

Crown Pastoral Land Tenure Review

Lease name: BLAIRICH

Lease number: PM 026

Final Report on Public Submissions

This document builds on the Preliminary Report on public submissions. The analysis determines if an issue that was allowed, and further consulted on, is accepted or not accepted for inclusion in the Substantive Proposal and to what extent. The report complies with the requirements of Section 45 Crown Pastoral Land Act 1998.

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

January 08

FINAL ANALYSIS OF PUBLIC SUBMISSIONS ON
PRELIMINARY PROPOSAL FOR TENURE REVIEW


TR 095 BLAIRICH REPORT
Phase 9_2.6

File Ref: 12643; Pm 126/1 Blairich Report No: C1021 Report Date: January 2008
Contractor's Office: Christchurch LINZ Case No: TR08/39 Date sent to LINZ: 14/01 '08

RECOMMENDATIONS

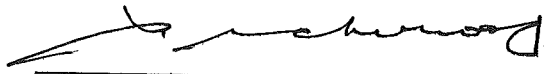
1. That the Commissioner of Crown Lands (or his delegate) **notes** that the preliminary analysis of public submissions was approved by case TR 07/45 on 12 December 2006.
2. That the Commissioner of Crown Lands (or his delegate) **notes** that the DGC's delegate has been consulted on the points allowed from the public submissions.
3. That the Commissioner of Crown Lands (or his delegate) **notes** that the Holder has been consulted on the points allowed from the public submissions.
4. That the Commissioner of Crown Lands (or his delegate) **determines** the final analysis of public submissions.
5. That the Commissioner of Crown Lands (or his delegate) **authorises** DTZ to send the final analysis to the Minister of Conservation, to complete fulfilment of section 45 of the Crown Pastoral Act 1998.
6. That the Commissioner of Crown Lands (or his delegate) **authorises** DTZ to prepare a draft of the Substantive Proposal as a result of the approved final analysis of public submissions.

Signed for DTZ New Zealand Limited:



Will Anderson

Approved/Declined (pursuant to a delegation from the Commissioner of Crown Lands) by:



Name: Dan Williams
Date of decision: 20/1/08

4 recommend approval
Rw. Lyopaki
21.1.08.

1. Background

This analysis has been carried out in accordance with Procedure 10 of the LINZ Tenure Review Process Operational Guidelines, to enable partial fulfilment of the requirements set out in section 45(a)(iii) Crown Pastoral Land Act 1998 (CPL Act).

2. Details of lease

Lease Name: Blairich

Location: Awatere Valley

Lessee: Blairich Station Limited

3. Previous Actions

The preliminary proposal was advertised on 8 July 2006. A total of 7 submissions were received, and the preliminary analysis was approved by case TR 07/45 on 12 December 2006.

Copies of the approved preliminary analysis and submissions were provided to the DGC's delegate (in partial fulfilment of section 45 CPL Act) and the Holder's agent on 14 December 2006, and consultation was initiated. DoC provided an initial written response on points allowed from the public submissions on 25 February 2007.

4. Further Consultation

A series of meetings and discussions were held with DoC representatives and the Holder's Agent, and an on-site inspection with the 3 parties was undertaken on 8 May 2007. A general consensus on the proposed outcomes was reached, subject to confirmation of special conditions on covenants, DoC being satisfied that suitable access through CA2 to 'c' could be provided from the Black Birch Stream, the precise location and extent of the car park at the start of easement 'a-b', and confirmation of the equality of exchange proposed. Subject to the equality of exchange, the Holder's representative confirmed acceptance of the last outstanding matter regarding the proposed physical outcomes on 16 August 2007.

Copies of relevant correspondence and notes relating to consultation meetings are included with Appendix 2.

4. Appendices

1. Draft final analysis of public submissions
2. Copies of correspondence and notes on consultation
3. Copy of designations plan with Preliminary Proposal
4. Copy of draft revised designations plan based on the attached draft final analysis

TR 095

FINAL ANALYSIS OF PUBLIC SUBMISSIONS

1. Introduction

Each of the submissions received has been reviewed in order to identify the points raised and these have been numbered accordingly. Where submitters have made similar points, these have been given the same number.

The following analysis summarises each of the points raised along with the recorded number of the submitter(s) making the point. The rationale for the decision whether to allow/disallow the point follows.

The decision to “**Allow**” 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 “**Disallow**”.

Consideration of, and consultation, on the allowed points has now been completed to determine which point should be accepted or not accepted for inclusion in the draft Substantive Proposal.

