

Crown Pastoral Land Tenure Review

Lease name: LAKE HAWEA

Lease number: PO 286

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.

October

06

REPORT IN ACCORDANCE WITH
TENURE REVIEW PROCESS

Preliminary Analysis of submissions through public notice of Preliminary Proposal for tenure review

LAKE HAWEA

File Ref: CON/50344/12550 (TR278) Submission No: AT5051 Submission Date: 14 December 2005

Contractor's Office: Alexandra LINZ Case No: TR06/90 Date sent to LINZ: 14/12/05

RECOMMENDATIONS:

1. That the Commissioner of Crown Lands or his delegate notes the submissions received and approve the analysis of submissions attached as Appendix 1. *noted + approved subject to minor amendments*
2. That the Commissioner of Crown Lands or his delegate authorise DTZ to consult with the Director General of Conservation's delegate on points allowed from public submissions. *agreed*
3. That the Commissioner of Crown Lands or his delegate authorise DTZ to consult with the holders on points allowed from public submissions following consultation with the DGC delegate. *agreed*
4. That the Commissioner of Crown Lands or his delegate further instruct DTZ on submissions received after the closing date. *inclusion of late submissions in the preliminary analysis is approved.*

Signed for DTZ New Zealand Limited:

Janeth R Taylor

for P H Murray:

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

R.W. Phipps

Name:

Date of decision:

23/12/05.

PRELIMINARY ANALYSIS OF SUBMISSIONS
STATEMENT PURSUANT TO SECTION 45(A)(iii) CROWN PASTORAL LANDS ACT 1998
LAKE HAWEA TENURE REVIEW

1. **Details of lease:**

Lease Name: Lake Hawea
Location: Lake Hawea
Lessee: Lake Hawea Station Limited

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

Date, publication and location advertised:

Saturday – 10 October 2005:

- The Press Christchurch
- Otago Daily Times Dunedin
- Southland Times Invercargill

- A copy of the notice is attached as Appendix 2.

Closing date for submissions:

28 November 2005

3. **Details of submissions received:**

A total of 12 submissions were received by the closing date with a further 5 submissions arriving over the two days following the closing date. A list of submitters is attached as Appendix 3 which references the submitters to the points raised in their submission.

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. Each point has 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 making the point (*shown in Appendix 3*). 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:*

Point	Summary of Point Raised	Sub No	Decision
1	Recreational usage of area CA5 may result in the risk of human faecal contamination of domestic water supplies gained from Grand View Creek.	1	Disallow

Discussion:

The maintenance of potable water supply and the future management of impacts from public access are not matters the Commissioner can consider under the CPL Act. The point is therefore disallowed.

Point	Summary of Point Raised	Sub No	Decision
2	Seek an additional public access easement route through area FH1 outside the southern boundary of area CA6 to provide more practical access route from Gladstone to Breast Hill. Easement to include right to construct and maintain.	2	Allow

Discussion:

The point concerns securing practical public access to and enjoyment of the reviewable land which is a relevant matter under the CPL Act. The point is therefore allowed.

Point	Summary of Point Raised	Sub No	Decision
3	Proposed conservation area CC1 should become conservation area. - the area has important recreation values.	3, 8, 14	Allow

Discussion:

The point concerns the protection of the significant inherent values which is a relevant matter under the CPL Act. The point is therefore allowed.

Point	Summary of Point Raised	Sub No	Decision
4	Propose all land within area FH2 to the base of the hill between area CA6 and Timaru River become conservation area. - To protect landscape values	3	Allow

Discussion:

The point concerns the protection of significant inherent values in the form of natural landscapes which is a relevant matter under the CPL Act. The point is therefore allowed.

Point	Summary of Point Raised	Sub No	Decision
5	<p>Land proposed to be protected by sustainable management covenant should be retained in Crown ownership and control.</p> <ul style="list-style-type: none"> - Continuation of farming this area will result in further destruction and erosion. - Does not adequately provide for public access. 	3, 14	Allow

Discussion:

The point concerns the promotion of the management of the reviewable land in a way that is ecologically sustainable which is a relevant matter under the CPL Act. The point is therefore allowed.

Point	Summary of Point Raised	Sub No	Decision
6	<p>Areas CA2 and CA4 should be joined to become one area:</p> <ul style="list-style-type: none"> - To protect landscape values - Land is unsuitable for ecologically sustainable farming. 	3	Allow

Discussion:

The point concerns the protection of significant inherent values which is a relevant matter under the CPL Act. The point is therefore allowed.

