

Crown Pastoral Land Tenure Review

Lease name : MIDDLE HILL STATION

Lease number : PM 022

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
MIDDLE HILL TENURE REVIEW NO TR273**

Details of lease

Lease name:	Middle Hill
Location:	Waipapa Road, Clarence River, Kaikoura
Lessee:	Richard Jeremy King and Julia Jane King.

Public notice of preliminary proposal

Date advertised:	19 May 2012.
Newspapers advertised in:	The Press (Christchurch). Otago Daily Times (Dunedin). The Marlborough Express (Blenheim)
Closing date for submissions:	16 July 2012.

Details of submissions received

Number received by closing date:	7.
Cross-section of groups/individuals represented by submissions:	Submissions were received from individuals, recreation groups, and conservation groups.
Number of late submissions refused/other:	1 submission was accepted by the Commissioner's delegate.
Total number of submissions:	8.

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	Allow or disallow	Accept or not accept
1	General concerns regarding public access. Submitters identify the importance of public access across the Middle Hill pastoral lease to the adjoining conservation land in the Seaward Kaikoura Ranges, and wish to confirm practicality of riverbed access to these areas.	Allow	Not Accept
Submission numbers 1,6,7			
Rationale for Allow: Section 24(c)(i) CPLA sets out the one of the objects of tenure review, to make easier the securing of public access to and enjoyment of the reviewable land. The point relates to public access within the reviewable land, therefore it is a matter for tenure review under the CPLA and is <u>allowed</u> for further consideration.			
Rationale for Not Accept: Public access issues were widely consulted on in the development of the preliminary proposal. The proposal has provided for practical public access to the proposed conservation areas. The submitters have not introduced new information nor a perspective not previously considered in the preliminary proposal, therefore the point is <u>not accepted</u> for further consideration by the Commissioner in the formulation of a Substantive Proposal.			

Point	Summary of point raised	Allow or disallow	Accept or not accept
2	Public foot access is sought up the Wharekiri or Millar Streams to access tramping opportunities on CA1. Submitter 7 notes the pastoral lease is separated from most significant streams by legal roads.	Allow	Not Accept
Submission numbers 1,7			
Rationale for Allow: Section 24(c)(i) CPLA sets out the one of the objects of tenure review, to make easier the securing of public access to and enjoyment of the reviewable land. The point relates to public access within the reviewable land, therefore it is a matter for tenure review under the CPLA and is <u>allowed</u> for further consideration.			
Rationale for Not Accept: Access to this area is possible and available from the Wharekiri and Millar Streams. Public access issues, including up the Wharekiri and Millar Streams, were widely consulted on in the development of the preliminary proposal. The proposal has therefore provided for practical public access to the proposed conservation areas. The submitters have not introduced new information, nor a perspective not previously considered in the preliminary proposal, therefore the point is <u>not accepted</u> for further consideration by the Commissioner in the formulation of a Substantive Proposal.			

Point	Summary of point raised	Allow or disallow	Accept or not accept
3	Public vehicle access sought from Waipapa Road through the station yard and farm track to Wharekiri Stream.	Allow	Not Accept
Submission numbers 1			
Rationale for Allow: Section 24(c)(i) CPLA sets out the one of the objects of tenure review, to make easier the securing of public access to and enjoyment of the reviewable land. The point relates to public access within the reviewable land, therefore it is a matter for tenure review under the CPLA and is <u>allowed</u> for further consideration.			
Rationale for Not Accept: Vehicle access to rivers has been considered during consultation and is provided for by adjacent legal road and access points. The submitter has not introduced new information and this perspective has been considered in the tenure review proposal, therefore the point is <u>not accepted</u> for further consideration by the Commissioner in the formulation of a Substantive Proposal.			

