

Crown Pastoral Land Tenure Review

Lease name: KILLERMONT

Lease number: PO 207

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.

May

05

PRELIMINARY ANALYSIS OF SUBMISSIONS

KILLERMONT TENURE REVIEW

1. Details of lease:

Lease name: Killermont

Location: State Highway 8 Omarama to Linidis Pass

Lessee: Killermont Run Limited

2. Public notice of preliminary proposal:

Date, publication and location advertised:

Saturday 11 December 2004:

Otago Daily Times Dunedin

Monday 13 December 2004:

Saturday 18 December 2004:

The Press Christchurch

Tuesday 14 December 2004:

High Country Herald

Closing date for submissions:

28 February 2005

3. Details of submissions:

A total of nine submissions were received by the closing date.

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 allow/disallow the point follows.

The following approach has been adopted when making recommendations:

- (i) To allow/disallow:

The decision to **“allow”** 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 **“disallow”**.

4.2 Analysis:

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
1	The allocation of land between full Crown ownership and control and freehold is unacceptable in relation to the principles contained within the CPLA 1998 and the government’s policy on South Island high country.	1, 9	Allow

Discussion:

The submitters remark that there are significant conservation and landscape values within the proposed freehold area and regards this to be contrary to the provisions of the Crown Pastoral Lands Act. The freehold disposal of land and the protection of conservation values (where they are considered significant inherent values) are matters for the Commissioner of Crown Lands to consider pursuant to Sections 24 (a) (ii), 24 (b) and 24 (c) (ii) Crown Pastoral Lands Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
2	Area CA2 should be extended to take in other areas with similar conservation values.	1, 2, 3, 4, 7, 8, 9	Allow

Discussion:

Several submitters put forward that the proposed conservation area CA2 should be extended to include other areas with similar conservation values. These areas include the sections of land between State Highway 8 and the Ahuriri River west and east of CA2 and the section of land between the Highway and the scarp just south of CA2. The protection of conservation values (where they are considered significant inherent values) is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (b) Crown Pastoral Lands Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
3	The landscape corridor in the vicinity of State Highway 8 should be protected via a landscape covenant where it is proposed for freehold.	1, 2, 3, 4, 7, 9	Allow

Discussion:

Several submitters note the value of the landscape corridor in the vicinity of State Highway 8 and promote the creation of a landscape covenant over those areas not returned to full Crown ownership and control. The protection of landscape values (where they are considered significant inherent values) is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (b) Crown Pastoral Lands Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
4	The proposed conservation area CA1 is supported.	1, 2, 3, 4, 7, 8, 9	Allow

Discussion:

The protection of conservation values (where they are considered significant inherent values) is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (b) Crown Pastoral Lands Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
5	The proposed conservation area CA1 should be extended in the vicinity of Manuka Creek and Frosty Gully to include conservation values which have been excluded from protection.	1, 2, 3, 7, 8, 9	Allow

Discussion:

The submitters refer to several different areas for inclusion in the proposed conservation area CA1. These include the lower Manuka Creek catchment, the corresponding block to the north of this area and parts of Frosty Gully. The submitters are concerned by the values they believe have been left outside of the proposed conservation area including areas of Totara – celery pine and tall tussock grassland, shrublands and creek margins. The protection of conservation values (where they are considered significant inherent values) is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (b) Crown Pastoral Lands Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
6	It appears there is some reluctance to erect new fences to separate the desired designations and this is to the detriment to some of the significant inherent values on the property.	2	Allow

Discussion:

The submitters comment that the proposal seems to indicate a reluctance to erect new fences and notes that there are values that are left out of the proposed conservation area CA1 because of this. The protection of conservation values (where they are considered significant inherent values) is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (b) Crown Pastoral Lands Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
7	The Manuka Creek marginal strips should be wide enough to protect at least some of the shrublands present on the alluvial fans.	2, 7	Allow

Discussion:

While marginal strips pursuant to Part IV of the Conservation Act 1987 are not a matter for the Commissioner of Crown Lands to consider, the protection of conservation values (where they are considered significant inherent values) is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (b) Crown Pastoral Lands Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
8	The Ostler Fault line should be suitably signed and interpreted for the public to fully understand and enjoy.	2	Disallow

