

Crown Pastoral Land Tenure Review

Lease name: AWAKINO

Lease number: Oo 098

Analysis on 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.

December

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ANALYSIS OF PUBLIC SUBMISSIONS

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

AWAKINO (Oo098) PART 3 REVIEW

Details of lease:

Licence name: Awakino
Location: Kurow
Licensee: Awakino Station Limited

Public notice of preliminary proposal:

Date advertised:
Saturday 25th October 2008

Newspapers advertised in:
Otago Daily Times – Dunedin
The Press – Christchurch
The Southland Times – Invercargill

Closing date for submissions:
23rd December 2008

Details of submissions received

Number received by closing date:
A total of 14 submissions were received by the closing date

Cross-section of groups/individuals represented by submissions:
Submissions were received from three branches of Forest and Bird and two other individuals with conservation interests. A further seven submissions were received from recreational user groups. The remaining two submissions were received from Environment Canterbury and the holders of the current licence to occupy.

Number of late submissions refused/other:
Nil

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 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*

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 support the proposed designations	1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 14	Allow	Accept
<p>Rationale for Allow The submitters supported the proposal as meeting the objects of Part 3 CPL Act. Therefore this point is allowed.</p>				
<p>Rationale for Accept The point is a statement of support for the designations in the preliminary proposal which can be considered by the Commissioner when adopting a substantive proposal.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow
2	The submitters support/recommend the area being part of Hawkdun/Oteake Conservation Park	1, 3, 4, 6, 7, 9, 10, 12	Disallow
<p>Rationale for Disallow While the establishment of conservation parks is one of the Government's wider high country objectives, the creation of parks <i>per se</i> is not reflected in the objects of a Part 3 review under the CPL Act and therefore the point is disallowed. The support for the park concept is however noted and designation of the land as conservation area would enable DoC to incorporate the land in the park post review.</p>			

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
3	The submitters note the natural values present and in some cases refer to possible damage through continued grazing	1, 2, 4, 6, 7, 8, 9, 10, 11, 12, 14	Allow	Accept
<p>Rationale for Allow This relates to identification and the protection of SIVs as set out in Section 83 CPL Act. Therefore this point is allowed.</p>				
<p>Rationale for Accept While many of these factors have been considered during the preparation of the preliminary proposal the submitters have provided additional information relating to the specific SIVs present and the impact on these of continued grazing. This information can be considered in the adoption of the substantive proposal. The point is therefore accepted.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
4	The submitters consider the land not to be capable of ecologically sustainable pastoral use	1, 4, 6, 9, 10, 11, 14	Allow	Accept
<p>Rationale for Allow This relates to the promotion of management of the Crown land in a way that is ecologically sustainable as set out in Section 83 CPL Act. Therefore this point is allowed</p> <p>Rationale for Accept While the management of the Crown land in a manner that promotes ecological sustainability was considered during the preparation of the preliminary proposal the submitters have provided additional information relating to the ecological issues relating to ongoing pastoral use to be considered in the adoption of a substantive proposal. The point is therefore accepted.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow
5	The submitters request for public access through adjacent lands, including 4WD and/or discussion in relation to this	1, 3, 4, 7, 10, 12	Disallow
<p>Rationale for Disallow The submitters note that easy access is not available to the land. Public access is an object of Part 3 CPL Act (Section 83(c)(i)), however as the adjoining land is not part of this review this point is disallowed.</p>			

