

Crown Pastoral Land Tenure Review

Lease name : Dalrachney

Lease number: Po 292

Report on public submissions

This document includes information on the public submissions received in response to an advertisement for submissions on the tenure review preliminary proposal. The analysis determines if an issue is accepted or not accepted as meeting the objectives of part 2 of the Crown Pastoral Land Act (CPLA) 1998, and if further consideration and consultation should be allowed or disallowed, as per Section 45 CPLA 1998.

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

January 02

ANALYSIS OF SUBMISSIONS

DALRACHNEY TENURE REVIEW

1. Details of lease:

Lease Name: Dalrachney
Location: Lindis Pass Highway, Omarama
Lessee: Dalrachney Station (1982) Limited

2. Public notice of preliminary proposal:

Date, publication and location advertised:

Saturday – 9 March 2002:

-	The Press	Christchurch
-	Otago Daily Times	Dunedin

Wednesday – 13 March 2002:

-	High Country Herald	Timaru
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Closing date for submissions:

10 May 2002 (*Otago Daily Times incorrectly printed 19 May 2002*).

3. Details of submissions received:

A total of 37 submissions were received by 10 May 2002. Two late submissions were received on 17 May 2002 and 19 June 2002 respectively.

4. Analysis of submissions:

4.1 Introduction:

Explanation of Analysis:

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

The following analysis summarises each of the points raised along with the recorded number of the submitter(s) making the point. Discussion of the point and the decision whether or not to accept/not accept or allow/disallow the point follows.

The following approach has been adopted when making Decisions:

- (i) To accept/not accept:

The decision to “**accept**” the point made by submitters is on the basis that the matter raised is a relevant matter for the Commissioner of Crown Lands (CCL) to consider when making decisions in the context of the Crown Pastoral Land Act 1998 (CPL Act). Conversely, where the matter raised is not relevant in terms of the Commissioner’s consideration, the decision is to “**not accept**”.

- (ii) To allow/disallow:

Where the decision has been made to accept, a further decision has been made as to whether the point made should be “allowed” or “disallowed”. The decision has been made to “**allow**” if the point raises new information and should be considered further. Where the matter has previously been decided by the CCL, and there is not justification for further consideration then the decision is to “**disallow**”. Further justification for the Decision has been made in the discussion paragraph showing the summary for each point.

4.2 Analysis:

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
1	The submitters requested additional access easements from State Highway 8 to the conservation area in the vicinity of Longslip Mountain from the northern side of the Lindis Pass.	1,17,32	Accept	Allow

Discussion:

Public access from the locations identified in the submissions (east of the Lindis Pass) was not considered by the Commissioner during the preparation of the Preliminary Proposal, and was not subject to consultation with the holder or the Director General of Conservation’s (DGC) delegate. Public access is one of the objects of the CPL Act (Section 24(c)(i) and therefore the point has been accepted. As the matter has not previously been considered the point has also been allowed.

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<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
2	The submitters sought opportunity for 4WD access over easement routes a-b, j-k, and b-c. The basis for the submission was that the opening of these easements for 4WD access would create opportunities for a wider range of the public.	2,4,5,7,8,9,10,11,12,13,14,15,16,18,19,20,21,22,23,24,25,26,27,29,	Accept	Allow for further consultation with the DGC delegate and the holder

Discussion:

Public access is one of the objects of the CPL Act (Section 24(c)(i)). This particular object does not limit the nature of the access that should be considered and on this basis the point has been accepted. The Commissioner did not consider public 4WD access on these routes when preparing the Preliminary Proposal. The importance of this access to 4WD users is new information that has been provided in this regard and therefore the point has been allowed to enable consultation on this aspect to be undertaken.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
3	The submitters request that the recreation concession be limited to a term of not more than 10 years and without a right of renewal and the activities be restricted to formed tracks or particular routes approved by DoC.	3,34	Accept	Allow for further consultation with the DGC delegate and the holder.

