

Crown Pastoral Land Tenure Review

Lease name: BRAEMAR

Lease number: PT 121

Analysis of 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 Crown Pastoral Land Act. 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 09

ANALYSIS OF PUBLIC SUBMISSIONS

Pursuant to Sec 45(a)(iii) Crown Pastoral Land Act 1998

BRAEMAR TENURE REVIEW NO. 12728

(1) Details of lease:

Lease Name: Braemar
Location: Braemar Rd, Lake Pukaki
Lessee: Braemar Station Ltd

(2) Public notice of preliminary proposal:

Date, publication and location advertised:

Saturday 22nd November 2008

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

Closing date for submissions:

Thursday 12th February 2009

(3) Details of submissions received:

A total of twenty three submissions were received from Non-Government Organisations, recreation groups, pastoral leaseholders, various parties with interests over the land, regional council, and community and conservation boards. Of the submissions received six were accepted as late submissions.

(4) Analysis of submissions:

4.1 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:

1. Summarises each of the points raised along with the recorded number (shown in the appended tables) of the submitter(s) making the point.
2. Discusses each point.
3. Recommend whether or not to **allow** the point for further consideration.
4. If the point is **allowed**, recommends whether to **accept** or **not accept** the point for further consideration.

The points raised have been analysed to assess whether they are matters that are validly-made, relevant to the tenure review and can be properly considered under the Crown Pastoral Land Act 1998 (CPLA). Where it is considered that they are, the decision is to **allow** them. Further analysis is then undertaken as to whether to **accept** or **not accept** them.

Conversely where the matter raised is not a matter that is validly-made or relevant or can be properly considered under the CPLA, the decision is to **disallow**. The process stops at this point for those points disallowed.

The outcome of an **accept** decision will be that the point is considered further in the formulation of the draft SP. To arrive at this decision the point must be evaluated with respect to the following:

The objects and matters to be taken into account in the CPLA; and

Whether the point introduces new information or a perspective not previously considered; or

Where the point highlights issues previously considered but articulates reasons why the submitter prefers an alternative outcome under the CPLA; or

Is a statement of support for aspects of the Preliminary Proposal which can be considered by the Commissioner when formulating the designations for a Substantive Proposal.

How those accepted points have been considered will be the subject of a Report on Public Submissions which will be made available to the public. This will be done once the Commissioner of Crown Lands has considered all matters raised in the public submissions in formulating a Substantive Proposal.

4.2 Analysis:

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Numbers</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
1	General support for all or parts of the proposal.	No.s 2, 3, 5, 6, 7, 9, 10,12,13, 16,17,19, 20, 21,22 and 23	Allow	Accept

Sixteen submissions were received in support of all or parts of the proposal. Whilst all the submitters were generally fully supportive of Crown retention of CA1 and access to it, there were a range of associated concerns which are dealt with further on in this report. A number of the submitters were fully supportive of the freehold, while others supported only parts of the proposed freehold.

Submitter 2 considered *“the actual split proposed and the provisions for protection of landscape values on the land to be freeholded to be reasonable”* and Submitter 7 confirmed that they were *“satisfied with the PP for Braemar.”*

Submitter 6 *“wished to congratulate the lessee and Contractor for arriving at a proposal that appears to address all the objectives of part 2 CPLA 1998 for providing the ecologically and economically sustainable management of the land.”* They felt that it *“will deliver an excellent outcome for soil and water conservation”*, and *“offers protection to the full range of indigenous vegetation and habitats on Braemar Pastoral Lease”*. Further that it *“will complement the land from Mt Cook Station”* (tenure review). The submitter also *“supports the provision of protective mechanisms to retain the extensive and intact nature of the landscape values across the areas proposed for Crown ownership and freehold title”*.

Submitter 22 *“supports the proposal to retain the land shown as CA1 in the Crown estate”* and *“generally accepts the statements regarding the natural values of the Braemar land, particularly the area east of Landslip Creek.”* They *“do not object to the proposed access arrangements subject to NZDF control at all times to the area it uses.”*

Submitters 3, 5, 6, 13, 19, 21 and 23 were in support of the proposal but had some major concerns that are dealt with elsewhere in this report. For example submitters 3, 6, 20 and 21 supported retention of the Lower Jollie Valley as CA1 and believed DOC were the best agency to deal with the wilding conifers present in the area, but had concerns about the costs as discussed under point 6.

Submitter 3 confirmed that they *“agree wholeheartedly with the proposal”*. Likewise Submitter 5 noted *“We are pleased to see that the high*

significance of the landscapes has been recognised” and *“CA1 is generally supported”*. Submitter 13 and 19 *“support the proposal for CA1”*, as does Submitter 21 who also supports *“protection of CC1a (Lake Side) and accepts that a covenant is acceptable although not desirable.”*

Submitter 23 also supports CA1 but has concerns about the proposed freehold and other matters.

Submitter 9, 10 and 12 approved the Preliminary Proposal subject to several matters discussed further in this report. Submitter 16 also has some concerns but *“supports the surrender of CA1 and agrees that these lands are incapable of economic use in an ecologically sustainable way.”* Submitter 17 likewise *“supports the general proposition that the front country be protected for conservation or visual purposes or made freehold for farming, and that the higher class 7 and 8 lands be returned to the Crown.”* Submitter 20 noted that *“With some few modifications we see this as a good proposal”* and they *“endorse CA1”*. They also observed that *“a walk between the Jollie River in the north and the Braemar Road in the south will be an experience in its own right.”*

In terms of public access, Submitter 2 notes that public access is available via the easement route “a-q” and “q-z4”, and via the Jollie River and Landslip Creek, and *“considers these three access points reasonable”*. Submitter 5 advises that *“the intention to provide public access through part of the land to be disposed of is warranted and supported”*.

Rationale for Allow or Disallow:

As the objectives of the Crown Pastoral Land Act are-

- (a) To-
 - (i) Promote the management of reviewable land in a way that is ecologically sustainable
 - (ii) Subject to subparagraph (i), to enable reviewable land capable of economic uses 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)
 - (ii) By the restoration of the land concerned to full Crown ownership and control;
- (c) Subject to paragraphs (a) and (b) to make easier-
 - (i) The securing of public access to and enjoyment of reviewable land; and
 - (ii) The freehold disposal of reviewable land

the point should be allowed so that these views can be taken into account in further consideration by the Commissioner in the formulation of a Substantive Proposal.

Rationale for Accept or Not Accept:

The point meets the criteria for acceptance and is accepted by the Commissioner for further consideration in the formulation of a Substantive Proposal. This is because it relates to the objects and matters to be taken into account in the CPLA, and the submitter makes a statement of support for aspects of the Preliminary Proposal.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Numbers</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
2	General rejection of the proposal for freehold	No. 21	Allow	Not Accept

Submitter 21 believes that the proposal “*proposes to freehold areas of landscape and biodiversity significant inherent values, with an inadequate protective mechanism and provides inadequate and impractical access and is overall inconsistent with the CPLA 1998.*”

Rationale for Allow or Disallow:

As section 24 of the Crown Pastoral Land Act states:

- (a) to 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 to full Crown ownership and control; and
- (c) ... to make easier-
 - (i) the securing of public access to and enjoyment of reviewable land; ...

this point should be allowed so that these views can be taken into account in further consideration by the Commissioner in the formulation of a Substantive Proposal.

Rationale for Accept or Not Accept:

The point makes a generalised statement in relation to the objects and matters to be taken into account in the CPLA, however it does not specifically articulate why an alternative outcome is preferred under the CPLA.

This point is therefore not accepted for further consideration by the Commissioner in the formulation of a Substantive Proposal.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Number</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
3	Loss of SIV's due to the presence of wilding conifers	No. 3, 5, 6,13 & 21	Allow	Accept

Five submissions were received expressing the opinion that the presence of wilding pines spreading from Mt Cook and Cox's Downs had destroyed many of the SIV's in the Lower Jollie Valley area up to Second Creek and up the slopes on the true left as far as Tomnahurich Rock, making it difficult to justify this land being designated for retention by the Crown.

Submitter 3 points out that *"The presence of the wildings in the lower Jollie seem to us to have destroyed many if not most of the SIV's making it difficult to justify the inclusion of this land."*

Submitter 5 is alarmed at the extent of the wilding pine problem and notes that it *"is much worse than most people would realise."* Whilst they generally support CA1 they *"have serious reservations about the state of some of the land, which has a heavy wilding tree cover, or other areas of CA1 with scattered to isolated tree spread on it."*

Submitter 6 notes that *"A critical issue for the future long-term sustainable protection of the indigenous biodiversity of this land will be the management of the areas of wilding conifers and the control of any further spread that could threaten the protection of indigenous habitats, and particularly any threatened or at-risk habitats."*

Submitter 13 points out that the wilding pine threat is two fold in that *"they are continuing to spread, and also dominate and negate the potential landscape values in the Jollie River valley and on the southern end of the Gammack Range."* They go on to say that *"This could be interpreted as saying that the area presently has no conservation value and would be inappropriate for return to full Crown ownership"*.

Submitter 21 *"observes that this area no longer contains significant conservation values, as the wilding trees are now so dense that virtually no indigenous vegetation remains, and will be difficult if not impossible to restore to an indigenous ecosystem."*

Rationale for Allow or Disallow:

Section 24(b)(ii) CPLA 1998 enables the protection of the significant inherent values of reviewable land by the restoration of the land concerned to full Crown ownership and control. As the submitters are questioning the existence of any SIV's in the Jollie Valley area (due to the presence of the wilding pines), the point should be allowed so that it can be taken into consideration by the Commissioner in the formulation of a Substantive Proposal, as to whether or not there are SIV's present on the land concerned.

Rationale for Accept or Not Accept:

The point meets the criteria for acceptance and is accepted by the Commissioner for further consideration in the formulation of a Substantive Proposal. This is because it relates to the objects and matters to be taken into account in the CPLA, and whilst the submitters have highlighted issues

previously considered in the Braemar tenure review, they have articulated reasons why an alternative outcome under the CPLA is preferred.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Number</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
4	Tenure review should be put on hold until the wilding pines matter is resolved	No. 5	Disallow	N/A

One submission was received advocating for putting the tenure review on hold until the matter of who is going to bear the current and future responsibility for wilding conifers is resolved.

