

Crown Pastoral Land Tenure Review

Lease name: BERWEN

Lease number: PO 209

Preliminary Report on Public Submissions Part 1

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.

February

06

PRELIMINARY ANALYSIS OF SUBMISSIONS

BERWEN STATION TENURE REVIEW

1. Details of lease:

Lease name: Berwen Station

Location: On Broken Hut Road, 10 kilometres southwest of Omarama

Lessee: P E Croft (*as to a 1/2 share*), S R and P E Croft (*as to a 1/2 share*)

2. Public notice of preliminary proposal:

Date, publication and location advertised:

Saturday 6 August 2005:

Otago Daily Times Dunedin

Saturday 6 August 2005:

The Press Christchurch

Tuesday 9 August 2005:

High Country Herald Timaru

Closing date for submissions:

3 October 2005

3. Details of submissions:

A total of 14 submissions were received by the closing date and a further submission was received on 7 October 2005.

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	Motorised vehicle access should be provided to CA1.	1, 2, 5, 10, 12	Allow

Discussion:

The submitters comment that although there is foot and non motorised vehicle access provided to the proposed conservation area CA1, there is no provision for motorised vehicle access. The submitters are concerned about the limit this imposes on recreational hunting and access to the proposed conservation area for many members of the public (for example disabled persons, elderly, families with young children). Public access is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (c)(i) Crown Pastoral Land Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
2	General support for preliminary proposal.	1, 3, 4, 6, 9, 10, 11, 13, 14	Allow

Discussion:

Several submitters provide general support for the proposal (subject to other points raised). This general support encompasses each of the matters for the Commissioner of Crown Lands

to consider pursuant to Section 24 Crown Pastoral Land 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 is supported.	1, 2, 6, 7, 8, 9, 13, 14, 15	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 Land 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 covenant CC2 should be part of the proposed conservation area CA1.	3, 4, 11, 13, 14, 15	Allow

Discussion:

Several submitters comment on the conservation values present within the proposed conservation covenant CC2 and promote the inclusion of this area within the proposed conservation area CA1. 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 Land Act, which includes a preference for full Crown ownership and control. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
5	Provision of access to the Hawkdun Range through CC2 is supported.	3, 6	Allow

Discussion:

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

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
6	The conservation resources report is very comprehensive.	4	Allow

Discussion:

This point relates to the reporting produced during the consultation process undertaken pursuant to Section 26 Crown Pastoral Land Act and is therefore a matter for the Commissioner of Crown Lands to consider under the Crown Pastoral Land Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
7	Public access for horses should be included along the easements.	5	Allow

Discussion:

The submitter states that the easements should include provision for horses. Public access is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (c)(i) Crown Pastoral Land Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
8	Additional easement routes should be provided (allowing for public foot, horse, non-motorised vehicle and vehicle access).	5, 10	Allow

Discussion:

The submitters regard the provision of public access within the preliminary proposal as insufficient and suggest additional easement routes (allowing for public foot, horse, non-motorised vehicle and vehicle access) for consideration. Public access is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (c)(i) Crown Pastoral Land Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
9	The proposed conservation area CA1 should be extended north along the top of the Ewe Range.	6, 7, 8, 9, 13, 14	Allow

Discussion:

The submitters consider that the proposed conservation area CA1 should be extended north along the top of the Ewe Range. They argue that there are conservation and landscape values needing protection within this area. Several of the submitters also raise concerns about ecological sustainability where the proposed freehold extends above an altitude they consider suitable for pastoral farming. Ecological sustainability 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)(i) and 24 (b) Crown Pastoral Land Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
10	The terms and conditions of the proposed conservation covenant CC1 are inadequate to protect the values.	6, 7, 8, 9, 13, 14	Allow

Discussion:

The submitters raise concerns that the terms and conditions of the proposed conservation covenant CC1 are inadequate to protect the values. The protection of conservation values (where they are considered significant inherent values) is a matter for the Commissioner to consider pursuant to Section 24 (b) Crown Pastoral Land Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
11	The proposed conservation area CA1 should be extended to include part of CC2.	6, 7, 8, 9, 14	Allow