Discussion:

The CPL Act (Section 36) provides the opportunity for the CCL to consider the creation of concessions over land to be restored to Crown control. The Commissioner is also required to seek the provisional consent of the Minister of Conservation to such a proposal. On this basis the point has been accepted. The granting of the concession was fully traversed during consultation with the holder and the DGC delegate and the terms proposed are in recognition of the low impact on the proposed conservation land, and also as the concession is not granting exclusive rights. The submitters have provided additional information in relation to the conditions pertaining to the easement. Therefore the point is allowed for further consultation.

Prepared under the Official Information Act

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
4	The submitters request that the area of 85 ha proposed as a conservation covenant be reduced in area to that surrounding the proposed stock yards and wool shed facilities. The balance, in particular the prominent summit area (922 metre site) and its vicinity, to be transferred to Crown ownership.	3,34	Accept	Allow for further consultation with the DGC delegate and the holder

Discussion:

The CPL Act requires the CCL to seek the protection of significant inherent values through the use of protective mechanisms or preferably by restoration of the land to full Crown ownership and control (Section 24(b)). For this reason the point has been accepted. The boundaries of this covenant area and freehold were considered at length with the holder during consultation. The Commissioner decided on the current boundaries following this consultation. However, as this point ties in with subsequent points raised during the public process, the point is allowed to enable further consultation in conjunction with the other points.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
5	Include a further area of approximately 50 ha of grey shrubland on the southern boundary of the property in the land to be restored to Crown control.	3,34,37	Accept	Allow for further consultation with the DGC delegate and the holder

Discussion:

An object of the CPL Act is to protect significant inherent values (Section 24(b)). The submitters believe that this area contains significant inherent values that should be protected by restoration to Crown control. As the matter is anticipated in the Act the point is accepted. The boundaries of the proposed conservation area were discussed at considerable length with the holder during consultation leading to the Preliminary Proposal and these matters were considered. This point is related to a number of other points raised during the public process and in conjunction these aspects warrants further consultation with the holder and the DGC delegate. For the purpose of this consultation the point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
6	To include an additional 400 ha (approximately) on the north-western boundary in the land to be restored to Crown control as this area contains a range of significant inherent values.	3,17,30, 31,34,37	Accept	Allow for further consultation with the DGC delegate and the holder

Discussion:

An object of the CPL Act is the protection of significant inherent values (Section 24(b)). The area identified in the submissions does contain significant inherent values and for this reason the point is accepted. The merits of including this area in the proposed conservation land were discussed at some length during consultation with the holder and in the processes leading to the Preliminary Proposal. The Commissioner considered this information when making his decisions. At least one of the submissions provides additional information in relation to the significant inherent values of this area. For this reason the point is allowed. This point also links with other points raised during the public process and these points should all be available for further consultation with the holder and DGC delegate.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
7	Provide a car parking area off the main highway, preferably out of sight of the highway.	6	Accept	Allow

Discussion:

The provision of public access is an object of the CPL Act (Section 24(c)(i)). The tenure review does provide for public access, however the Commissioner has not previously considered the provision of car parking at the start of the access. For these reasons the point is accepted and allowed.

Decided under the Official Information Act

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
8	The submitters question the practicality of the proposed easement adjacent to the Mount Thomas boundary leading to Smiths Creek.	6,31,37	Accept	Disallow

Discussion:

The provision of public access is an object of the CPL Act (Section 24(c)(i)) therefore the point should be accepted. The proposed easement contained in the Preliminary Proposal was discussed at considerable length with the holder and the DGC delegate during consultation and was part of the consideration leading to the Preliminary Proposal. This information noted that the easement was not on the most practical alignment for public access. However as the current formed access lies through an adjoining property that is not part of this tenure review this matter could not be progressed further. For this reason the point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
9	The Preliminary Proposal indicates confusion over the route for public access to the Lindis River "b-c".	17,35	Accept	Allow

Discussion:

This is a public access issue that is to be considered in relation to Section 24(c)(i) CPL Act, therefore the point is accepted. As it is obvious from the submissions that the route is not clear the point is allowed for consideration when preparing the designations plan to accompany the substantive proposal.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
10	Landscape protection should be included over the very visible east facing slopes of the Longslip Creek Valley above State Highway 8.	17,31,32, 35,37	Accept	Disallow

Discussion:

The protection of significant inherent values, including landscape is an object of the CPL Act (Section 24(b)). For this reason the point is accepted. The protection of significant landscape values for the entire lease was fully considered during previous consultation. Those to which significance was attached are identified for protection within the preliminary proposal adjusted only for establishing practical boundaries. The submitters have not provided any information not previously considered. The point is therefore disallowed.

