

## **Crown Pastoral Land Tenure Review**

**Lease name: BEN MORE**

**Lease number: PC 109**

### **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.

**August 05**

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**Report in Accordance with Contract 50346**

**Preliminary Analysis of Public Submissions for Preliminary Proposal**

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**File Ref:** CON/50000/16/12772/A-ZNO-04 **Submission No:** QVV 645 **Submission Date:** 16/6 /2004

**Office of Agent:** Christchurch **LINZ Case No:** **Date sent to LINZ:** 17/6 /2004 & 5/8/2004

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**RECOMMENDATIONS**

- (1) That the Commissioner of Crown Lands approves this report for tenure review of Pc 109 Ben More Pastoral Lease.

**Signed by Contractor:**

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Barry Dench  
Team Leader for Tenure Review

**Approved/Declined by:**

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Name:  
Date of decision: / /

**(1) Details of lease:**

**Lease Name:** Ben More  
**Location:** West Coast Road, Springfield  
**Lessee:** Ben More Graziers [1989] Limited

**(2) Public notice of preliminary proposal:**

***Date, publication and location advertised:***

3 April 2004

- The Press Christchurch
- Otago Daily Times Dunedin

***Closing date for submissions:***

31 May 2004.

**(3) Details of submissions received:**

A total of seven submissions were received, six by the closing date and one after the closing date.

**(4) Analysis of submission:**

***4.1 Introduction:***

*Explanation of Analysis:*

This is a preliminary analysis of submissions. The purpose of this preliminary analysis is to identify those issues raised which are appropriate for further consideration.

After such further consideration and appropriate consultation, a final analysis of submissions will be completed which will record the outcome of such consideration on each point and whether or not it has been approved for inclusion in the draft Substantive Proposal.

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 submission number of those submitters making that point.
- Provides a discussion of the point.
- The CCL decisions whether or not to allow/not allow for further consultation.

The decision to “**allow**” the point made by submitters is on the basis that the matter raised is a matter than can be dealt with under the Crown Pastoral Land Act 1998. Conversely, where the matter raised is not a matter that can be dealt with under the Crown Pastoral Land Act, the decision is to “**not allow**”. Those points that are ‘allowed’ will be given further consideration with respect to the proposal.

It should be noted that points relating to the Conservation Act, or any other statutory authority outside of the Crown Pastoral Land Act 1998 are not able to be considered by the Commissioner of Crown Lands.

**4.2 Analysis:**

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
1	General support for the proposal and the allocation of land for full Crown ownership and control.	Nos. 5 and 6	Allow

Two submissions were received which indicated support for the proposed allocation of land to be restored to or retained in full Crown ownership and control.

As the retention of land in full Crown ownership is enabled by the Crown Pastoral Land Act 1998 the point should be allowed so that these views can be taken into account in further consideration of the proposed designations.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
2	Support for the proposal of the freeholding of pastoral lease land.	Nos. 6	Allow

One submission was received which supported the proposal of the freeholding of pastoral lease land.

As the disposal of land is enabled by the Crown Pastoral Land Act 1998 it should be allowed so that these views can be taken into account in further consideration of the proposed designations.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
3	Provision of easements for public access and DoC management purposes	Nos. 2, 3, 4, 5, 6 and 7	Allow

Six submissions were received which related to public access easements.

Submitter 2 indicated it would be desirable if a public walking easement continued down the main spur within land for disposal back to Thirteen Mile Bush Stream, a distance of approximately 1 kilometre. This appears to apply from around 800 metre ASL to the southern boundary near Thirteen Mile Bush Stream.

Submitter 2 also indicated the provision of a small easement of about 300 metres across station land providing access to the upper reaches of Coach Stream... This appears to relate to easement “s-t”.

Submitters 3, 4 and 6 support Easement k-l, m-n, o-p and q-r for public access and DOC management purposes although Submitter 3 qualifies this support “subject to weather and track conditions”. Submission 3 requests that no signage be erected at the entrance to the main Ben More driveway off Highway 73, but erected further up the drive to lessen their concern about untoward behaviour from people while passing the farm homestead.

Submitter 5 supports marking a route similar to the existing access to ensure legal access for Thirteen Mile Bush Stream Route but this appears to relate to the proposed Thirteen Mile Bush Stream easement.

Submissions 5 and 6 supported the provision of public access Easement s-t however one of the submissions contended that the Coach Stream route was not a suitable alternative to the Macfarlane Stream access. Submitter 3 requests Easement s-t in the Coach Stream linking up DOC reserves to be closed for 7 weeks during 1 October - 20 November during lambing and calving periods.

