

# Crown Pastoral Land Review of Other Crown Land

Property name: Domett Downs

## Final report on public submissions

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

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

October 04

## FINAL ANALYSIS OF SUBMISSIONS

### *Review of other Crown land – Domett Downs*

#### **1. Details of licence:**

**Licence name:** Domett Downs (*also known as Lone Hill*)  
**Location:** Kurow  
**Licensee:** Brian Henry McCone

#### **2. Public notice of Preliminary Proposal:**

##### ***Date, publication and location advertised:***

Saturday – 9 August 2003	The Press	Christchurch
	Otago Daily Times	Dunedin
Wednesday – 13 August 2003	High Country Herald	Timaru

##### ***Closing date for submissions:***

3 October 2003

#### **3. Details of submissions:**

A total of 6 submissions were received by the closing date. A late submission was also received from the holder. The details of these submissions are contained in Appendix 3.

#### **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 allow/disallow or to accept/not accept the point follows.

The following approach has been adopted when making decisions:

To allow/disallow:

Where the point raised in submissions is a matter that can be dealt with under the Crown Pastoral Land Act then it is “**allowed**”. If the point raised is not a matter that can be dealt with under the CPL Act then the point is “**disallowed**”.

To accept/not accept:

Where the decision has been made to “allow”, a further decision has been made as to whether the point made should be “accepted” or not accepted”. The decision has been made to “**accept**” where the point is to be included in the proposal.

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 supported the proposal to restore to full Crown ownership and control all the land currently contained in the Pastoral Occupation Licence.	1,2,4,6	Allow	Accept

#### *Discussion:*

The protection of significant inherent values is one of the objects of the Crown Pastoral Land Act 1998 (*Section 24 (b) CPL Act*). The point is therefore allowed.

After reviewing all matters raised, the Crown considers that the proposal should reflect this point, and it is therefore accepted. It requires no alteration to the proposal.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>
2	The submitters propose that the review of the Domett Downs POL should include consideration of the affect of the decisions on the whole farm rather than just the POL.	3,7	Disallow

*Discussion:*

There is not provision in Part 3 of the Crown Pastoral Land Act 1998 for the consideration of the whole farm rather than the land under review. While some of the submitters reference the discussion that went on in Parliament and the Select Committee during the development of the CPLA Act this did not carry forward into the legislation and is therefore not a consideration to be taken into account and the point is therefore disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
3	The submitters maintain that the land subject to the current POL has been farmed in a very sustainable manner for many years and generations.	3,7	Allow	Not Accept

*Discussion:*

To promote the management of Crown land in a way that is ecologically sustainable is an object of Part 3 of the Act as outlined in Section 83 (a). Ecological consideration is therefore a point to be allowed in the consideration of a review under Part 3 of the CPL Act.

The potential for farm use in an ecologically sustainable manner was considered in the preparation of the preliminary proposal. However, full Crown ownership and control was considered to provide more secure protection of the significant inherent values and also to be ecologically sustainable. No new information has been provided to lead to a change in the proposal, therefore the point is not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
4	The submitters question the accuracy of the DoC Conservation Resources Report. They raise some serious questions as to the accuracy or the extent of the significant inherent values identified in that report.	3,7	Allow	Not Accept

*Discussion:*

The protection of significant inherent values of Crown land is an object of Part 3 of the Crown Pastoral Land Act 1998. The point is therefore allowed as a matter that the Commissioner must consider in the preparation of a Preliminary Proposal.

The submission on behalf of the holder included a paper prepared by a recognised botanist who confirmed that the significant inherent values were present on the block. This paper questioned the appropriateness of restoration to the Crown as opposed to a protective

mechanism in protecting these significant inherent values. The information contained in the conservation resources report and proposed designations report has been further considered in light of this paper. This consideration has confirmed that the SIVs will be best managed in the absence of grazing. No evidence has been provided to support a change to the proposal, therefore the point is not accepted.

<b>Point</b>	<b>Summary of Point Raised</b>	<b>Sub Nos</b>	<b>Decision</b>	
5	The submitters recommend that the land in its entirety be disposed of on freehold title.	3,7	Allow	Not Accept

*Discussion:*

The freehold disposal of Crown land capable of economic use is an object of Part 3 of the CPL Act (*Section 83 (c) (ii)*). The consideration of freehold disposal is therefore a matter for the Commissioner or his delegate to consider and the point is allowed.

One of the submitters supplied extensive supporting data for this contention based on file papers sourced from the Waitaki Catchment Commission, the Department of Lands and Survey, by cross referencing other decisions in relation to pastoral lands and with reference to Crown policies. However, it should be noted that the land remained on POL at the commencement of the Crown Pastoral Land Act in 1998 and therefore is subject to review under Part 3.

