

Crown Pastoral Land Tenure Review

Lease name : KINROSS

Lease number : PO 348

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 1998 (for Part 2 reviews, or Sec 88(d) for Part 3 reviews)

KINROSS TENURE REVIEW NO 12588

1. Details of lease

Lease name: Kinross
Location: State Highway 85, approx. 24 Kilometres from Palmerston.
Lessee: John Evan Caley and Katrina Joy Caley

2. Public notice of preliminary proposal

Saturday 21 May 2011

- The Press Christchurch
- Otago Daily Times Dunedin
- Southland Times Invercargill

Closing date for submissions: 18 July 2011

3. Details of submissions received

Number received by closing date: 10

Total Submissions received: 10

Cross-section of 10 groups representing conservation and recreational user groups (6), Statutory Boards (3) and one territorial authority.

Number of late submissions refused. Nil

4. ANALYSIS OF SUBMISSIONS

4.1. 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.

4.2. Analysis

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
1	The submitters support the access provisions in the proposal.	1,5,6,7,8,10	Allow	Accept

Rationale for Allow:

As the point is raised is in accordance with the object of Section 24(c)(i) CPLA which is to make easier the securing of public access to and enjoyment of reviewable land; the point is 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 formulating the designations for a substantive proposal. The point is therefore accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow
2	The submitters want a connection in the easement from point 'h' and Bells Saddle and further to Waianakarua Scenic Reserve. Submitter 5 wants this specifically written into the proposal.	1,5,10	Disallow

Rationale for Disallow:

The land between point "h" and Bells Saddle is not part of the reviewable land and therefore cannot be considered in the tenure review. The point is therefore disallowed.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
3	The submitter supports the locked gate and lambing closure provisions of the easement but consider the restrictions should only apply when lambing is occurring in the blocks adjacent to the easement.	1	Allow	Accept in part

Rationale for Allow:

One of the objects of Section 24(c)(i) of the CPLA is to make easier the securing of public access to and enjoyment of reviewable land. As the point relates to this aspect it is therefore allowed.

Rationale for Accept in part:

This point is in two parts. The first part of the point relates to the objects and matters to be taken into account in the CPLA, and the submitter makes a statement of support for aspects of the Preliminary Proposal. The point is therefore accepted for further consideration by the Commissioner in the formulation of a substantive proposal.

The second part in relation to lambing closure, also relates to the objects of the CPLA, however this aspect was widely canvassed during consultation and the point does not introduce any new information or a perspective not previously considered. This part of the point is therefore not accepted for further consideration by the Commissioner in the formulation of a substantive proposal.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
4	The submitters support the covenant conditions relating to the protection of the biodiversity and landscape values and the control of noxious weeds.	1,4,6,7	Allow	Accept

Rationale for Allow:

The point relates to the protection of the SIV's and as one of the objects of Section 24(b)(i) of the CPLA, by the creation of protective mechanisms; 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 formulating the designations for 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 want continuous public access along the crest of the Range. Additional access is required in the SW corner over to the Caithness boundary.	2, 5, 7,10	Allow	Not Accept

Rationale for Allow

Section 24(c)(i) of the CPLA is to make easier the securing of public access to and enjoyment of reviewable land. As the point relates to this aspect it is therefore allowed.

Rationale for Not Accept:

The issue of public access was widely discussed during the consultation phase and the point does not introduce any new information or a perspective not previously considered. This point is

therefore not accepted for further consideration by the Commissioner in the formulation of a substantive proposal.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
6	The submitters are concerned that the terms and conditions relating to the biodiversity covenant are too weak to protect the values. The conditions relating to stock numbers on the adjoining land are not defined.	3,6,7,8,9	Allow	Not Accept

Rationale for Allow:

Section 24(b) of the CPLA is to enable the protection of the significant inherent values(SIV's) of the reviewable land and as this point relates to the protection of the SIV's; it is therefore allowed.

Rationale for Not Accept:

There were a number of different aspects to this point by the submitters, who each took a slightly different approach in their submission. There is concern from the 5 submitters that the covenant did not specify the stock numbers that could be grazed in the areas surrounding the biodiversity covenants. There was also concern that the Minister had discretion on stocking levels. These issues were all well discussed during the consultation process.

While the point relates to the objects and matters to be taken into account in the CPLA, it does not introduce any new information or a perspective not previously considered. The point is therefore not accepted by the Commissioner for further consideration in the formulation of a Substantive Proposal.

Point	Summary of point raised	Submission numbers	Allow or disallow
7	The submitter was concerned about the gorse, broom and wilding problem and considers an effective weed control programme should be included in the covenant.	3,8	Disallow

Rationale for Disallow:

Weed control post tenure review is not a matter that can be considered under Section 24 CPLA and therefore is not a tenure review issue.