Submitter 5 supports stopping the tenure review *“until the major issue of liability for the control or removal of wilding trees is resolved”* and that *“it needs to be looked at from a broader perspective than on one property basis.”*

Rationale for Allow or Disallow:

As the reviewable land in the Braemar tenure review includes only Braemar pastoral lease, any suggestion that the wilding pine issue be addressed over a number of properties is disallowed for further consideration by the Commissioner in the formulation of a Substantive Proposal.

The control and management of weeds and pests is a post tenure review DOC management issue therefore this point is disallowed in its entirety for further consideration by the Commissioner in the formulation of a Substantive Proposal.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Number</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
5	Parts of the Lower Jollie Valley should be subject to a Special Lease or Sustainable Management Covenant until wilding conifers are removed	No.s 3 & 13	Allow	Accept

Three submissions were received suggesting that the worst affected wilding conifer areas in the Lower Jollie Valley should be subject to a Special Lease until the wildings are removed.

Submitter 13 notes in support of a Special Lease *“The holder might then be able to recover some commercial timber out of this area, thus providing finance to control the more scattered trees before they dominate the entire landscape. This might be managed under a Sustainable Management Covenant or similar with a time limit on a programme to resolve the*

problem in the Jollie valley.” They further advise that “An easement for public foot access through the Special Lease would be required to provide access to the upper Jollie valley.” They conclude that “In the longer term, when the wilding problem has been resolved, the future of the Special Lease should be reviewed. It is possible that by that time the landscape SIV’s will have been restored and return to full Crown ownership and control may be appropriate.”

Whilst Submitters 3 also suggests the possibility of a Special Lease, they concede that this *“may not be the best way to ensure the removal of the trees as soon as possible.”*

Rationale for Allow or Disallow:

Section 97 CPLA deals with Sustainable Management Covenants, however this is a qualified designation which only applies to land being disposed of under Part 2 CPLA. Nevertheless, in terms of freeholding the land concerned subject to a Sustainable Management Covenant, the sub-point is allowed for further consideration by the Commissioner in the formulation of a Substantive Proposal.

Section 36(1)(b) CPLA allows a preliminary proposal to designate land subject to the granting of a specified special lease (under section 67(2) of the Land Act 1948) to a person specified in the proposal. Therefore point 5 is allowed in its entirety for further consideration by the Commissioner in the formulation of a Substantive Proposal.

Rationale for Accept or Not Accept:

The point meets the criteria for acceptance and is therefore accepted by the Commissioner for further consideration in the formulation of a Substantive Proposal. This is because the proposals for a special lease or sustainable management covenant relate to the promotion of the land in a way that is ecologically sustainable, and the submitters articulate reasons why they prefer an alternative outcome under the CPLA.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Number</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
6	Concerns relating to the costs of control/eradication of wilding pines and who should bear them	No.s 3, 5, 6, 13, 18, 19, 20, 21 & 23	Disallow	N/A

Nine submissions were received from submitters who are unhappy about the cost of control/eradication of wilding pines falling on the Crown, in particular DOC, and hence the taxpayer.

Submitter 3 *“hopes that DOC may be able to offset some of the cost to the taxpayer by gaining some return from the timber”* that could be harvested. Submitter 3 also notes *“We accept inclusion of the Lower Jollie in the CA in the belief that DOC will urgently address the wilding problem there”*.

Submitters 20 and 21 hold similar views and believe the Crown, Local Authorities and land managers must adopt a strategy the public can support.

Submitter 6 believes that *“The Crown must commit to a containment or eradication programme as part of this proposal if the identified values (including landscape values) of the area are to be protected and maintained.”* They warn that *“This will require a sustained and coordinated effort over many years.”*

Submitter 5 is concerned that *“The cost of removing or controlling wilding trees, especially on the land south of the Jollie River should not be a cost on the Crown or more specifically on the budget of DOC.”* They believe that *“funding should come from other budget sources, not from the existing budget for Conservation”* and that *“Regardless, the holder of the Pastoral Lease should be liable for part of the cost, at least.”* They request that *“whoever is found to be responsible for the control of wilding trees, the first effort that should be made, would be to prevent the spread of trees.”* This particularly in regard to the Jollie Valley and outwards onto the slopes and terraces of the Gammack Range. They additionally suggest that *“if liability is placed on the Crown (to eradicate/control), then there should be compensatory measures implemented, such as the retention by the Crown of CC1a and CC1b.”*

Submitter 19 holds a similar view noting that *“wilding tree spread is a major burden to the taxpayers and this aspect should be recognised when it comes to compensation.”*

Submitter 13 points out that *“the problem has developed on Crown land held under pastoral lease tenure”* and *“does not believe it should fall to DOC (ultimately the NZ taxpayer) to deal with this problem.”*

Similarly Submitter 18 believes that *“the issue must be attended to urgently by all affected stakeholders including LINZ, DOC and the relevant land occupiers.”* Submitters 21 and 23, while accepting that DOC may be the best agency to tackle the issue, state that *“CA1 should be transferred along with a budget sufficient to enable effective ongoing management of all wildings.”* They also feel that *“The valuation of the land should reflect its degradation due to wilding trees.”*

Rationale for Allow or Disallow:

Regarding the sub-point that CA1 should be transferred to DOC along with a financial allocation to fund wilding tree control, the CPLA does not have a provision for inter-governmental department funding therefore this sub-point is disallowed for further consideration by the Commissioner in the formulation of a Substantive Proposal.

With regard to tenure review valuations, the CPLA does not prescribe how the exchange of interests assessment is made, this being determined by professional valuers using standard rural valuation practices. Therefore this point is disallowed for further consideration by the Commissioner in the formulation of a Substantive Proposal. However, the submitters can be reassured that whilst most pastoral leases suffer from weed and/or wilding tree infestations, in more extreme cases it is standard rural valuation practice to make discounts to the values in line with the valuer's opinion on how they believe the weed problem would affect a buyer's approach to the property.

In terms of any liability for the presence of wilding pines, there is no provision within Part 2 of the CPLA for this matter, and as control and management of pest plants on the reviewable land is a post tenure management issue, the sub-point is disallowed for further consideration by the Commissioner in the formulation of a Substantive Proposal.

Point 6 is therefore disallowed in its entirety.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Number</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
7	Potential benefits from NZDF management of wilding conifers, weeds and pests on the NZDF area	No.s 20 & 22	Disallow	N/A

Two submissions were received in support of the NZDF restricted public access "Danger Template" area in relation to wilding pines.

Submitter 20 noted *"that the land under defence control (being the neighbouring existing Defence land) was free of wilding conifers."*

Submitter 22 submits that the land management regime in place on the neighbouring existing defence land would be extended to the Danger Template area on Braemar, under NZDF control of the Braemar land. They note that *"This would include extending current and planned pest control programmes for managing rabbits and hares and plant pests such as pinus contorta. NZDF has the proven skills and resources to manage these issues, and is willing to work in partnership with other agencies if necessary to achieve agreed objectives."*

Rationale for Allow or Disallow:

In terms of wilding pine, weed and pest control, the point relates to future management of the land subsequent to the conclusion of the review but not to objects of the Act itself. It is therefore outside of the provisions of the CPLA and is disallowed for further consideration by the Commissioner in

the formulation of a Substantive Proposal. Other issues relating to the NZDF area are discussed in detail under points 11 – 16.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Number</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
8	Increasing the area of CA1	No.s 1, 3, 5, 6, 13, 18, 19, 20, 21 & 23	Allow	Accept

Ten submissions were received in support of increasing the area of CA1, with some of the submitters suggesting retention of all the land by the Crown to be appropriate due to the presence of significant inherent values throughout all the reviewable land. The range of options included fencing parts of the Mary Burn across to and including the track; to including most of the northern section of CC1b; to the inclusion of all of CC1b and parts of CC1a.

Submitters 3, 5, 18, 19, 20 and 21 believe that the values within CC1b warrant its inclusion in CA1. Submitter 3 strongly recommends that *“the line of the new fence follow the present track line so that the Mary burn and adjacent tussock land and wetland is included in CA1”*. Submitter 21 whilst opposing the freeholding of CC1b, makes a similar suggestion, specifying that should freeholding eventuate *“the boundary between CC1b and CA1 needs to be renegotiated so that the legal road is completely within CA1 in order to protect the very high values and secure public access”*. Submitter 13 also believes there are *“strong reasons for reconsidering whether the upper part of the freehold area particularly towards the northern end, could be added to CA1.”*

Submitters 5, 19 and 20 propose that the fence be relocated further west to a new boundary *“to the base of the hummocky moraine, at least”*.

Submitter 23 believes that *“at least 14,788 hectares should be restored to Crown ownership”* including all of CC1b and part of CC1a. They specify that all of the Irishman Creek land needs to be protected (however Irishman Creek is located within CA1 already, where it crosses Braemar).

Submitter 6 confirms its support of the preliminary proposal in that they *“consider the protection of the Mary Burn is best achieved by retention in Crown ownership”* (however it should be pointed out that the majority of the Mary Burn where it crosses Braemar pastoral lease is in fact within CC1b not CA1 and subject to the ‘no cultivation or earthworks...’ clause in the covenant document).

Notwithstanding the above, submitters 5, 13 and 21 also felt that the Crown should retain all the land.