Further review of the information relating to significant inherent values confirmed that these would be best managed within full Crown ownership and control. The point is therefore not accepted.

<b>Point</b>	<b>Summary of Point Raised</b>	<b>Sub Nos</b>	<b>Decision</b>	
6	The submitters note that there is currently no legal access to the POL or the adjacent Mount Domett Conservation Area. The submitters note that they are disappointed that the provision of public access is not an outcome from this review.	4,5	Allow	Not Accept

*Discussion:*

The provision of public access to and enjoyment of the Crown land is an object of Part 3 of the CPL Act (*Section 83 (b)*). The point is therefore allowed for further consideration.

This matter has been further reviewed and while it is not possible to arrange access across adjacent land as part of this review, DoC has undertaken to endeavour to negotiate access over adjoining freehold. The point is therefore not accepted for action under the review.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>
7	The submitter questions whether the significant inherent values were of such quality in the eastern portion of the land, that this area could not have been traded for the option of public access over adjacent lands.	5	Disallow

*Discussion:*

The provision of public access over adjacent lands not contained in the review is not an object of the Part 3 of the CPL Act. It is also noted that where significant inherent values exist there is no provision in Part 3 of the CPL Act for these to be traded for other benefits. For these reasons the point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
8	The submitter questions the statement in the summary of the Preliminary Proposal that the “the interaction and complexity of the natural values of this POL together make up a total landscape which represents a range of significant inherent values”.	7	Allow	Not Accept

*Discussion:*

The protection significant inherent values is one of the objects of Part 3 of the Crown Pastoral Land Act (*Section 83 (b)*). The point is therefore allowed.

The statement referred to has been checked against the conservation resources report and proposed designations report and its validity confirmed with the DGC delegate. No information contradicting the statement has been obtained, therefore the point is not accepted.

<b>Point</b>	<b>Summary of Point Raised</b>	<b>Sub Nos</b>	<b>Decision</b>
9	The submitter provides evidence of the contribution that the current POL makes to the overall farming operations of the holder. The submitter concludes on the basis of this discussion that the POL should be freeholded in its entirety at no cost to the licensee.		Disallow

*Discussion:*

As outlined in Point 2 above Part 3 of the CPL Act does not provide for the consideration of the entire farming operations of landholder. While this may have been discussed in the Parliamentary debate it did not carry forward into the legislation that must be considered by the Commissioner (*or his delegate*) in making decisions on an individual review. The point is therefore disallowed.

<b>Point</b>	<b>Summary of Point Raised</b>	<b>Sub Nos</b>	<b>Decision</b>	
10	The submitter notes that he has a right of rehearing when a decision has been made on the Preliminary Proposal and asks that this right be confirmed.	7	Allow	Accept

*Discussion:*

The right of rehearing is granted pursuant to Section 89 (2) CP Act. While this has been slightly misconstrued as relating to the Preliminary Proposal as opposed to the adoption of a Substantive Proposal the right of rehearing is contained in the Act and therefore the point is allowed.

As this is a valid point for clarification, the point is accepted. It does not result in a change to the proposal, but this right is to be confirmed to the holder as requested.



<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
11	With reference to the Conservation Resources Report the submitter believes that the report does not show how the land will be managed by the Crown in a way that is ecologically sustainable.	7	Allow	Not Accept

*Discussion:*

Section 83 (a) CPL Act identifies one of the objects of Part 3 of the Act as being to promote the management of Crown land in a way that is ecologically sustainable. The question made by the submitter is therefore valid and the point is allowed.

This aspect has been reviewed and it is believed that the proposed management regime will mean that the land will be managed in a sustainable way as the natural processes will be able to progress unhindered. The point is therefore not accepted.

**5. Summary and conclusions:**

The submissions provided indicate general support by conservation interests in the proposed outcome from this review of other Crown land. This support is noted and did not require amendment to the proposal

The one reservation by the public submitters in this regard relates to the provision of public access. This received further consideration, with the outcome that DoC will endeavour to negotiate access outside of tenure review.

Other matters in relation to the review were raised by the holder through his consultant and also other farming interests. The holder in particular raises a number of issues based on the history of the POL and whether or not there is a legitimate expectation by the holder of the land being available for freehold. However, the land is a POL and is thus being reviewed under Part 3 of the CPL Act. The consultant also sought the opinion of another botanist in regard to the significant inherent values. The botanist confirmed that significant inherent values were present but questioned the mechanisms required to protect these.

The validity of the significant inherent values and the appropriate means of protection have been reviewed in light of the submissions. This has led to confirmation of the proposal.



