

Crown Pastoral Land Tenure Review

Lease name: GLENARIFFE

Lease number: PC 129

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

05

Report in Accordance with Contract 50346

Final Analysis of Public Submissions for Preliminary Proposal

File Ref: CON/50000/16/12780/A-ZNO-04 Submission No: QVV 656 Submission Date: 28/7 /2003

Office of Agent: Christchurch

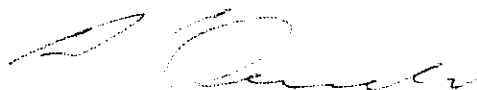
LINZ Case No:

Date sent to LINZ: 16/8 /2004

RECOMMENDATIONS

- (1) That the Commissioner of Crown Lands approves this report for tenure review of Pc 129 Glenariffe Pastoral Lease.

Signed by Contractor:
Q V Valuations



Barry Dench
Team Leader for Tenure Review

Approved/Declined by:

Name:

Date of decision: / /

(1) Details of lease:

Lease Name: Glenariffe
Location: Double Hill Run Road, Methven
Lessee: Glenariffe Station Limited

(1) Public notice of preliminary proposal:

Dates, publication and location advertised:

Saturday 10 May and Wednesday 14 May 2003

- The Press Christchurch
- Otago Daily Times Dunedin

Closing date for submissions:

9 July 2003

(2) Details of submissions received:

A total of 5 submissions were received by the closing date plus one late submission. One submission included a copy of a submission made on an earlier occasion as an attachment and this has been accepted as an entry in its own right. Total received = 6

(3) Analysis of submission:

4.1 Introduction:

Explanation of Analysis:

This is a final analysis of submissions. The purpose of this final analysis is to determine whether to accept or not accept the points raised in submissions for inclusion in the draft substantive proposal.

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 numbers of those submitters making that point.
- Discussion of the point.

- The CCL decisions whether or not to allow/not allow for further consultation.

The following approach has been adopted when making the decision:

- (i) To allow/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.

- (ii) To accept/not accept:

The outcome of an “**Accept**” decision will be that the point is included in the draft Substantive Proposal. 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 taking into account the objects and matters in the Crown Pastoral Land Act 1998 (sections 24 and 25). Secondly the views of all parties consulted and any other matters relevant to this review, balanced against the objects and matters to be taken into account in the Crown Pastoral land Act.

The outcome of a “**Not Accept**” decision will be that the point is not included in the draft Substantive Proposal, based on consideration of the above criteria.

4.2 Analysis:

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>	
1	Support for the proposed land to be returned to Crown control	1, 2, 3 & 5	Accept <i>Allow</i>	Allow <i>Accept</i>

One submitter indicated support for the manner in which areas have been designated and two submitters expressed support for the Proposed Land to be returned to Crown control with submitter 2 providing additional information. ✓

The return of land to full Crown ownership and control and land for Crown Control as a conservation area is a consideration of tenure

review under the Crown Pastoral Land Act and the additional information should be considered by the Commissioner if the designations are reconsidered as a result of further consultation.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>	
2	Support for the proposed sale of a 1593 hectare area to the lessee	3 & 5	Accept <i>Allow</i>	Allow <i>Accept</i>

One submitter indicated support for the manner in which areas have been designated and one submitter indicated support for the proposed sale of the 1593 hectare section to the lessee.

As one of the objects of the Crown Pastoral Land Act is to enable reviewable land capable of economic use to be freed from the management constraints resulting from its tenure under reviewable instrument these submissions should be allowed and accepted as it meets the objects of the Act.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>	
3	Support for the proposed easement concession "c-d" and "g-h" for farm management purposes.	3	Accept	Allow

One submitter indicated expressed support for the proposed easement concession "c-d" and "g-h" as access for farm management purposes. This should be accepted as it meets the objects of the Crown Pastoral Land Act.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>	
4	Opposes implementation of this tenure review	6	Not Accept	Allow

One submitter opposes implementation of this tenure review because of a failure to secure public access to and enjoyment of this reviewable land, and the failure to ensure marginal strips are created.

As these are both legitimate concerns that relate to the objects of the Crown Pastoral Land Act in respect of public access this submission should be allowed to the extent that further consultation is to be undertaken.