The criteria to “**Accept**” or to “**Not Accept**” is:

Accept

The outcome of an **Accept** decision will be that the point is included, or taken account of, in the draft Substantive Proposal. To arrive at this decision the point has been evaluated with respect to the following criteria:

- o The objects and matters to be taken into account in the Crown Pastoral Lands Act 1998 (Sections 24 and 25), and
- o The views of all parties consulted and any other matters relevant to the review, balanced against the objects and matters to be taken into account in the Crown Pastoral Lands Act 1998.

Not Accept

The outcome of a **Not Accept** decision will be that the point is not included, or taken account of, in the draft Substantive Proposal, based on consideration of the above criteria. Note that those points that were disallowed in the preliminary analysis are automatically not accepted.

The rationale for the decision to **Accept/Not Accept** is recorded after the rationale for the point being allowed / disallowed.

2. Analysis

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No.</i>	<i>Decision</i>	
1	<i>Agreement with level of proposed access.</i>	1	Allow	Accept

Rationale for allowing point 1

The level of public access is a relevant matter under section 24(c)(i) Crown Pastoral Land Act 1998 (CPL Act) and the point is therefore allowed.

Rationale for accepting point 1

The public access initially proposed has been retained, with some additional access also now proposed. This is in accord with section 24(c)(i) CPL Act.

Point	Summary of Point Raised	Sub No.	Decision	
2	Support for boundaries in terms of fencelines.	1	Allow	Accept

Rationale for allowing point 2

The proposed extent of areas to be designated in accordance with the tenure review is a relevant matter under the CPL Act and the point is therefore allowed.

Rationale for accepting point 2

Existing fence lines have been used as boundaries wherever possible (e.g. the bulk of CC1), and where they adequately define the identified significant inherent values (SIVs).

There has been a minor variation in terms of the boundary fencing of the proposed CA2 area. The north eastern boundary fence of the area has been shifted off an existing fenceline, up onto a ridgeline. This proposed variation was necessary to reach agreement to change the designation of most of the area from a proposed Conservation Covenant Area to a Conservation Area to remain in full Crown ownership. This shift in boundary has no negative effect on the identified SIV's and the proposed Conservation Area designation meets the objects of section 24 (b) (ii) of the CPL Act.

Point	Summary of Point Raised	Sub No.	Decision	
3	Support for covenants	1	Allow	Accept

Rationale for allowing point 3

Sound land management, as provided for under the terms of the covenants, is a relevant matter under section 24(a) (i) CPL Act.

Rationale for accepting point 3

The use of covenants remains an important protective mechanism to enable the protection of SIVs in this review, where they are considered acceptable. Although full Crown ownership is expressed as the preferred means of protecting SIVs in section 24(b) CPL Act, Conservation Covenants are appropriate in terms of section 24(b) (i) CPL Act.

Point	Summary of Point Raised	Sub No.	Decision	
4	Weed and pest management should be co-ordinated.	1	Disallow	

Rationale for disallowing point 4

The degree of co-ordination of weed and pest management between the owner of the proposed freehold land and the Department of Conservation (DoC), as an administering body of the covenants and land proposed for full Crown ownership and control, is not a relevant matter under the CPL Act. Therefore this point is disallowed.

The point is automatically not accepted.

Point	Summary of Point Raised	Sub No.	Decision
5	<i>Concerns regarding standard covenant terms: ownership and breaches of covenants are the responsibility of future owners and guidelines are required in regards to gifting or sale.</i>	1	Disallow

Rationale for disallowing point 5

The covenant document is a standard template developed by DoC, and its standard conditions are a DoC responsibility. However, this comment will be passed on to DoC for their information.

The point is automatically not accepted.

Point	Summary of Point Raised	Sub No.	Decision	
6	<i>Public access required from 'h' up the Omaka River, to the DoC boundary.</i>	2	Allow	Accept

Rationale for allowing point 6

The provision of access is a relevant matter under section 24(c) (i) CPL Act, therefore this point is allowed.

Rationale for accepting point 6

There is an existing legal road alongside the Omaka River from 'h' to the DoC boundary. For much of this distance an existing farm track coincides with the legal road. Where the existing farm track is within the pastoral lease boundary an easement for public access (and DoC management access) is now proposed.

This will enhance the public access arising from the review, in satisfaction of section 24(c)(i) CPL Act

Point	Summary of Point Raised	Sub No.	Decision	
7	<i>Public access required from 'h' along the farm road to the boundary at the 'Beehive hut'.</i>	2	Allow	Not Accept

Rationale for allowing point 7

The matter of public access is a relevant matter under section 24(c) (i) CPL Act and the point is therefore allowed

Rationale for not accepting point 7

There is an existing unformed legal road along the northern boundary of the pastoral lease, although this may not provide good physical access. The "boundary at the 'Beehive Hut'" is not a destination in itself, and the Beehive Hut is privately owned.