This point is therefore disallowed.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
8	The submitters would like to see public access to some or all the biodiversity covenant areas. Area 10 was mentioned by two submitters.	3,6,10	Allow	Accept

Rationale for Allow:

One of the objects of Section 24(c)(i) of the CPLA is to make easier the securing of public access to and enjoyment of reviewable land. As the point relates to this aspect it is therefore allowed.

Rationale for Accept:

Public access through the property was well discussed during consultation. The submitters however have raised the issue of access to some or all of the biodiversity areas. This point meets the objects

and matters to be taken into account in the CPLA. The point provides a perspective not previously fully considered and is therefore accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
9	The submitters support the landscape buffer covenant and the associated conditions.	3,7,10	Allow	Accept

Rationale for Allow:

One of the objects of Section 24(b) of the CPLA is to protect the significant inherent values identified on the reviewable land and the point raised by the submitter relates to the protection of the values. This 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 formulating the designations for a substantive proposal. The point is therefore accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
10	The submitter requested a more thorough historical and archaeological survey is required on the property.	4	Allow	Accept

Rationale for Allow:

One of the objects of the CPLA is to enable the protection of the significant inherent values of reviewable land. Historical values are an inherent value, and they could be viewed as significant, the point is therefore allowed.

Rationale for Accept:

A full archaeological and historic assessment has not been undertaken to determine the presence of any values. The point is accepted because it relates to the objects and matters to be taken into account in the CPLA and the point introduces new information or a perspective not previously considered.

Point	Summary of point raised	Submission numbers	Allow or disallow
11	The submitter stated that the legal road should be clearly depicted on the plan and excluded from the public access easement where the formed track and the legal road align.	5	Disallow

Rationale for Disallow:

The Commissioner is not required to deal with or identify legal roads on plans as he has no responsibility in this regard under the CPLA. The point is therefore disallowed.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
12	The submitter has requested additional access routes should be provided to the north west boundary along what we have assumed is the existing track from point 'f'.	5	Allow	Not accept

Rationale for Allow:

One of the objects of Section 24(c)(i) of the CPLA is to make easier the securing of public access to and enjoyment of reviewable land. As the point relates to this aspect it is therefore allowed.

Rationale for Not Accept:

Public access routes through the property were well canvassed during consultation. While this point meets the objects and matters to be taken into account in the CPLA, it does not introduce any new information or a perspective not previously considered and is therefore not accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
13	The submitter has requested public vehicle access be included on the easements where appropriate and that suitable car parking should be provided along the ridge line.	5	Allow	Not accept

Rationale for Allow:

One of the objects of Section 24(c)(i) of the CPLA is to make easier the securing of public access to and enjoyment of reviewable land. As the point relates to this aspect it is therefore allowed.

Rationale for Not Accept:

The issue of public vehicle access was considered during consultation. While this point meets the objects and matters to be taken into account in the CPLA, it does not introduce any new information or a perspective not previously considered and is therefore not accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow
14	The submitter seeks to have the boundary line between the legal roads and the pastoral lease clearly identified on the designations plan. (See also point 11 which relates to the positioning of the easement on the legal road line.)	5	Disallow

Rationale for Disallow:

The Commissioner is not required to deal with or identify legal roads on plans as he has no responsibility in this regard under the CPLA. The point is therefore disallowed.

Point	Summary of point raised	Submission numbers	Allow or disallow
15	The submitter would like a plan that identified the significant landscape features be included in the next phase of the process.	5	Disallow

Rationale for Disallow:

The information relating to significant inherent values (including plans) is part of the resource data considered by the Commissioner. The CPLA requires the Commissioner to prepare a plan showing the proposed designations and not the underlying resource data. The point is therefore disallowed. While not a statutory requirement, it is noted that the Commissioner does make resource data available on the LINZ web site.

Point	Summary of point raised	Submission numbers	Allow or disallow
16	The submitter seeks unobstructed public access along the marginal strips, with gates or styles added where necessary to provide for this.	5	Disallow

Rationale for Disallow:

Marginal strips are not part of the reviewable land, therefore the Commissioner has no responsibility in this regard under the CPLA. The point is therefore disallowed.

Point	Summary of point raised	Submission numbers	Allow or disallow
17	The submitter believes further investigation is needed to determine whether the formed road can/will be deemed the legal road.	5	Disallow

Rationale for Disallow:

The Commissioner is not required to deal with or identify legal roads as he has no responsibility in this regard under the CPLA. The point is therefore disallowed.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
18	The submitter would like consideration given to fencing off the areas of broom to keep sheep out when broom is seeding to prevent the spread of the seeds in the wool.	6	Allow	Accept

Rationale for Allow:

The object of Section 24(a) of the Crown Pastoral Land Act 1998 is to promote the management of reviewable land in a way that is ecologically sustainable and Section 24(b) to enable the protection of the significant inherent values identified on the reviewable land and as the point raised by the submitter questions whether these objects are being met, the point is therefore allowed.