Submitter 5 in their concluding remarks state that *“The other option would be a whole property purchase by the Crown, which we ask be given serious consideration.”*

Submitter 13 whilst voicing concern about protection of values in CC1b under the proposal suggests that *“a preferred option might be to consider whole property purchase of Braemar, or at least the pastoral leasehold part thereof.”*

Submitter 21 *“considers there are significant areas of high SIV’s that meet high country objectives, and national priorities for protection and warrant protection under the CPLA.”* Therefore they call for *“A reassessment of the proposal and consideration given to a full lease purchase by the Crown.”*

Additionally, Submitter 1 also states *“I would prefer to see the land designated to become freehold with a conservation covenant be included in the land to remain in Crown control.”* They believe that having a special condition allowing cultivation and earthworks *“is at complete odds to having the land placed under a Conservation Covenant.”* They feel that if the only use is extensive grazing *“then it holds little value to the farmer. The landscape has considerable tourist significance over any value gained by farming and the basin is significant in New Zealand folk law.”* Nevertheless they feel that *“A grazing concession on this portion for ten years would be acceptable.”*

Rationale for Allow or Disallow:

One of the objects of Section 24 of the CPLA 1998 is to enable the protection of the significant inherent values of reviewable land:

- Section 24(b)(i) By the creation of protective mechanisms; or (preferably)
(ii) By the restoration of the land concerned to full Crown ownership and control;

Therefore this point is allowed for further consideration by the Commissioner in the formulation of a Substantive Proposal.

Rationale for Accept or Not Accept:

The point meets the criteria for acceptance and is accepted by the Commissioner for further consideration in the formulation of a Substantive Proposal. This is because it relates to the objects and matters to be taken account of in the CPLA, and the submitters articulate reasons why a different outcome is sought.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Number</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
9	Issues relating to CC1(a) and CC1(b)	No. 1, 3, 4, 5, 6,13,18, 19, 20, 21 and 23.	Allow	Accept in part

Eleven submissions were received mostly in criticism of the conservation covenant for not having sufficiently stringent conditions to protect the values on CC1(a) and CC1(b).

Submitter 1 feels that having an allowance for cultivation and earthworks under the special conditions *“is at complete odds to having the land placed under a conservation covenant.”*

Submitter 3 is in agreement and suggests the special conditions be amended to read *“1.2, 1.3 and 1.4 should also be subjected to DOC approval before the activities detailed can be undertaken. There should be no cultivation, over-sowing, earthworks, tree planting, structures, roading or tracking and monitored sheep grazing only.”* This to apply to both CC1(a) and CC1(b) in their entirety. Submitters 18, 20, 21 and 23 also support this view with Submitter 20 supported by Submitter 23 noting *“we really see no difference in the requirements for the covenants when the landscape flora and fauna are taken into consideration on both CC1a or b”* and *“Extensive sheep grazing in large blocks as at present would sustain the landscape values.”* Submitter 21 submits that clause 1.4 of Schedule 2 should be deleted with these activities controlled through clause 3, the owners obligations. They also add root raking of indigenous vegetation to the list of activities that should not be permitted.

Submitter 5 feels the excepted area of no cultivation, earthworks or other soil disturbances is not defined precisely enough and *“in our view all CC1b should be covered by this exception”*, this view being shared by Submitter 13. They also feel that *“the question of burning, spraying, top-dressing and over-sowing of the land does not appear to have been considered”* and that *“Changing of component of the ground cover by these activities can have a marked impact on the visual composition of the landscape.”* They fully support the clause that prevents further subdivision of the property title, as do Submitters 21 and 23, but they submit that *“legal advice be obtained to ensure the clause is legally enforceable in perpetuity, and that it be rewritten to meet the legal tests.”* Submitter 23 has further concerns that *“this area must be covenanted on the title and all of the owners obligations under clause 3.1 and 3.2 must remain in the deed of covenant; especially on sale of land.”*

Submitter 4 refers specifically to the Mining Permit held by Meridian Energy (see also point 35), where Meridian seek *“An exception for mining activities during the Mining Period as new clause 1.5 of Schedule 2 to the Conservation Covenant as follows – Exercise of the rights and performance*

of the obligations under mining permit 41 868, in relation to access in accordance with the terms of any relevant access arrangement within the meaning of section 2(1) of the Crown Minerals Act 1991, and under any relevant resource consents, and any associated activities, is permitted.”

Whilst the Submitter does not believe Meridian would be legally bound by the conservation covenant in any case due to the permit and resource consents in place, the latter for which DOC have provided section 94 approval under the Resource Management Act 1991, nevertheless Meridian are seeking the exception for clarification.

Whilst supporting the conservation covenant, Submitter 6 recommends that it also provide for *“protection of the riparian zone along the tributaries of Camp Stream and Mary Burn, sufficient to avoid any nutrient or fine sediment enrichment processes that could compromise their freshwater habitats.”*

Submitter 1 makes a point that *“the idea of leaving the interpretation of land use to the head of the local Conservation department leaves the situation open to abuse”* and this theme is also touched on by Submitter 6 who states that *“It remains to be seen how the Crown will discharge its responsibilities to have regard to and implement the Objective of the covenant that ‘the land must be managed so as to preserve the values.’”* Submitter 21 has concerns that clause 1.1 *“provides no criteria to guide the area manager in making decisions on the erection of farm buildings, structures and fences”* and submits that *“either criteria are added to ensure than any such structures be sited and designed so as to be obscured from the lake and any public view points, or; delete clause 1.1 and the provisions of clause 3 in relation to structures stands.”*

Submitter 13 has concerns about the protection of values in CC1b and *“if the covenant conditions are to be strengthened, they should be written along the lines spelled out in the conclusions in the Steven Report (2008).”* They believe that *“the covenant as it stands is well-nigh useless in effective protection of the landscape values described.”* They strongly recommend *“that section 3.1 and schedule 2 should be revised to provide adequate protection against the threats of inappropriate subdivision fencing, use and development of the area designated CCI.”*

Submitter 19 is also adamant that CC1b *“should include the provision that it remain unimproved with no cultivation, earthworks, soil disturbance, over-sowing and/or topdressing and no more clovers introduced”* and additionally that *“the covenant should include the removal of wilding trees”*. Submitters 20, 21 and 23 also support a requirement to remove and prevent re-establishment of wilding trees (and other exotic shrub and weed species), and Submitter 21 submits clause 3.2.3 be re-worded to read *“Make and keep the land free from exotic tree and shrub species”*.

Submitter 21 requests that as they were unable to inspect an area of At Risk environment in CC1a shown on the Braemar Lenz Threat map *“this area be re-evaluated to determine if there are areas which have significant*

remaining indigenous vegetation which might need protection". They would also like to see amendments under schedule 2 clause 1.2 specifically excluding matagouri as a weed by re-wording to "Clearance of exotic weeds using mechanical and chemical means is permitted, provided that such activity does not result in the clearance or damage of indigenous species" and that clause 1.3 should be deleted because "there is no apparent reason for the necessity of it". Submitter 23 makes a similar point regarding the protection of matagouri.

In regard to schedule 1, Submitter 21 seeks to *"Reword the statement under Pukaki Kame Terrace to read 'Wilding conifers (not to be preserved) are scattered across the terrace.'; have a map attached that delineates the various landscape subdivisions; include a better description of what values CC1a has as opposed to CC1b; and values that should be specifically mentioned for both areas including minimal presence of obvious structures and human made intrusions, the general lack of straight line vegetation or fencing boundaries and the general lack of obvious tracking."* Submitter 23 endorses the comments regarding wilding conifers.

Submitter 23 requests that *"Rabbits, hares and mustelid numbers must be controlled by DOC at levels as if the area is Crown land administered by DOC."*

With respect to wilding conifers on Braemar:

Submitters 3 and 5 noted the holders efforts to remove wildings on the proposed freehold and Submitter 5 believes this *"should be continued until all have been removed."*

Submitter 21 seeks a rewording of the conservation covenant document, clause 3.2.3 to read *"Make and keep the land free from exotic tree and shrub species"*.

Submitters 3 and 21 were also in support of the wilding pine issue being addressed through the tenure review process on the justification that the ongoing spread of wilding pines is not ecologically sustainable.

Submitter 3 notes that *"Nature conservation is not currently ecologically sustainable on the Lower Jollie due to the presence of the wilding trees."*

Submitter 21 submits that *"future management of wilding trees is a matter for tenure review as the objects for the CPLA include promoting the management of reviewable land that is ecologically sustainable. The ongoing spread of wilding trees whether it be on reviewable land to be freeholded, or returned to full Crown ownership and control is not ecologically sustainable."*

The matters raised can be summarised as follows:

- Burning, root raking of indigenous vegetation, oversowing, topdressing, tracking, internal subdivision fencing, earth works, tree planting, cultivation, spraying and structures should either be reconsidered or not permitted.
- The conservation covenant should be amended to acknowledge the ongoing activities permitted by the Meridian Energy Mining Permit.
- Use of the land should be for monitored extensive sheep grazing only.
- A clause should require the land to be made and kept clear of exotic tree and shrub species, with particular emphasis on wilding pines.
- Matagouri should be specified as not a weed, and chemical and mechanical clearance of weeds should not affect any indigenous species. Clause 1.3 permitting the clearance of indigenous vegetation for strategic stock access routes should be deleted.
- CC1(a) and CC1(b) should have the same protection measures, and they should be as outlined by the submitters.
- Schedule 1 should be re-written to better reflect the values present and specify that wilding conifers are not to be protected.
- Better guidelines should be provided to the local DOC Area Manager to assist in the management of the covenant.
- A legal opinion should be sought on whether the conservation covenant document is legally enforceable in perpetuity, and that it must be covenanted on the title. Also that the owner's obligations must remain in the deed of covenant especially on sale of the land.
- A Lenz environment on CC1(a) should be reassessed.
- Rabbits, hares and mustelids should be controlled by DOC as though the area were in Crown ownership.

See also point 27 below concerning a clause in the covenant document which could conflict with the proposal to include part of Landslip Creek in the freehold.

Rationale for Allow or Disallow:

As section 24 of the CPLA states under clause (b) 'to enable the protection of the significant inherent values of reviewable land – (i) by the creation of protective mechanisms:', and a conservation covenant is a protective mechanism specified in the CPLA, the point is allowed so that these views can be taken into account in further consideration by the Commissioner in the formulation of a Substantive Proposal.