Point	Summary of point raised	Allow or disallow	Accept or Not Accept
4	The submitter is concerned the proposal does not add economic value and creates an uneconomic unit, while it currently adds value with the tourism/ hunting operation and is a productive high country unit.	Allow	Not Accept
Submission numbers 2			
Rationale for Allow: Section 24(a)(ii) CPLA sets out the one of the objects of tenure review, to enable reviewable land capable of economic use to be freed from the management constraints (direct and indirect) resulting from its tenure under reviewable instrument, therefore it is a matter for tenure review under the CPLA and is <u>allowed</u> for further consideration.			
Rationale for Not Accept: Impacts on economic uses and outcomes for the lease formed part of consultation toward a Preliminary Proposal. As the submitter has not introduced new information, and this perspective has been considered in the tenure review proposal, the point is therefore <u>not accepted</u> for further consideration by the Commissioner in the formulation of a Substantive Proposal.			

Point	Summary of point raised	Allow or disallow
5	Concerns about ongoing management of land administered by DOC, including financial concerns for DOC and the taxpayer.	Disallow
Submission numbers 2		

Rationale for Disallow:
 The management of land post tenure review is not a matter for consideration under the CPLA. The management of land by DOC and its decision making is governed by the Conservation Act. The point is therefore not validly made, not relevant to the tenure review and is disallowed.

Point	Summary of point raised	Allow or disallow	Accept or Not Accept
6	Concerns on impact of neighbouring properties tourist operations due to threats from poaching and trespass from uncontrolled public land stemming from the proposal.	Allow	Not accept

Submission numbers
 2

Rationale for Allow:
 Section 24(c)(i) CPLA sets out the one of the objects of tenure review, to make easier the securing of public access to and enjoyment of the reviewable land. The point relates to public access within the reviewable land, therefore it is a matter for tenure review under the CPLA and is allowed for further consideration.

Rationale for Not Accept:
 The proposed designations were widely consulted on in the development of the preliminary proposal. The proposal traversed the issue of the impacts of hunters accessing land proposed for Conservation Area. The submitter has not introduced new information nor a perspective not previously considered in the preliminary proposal, therefore the point is not accepted for further consideration by the Commissioner in the formulation of a Substantive Proposal.

Point	Summary of point raised	Allow or disallow
7	Submitter concerned with disposal of public assets.	Disallow

Submission numbers
 2

Rationale for Disallow:
 The point relates to wider government policy and is not specific to the reviewable land. Government policy concerned with disposal of public assets is not an object under s24 of the Crown Pastoral Land Act. The point is therefore not validly made and is therefore disallowed.

Point	Summary of point raised	Allow or disallow	Accept or not accept
8	General support for the proposal. Submitter 3 supports the access provisions and SIV's protection and submitter 6 cites CA1 as a valuable addition.	Allow	Accept

Submission numbers
 3,6

Rationale for Allow:
 The Middle Hill preliminary proposal was prepared in consideration of the objects under section

<p>24 CPLA. The submitters point indicates support for all or parts of the proposal. The point is therefore a matter for tenure review and <u>allowed</u> for further consideration.</p>
<p>Rationale for Accept: As the submitters point is a matter to be taken into account in the CPLA and provides statements of support for the Preliminary Proposal, it is <u>accepted</u> for further consideration by the Commissioner when formulating the designations for a Substantive Proposal.</p>

Point	Summary of point raised	Allow or disallow	Accept or not accept
9	The Proposal will significantly add to the recreational values and improve public access to the Seaward Kaikoura Range.	Allow	Accept
<p>Submission numbers 3,6</p>			
<p>Rationale for Allow: The Middle Hill preliminary proposal was prepared in consideration of the objects under section 24 CPLA. The submitters point indicates support for parts of the proposal. The point is therefore a matter for tenure review and <u>allowed</u> for further consideration.</p>			
<p>Rationale for Accept: As the submitters point is a matter to be taken into account in the CPLA and provides statements of support for the Preliminary Proposal, it is <u>accepted</u> for further consideration by the Commissioner when formulating the designations for a Substantive Proposal.</p>			