Submitter 2 proposes a public walking easement approximately 1 kilometre long over the small saddle, from Coach Stream, just to the west of point 805 linking up with the marginal strip along MacFarlane Stream. An alternative route along a saddle with a fence line further down the highway exists if the first option is not feasible.

Submitter 4 also indicated the MacFarlane Stream route “a-h” should also be designated for public vehicular access, while Submitters 5 and 6 indicate a wish to see easement route “a-b”, “c-d” and “e-f-h” designated for public foot access.

Submitters 5 and 6 indicated that the proposed access via MacFarlane Stream is unsatisfactory in not including public access and in their opinion does not meet the requirements of section 24 (c) (i) of the Crown Pastoral Land Act. They note that the Proposed Designations Report proposed an easement along the farm access track for both public access and management purposes whereas the Preliminary Proposal reduces this to DOC management purposes access only.

Submitter 7 raises concern about the security of access to the Korowai-Torlesse Conservation Park, based on access along unformed roads adjacent to rivers, in the event that the rivers move.

As one of the objects of section 24 of the Crown Pastoral Land Act is - to make easier the securing of public access and enjoyment of reviewable land, this point should be allowed for further consultation and consideration.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
4	Spraying of gorse and land grazing	No. 1	Not allow

Submitter 1 proposes the gorse along the Ten Mile Bush Stream to be sprayed by DOC, and the land grazed by the farmer. Also along the main road.

As the neighbouring land is not within the boundary of the land being considered in this particular preliminary proposal it is not a matter that the Commissioner of Crown Land can take into consideration, rather the submitter is raising an issue covered by weed control procedures governed by other agencies.

Likewise if the gorse is within the reviewable land either proposed for retention by the Crown as conservation area or for freehold disposal it is a point related to future management of the land subsequent to the conclusion of the review but not to the objectives of the Crown Pastoral Land Act itself. It is therefore outside of the provisions of the Act.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
5	Ownership of the huts adjacent to West Coast Road	No. 2	Allow

Submitter 1 queries the ownership of the huts on the State Highway 100 metres before the climb up to Porters Pass. Who is responsible for them and do they come under review.

Although the huts are thought to be outside of the reviewable land this needs to be confirmed. This point therefore should be allowed to the extent of the need to establish the position of the huts relative to the reviewable land as part of the consultation process...

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
6	Land below CA1 to be retained in Crown ownership	No. 1	Allow

Submitter 1 proposes that the area below the proposed CA1 should also be included in land returned to the Crown, as conservation area and has identified this as the area from point “Y” following the fence line towards the Thirteen Mile Bush Stream. Over half of the fencing is deer fenced which follows the ridgeline to the river below.

The submitter maintains that CA1 should be extended to take in land with a range of inherent values. These were based on the inclusion of a whole catchment, it forms a natural extension of Thirteen Mile Bush catchment, it has the same significant inherent values as “CA1” and would form a buffer with land for disposal. The submitter notes however that this area is still an important grazing block and could be continued to be grazed for a further ten years.

One of the objects of the Crown Pastoral Land Act is to  
 (b) enable the protection of the significant inherent values of reviewable land-

- (i) By the creation of protective mechanisms; or (preferably)
- (ii) By the restoration of the land concerned to full Crown ownership and control;

- and as this submission promotes these objectives it should be allowed for further consultation and consideration.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
7	Need for conservation covenant over all of the	No. 1	Allow

	hill country		
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Submitter 1 requests the need for a conservation covenant over land coming into view from the West Coast Road. This assertion is justified by writing that “ *From the Kowai River crossing to the bottom of the pass the view to the south is to say the least, very disappointing. The lack of native vegetation, the lack of variety, the blank face of the hills compared to the contrasts of the landscape to the north. The only point of interest to the south is the limited view of Thirteen Mile Bush. In the DoC pamphlet on the Korowai/Torlesse Park in the introduction they mention the increasing panoramic view of the park as you approach Porters Pass. There is not a more important exit from Canterbury and yet a conservation covenant is not recommended*”

Covenants provide one means within the Crown Pastoral Land Act for the protection of significant inherent values. Consequently this point should be allowed for further consideration and consultation.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
8	Clarification on fencing for the Conservation Covenant.	No. 3	Allow

Submitter 3 supports the Conservation Covenant “CC” as a means of preserving the land in its natural state and was not to be fenced. Clarification is being sought whether fencing is required as implied in Covenant Deed Schedule 2/ clause 1.1.1

As this covenant provide a means within the Crown Pastoral Land Act for the protection of significant inherent values the need for fencing implied in the document itself needs to clarified. Consequently this point should be allowed for further consultation.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
9	Inclusion of CA1 land in the Freeholding	No. 3	Allow

The submitter wishes to see the proposed conservation area “CA1” included in the Ben More Freehold title, and to put the areas with significant inherent values into a DOC Covenant without fencing.