In relation to the question of whether the matter of wilding pine control can be considered in the tenure review for Braemar, the submitter contends that it can be, on the basis of section 24(a)(i) CPLA 1998 which states that one of the objects of tenure review is to "Promote the management of reviewable land in a way that is ecologically sustainable:". The submitters contend that the ongoing spread of wilding pines on land for both conservation area and freehold disposal is not ecologically sustainable. This point is therefore allowed for further consideration by the Commissioner in the formulation of a Substantive Proposal.

Rationale for Accept or Not Accept:

Whilst the conservation covenant is a matter to be considered under the CPLA, there are a number of sub-points that do not bear any relevance to the tenure review itself.

The sub-point regarding better guidelines to be provided to the local DOC Area Manager to assist in the management of the covenant, is essentially a post tenure review matter for DOC to deal with and is therefore not accepted for further consideration. The sub-point regarding control of rabbits, hares and mustelids on the proposed freehold by DOC likewise falls into this category and is also not accepted for further consideration by the Commissioner in the formulation of a Substantive Proposal.

A DOC conservation covenant is a legal document drawn up by DOC solicitors and is initially between the Commissioner of Crown Lands (as the owner of the pastoral lease land) and the Minister of Conservation. The covenant is in accordance with section 77 of the Reserves Act with the intent to run with the land and bind all subsequent owners of the land. During the implementation phase of the tenure review this encumbrance is carried down onto the new freehold title issued to the runholder and becomes legally binding on them and any future owners of the land. Therefore the sub-point regarding the need for a legal opinion on conservation covenants is not accepted.

Whilst it is regrettable that one of the submitters was unable to inspect a Lenz area on CC1(a), DOC have already completed an assessment determining areas with significant remaining indigenous vegetation which need protection. Therefore this sub-point is not accepted for further consideration.

The remaining sub-points meet the criteria for acceptance and are accepted for further consideration by the Commissioner in the formulation of a Substantive Proposal. This is because they relate to the objects of the CPLA and the submitters articulate reasons why they prefer an alternative outcome under the CPLA.

In relation to the matter of whether or not wilding conifer control can be considered in tenure review on the grounds that the ongoing spread is ecologically unsustainable, on 20th August 2008 an agreed position on the meaning of “ecological sustainability” under the CPLA 1998 was signed off by the Minister of Conservation and the Minister for Land Information. The recommendation provided in this advice was as follows:

- a. Promoting “ecologically sustainable” management in tenure review decision-making means safeguarding the life supporting capacity of the land’s ecosystems, including the ability of those ecosystems to support life outside the reviewable land.

- b. For the purposes of this definition, the land’s ecosystems include indigenous and exotic components and life forms.
- c. A common sense application of this particular tenure review objective means that the decisions in each tenure review should be looked at as a whole to see whether, overall, they promote ecologically sustainable management.

Submitters should be aware that there is evidence that the widespread establishment of trees in the Mackenzie Basin may promote ecologically sustainable management. This is because the overriding ecological issue in the Basin is the need to rehabilitate depleted soils to reverse and prevent widespread soil erosion and loss of associated vegetation cover. Trees stop soil loss by trapping sediment, and increase the life-supporting capacity of the soil by increasing the availability of key soil nutrients. Their role in sequestering carbon may also promote ecologically sustainable management of the reviewable land by combating global climate change which may affect ecological sustainability. In addition, research on planted forests in the Mackenzie Basin has also shown that they provide habitat for native birds and insects.

The point meets the criteria for acceptance and is accepted by the Commissioner for further consideration in the formulation of a Substantive Proposal. This is because it relates to the objects and matters to be taken into account in the CPLA and introduces a new perspective not previously considered in relation to the conditions of the conservation covenant on proposed freehold.

However, the post-tenure review management of proposed conservation land does not meet the criteria for acceptance by the Commissioner for further consideration in the formulation of a Substantive Proposal, and therefore this part of the point is not accepted.

Point 9 is therefore accepted in part.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Number</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
10	Removal of CC1(a) and CC1(b)	Nos. 9 & 12	Allow	Accept

Two submissions were received opposing the conservation covenant over the proposed freehold.

In relation to CC1(a), Submitter 9 points out that *“This area is in the designated 5kms Lakeside Protection Area and is therefore well protected by the RMA administered by the Mackenzie District Council.”* On CC1(b) the submitter notes erroneously that the basis for this proposal is the *“landscape values visible from the lake and ‘view points’”*, values which are in fact attributable to CC1(a) not CC1(b), but goes on to correctly refer to CC1(b) forming an *“impressive backdrop”* to the surrounding landscape. They then

point out that *“If one was to use this criteria to implement a consent, the entire basin would be involved as it is all integral or providing a backdrop to the basin.”* They believe that *“In the area included in CC1b any intrusive form of development would be highly unlikely, and that it is a considerable distance from the lake and any public view points.”* They conclude that *“A covenant on these two areas is not necessary.”*

Submitter 12 believes that *“the covenants seem too restrictive, given that Braemar owns freehold land already between Lake Pukaki and this area.”* They feel that because the holder already owns a substantial area of freehold land adjacent to the lake, it would make the prospect of developing the proposed freehold unlikely. Whilst they are *“aware the minister has made blanket rules regarding lakeside properties”* they nevertheless believe *“this demonstrates an anomaly.”*

Rationale for Allow or Disallow:

As section 24 of the CPLA 1998 states under clause (b) ‘to enable the protection of the significant inherent values of reviewable land – (i) by the creation of protective mechanisms:’, and the creation of a conservation covenant is permitted under the Act, the point is allowed so that these views can be taken into consideration by the Commissioner in the formulation of a Substantive Proposal.

Rationale for Accept or Not Accept:

The point meets the criteria for acceptance and is accepted by the Commissioner for further consideration in the formulation of a Substantive Proposal. This is because it relates to the objects and matters to be taken into account in the CPLA, and the submitters articulate why they prefer a different outcome under the CPLA.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Number</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
11	Concerns regarding the effect of NZDF use of CA1	No.s 8, 9, 17 and 21	Allow in part	Accept in part

Four submissions were received regarding concerns held about the effect of NZDF activities on CA1 on the local Mt John Observatory, tourism in the area, fire risk, damage to flora and fauna on CA1, access to air space over CA1, access to Mt Stevenson and disturbance to stock on neighbouring properties.

Submitter 8 holds concerns about any *“increase in noise from large artillery weapons having negative effects on tourism which is the main source of income for businesses in Lake Tekapo.”* They point out that whilst Lake Tekapo is visited to appreciate the views, *“most of all it is a place of peace and quiet.”* They are also very concerned about the potential for military

activity involving flares during hours of darkness and that this could affect Lake Tekapo's bid to secure the first UNESCO Starlight Reserve. They state that *"NZDF needs to consult with the Mt John Observatory regarding any proposals"*. They believe that *"Lake Tekapo has huge potential for the establishment of Astro-Tourism ahead of other locations around the world."* Submitter 9 also supports this view.

Submitter 9 is opposed to the NZDF's application to use the Danger Template area on CA1 because *"This poses a fire risk in country often with dense vegetative cover which can become tinder dry in summer and autumn."* They additionally have concerns that NZDF use *"puts at risk the flora and fauna of these high altitude tussock lands, and that army vehicles, camps and foot traffic cause flattening and tracking"* and *"if live firing continues over this enlarged area and at any increased frequency, there is the question of stock disturbance on neighbouring properties and the consequent environmental impact resulting from inappropriate grazing patterns."* The submitter is also opposed on the grounds that *"The Forks Stream is the main access for the public who wish to climb Mt Stevenson."*

Submitter 17 has previously found that *"even aircraft have to deviate around the PL land"* and *"do not believe that this is a reasonable requirement over public land that is not owned or being used by the Defence Forces."*

Submitter 21 notes that the existing memorandum in favour of the NZ Army gives them *"rights to carry out potentially ecologically unsustainable activities such as setting up camps, clearing vegetation for airstrips, construction of trenches and excavations etc."* They do not believe that these rights should be *"carried over in their current form to the management of reviewable land post tenure review, as these would be contrary to the intent of the CPLA."*

Rationale for Allow or Disallow:

With regard to the sub-point relating to air space over land utilised by the New Zealand Defence Forces, as there are no provisions in the CPLA for this matter the sub-point is disallowed for further consideration by the Commissioner in the formulation of a Substantive Proposal.

In relation to fire risk on CA1 and stock disturbance on neighbouring properties, these issues relate to future management of the land by DOC and NZDF and are therefore disallowed for further consideration.

In terms of consultation, sections 26 and 47 of the CPLA primarily deal with the consultation that must be undertaken by the Commissioner of Crown Lands in relation to a tenure review. The submitter is advising NZDF to consult with the Mt John Observatory. As the process of a party with an interest in the reviewable land consulting with an independent party is not covered by the CPLA, the sub-point is disallowed for further consideration.

The sub-point regarding opposition to NZDF use of CA1 due to Forks Stream being the main access for the public who wish to climb Mt Stevenson relates to section 24(c)(i) CPLA, to make easier the securing of public access to and enjoyment of reviewable land. Therefore this sub-point is allowed for further consideration.

As the objects of the CPLA 1998 part 2, section 24 include:

24(a)(i) Promote the management of reviewable land in a way that is ecologically sustainable:

and the Submitters points relate to the NZDF’s rights to carry out potentially ecologically unsustainable activities, the sub-point is allowed for further consideration.

Point 11 is therefore allowed in part for further consideration by the Commissioner in the formulation of a Substantive Proposal.

Rationale for Accept or Not Accept:

The point meets the criteria for acceptance and is accepted in part by the Commissioner for further consideration in the formulation of a Substantive Proposal. This is because the two sub-points allowed are relevant to the objects and matters to be taken into account in the CPLA, and the submitters have introduced new information and a perspective not previously considered.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Number</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
12	More information is required on the extent of public access restrictions to be imposed on the NZDF area.	No.s 2, 3, 5, 8, 9, 10, 13, 16, 17, 18, 19, 20 & 21	Allow	Accept

Thirteen submissions were received generally dissatisfied with the prospect of restricted access due to NZDF closures and seeking further information on why such a large area is required; how often NZDF plan to use CA1; expressing a desire for NZDF use to be minimised in favour of public use; and seeking assurance that a reliable advance notification will be put into place to ensure that the public know when access to the part of CA1 under NZDF control is available for unrestricted public use.

