



Crown Pastoral Land Tenure Review

Lease name: Dome Hills II

Lease number: Po 261

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.

December 03

ANALYSIS OF SUBMISSIONS

DOME HILLS TENURE REVIEW

1. Details of lease:

Property Name: Dome Hills & Dome Hills II
Location: Kakanui Range, North Otago
Lessee: Dome Hills Limited

2. Public notice of preliminary proposal:

Date, publication and location advertised:

Saturday 18 January 2003:

-	The Press	Christchurch
-	Otago Daily Times	Dunedin
-	Oamaru Mail	Oamaru

Closing date for submissions:

14 March 2003

3. Details of submissions:

A total of 7 submissions were received by the closing date. A further submission was received on 17 March 2003.

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 (*shown in Appendix 3*) of the submitter(s) making the point. Discussion of the point and the decision whether or not to accept/not accept or to 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 to consider when making decisions in the context of the Crown Pastoral Land Act 1998. Conversely, where the matter raised is not relevant in terms of the Commissioner’s consideration, the decision is to “**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 Commissioner, and there is not justification for the 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:

Point	Summary of Point Raised	Sub No	Decision	
1	The lower boundary of the proposed conservation area does not protect the significant inherent values.	1,2,3,4,5, 6,7,8,	Accept	Allow

Discussion:

All the submitters raised a range of questions relating to whether or not the proposed conservation area adequately protects the significant inherent values and conversely whether the freehold area contains significant inherent values that should have been protected. The protection of significant inherent values is a matter that the Commissioner is required to consider under Section 24 (b) CPL Act. The point raised is therefore accepted.

The submitters raised a variety of issues in relation to the significant inherent values that may or may not have been protected under the Preliminary Proposal. There is a wide variation in the stated extent and importance of these inherent values and it is apparent from the dialogue that the Commissioner may not have considered all the points raised. The point is therefore accepted as it is obvious that further consideration of these matters is required.

Specific details of a number of the areas of concern are contained in the sub-points that follow. The submitters also suggested a number of alternative boundaries to that contained in the Preliminary Proposal and these are shown on Diagram A attached to this analysis.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
1.1	The proposed conservation area does not protect a range of botanical species which in turn support an important range of invertebrates.	2,6	Accept	Allow

Discussion:

As noted in relation to the head point above the invertebrate population is a significant inherent value that the Commissioner should consider pursuant to Section 24 (b) CPL Act. The point is therefore accepted.

The invertebrate fauna of this area is a significant inherent value which has not been fully considered by the Commissioner in the previous deliberations on this tenure review. The point has therefore been allowed to enable proper consideration of the additional information received from the submitters.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
1.2	There is a case for greater protection of shrubland species contained within the reviewable land.	3,5,6	Accept	Allow

Discussion:

The shrublands within the reviewable land are a significant inherent value and as such the Commissioner is required to give full consideration to the protection of these in accordance with Section 24 (b) CPL Act. The point is therefore accepted.

The Commissioner has previously considered some specific alternative boundaries in relation to the protection of the shrubland flora. The submitters have however suggested a wide range of boundaries that could be necessary to adequately protect this flora. As not all of these boundaries have previously been considered the point has been allowed on the basis of this new information.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
1.3	There is a case for greater protection of the low to mid-altitude tussock grasslands.	3,6	Accept	Allow

Discussion:

The low to mid-altitude tussock grasslands in this area are an inherent value that may be of significance. As such the Commissioner is required to give full consideration to the protection of these areas pursuant to Section 24 (b) CPL Act. The point is therefore accepted.

As with the shrublands referred to above the Commissioner has previously considered some specific areas of land to be restored to full Crown ownership and control in order to protect tussock grasslands. The submitters have suggested a range of other boundaries that may be necessary to support the significant inherent values associated with these grasslands. As the Commissioner has not previously considered this range of options the point is allowed to enable consideration to be given to these.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
1.4	There is a case against the proposed freehold on the basis of ecological sustainability and that the area contains significant inherent values.	3	Accept	Allow

Discussion:

While this particular point is to some extent the converse of the above three points, the Commissioner is however required to consider the protection of significant inherent values pursuant to Section 24 (b) CPL Act. For this reason the point is accepted.

