

## **Crown Pastoral Land Tenure Review**

**Lease name: COMPENSATION RUN**

**Lease number: PM 017**

### **Preliminary Report on Public Submissions**

This document includes information on the public submissions received in response to an advertisement for submissions on the Preliminary Proposal. The report identifies if each issue raised is allowed or disallowed pursuant to the CPLA. If allowed the issue will be subject to further consultation with Department of Conservation, or other relevant party.

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

February 06

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**Report in Accordance with Contract 50346**

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

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File Ref: CON/50000/16/12636/00/A-ZNO Submission No: QVV 708 Submission Date: 28/06/2005

Office of Agent: Christchurch

LINZ Case No:

Date sent to LINZ: 30/06/2005

TR06/11

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**RECOMMENDATIONS**

- (1) That the Commissioner of Crown Lands approves this report for tenure review of Pm 017 Compensation Pastoral Lease.

**Signed by Contractor:**

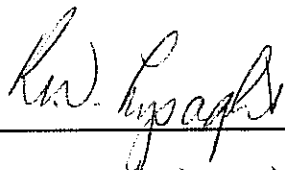


Barry Dench  
Team Leader for Tenure Review



Carolyne Latham  
Tenure Review Consultant

**Approved/Declined by:**



Name:  
Date of decision: 20 7 05



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

The following analysis:

- Summarises each of the points raised along with the submission number of those submitters making that point.
- Provides a discussion of the point.
- Discusses the CCL decisions whether or not to allow/not allow for further consultation.

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

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

#### 4.2 Analysis:

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
1	Supports the proposal.	Nos 1, 2, 3, 4, 5, 6 and 7.	Allow

All seven of the submitters were in full support of the majority of the proposal.

Submitter 1 agrees “*that it is not really suited for anything other than what you recommend in your report*”

Submitter 6 observes “*It is good to see sensible surrender of low value erodable land but with significant recreational and scenic value, re-assigned to the public conservation estate.*”

As the retention of land in Crown ownership and for freehold disposal plus the securing of public access to and enjoyment of reviewable land are objectives of the Crown Pastoral Land Act 1998, the point should be allowed so that these views can be taken into account in further consideration of the proposed designations.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
2	Recommends the proposed easement should be a legal road.	Nos. 3, 4 and 6.	Not Allow

Three submissions were received expressing strong doubts about the security of an easement as a means of providing public access.

Submitter 3’s only reservation about the proposal in its entirety is *“the quality and security of public access. This should be made legal road rather than an easement.”*

Submitter 4 feels that *“The only form of secure public access in New Zealand is a public road”* and goes on to say that *“Experience from earlier tenure reviews has demonstrated that no reliance can be placed on DOC to uphold the public interest when access easements are obstructed.”*

Submitter 6 doesn’t feel an easement provides adequate free access for Hunters with firearms and/or dogs and states *“The most permanent way to provide this is as a public road.”*

Whilst 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 creation of a legal road falls outside the jurisdiction of the Crown Pastoral Land Act and therefore this point is a “Not Allow”. However the issue of access for hunters with dogs and/or firearms has been allowed for under point 8 in this report.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
3	Application within the Property Law Act which allows modification or extinguishment of easements.	No. 4	Not Allow

In summary, the submitter claims that such easements can be extinguished or modified without public input and goes on to argue this constitutes a fundamental failure to secure public right of passage.

The Crown has an obligation under the Crown Pastoral Land Act to ‘make easier the securing of public access to and enjoyment of reviewable land’. One means is by way of easement over freeholded land. It is clearly anticipated that the creation of easements provided for under the Crown Pastoral Land Act is an adequate method of

securing public access to meet the objects of the Act and that future management by the Minister of Conservation will ensure continuity.

After considering this matter the point is “Not Allowed” as easements are provided for in the CPLA as a means of providing public access and Minister of Conservation management purposes.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
4	Objects to the ability of the Transferee to temporarily close all or part of the easement area.	No. 4	Allow

Submitter 4 is concerned about the absence of any cited legal authority for closure *“If there are lawful powers of closure applicable they should be expressly cited. Without such there can be no accountability for DoC’s future actions, and therefore no certainty of public access.”*

The Crown has an obligation under the Crown Pastoral Land Act to ‘make easier the securing of public access to and enjoyment of reviewable land’. As the point made touches on concern about the maintenance of the easement and from that ongoing ease of access, it is allowed for further consultation and consideration.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
5	Support for the public access easement.	Nos 2 and 7	Allow

Two submissions were received supporting the public access easement as proposed in the preliminary proposal.

