ contractor at the above address in the first instance.

It is recommended inspections occur as early as possible due to the possibility of winter weather affecting ease of access.

Submissions:

Any person or organisation may send a written submission on the above proposal to the Commissioner of Crown Lands, C/- Darroch Limited at the above address.

All submissions are being collected and held by LINZ either directly or through its agents or contractors.

Submitters should note that all written submissions may be made available, in full, by LINZ to its employees, agents and contractors, the Department of Conservation and the public generally.

Closing date of submissions:

Written submissions must be received no later than 1 August 2011.

APPENDIX 2