While the submitter indicates that this route would "provide public recreation access along the Blairich section of the route into the Department of Conservation land at the head of the Omaka River.." there is no formed public access from the north of Blairich into the Beehive Hut area i.e. public access on

the farm track to the area would not connect with any existing practical public access or conservation land.

The holder was strongly opposed to public access on the farm track leading to the privately owned Beehive Hut, and as there is no compelling reason to provide additional access in terms of section 24(c)(i), the point is not accepted.

Point	Summary of Point Raised	Sub No.	Decision	
8	Public access required from Awatere Valley Road to 'c'.	2	Allow	Accept

Rationale for allowing point 8

The provision of access is a relevant matter under section 24(c)(i) CPL Act, therefore this point is allowed.

Rationale for accepting point 8

Public access from the Awatere Valley road to point 'c' is essential for a linkage to be maintained with other conservation areas on the property. Access from Awatere Valley Road to point 'b' was initially proposed with access to point 'c' then up through CA2. This access is certainly physically possible without specific track construction, although DoC did intend to create a track through CA2 to make the access easier.

The access route is now proposed from point 'a' on the Awatere Valley Road, up the Black Birch Stream valley via easement to point 'b' at the boundary of CA2, and via marginal strip beyond CA2, to the adjoining Black Birch Scenic Reserve. DoC has undertaken to construct a track through the Black Birch Scenic Reserve and CA2 to point 'c', with a grade suitable for mountain bikes.

This track will provide logical and practical public access point to point 'c' and the conservation areas on the property beyond, in accordance with section 24(c)(i) CPL Act.

Point	Summary of Point Raised	Sub No.	Decision	
9	Access required from 'w' downstream to the public access easement.	2	Allow	Accept

Rationale for allowing point 9

The provision of access is a relevant matter under section 24(c)(i) CPL Act, therefore this point is allowed.

Rationale for accepting point 9

Access from 'W', the western tip of CA1, to the public easement on the track to the Omaka River is now proposed. This access provides another route off the Blairich Range, and also enables a circular trip in the western portion of the property. This additional public access is in accordance with section 24(c)(i) CPL Act.

Point	Summary of Point Raised	Sub No.s	Decision	
10	Land currently proposed to be freehold subject to a covenant should be designated as Full Crown ownership and control to protect SIVs.	2,5,6	Allow	Accept in part/ Not Accept in part

Rationale for allowing point 10

The level of protection afforded to Significant Inherent Values (SIVs) is a relevant matter under section 24(b) CPL Act, therefore the point is allowed.

Rationale for accepting/not accepting

There were two areas at the preliminary proposal stage of this review where it was proposed to designate areas of the land to be disposed of by freehold disposal, subject to a conservation covenant, CC1 and CC2.

Rationale for accepting point 10 in part

The southern slopes of Hooper Ridge above Glen Craig Stream (CC2 in the preliminary proposal) have a number of SIVs that have been identified as being desirable to protect. The area supports a diverse range of plant communities including mixed hardwood forest remnants, streamside forests, scattered shrublands and open rock plant communities. ✓

The preferred option for protecting SIVs is full Crown ownership and control, and this is now the proposed designation for the majority of the area. This designation, with no grazing, should enhance the protection of the identified SIV's.

Rationale for not accepting point 10 in part

CC2

The CC2 area encompasses part of the Blairich valley and provides the only practical stock driving access from the western end of the property to stock handling facilities at Willow Flat, and beyond to low land developed areas at the Awatere end. Extensive consultation with the holder resulted in the majority of this area being designated as full Crown ownership and control (see above).

The valley track is the logical route to take stock, but other possibilities were also considered. Unfortunately there are no other tracks in the vicinity which could fulfil the requirements, and while some thought was given to the creation of a new track on the northern slopes above the existing track, the likely cost and impact on the landscape were considered to rule out the possibility. Given that stock driving access and farm vehicle access through this area is essential for the farming operation; a practical compromise was reached to accommodate this. It is unlikely that the review would have proceeded without the holder having the right to periodically graze and use part of the area for stock and vehicle access.

The proposed conservation covenant over this area provides that the identified SIVs must not be adversely affected. In addition, the adjoining area now proposed to be designated for full Crown ownership and control provides for the protection of a representative range of such SIVs. This is considered to provide protection for the identified SIVs of this area and to meet the requirements of section 24 (b) (i) of the CPL Act.