Rationale for Accept:

The issue of grazing the broom was discussed during consultation; however the fencing of these areas was not canvassed. As the point relates to the objects and matters to be taken into account in the CPLA and the point highlights issues previously considered but articulates reasons why the submitter prefers an alternative outcome under the CPLA, it is therefore accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
19	The submitter considers there is a conflict between the conditions of the biodiversity covenant. One condition allows over sowing and top dressing and another that requires the owner not to encourage stock grazing.	6,7	Allow	Not accept

Rationale for Allow:

The object of Section 24(a) of the Crown Pastoral Land Act 1998 is to promote the management of reviewable land in a way that is ecologically sustainable and Section 24(b) to enable the protection of the significant inherent values of reviewable land and as the point raised by the submitter questions whether these objects are being met, the point is therefore allowed

Rationale for Not Accept:

The terms of the covenant were discussed at length during consultation. While this point meets the objects and matters to be taken into account in the CPLA, it does not introduce any new information or a perspective not previously considered and is therefore not accepted. The covenant specifically excludes over sowing and top dressing or any other management activities within the biodiversity areas. The section with which the submitters refer, relates to the buffer covenant surrounding the biodiversity areas.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
20	The submitters suggest covenant areas 8 and 9 be fenced and returned to Crown ownership	7,8,10	Allow	Not Accept

Rationale for Allow:

One of the objects of Section 24(b) of the Crown Pastoral Land Act 1998 is to protect the significant inherent values identified on the reviewable land and the point raised by the submitter questions whether the values are adequately protected in the proposal. This point is therefore allowed.

Rationale for Not Accept:

The designation of areas 8 and 9 were discussed at length during consultation. Crown ownership was one of the options considered. While this point meets the objects and matters to be taken into account in the CPLA, it does not introduce any new information or a perspective not previously considered and is therefore not accepted.

The point regarding fencing is covered in the covenant document. If monitoring shows stock grazing is having a detrimental impact on the values, the owner will be required to take significant steps to prevent this continuing through such measures as fencing or reducing stocking levels. The point therefore does not introduce any new information or a perspective not previously considered and is therefore not accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
21	The submitter suggests an area of previously burned tussock should be retained by the Crown either as conservation area or under a special lease.	7	Allow	Accept

Rationale for Allow:

The object of Section 24(a) of the Crown Pastoral Land Act 1998 is to promote the management of reviewable land in a way that is ecologically sustainable and Section 24(b) to enable the protection of the significant inherent values of reviewable land and as the point raised by the submitter questions whether these objects are being met, the point is therefore allowed

Rationale for Accept:

This point meets the objects and matters to be taken into account in the CPLA and introduces new information or a perspective not previously considered. It also highlights issues previously considered but articulates reasons why the submitter prefers an alternative outcome under the CPLA and is therefore accepted. The issue of a special lease has not been considered for this area.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
22	The submitter supported the boundary line between the unencumbered and covenanted areas.	8	Allow	Accept

Rationale for Allow:

Section 24(a) of the Crown Pastoral Land Act 1998 is to enable the land capable of economic use to be freed from the management constraints resulting from its tenure and Section 24(b) to enable the protection of the significant inherent values identified on the reviewable land by the creation of protective mechanisms. The point raised by the submitter relates to both these objects and therefore the point is 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 formulating the designations for a substantive proposal. The point is therefore accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
23	The submitter wants the wording in Schedule One of the covenant document to be changed from... "The Parties agree the land "should" be managed..." to read ..."shall" be managed..."	8	Allow	Accept

Rationale for Allow:

The object of Section 24(a) of the Crown Pastoral Land Act 1998 is to promote the management of reviewable land in a way that is ecologically sustainable and Section 24(b) to enable the protection of the significant inherent values of reviewable land and as the point raised by the submitter questions whether these objects are being met, the point is therefore allowed

Rationale for Accept:

The point relates to the objects and matters to be taken into account in the CPLA and highlights issues previously considered but articulates reasons why the submitter prefers an alternative outcome under the CPLA. The point is therefore accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
24	The submitters are concerned about the monitoring programme in the covenant. One suggested a more comprehensive system using plot lines.	8,9,10	Allow	Not Accept

Rationale for Allow:

The object of Section 24(a) of the Crown Pastoral Land Act 1998 is to promote the management of reviewable land in a way that is ecologically sustainable and Section 24(b) to enable the protection of the significant inherent values of reviewable land and as the point raised by the submitter questions whether these objects are being met, the point is therefore allowed