After further consultation, the submitter should be assured that marginal strips where appropriate will be created on the disposition of the land. This is a legislative requirement, governed by Part IV of the Conservation Act and is a matter for the Director-General of

Conservation to administer. Consequently this part of the point is not accepted.

The Crown's obligation is to "make easier the securing of public access to and enjoyment of reviewable land". The Crown Pastoral Land Act provides a number of mechanisms to enable enjoyment of land with significant inherent values. One of these is to provide access to this land by way of easement over freeholded land and in this regard it is clearly anticipated that the creation of easements is an adequate method of securing access to meet the objects of the Act.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>	
5	Restore to full Crown ownership and protective management by DOC all of the Rakaia Faces from Glenrock Stream east to the Glenariffe pastoral lease boundary or as a minimum from Powerhouse Stream east to the Glenariffe pastoral lease boundary.	4	Not Accept	Allow -

The submitter maintains that in freeholding 280 hectares of the lower Rakaia faces which were recommended for protection as part of the Mt Hutt RAP 12 Powerhouse Stream the Preliminary Proposal ignores the high ecological and landscape values of the area. The submitter has quoted the Department of Conservation Conservation Resources Report and has confirmed that there are landscape and ecological inherent values associated with this area.

As the protection of significant inherent values of reviewable land is an object of the Crown Pastoral Land Act this submission is allowed to the extent that further consultation is to be undertaken.

After consultation and reconsideration while the submitter makes a case for protection of the significant inherent values (S.I.V's) it should be noted that the S. I. V's found in Powerhouse Stream will be protected. However the rest of the faces have been oversown and topdressed and are considered to lack a significant level of inherent values from a fauna and flora perspective.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>	
6	Extend the boundaries of the Glenrock Swamp area to those covered in the Mathias – Mt Hutt survey report or the DOC Values Map.	4	Not Accept	Not Allow

One submitter states that the boundaries of Glenrock Swamp (Mathias RAP 2 Glenrock Swamp) identified in the Mathias and Mt Hutt PNA report are larger than the area proposed for protection in the Preliminary Proposal.

The balance of the swamp is outside of the boundary of the reviewable land. To this extent this submission does not raise matters relevant to the decisions to be made by the Commissioner under the Crown Pastoral Land Act. This submission is not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>	
7	Protect the Gerard Stream gorge and forest remnant as conservation land (preferably) or at the least with a covenant.	4	Not Accept	Allow

This submission relates to an area which is part of Mt Hutt RAP 14 Rakaia Faces Forest Remnants in the Gerard Stream.

The submission requests that remnants in the Gerald Stream area be protected by restoring this to full Crown ownership and protection or at the very least including a covenant over it to prevent any stock access, burning, spraying, planting of exotic forestry above or on the margins of the gully or other damage to vegetation.

One of the objects of the Crown Pastoral Land Act is to enable the protection of the significant inherent values of reviewable land –

- (i) By the creation of protective mechanisms; or (preferably)
- (ii) By the restoration of the land concerned to full Crown ownership and control

This submission promotes these objects and should be allowed to the extent that further consultation and consideration be undertaken.

The Department of Conservations Proposed Designations Report under 2.1.Land to be Restored to or Retained in Full Crown Ownership and Control identifies this area as being of high natural value assessed using PNA criteria used in selecting recommended areas for protection. This is evidenced by the small mixed hardwood forest remnants

bordering Powerhouse and Donald Streams. These are valuable remnants of a once much more extensive forest cover. These, along with Gerald Stream are the largest remnants of forest left on the property. All these forest areas have a diversity of species and relatively high naturalness. This area is not shown on the map provided with the Proposed Designations Report.

After inspection of the land and discussion with the holder it was established that the bush area is in a steep sided area and this affords natural protection of the vegetation. It was determined that the area did not warrant formal protection under the Crown Pastoral Land Act. Consequently the point is not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.)</i>	<i>Decision</i>	
8	That 463 ha of indigenous vegetation identified in the Scoping Report proposed to be freeholded receive recognition and protection.	4	Not Accept	Not Allow

The submission requests that 463 hectares of indigenous vegetation identified in the Scoping Report proposed to be freeholded receive recognition and protection. It should be noted that the Scoping Report was compiled without the benefit of a field inspection. This is not strong enough evidence to support the case being contended by the submitter. The submission should not be accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>	
9	Proposed Management Easement E2 as mentioned in the Department of Conservation's Proposed Designations Report should be reinstated.	1	Not Accept	Not Allow

The submission requests that the Proposed Management Easement E2 as mentioned in the Department of Conservation's Proposed Designations Report should be reinstated. This easement made mention of in the Proposed Designations Report was not proceeded with due to the Commissioner's subsequent ruling that easements which are over adjacent freehold land are not to be included.