CC1

The north western slopes of the Blairich Range have a range of SIVs that have been identified; these include diverse indigenous grassland communities and areas of sub-upper montane plant communities, with a good altitudinal sequence of plant communities. The area is popular for recreation and access, and is a very visible part of the property with important landscape values.

In seeking to protect the identified SIVs there has been extensive consultation with the holder over the proposed designation of these faces of the Blairich Range. The holder has a very strong attachment with the range as it is the source of the property name and the associated well known merino stud. The holder maintains that the SIVs identified in the area have in fact improved under the current conservative grazing management, and there is no evidence to suggest to the contrary. The lower slopes have been successfully over sown and topdressed and the pasture species introduced have been maintained by a topdressing programme.

Various designation options were considered, and the preferred option of full Crown ownership and control of the total area was promoted. This was not acceptable to the holder for the reasons above, and as the limited grazing of the block is none-the-less essential to the overall pastoral balance of the property. Some consideration was given to splitting the area altitudinally with designations, but the SIVs occur over the full altitudinal range, and the likely adverse effects on the overall landscape values resulting from any physical altitudinal separation were considered unacceptable.

Given;

- the very limited stock use of the upper altitude areas,
- the over sowing and topdressing that has been maintained on the lower slopes,
- little sign of the SIVs being diminished on the area,
- that the SIV's present in this area are also well represented in the adjoining CA1, which was extended during the initial consultation process to include more of the SIVs present on the range,

on balance a conservation covenant with limited and prescribed stocking, and a requirement to minimise any adverse effects on the identified SIVs, was considered appropriate to meet the requirements of section 24 (b) (i) CPL Act .

General

Some submitters were particularly concerned that the proposed terms of the conservation covenants failed to protect inherent values.

The special conditions have been reviewed in light of the concerns and now include provisions that;

- The owner must not adversely affect, or must manage grazing to minimise any adverse affects on, identified SIVs, and
- The Minister (of Conservation) may design and undertake a monitoring programme, to ensure the ecological integrity of the area is maintained, and to monitor any effects on conservation values.

While the initially proposed stocking levels were misinterpreted by the submitters, the maximum numbers of stock permitted to graze CC1 have been reduced so that the annual grazing pressure is reduced from 750 stock units per year, to 620 stock units per year

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No.</i>	<i>Decision</i>	
11	<i>Fenced boundaries should be determined after proper determination of areas that should be grazed or not grazed.</i>	2	Allow	Accept in part/ Not Accept in part

Rationale for allowing point 11

The determination of appropriate boundaries relates to the extent of area requiring protection, which is a relevant matter under the CPL Act, and the point is therefore allowed.

Rationale for accepting point 11 in part, and not accepting point 11 in part

The SIVs were identified where they occurred on the property.

Some SIV boundaries were largely coincident with existing fences (e.g. the Black Birch Stream faces (CA2) and the southerly slopes below Newport Knob (lower portion of CA1)). Some SIV boundaries approximated existing fence lines (e.g. Glen Craig Stream faces (CC2 & CA3), Blairich Range faces (CC1)). Other SIV boundaries bore no relation to existing fence lines (e.g. the remnant shrubland on the flats (SR)).

The final designation boundaries are the result of not only the identification of SIVs, but most significantly the outcome of negotiations with the holder, and also the pragmatic consideration of whether or not the cost of fencing to more closely accord with the SIV boundary was warranted. Areas that are not to be grazed (CA1, CA2, CA3) will be fenced to exclude stock.

Point	Summary of Point Raised	Sub No.	Decision	
12	<i>Suggested change in route from a to b.</i>	3	Allow	Accept in part/ Not Accept in part

Rationale for allowing point 12

Adequate access is a relevant matter under section 24(c)(i) CPL Act, therefore this point is allowed.

Rationale for not accepting point 12 in part

This point is similar to point 8, mirroring concern about the ease of access initially proposed through CA2 to point 'c', with the submitter suggesting a route with a "gentler grade" up a leading ridge through land designated to become freehold.

During consultation the holder was reluctant to have its farming use of the developed lower Awatere Valley country diminished or restricted. This particularly related to stock disturbance, and especially during lambing. The specific route proposed would be in direct conflict with the farming use of the area for lambing, and that part of the point is not accepted.

Rationale for accepting point 12 in part

As discussed in point 8 above, a revised route to 'c' is now to be provided up the Black Birch Stream valley. Access from 'a' to 'b' is effectively along flat ground, and the formation of a new track on the adjoining Black Birch Scenic Reserve and CA2 will be of a gentler incline than originally planned, allowing for greater ease of access for the public, including mountain biking.