Whilst Submitter 2 would prefer specific periods annually when the land will be closed, *“If this is not possible, the Defence Force should publicly notify closures in the main regional newspapers.”*

Submitter 3 and 5 note that *“There should be some mechanism established so that the general public can find out well in advance when access to the area will be closed.”* These views are supported by submitters 13, 18, 19 and 20.

Submitter 9 states that the proposal *“prevents ‘certain’ public access throughout the year to 8,040 hectares.”*

Submitter 2 points out that *“at present the public does not know if the land is used by the Army for 10 days or 10 months during each year.”* They submit that *“A more transparent system is required for balancing public access with military needs”* and *“Ideally any agreement should establish specific periods annually when the land will be closed.”*

Submitters 3, 17 and 18 find the prospect of frequent restricted access unsatisfactory. Submitter 3 states that *“The Defence Force seems to have a huge area and we strongly recommend that better access is negotiated with them.”* They believe that *“A CA surely warrants as open access as possible”*. Submitter 5 asks if the area is *“excessively large?”*.

Submitter 5 also asks that *“all the relevant information on access procedures to the land used by NZDF be made readily available to the public.”* They would like to know *“Who will make the decision to impose any such restriction? What will be the criteria for placing any access restriction on the area?”* and *“how will the public be notified when such restrictions are in place?”*

Submitter 8 believes that *“Out of all the land to go back to the Crown/DOC this would have some of the greatest recreation potential. The NZDF needs to be more specific with its wishes.”* They have fears that *“Being able to secure such a large area of land may result in the NZDF further increasing their usage of this land”*. This and potential further expansion to the NZDF land is also of concern to Submitter 9 who states *“The Ministry of Defence does not require an area of this size to manoeuvre in.”*

Submitter 10 hopes that NZDF use will be less when it is CA1 than when it was pastoral lease and that *“The public should have significant rights with closure not the norm.”*

Submitter 13 recommends that *“any such military rights should exclude control of public access along the easement route.”*

Submitter 16 would like to see NZDF make most use of its own land for live firing and *“a fair balance between the proposed underlying use and closure of a conservation area by Defence, and normal public use, as required for conservation areas under the Conservation Act.”* Point 22 and 23 below also deal with the appropriateness of a conservation area designation for the part of CA1 that NZDF use.

Submitter 21 believes that the *“Future management of a significant portion of CA1 by NZDF is an issue than needs to be considered during tenure review as objective 24c Part II of CPLA is to make easier the securing of public access to and enjoyment of reviewable land.”* While the submitter

“understands the need to restrict access on specific occasions, the public should have access to areas when they are not being used.”

Rationale for Allow or Disallow:

Section 24(c) CPLA states the object (subject to paragraphs (a) and (b)) to make easier –
24(c)(i) The securing of public access to and enjoyment of reviewable land;

As this point ultimately deals with the availability of the NZDF land for public use and how the public will be notified when access restrictions are in place, it is allowed for further consideration by the Commissioner in the formulation of a Substantive Proposal.

Rationale for Accept or Not Accept:

The point meets the criteria for acceptance and is accepted by the Commissioner for further consideration in the formulation of a Substantive Proposal. This is because public access to and enjoyment of reviewable land is a key component of the objects of the CPLA, and the submitters introduce a perspective not fully considered previously.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Number</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
13	The submitter should be notified of any application by NZDF to continue their existing rights, and they should have the right to submit on that application.	No. 8	Disallow	N/A

One submission was received making the following request:

Submitter 8 *“would like an agreement from the Commissioner that they are given notice of any such application (by the NZDF to continue its existing rights) and that they have the right to submit on that application.”*

Rationale for Allow or Disallow:

It should be noted that on page 4 of the Braemar Summary of the Preliminary Proposal under “Public access over the proposed CA”, such notification is in fact provided, and the submitter is therefore exercising their right to make submissions on the matter within this forum. Whilst this particular procedural point is therefore disallowed for further consideration by the Commissioner in the formulation of a Substantive Proposal, it should be noted that the submitters other points in relation to the matter have all been assessed for further consideration elsewhere under the individual points in this report.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Number</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
14	Legal roads in the NZDF area should be retained for public access	No.s 12 & 17	Disallow	N/A

Two submissions were received regarding the retention of paper roads for public access.

Submitter 12 notes that *“The Defence Force restricted areas will make access to the Braemar Dome and Mt Stevenson excessively difficult for recreation. There are paper roads through this area; at least one needs to be kept as legal access to the above area.”* Additionally *“The paper road up Landslip Creek needs to be maintained as legal access for the public”*

Submitter 17 expects 4WD public access onto CA1 to be provided by DOC and suggests *“via the legal road shown going through the middle of the NZDF CA1 land”* as an option.

Rationale for Allow or Disallow:

Matters relating to legal roads whether formed or unformed, are the responsibility of the local district council therefore this point falls outside the ambit of the CPLA and is disallowed for further consideration by the Commissioner in the formulation of a Substantive Proposal.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Number</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
15	Support for NZDF control of and restricting public access to part of CA1	No.s 2, 13, 16 & 20	Allow	Accept

Four submissions were received in support of the proposed continuation of NZDF activities and control over part of CA1.

Submitter 2 believes that *“The continued use of this land by the army and control of access for safety reasons is in the national interest.”*

Submitter 13 supports *“the exclusion of the public from the restricted area for safety reasons”* but believes *“there should be an agreed limit to the time such restrictions will be in place.”*

Submitter 16 is *“sympathetic to the need for Defence activities”* provided there is a fair balance between Defence and public use.

Submitter 20 sees no problem with the NZDF activities *“As the defence of New Zealand is a necessary and significant issue”*. They see the proposal

“as both reasonable and sensible, provided that when NZDF are not using it for training purposes the public have free and unfettered access to it.”

Rationale for Allow or Disallow:

Section 24(c) CPLA states the object (subject to paragraphs (a) and (b)) to make easier –

24(c)(i) The securing of public access to and enjoyment of reviewable land;

As this point ultimately deals with the availability of the NZDF land for public use, it is allowed for further consideration by the Commissioner in the formulation of a Substantive Proposal.

Rationale for Accept or Not Accept:

The point meets the criteria for acceptance and is accepted by the Commissioner for further consideration in the formulation of a Substantive Proposal. This is because public access to and enjoyment of reviewable land is a key component of the objects of the CPLA, and the submitters make a statement of support for aspects of the Preliminary Proposal.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Number</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
16	NZDF use of CA1 is in direct contradiction to the principles of having the Mt Cook National Park on adjacent land	No. 9	Disallow	N/A

One submission was received from Submitter 9 stating that they felt the proposal for NZDF to use part of CA1 *“is in direct contradiction to the principles of having the Mt Cook National Park on adjacent land.”*

Rationale for Allow or Disallow:

The integration of conservation land coming out of tenure review with existing adjacent conservation land is a matter for the Department of Conservation to deal with post tenure review. The fact remains that the NZDF has a registered legal interest in part of CA1 and the area is of national importance, without it the exercises carried out on adjacent NZDF land would be seriously deteriorated. To replace such a facility would be extremely costly to the New Zealand taxpayer.

The CPLA has a range of tools available for accommodating matters of national interest, of which the registration of an easement is one. Therefore this point is disallowed for further consideration by the Commissioner in the formulation of a Substantive Proposal.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Number</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
17	Support for DOC control and management of all of CA1	No.s19 and 21	Allow	Accept

Two submissions were received in support of DOC control and management of all of CA1, including public access over the NZDF area.

Submitter 19 recommends that “*the area be managed and controlled by DOC and arrangements made to accommodate the requirements of the NZDF*”. This view is supported by Submitter 21.

Rationale for Allow or Disallow:

As indicated in the Braemar Summary of Preliminary Proposal, NZDF is applying to the Commissioner of Crown Lands to continue its existing foot manoeuvre rights over part of the pastoral lease and henceforth part of CA1. As such rights include the ability to restrict public access at certain times at the discretion of NZDF, and it is ultimately the responsibility of NZDF to ensure the area is clear before commencing their activities, it would therefore patently in the interests of public safety for NZDF to retain control of access in that part of CA1.

Nevertheless, as provided for in section 13 of the Conservation Act, conservation areas may be closed by the Minister of Conservation in certain circumstances, particularly if provided for in the Conservation Management Plan for the area. Whilst this matter is essentially a post tenure review DOC and NZDF management matter, as the application has not yet been approved by the Commissioner, this sub-point is therefore allowed for further consideration by the Commissioner in the formulation of a Substantive Proposal.

In terms of the management of the conservation values in the NZDF area, as this is relevant to section 35(a)(i) CPLA 1998 dealing with land to be restored to or retained in full Crown ownership and control as conservation area, this sub-point is also allowed for further consideration by the Commissioner in the formulation of a Substantive Proposal.

Point 17 is therefore allowed in its entirety.

Rationale for Accept or Not Accept:

The point meets the criteria for acceptance and is accepted by the Commissioner for further consideration in the formulation of a Substantive Proposal. This is because it relates to the objects and matters to be taken into account in the CPLA and is an issue that has been acknowledged as requiring further consideration, and the submitters articulate reasons why they prefer an alternative outcome under the CPLA.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Number</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
18	Support for designating part of CA1 for defence use pursuant to s35(2)(a)(iii) of the CPLA 1998	No. 22	Allow	Accept

One submission was received regarding the NZDF restricted access part of CA1, recommending that this area be re-designated for defence use pursuant to s35(2)(a)(iii) of the CPLA 1998. This clause allows for land to be restored to or retained in full Crown ownership and control “for some specified Crown purpose”, in this case the submitter recommends for Defence Force activities.