Submitter 2 said *“The easement ‘a-b’ proposed through this block, which follows an existing track, is endorsed.”*

Submitter 7 agreed saying *“We in particular support the public access easement and that it should go ahead without amendment as it is essential full public access be allowed”.*

As one of the objects of section 24 of the Crown Pastoral Land Act is – to make easier – (i) the securing of public access and enjoyment of reviewable land, this point should be allowed so that these views can be taken into account in further consideration of the designations for public access.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
6	Proposes an extension of the proposed freehold to preserve a site of historical importance.	No. 5	Allow

Submitter 5 is a representative of descendents of the pioneer family, and puts forward a case for extending the proposed freehold area in a narrow strip up to and just beyond 'The Old House' site, located a relatively short distance further along the access track adjacent to the Branch River.

Submitter 5 notes "The Old House' is the site of the original Rennell family home where the settler took up a ballot block of land called Compensation around 1907. The submitter outlines a personal account of the family history on the property including a flood in 1926/27 where all but the dwelling was washed away

The submitter notes that although the structure of the house has long gone, the chimney, a lot of the old garden and some family relics still remain, together with some mature pine trees, willows and century old daffodils, herbs and fruits still growing at the site.

This piece of land is only a very small addition to the proposed freehold area which will not impinge on the access or enjoyment of the general public of the land to be retained by The Crown. Yet it is of great historic and spiritual importance to members of the pioneer family where four generations since have continued to revisit."

The total area referred to in this submission is less than approximately 10 hectares of river terrace and lower slopes covered in regenerating scrub immediately above and below the proposed easement track. As the legislation allows for the freehold disposal of land this point should be "Allowed" for further consultation and consideration.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
7	Queries the need for a 10m wide easement strip.	No. 5	Allow

One submission queried the need for a 10 metre wide strip to be taken for the proposed easement.

Submitter 5 enquires "Is there any substantiated reason for requiring such a significant width of land when the already formed area is only around 5-6 metres?"

The submitter is questioning why the easement needs to be wider than the actual vehicle track. As this relates to a specification of a mechanism being created to secure of public access to and enjoyment of reviewable land this point should be allowed for further consideration and consultation.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
8	Permission requested for a future water pipeline running under the easement, and additional conditions to be included in the easement document.	No.s 4, 5 and 6	Allow

Submitter 5 sought permission to run a pipeline in the future under the proposed easement, from a spring near the existing Department of Conservation signpost to the existing cottage.

The balance of submissions under this point fell into three common themes:

(a) Concern over maintenance of the easement

Submitter 4 believes that if an easement is to be used, it should be in complete compliance with schedule 4 of the Land Transfer Regulations 2002. They claim that *“The exclusion of schedule 4 of the Land Transfer Regulations 2002 removes any ability to effect construction and maintenance of the vehicle track, with no alternative provisions in their place.”*

Submitter 5 believes *“There needs to be a clause in the easement document stating that the Transferee shall be fully responsible for the upkeep and cost of any maintenance of the Easement Area.”*

(b) General conditions of use of the easement

Submitter 5 feels that as a main user of the Servient Land a number of conditions should be included on the easement document, specifically, *“The Transferee and its invitee’s shall not without express permission from the owner of the Servient Land:*

- (a) Discharge a firearm on, from or within 100 metres of the Easement Area. (Note: To safeguard stock free roaming and/or children.)*
- (b) Light any fires on or adjacent to the Easement Area.*
- (c) Stop or park on or adjacent to the Easement Area.*
- (d) Take any dogs on to the Easement area that are not leashed or secured on the vehicle at all times. (Note: A majority of the persons recreationally using this area in the foreseeable future will be pig*



*hunters with dogs. This clause is required for the safety of stock and children.)*

*(e) Lay any poison or set any trap on or adjacent to the Easement Area.*

*(f) Wilfully damage or interfere with any structure, plant or livestock on or adjacent to the Easement Area.*

(c) Adequate free access for hunters with firearms and/or dogs

Submitter 4 is concerned that when river conditions do not permit vehicle access, travel on foot will be necessary, and has concerns that *“A particular problem could arise from the freehold owner objecting to hunters carrying firearms and being accompanied by dogs when traversing the proposed easement, as there is no express provision for this.”*

Submitter 6 is also concerned about adequate free access for Hunters with firearms and/or dogs and believes *“The most permanent way to provide this is as a public road.”*

Hunters are most likely to make up a significant percentage of visitors to this property, and usually with firearms and dogs as their tools of trade.

This point covers a number of matters that will be addressed by Department of Conservation in their management of the easement after the conclusion of the tenure review, while other points may relate to the terms of the easement. On balance the point should be allowed for consultation and consideration.

### ***Discussion and conclusions:***

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

The submissions that come under the jurisdiction of the Crown Pastoral Land Act fall into several main themes:

- General support for the proposed conservation area and easement.
- Concerns regarding quality and security of the proposed easement for both public access, and the freeholder's 'quiet enjoyment'.
- Request for consideration of a small extension to the proposed freehold to include an area of historical significance to the freeholders family.

A number of submissions covered a range of issues that fell outside of the tenure review process, and explanations for not allowing their inclusion in this preliminary analysis have been provided above.