Discussion:

The submitters argue that the proposed conservation area CA1 should be extended to include part of CC2. In particular several submitters argue that the conservation values in the Johnstons Creek catchment should be protected as part of the proposed conservation area CA1. The protection of conservation values (where they are considered significant inherent values) is a matter for the Commissioner to consider pursuant to Section 24 (b) Crown Pastoral Land Act, which includes a preference for full Crown ownership and control. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
12	The proposed easement route a-b is supported.	6, 7, 9, 14	Allow

Discussion:

The submitters support the proposed public access easement route a-b. Public access is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (c)(i) Crown Pastoral Land Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
13	The proposed conservation covenant CC1 should be restored to Crown control as a conservation area.	6, 8, 14	Allow

Discussion:

The submitters argue that the conservation values of the proposed conservation covenant CC1 warrant protection as a conservation area under Crown control. 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 Land Act, which includes a preference for full Crown ownership and control. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
14	The proposed easement concession is supported but should not be in perpetuity.	6, 8	Allow

Discussion:

The submitters support the principle of an easement concession, but argue that the easement concession should not be in perpetuity. The easement concession provides access between the two blocks of proposed freehold land. To make easier the freehold disposal of reviewable land is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (c)(ii) Crown Pastoral Land Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
15	The proposed continuation in force of the Hawkdun Idaburn Irrigation Company easement is supported.	6, 8	Allow

Discussion:

The submitters provide their support for the continuation in force of the Hawkdun Idaburn Irrigation Company easement. This relates to a registered interest in the reviewable land. Consideration of registered interests in the land is necessary to make easier the freehold disposal of reviewable land. To make easier the freehold disposal of reviewable land is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (c)(ii) Crown Pastoral Land Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
16	The proposed easement route c-d does not provide suitable public access.	6, 7, 8, 9, 14	Allow

Discussion:

The submitters argue that the proposed easement route c-d does not provide suitable public access because of the nature of the terrain. Many suggest public access should be provided along the easier route f-d (as per conservation management). Public access is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (c)(i) Crown Pastoral Land Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
17	The proposed conservation covenant CC2 is supported.	6, 9, 13	Allow

Discussion:

The submitters provide varying degrees of support for the proposed conservation covenant CC2. The protection of conservation and landscape values (where they are considered significant inherent values) is a matter for the Commissioner to consider pursuant to Section 24 (b) Crown Pastoral Land Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
18	The proposed conservation covenant CC1 should have the entire boundary fenced.	7, 8	Allow

Discussion:

The submitters argue that the fence around the proposed conservation covenant CC1 needs to be complete. This point relates to the protection of conservation values within the proposed conservation covenant. 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 Land 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 covenant CC2 should have the entire boundary fenced.	7, 8	Allow

Discussion:

The submitters argue that the fence around the proposed conservation covenant CC2 needs to be complete. This point relates to the protection of conservation values within the proposed conservation covenant. 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 Land 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 should be extended northwest down to the Little Omarama Stream valley floor.	8, 9, 14	Allow

Discussion:

The submitters feel that the conservation and landscape values between the proposed conservation covenant CC1 and proposed conservation area CA1 are sufficient to warrant this area being included in the proposed conservation area CA1. The protection of conservation and landscape values (where they are considered significant inherent values) are matters for the Commissioner of Crown Lands to consider pursuant to Section 24 (b) Crown Pastoral Land Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
21	The legal road along the western edge of the property should be formalised including its connection with existing formed roads.	8	Disallow

Discussion:

This point relates to public access provided by legal roads adjoining Berwen Station. However, legal roads are not reviewable land. Consequently this is not a matter for the Commissioner of Crown Lands to consider under the Crown Pastoral Land Act. Therefore this point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
22	The northern area of proposed freehold currently oversown and topdressed should be ecologically sustainable with careful management.	9, 13	Allow

Discussion:

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

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
23	The proposed conservation covenant CC1 is supported.	9, 13	Allow

Discussion:

The submitters support the concept of the proposed conservation covenant CC1 for the protection of conservation values. 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 Land Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
24	The conditions of CC2 do not adequately protect the values of CC2.	9, 11, 13, 14	Allow

Discussion:

The submitters raise concerns that the conditions of the proposed conservation covenant CC2 are inadequate to protect the values. The protection of conservation values (where they are considered significant inherent values) is a matter for the Commissioner to consider pursuant to Section 24 (b) Crown Pastoral Land Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
25	Preliminary proposals should not be advertised over winter early spring.	11	Allow

Discussion:

The submitter is concerned by the advertising of preliminary proposals over the winter/early spring period. The submitter argues that over this time period access is limited and the flora and fauna are not as observable. Advertising is a statutory requirement of the Commissioner of Crown Lands pursuant to Section 43 Crown Pastoral Land Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
26	Access for motorised traffic should be constructed via the route “a-g-h-f-c”.	11	Allow

Discussion:

The submitter argues that to enhance public access a route for motorised traffic should be constructed over the route a-g-h-f-c. The submitter suggests this should be a legal road. Although construction of legal roads is not a matter for the Commissioner of Crown Lands to consider under the Crown Pastoral Lands Act, public access is a matter to consider pursuant to Section 24 (c)(i) Crown Pastoral Land Act. Therefore this point is allowed to the extent of public access only.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
27	The preliminary proposal gives little focus to the effects of land use and land management on water bodies both within the lease and downstream of the lease.	13	Allow

Discussion:

The submitter argues that the above point is fundamentally important to the long-term ecologically sustainable management of the land held within the lease. Ecological sustainability is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (a)(i) Crown Pastoral Land Act. Therefore this point is allowed to the extent of the reviewable land only.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
28	Class VII land on the top of the Ewe Range should only be designated for freehold with management conditions relating to ecological sustainability.	13	Allow

Discussion:

The submitter argues that class VII land on the top of the Ewe Range should only be designated for freehold with management conditions relating to ecological sustainability. Ecological sustainability is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (a)(i) Crown Pastoral Land Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
29	Future development should be subject to minimising the impacts of nutrient and water inputs on Omarama and Little Omarama Stream.	13	Allow

Discussion:

This point relates to the ecological sustainability of several streams on the reviewable land. Ecological sustainability is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (a)(i) Crown Pastoral Land Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
30	CC1 should be extended to include adjoining shrubland to the north and link with the proposed conservation area CA1 to the south.	13	Allow

Discussion:

The submitter demonstrates that several land environments that are poorly represented in protected areas could be afforded further protection by extending the proposed conservation covenant CC1. They argue that this would also improve the viability and ecological sustainability of the habitat. The submitter also argues that extending CC1 would protect landscape values between the proposed conservation covenant CC1 and proposed conservation area CA1. The protection of conservation values (where they are considered significant inherent values) and ecological sustainability are matters for the Commissioner of Crown Lands to consider pursuant to Sections 24 (b) and 24 (a)(i) Crown Pastoral Land Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
31	The marginal strip of Omarama Stream should be fenced.	13	Disallow

Discussion:

The submitter demonstrates the relationship between land management and long-term ecological sustainability of aquatic ecosystems. The submitter believes that livestock should therefore be excluded from the margins of Omarama Stream. Although this point relates to ecological sustainability the marginal strip and river bed are not reviewable land. Therefore this is not a matter for the Commissioner of Crown Lands to consider under the Crown Pastoral Land Act. Therefore this point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
32	Marginal strips should be applied to Little Omarama Stream for the provision of public access.	13	Allow

Discussion:

The submitter suggests that provision of public access via marginal strips along Little Omarama Stream would be desirable. While marginal strips pursuant to Part IV of the Conservation Act 1987 are not a matter for the Commissioner of Crown Lands to consider, public access is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (c)(i) Crown Pastoral Land Act. Therefore this point is allowed to the extent of considering access.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
33	The provision of marginal strips along Omarama Stream is supported.	13	Disallow

Discussion:

The submitter supports the provision of marginal strips along Omarama Stream. However the marginal strip and river bed are not reviewable land. Therefore this is not a matter for the Commissioner of Crown Lands to take into account under the Crown Pastoral Land Act. Therefore this point is disallowed.

