

Crown Pastoral Land Tenure Review

Lease name : Ben Avon

Lease number : Po 251

Report on public submissions

This document includes information on the public submissions received in response to an advertisement for submissions on the tenure review preliminary proposal. The analysis determines if an issue is accepted or not accepted as meeting the objectives of part 2 of the Crown Pastoral Land Act (CPLA) 1998, and if further consideration and consultation should be allowed or disallowed, as per Section 45 CPLA 1998.

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

January 02

ANALYSIS OF SUBMISSIONS
BEN AVON TENURE REVIEW

1. Details of lease:

Lease Name: Ben Avon
Location: Ahuriri Valley, Omarama
Lessee: Ben Avon Run Co. Limited

2. Public notice of preliminary proposal:

Date, publication and location advertised:

Wednesday – 13 March 2002:

- Otago Daily Times Dunedin
- The Press Christchurch
- High Country Herald Timaru

Closing date for submissions:

15 May 2002.

3. Details of submissions received:

A total of 9 submissions were received by 15 May 2002, with a further 3 submissions being received up to 20 May 2002.

4. Analysis of submissions:

4.1 Introduction:

Explanation of Analysis:

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 summarises each of the points raised along with the recorded number (*shown in Section 3*) of the submitter(s) making the point. Discussion of the point and the decision whether or not accept/not accept or allow/disallow the point follows.

The following approach has been adopted when making Decisions:

- (i) To accept/not accept:

The decision to **“accept”** the point made by submitters is on the basis that the matter raised is a relevant matter for the Commissioner of Crown Lands (CCL) to consider when making decisions in the context of the Crown Pastoral Land Act 1998 (CPL Act). Conversely, where the matter raised is not relevant in terms of the Commissioner’s consideration, the decision is to **“not accept”**.

- (ii) To allow/disallow:

Where the decision has been made to accept, a further decision has been made as to whether the point made should be **“allowed”** or **“disallowed”**. The decision has been made to **“allow”** if the point raises new information and should be considered further. Where the matter has previously been decided by the CCL, and there is not justification for further consideration then the decision is to **“disallow”**. Further justification for the decision has been made in the discussion paragraph showing the summary for each point.

4.2 *Analysis:*

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
1	The submitter notes that he is disturbed that the owner is entitled to deny, limit, or charge for access in certain circumstances. Since this is not just private land access but access to public lands it is not an acceptable provision.	1	Accept	Disallow

Discussion:

Public access is one of the objects of the CPL Act (Section 24 (c) (i)). The provision of public access is therefore a matter to considered under tenure review and the point is therefore accepted. It was difficult to ascertain the particular concern that the submitter had in this regard. On review of the Preliminary Proposal and information provided to the public it appears to apply to the conservation covenants. The purpose of these covenants was not to provide for public access as there are a large number of easements contained in the tenure review which provide for full public access to the conservation lands. The question of public access through the covenants was considered during the preparation of the Preliminary Proposal and the submitter has not provided any new information which would lead to this matter being re-visited. Therefore as public access is freely available by a network of easements, and is not appropriate to the conservation covenants the point is disallowed.

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<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
2	The submitters consider that the proposed boundary on the eastern faces of the Puke Makariri Block should be lowered to approximately 1000 metres.	2,8	Accept	Disallow

The submitters note that there are significant conservation values relating to diverse indigenous shrublands with high conservation values within the area from 1000 to 1200 metres in this vicinity. The protection of significant inherent values is a matter to be considered under tenure review (*Section 24 (b) CPL Act*). The significant inherent values in this location were recognised in the Preliminary Proposal through the creation of a conservation covenant. The proposed conservation covenant was considered an appropriate protective mechanism in this case due to difficulties of fencing between those areas which should be freeholded and those which should be protected. The landform at this point is a mixture of significant inherent values and areas capable of economic use and conservation covenants and/or concessions over conservation land are a mechanism for managing such situations. A separation of these values at 1000 metres rather than 1200 metres was more difficult, therefore the boundaries chosen reflected this outcome. As this matter has been fully considered and no new information is provided the point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
3	The submitters request the fencing of the Ben Avon Lagoon.	2,9,11,12	Not accept	