Point	Summary of point raised	Allow or disallow	Accept or not accept
10	Public access is sought on the DOC management and runholder access easements up Middle Hill ("a-b", "b-c", and "c-d").	Allow	Not Accept
<p>Submission numbers 3,7</p>			
<p>Rationale for Allow: Section 24(c)(i) CPLA sets out the one of the objects of tenure review, to make easier the securing of public access to and enjoyment of the reviewable land. The point relates to public access within the reviewable land, therefore it is a matter for tenure review under the CPLA and is <u>allowed</u> for further consideration.</p>			
<p>Rationale for Not Accept: Public access issues were widely consulted on in the development of the preliminary proposal, including the option of public access over the route 'a-b', 'b-c', and 'c-d'. The proposal has provided for practical public access to the proposed conservation areas. The submitters have not introduced new information nor a perspective not previously considered in the preliminary proposal, therefore the point is <u>not accepted</u> for further consideration by the Commissioner in the formulation of a Substantive Proposal.</p>			

Point	Summary of point raised	Allow or disallow
11	Current and future owners should be aware that work affecting archaeological sites is subject to the Archaeological Authority process under the Historic Places Act 1993.	Disallow
Submission numbers 4		
Rationale for Disallow: The Archaeological Authority Process is a matter for the Historic Places Act 1993 and is not a matter for tenure review and cannot be considered under the CPLA, therefore the point is <u>disallowed</u> .		

Point	Summary of point raised	Allow or disallow	Accept or not accept
12	Concerns that conflicts could arise with hunters in the concession area.	Allow	Not Accept
Submission numbers 5			
Rationale for Allow: Section 24(c)(i) CPLA sets out the one of the objects of tenure review, to make easier the securing of public access to and enjoyment of the reviewable land. The point relates to public access within the reviewable land, therefore it is a matter for tenure review under the CPLA and is <u>allowed</u> for further consideration.			
Rationale for Not Accept: Public access issues, including for hunting purposes, were widely consulted on in the development of the preliminary proposal. The proposal has provided for practical public access to the proposed conservation areas, including the proposed concession area. The submitters have not introduced new information nor a perspective not previously considered in the preliminary proposal, therefore the point is <u>not accepted</u> for further consideration by the Commissioner in the formulation of a Substantive Proposal.			

Point	Summary of point raised	Allow or disallow	Accept or not accept
13	Concern over the freehold enclave (CC2). The submitter would prefer it be leased from DOC for a reasonable term.	Allow	Not Accept
Submission numbers 5			
Rationale for Allow: The point relates to the object under section 24(b) CPLA, the protection of significant inherent values by the creation of protective mechanisms; or (preferably) by restoration of the land to full Crown ownership and control. As the point is a matter for tenure review, it is <u>allowed</u> for further consideration by the Commissioner in the formulation of a Substantive Proposal.			
Rationale for Not Accept: Extensive discussions were held on the appropriate designation for this area and parts of the			

area, including detailed discussions on the option of a Conservation Area designation, The submitter did not introduce new information or a perspective not previously considered. The point is therefore not accepted for further consideration by the Commissioner in the formulation of a Substantive Proposal.

Point	Summary of point raised	Allow or disallow	Accept or not accept
14	Submitter not aware that an easement concession provides access required for a freehold title.	Allow	Not Accept
Submission numbers			
5			
Rationale for Allow: The submitter's point relates to the objects under section 24(b) and section 36 of the CPLA, which relate to the designation of land subject to an easement concession. The point is therefore a matter for tenure review and <u>allowed</u> for further consideration.			
Rationale for Not Accept: Extensive discussions were held on the appropriate designation for this area and parts of the area. Access to the freehold has been allowed for in perpetuity by the easement concession. The submitter did not introduce new information or a perspective not previously considered. The point is therefore <u>not accepted</u> for further consideration by the Commissioner in the formulation of a Substantive Proposal.			