In making this suggestion the submission sets out a number of justifications including- *approximately 6,000 hectares of Ben More has already gone into the conservation estate and the remaining area is small enough for this type of country, the submitter does not believe not all of CA1 has significant inherent values with the area having*



*been oversown and topdressed and a large part is open pastoral grazing land and two other reasons citing a previous dealing with Ben More land.. Further that freehold disposal would save on surveying the boundaries.*

Two of the objects of section 24 of the Crown Pastoral Land Act relate to protection of the significant inherent values and freehold disposal the -

- (a) To-
  - (i) Promote the management of reviewable land in a way that is ecologically sustainable;
  - (ii) Subject to subparagraph (i), enable reviewable land capable of economic use to be freed from the management constraints (direct and indirect) resulting from its tenure under reviewable instrument; and
- (b) To enable the protection of the significant inherent values of reviewable land-
  - (i) By the creation of protective mechanisms; or (preferably)

As freehold disposal with a protective mechanism is one of the mechanisms provided for under the Act, this point should be allowed for further consideration and consultation.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
10	Request for farm management purposes access over adjacent DoC land	No. 3	Not allow

The submission requests vehicle and machinery access over land owned by DOC on the track leading from Highway 73 along the old Coach Road to point ‘s’, by staff and management of Ben More and from the end of the MacFarlane Stream Easement point “h” through existing conservation land looping back to Ben More freeholded land.

As the neighbouring conservation area is outside of boundary of the land being considered in this particular preliminary proposal, notwithstanding that the purpose of the point is to secure practical farm management purposes access affecting the reviewable land it is not a matter that the Commissioner of Crown Land can take into consideration, rather the submitter is should take this up with the Department of Conservation.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
11	Fencing of boundary of freeholded area with Conservation Park	No. 7	Not allow

This submission raises concern about the adequacy of fencing on the boundary with the Korowai-Torlesse Conservation Park in the event that deer are run on the adjacent area and argue that deer are a serious threat to forests and that the Park should not be used to harbour deer for trophy hunting. The submission requests that the common boundary with the Conservation Park be appropriately fenced before the review is completed.

As the point relates to future management of the land subsequent to the conclusion of the review and as such is not a matter that can be dealt with under the Crown Pastoral Land Act 1998..

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
12	Ecological sustainable management	No. 7	Not allow

The submission raises concern regarding the description of “ecological sustainable management” in one paragraph of the public information pack and notes “on page 6 of the proposal it is stated that “*ecologically sustainable management will be promoted on the area proposed for freehold disposal*”. What does this mean in terms of future agricultural use? This is vague in terms of future agricultural use, and the (name) has no basis for judgement as to whether the use will be a threat to adjacent public conservation land or not.

The full paragraph dealing with this item in the information pack reads “*Ecologically sustainable management will be promoted on the area proposed for freehold disposal to Ben More Graziers [1989] Limited by freeing the land from the management constraints as a result of its tenure as a pastoral lease and allowing a mix of land management practices that ensure ecological sustainability. The land has been farmed over a long period and can justify inputs of fertilizer and oversowing that allow the land to be more sustainable for pastoral production*”.

The submitter has raised the issue of the possible threat to adjacent conservation land from activities carried out on the freeholded area.

This is a new point but as the submitter appears to be bringing up a matter regarding future management of the land it is not a matter that can be dealt with under Crown Pastoral Land Act 1998.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
13	Public Health and Safety concerns regarding contact with deer	No. 7	Not Allow

The submission raises the issue of safety for the public while on the easements during periods when proximity to stags could be a risk and who would be responsible for meeting the cost of exclusion fences as a means of mitigating the risk. This point is made in the context of future use of the land where deer could possibly be run over a larger area than at present.

At present the easement routes do not enter deer paddocks. As the submission is raising concerns about risks should deer be run, in the future, on land that easements cross over this is a future management issue that the grantee and grantor will need to deal with. It is not an issue that exists at the moment and as such is not a matter that can be dealt with under the Crown Pastoral Land Act.

*Discussion and conclusions:*

Discussion relevant to each point has been made under each listed point for simplicity and clarity.