Discussion:

The Ben Avon Lagoon is currently a scenic reserve. This reserve was not included in the reviewable land forming part of this tenure review. The fencing of this reserve, while this may be desirable cannot be considered as the land lies outside the scope of the review. Therefore the point has not been accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
4	The submitters consider a 20 metre marginal strip alongside the Ahuriri River is inadequate to protect the riparian and important wetland values in this area. A riparian strip of 50 – 100 metre width is suggested.	2,6,7,8,9, 12	Accept	Disallow

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Discussion:

The protection of significant inherent values is an object of the CPL Act (*Section 24 (b)*). The submitters have identified that there may be significant inherent values outside the current 20 metre marginal strip along the Ahuriri River. Should the significant inherent values exist then protection of these should be considered under tenure review and the point is therefore accepted. The submitters refer to the area of the river downstream from the confluence with Birch Creek. This area was thoroughly investigated during the preparation of the Preliminary Proposal. Much of the land outside the 20 metre margin has previously been developed for farming purposes and the field investigation did not identify significant inherent values outside of the marginal strip. The key issue identified in this area related to the trespass of stock, especially cattle into the riverbed and wetlands on the other bank. Outside of the tenure review proposal the Department of Conservation is considering fencing of the marginal strip. There is no new information contained within these submissions that would lead to a review of the decisions previously made in this regard. The point is therefore disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Nos</i>	<i>Decision</i>	
5	The submitters oppose the freeholding of the strip of land between the Birchwood Road and the proposed conservation areas adjacent to the Ahuriri River north of the current scenic reserve.	2,6,8,9,11,12	Accept	Disallow

Discussion:

The submitters consider that the strip of land referred to contains significant inherent values. The protection of such values is an object of the CPL Act (*Section 24 (b)*). For this reason the point has been accepted. The appropriate boundaries to the conservation land in this area were investigated thoroughly both in the Conservation Resources Report and in the preparation of the Preliminary Proposal. An initial response was that the proposed conservation area should extend to the road as a line of convenience. During the consultation phase it was identified that much of this area was already fenced some distance from the road and between the fences and the road has been developed for farming purposes. These areas therefore did not contain significant inherent values that justified restoration to the Crown. The remaining portion of this area was reviewed and a practical boundary that separated identified significant inherent values from farming values was identified. The appropriate boundaries of this area have been carefully investigated, and the submitters have not provided any new information which would lead to a review of the decisions made. The point has therefore been disallowed.

Information collected under the Official Information Act

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
6	That the land currently contained in Conservation Covenant Area 1 (<i>Puke Makariri Faces</i>) be restored to Crown ownership and/or control.	2,6,7,8,9,11,12	Accept	Allow

Discussion:

As identified by the submitters, the Conservation Resources Report and the Preliminary Proposal the area referred to does contain significant inherent values. As the protection of significant inherent values is an object of the CPL Act (*Section 24 (b)*), this aspect is considered under tenure review and the point is therefore accepted. This point is also related to the discussion previously given under Point 2. The significant inherent values of this area have previously been identified in the Conservation Resources Report and were considered in the preparation of the Preliminary Proposal. No new values have been identified by the submitters. The area referred to is a blend of land with the significant inherent values and land which contains no such values and would normally be suited to unencumbered freeholding. The terrain in this location did not allow fencing at 1200 metres or the separation of the land with relative values. The conservation covenant proposed in the Preliminary Proposal was established during consultation in recognition of the transition between the land capable of economic use and the land that has sufficiently significant inherent values that it be restored to the Crown. While 7 of the 12 submission received in relation to this review raised this particular issue, no new information is provided. The significant inherent values previously identified are to be protected by way of a protective mechanism as outlined in the Preliminary Proposal. Two of the submitters suggested a minor amendment to the covenant, should this remain in place. This amendment contains a provision not previously considered and for this reason alone the point is allowed to enable consultation on proposed amendments to the covenant.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Nos</i>	<i>Decision</i>	
7	There are a number of variations proposed in relation to Conservation Covenant Area 2 including extending the boundaries, restoring the area to full Crown ownership and control, or amending the conditions of the covenant.	2,6,7,12	Accept	Disallow