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
6	The submitters request for retention of Tin Hut for recreational use	1, 4, 7, 9, 12	Allow	Accept
<p>Rationale for Allow Public access and enjoyment of Crown land is an object of Part 3 CPL Act (Section 83(c)(i)). The current hut enhances this and is highlighted by submitters as being important to safe access. Also the Commissioner may specify improvements to remain on the land pursuant to Section 94 CPL Act. The point is therefore allowed.</p> <p>Rationale for Accept The retention of the Tin Hut for public use was not specifically considered in the preliminary proposal. This is therefore new information to be considered in the adoption of a substantive proposal.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
7	The submitter expresses concerns about informal grazing of the land post review and the effect of this on SIVs and ecological sustainability	2	Allow	Not Accept
<p>Rationale for Allow While the point does to some extent apply to post review management it also relates to the protection of SIVs and ecological sustainability. These are matters for consideration pursuant to Section 83 CPL Act. The point is therefore allowed.</p>				
<p>Rationale for Not Accept The submitter has not provided new information or a perspective not previously considered. Therefore the point is not accepted.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
8	The submitters are concerned about wilding trees and/or recommends existing trees are removed	2, 7, 9, 10, 11, 12	Allow	Not Accept
<p>Rationale for Allow While the point does to some extent apply to post review management it also relates to the protection of SIVs and ecological sustainability. These are matters for consideration pursuant to Section 83 CPL Act. The point is therefore allowed.</p>				
<p>Rationale for Not Accept The submitter has not provided new information or a perspective not previously considered. Therefore the point is not accepted.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
9	The submitters note that not grazing land will contribute to water quality within the land and downstream	2, 14	Allow	Accept
<p>Rationale for Allow Water is an attribute considered to be a SIV under the CPL Act. Protection of SIVs is a requirement under Section 83. The point is therefore allowed.</p>				
<p>Rationale for Accept Aspects relating to water quality on the subject land were not considered in the preparation of the preliminary proposal and were largely incidental to the decision on designations at that point. This is new information to be considered in the adoption of the substantive proposal, therefore the point is accepted.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
10	The submitter notes suitability of the area for tramping	3, 4, 10	Allow	Accept
<p>Rationale for Allow Recreation is an attribute considered to be an SIV under the CPL Act. Both protection of SIVs and public enjoyment are objects of a Part 3 CPL Act review, therefore this point is allowed.</p> <p>Rationale for Accept The information provided by the submitters in relation to the suitability of the area for tramping is additional information that was not available in the preparation of the preliminary proposal. The point is therefore accepted for consideration in the adoption of the substantive proposal.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
11	The submitters note suitability of the area for recreational hunting	1, 3, 4, 10	Allow	Accept
<p>Rationale for Allow Recreation is an attribute considered to be an SIV under the CPL Act. Both protection of SIVs and public enjoyment are objects of a Part 3 CPL Act review, therefore this point is allowed</p> <p>Rationale for Accept The information relating to the suitability of the area for recreational hunting was not available during the development of the preliminary proposal. It is therefore new information for consideration in the adoption of the substantive proposal and the point is therefore accepted.</p>				

Point	Summary of point raised	Submission numbers	Allow or disallow
12	The submitter requests that Awakino Station grazing rights over 50ha through addition to Sunny Peaks pastoral lease	5	Disallow
<p>Rationale for Disallow Inclusion of the land in a pastoral lease is not a designation available under the CPL Act, accordingly the point is disallowed.</p>			

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
13	The submitters note the relationship of the area to adjacent conservation lands and/or contribution to overall protection of values and access	6, 7, 8, 9, 10, 12, 14	Allow	Not Accept
<p>Rationale for Allow The submitters place the SIVs and recreational attributes of the subject land into context and thereby highlighting need for protection of these values. The CPL Act recognises the protection of SIVs, the provision of access and opportunity for public enjoyment as objects of</p>				

a Part 3 review. The point is therefore allowed to the extent to which it pertains to the subject land.

Rationale for Not Accept

This aspect of the SIVs and recreational attributes was fully considered in the preparation of the preliminary proposal and no new information has been provided in this regard. Therefore the point is not accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow
14	Concerns re toilet at hut	7, 12	Disallow

Rationale for Disallow

The submitters regard the current toilet as unsanitary and poorly located relative to the water supply. This is a management issue and lies outside the scope of a Part 3 review.

Point	Summary of point raised	Submission numbers	Allow or disallow
15	Requests retention of grove of trees at Tin Hut	7, 12	Disallow

Rationale for Disallow

This is a counter point to Point 8, but is much more management related. Management issues lie outside the scope of a Part 3 review

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
16	The submitter did not wish to express a view	13	Allow	Not Accept

Rationale for Allow

Public consideration of a proposal is provided for under Section 88 CPL Act. A member of the public or group is entitled not to provide a comment, therefore the point is allowed.

Rationale for Not Accept

The submitter has not provided any new information for consideration in the substantive proposal therefore the point is not accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
17	The submitter considers the proposal to promote the protection of fish habitat in particular rainbow trout spawning areas.	14	Allow	Accept

Rationale for Allow

Habitat protection relates to the protection of SIVs (fish species). In the CPL Act this is not limited to indigenous species. Therefore the point is allowed.