Released under the Official Information Act

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
11	There would appear to be several creeks and rivers where the margins should become marginal strips as a result of the tenure review process.	17,31,32, 35,37	Not accept	

Discussion:

The creation of marginal strips is a provision of Part IV of the Conservation Act 1987 administered by the Director General of Conservation. Part 2 of the CPL Act does not extend to any decision making process in relation to the creation of marginal strips. This point is not a matter for consideration by the CCL and the point is not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
12	The easement documents should be amended to provide for summer access by recognised 4WD clubs affiliated to "Tread Lightly" and community organisations running non-profit fund raising events across the freehold on all alignments scheduling access for DoC 4WD vehicles.	28,29	Accept	Allow

Discussion:

This point is very similar to that raised under Point 2 and the two points should be considered in tandem for further consultation. This point is more directly related to specified use by 4WD clubs under specific conditions. This element of exclusivity does not generally meet the expectations of providing "public access" as envisaged by Section 24(c)(i) CPL Act. The point has only been accepted and allowed because of the relationship to Point 2.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
13	The conservation area should be extended westward in the Smiths Creek catchment.	31,35,37	Accept	Allow for further consultation with the DGC delegate and the holder

Discussion:

This point is a further extension of that raised under Points 5 and 6 above. For the same reasons as for those points this point is accepted and allowed to enable further consultation with the holder and the DGC delegate.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
14	That the current rest area in the vicinity of the Dalrachney Bridge over Longslip Creek should be reserved for public purposes.	31,37	Not accept	

Discussion:

The area occupied by the current rest area lies between State Highway 8 and Longslip Creek, immediately upstream from the Dalrachney Bridge. The Land Status report does not show this land as part of the Dalrachney lease. It therefore lies outside the reviewable land contained in this tenure review. Therefore the point cannot be accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
15	Request for a side easement off easement b-c, at the foot of the cutting into Smiths Creek.	31,37	Accept	Allow.

Discussion:

Provision of public access is an object of the CPL Act (Section 24(c)(i)). Therefore the point is accepted. The route proposed by the submitter leads of the easement currently proposed to provide another point of access to the proposed conservation land and extends the range of recreational opportunities. Access on this route has not previously been considered by the CCL. This is new information and the point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
16	The submitter questions right to suspend public access over the easement.	31,37	Not accept	

Discussion:

This point is a debate about the provisions of the Conservation Act 1987 in relation to temporary closure of easement routes. While the provisions of the Conservation Act are not specifically within the scope of the Commissioner's consideration in tenure review, this clause has been considered at some length within the Department of Conservation. As this lies outside the scope of the Commissioner's role this point is not accepted.

Processed under the Official Information Act

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
17	The submitter noted that his organisation reserves the right to make further comment, as an Official Information Act request had not been supplied.	31,37	Not accept	

Discussion:

The provision of information under the Official Information Act is subject to the timelines contained in that Act, whereas the time for time line for submissions under the CPL Act is specified under Section 43(1)(a). The point is not accepted, but it is noted that the Commissioner is not prevented from considering late or oral submissions (Section 47(2) CPL Act). The Commissioner will consider such submissions where it is fair and reasonable to do so.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
18	A request for an additional easement in the vicinity of Lindis Hut to provide for potential future continuation of access down Smiths Creek.	32	Accept	Disallow

Discussion:

The provision of public access is an object of the CPL Act (Section 24(c)(i)), and therefore the point is accepted. The access requested leads to another property and was considered at length during the consultation prior to the preliminary proposal. The submitter has not provided any new information. Therefore the point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
19	That an easement up the west branch of Longslip Creek should lie equally within both Longslip and Dalrachney Pastoral Leases.	33	Not accept	

Discussion:

The submitter in this case was concerned that a proposed easement up the west branch of Longslip Creek is entirely within the Longslip Pastoral Lease. The suggestion was that the easement should be equally shared between the two leases. As the Longslip Pastoral Lease is not part of this tenure review the point is not accepted. If the point had been accepted then the matter of access on the Dalrachney side of the boundary has previously been considered during consultation and this was not considered to be a practical route. The point would have been disallowed on this basis.