Discussion:

The Conservation Resources Report, the Preliminary Proposal and the submitters all identified significant inherent values associated with these kettle holes. One of the objects of the CPL Act is to seek the protection of significant inherent values (*Section 24 (b)*). The point raised is therefore a matter to be considered and the point is accepted. The 4 submitters raise a variety of options in relation to these kettle holes.

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These include the restoration of the area to full Crown ownership and control, restoration to Crown control subject to a grazing concession, or a covenant with stronger conditions over an enlarged area. All these alternatives were given careful consideration during the preparation of the Preliminary Proposal. This included a further visit to confirm the condition of the kettle holes and also the extent of any catchment protection required in relation to these. While the topographical maps may indicate a wider area of interest, the field inspection confirmed that the area proposed for the covenant encompassed the significant inherent values.

The nature of the vegetation also indicated that a level of grazing was compatible with protecting the significant inherent values. Where a mix of land uses is appropriate following tenure review a protective mechanism (*covenant*) appears the appropriate mechanism.

As all these factors have been considered in putting the Preliminary Proposal and the submitters provided no new information the point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Nos</i>	<i>Decision</i>	
8	The submitters provided general support for the proposal as advertised.	3,5	Accept	Disallow

Discussion:

The various matters included in the Preliminary Proposal are in accordance with the CPL Act. In particular they meet the objects as set out in Section 24. Because these are relevant matters the point is accepted. Support for the proposal as advertised is noted, however as no new information has been supplied the point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
9	A submitter request 4WD access over all suitable easements on the proposed freehold.	4	Accept	Disallow

Discussion:

The provision of public access is an object of the CPL Act (*Section 24 (c) (i)*). As such the point is accepted. The full range of access opportunities were considered at some length in preparing the Preliminary Proposal for this review. This included consideration of 4WD access. Due to the impact of vehicles on the tracks and disturbance to other activities 4WD access was limited to an easement between the Birchwood Road and the Ahuriri River adjacent to Birch Stream. The submitter has not provided any new information therefore the point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
10	That an easement in the vicinity of the Avon Burn Stream should lie equally within both Longslip and Ben Avon Pastoral Leases.	5,10	Not accept	

Discussion:

The submitter in this case was concerned because he is aware that a proposed easement adjacent to the Avon Burn Stream is entirely within the Longslip Pastoral Lease. The suggestion is that the easement should be equally shared between the two leases. As the Longslip Pastoral Lease is not part of this tenure review, the point is not accepted. If the point had been accepted then the matter of access on the Ben Avon side of the boundary has previously been considered during consultation and this was not considered to be a practical route. The point would have been disallowed on this basis.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
11	That boundary adjustments between Ben Avon Station and Longslip Station should be completed so that the legal boundaries lie on the existing fences. The point also identifies sections of the existing fences that are not on the legal boundaries.	5	Not accept	

Discussion:

The Commissioner of Crown Lands does not guarantee that fences lie on the boundaries of pastoral leases. There is a separate provision under the Crown Pastoral Land Act for boundary adjustments where both holders request this. This is not a matter to be considered under tenure review. The point is therefore not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
12	The submitter asks that all tenure review reports make a serious attempt at assessing the native invertebrate values of these large pastoral leases.	6	Accept	Disallow

Discussion:

The submitter notes that the Department of Conservation Resources Report does not cover invertebrates and is therefore fundamentally flawed. He believes that this is a serious omission and weakens the conservation case. The invertebrate fauna could be classified as an inherent value of ecological significance and therefore an object of the Crown Pastoral Land Act would be to seek protection of such values (*Section 24 (b)*).