Submitter 22 “*does not support the proposal to designate the entire area of CA1 as conservation area*” and summarises the justification for their proposal as follows:

1. *NZDF has an operational need to utilise the land as part of the Tekapo Military Training Area (TMTA). (Neighbouring land owned by NZDF)*
2. *NZDF use of the land (subject to limitations) is compatible with the objectives of Part 2 of the Crown Pastoral Land Act 1998 with respect to ecological sustainability and protecting any significant inherent values of the land.*
3. *NZDF management of the land is the most effective and efficient way of ensuring the safety of members of the public accessing the land and the wider area.*
4. *NZDF has successfully protected and managed ecological and other inherent values of land at both the Tekapo and Waiouru Military Training Areas and is fully capable of protecting and managing the values inherent in the land.*

Submitter 22’s submission supports their proposal by outlining current use of the Braemar land and emphasising that in combination with the TMTA “*It is an important part of New Zealand’s defence infrastructure and has national level significance as a public asset.*” They note in general the preference “*that all land that is subject to ongoing use for defence purposes be ‘owned’ by NZDF principally for:*

1. *Long term operational certainty*
2. *Security, and*
3. *Public safety by clear identification of defence areas.*”

In terms of current operations carried out on the Braemar land by agreement with the leaseholder, the submitter notes that “*NZDF uses the Braemar land for infantry training (foot manoeuvring only) and as a safety template area*

for live firing and use of explosives in the adjoining TMTA.” They note further that “From an operational perspective it is therefore important that safety template areas are secure and that the Range Controlling Officer can be entirely confident of that.”

In identifying the boundary of the area for Defence use, Submitter 22 points out that this *“has been determined based on topography and natural features and the need to provide boundaries that are easily discernible to people who may be unfamiliar with the area.”* Additionally, it *“provides a sufficient buffer to future proof the landholding should required safety template areas increase (due to new weapon systems).”*

The submitter cites NZDF’s experience in the management of conservation values at the Tekapo and Waiouru Military Training Areas, where the areas are managed *“together with wider issues of vegetation management, erosion control, pest management and water quality under a ‘Sustainable Land Management Strategy for TMTA’.* This document which would also apply to the Braemar land, specifies policies for managing the potential impacts of military training and other uses on the land, and approaches for ongoing monitoring and reporting.

Under the submitter’s proposal, they note that *“NZDF is willing to enter into an agreement with DOC regarding public access and protecting conservation values of the land, as it has under previous land acquisitions for the TMTA. NZDF believes this to be a successful tenure and conservation management model.”*

Rationale for Allow or Disallow:

The objects of Section 24 of the CPLA enable the protection of the significant inherent values and securing of public access to and enjoyment of reviewable land under:

Section 24(b)(i) By the creation of protective mechanisms; or (preferably)
(ii) By the restoration of the land concerned to full Crown ownership and control;

and Section 24(c) to make easier-

(i) The securing of public access to and enjoyment of the reviewable land;

Section 35(2)(a)(iii) also enables land to be restored to or retained in full Crown ownership and control for some specified Crown purpose, therefore this point is allowed for further consideration by the Commissioner in the formulation of a Substantive Proposal.

Rationale for Accept or Not Accept:

The point meets the criteria for acceptance and is accepted by the Commissioner for further consideration in the formulation of a Substantive Proposal. This is because it relates to the objects and matters to be taken

into account in the CPLA and is an issue that has been acknowledged as requiring further consideration, and the submitters articulate reasons why they prefer an alternative outcome under the CPLA.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Number</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
19	Support for designating part of CA1 as a Government Purpose Reserve pursuant to s35(2)(a)(ii) CPLA 1998	No. 22	Allow	Accept

One submission from Submitter 22 was received regarding the NZDF restricted access part of CA1, that if the designation submitted under point 22 above could not be accommodated, as an alternative this area be re-designated as a Government Purpose Reserve (Minister of Conservation appointed to manage), (s22 Reserves Act 1977 refers) for defence use pursuant to s35(2)(a)(ii) of the CPLA 1998. This clause allows for land to be restored to or retained in full Crown ownership and control “As a reserve, to be held for a purpose specified in the proposal”, in this case it would be for Defence Force activities.

However Submitter 22 points out that “NZDF believes that in terms of ensuring public safety, this option is inferior (though potentially adequate) to designating the land for defence purposes.”

Rationale for Allow or Disallow:

The objects of Section 24 of the CPLA 1998 enable the protection of the significant inherent values and securing of public access to and enjoyment of reviewable land under:

Section 24(b)(i) By the creation of protective mechanisms; or (preferably)
(ii) By the restoration of the land concerned to full Crown ownership and control;

and Section 24(c) to make easier-

(i) The securing of public access to and enjoyment of the reviewable land;

Section 35(2)(a)(ii) also enables land to be restored to or retained in full Crown ownership and control as a reserve, to be held for a purpose specified in the proposal, therefore this point is allowed for further consideration by the Commissioner in the formulation of a Substantive Proposal.

Rationale for Accept or Not Accept:

The point meets the criteria for acceptance and is accepted by the Commissioner for further consideration in the formulation of a Substantive Proposal. This is because the point relates to the objects and matters to be

taken into account in the CPLA and is an issue that has been acknowledged as requiring further consideration, and the submitters articulate reasons why they prefer an alternative outcome under the CPLA.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Number</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
20	The legal right of NZDF to use CA1 needs to be clarified.	No.s 9 & 21	Disallow	N/A

Two submissions were received questioning the assumed right of NZDF to the use of the land, and sought clarity on the matter.

Submitter 9 believes that *“Since 1987 and to this day, the NZDF right to use land over a number of pastoral leases has been entirely at the discretion of the lessees as each requirement has arisen, and that this assumed right on CA1 needs to be clarified.”* Submitter 21 takes up a similar theme with the comment that the NZDF area *“not be encumbered by the existing extensive rights granted in the Memorandum of Variation to the conditions of the pastoral lease.”*

Rationale for Allow or Disallow:

The Memorandum of Variation no. 168504/1 containing the NZDF rights to use 8040 hectares of Braemar pastoral lease was registered on the leasehold certificate of title on March 8th 1978. The agreement was not for a fixed term and remains current, therefore it must be taken account of in any disposal of such land under tenure review.

On this basis the point is disallowed for further consideration by the Commissioner in the formulation of a Substantive Proposal.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Number</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
21	Access is required across Cox’s Downs into the Jollie Valley from Braemar-Mt Cook Station Rd	No.s 3 & 20	Disallow	N/A

Two submissions were received concerning non-motorised public access over the 4WD track across existing freehold land on Cox’s Downs, with one identifying a media reference to this track being made available as an outcome of the Mt Cook tenure review.

Submitter 3 points out that the summary of the proposal does not make reference to this track and that *“if it is not formalized some further action is needed to ensure access apart from the river route (likely shortly to be obstructed by wilding trees).”*

Submitter 20 believes the Jollie Valley will be used extensively by the public and states that *“Provision should be made for unfettered and unconditional walking (and possibly mountain bike and horse) access into the valley, either via the riverbed or by way of an easement through Mt Cook or Cox’s Downs station.”*

Rationale for Allow or Disallow

The registration of a public non-motorised and DOC vehicles for management purposes access easement across Cox’s Downs up the Jollie Valley has not been completed to date.

Nevertheless, as the areas referred to are in any case outside of the reviewable land, and these arrangements are not part of the Braemar tenure review, the point is therefore disallowed for further consideration by the Commissioner in the formulation of a Substantive Proposal.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Number</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
22	Public walking and non-motorised access should be available over “q-r” and “q-s”	No.s 3, 10, 13, 16, 18, 20 & 21	Allow	Accept

Seven submissions were received requesting public walking and non-motorised access over “q-r” and “q-s” which are designated for Minister of Conservation management access only.

Submitter 3 notes that *“Provision for public access to CA1 should surely also be made between q-r and q-s.”* Submitters 10, 16, 18 and 21 make the same point.

Submitter 13 states *“We believe that an error has been made in not including “q-r” and “q-s” in this designation because without such inclusion there is no public access to CA1 south of “z4”.”*

Submitter 20 additionally notes that *“The Defence Department will have adequate control over where and when the public may enter via other mechanisms, therefore q-s should be also available for foot and non-motorised vehicles.”*

Rationale for Allow or Disallow:

As one of the objectives of section 24 of the Crown Pastoral Land Act is – to make easier - (i) the securing of public access and enjoyment of reviewable land, the point is allowed so that these views can be taken into consideration by the Commissioner in the formulation of a Substantive Proposal.

Rationale for Accept or Not Accept:

The point meets the criteria for acceptance and is accepted by the Commissioner for further consideration in the formulation of a Substantive Proposal. This is because it relates to objects and matters to be taken into account in the CPLA, and articulates reasons why the submitters prefer an alternative outcome under the CPLA.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Number</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
23	Public mountainbike and possibly horse access should be available up to “z4”	No.s 3, 5, 13, 14, 15, 18, 20, 21 & 23	Allow	Accept

Nine submissions were received in support of public mountainbike and possibly horse access all the way to Landslip Creek at “z4”, whereas the proposal is currently allowing for non-motorised access only to point “q”.

Submitter 3 asks that *“foot and mountainbike access be available up to Landslip Creek.”*

Submitters 5, 13, 18, 20 and 21 make the same request, with Submitter 20 suggesting *“and possibly horse access”*, and Submitter 5 noting that *“the route from Braemar Rd is a long one and may deter some people, on foot at least.”* Submitter 21 believes mountainbiking is likely to be one of the greater uses of this area as *“Few people are likely to enjoy walking for around 10km along a partially formed 4WD track from Braemar Rd to Landslip Creek. This access provision will not make it easier for most of the public to enjoy CA1, does not enable any round trips and does not provide any public access to the southern entrance of CA1.”*

Submitter 14 points out that they believe *“the proposed access is suitable for cycling all the way to z4, and that any stock disturbance would be very limited, particularly as it is off the beaten track a bit”*. They note generally that *“Tracks restricted to walkers only are of lesser value to the public”* and believe that *“all access easements created out of the tenure review process intended for public use should be for ‘non motorised access’ unless there is an overwhelming argument for any further restriction.”*

Submitter 15 has similar views and believes *“foot only access from “q-z4” is a poor outcome for the public”*. They additionally note that *“a legal road runs a significant portion of the 4WD track and could be utilised by the public with a cheap GPS unit. We believe the landowner is not giving that much up by allowing cycle access over those sections not already on the legal road.”* They cite as an example West Wanaka Station *“The station accepted public access over 15km of farm track around the lake shore. The property runs deer, sheep and cattle, and the run holder is not experiencing*

undue difficulties as a result of this access which is now very popular with cyclists.”