Discussion:

The submitter regards the Ostler Fault line as an impressive and unique landform and suggests that it is suitably signed and interpreted for the public to fully understand and enjoy. This is not a matter for the Commissioner of Crown Lands to take into account under the Crown Pastoral Lands Act. Therefore this point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
9	The proposed conservation area CA2 is supported.	2, 3, 4, 8, 9	Allow

Discussion:

The protection of conservation values (where they are considered significant inherent values) is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (b) Crown Pastoral Lands Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
10	The Ahuriri River should be protected from any damage that could be due to current and future farming activities.	2, 8, 9	Disallow

Discussion:

The submitters raise the concern of the impact of current and future farming activities on the adjoining Ahuriri River. Although this point relates to ecological sustainability, this is not a matter for the Commissioner of Crown Lands to consider under the Crown Pastoral Lands Act because the Ahuriri River is not reviewable land. Therefore this point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
11	The proposed conservation area CA1 should be extended to include the upper portion of Killermont Hill or this area should have some other form of protection to promote ecological sustainability.	2, 3, 7, 8	Allow

Discussion:

The submitters note that the land on the upper portion of Killermont Hill has conservation values. They also note that this area has been classified as Class 7 and 8 country and as such not well suited to pastoral farming. The protection of conservation values (where they are considered significant inherent values) and ecological sustainability are matters for the

Commissioner of Crown Lands to consider pursuant to Section 24 (b) and 24 (a) (i) Crown Pastoral Lands Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
12	The Conservation Resources Report does not contain enough information with respect to the vegetation on the flat area of the lease. A more thorough inspection should be given to ensure nothing of conservation value has been missed.	2	Disallow

Discussion:

The submitter is concerned by the lack of information provided by the Conservation Resources Report on the conservation values of the vegetation on the flat areas of the lease. The premise is that something of conservation value may have been missed. This point relates to the reporting produced by LINZ advisors and as such is not a matter for the Commissioner of Crown Lands to consider under the Crown Pastoral Lands Act. Therefore this point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
13	The Ostler Fault, scarp and its surrounds should be left in a natural state and be protected by a covenant.	2, 9	Allow

Discussion:

The submitter puts forward that the Ostler Fault is of scientific importance and is therefore a significant inherent value. The protection of scientific values (where they are considered significant inherent values) is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (b) Crown Pastoral Lands Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
14	The lower section of flats below CA2 should have the marginal strip fenced off.	2	Disallow

Discussion:

The submitter is concerned by the potential impact of stock on the values present within the Ahuriri river bed. As the marginal strip and river bed are not reviewable land this is not a matter for the Commissioner of Crown Lands to consider under the Crown Pastoral Lands Act. Therefore this point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
15	A landscape covenant should be utilised to protect landscape values within the proposed freehold area of the Killermont Hill slopes.	3, 7, 9	Allow

Discussion:

The protection of landscape values (where they are considered significant inherent values) is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (b) Crown Pastoral Lands Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
16	The proposed easement routes for public and conservation management access are supported.	3, 4, 7, 8, 9	Allow

Discussion:

Public access is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (c) (i) Crown Pastoral Lands Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
17	Public access under an easement is not “secure”.	4	Allow

Discussion:

The submitter argues that the easement document proposed does not provide ‘secure’ public access. Public access is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (c) (i) Crown Pastoral Lands Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
18	Public access provisions should provide for foot and ‘non-motorised vehicle’ passage.	4	Allow

Discussion:

The submitter argues that all public access provisions should provide for foot and ‘non-motorised vehicle’ passage. Public access is a matter for the Commissioner of Crown Lands

to consider pursuant to Section 24 (c) (i) Crown Pastoral Lands Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
19	A public access right is needed on the Killermont – Dunstan Downs boundary to provide access to the Ahuriri River.	4	Allow

Discussion:

The submitter believes that a public access right is needed on the Killermont – Dunstan Downs boundary to provide access to the Ahuriri River. Public access is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (c) (i) Crown Pastoral Lands Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
20	The fixed Ahuriri marginal strip should be exchanged under Section 24E Conservation Act 1987 for a movable marginal strip along the present river bed.	4	Disallow