The provision of access via the Black Birch Scenic Reserve is in keeping with DoC's intention to re-open public access in the Black Birch Stream, which will facilitate round trips incorporating the Blairich Range.

Point	Summary of Point Raised	Sub No.	Decision	
13	<i>If "invited guests" are allowed to access easement concession i-j then the public should be able to also.</i>	4	Allow	Accept

Rationale for allowing point 13

The level of public access is a relevant matter under section 24(c)(i) CPL Act, therefore this point is allowed.

Rationale for accepting point 13

The submitter appears to have misconstrued the situation. Easement concession 'i-j' is over an area to be designated to be restored to full Crown ownership and control as a conservation area i.e. the public has full access rights. The easement is to allow the holder to take stock and vehicles through the conservation area.

As the public already have full access rights over the concession route, the point is therefore accepted.

Point	Summary of Point Raised	Sub No.	Decision	
14	<i>Riparian areas should be protected to protect SIVs and promote ecologically sustainable management.</i>	5	Allow	Accept in part/ Not Accept in part

Rationale for allowing point 14

The protection of SIVs is a relevant matter under section 24(b) of the CPL Act, this point is allowed accordingly.

Rationale for not accepting point 14 in part

Most riparian areas associated with the property (particularly alongside the Blairich River, and the Omaka River and its tributaries), are actually legal roads, and are therefore specifically excluded from the tenure review. There are no SIVs identified in the DoC Conservation Resources Report that relate specifically to riparian areas on the pastoral lease.

Rationale for accepting point 14 in part

While there are no specific SIVs identified in the DoC Conservation Resources Report that relate to riparian areas, the recent redefining of the value of lowland ecosystems emphasises the likely significance of any 'native' ecosystems in riparian areas.

Riparian areas along part of the Black Birch Stream and part of the true left of Glen Craig Stream are proposed as Conservation Area.

The lease is subject to Part IV A of the Conservation Act 1987, and pursuant to section 24 (1), areas alongside Glen Craig Stream and part of the mid-reaches of the Blairich River will be subject to the creation of marginal strips upon freehold disposition. This will allow DoC to actively manage the areas and to ensure that any relevant values are adequately protected.

Point	Summary of Point Raised	Sub No.	Decision	
15	<i>The proposed freeholding of land will not promote ecologically sustainable management.</i>	5	Allow	Not Accept

Rationale for allowing point 15

The promotion of ecologically sustainable management is a relevant matter under section 24(a)(i) of the CPL Act, therefore this point is allowed.

Rationale for not accepting point 15

The submitter refers specifically to the proposed disposal of land as freehold, being areas CC1 and CC2. The general assertion made is that there has been no evidence or criteria that freeholding would promote ecologically sustainable management of the land concerned, and the inference appears to be that retaining the land in Crown control would automatically promote ecologically sustainable management of the land.

The objective in Section 24(a)(i) CPL Act, is to "Promote the management of reviewable land in a way that is ecologically sustainable:". The test is whether the management of the overall area currently

held under pastoral lease will be ecologically sustainable – the reviewable land is the unit to be considered.

As reasons why freeholding CC1 and CC2 would not promote ecologically sustainable management, the submitter cites: proneness to sheet and gully erosion, soil and water conservation values, slow vegetation growth rates above 800m and vulnerability to grazing, continued grazing being likely to lead to a decline in tussock growth and abundance, lack of supporting documentation that freeholding would promote ecologically sustainable management, and that oversowing and topdressing are not ecologically sustainable because it eventually destroys the current indigenous vegetation.

Tenure of itself is not a determinant of ecologically sustainable management, but different tenures may allow (or restrict) certain management practices. None of the issues cited by the submitter are in themselves evidence that freeholding would not promote ecologically sustainable management, any more than they are evidence that retention in Crown ownership would promote ecologically sustainable management. It is not correct to assume that ecologically sustainable management relates only to existing vegetation patterns, or that browsing of vegetation is ecologically unsustainable per se. There are scientifically based concerns about the ecological sustainability of continued extensive grazing of unimproved tussock grasslands, but this has very limited relevance in relation to CC1 and CC2. It can also not be assumed that the only use or management of freehold land is for the grazing of animals.

If the land was to become freehold without covenant restrictions, it could be argued that overgrazing of more sensitive areas would be possible and could have a detrimental effect on vegetation cover which may be ecologically unsustainable. This is not the case however. There are covenant restrictions on the amount of grazing on CC1 and there are provisions relating to the protection of SIVs on CC1 and CC2, which will promote the ecologically sustainable management of the areas.