## ANALYSIS OF IWI SUBMISSION

### *Review of other Crown land – Domett Downs*

#### 1. **Details of licence:**

**Licence name:** Domett Downs (*also known as Lone Hill*)

**Location:** Kurow

**Licensee:** Brian Henry McCone

#### 2. **Public notice of Preliminary Proposal:**

##### *Date, publication and location advertised:*

Saturday – 9 August 2003	The Press	Christchurch
	Otago Daily Times	Dunedin
Wednesday – 13 August 2003	High Country Herald	Timaru

##### *Closing date for submission:*

3 October 2003

#### 3. **Details of submission:**

A submission dated 1 September 2003 was not received by DTZ. Following enquiries a copy of the submission was received on 13 April 2004.

#### 4. **Analysis of submission:**

##### 4.1 **Introduction:**

###### *Explanation of analysis:*

The submission has been reviewed in order to identify the points raised and these have been numbered accordingly.

The following analysis summarises each of the points raised. Discussion of the point and the decision whether or not to allow/disallow the point follows.

The following approach has been adopted when making decisions:

Where the point raised in submissions is a matter that can be dealt with under the Crown Pastoral Land Act then it is “**Allowed**”. If the point raised is not a matter that can be dealt with under the CPL Act then the point is “**disallowed**”. Further justification for the decision has been made in the discussion paragraph showing the summary for each point.

Where the decision has been made to “allow”, a further decision has been made as to whether the point made should be “accepted” or not accepted”. The decision has been made to “**accept**” where the point is to be included in the proposal.

**4.2 Analysis:**

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Decision</i>	
1	The submitter requested that areas of indigenous vegetation with high conservation value be protected and noted that this was achieved through the proposal	Allow	Accept

*Discussion:*

The protection of significant inherent values is one of the objects of the Crown Pastoral Land Act 1998 (*Section 24 (b) CPL Act*). The point is therefore allowed.

While the submitter did not suggest any changes to the proposal, support for the current proposal needs to be recognised as the Crown reviews aspects of the proposal.

After reviewing all matters raised in the submission process, the Crown considers that the proposal should reflect this point, and it is therefore accepted. It requires no alteration to the proposal.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Decision</i>	
2	The submitter requested riparian protection of all freshwater mahika kai resources and noted that this was achieved through the proposal.	Allow	Accept

*Discussion:*

While Esplanade Reserves and marginal strips are dealt with under other legislation, the submitter does refer to protection in general around fresh water areas, including buffer zones. There are various possible designations under the CPL Act that would enable such protection, and the point has therefore been allowed for further consideration.

The submitter noted that the proposal achieves the required protection. However, support for the proposal needs to be recognised as the Crown reviews aspects of the proposal.

After reviewing all matters raised in the submission process, the Crown considers that the proposal should reflect this point, and it is therefore accepted. It requires no alteration to the proposal.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Decision</i>	
3	The submitter sought partnership in the management of the proposed conservation land per Section 4 Conservation Act.	Disallow	Not Accept

*Discussion:*

The point raised relates to the Conservation Act and is therefore not a matter that the Commissioner can consider.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Decision</i>	
4	The submitter sought a co-management relationship with DoC of potential nohoaka/mahika kai areas bordering wetland/riparian areas.	Disallow	Not Accept

*Discussion:*

The point raised relates to the Conservation Act and is therefore not a matter that the Commissioner can consider.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Decision</i>	
5	Papatipu Runaka seeks protective mechanisms to all mahika kai resources and areas of indigenous vegetation with high conservation value and noted that this could be with the Crown or Freeholder. It was further noted that this protection was an outcome of the proposal.	Allow	Accept

*Discussion:*

The protection of significant inherent values is one of the objects of the Crown Pastoral Land Act 1998 (*Section 24 (b) CPL Act*). The point is therefore allowed.

While the submitter did not suggest any changes to the proposal, support for the current proposal needs to be recognised as the Crown reviews aspects of the proposal.

After reviewing all matters raised in the submission process, the Crown considers that the proposal should reflect this point, and it is therefore accepted. It requires no alteration to the proposal.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Decision</i>	
6	Papatipu Runaka seeks access mechanisms to all mahika kai resources and areas of indigenous vegetation with high conservation value and noted that this could be with the Crown or Freeholder. It was further noted that this protection was an outcome of the proposal.	Allow	Accept

*Discussion:*

The provision of public access to and enjoyment of the Crown land is an object of Part 3 of the CPL Act (*Section 83 (b)*). The point is therefore allowed.

While the submitter did not suggest any changes to the proposal, support for the current proposal needs to be recognised as the Crown reviews aspects of the proposal.

After reviewing all matters raised in the submission process, the Crown considers that the proposal should reflect this point, and it is therefore accepted. It requires no alteration to the proposal.

**5. Summary and conclusions:**

The submission either supported the proposal in its current form (4 points, although one lay outside the scope of the CPL Act) or dealt with matters of subsequent management that are outside the considerations of the CPL Act.

As no changes are sought to the proposal as a result of the submission, further consultation is not required and no further decisions are necessary.