The submissions that come under the jurisdiction of the Crown Pastoral Land Act fall into several themes: Support for the allocation of land between the Crown and freehold disposal with a call for additional public access, support for additional land to be retained by the Crown at the south west corner of the reviewable land plus a landscape protection covenant over land in view of West Coast Road, with a contrary view where the submitter wished to see less land retained by the Crown. The latter was advocated by the present runholder.

Some of the points raised regarding public access have been taken into account in the easement documents and routes set out. One submission raised concern about the security of access should erosion from the rivers cut into the unformed roads.

Two points regarded land and structures outside of the pastoral lease boundaries and the point seeking farm management purposes access over adjacent conservation area are outside of the Commissioner of Land jurisdiction for tenure review.

One submission pointed out the possible effects of having deer run over a wider area if escapes into the adjacent forest park were to happen and secondly the need for adequate fencing to lessen the risk of escapes. This submitter also raised the issue of safety for the public while moving along easements in the presence of stags.

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**REPORT IN ACCORDANCE WITH CONTRACT 50346**

**Preliminary Analysis of Iwi Submission for Preliminary Proposal**

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File Ref: CON/50000/16/12772/00/A-ZNO-04 Submission No: QVV 648 Submission Date: 8/7/2004  
Office of Agent: Christchurch LINZ Case No: Date sent to LINZ: 9/7/2004

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**RECOMMENDATIONS**

- (1) That the Commissioner of Crown Lands **notes** the receipt of this report for the review of Ben More pastoral lease..

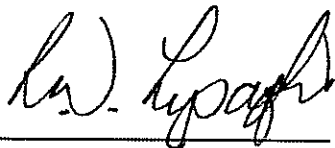
**Signed by Contractor:**



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Barry Dench  
Team Leader for Tenure Review

**Approved/Declined by:**



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Name:  
Date of decision: 12/7/04

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**(1) Details of lease:**

**Name:** Ben More

**Location:** West Coast Road, Springfield

**Legal Description:** .Section 1 SO 14996, Sections 1, 3, 4 and 5 SO 17298 & Parts Run 319 Kowai Survey District.

**Area:** 1309.7662 hectares

**(2) Details of Iwi Submission:**

**Closing date:** 31 May 2004

**Received On:** 8 July 2004

**Received From:** Takarei Norton  
Natural Resources Unit Project Co-ordinator  
Office of Te Runanga o Ngai Tahu

**On Behalf Of:** Te Runanga o Ngai Tahu and Te Ngai Tuahuriri.

**(3) Analysis of submission:**

**3.1 Introduction:**

*Explanation of Analysis:*

This is a preliminary analysis of the submission. The purpose of this preliminary analysis is to identify those issues raised which are appropriate for further consideration.

After such further consideration and appropriate consultation, a final analysis of submissions will be completed which will record the outcome of such consideration on each point and whether or not it has been approved for inclusion in the draft Substantive Proposal.

The submission has been reviewed in order to identify the points raised and these have been numbered accordingly.

The following analysis:

- Summarises each of the points raised
- Provides a discussion of the point.
- The CCL decisions whether or not to allow/not allow for further consultation.

The decision to “**allow**” the point made is on the basis that the matter raised is a matter than can be dealt with under the Crown Pastoral Land Act 1998. Conversely, where the matter raised is not a matter that can be dealt with under the Crown Pastoral Land Act, the decision is to “**not allow**”. Those points that are ‘allowed’ will be given further consideration with respect to the proposal.

It should be noted that points relating to the Conservation Act, or any other statutory authority outside of the Crown Pastoral Land Act 1998 are not able to be considered by the Commissioner of Crown Lands.

**3.2 Analysis:**

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Decision</i>
1	Seek advice whether a marginal strip would be placed on the Kowai River and if not make a request for a protective mechanism for the River	Allow

Ngia Tahu has requested protection of the Kowai River by the creation of a marginal strip and in the event of the river not meeting the criteria for a marginal strip, they seek some other form of protection mechanism. It appears from the Land Status Check that a marginal strip has been set off along part of the river frontage.

The submission provides no new information.

As one of the objects of the Crown Pastoral Lands Act 1998 is to protect the significant inherent values of Crown land this point should be accepted for the purposes of establishing if a marginal strip would apply for the full length of the river adjoining Ben More and if not to consider the merits of a protective mechanism.

***Discussion and Conclusions***

Te Runanga o Ngai Tahu has provided a submission that takes into consideration the local Maori interest in the Ben More Preliminary Proposal. One point only was raised and is discussed in detail in this analysis.