

Crown Pastoral Land Tenure Review

Lease name: BEN DHU

Lease number: PO 222

Preliminary report 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 CPLA. 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.

October 04

PRELIMINARY ANALYSIS OF SUBMISSIONS

BEN DHU TENURE REVIEW

1. **Details of lease:**

Lease name: Ben Dhu

Location: Quailburn Road, Omarama

Lessee: Ben Dhu Station Limited

2. **Public notice of preliminary proposal:**

Date, publication and location advertised:

Saturday 10 July 2004:

Otago Daily Times	Dunedin
The Press	Christchurch

Tuesday 13 July 2004:

High Country Herald

Closing date for submissions:

3 September 2004

3. **Details of submissions:**

A total of 11 submissions were received by the closing date. A further submission was received on 6 September 2004 and an amendment to a submission was received on 7 September 2004.

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 of the submitter(s) making the point. Discussion of the point and the decision whether or not to allow/disallow the point follows.

The following approach has been adopted when making recommendations:

- (i) To allow/disallow:

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

4.2 Analysis:

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
1	The lost grazing, resulting from the return of CA1 to full Crown ownership and control, will affect the balance of the property causing a reduction in stock numbers and impact on the financial viability of the property. This land should therefore be available for freehold disposal.	1, 3, 7, 11	Allow

Discussion:

This point is raised by several submitters promoting the view that the proposed conservation area CA1 should be included in the area proposed for freehold disposal rather than being returned to full Crown ownership and control. The freehold disposal of reviewable land is a matter for the Commissioner of Crown Lands to consider pursuant to Sections 24 (a) (ii) and 24 (c) (ii) Crown Pastoral Lands Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
2	The relative allocation of land between Crown ownership and freehold title is unacceptable and contrary to the provisions of the Crown Pastoral Lands Act.	2	Allow

Discussion:

The submitter remarks that there are conservation values within the proposed freehold area and regards this to be contrary to the provisions of the Crown Pastoral Lands Act. The Freehold disposal of land and the protection of conservation values (where they are considered significant inherent values) are matters for the Commissioner of Crown Lands to consider pursuant to Sections 24 (a) (ii), 24 (b) and 24 (c) (ii) Crown Pastoral Lands Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
3	The proposed conservation area CA1 has high conservation value and justifies being returned to full Crown ownership and control.	2, 4, 8	Allow

Discussion:

The protection of conservation values (where they are considered significant inherent values) is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (b) Crown Pastoral Lands Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
4	The proposed conservation area CA2 has high conservation values and justifies being returned to full Crown ownership and control.	2, 4, 6, 7, 11, 12	Allow

Discussion:

The protection of conservation values (where they are considered significant inherent values) is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (b) Crown Pastoral Lands Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
5	The proposed conservation area CA1 should be extended to include the area to the northern boundary of the property.	2, 4, 6, 8, 9, 12	Allow

Discussion:

The submitters note the similarity of the land proposed for conservation and that proposed for freehold on the Diadem Range faces. They consider the whole face, or at least to the ridge with spot height 1067, should be included in the proposed conservation area CA1. Several of the submitters raise potential reasons for the additional inclusion including protection of significant inherent values, ecological sustainability, soil conservation and water conservation. Ecological sustainability and protection of significant inherent values are matters for the Commissioner of Crown Lands to consider pursuant to Sections 24 (a) (i) and 24 (b) Crown Pastoral Lands Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
6	Public access the proposed conservation area CA1 is not achieved.	2, 4, 5, 6, 11	Allow

Discussion:

The submitters identify that no provision for public access exists to the proposed conservation area CA1. Public access is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (c) (i) Crown Pastoral Lands Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
7	Both the proposed easements (a-b and c-d) should be available for general public and management purposes.	2	Allow

Discussion:

Public access is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (c) (i) Crown Pastoral Lands Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
8	The wetland shown on the map in the south-eastern corner of the property should be considered for formal protection.	2, 9	Allow

Discussion:

Ecological sustainability and protection of significant inherent values are matters for the Commissioner of Crown Lands to consider pursuant to Sections 24 (a) (i) and 24 (b) Crown Pastoral Lands Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
9	Tenure review in the Omarama area is having an impact on community sustainability.	3	Disallow

Discussion:

The submitter argues that the tenure review process has resulted in the loss of several families from the Omarama area and this will impact on community sustainability. The tenure review process under the Crown Pastoral Lands Act does not require the Commissioner of Crown Lands to take into account community sustainability. Therefore this point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
10	Safety issues may arise as a result of tenure review.	3	Disallow

Discussion:

The submitter raises the concern of safety issues resulting from tenure review including rural road conditions and crime. The tenure review process under the Crown Pastoral Lands Act does not require the Commissioner of Crown Lands to take into account safety issues. Therefore this point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
11	A short term grazing lease over conservation land may be appropriate, allowing time for land development to compensate for the loss of grazing.	4	Allow

Discussion:

A grazing concession is put forward as a short term option to enable the landholder time to adjust management practices to the loss of high altitude grazing if more area is added to the proposed conservation area CA1. This point is related to the management of reviewable land in a way that is ecologically sustainable. This is a matter for the Commissioner of Crown Lands to consider pursuant to Sections 24 (a) (i) Crown Pastoral Lands Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
12	The proposed conservation area CA2 should have public foot and vehicle access at all times.	5, 6	Allow

Discussion:

Public access is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (c) (i) Crown Pastoral Lands Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
13	Both CA1 and CA2 should be fenced off and allow no grazing.	5	Allow

Discussion:

The protection of significant inherent values is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (b) Crown Pastoral Lands Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
14	Access signs and interpretation panels should all be in place within 12 months of a signed agreement.	5	Disallow

Discussion:

This is not a matter for the Commissioner of Crown Lands to take into account under the Crown Pastoral Lands Act. Therefore this point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
15	The proposed conservation area CA1 has been oversown with Maku Lotus and this is likely to smother out tussock communities if grazing is removed.	7, 11	Allow

Discussion:

The submitter raises concerns about the vegetative response to destocking the proposed conservation area CA1. Ecological sustainability and protection of significant inherent values are matters for the Commissioner of Crown Lands to consider pursuant to Sections 24 (a) (i) and 24 (b) Crown Pastoral Lands Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
16	Access to the proposed conservation area CA2 should be restricted to adjacent to the boundary with Quailburn Downs.	7	Allow

Discussion:

Public access is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (c) (i) Crown Pastoral Lands Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
17	Provided the proposed freehold area is adequately managed this area could be regarded as ecologically sustainable.	8	Allow

Discussion:

Ecological sustainability and the freehold disposal of land are matters for the Commissioner of Crown Lands to consider pursuant to Sections 24 (a) (i) and 24 (c) (ii) Crown Pastoral Lands Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
18	Public vehicle access should be provided to the proposed conservation area CA2 with permission from the owner.	8	Allow

Discussion:

Public access is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (c) (i) Crown Pastoral Lands Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
19	The proposed conservation area CA1 should be available for freehold disposal, rather than create an isolated block of Crown land, on which it will be difficult to maintain the SIVs that are relatively common elsewhere and are in harmony with the seasonal grazing.	10	Allow

Discussion:

The freehold disposal of land and protection of significant inherent values are matters for the Commissioner of Crown Lands to consider pursuant to Sections 24 (c) (ii) and 24 (b) Crown Pastoral Lands Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
20	The proposed conservation area CA1 is capable of economic use through grazing.	11	Allow

Discussion:

Economic use of reviewable land is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (a) (ii). Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
21	The proposed conservation area CA2 should be enlarged to take in the outlier stands of the same habitat.	12	Allow

Discussion:

The submitter argues that the proposed conservation area CA2 should include the outlying remnants of bog pine as one continuous area to improve the viability and ecological sustainability of the remnants. Ecological sustainability and protection of significant inherent values are matters for the Commissioner of Crown Lands to consider pursuant to Sections 24 (a) (i) and 24 (b) Crown Pastoral Lands Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
22	The proposed conservation areas do not take in the full range of land environments identified as having important ecological values in the Conservation Resources Report.	12	Allow

Discussion:

The submitter argues that several sites were identified in the conservation resources report as having important ecological values and these sites are within land environments different to those represented by the proposed conservation areas CA1 and CA2. The submitter proposes additional conservation area to include land environments not currently included in the proposed conservation areas. Ecological sustainability and protection of significant inherent values are matters for the Commissioner of Crown Lands to consider pursuant to Sections 24 (a) (i) and 24 (b) Crown Pastoral Lands Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
23	The proposal does not provide protection for the springheads and headwater wetlands and therefore the water quality and instream values of the Hen Burn and Quail Burn.	12	Allow

Discussion:

The submitter demonstrates the importance of protection for springheads and headwater wetlands for the long term protection of water quality and instream values. This is related to Point 8, but considers further wetland and spring head areas within the property and associated instream values. Ecological sustainability and protection of significant inherent values are matters for the Commissioner of Crown Lands to consider pursuant to Sections 24 (a) (i) and 24 (b) Crown Pastoral Lands Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
24	Limited grazing should be granted for six weeks of the year within the proposed conservation area CA1	5 Amendment	Allow

Discussion:

This point is put forward by the submitter to allow some recovery of the lower paddocks over the autumn. This point is related to the management of reviewable land in a way that is ecologically sustainable. This is a matter for the Commissioner of Crown Lands to consider pursuant to Sections 24 (a) (i) Crown Pastoral Lands Act. Therefore this point is allowed.

5. Discussion and conclusions:

The public submissions have raised several issues that are of importance in this review.

The first is the proposed conservation area CA1. Point 1 demonstrates the viewpoint that the proposed conservation area should be available for freehold disposal, while Point 5 demonstrates the opposing viewpoint that the proposed conservation area should be enlarged to include similar land. The effect destocking will have on the vegetative communities of CA1 is raised, while another submitter contends that the area is capable of economic use. Several submitters raise the possibility of a grazing concession over CA1.

Related to the above is the issue of public access to the proposed conservation area CA1. Several submitters have noted that no provision for public access to this area exists in the preliminary proposal.

The proposed conservation area CA2 has drawn strong support with no submissions opposing the provision. One submission suggested an enlarged area. Access to the area has however drawn several submissions. Viewpoints range from more confined access to a greater access allowance including public vehicle access.

Several related points raise the issue of additional areas that should be considered for inclusion in land to be returned to full Crown ownership and control. These areas are considered by the submitters to have conservation and water resource value.

Several points were raised that cannot be considered under the Crown Pastoral Land Act and have consequently been disallowed. These are, the impact of tenure review on the Omarama community, safety issues arising from review outcomes and implementation timelines.

The points raised by the submitters have been carefully analysed and full consideration given to them.