To this extent this submission does not raise matters relevant to the decisions to be made by the Commissioner under the Crown Pastoral Land Act. This submission should not be accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>	
10	Marginal Strips to be laid off on waterways.	1, 2, 4 & 6	Accept	Allow

Four submissions were received which stated that there is a need for marginal strips to be laid off on waterways and these should be stated in the Preliminary Proposal for Glenariffe tenure review. These are legitimate concerns and should be accepted as the creation of marginal strips in this tenure review fulfils the object under the Crown Pastoral Land Act 1998 to make easier the securing of public access to and enjoyment of reviewable land.

One submission requests that marginal strips be required by the Department of Conservation on disposal of the lease. Another - submission requests that the extent of qualifying streams for marginal strips be identified in the Preliminary Proposal so that deficiencies can be identified and alternative provisions for protection and access can be considered. These are concerns that should be allowed to the extent that further consultation is required. It should also be noted that these submissions relate to the timing and responsibility of creating marginal strips within the tenure review process.

The point has been taken up and future reviews will identify, on an indicative basis, the likely location of future marginal strips at the time the review is publicly advertised.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>	
11	Protect a corridor down Powerhouse Stream (eg 20 metres wide) and the faces to the east and ensure that this is contiguous with the land to be protected around Glenrock Swamp.	4	Not Accept	Allow

The present boundaries of land retained in full Crown ownership and control (CA2) and Crown Control (CA3) relate to lands with significant inherent values. As one of the objects of the Crown Pastoral Lands Act 1998 is to enable the protection of the significant inherent values of reviewable land this submission is allowed for further consultation and consideration.

After consultation and reconsideration it should be noted that land retained in Crown ownership taking in Powerhouse Stream and the Glenrock swamp is sufficient and that access to the conservation areas is adequate. This point is therefore not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>	
12	Easement "a-b" allow for horse access for public use.	6	Not Accept	Allow

The submitter in this case requests horse access for members of the public on the proposed easement along Glenrock Stream. The submitter notes that access for the Department of Conservation extends to horses.

One of the objects of the Crown Pastoral Lands Act 1998 is to make easier the securing of public access to and enjoyment of reviewable land. As this submission meets the objects of the Crown Pastoral Land Act this submission should be allowed to the extent that further - consultation is to be undertaken.

After further consideration the point is not accepted and it is noted that the holders were of the view that access for members of the public accompanied by horses could be by arrangement.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.)</i>	<i>Decision</i>	
13	That the proposed easement "a-b" allow for public vehicle use.	3 & 5	Not Accept	Allow

The submitter requests that access to Turtons Saddle by the proposed easement marked "a-b" on the plan allow for public vehicle use also. One of the objects of the Crown Pastoral Lands Act is to make easier the securing of public access to and enjoyment of reviewable land. To this extent the submission is relevant and should be allowed.

Submitter 5 states that this would permit the more elderly of the recreational organisations users to enjoy the more distant tracks in the area. They also submit that access be through a locked gate with permission given by the Department of Conservation or the runholder.

As this submission meets the objects of the Crown Pastoral Lands Act is should be allowed to the extent that further consultation is to be undertaken. After further consultation it is considered that this point be not accepted and like the situation at point 12 access could be by arrangement with the run holder.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.)</i>	<i>Decision</i>	
14	That the current 4WD track that more or less follows the legal road, and is a defined track, therefore be determined as the legal road and the easement removed.	2 & 3	Not Accept	Not Allow

The submitter requests that the current 4WD track that more or less follows the legal road, and is a defined track, therefore be determined as the legal road and the easement removed. The point relates to the provision of public access which is relevant to the Crown Pastoral Land Act.