5. Discussion and conclusions:

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

Public access within the preliminary proposal has drawn many submissions. Many submitters comment on the lack of provision for vehicle access. The submitters are concerned about the limit this imposes on recreational hunting and access to the proposed conservation area for many members of the public (for example disabled persons, elderly, families with young children). The provision of access for horses is also requested. The easement route c-d has drawn criticism as not providing suitable access to the Hawkdun Range. Several submitters also suggest further easement routes.

The boundary of the proposed conservation area CA1 has also drawn many submissions. Although the proposed conservation area has drawn strong support (9 submitters) many submitters have put forward additional areas for inclusion. These include additional parts of the Manuherikia catchment, tops of the Ewe Range, and Little Omarama Stream catchment. No submitters opposed the proposed conservation area CA1.

The proposed conservation covenant (areas CC1 and CC2) has drawn much comment. Submitters have a range of views with regard to these proposed conservation covenant areas. Several submitters would like to see these covenant areas return to Crown ownership and control. Several submitters would like to see the freehold area covered by covenant in the

Manuherikia catchment reduced and the proposed conservation area enlarged. Several submitters would also like to see the terms and conditions of the proposed covenant document improved to better protect the values in both area CC1 and area CC2. The need to ensure the boundary of each covenant area is fenced was raised. One submitter would like to see the proposed conservation covenant CC1 enlarged.

Several points were raised that cannot be considered under the Crown Pastoral Land Act and have consequently been disallowed. These include points relating to legal road issues, fencing and provision of marginal strips.

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

PRELIMINARY ANALYSIS OF IWI SUBMISSION

BERWEN STATION TENURE REVIEW

1. Details of lease:

Lease name: Berwen Station

Location: On Broken Hut Road, 10 kilometres southwest of Omarama

Lessee: P E Croft (*as to a 1/2 share*), S R and P E Croft (*as to a 1/2 share*)

2. Public notice of preliminary proposal:

Date, publication and location advertised:

Saturday 6 August 2005:

Otago Daily Times Dunedin

Saturday 6 August 2005:

The Press Christchurch

Tuesday 9 August 2005:

High Country Herald Timaru

Closing date for submissions:

3 October 2005

3. Details of submission:

Land Information New Zealand advised iwi of the Preliminary Proposal for tenure review in accordance with Section 43 Crown Pastoral Land Act. A written response was received from the Office of Te Rūnanga o Ngāi Tahu on 29 September 2005. One point was raised.

4. Analysis of Submissions:

4.1 Introduction:

Explanation of Analysis:

The submission has been reviewed in order to identify the points raised and these have been numbered accordingly. Where the submitter has made similar points, these have been given the same number.

The following analysis summarises each of the points raised. 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>Decision</i>
1	The values identified in the Ngāi Tahu Cultural Values Report have been integrated into the Preliminary Proposal.	Allow

Discussion:

The Iwi submission notes that Te Rūnanga o Ngāi Tahu have considered the Berwen Station Preliminary Proposal and considers that the values identified in the Cultural Values Report have been integrated into the Preliminary Proposal. The protection of cultural values (where they are considered significant inherent values) is a matter for the Commissioner of Crown Lands to consider pursuant to Sections 24 (b) Crown Pastoral Lands Act. Therefore this point is allowed.

5. Discussion and conclusions:

The Iwi submission notes that Te Rūnanga o Ngāi Tahu have considered the Berwen Station Preliminary Proposal and considers that the values identified in the Cultural Values Report have been integrated into the Preliminary Proposal. The iwi submission confirms that cultural values identified by the Cultural Values Report have been satisfactorily integrated within the Preliminary Proposal for Berwen Station.