Rationale for Accept

Specific information relating to the protection of fish habitat was not considered in the preparation of the preliminary proposal. This is therefore new information to be considered in the development of the substantive proposal and the point is therefore accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow
18	The submitter notes that the property covered by existing Land Improvement Agreement.	14	Disallow

Rationale for Disallow

While this is a point of interest and can affect an interest in the land, land improvement agreements are created pursuant to the Soil Conservation and Rivers Control Act and are not a matter for consideration under the CPL Act, therefore the point is disallowed.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
19	The submitters refer to matters of access within the Crown land area subject to this review.	3, 7, 12	Allow	Not Accept

Rationale for Allow

Public access and enjoyment of Crown land is an object of Part 3 CPL Act (Section 83(c)(i)). The point is therefore allowed.

Rationale for Not Accept

Access within the Crown land area was considered during the preparation of the preliminary proposal. No new information has been provided by the submitters therefore the point is not accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow
20	The submitter requests that Awakino Station retain the Tin Hut and associated land through addition to Sunny Peaks pastoral lease	5	Disallow

Rationale for Disallow

Inclusion of the land in a pastoral lease is not a designation available under the CPL Act. The point is therefore disallowed.

Summary and Conclusion**Overview of analysis**

Thirteen of the points raised by submitters were identified as relevant matters under Part 3 Crown Pastoral Land Act.

Full support for the designations as proposed was expressed by many of the submitters. A submission from the holders requests ongoing occupation of a small portion of the land for grazing and retention of a station hut.

This review is being undertaken in accordance with Part 3 of the Crown Pastoral Land Act and the matters to be taken into account are clearly set out in the Act. Foremost amongst those is that on the expiry of the licence, the land becomes unoccupied Crown land and thus remains in full Crown ownership and control. The decisions whether to '**allow**' or '**disallow**' the points raised are therefore made within this context.

In considering whether to accept or not accept the points allowed, the key determinant was the extent of new information provided. The eight points accepted provided new information to be considered when adopting a substantive proposal. The five points not accepted have been noted as they still provide information to future land manager.

Seven of the points raised relate to matters outside the statutory framework of the review and have therefore been disallowed. It is however noted that while these points have been disallowed in the context of the Part 3 Review, they provide significant information that is relevant for consideration by land managers following completion of the review.

It is noted that at least two of the submitters were under the false impression that the land had been surrendered as part of a review of a pastoral lease. In this case the surrender was a voluntary surrender from a renewable lease in exchange for other benefits.

Generic issues

No generic issues relating to Part 3 reviews were identified.

Gaps identified in the proposal or tenure review process

No gaps identified in the submissions received. The information leading to accept decisions largely related to additional information on existing matters.

Risks identified

No risks were identified

General trends in the submitters' comments

The submitters' were generally in support of the designations as outlined in the preliminary proposal and provided new information to strengthen the information base relating to these. The holders have raised the issue of the Tin Hut which is a mustering hut used in association with their adjacent Sunny Peaks holding and have requested an area that the hut be retained in their ownership with an associated area of land.

A list of submitters is attached as Appendix 3.

I recommend approval of this analysis and recommendations



K R TAYLOR
Darroch Limited

Date 08/12/10

Peer reviewed by



Darroch Limited

Date 8.12.10.

Approved/~~Declined~~



Commissioner of Crown Lands

Date 20.12.2010.

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

Appendices

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

Appendix 3: List of Submitters

Number:	Submitter:
1	New Zealand Deer Stalkers Association Inc.
2	Geoff Clark
3	Public Access New Zealand Ltd
4	Council of Outdoor Recreation Associations of NZ Inc.
5	Awakino Station Limited
6	Federated Mountain Clubs of New Zealand Inc
7	Secretary, Central Otago Recreational Users Forum
8	Alan Mark
9	Forest & Bird, Dunedin Branch
10	Forest & Bird, Upper Clutha Branch
11	Forest & Bird, Southern Office
12	New Zealand Four Wheel Drive Association Inc
13	North Otago Tramping & Mountaineering Club
14	Environment Canterbury