Submitter 23 seeks *“Natural quiet for quality public foot and non-motorised vehicle access and enjoyment all of the way up the Mary Burn to Landslip Creek”*.

Rationale for Allow or Disallow:

As one of the objectives of section 24 of the Crown Pastoral Land Act is – to make easier - (i) the securing of public access and enjoyment of reviewable land, the point is allowed so that these views can be further considered by the Commissioner in the formulation of a Substantive Proposal.

Rationale for Accept or Not Accept:

The point meets the criteria for acceptance and is accepted by the Commissioner for further consideration in the formulation of a Substantive Proposal. This is because it relates to the objects and matters to be taken into account in the CPLA and articulates reasons why the submitters prefer an alternative outcome under the CPLA.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Number</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
24	Public motorised access should be provided to CA1	No.s 6, 10, 16, 17, & 20	Allow	Accept

Five submissions were received seeking better public access to CA1 by motor vehicle.

Submitter 6 seeks *“better access to CA1 that is practical and strategically routed, including access by motorised vehicles.”* Additionally they note that *“CA1’s likely use by hunters can play an important role in reducing wild animal numbers in the area.”*

Submitter 10 believes *“Use of an already existing formed farm road, along much of a legal road alignment means the access should also be for public vehicles.”* Submitter 20 also believes this should be considered.

Submitter 16 points out that *“Surely the intent of placing the access on the legal road is to allow it to be used by motorised vehicles for its length – some 4km, to the CA1 boundary.”*

Submitter 17 suggests that 4WD access needs to be provided via one of three routes being:

“via the route shown z4 to a, or from the Braemar road near Coxs creek or via the legal road shown going through the middle of the NZDF CA1 land.”

They are also particularly concerned that “DOC show greater support for the public access to these lands coming back from pastoral lease use. This refers to instances where ‘management’ access for the Dept is via 4WD tracks and the ‘public’ access is for walking/horses and mountain bikes! *Le non motorised!*”

Rationale for Allow or Disallow:

Matters relating to legal roads whether formed or unformed, are the responsibility of the local district council and therefore outside the ambit of the CPLA.

Nevertheless, as one of the objectives of section 24 of the Crown Pastoral Land Act is – to make easier - (i) the securing of public access and enjoyment of reviewable land, the point regarding the provision of public vehicle access is allowed so that these views can be considered by the Commissioner in the formulation of a Substantive Proposal.

Rationale for Accept or Not Accept:

The point meets the criteria for acceptance and is accepted by the Commissioner for further consideration in the formulation of a Substantive Proposal. This is because it relates to the objects and matters to be taken into account in the CPLA and articulates reasons why the submitters prefer an alternative outcome under the CPLA.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Number</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
25	Have local council engineering staff been consulted about the suitability of the access route proposals	No. 17	Disallow	N/A

One submission was received asking whether local council engineering staff have been consulted about the suitability of the access route proposals, primarily in relation to public vehicle access.

Rationale for Allow or Disallow:

On the assumption that Submitter 17 may be indirectly referring to the legal roads that run through Braemar, it should be noted that the creation, surveying, realignment, maintenance and extension of legal roads would involve the local authority and take the process outside the ambit of the CPLA. Therefore this point is disallowed for further consideration by the Commissioner in the formulation of a Substantive Proposal.

However the Submitter should also note that the local council authority has an opportunity to make a submission along with the general public, on any matters they feel appropriate in relation to the Braemar tenure review.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Number</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
26	There is a lack of illustration of the type of land at access points	No. 17	Disallow	N/A

Submitter 17 points out that *“Without actually visiting the station submitters have no idea whether the proposed access routes are practical and sustainable. Some digital photos would overcome this perhaps?”*

Rationale for Allow or Disallow:

The Submitter’s point is noted, however as this matter relates to an operational aspect of tenure review and is not covered by the CPLA, it is disallowed for further consideration by the Commissioner in the formulation of a Substantive Proposal.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Number</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
27	Landslip Creek should not be fenced and included in the proposed freehold	No.s 3, 5, 13, 19, 20 & 21	Allow	Accept

Six submissions were received opposing the proposal for a new fenceline to cross Landslip Creek in the northeast corner of the proposed freehold.

Submitter 3 states *“The new fence at Landslip Creek should be on the true left to ensure there is no pollution by stock – with provision for a water pipe for stock if need be.”* Submitters 13 and 20 make a similar suggestion.

Submitter 5 agrees, noting that *“unrestricted stock access is not environmentally acceptable and other options, to provide stock with drinking water, should be explored.”* They also feel this access could conflict with a term of the conservation covenant.

Submitter 19 also advises that this proposal is *“not acceptable and contrary to the intention of the Natural Resources Regional Plan.”*

Submitter 21 submits that *“this area be returned to full Crown ownership and control. Providing stock access to a natural water way will exacerbate bank erosion, reduce water quality and does not promote the ecologically sustainable management of water ways. Provision of piped water to troughs is preferable, should it be required.”*

Rationale for Allow or Disallow:

One of the objects of Section 24 of the CPLA 1998 is to enable the protection of the significant inherent values of reviewable land:

Section 24(b)(i) By the creation of protective mechanisms; or (preferably)
(ii) By the restoration of the land concerned to full Crown ownership and control;

Therefore this point is allowed for further consideration by the Commissioner in the formulation of a Substantive Proposal.

Rationale for Accept or Not Accept:

The point meets the criteria for acceptance and is accepted by the Commissioner for further consideration in the formulation of a Substantive Proposal. This is because it relates to the objects and matters to be taken into account in the CPLA, particularly in relation to the terms in the conservation covenant, and articulates reasons why the submitters prefer an alternative outcome under the CPLA.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Number</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
28	Issues relating to marginal strips	No.s 2, 3, 5, 6, 10, 13, 16, 18, 20 & 23	Disallow	N/A

Ten submissions were received supporting marginal strips particularly in terms of access along Landslip Creek, provided they were passable and clearly marked.

Submitter 2 submits *“that the marginal strips along Landslip Creek should be implemented promptly when tenure review is completed.”* They consider the marginal strips provide reasonable access provided they are delineated and marked by DOC.

Submitter 3 *“notes and applauds the marginal strips for the lower reaches of Landslip Creek giving alternative access to CA1”*, as does Submitter 18. Submitter 5 agrees provided the marginal strip route is along a practical route and is clearly marked.

Submitter 6 comments on waterways generally and specifically Fork Stream, stating that *“it is highly appropriate to retain them in their ‘natural’ state and either retain their immediate catchments in crown ownership, and/or put in place adequate riparian zone protections to avoid any nutrient or fine sediment enrichment processes that could compromise their freshwater habitats.”*

Submitter 10 asks *“that Landslip Creek marginal strips be checked and carried out.”*

Submitter 13 notes *“that marginal strips along Landslip Creek will provide much more convenient access to CA1, especially for walkers, and that they need to be clearly signposted and marked.”*

Submitter 16 is *“surprised that Landslip Creek does not appear to be having marginal strips laid off along it, in spite of its bed in most cases being greater than three metres”.*

Submitter 20 notes *“It may be more practical however if the marginal strip were located along the ridgeline on the true right, if such access could be negotiated through Cox’s Downs.”*

Submitter 23 points out that *“There is no public access up the Landslip Creek as any marginal strip is completely blocked off by a deer fence of a deer safari park on Cox’s Downs. The deer fence has also been placed under the Braemar Mt Cook Station road bridge.”*

Rationale for Allow or Disallow:

The issues of fences across marginal strips and the marking of marginal strips for public access do not come under the Commissioner of Crown Land’s jurisdiction for tenure review, but are matters for DOC management post tenure review. Therefore this sub-point is disallowed for further consideration by the Commissioner in the formulation of a Substantive Proposal.

Any qualifying marginal strips will be created on the land designated for freehold disposal at the conclusion of the tenure review. This is a legislative requirement, governed by Part 4A of the Conservation Act 1987 and is a matter for the Director General of Conservation to administer. The point regarding the location of the marginal strip along the ridgeline through Cox’s Down is additionally in relation to non-reviewable land and therefore cannot be considered in the Braemar tenure review.

Therefore this point is disallowed in its entirety for further consideration by the Commissioner in the formulation of a Substantive Proposal.

However, it should be noted that regrettably the Braemar Summary of Preliminary Proposal incorrectly refers to ‘indicative marginal strips have been identified for the lower reaches of Landslip Creek, giving alternative access to CA1’. In fact the indicative marginal strips have been identified over that part of Landslip Creek which flows through the proposed freehold (as shown on the plan) and the submitters are correct in their observation that there are no existing marginal strips laid off on the balance of lower Landslip Creek, part of which is through CA1 and part through existing freehold land on Cox’s Downs. Therefore, whilst Landslip Creek is of a size

to qualify, there is no access to CA1 from Braemar-Mt Cook Road unless at some future point in time marginal strips are laid off over the existing freehold.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
29	Any freehold title issued to the holders of Braemar pastoral lease should be made subject to memorials recording access arrangements for Meridian Energy	No. 4	Allow	Accept

One submission was received seeking the continuance of access rights to 123.8 hectares of proposed freehold land which is subject to a mining permit held by Meridian Energy for 10 years from March 2005. The permit gives exclusive rights to mine for greywacke and sandstone for the purposes of shoreline protection works on Lake Pukaki to prevent erosion and protect infrastructure including roads, and Meridian Energy require access over the Braemar land to continue this activity.

The submission included copies of all associated documentation including the resource consents issued by Mackenzie District Council and Environment Canterbury.