Point	Summary of Point Raised	Sub No	Decision
7	<p>Area FH4 should be retained in Crown ownership and control as conservation area.</p> <ul style="list-style-type: none"> - To protect landscape values 	3	Allow

Discussion:

The point concerns the protection of significant inherent values in the form of natural landscapes. This is a relevant matter under the CPL Act. The point is therefore allowed.

Point	Summary of Point Raised	Sub No	Decision
8	Area CA3 should be expanded down slope to protect landscape values	3	Allow

Discussion:

This point concerns the protection of significant inherent values which is a relevant matter under the CPL Act. The point is therefore allowed.

Point	Summary of Point Raised	Sub No	Decision
9	Land between areas CA3 and CA5 should be retained in full Crown ownership and control as conservation area. <ul style="list-style-type: none"> - Similar to adjacent country - Is vulnerable land not suited to ecologically sustainable farming - Includes area RAP A7 	4, 5, 6, 9, 14, 16	Allow

Discussion:

This point concerns the protection of significant inherent values which is a relevant matter under the CPL Act. The point is therefore allowed.

Point	Summary of Point Raised	Sub No	Decision
10	Area CA5 should be extended to include headwaters of Breast Creek. <ul style="list-style-type: none"> - To conform to boundary of RAP B4 (310ha). 	4, 5, 6, 9, 16	Allow

Discussion:

This point concerns the protection of significant inherent values which is a relevant matter under the CPL Act. The point is therefore allowed.

Point	Summary of Point Raised	Sub No	Decision
11	A decision on freeholding of areas SMC-A, SMC-B and SMC-C be deferred until such time as results of monitoring determine that the economic use is ecologically sustainable. <ul style="list-style-type: none"> - For 10 years - For 15 years 	4, 5, 6, 8, 9	Allow

Discussion:

The point concerns the promotion of the management of the reviewable land in a way that is ecologically sustainable which is a relevant matter under the CPL Act. The point is therefore allowed.

Point	Summary of Point Raised	Sub No	Decision
12	Submit that the land condition monitoring of Sustainable Management Covenant areas is inadequate.	4, 5	Allow

Discussion:

The point concerns the promotion of the management of the reviewable land in a way that is ecologically sustainable which is a relevant matter under the CPL Act. The point is therefore allowed.

Point	Summary of Point Raised	Sub No	Decision
13	<p>The Sustainable Management Covenant document requires re drafting:</p> <ul style="list-style-type: none"> - The objective needs more clearly stated. - Clause referring to rental is inappropriate for freehold land. - The remittable rent needs ability to be increased every 3-5 years. - The term "commit waste" requires defining. - Clause 7 of Soil Conservation and Rivers Control Act 1941 requires stating in full. - Clause 9 referring to vermin requires defining. - Requirement to remove wilding conifers should be replaced with "trees with potential for wilding spread " in clause 9 - Clause 18 should be broader to include ability to vary the deed on no improvement to the existing soil/vegetation. - CCL should have the ability to cause permanent or temporary cessation of grazing. 	4, 16	Allow

Discussion:

The point is related to point 28 and concerns the promotion of the management of the reviewable land in a way that is ecologically sustainable which is a relevant matter under the CPL Act. The point is therefore allowed.

Point	Summary of Point Raised	Sub No	Decision
14	Proposed reserves R1, R2 and R3 are too small. - A minimum of 3 hectares unless they include land from operating strip.	4, 14	Allow

Discussion:

This point concerns the public amenity value identified within the land adjacent to the Crown land operating strip around Lake Hawea which has been identified as a significant inherent value. This point is therefore a relevant matter under the CPL Act. The point is therefore allowed.

Point	Summary of Point Raised	Sub No	Decision
15	Unconditionally support these aspects of the proposal:		Allow
	15.1 Support CA1	5, 6, 8, 9, 14, 17	
	15.2 Support CA2	5, 6, 8, 14, 16, 17	
	15.3 Support CA3	5, 6, 8, 9, 14	
	15.4 Support CA4	5, 6, 8, 14, 16	
	15.5 Support CA5	5, 6, 8, 14, 16	
	15.6 Support CA6	5, 6, 9, 16	
	15.7 Support CA7	5, 6, 8, 9, 16	
	15.8 Support CC1	5, 7	
	15.9 Support CC2	5, 6, 7, 9, 16	
	15.10 Support R1, R2, R3	5, 6, 8, 9	
	15.11 Support SMC	5, 7	
	15.12 Support proposed public access easements.	8	

Discussion:

The points concern the designations of the reviewable land which is a relevant matter under the CPL Act. The point is therefore allowed.