Rationale for Not Accept:

A more comprehensive monitoring programme was discussed during consultation and considered not necessary. While this point meets the objects and matters to be taken into account in the CPLA, it does not introduce any new information or a perspective not previously considered and is therefore not accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow
25	The submitter requested the results of the monitoring be made available to the Waitaki District Council to assist with the state of the environment reporting.	9,	Disallow

Rationale for Disallow:

The Commissioner is not required to deal with the monitoring of covenants post tenure review as he has no responsibility in this regard under the CPLA. The point is therefore disallowed. The use of the data collected is matter between DOC, the District Council and the land owner.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
26	The submitter strongly endorsed the use of covenants on areas 8 and 9 on the plan.	10	Allow	Accept

Rationale for Allow:

The object of Section 24(a) of the Crown Pastoral Land Act 1998 is to promote the management of reviewable land in a way that is ecologically sustainable and Section 24(b) to enable the protection of the significant inherent values of reviewable land. As the point raised by the submitter relates to these objects, 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 formulating the designations for a substantive proposal. The point is therefore accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
27	The submitters are concerned that the easement "f-g" does not finish in the correct place. Point "g" should be where the track meets the marginal strip.	8,10	Allow	Not Accept

Rationale for Allow:

One of the objects of Section 24(c)(i) of the CPLA is to make easier the securing of public access to and enjoyment of reviewable land. As the point relates to this aspect it is therefore allowed.

Rationale for Not Accept:

Public access routes through the property were well canvassed during consultation. While this point meets the objects and matters to be taken into account in the CPLA, it does not introduce any new information or a perspective not previously considered. The point is therefore not accepted. The issue raised by the submitters, has pointed to an error in the mapping rather than an omission in the proposal. The final positioning of point "g" will be confirmed during boundary marking.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
28	The submitter would like to see public walking and possibly horse access along the Waianakarua River at least to the Caithness boundary.	10	Allow	Not Accept

Rationale for Allow:

One of the objects of Section 24(c)(i) of the CPLA is to make easier the securing of public access to and enjoyment of reviewable land. As the point relates to this aspect it is therefore allowed.

Rationale for Not Accept:

Public access routes through the property were well canvassed during consultation. While this point meets the objects and matters to be taken into account in the CPLA, it does not introduce any new information or a perspective not previously considered. The point is therefore not accepted. In the analysis of this point we have assumed the submitter was referring to access within the reviewable land, rather than the River margins where access will be available along the marginal strip.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
29	The submitter is concerned the unfenced, scattered nature of the biodiversity covenants will not adequately protect the values.	10	Allow	Not Accept

Rationale for Allow:

The object of Section 24(a) of the Crown Pastoral Land Act 1998 is to promote the management of reviewable land in a way that is ecologically sustainable and Section 24(b) to enable the protection of the significant inherent values of reviewable land and as the point raised by the submitter questions whether these objects are being met, the point is therefore allowed

Rationale for Not Accept:

The inclusion of this type of covenant was the subject of wide discussion and consultation. While this point meets the objects and matters to be taken into account in the CPLA, it does not introduce any new information or a perspective not previously considered. The point is therefore not accepted.

Summary and ConclusionOverview of analysis

In analysing the 10 submissions received, 29 points were identified. Of the 10 submissions, 6 generally supported the proposal or aspects of the proposal. Of the 29 points raised, 21 were allowed for further consideration. Of the 21 that were allowed, 11 have also been accepted for consideration in total or part in the preparation of a draft substantive proposal. This was largely on the basis on the provision of new information or the submitter provided reasons why an alternative outcome should be considered, or was a statement of support for aspects of the proposal. A total of 8 points were disallowed as the matter raised was not validly-made or relevant or could be properly considered under the CPLA.

Generic Issues

The submitters were generally happy with the proposal, but some would have liked further protection of the main biodiversity areas, either through more stringent conditions in the covenant or with additional fencing, where appropriate. A number of submitters would have liked additional public access, particularly in the south west corner on the Caithness boundary. The inclusion of public vehicle access was sought by one submitter. There was also significant interest in the location of the legal road lines running through the property, more particularly the position of the existing track on the legal roads.

Gaps identified in the proposal or tenure review process

The proposal put forward represented a change to the use of covenants rather than Crown ownership to protect the values. Many submitters were concerned about the ability of the covenants to provide adequate protection, given the lack of fencing around the areas of highest significance.

Risks identified

No specific risks have been identified through the public notification process.

General trends in the submitters' comments

The common issues raised were:

- Strong support for the access provisions
- The need for further access routes.
- Support for the use of covenants.
- Some concern about the terms and conditions in the covenant.