Processed under the Official Information Act

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
20	That boundary adjustments between Dalrachney Station and Longslip Station should be completed so that the legal boundaries lie on the existing fences. The point also identifies sections of the existing fences that are not on the legal boundaries.	33	Not accept	

Discussion:

The Commissioner of Crown Lands does not guarantee that fences lie on the boundaries of pastoral leases. There is separate provision under the Crown Pastoral Land Act for boundary adjustments where both holders request this. This is not a matter to be considered under tenure review. The point is therefore not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
21	Request for access by Longslip Station over easement route a-b.	33	Not accept	

Discussion:

Easement route "a-b" passes through proposed conservation land. An easement concession in favour of Dalrachney Station (1982) Limited is proposed over this route. Section 36(1)(a) CPL Act allows for the granting of a concession to a person specified in the proposal. This section relates to Section 35(3) dealing with freehold disposal to a person specified. The Act does not provide for concession easements over proposed conservation land to parties other than those specified. Therefore the point is not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
22	The submitter challenges the inclusion of Section 2 Block VI Ahuriri Survey District in the reviewable lease.	33	Not accept	

Discussion:

This matter was researched during the Land Status Report and Due Diligence stages of the tenure review and its status as part of the Dalrachney lease was confirmed. Also as this is a Due Diligence matter it is not a point for the Commissioner to accept in relation to the preliminary proposal.

Released under the Official Information Act

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
23	The submitter questions why the wool shed and yards proposed for inclusion in the covenant area should not be located 2 kms or even further west within the valley floor of Smiths Creek. The area currently proposed for covenant should then return to the Crown as a conservation area.	35	Accept	Disallow

Discussion:

This point is related to Point 4 discussed above. The protection of significant inherent values is a matter for the Commissioner to consider as part of a tenure review (Section 24(b)) CPL Act), therefore the point is accepted. The siting of the stock handling facilities was considered in depth during consultation with the holder and the DGC delegate. With the separation of the property into two blocks the location of stock facilities was an essential part of the outcome and to locate the facilities further west was not practical due to vehicle access problems. As the matter has previously been considered and no new information is provided the point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
24	The proposed recreation concession is quite appropriate.	35	Accept	Disallow

Discussion:

The point raised in this submission is the counter to Point 3 previously discussed. The matter of concessions is something for the Commissioner to consider when preparing a Preliminary Proposal and therefore the point is accepted. As the point is merely endorsing the outcome of the Preliminary Proposal and does not add new information the point is disallowed.

Released under
 Information Act
 Decision Official

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
25	Opposition to the proposal to restore the 2594 ha area to the Crown for the reasons that there is no risk analysis, there is no conservation management strategy, the land contained in this area is capable of economic use, and the proposal will have on farm impact.	36	Accept	Allow

Discussion:

The submitter raises a number of valid concerns about the principle of ecological sustainability in relation to the proposed conservation land. The basis for this is well documented and supported. As ecological sustainability is a primary object of the CPL Act (Section 24(a)(i)) the point is accepted. The Commissioner has previously considered issues of ecological sustainability in this review but not with particular reference to the proposed conservation land. The submitter has raised some valid concerns not previously considered by the Commissioner. For this reason the point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission Nos</i>	<i>Decision</i>	
26	The objects of the Act can be achieved by freehold disposal of the proposed conservation area with the use of a conservation covenant to protect inherent values.	36	Accept	Disallow

Discussion:

The principles of ecological sustainability together with the protection of significant inherent values are matters for the Commissioner to consider in a tenure review (Sections 24(a)(i) and 24(b) CPL Act). For this reason the point is accepted. The submitter suggests that the presence of significant inherent values is recognised, a matter which the Commissioner has previously considered in depth. Also the Crown Pastoral Land Act gives preference to the restoration of such areas to Crown control rather than the use of a protective mechanism. For these reasons the point is disallowed.