Point	Summary of point raised	Allow or disallow	Accept or not accept
15	Submitter recommends a monitoring programme for the grazing concession areas should be agreed at the outset and costs paid for by the concessionaire.	Allow	Not accept
Submission numbers			
5			
Rationale for Allow: The point relates to the object under section 24(b) CPLA, the protection of significant inherent values by the creation of protective mechanisms; or (preferably) by restoration of the land to full Crown ownership and control. As the point is a matter for tenure review, it is <u>allowed</u> for further consideration by the Commissioner in the formulation of a Substantive Proposal.			
Rationale for Not Accept: Extensive discussions were held on the appropriate designation for this area and parts of the area. Monitoring and costs are set out in the Grazing Concession document. The submitter did not introduce new information or a perspective not previously considered. The point is therefore <u>not accepted</u> for further consideration by the Commissioner in the formulation of a Substantive Proposal.			

Point	Summary of point raised	Allow or disallow	Accept or not accept
16	The submitter is concerned that time periods for the hunting and grazing concessions need to have emphasized that there are no rights of renewal. The submitter indicates a concern that different personnel will be dealing with these areas in the future.	Allow	Not Accept
Submission numbers 5			
Rationale for Allow: The point relates to the object under section 24(b) CPLA, the protection of significant inherent values by the creation of protective mechanisms; or (preferably) by restoration of the land to full Crown ownership and control. As the point is a matter for tenure review, it is <u>allowed</u> for further consideration by the Commissioner in the formulation of a Substantive Proposal.			
Rationale for Not Accept: Extensive discussions were held on the appropriate designation for this area and parts of the area. Terms and conditions are outlined in the Concession documents, and no right of renewal is indicated. The submitter did not introduce new information or a perspective not previously considered. The point is therefore <u>not accepted</u> for further consideration by the Commissioner in the formulation of a Substantive Proposal.			

Point	Summary of point raised	Allow or disallow
17	Any fences which cross unformed legal road will need to include unlocked gates and appropriate notices.	Disallow
Submission numbers 7		
Rationale for Disallow: The Commissioner is not required to deal with legal roads as he has no responsibility in this regard under the CPLA. The point is therefore disallowed.		

Point	Summary of point raised	Allow or disallow
18	Any fences crossing into Crown land riverbed will have stiles with appropriate signage.	Disallow
Submission numbers 7		
Rationale for Disallow: The provision of signage and stiles is a matter for the management of the land subsequent to Tenure Review. The Commissioner has no responsibility in this regard under the CPLA. The point is therefore <u>disallowed</u> .		

Summary and Conclusion

Overview of analysis:

There were a total of 8 submitters. The submitters have raised 18 points of which 13 have been allowed, because they relate to matters that can be considered under Part 2 of the CPLA. 5 points have been disallowed because they deal with matters that cannot be considered under Part 2 of the CPLA.

Of the 13 points allowed, 2 have been accepted for further consideration by the Commissioner in the formulation of a Substantive Proposal because they were a statement of support for the proposal.

11 points were not accepted for further consideration because they did not introduce any new information, a new perspective, or new reasoning to justify reconsidering issues that had already been fully investigated and a consensus reached by all parties.

A significant majority of the submitters were interested in issues relating to public access, while a number of others were concerned that SIV's did not receive adequate protection.

Generic issues:

The accepted points fell into the following categories –

- General support for the proposal; and

Gaps identified in the proposal or tenure review process:

Issues that were identified that require further investigation include –

- No issues identified

Risks identified:

No risks have been identified at this point.

General trends in the submitters' comments:

The generic issues are listed above.

5 of the submitters' points have been disallowed because they are not matters for tenure review under the CPLA. The majority of points not able to be considered under the CPLA fell into the categories of –

- Economic matters;
- Matters relating to the Historic Places Act 1993, marginal strips and legal roads;
- Post tenure review management issues;
- Tenure review operational matters.

I recommend approval of this analysis and recommendations



Tony Sharpe
DARROCH LIMITED
Date: 16 September 2012

Noted
~~Approved/Declined~~



~~Commissioner of Crown Lands~~

Date: *20/1/13*

Appendices:

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

Appendix 1