Point	Summary of Point Raised	Sub No.s	Decision	
16	Public access through the Blairich River valley is inadequate.	5,6	Allow	Not Accept

Rationale for allowing point 16

Adequate access is a relevant matter under section 24(c)(i) CPL Act, therefore this point is allowed.

Rationale for not accepting point 16

While there is an unformed legal road along the northern boundary of the property, clearly from a public access perspective it would be ideal to have access along the farm track through the Blairich River valley. There are several significant obstacles which have prevented this from being achieved;

- The farm track traverses adjoining freehold land,
- There is a stock droving easement over the track in favour of the adjoining owners,
- The adjoining owners have indicated to the holder their total opposition to public access on the track,
- The track is the primary route for moving mobs of stock from one end of the property to the other, and there is no practical alternative route,
- Parts of the valley the track traverses are very narrow with rock bluffs, resulting in the visibility on the track being extremely limited.

There have been sustained efforts to find a practical mechanism to provide public access on the farm track up the valley which would minimise the significant risk of disruption to stock movement. Limited public access with a requirement to advise the landholder in advance was discussed at some length, as was an 'agreement' that public access would 'not unreasonably be withheld'.

In the end it was reluctantly accepted that because of the debatable effectiveness and practicality of such limited access arrangements, the likelihood of on-going conflict as a result and the difficulty of

on-going management of such arrangements, it was not going to be feasible to provide public access up the valley as of right. However, this acceptance was made subject to unrestricted public access from one end of the property to the other being provided in some other location.

While public access through the property has been secured in accordance with section 24(c) (i) CPL Act, it has not been possible to achieve this in the most desirable location.

Point	Summary of Point Raised	Sub No.	Decision	
17	There has been inadequate protection of lower lands, where much of Southern Marlborough's unique flora typically occurs.	6	Allow	Not Accept

Rationale for allowing point 17

If any of Southern Marlborough's unique flora is present on lowland areas on Blairich pastoral lease, they are likely to be significant inherent values. The protection of significant inherent values is a relevant matter under section 24 (b) CPL Act, therefore this point is allowed.

Rationale for not accepting point 17

Few SIVs have been identified on the lower altitude land of Blairich, principally because the vast majority of the lowlands have previously been developed for farming purposes. A small area of uncultivated stony land has been designated as a Scientific Reserve. This area contains a hardy plant community probably characteristic of the stunted shrubland (including *Melicytus alpinus*) that occupied the harsher stony flats in the lower Awatere Valley area. No areas of Southern Marlborough's unique flora such as tree brooms have been identified on the lowlands of Blairich.

While there is very limited protection proposed over the lower lands of Blairich, it is not correct to assume that the area contains examples of Southern Marlborough's unique flora or that there is inadequate protection of SIVs.

Point	Summary of Point Raised	Sub No.	Decision	
18	<i>There has been a failure to adequately assess and describe SIVs</i>	5	Allow	Not Accept

Rationale for allowing point 18

The extent to which proposed designations will protect SIVs under section 24(b) CPL Act is informed by adequate assessment and description of SIVs, therefore this point is allowed.

Rationale for not accepting point 18

The submitter states that the 2006 [sic 2001] Conservation Resources report contains 'significant gaps', only briefly describes the landscape units on the property and includes no analysis or assessment from the separate landscape report. The submitter also states that there appears to have been no wildlife, freshwater fish or invertebrate surveys, there is no threat status described for some rare plants and no discussion on the numbers and distribution of threatened species on the property.

The onus is on DoC to adequately assess and describe SIV's. DoC point out that the property has been in the tenure review process since the early 1990's, and DoC has conceded that if property were to be resurveyed that it is possible that more SIV's would be identified. However, given the period that the property has been under review and the level of protection of SIVs proposed, it has not been considered appropriate to initiate additional survey work at this late stage.

The submitter indicates that more information is needed on waterways and suggests that there has been failure to assess or investigate the values of waterways, particularly Blairich River, Glen Craig Stream and Omaka River areas. This point is closely related to point 14 above.