Discussion:

The submitter notes that the marginal strip on the Ahuriri River are fixed in position even though it is likely that the river will change course over time leaving those marginal strip in an inappropriate position. The submitter proposes that the current fixed marginal strips should be exchanged for moveable marginal strips along the present river bed. As the fixed marginal strip is not reviewable land, this is not a matter for the Commissioner of Crown Lands to consider under the Crown Pastoral Lands Act. Therefore this point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
21	The proposed easement a-b, b-c will impact on the property rights of Twin Peaks Station. Trespass, stock disturbance, reduced quiet enjoyment and management difficulties are a likely result.	5, 6	Allow

Discussion:

The submitters feel that the easement along the boundary with Twin Peaks Station will have unacceptable impacts on the property rights of Twin Peaks pastoral lease. Public access is a

matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (c) (i) Crown Pastoral Lands Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
22	Public access to the proposed conservation area CA1 should be either 100m inside the boundary fence, without mountain bike access or from State Highway 8 and via a paper road not shown on the designations plan.	5, 6	Allow

Discussion:

The submitters provide an alternative access to that contained within the preliminary proposal. Public access is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (c) (i) Crown Pastoral Lands Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
23	The proposed conservation area CA1 should be designated as freehold rather than create an isolated block of Crown land on which it will be nigh on impossible to maintain the SIV's.	6	Allow

Discussion:

The freehold disposal of land and protection of significant inherent values are matters for the Commissioner of Crown Lands to consider pursuant to Sections 24 (c) (ii) and 24 (b) Crown Pastoral Lands Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
24	The proposal provides no protection for the Maori oven sites present on the area proposed for freehold.	6	Allow

Discussion:

The protection of cultural values (where they are considered significant inherent values) is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (b) Crown Pastoral Lands Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
25	The preliminary proposal gives little focus to the long term management and protection of soil conservation values and the water quality and instream aquatic environment of rivers flowing through or alongside the lease.	8	Allow

Discussion:

The submitter states that the above point is fundamentally important to the ecologically sustainable management of the lease. Ecological sustainability and protection of significant inherent values on reviewable land are matters for the Commissioner of Crown Lands to consider pursuant to Sections 24 (a) (i) and 24 (b) Crown Pastoral lands Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
26	The conservation resources report does not clearly identify areas of significant habitat.	8	Disallow

Discussion:

The submitter is concerned by the lack of detail in the identification of areas of significant habitat provided by the Conservation Resources Report and believes this is an issue for evaluating the preliminary proposal. This point relates to the reporting produced by LINZ advisors and as such is not a matter for the Commissioner of Crown Lands to consider under the Crown Pastoral Lands Act. Therefore this point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
27	The Conservation Resources Report and Preliminary Proposal fall short of identifying and protecting the full range of significant indigenous vegetation, significant habitats of indigenous fauna and land environments.	8	Allow

Discussion:

The submitter argues that because several district councils propose to exempt freehold land ex pastoral lease from several rules in district plans the responsibility falls to tenure review to identify and protect all significant indigenous vegetation and significant habitat of indigenous fauna before making land available to freehold. The submitter also notes that the proposal does not provide protection to the full range on land environments on the property.

The protection of conservation values (where they are considered significant inherent values) is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (b) Crown Pastoral Lands Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
28	Future owners or lessees of land within the Killermont pastoral lease are made aware that the terms of each land improvement agreement for the Killermont lease will be binding through any proposal for the freeholding of land through Tenure Review.	8	Disallow

Discussion:

This is not a matter for the Commissioner of Crown Lands to take into account under the Crown Pastoral Lands Act. Therefore this point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
29	Livestock should be excluded from the margins of Manuka Creek.	8	Allow

Discussion:

The submitter demonstrates the relationship between land management and long-term ecological sustainability of aquatic ecosystems. The submitter believes that livestock should therefore be excluded from the margins of Manuka Creek. Ecological sustainability and protection of conservation values (where they are considered significant inherent values) are matters for the Commissioner of Crown Lands to consider pursuant to Sections 24 (a) (i) and 24 (b) Crown Pastoral Lands Act. Therefore this point is allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
30	Public access to the Ahuriri River is not adequate in the preliminary proposal.	9	Allow

Discussion:

Public access is a matter for the Commissioner of Crown Lands to consider pursuant to Section 24 (c) (i) Crown Pastoral Lands Act. Therefore this point is allowed.