Submitter 4 notes that *“It is critical that ongoing access to the Braemar pastoral lease land is available to Meridian following the completion of the Braemar tenure review.”*

The submission advises that Meridian has lodged for registration with Landonline two notices under section 83 of the Crown Minerals Act giving notice of:

- (a) The Braemar Station Limited access arrangement (as the leaseholders and occupiers of Braemar Pastoral Lease), and
- (b) The Crown access arrangement (as the owner of Braemar Pastoral Lease).

Upon completion of registration memorials recording the notices will be entered against the pastoral lease computer interest register.

Submitter 4 submits that *“The issue of freehold title to Braemar Station Ltd (BSL) should be made subject to memorials recording the section 83 notices for the BSL Access Arrangement and Crown Access Arrangement.”* They note further that *“The BSL Access Arrangement for the leasehold interest will, on surrender of the pastoral lease as part of the tenure review, apply as it relates to BSL’s existing freehold titles, and as it relates to BSL or its successors as occupier of the former pastoral lease land.”* Likewise *“The*

Crown Access Arrangement (for the freehold interest) will be binding on BSL as successor in title to the Crown as the owner at the time of entry into the arrangement.

Rationale for Allow or Disallow:

Since receipt of the above submission, two notices have been registered on the Braemar pastoral lease certificate of title, one being the access arrangement as to the Crown’s fee simple interest, and the second being the access arrangement as to Braemar Station Limited’s leasehold interest.

Section 114 of the Land Act 1948 deals with encumbrances registered against a lease or license. Section 114(1) requires the District Land Registrar to carry down any encumbrance, lien or other registered interest recorded on the leasehold title, to any certificate of title issued for freehold land acquired by the lessee.

As the matter also relates to section 69 CPLA dealing with the disposal of reviewable land, it is allowed for further consideration by the Commissioner in the formulation of a Substantive Proposal.

Rationale for Accept or Not Accept:

As a matter of process each notice will be recorded under schedule 3 of the substantive proposal document as a continuation in force to be carried down to the freehold title during the implementation phase of the tenure review.

The point meets the criteria for acceptance and is accepted by the Commissioner for further consideration in the formulation of a Substantive Proposal. This is because it relates to the objects and matters to be taken into account in the CPLA, and the submitter has introduced new information and a perspective not previously considered.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Number</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
30	Support for the formation of a Tekapo-Pukaki Conservation Park	No.s 10 & 16	Disallow	N/A

Two submissions were received in support of creating a Tekapo-Pukaki Conservation Park with land returning to the Crown from pastoral lease tenure reviews in the area.

Submitters 10 and 16 both point out that *“This would allow better recreational management, would assist recreational enjoyment of the area and is in line with Government objectives of forming parks with land coming out of tenure review.*

Rationale for Allow or Disallow:

The creation and management of conservation parks is a matter for the Department of Conservation post tenure review, therefore this point is disallowed for further consideration by the Commissioner in the formulation of a Substantive Proposal.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Number</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
31	A recreational hunting management plan for CA1 is required	No.s 10 & 16	Disallow	N/A

Two submissions were received submitting that a recreational hunting management plan is required for CA1.

Submitter 10 notes that *“This is needed to ensure that DOC does not try to exterminate all tahr and deer in the area”*.

Submitter 16 asks that such a plan *“be developed in consultation with the recreational hunting community for this block, and for adjacent public conservation areas.”*

Rationale for Allow or Disallow:

The recreational hunting management of conservation parks is a matter for the Department of Conservation post tenure review, therefore this point is disallowed for further consideration by the Commissioner in the formulation of a Substantive Proposal.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Number</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
32	The Braemar POL needs to be surveyed	No.s 10 & 16	Disallow	N/A

Two submissions were received regarding the status of ex Braemar pastoral occupation license land.

Submitter 16 advises that *“Surveying off this POL should be part of this tenure review, as it appears it has not yet been done. It should have occurred soon after DOC was established.”*

Submitters 10 and 16 believe *“This would allow legal public use of this allocated conservation area.”*

Rationale for Allow or Disallow:

The matter of surveying of Crown and/or DOC conservation land is not catered for under the CPLA, therefore this point is disallowed for further

consideration by the Commissioner in the formulation of a Substantive Proposal.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Number</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
33	The existing recreation permit to be replaced with a DOC concession	No.s 11 & 12	Disallow	N/A

Two submissions were received supporting the continuation of tourism operations currently carried out on the land proposed for CA1 under a recreation permit. The submitters wish to see the recreation permit, which would cease once CA1 passes into the DOC estate, replaced with a DOC concession for the same activities.

Submitter 11 notes that *“Currently Glentanner Park/Totally Tourism operate heliskiing on Braemar Station under a recreation permit. We wish to have the opportunity to replace the permit with a concession and cannot identify any reason for this activity to cease.”*

Submitter 12 states that *“We will be formally applying to DOC to retain these rights, and we would like it noted in this forum that we hold a recreation permit of these areas”*. The submitter also refers to a DOC concession currently held for heli-skiing on the former Braemar POL.

Rationale for Allow or Disallow:

As the recreation permit is due to expire on 31st December 2009, and there is no possibility that the lease will be extinguished by then, there will be no rights to carry down. The process of applying for and negotiating terms for a DOC concession can be conducted outside of tenure review directly with the Department of Conservation.

Therefore this point is disallowed for further consideration by the Commissioner in the formulation of a Substantive Proposal.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Number</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
34	Access to and use of Maryburn Hut	No. 3	Allow	Not accepted

One submission was received from Submitter 3 asking that *“the use of the Maryburn Hut and access to it should be clarified.”*

Rationale for Allow or Disallow:

As one of the objects of tenure review is –

Section 24(c) to make easier –

- (i) The securing of public access to and enjoyment of reviewable land;

The point is therefore allowed for further consideration by the Commissioner in the formulation of a Substantive Proposal.

Rationale for Accept or Not Accept:

For the purposes of clarification, Maryburn Hut is proposed for freehold disposal and will therefore not be available for public use without permission from Braemar Station Ltd. The proposed DOC management access track from “q-s” is to provide DOC with vehicle access on an existing track to the southwestern corner of CA1, not to Maryburn Hut.

This point does not meet the criteria for acceptance and is not accepted by the Commissioner for further consideration in the formulation of a Substantive Proposal. This is because it seeks clarification on a matter (provided above), and does not introduce new information or a perspective not previously considered, nor does the submitter articulate reasons why an alternative outcome might be preferred or make a statement of support for an aspect of the Preliminary Proposal.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Number</i>	<i>Allow or disallow</i>	<i>Accept or not accept</i>
35	The CRR does not identify a rare moth species in Landslip Creek	No.s 3 & 5	Allow	Accept

Whilst submitter 3 “*endorses the conservation values and the SIV’s identified in the proposal and in the Conservation Resources Report*” they do however note that “*Some of the values identified, in for example PNA Tekapo 2, concerning rare moth species in Landslip Creek do not seem to be detailed in the CRR.*”

Submitter 5 also points out the importance of maintaining the habitats of rare or threatened invertebrates including three moth species endemic to the Mackenzie Basin.

Rationale for Allow or Disallow:

One of the objects of tenure review is:

Section 24 (b) To 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;

Although the bed of Landslip Creek is not part of the reviewable land, the submitter's comments are interpreted to include the surrounding land within the lease. As the submitters point relates to the possible presence of a rare moth which could fall under the category of a significant inherent value, the point is allowed for further consideration by the Commissioner in the formulation of a Substantive Proposal.

Rationale for Accept or Not Accept:

The point meets the criteria for acceptance and is accepted by the Commissioner for further consideration in the formulation of a Substantive Proposal. This is because it relates to the objects and matters to be taken into account in the CPLA, and introduces new information and a perspective not previously considered.

4.3 Summary and Conclusion

Whilst the submissions were generally supportive of the proposal, many of the submitters went into considerable detail on their views resulting in a large number of points being made.

Of the 35 points recorded, 17 are "Allowed and Accepted", 2 are parts "Allowed and Accepted", 1 is "Allowed and Not Accepted" and 15 are "Disallowed". This results in a total of 19 points that come under the jurisdiction of the CPLA and are accepted to be taken into consideration by the Commissioner in the formulation of a Substantive Proposal.

Reasons for not accepting points for further consultation are provided above in the rationale provided under each point.

The points to consider fall into a number of categories:

- Support for the proposal.
- Improvements to the public access routes proposed and mode of access.
- Issues in relation to wilding conifers.
- Increasing the area of CA1.
- Issues in relation to the conservation covenant.
- Issues in relation to the NZDF area.
- Issues in relation to the Meridian Energy access arrangements.
- Consideration of the habitat of rare moth species in Landslip Creek.

Issues in relation to the NZDF area are covered under six individual points which highlight the need for further consideration on this aspect of the review so that there is more clarity going into Substantive Proposal. Whilst it had initially been anticipated that the ongoing management of this area would be carried out under a memorandum of understanding between DOC and NZDF post tenure review, it became apparent late in the Preliminary

Proposal preparations that NZDF preferred the issue in terms of the future designation of the land, to be addressed as part of the tenure review.

The three other major areas of interest are wilding pines, access and the conservation covenant with the submitters going into extensive detail as to what they believe the covenant should contain.

I recommend approval of this analysis and recommendations.



Carolyn Latham
Tenure Review Consultant
Darroch Valuations

Date: 27/7/09

Peer reviewed:

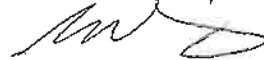


David Paterson
Tenure Review Consultant
Darroch Valuations

Date:

Approved/~~Declined~~

I recommend approval



DR STEPHEN CHARLES URLIC
TECH LEAD TENURE REVIEW
CROWN PROPERTY MANAGEMENT
6 LINZ, CHRISTCHURCH

28 July 2009



Commissioner of Crown Lands

Date: 30.7.09

Appendices:

1. Copy of Public Notice
2. List of Submitters
3. Copy of Annotated Submissions

Mathew Clark (Manager Pastoral)
Land Information New Zealand
Under delegated authority of the
Commissioner of Crown Lands.