Most of these waterways are not part of the reviewable land, and are therefore not included in the tenure review, as they are bounded by a legal road. Only a relatively small portion of the Blairich River riparian area is part of the reviewable land, and none of the Omaka River riparian area is included in the tenure review. SIV's present in the vicinity of the Glen Craig Stream will be adequately protected by the proposed Conservation Area, covenant over freehold land or upon disposal when freehold land will be subject to Part IV A of the Conservation Act 1987 and will be designated as a marginal strip.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No.</i>	<i>Decision</i>	
19	<i>Reasons given for freeholding are inconsistent with the CPLA.</i>	5	Allow	Not Accept

Rationale for allowing point 19

The question of whether the proposed freehold designation is consistent with the CPL Act is a relevant matter, and this point is therefore allowed.

Rationale for not accepting point 19

This point is closely related to point 15 above. In this case the submitter refers specifically to reasons given for freeholding areas CC1 and CC2 as outlined in the preliminary proposal. The reasoning given for each of the areas is discussed in turn below;

CC1

In seeking to protect the identified SIVs, of which landscape is a dominant value, there has been extensive consultation with the holder over the proposed designation of these faces of the Blairich Range. The holder has a very strong attachment with the range as it the source of the property name and the associated well known merino stud. The holder maintains that the SIVs identified in the area have in fact improved under the current conservative grazing management, and there is no evidence on site to suggest to the contrary. The lower slopes have been successfully over sown and topdressed and the pasture species introduced have been maintained by a topdressing programme.

Various designation options were considered, and the preferred option of full Crown ownership and control of the total area was promoted. This was not acceptable to the holder for the reasons above, and as the limited grazing provided is none-the-less essential to the overall pastoral balance of the property. Some consideration was given to splitting the area altitudinally with designations, but the SIVs, especially landscape values, occur over the full altitudinal range. The likely adverse effects on the overall landscape values resulting from any physical altitudinal separation were considered unacceptable.

While the preferred option to protect SIVs is through restoration of the land to full Crown ownership and control (Section 24(b)(ii)) it is also possible to protect SIVs by the creation of protective mechanisms (Section 24(b)(i)).

The explanations above are not 'reasons' for freeholding, but are explanations for the holder's position which has resulted in restoration to full Crown ownership and control not being possible as part of a negotiated tenure review.

Allowing freeholding of this area subject to a Conservation Covenant has enabled this review to proceed. In light of the objectives of the CPL Act the review over the whole property results in a proposal where identified SIVs are protected, with representative areas of SIV's being restored to full Crown ownership and control. Easements and conservation areas secure public access to and enjoyment of reviewable land pursuant to section 24 (c) (i) of the CPL Act. Without the review, the protection of these SIVs and the securing of public access would not have been possible.

The freeholding of this area subject to a Conservation Covenant will better enable the economic use of the rest of the freehold land by providing strategic grazing on the lower, more modified slopes. This is pursuant to section 24 (a) (ii) of the CPLA.

CC2

It was initially reasoned that many of the SIV's identified in this area would be best protected by the area being restored to full Crown ownership and control. However, the area encompasses part of the Blairich valley and provides the only practical stock driving access from the western end of the property to stock handling facilities at Willow Flat, and beyond to low land developed areas at the Awatere end.

The valley track is the logical route to take stock, but other possibilities were also considered. Unfortunately there are no other tracks in the vicinity which could fulfil the requirements, and while some thought was given to the creation of a new track on the northern slopes above the existing track, the likely cost and impact on the landscape, were considered to rule out the possibility. Given that stock driving access and farm vehicle access through this area is essential for the farming operation, a practical compromise was reached to accommodate this. It is unlikely that the review would have proceeded without the holder having the right to periodically graze and use part of the area for stock and vehicle access.

Consideration of public submissions and further consultation with the holder has resulted in much of this area being designated as land to be restored to full Crown ownership and control as a conservation area, subject to some adjustment of boundaries. This provides for the protection of a representative range of SIVs identified in the area. The proposed conservation covenant over the balance of the area provides that the identified SIVs must not be adversely affected.

The above outcomes are consistent with the objectives of the CPL Act, and the point is therefore not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No.s</i>	<i>Decision</i>	
20	<i>Support for CA1 and CA2</i>	5,7	Allow	Accept

Rationale for allowing point 20

This statement of support, while one of submitters making the point hedges it against general opposition to the proposal, is allowed under the CPL Act.

Rationale for accepting point 20

The designation of these areas as land to be restored to full Crown ownership and control meets the objectives of section 24 (b) of the CPLA. A number of SIV's were identified in these areas and restoration to full Crown ownership and control is the preferable method to enable the protection of SIV's. As the submitters supported the proposal, no further discussion is required and the point can be accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No.</i>	<i>Decision</i>	
21	<i>High altitude, erosion-prone land should not be freeholded.</i>	6	Allow	Not Accept

Rationale for allowing point 21

The ecological sustainability of freeholding leasehold land is a relevant matter under section 24(a)(i) CPL Act, therefore the point is allowed.