Released under the Official Information Act

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
27	Support for the proposed easement a-b, subject to concerns about stock movement between the two portions of the property. The point also notes that if the area underlying the concession easement were to be freehold then a public access would be required instead.	36	Accept	Disallow

Discussion:

The granting of a concession easement is a matter that the Commissioner may consider in a tenure review (Section 36(1)(a) CPL Act). For this reason the point is accepted. The specific conditions relating to this easement were subject of consultation prior to the Preliminary Proposal. All parties to the consultation consider the concession easement as presented to be a good outcome. As the submitter provides no new information, the point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
28	Easement concession j-k should be extended to include livestock movement to simplify farming operations.	36	Accept	Disallow

Discussion:

The granting of a concession easement is a matter that the Commissioner may consider in a tenure review (Section 36(1)(a) CPL Act). For this reason the point is accepted. The specific conditions relating to this easement were subject of consultation prior to the Preliminary Proposal. As the submitter provides no new information in relation to this, the point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
29	Support for the recreation concession, but suggesting that the right of renewal should be longer than the proposed 20 years.	36	Accept	Disallow

Discussion:

The Commissioner of Crown Lands may consider the use of concessions as part of a tenure review (Section 36(1)(a) CPL Act), therefore the point is accepted. The conditions pertaining to this recreation concession arose following consultation with the holder and the DGC delegate and were part of the decision making process of the Commissioner in putting the Preliminary Proposal. The submitter has raised no new information in relation to this concession and therefore the point is disallowed.

Released under the Official Information Act

Point	Summary of Point Raised	Sub Nos	Decision	
			Accept	Disallow
30	Full support for the proposed freehold of 5372 ha.	36	Accept	Disallow

Discussion:

Subject to meeting the objective of ecological sustainability, the freeholding of reviewable land is one of the objects set out in Section 24 of the CPL Act. For this reason the point is accepted. The point raised is one of support for the proposed freehold area within the Preliminary Proposal. The submitter does not provide any new information in relation to this and therefore the point is disallowed.

Point	Summary of Point Raised	Sub Nos	Decision	
			Accept	Disallow
31	The submitter opposed an unrestricted access covenant. In the context of the subsequent discussion this is taken to mean the access easement. The submitter provides a number of reasons for this position.	36	Accept	Allow for further consultation with the DGC delegate and the holder.

Discussion:

The provision of public access is a matter for the Commissioner to consider under tenure review as are the conditions pertaining to such access (Section 24(c)(i) CPL Act). For this reason the point is accepted. The submitter raises a number of issues that were not previously considered by the Commissioner in the consultation leading to the Preliminary Proposal. These matters are of some significance and therefore the point is allowed to enable further consultation and consideration of these matters.

Point	Summary of Point Raised	Sub Nos	Decision	
			Accept	Disallow
32	The submitter supports the use of the 85 ha covenant to preserve the inherent values over land proposed for freehold. The submitter further notes that this mechanism should be used for the 2594 ha proposed to be restored to Crown control.	36	Accept	Disallow

Discussion:

The protection of significant inherent values including the use of protective mechanisms is a matter for the CCL to consider in a tenure review (Section 24(b) CPL Act). Therefore the point is accepted. This point is also relates to Point 26 above and the submitter does not provide any information not previously considered by the Commissioner. The point is therefore disallowed.

5. **Discussion and conclusions:**

Discussion relative to the particular points has been made above under each point for simplicity and clarity. A small number of submitters raised generic concerns about some of the boundaries of the proposed conservation area. Some of these included new information and this has led to a Decision that the points be allowed to enable further consultation to occur. There are also a small number of submitters who identified further access routes to the proposed conservation area. These routes have not previously been considered and the point is allowed to enable these matters to be considered further.

A large number of submissions related to the opportunity for 4WD vehicles to use the easement routes. The majority of these were part of an overall campaign and were in the form of a circular letter. As the provision of vehicle access had not previously been considered in the tenure review (*largely because it was considered inappropriate*) the number of submissions suggest that the point should be allowed to enable consultation on this matter to occur.

Of interest were two submissions received from neighbouring properties both of which raised issues that have not previously received widespread consideration in tenure review. The points raised by the submitters have been given full consideration in the analysis above and where relevant the points have been noted for further consideration.