5. Discussion and conclusions:

The public submissions have raised several issues that are of importance in this review.

The first is the boundary of the proposed conservation area CA1. Although the proposed conservation area has drawn strong support (7 submitters) many submitters have put forward additional areas for inclusion. These include additional parts of lower Manuka Creek, Frosty Gully and upper Killermont Hill. One submitter opposed the proposed conservation area CA1 stating that the area should be designated as freehold rather than create an isolated block of Crown land on which it will be nigh on impossible to maintain the significant inherent values.

The proposed conservation area CA2 has also drawn strong support with no submissions opposing the provision. Again many submitters have suggested an enlargement of the proposed conservation area to include areas with similar conservation values. These areas include all of the land to the north of State Highway 8 and an area immediately to the south of the proposed conservation area CA2.

Public access has also drawn several submissions. Four submitters supported the proposed easements while two opposed the easement on the southern boundary with Twin Peaks because of the influence this easement was likely to have on the adjoining property. Several submitters commented on the need for greater public access to the Ahuriri River. A submitter challenged whether the proposed easement documents ‘secure’ public access.

The protection of landscape in areas proposed for freehold has also drawn many submissions. Areas proposed by submitters for landscape protection include the Ostler Fault scarp and surrounds, Killermont Hill and the State Highway 8 corridor.

Several points were raised that cannot be considered under the Crown Pastoral Land Act and have consequently been disallowed. These include signage and interpretation of the Ostler Fault, protection of the Ahuriri River from current and future farming activities, fencing of the marginal strip boundary with the Ahuriri River, the exchange of fixed for movable marginal strips along the Ahuriri River, notification of existing land improvement agreements and several points relating to tenure review conservation resources report standards.

All submissions and points raised by the submitters have been carefully analysed and full consideration given to them.

PRELIMINARY ANALYSIS OF IWI SUBMISSION

KILLERMONT TENURE REVIEW

1. Details of lease:

Lease name: Killermont

Location: State Highway 8 Omarama to Linidis Pass

Lessee: Killermont Run Limited

2. Public notice of preliminary proposal:

Date, publication and location advertised:

Saturday 11 December 2004:

Otago Daily Times Dunedin

Monday 13 December 2004:

Saturday 18 December 2004:

The Press Christchurch

Tuesday 14 December 2004:

High Country Herald

Closing date for submissions:

28 February 2005

3. Details of submission:

Land Information New Zealand advised iwi of the Preliminary Proposal for tenure review in accordance with Section 43 Crown Pastoral Land Act. A written response was received from the Office of Te Runanga o Ngai Tahu on 25 February 2005. One point was raised.

4. Analysis of Submissions:

4.1 Introduction:

Explanation of Analysis:

The submission has been reviewed in order to identify the points raised and these have been numbered accordingly. Where the submitter has made similar points, these have been given the same number.

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 recommendations:

- (i) To allow/disallow:

The decision to “**allow**” 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 “**disallow**”.

4.2 Analysis:

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Decision</i>
1	No protection is given to the known remnants of three umu sites.	Allow

Discussion:

The Iwi submission notes that the Cultural Value Report outlines that there are remnants of three umu sites on the pastoral lease but that no protection is given to these sites in the preliminary proposal. The submission recommends an inspection by an archaeologist to assess the status of these archaeological sites in order that an informed decision can be made regarding the best form of protection for these sites. The protection of cultural values (where they are considered significant inherent values) is a matter for the Commissioner of Crown Lands to consider pursuant to Sections 24 (b) Crown Pastoral Lands Act. Therefore this point is allowed.

5. Discussion and conclusions:

The iwi submission outlines the need for an inspection by an archaeologist before an informed decision can be made regarding the protection of the three umu sites within the pastoral lease. The submission has been carefully analysed and full consideration given to it.