Rationale for not accepting point 21

The submitter states that some of the land is high and erosion prone, for which freeholding is unsustainable. It is a similar point to part of that raised in point 15.

The Blairich Range rises to 1504m, and a portion of the upper slopes have been classified as having moderate to severe erosion (Lynn 1996, Land Use Capability of the Marlborough Region, Landcare Research Science Series No 12). However, it is noted that Lynn 1996 lists extensive grazing as a potential land use for such an area.

The tenure of the land is not of itself a determinant of ecologically sustainable management and the tenure of the land is unlikely to have any effect on the degree of erosion present on the Range. While different tenures may allow (or restrict) certain management practices, erosion proneness is not in itself evidence that freeholding would not promote ecologically sustainable management, any more than it is evidence that retention in Crown ownership would promote ecologically sustainable management.

If the land was to become freehold without covenant restrictions, it could be argued that overgrazing of more sensitive areas would be possible and could have a detrimental effect on vegetation cover which may be ecologically unsustainable. This is not the case however. There are covenant restrictions limiting the number of stock and the grazing period, designed to hold stock on the lower altitude portions of CC1. There are also provisions requiring the grazing management to minimise any adverse effects on identified SIVs, and providing that the Minister of Conservation may monitor the area and if there is deterioration in the ecological condition of the area, seek to alter the stock access conditions.

The point is therefore not accepted.

Point	Summary of Point Raised	Sub No.	Decision
22	<i>That an area of land proposed to be freehold, approximately 3 ha in size, be allowed to be purchased by the Marlborough Council for water treatment purposes.</i>	7	Disallow

Rationale for disallowing point 22

The designation of land for a council to utilise for water treatment purposes is not a matter that is provided for under either section 24 or section 25 CPL Act. The point is therefore disallowed.

The point is automatically not accepted.

3. Summary

Twenty two points were identified from the 6 submissions received, and 19 were allowed as being relevant under the provisions of the CPL Act. Twelve of these points have subsequently been accepted in whole or in part.

In summary, the outcome of consideration of and consultation on the points that have been allowed is:

Allowed point	Accepted	Not Accepted
<u>Support for proposal:</u>		
<i>Support for proposed access (point 1)</i>	Accepted	
<i>Support for boundaries in terms of fence lines (point 2)</i>	Accepted	
<i>Support for Covenants (point 3)</i>	Accepted	
<i>Support for CA1 and CA2 (point 20)</i>	Accepted	
<u>Public access:</u>		
<i>Public access required from 'h' up the Omaka River, to the DoC boundary (point 6)</i>	Accepted	
<i>Public access required from 'h' along the farm road to the boundary at the 'Beehive hut' (point 7)</i>		Not Accepted
<i>Public access required from Awatere Valley Road to 'c' (point 8)</i>	Accepted	
<i>Public access required from 'w' downstream to the public access easement (point 9)</i>	Accepted	
<i>Public access through the Blairich River valley is inadequate (point 16)</i>		Not Accepted
<i>Suggested change in route from a to b (point 12)</i>	Accepted in part	Not Accepted in part
<i>If "invited guests" are allowed to access easement concession i-j then the public should be able to also (point 13)</i>	Accepted	
<u>Protection of SIVs:</u>		
<i>Opposition to proposed covenants, and preference for that land to be designated as Full Crown ownership and control to protect SIVs (point 10)</i>	Accepted in part	Not Accepted in part
<i>Riparian areas should be protected to protect SIVs and promote ecologically sustainable management (point 14)</i>	Accepted in part	Not Accepted in part
<i>Inadequate protection of lowland areas where Southern Marlborough's unique flora typically occurs (point 17)</i>		Not Accepted
<u>Ecologically sustainable management:</u>		
<i>The proposed freeholding of land will not promote ecologically</i>		Not Accepted

<i>sustainable management (point 15)</i>		
<i>High altitude erosion prone land should not be freeholded (point 21)</i>		Not Accepted
<u>Inadequacy/paucity of information:</u>		
<i>There has been a failure to adequately assess and describe SIVs (point 18)</i>		Not Accepted
<i>Reasons given for freeholding are inconsistent with the CPL Act (point 19)</i>		Not Accepted
<u>Need for fencelines to reflect where land should be grazed or not:</u>		
<i>Fenced boundaries should be determined after proper determination of areas that should be grazed or not grazed (point 11)</i>	Accepted in part	Not Accepted in part