Legal roads and easements are different in nature and in this case should on survey the access route be found to be over partly over the legal road line the easement must be confined to those parts of the alignment that are not legal road. The submitters wish to have the formed track determined as a legal road is not accepted. As there is no provision under the Crown Pastoral Land Act for the creation of roads and in this case for the track to be determined as legal road, the point is not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No)</i>	<i>Decision</i>	
15	Proposed Easement "a-b" should be made more secure by dedicating it as a road.	1 & 6	Not Accept	Not Allow

The submitters request that the proposed easement marked "a-b" on the plan be made more secure by dedicating it as a road. The argument is not relevant to the Crown Pastoral Land Act 1998 and therefore not accepted.

The Crowns obligation is to "make easier the securing of public access to and enjoyment of reviewable land". The Crown Pastoral Land Act provides a number of mechanisms to enable enjoyment of land with significant inherent values. One of these is to provide access to this land by way of easement over freeholded land and in this regard it is clearly anticipated that the creation of easements is an adequate method of securing access to meet the objects of the Act.

Creating a legal road would involve the local authority and would take the process outside of the ambit of the act. There is no provision in the Act for the creation of roads. As the submitters have proposed actions which are not achievable within the Crown Pastoral Land Act 1998 this point can not be accepted for further consideration within this tenure review.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No)</i>	<i>Decision</i>	
16	The proposed 'protective mechanism' does not 'secure access'.	6	Not Accept	Not Allow

In summary, the submitter claims that the proposed 'protective mechanism' does not 'secure access.' One of the objects of the Crown Pastoral Lands Act 1998 is to make easier the securing of public access to and enjoyment of reviewable land.

The Crown's obligation is to "make easier the securing of public access to and enjoyment of reviewable land". The Crown Pastoral Land Act provides a number of mechanisms to enable enjoyment of land with significant inherent values. One of these is to provide access to this land by way of easement over freeholded land and in this regard it is clearly anticipated that the creation of easements is an adequate method of securing access to meet the objects of the Act.

Notwithstanding the argument advanced regarding the creation of easements under section 40 (2)(b) and 40(2)(c) as a protective mechanism the Crown Pastoral Land Act also allows easements in gross to be created under section 36(3)(b).

This submission should not be accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>	
17	The proposed easement partly utilises the alignment of a legal road.	6	Accept	Allow

The submitter is concerned that the proposed easement partly utilises the alignment of a legal road. Any easement must be confined to those parts of the alignment that are not legal road. This relates to the Crown Pastoral Lands Act and should be accepted. When the surveying work is undertaken the easement will need to apply only to the parts not in the road reserve and therefore this submission should be allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>	
18	The granting of this 'protective mechanism' is not a legal act.	6	Not Accept	Allow

The submitter advocates that the granting of the protective mechanism easement marked "a-b" on the plan for the purpose of public access is illegal and must not be implemented. The basis of their claim is that under the scheme of the Crown Pastoral Lands Act 1998 that protective

mechanisms, including easements, are only applicable over natural resources and that this easement area is not a natural resource.

Notwithstanding the argument advanced regarding the creation of easements under section 40 (2)(b) and 40(2)(c) as a protective mechanism the Crown Pastoral Land Act also allows easements in gross to be created under section 36(3)(b) thus meeting the objects of section 24 (c) to make easier- (i) The securing of public access to and enjoyment of reviewable land.

Consequently this point is not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>	
19	Support the ongoing public access by way of the public road over Turtons Saddle following the road reserve.	3	Not Accept	Not allow

This submitter supports the ongoing public access by way of the public road over Turtons Saddle following the road reserve. The road reserve that links the public road to Turtons Saddle does not provide practical vehicle access. It should be noted that practical vehicle access is not on the roadline rather while it crosses the road reserve in places it is sufficiently removed, in the main, to not be relied on for providing access. As this submission is not based on fact this submission is not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>	
20	Public access to Turton's Stream should be provided from the south in due course.	1	Not Accept	Not allow

One submitter has requested that public access to Turton's Stream should be provided from the south in due course. Public access to Turton's Stream would need to be created over neighbouring land. As access to Turton's Stream from the south is not within this particular tenure review it is not a matter for the Commissioner to consider at this time. On this basis the submission is not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>	
21	Failure to provide practical access to the boundary of the proposed conservation area.	6	Not Accept	Allow

This submitter states that the preliminary proposal does not provide practical public access to the boundary of the proposed conservation area. As one of the objects of the Crown Pastoral Lands Act is to make easier the securing of public access to and enjoyment of reviewable land this submission should be accepted for further consultation and consideration.