This sub-point is the converse of the points preceding 3 sub-points and for the same reasons as given above this point is allowed as further consideration of the significant inherent values is required. No new information is provided in relation to ecological sustainability.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
1.5	There is a case against the proposed fenceline dividing the conservation and freehold land on the basis of landscape impact.	3,7,8	Accept	Allow

Discussion:

Landscape is considered a significant inherent value pursuant to the CPL Act. Protection of significant inherent values is a matter for the Commissioner to consider pursuant to Section 24 (b) CPL Act. For these reasons the point is accepted.

The fenceline intended to separate the conservation land from the proposed freehold was identified largely for the purposes of achieving a practical fenceline. The Commissioner has not given specific consideration to the landscape impact of this fence. The information provided by the submitters is therefore new information and the point is allowed to enable the Commissioner to consider the information provided.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
1.6	There is a potential for recreational use on a larger area centred on the Crumb Hut as part of the argument for lowering the boundary.	4,5	Accept	Disallow

Discussion:

Recreational use is an inherent value pursuant to the CPL Act. The Commissioner is required to consider significant inherent values in making decisions on tenure review pursuant to Section 24 (b) CPL Act. For this reason the point is accepted.

This aspect of the boundary issue was considered by the Commissioner in the earlier stages of this tenure review. The background information provided by the submitters was also available to the Department of Conservation when preparing the Conservation Resources Report and proposed Designations Report. The submission does not therefore contain any new information and therefore this aspect of the point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
1.7	That emergency grazing could be considered within a larger conservation area in the event of adverse summer conditions.	5	Accept	Disallow

Discussion:

The Commissioner is able to consider the granting of specified concessions as part of a tenure review pursuant to Section 36 (a) CPL Act. The point is therefore accepted.

The Commissioner specifically considered the provision of grazing within the proposed conservation areas including the larger area now suggested by the submitter during the consultation leading to the Preliminary Proposal. The submitter has not provided any new information in this regard and therefore the point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
2	The submitters supported the proposed marginal strip and the extended stream bank covenant providing protection to the stream margins.	1,6	Accept	Disallow

Discussion:

While the points raised refers to marginal strips the issue at stake here was the protection of significant inherent values adjacent to the stream margins. As significant inherent values are a matter for the Commissioner to consider pursuant to Section 24 (b) CPL Act the point has been accepted.

The submissions in this case provide support for the protection of significant inherent values in the manner described in the Preliminary Proposal. The submitters have however not provided any new information in this regard and therefore the point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
2.2	The submitters whilst supporting the concept of stream bank protection consider that the proposed covenant does not provide adequate protection or public access adjacent to the Kakanui River.	5,7,8	Accept	Disallow

Discussion:

The protection of significant inherent values and the provision of public access are matters for the Commissioner to consider pursuant to Sections 24 (b) CPL Act and Section 24 (c) (i) CPL Act respectively, therefore the point is accepted.

In preparing the Preliminary Proposal the Commissioner gave full consideration to matters relating to the margins of the Kakanui River. The outcome of this consideration led to the Commissioner providing for a covenant to protect the margins of the river beyond the extent of any marginal strip. The submitters do not provide new information specific to this area and therefore the point is disallowed. It is however noted that aspects of the point are also contained in Points 1.2 and 1.3 already discussed above. These aspects were in fact allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
3	Public access via Pisgah Spur is important, but may not be adequately provided for on the current legal road.	1,3,5,6,8	Accept	Disallow

Discussion:

The provision of public access is a matter that the Commissioner considers pursuant to Section 24 (c) (i) CPL Act. For this reason the point is accepted. In reaching this decision it is however noted that whilst the provision of public access in a generic sense is important, the access referred to generally lies outside the boundaries of this lease.

It was recognised during the preparation of the Preliminary Proposal that access on this route was important. It was noted during these deliberations that there is legal access for the full length of the property boundary on the Pisgah Spur.