The point has therefore been accepted. The Conservation Resources Report does not have any specific information on invertebrate fauna. This fauna would have nonetheless been a component of the ecosystems considered during the preparation of the Preliminary Proposal. Given that most indigenous vegetation areas are to be restored to the Crown in various ways, it is highly likely that areas of significant invertebrate fauna will be protected. The submitter also did not provide any specific information about invertebrate fauna and therefore no new information has been made available for consideration. The point is therefore disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Nos</i>	<i>Decision</i>	
13	The submitter has suggested that the public information in relation to tenure reviews not include statements or arguments about the viability of farmland left following tenure review.	6	Accept	Disallow

Discussion:

The management of all land in a way that is ecologically sustainable is an object of the Crown Pastoral Land Act (*Section 24 (a) (i)*). Subject to this provision an object is also 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 (*Section 24 (a) (ii)*). As these are appropriate considerations for the Commissioner the point is accepted. The Preliminary Proposal included consideration of those matters that the Commissioner is required to consider under the object of Part 2 of Crown Pastoral Land Act. The material released for public information is of a general nature and it appears that the submitter objected to the comment that a portion of the proposed freehold was "valuable summer country". While this may be the loose wording, and subjective statement it does contribute to the overall dialogue. The submitter has not provided any new information in relation to this aspect therefore the point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
14	There is concern that the unfenced boundary between the points marked H-I on Diagram B of the Preliminary Proposal will not prevent stock trespass into the neighbouring conservation land, therefore this boundary should be fenced.	7,11	Not accept	

Discussion:

The Commissioner is not required to fence the boundaries between freehold and conservation lands. This is a management issue which the Commissioner has in most cases decided undertake. The Commissioner also does not guarantee that fences lie on the boundaries. The point is therefore not accepted. As a comment on this aspect this fenceline was investigated during the consultation phase and no practical fenceline could be identified.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
15	That various boundaries in the vicinity of the Ahuriri River be securely fenced sufficiently far from the river to provide practical public access, and that the boundary above Birch Creek be on the existing boundary between "improved" pasture and the wetlands.	7	Not accept	

Discussion:

As in relation to the previous point the Commissioner is not required to fence boundaries, nor does he guarantee that the fences lie on the boundaries. For this reason the point is not accepted. Coincidentally the proposed fencing in the vicinity of the Ahuriri River would generally comply with the points raised in this submission.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Nos</i>	<i>Decision</i>	
16	That access to the Ahuriri River in the vicinity of Birch Creek should be on the true left and that there is a discrepancy between Map 1 and Diagram A.	7	Accept	Allow

Discussion:

The provision of public access is a matter for the Commissioner to consider (*Section 24 (c) (i) CPL Act*). As this is a matter to be considered the point is accepted. The intent in the Preliminary Proposal is that this access follow the true left is therefore consistent with the request in the submission. A review of the Designations Plan and associated diagrams does confirm that there is confusion as to the location of this easement. The point is therefore allowed to the extent that the Designations Plan will need to be revised to clearly indicate the route of this easement and to enable further consultation with the parties to tenure review.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
17	That a conservation covenant should exist over all landscape values in the Ahuriri specifically relating to tracking and forestry.	9,12,	Accept	Disallow

Discussion:

Landscape is a component of the inherent values as identified in the Crown Pastoral Land Act. Portions of this property contain significant inherent values related to landscape.

The protection of significant inherent values is a matter for the Commissioner to consider (*Section 24 (b) CPL Act*). The point is therefore accepted. The Preliminary Proposal for tenure review on this property incorporates those areas of significant landscape that were identified in the Conservation Resources Report. The land containing these significant inherent values is either to be restored to full Crown ownership and control or protected by a conservation covenant. The submitters have not provided any new information in relation to the significance of the landscape therefore the point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
18	That there should be additional access to the Ahuriri River between current easements e-f (<i>Longslip boundary</i>) and i-j (<i>Birch Stream</i>).	9	Accept	Disallow

Discussion:

The provision of public access is an object of the Crown Pastoral Land Act (*Section 24 (c) (i)*). The point is therefore accepted. The provision of public access to the Ahuriri River was carefully considered during the processes leading to the Preliminary Proposal. Various options for further access were considered including access along an existing farm track approximately halfway between the two current easements. On review it was not considered practical to provide further access to this stretch of the river. As the matter has been fully considered and the submitter provides no new information the point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Nos</i>	<i>Decision</i>	
19	Opposition to the proposal to restore the 4729 ha area to the Crown for the reasons that there is no risk analysis, there is no conservation management strategy, the land contained in this area is capable of economic use and the proposal will have on-farm impact.	10	Accept	Disallow

Discussion:

The submitter raises a number of valid concerns about the principle of ecological sustainability in relation to the proposed conservation land. The basis for this is well documented and supported. As ecological sustainability is a primary object of the CPL Act (*Section 24 (a) (i)*) the point is accepted. The Commissioner has previously considered issues of ecological sustainability in this review including those related to the conservation land. The submitter has not raised any new information in relation to this, therefore the point is disallowed.

Point	Summary of Point Raised	Sub Nos	Decision	
			Accepted under the Information Act	Decided by the Official
20	The objects of the Act can be achieved by freehold disposal of the proposed conservation area with the use of a conservation covenant to protect inherent values.	10	Accept	Disallow

Discussion:

The principles of ecological sustainability, together with the protection of significant inherent values are matters for the Commissioner to consider in a tenure review (Sections 24 (a) (i) and 24 (b) CPL Act). For this reason the point is accepted. The submitter suggests that the presence of significant inherent values is recognised, a matter which the Commissioner has previously considered in depth. Also the Crown Pastoral Land Act gives preference to restoration of such areas to Crown control, rather than the use of protective mechanisms. For these reasons, and the fact that the submitter provides no new information the point is disallowed.

Point	Summary of Point Raised	Sub Nos	Decision	
21	Full support for the proposed freehold of 3496 ha.	10	Accept	Disallow

Discussion:

Subject to meeting the object of ecological sustainability, the freeholding of reviewable land is one of the objects set out in Section 24 of the CPL Act. For this reason the point is accepted. The point raised is one of support for the proposed freehold area within the Preliminary Proposal. The submitter does not provide any new information in relation to this and therefore the point is disallowed.

Point	Summary of Point Raised	Sub Nos	Decision	
22	The submitter opposes the unrestricted access easement g-h to the Ben Avon Conservation Area. The submitter provides a number of reasons for this.	10	Accept	Disallow

Discussion:

The provision of public access is a matter for the Commissioner to consider under tenure review, as are the conditions pertaining to such access (Section 24 (c) (i) CPL Act). For this reasons the point is accepted. The submitter raises issues related to risk, climatic dangers and health and safety issues and also provides suggestions as to the management of the easement.

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These matters have previously been considered in the preparation of the proposed easement and future risks related to the use of the easement are a matter for the Department of Conservation to consider in its management role. As the submitter has not provided new information in relation to this aspect the point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
23	The submitter promotes the use of a protective mechanism over the area of 4804 ha being all the areas proposed for restoration to full Crown ownership and control.	10	Accept	Disallow

Discussion:

This point is to some extent related to Point 19 above. The protection of significant inherent values is a matter for the Commissioner to consider in a tenure review, and the use of protective mechanisms is one means of doing so (*Section 24 (b) (i) CPL Act*). As these are matters for the Commissioner to consider the point is accepted. In pursuing the objects of the Crown Pastoral Land Act the Commissioner of Crown Lands is required to seek the restoration of areas to full Crown ownership and control as a preference to the use of protective mechanisms. The Commissioner considered these aspects when preparing the Preliminary Proposal and the matter was also considered during consultation with the DGC delegate and the holder. The submitter has not provided any new information which would suggest a change of emphasis in the form of protection and therefore the point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
24	The submitter raises a number of issues in relation to marginal strips and in particular suggests the current fixed marginal strip on the Ahuriri River should be replaced with a moveable strip.	11	Not accept	

Discussion:

The creation of marginal strips is a provision of Part IV of the Conservation Act 1987 administered by the Director General of Conservation. This point is not a matter for consideration by the Commissioner of Crown Lands.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
25	That easement i-j be moveable along its length to accommodate changes in the bed of Birch Stream.	11	Accept	Allow

Discussion:

The provision of public access is a matter for the Commissioner to consider under the object of the Crown Pastoral Land Act (Section 24 (c) (i)). The point is therefore accepted. The submitter suggests that under New Zealand Law provided the start and finish points of an easement are fixed the route in between can be variable. The location of this easement was considered during consultation with the holder and the DGC delegate and the alignment proposed identified at that time. The opportunity for a moveable easement was not considered during consultation, nor has the appropriateness of such an easement been considered. The point is therefore allowed to enable investigation of these aspects.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
26	That the easement route identified as "e-f" is not a practical route as it ends at a high cliff.	11	Accept	Disallow

Discussion:

The provision of public access is object of the CPL Act (Section 24 (c) (i)). Therefore the point can be accepted. The alignment of this easement was considered during consultation with the holder and the DGC delegate during a ground inspection. Firstly it is noted that the easement does not follow the existing fence in the vicinity of the Longslip/Ben Avon boundary. The legal boundary is some distance north of this fence. The proposed easement follows the legal boundary, not the fenceline and ends on the marginal strip at a point back from the cliff. From this point public access would be available via the marginal strip to routes of easy access both north and south. The matters raised by the submitter have been fully considered previously and no new information is provided. Therefore the point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Nos</i>	<i>Decision</i>	
27	The submitter notes that a number of easements are aligned to the title to the legal boundaries of the leases concerned. The submitter further asks that these easements remain in place even if subsequent boundary adjustments between the properties occur.	11	Accept	Disallow

Discussion:

Public access is a matter for the Commissioner to consider when undertaking tenure review (Section 24 (c) (i) CPL Act). The point is therefore accepted. Discrepancies in relation the fenced boundaries versus the legal boundaries were noted during the Due Diligence phase of this tenure review.

The Commissioner does not however guarantee that fences are located on boundaries. The location of the proposed easements was considered in the context of the reviewable land under consideration. While in some cases existing tracks cross the legal boundaries the route of the easements was identified within the context of the land under review. As the proposed easements are to be provided in perpetuity then it is expected that should subsequent boundary adjustments occur between properties the easements will remain in force. In the context of this point the submitter also raise the issue that there is no direct access up the Avon Burn within this property. During consultation with the holder and the DGC delegate it was noted that there was no practical access within this lease and that it did not add to the public access opportunities. Access to the Ben Avon Conservation Area is provided for on a more direct route from the Birchwood Road. The submitter has not added to any new information for the consideration of these easements. The point is therefore disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Nos</i>	<i>Decision</i>	
28	The submitter requests that no new earth disturbance is permitted in the construction of the new fencing associated with the tenure review and recommends that if earth disturbance is unavoidable, then alternate boundaries, preferably existing fences should be utilised.	11	Accept	Disallow

Discussion:

As the point raised is in relation to landscape values which are inherent values, and in the case of this property significant inherent values then this is a matter for the Commissioner to consider in terms of Section 24 (b) CPL Act. In this case the point is therefore accepted. The location of the proposed fencelines was very carefully considered during consultation with the holder and the DGC delegate. The lines identified are those where it will be practicable to fence and where minimum earth disturbance will be required. The specifications for fencing contained in the Preliminary Proposal do not include provision for earth disturbance during construction. It is apparent that the matters raised by the submitter have been fully considered previously and therefore the point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Nos</i>	<i>Decision</i>	
29	That the marginal strip adjacent to Birch Stream be fenced.	11	Not accept	

Discussion:

There is provision for the fencing of marginal strips contained in Part IV of the Conservation Act. The fencing of marginal strips is not a matter for the Commissioner to consider under tenure review and therefore the point cannot be accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Nos</i>	<i>Decision</i>	
30	The alignment of a new fence up the spur beyond the second beeched catchment needs to be carefully chosen. The spur is very narrow at its base and ridge crest, hemmed in by beech trees, and provides the only practical access on foot. A fence up this section of ridge would create an obstacle course.	11	Not	accept