Point	Summary of Point Raised	Sub No	Decision
16	Propose that area FH3 be subject to a sustainable management covenant	5, 6, 9, 14	Allow

Discussion:

The point concerns the promotion of the management of the reviewable land in a way that is ecologically sustainable which is a relevant matter under the CPL Act. The point is therefore allowed.

Point	Summary of Point Raised	Sub No	Decision
17	Propose an access track be built from the lake shore up the margin of Johns Creek to point GR 187 165	5, 6, 13	Disallow

Discussion:

Public access rights presently exist within the marginal strip on both sides of Johns Creek. The construction of access tracks within marginal strips is not a matter the Commissioner can consider as part of this review. The point is therefore disallowed.

Point	Summary of Point Raised	Sub No	Decision
18	Is inappropriate to delete clause 3.1.1 (prohibiting grazing) from covenant CC1.	6	Allow

Discussion:

The point concerns the protection of significant inherent values which is a relevant matter under the CPL Act. The point is therefore allowed.

Point	Summary of Point Raised	Sub No	Decision
19	A consultant should be engaged to develop management prescriptions for the SMC areas and to recommend changes in management as a result of monitoring.	6	Allow

Discussion:

The point concerns the promotion of the management of the reviewable land in a way that is ecologically sustainable which is a relevant matter under the CPL Act. The point is therefore allowed.

Point	Summary of Point Raised	Sub No	Decision
20	Public foot and non motorised vehicle access should be provided for on the vehicle track up Johns Creek. - From Creek margin at point GR 187 165	6, 10, 11, 12, 15, 16	Allow

Discussion:

The point concerns the securing of public access to and enjoyment of the reviewable land which is a relevant matter under the CPL Act. The point is therefore allowed.

Point	Summary of Point Raised	Sub No	Decision
21	Unconditionally support the freeholding of following areas:		Allow
	21.1 FH1	7	
	21.2 FH2	5, 6, 7	
	21.3 FH3	7	
	21.4 FH4	5, 6, 7, 9	

Discussion:

The points concern the designations of the reviewable land which is a relevant matter under the CPL Act. The point is therefore allowed.

Point	Summary of Point Raised	Sub No	Decision
22	Oppose restoration to Crown control as conservation area areas CA1-CA7. - Ecological sustainability could be achieved through protective mechanisms and district plan - Public access can be provided by easements. - SIV's can be protected by protective mechanisms.	7	Allow

Discussion:

This point concerns the designation of reviewable land and the promotion of ecologically sustainable land management, both of which are matters that are relevant under the CPL Act. The point is therefore allowed.

Point	Summary of Point Raised	Sub No	Decision
23	Require a realignment and upgrade of the boundary fence between Breast Hill and Forest Range and the proposed conservation areas.	7	Allow

Discussion:

Fencing can be a relevant matter if it relates to achieving one of the objects of the CPL Act. Upgrading and realignment of the boundary fence onto legal lines maybe relevant in terms of section 24(b) and section 24(a)(i) CPL Act. The matter is therefore allowed.

Point	Summary of Point Raised	Sub No	Decision
24	Require adequate signage and publicity to differentiate conservation areas from neighbouring "private land".	7	Disallow

Discussion:

Sign posting and matters of management of public access are not matters that can be considered under the CPL Act. The point is therefore disallowed.

Point	Summary of Point Raised	Sub No	Decision
25	Require an undertaking in writing from the CCL that Forest Range Limited will be adequately compensated in the event of fire spreading from proposed conservation area.	7	Disallow

Discussion:

The point concerns indemnity for fire risk following tenure review implementation. This is not a matter the Commissioner can consider under the CPL Act. The point is therefore disallowed.

Point	Summary of Point Raised	Sub No	Decision
26	Require to be consulted before and during survey of legal boundaries	7	Disallow

Discussion:

The survey of boundaries on implementation of the tenure review is a matter dealt with by survey prescription, standards and regulation. Consultation with adjoining lessees and land owners over survey may be a matter that occurs in the course of implementation of the review, however it is not a matter that is provided for under the CPL Act and is therefore not a matter the Commissioner can consider under public submissions. The point is therefore disallowed.