While it was noted that some portions of the formed access deviate from this legal alignment it was not a matter that could be considered in the context of this review as these deviations lay on the neighbouring property. The recognition of the legal access was therefore the best option available in the context of the Dome Hills review. The submitters have not provided any new information in relation to this access route and therefore the point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
4	The submitter proposed a covenant in relation to botanical and invertebrate values on the hillslopes below Trig G.	2	Accept	Allow

Discussion:

The submitter had identified inherent values that may be significant adjacent to Trig G. The protection of significant inherent values is a matter for the Commissioner to consider pursuant to Section 24 (b) CPL Act and therefore the point is accepted.

The Commissioner has not previously given consideration to protection of significant inherent values in the vicinity of Trig G. The submitter has therefore provided new information and therefore the point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
5	Various generic concerns about the process of tenure review especially in relation to the handling of submission and the consideration of economic use.	5,7	Not accept	

Discussion:

While the process of tenure review is something of considerable importance to the Commissioner the details of the process of tenure review is not a matter to be considered in the context of an individual review. There is a different forum for the consideration of such matters and therefore the point is not accepted.

While not accepting the point it is noted that the submitters both in this instance and in other cases have not taken account of the provisions of Section 24 (a) (ii) CPL Act which relates to economic use.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
6	The submitters raised various issues in relation to marginal strips.	3,5,7,8	Not accept	

Discussion:

Marginal strips where appropriate will be created on the disposition of land, but this is a matter for the Director General of Conservation in terms of Part IV of the Conservation Act. The Commissioner does not have jurisdiction in relation to marginal strips and therefore the point is not accepted.

This decision also relates to the current position of marginal strips as identified on the plan as these matters would be re-visited on disposition of the land, but once again this is not a matter within the jurisdiction of the Commissioner of Crown Lands.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
7	That access should be made available via Kakanui Spur.	4	Accept	Allow

Discussion:

Public access is a matter that the Commissioner considers pursuant to Section 24 (c) (i) CPL Act. The point is therefore accepted.

Access on Kakanui Spur was not previously considered due to the nature of the terrain. The submitter has however suggested that this is the route that may be used and therefore this is new information. On the basis of this new information the point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
8	That a landscape covenant be established over the property to prevent the establishment particularly of forestry and other disruptive landscape elements in the Kakanui Basin.	5,8	Accept	Disallow

Discussion:

Landscape is an inherent value pursuant to the CPL Act. The protection of significant inherent values is a matter for the Commissioner to consider pursuant to Section 24 (b) CPL Act. The point is therefore accepted.

Whilst it is accepted that landscape is a significant inherent value it is not accepted that the CPLA is the correct forum for addressing the questions of land use and the use of a negative covenant (i.e. a covenant that prevents certain activities as opposed to a positive covenant that allows certain activities). The imposition of a covenant such as that proposed by the submitters could have an impact outside of the property concerned. The local and regional authority planning processes under the RMA is the correct forum for addressing issues of land use tree planting, earth disturbance, etc. and this matter should be dealt through that process. The point is therefore disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
9	The submitter supports the goals established in the Conservation Management Strategy covering this area and asks that the Department of Conservation actively pursue these.	5	Not accept	

Discussion:

The Conservation Management Strategy is not a matter that the Commissioner is able to consider pursuant to the CPL Act. Conservation Management Strategies are a planning document devolved by the Department of Conservation. While certain objectives for that department may be identified in those strategies they are not a matter specifically for consideration in decision making under the CPL Act and therefore the point is not accepted.

5. Discussion and conclusions:

The 8 submissions received all were concerned about the relatively small area of the conservation land compared to the significant inherent values that they believe exist in the north branch of the Kakanui River.

The submitters came up with a range of options which could be considered in the protection of significant inherent values and there is very little overlap in relation to these. Given the complexity of the advice provided by the submitters it is considered appropriate that the Commissioner re-considers the split between conservation and freehold on the Dome Hills Pastoral Leases. It is recognised that some of the information may have previously been considered, but the overall matrix provides a new base for consideration.

The analysis of submissions has been split into a number of sub-sets largely to identify some specific areas of concern/interest. This has suggested that there are a large number of points that were not previously considered, however in context it all relates to where the appropriate boundary between conservation and freehold should be on these leases.

ATTACHMENT:

- A Map showing various boundaries suggested by submitters.

ATTACHMENT A:

Map showing various boundaries suggested by submitters.