Discussion:

The Commissioner is not required to undertake fencing as part of tenure review. The Commissioner has chosen to undertake certain fencing as a component of tenure review as this may be a desirable outcome. As this is not a requirement for the Commissioner the point is not accepted. It is however noted that in this case careful attention was paid to the identification of a fenceline in this vicinity, bearing in mind that public access within the proposed conservation area would be required. The concerns of the submitter have therefore been addressed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Nos</i>	<i>Decision</i>	
31	The Preliminary Proposal highlights the need for adjacent properties with high conservation values to be dealt with together. The Conservation Resources Report noted that Ben Avon, Birchwood and Quailburn Pastoral Leases were being dealt with as one tenure review. There is no evidence of this in the Preliminary Proposal. It is disappointing they have not been dealt with together.	12	Accept	Disallow

Discussion:

The Commissioner may undertake a review of more than one reviewable lease of neighbouring land (*Section 27 CPL Act*). On the basis that a joint review may be considered the point is accepted. While there was an earlier proposal to consider Birchwood, Quailburn and Ben Avon leases as one review, the holders did not wish to proceed on this basis. The Commissioner considered this when accepting the invitation from Ben Avon and proceeded with a review of Ben Avon. As this matter has previously been considered and there is no desire by the holders to enter a joint review the point is disallowed.

Released under the Official Information Act

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Nos</i>	<i>Decision</i>	
32	Provide for the Crown to fell and/or poison the existing riverbank willows (<i>adjacent to the Ahuriri River</i>) as part of the tenure review process.	12	Not Accept	

Discussion:

The willows identified in the submission lie within the marginal strip adjacent to the Ahuriri River. This marginal strip is not included in the tenure review and therefore the point is not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Nos</i>	<i>Decision</i>	
33	That the freeholding of Area 2 being subject to a conservation covenant which prohibits the cultivation or oversowing and topdressing with exotic pasture species of any wetland areas on the valley floor including seeps, flushes and riparian margins.	12	Accept	Disallow

Discussion:

Within the Preliminary Proposal Area 2 only refers to the conservation covenant over the kettle holes. Within the context of this submission it appears that the submitter believes that Area 2 refers to all land between the Birchwood Road and the Ahuriri River. This analysis is based on that assessment. The recommendations of the submitter relates to the protection of significant inherent values which is a matter for the Commissioner to consider as part of tenure review (*Section 24 (b) CPL Act*). For this reason the point is accepted. While the topographical map indicates further areas of wetland within this portion of the lease, the Conservation Resources Report did not identify significant inherent values outside of the kettle hole and river margin areas. Much of this area has previously been developed for farming and as such the significant inherent values now lie outside the farmable area. The need for further protection within this area of the property was fully considered during the processes leading to the Preliminary Proposal and the submitter has not provided any new information. The point is therefore disallowed.

5. **Discussion and conclusions:**

While only a small number of submissions were received on this particular review, there are a large number of points raised by the submitters. Discussion relative to each of these points has been made above under each point for simplicity and clarity.

There were three key issues raised during these submissions; firstly that the proposed covenant over the kettle hole area should be extended, modified, or changed to a conservation area. Secondly that the land between the road and the proposed conservation areas north of Birch Stream should be restored to Crown control. Thirdly that the proposed conservation covenant area on the face of Puke Makariri should be restored to full Crown ownership in total or in part. There were variations around these recommendations in terms of the strength of protection required and the appropriateness of boundaries. These issues are discussed in relation to the various points through this submission. As a summary of this discussion it is noted that all the issues raised have been seriously reviewed within the Conservation Resources Report, the consultation with the holder and the DGC delegate, and in the Preliminary Proposal.

A number of other points were raised, many of which lie outside the jurisdiction of the Commissioner of Crown Lands. The repetition of some of these points is however noted. These points include some raised from within the pastoral farming community.