

Crown Pastoral Land Review of Other Crown Land

Property name: Domett Downs

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.

March 04

REPORT IN ACCORDANCE WITH CPL STANDARD 16

**Analysis of submissions received through public notice of
Preliminary Proposal for review of other Crown land**

DOMETT DOWNS (*Lone Hill*)

File Ref: CON50213/12426 (Oo095) Submission No: A3100 Submission Date: 18 November 2003

Contractor's Office: Alexandra LINZ Case No: T204/104 Date sent to LINZ: 17/2/04

RECOMMENDATIONS:

1. That the Commissioner of Crown Lands or his delegate notes the submissions received, and makes the decisions as set out in the analysis of submissions.
2. That the Commissioner of Crown Lands or his delegate instruct DTZ to consult with the DGC on the points that have been allowed.


CERTIFICATION:

DTZ certifies that this report has been prepared in accordance with the CPL Preliminary Proposal for review of other Crown land Standard.

Signed for DTZ New Zealand Limited:


K R Taylor

Approved/Declined (pursuant to a delegation from the Commissioner of Crown Lands) by:


Name: ROBERT JOSEPH WEBSTER
Date of decision: 19/2/04

1. Details of licence:

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

Location: Kurow

Licensee: Brian Henry McCone

APPENDICIES:

1. Analysis of submissions.
2. Copy of public notice.
3. List of submitters.
4. Copy of annotated submissions.

PRELIMINARY 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 submission:

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 accept/not accept or to allow/disallow 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. 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

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 submitters 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.

<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

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.

<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

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.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>
5	The submitters recommend that the land in its entirety be disposed of on freehold title.	3,7	Allow

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.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>
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

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.

The provision of public access is problematic in this case. However, access is an important goal which deserves further consideration. It may be appropriate that the matter is pursued outside of the tenure review process.

<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

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.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>
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.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>
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

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. 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

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.

5. Summary and conclusions:

The submissions provided indicate general support by conservation interests in the proposed outcome from this review of other Crown land. The one reservation by the submitters in this regard relates to the provision of public access. This will received further consideration.

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. It is appropriate to review the issues raised.