Point	Summary of Point Raised	Sub No	Decision
27	<p>Conservation covenant CC2 requires tighter conditions to ensure protection of shrublands.</p> <ul style="list-style-type: none"> - Monitoring - Provision for fencing 	8	Allow

Discussion:

The point concerns the protection of significant inherent values which is a relevant matter under the CPL Act. The point is therefore allowed.

Point	Summary of Point Raised	Sub No	Decision
28	<p>The sustainable management covenant requires additional conditions:</p> <ul style="list-style-type: none"> - Requirement to control weeds. - No exotic weedy plant introduction. - Limitations on earthworks, buildings. 	8	Allow

Discussion:

The point is related to point 13 and concerns the promotion of the management of the reviewable land in a way that is ecologically sustainable which is a relevant matter under the CPL Act. The point is therefore allowed.

Point	Summary of Point Raised	Sub No	Decision
29	<p>The small wetland at the head of the north west branch of Branch Creek should be protected if significant.</p>	8	Allow

Discussion:

The point concerns the protection of significant inherent values which is a relevant matter under the CPL Act. The point is therefore allowed.

Point	Summary of Point Raised	Sub No	Decision
30	<p>Area CA1 should be extended to the south to include the steep shady faces above Johns Creek.</p> <ul style="list-style-type: none"> - Not ecologically sustainable for farming. - Has considerable conservation values. - Will assist in protecting integrity of landscape. - Will provide public access links between areas CA1 and CA3. 	9, 16	Allow

Discussion:

The point concerns the protection of significant inherent values and the securing of public access which are relevant matters under the CPL Act. The point is therefore allowed.

Point	Summary of Point Raised	Sub No	Decision
31	The proposed new fence I-J should not involve soil disturbance to avoid visual scarring.	9	Allow

Discussion:

The point concerns the protection of significant inherent values in the form of protecting landscape values which is a relevant matter under the CPL Act. The point is therefore allowed.

Point	Summary of Point Raised	Sub No	Decision
32	Area CA5 should be extended down Grand View Creek to meet with the marginal strip.	9	Allow

Discussion:

This point is related to point 38 and concerns access to and enjoyment of the reviewable land which is a relevant matter under the CPL Act. The point is therefore allowed.

Point	Summary of Point Raised	Sub No	Decision
33	<p>Area R1 should be extended north:</p> <ul style="list-style-type: none"> - To include the small area of lease between the lake and the road north of the freehold sections. - To include land between road and lake up to GR 170 214. 	9, 11, 12, 13, 15, 16	Allow

Discussion:

The point concerns the protection of significant inherent values which is a relevant matter under the CPL Act. The point is therefore allowed.

Point	Summary of Point Raised	Sub No	Decision
34	Propose a conservation covenant over areas FH1 to prevent subdivision and built development.	9	Allow

Discussion:

The point concerns the protection of significant inherent values in the form of protecting landscape values which is a relevant matter under the CPL Act. The point is therefore allowed.

Point	Summary of Point Raised	Sub No	Decision
35	Consideration be given to allowing public use for picnicking on the high terrace above the mouth of Timaru River.	9	Allow

Discussion:

The point concerns the securing of access to and enjoyment of the reviewable land which is a relevant matter under the CPL Act. The point is therefore allowed.

Point	Summary of Point Raised	Sub No	Decision
36	Propose additional public access easements through area FH2: - Up Timaru Creek corner ridge. - Up creek north of Bushy Creek.	9	Allow

Discussion:

The point concerns the protection of significant inherent values which is a relevant matter under the CPL Act. The point is therefore allowed.

Point	Summary of Point Raised	Sub No	Decision
37	Area FH3 should be subject to a sustainable management covenant. - provision should be made in covenant to allow future fencing of shrubland if monitoring shows adverse effect from grazing.	9	Allow

Discussion:

The point concerns access to and enjoyment of the reviewable land which is a relevant matter under the CPL Act. The point is therefore allowed.

Point	Summary of Point Raised	Sub No	Decision
38	Propose an additional public access easement on vehicle track up Grand View Creek.	9, 14	Allow

Discussion:

This point is related to point 32 and concerns access to and enjoyment of the reviewable land which is a relevant matter under the CPL Act. The point is therefore allowed.