The submitter points out that the proposed access to the proposed main conservation area depends on utilisation of a road reserve running beside Glenrock Stream. The submitter states that a shelterbelt immediately downstream of Double Hill Run Road may obstruct access.

As the issue of practical public access is questioned here this matter has been checked and after inspection of the road reserve, with the holder it was confirmed that the road reserve provides satisfactory public access to link Double Hill Run Road with the start of the new easement at point marked "a" on the plan. As this provides satisfactory access the object to make easier the securing of public access to and enjoyment of reviewable land has been met. Consequently the point is not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No</i>	<i>Decision</i>	
22	That the CCL has an obligation to instigate actions with the District Council to ensure that the formed and currently utilised Double Hill Run Road become legal road if not already.	2 & 6	Not Accept	Not Allow

The submitter claims that the Commissioner of Crown Lands has an obligation to instigate actions with the Ashburton District Council to ensure that the formed and currently utilised Double Hill Run Road become a legal road if not already.

Public access is relevant to the Crown Pastoral Land Act but there is no provision under the Crown Pastoral Land Act for the creation of roads. Roads can be created under the Public Works Act whether or not the land is owned by the Crown, however this process is outside of the ambit of tenure review under the Act. On this basis the point is not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>	
23	That the boundaries of CA3 are extended to Double Hill Road, to provide practical foot access from the road along either shoulders of the stream and above the Powerhouse Stream ravine on both banks to provide practical access.	6	Not Accept	Allow

The submitter's contention relates to a matter of access. As one of the objects of the Crown Pastoral Land Act is to make easier the securing of public access to and enjoyment of reviewable land this submission is allowed for further consideration.

This matter has been considered. The point relates to public access and after further consultation it is considered that extending the boundaries to the road is not particularly practical in respect of public access.

Consequently the point is not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>	
24	Amend the concession terms of the proposed easement concession to a term of 30 years.	4	Not Accept	Allow

The submitter proposes that the concession terms of the proposed easement concession be amended to a term of 30 years. The basis for this proposal is that there is no capacity provided for the Department of Conservation to review this if monitoring shows adverse effects. The submitter is concerned about the long term potential impacts on conservation land. The Crown Pastoral Lands Act promotes the protection of the significant inherent values of reviewable land and for this reason this proposal is allowed for consultation and consideration.

The purpose of the easement concession is to permit ongoing access for a water supply pipe and intake within Powerhouse Stream and secondly for practical access for droving stock between two sections of land designated for freehold disposal. As the holder's need security of tenure to allow them the right to move farm stock it is not considered necessary to review the term.

This point is not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>	
25	Delete easement concession "c-d" if lands east of Glenrock or Powerhouse Stream are protected.	4	Not Accept	Allow

The submitter proposes that easement concession "c-d" be deleted if lands east of Glenrock or Powerhouse Stream are protected. Some of the area described falls within the boundaries of this particular tenure review and the protection of these lands have been allowed in this submission to the extent that further consultation is to be undertaken.

The easement concession "c-d" may also be affected and may need to be altered and for this reason this submission is allowed to the extent that further consultation is to be undertaken.

As the boundaries have not been changed and also bearing in mind the need for practical farm management access around the top of the steep sided part of Powerhouse Stream, it is considered necessary to continue with the easement concession route marked as "c-d".

This point is therefore not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No</i>	<i>Decision</i>	
26	PANZ requests consultation on any revised proposals, prior to any Substantive Proposal being put to the holder.	6	Not Accept	Not Allow

There is no basis within the Crown Pastoral Lands Act 1998 for consultation with any interested party to occur after public submissions are received, analysed and considered by the Commissioner of Crown Lands. The law relating to consultation does not impose any universal requirements as to form of consultation or procedural obligations on parties undertaking consultation. For these reasons this submission is not accepted.

Discussion and Conclusions

Discussion relevant to the particular point has been made above under each point for simplicity and clarity.

The main issue that has been highlighted by submitters is in regards to access issues. This has been broken down into a number of specific points within this report to allow for each submitters concerns to be acknowledged and considered.

Other points raised relate to protection of significant inherent values, questions about the terms of the easement concession and Double Hill Run Road. Points were also raised questioning whether a protective mechanism is the correct way for the creation of an easement for securing access.