Point	Summary of Point Raised	Sub No	Decision
39	Propose additional public access route down ridge from new fence "L" to point "b" then onto end of new fence "O".	9	Allow

Discussion:

This point concerns access to and enjoyment of the reviewable land which is a relevant matter under the CPL Act. The point is therefore allowed.

Point	Summary of Point Raised	Sub No	Decision
40	An easement should be created through proposed freehold FH1 and FH2 in places where the creation of practical access around Lake Hawea requires that the route diverge from the Crown land operating strip.	11, 12, 13, 15	Allow

Discussion:

This point concerns access to and enjoyment of the reviewable land which is a relevant matter under the CPL Act. The point is therefore allowed.

Point	Summary of Point Raised	Sub No	Decision
41	Public toilets are required on area R2	11, 12, 13, 15	Disallow

Discussion:

The provision of public toilets is a public area management issue that is not a relevant issue under the CPL Act. The point is therefore disallowed.

Point	Summary of Point Raised	Sub No	Decision
42	There should be no freedom camping on area R1.	11, 12, 15	Disallow

Discussion:

Public camping is a public management issue that is not a relevant issue under the CPL Act. The point is therefore disallowed.

Point	Summary of Point Raised	Sub No	Decision
43	Wilding trees and plants such as <i>Buddleia</i> , gorse and broom should be removed from the proposed reserve areas.	11, 12, 15	Disallow

Discussion:

The control of exotic weed plants in reserves and conservation areas is not a matter the Commissioner can consider under the CPL Act. The point is therefore disallowed.

Point	Summary of Point Raised	Sub No	Decision
44	Support the removal of wilding trees from area CA 6	11, 12, 13, 15	Disallow

Discussion:

This point is related to point 43. The control of exotic weed plants in reserves and conservation areas is not a matter the Commissioner can consider under the CPL Act. The point is therefore disallowed.

Point	Summary of Point Raised	Sub No	Decision
45	Area FH2 should be subject to a covenant prohibiting buildings and burning of indigenous vegetation.	11, 12, 15, 16	Allow

Discussion:

The point concerns the protection of significant inherent values in the form of natural landscape and protection of indigenous vegetation that is a relevant matter under the CPL Act. The point is therefore allowed.

Point	Summary of Point Raised	Sub No	Decision
46	Require an additional explanation as to how it is proposed that the public get access to point k on proposed public access easement.	10, 11, 14, 15	Allow

Discussion:

This point concerns access to and enjoyment of the reviewable land which is a relevant matter under the CPL Act. The point is therefore allowed.

Point	Summary of Point Raised	Sub No	Decision
47	Propose formal protection of the stand of kanuka outside the south west boundary of area CA6.	13	Allow

Discussion:

The point concerns the protection of an area of indigenous vegetation that may constitute a significant inherent value. This is a relevant matter under the CPL Act. The point is therefore allowed.

Point	Summary of Point Raised	Sub No	Decision
48	Propose as of right foot access over existing vehicle access track c-d.	14	Allow

Discussion:

This point concerns access to and enjoyment of the reviewable land which is a relevant matter under the CPL Act. The point is therefore allowed.

Point	Summary of Point Raised	Sub No	Decision
49	Object to the high cost of new fencing proposed.	14	Disallow

Discussion:

Although the cost of tenure review maybe of public interest, it is not a relevant matter the Commissioners can consider in terms of under the CPL Act. The point is therefore disallowed.

Point	Summary of Point Raised	Sub No	Decision
50	Object to the scattered nature of land proposed as conservation area. - results in high fencing costs. - Results in numerous difficult public access easement route being required.	14	Allow in part

Discussion:

The point relates to both the cost of tenure review implementation and the effectiveness of the proposal in meeting the objects with respect to section 24(b) and 24 (c). The point with respect to cost is not a matter the Commissioner can consider under the objects of the CPLA and therefore the point is disallowed with regard to this aspect. With regard to the latter aspect, which is a relevant matter the Commissioner can consider under the CPL Act, the point is allowed.

5. Summary and conclusions:

5.1 Overview of analysis:

A total of 12 submissions were received by the closing date for submissions with 5 submissions being received within the 2 days following the closing date. Owing to the closeness of receipt of the late submissions to the closing date I have analysed them along with the balance of the submissions in anticipation that they will be accepted.

A total of 50 points were raised in submissions, 39 being allowed, one point allowed in part and 10 being disallowed.