

Crown Pastoral Land Tenure Review

Lease name : MT GERALD

Lease number : PT 010

Analysis of 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 Crown Pastoral Land Act. 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.

**ANALYSIS
OF
PUBLIC SUBMISSIONS**

MT GERALD



ANALYSIS OF PUBLIC SUBMISSIONS**Statement Pursuant To Sec 45(a)(iii) Crown Pastoral Land Act 1998****MT GERALD TENURE REVIEW NO 265****Details of lease**

Lease name:	Mt Gerald pastoral lease.
Location:	Lilybank Road, Lake Tekapo, South Canterbury.
Lessee:	Mt Gerald Station Limited.

Public notice of preliminary proposal

Date advertised:	26 January 2013.
Newspapers advertised in:	
- The Press	Christchurch
- The Otago Daily Times	Dunedin
- The Timaru Herald	Timaru.
Closing date for submissions:	26 March 2013.

Details of submissions received

Number received by closing date:	9
Number of late submissions received/accepted:	0
LINZ provided an extension of one week for one submitter, but no submission was received.	
Cross-section of groups/individuals represented by submissions: Submissions were received from six environmental and recreational groups and crown entities, one private company, and two individuals.	
Number of late submissions refused/other:	Nil.

ANALYSIS OF SUBMISSIONS

Introduction

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:

1. Summarises each of the points raised along with the recorded number (shown in the appended tables) of the submitter(s) making the point.
2. Discusses each point.
3. Recommends whether or not to **allow** the point for further consideration.
4. If the point is **allowed**, recommends whether to **accept** or **not accept** the point for further consideration.

The points raised have been analysed to assess whether they are matters that are validly-made [i.e relates to the right property and tenure review], relevant to the tenure review and can be properly considered under the Crown Pastoral Land Act 1998 (CPLA). Where it is considered that they are the decision is to **allow** them. Further analysis is then undertaken as to whether to **accept** or **not accept** them.

Conversely where the matter raised is not a matter that is validly-made or relevant or cannot be properly considered under the CPLA, the decision is to **disallow**. The process stops at this point for those points disallowed.

The outcome of an **accept** decision will be that the point is considered further in formulation of the draft SP. To arrive at this decision, the point must be evaluated with respect to the following:

The objects and matters to be taken into account in the CPLA; and

Whether the point introduces new information or a perspective not previously considered; or

Where the point highlights issues previously considered but articulates reasons why the submitter prefers an alternative outcome under the CPLA, or

Is a statement of support for aspects of the Preliminary Proposal which can be considered by the Commissioner when formulating the designations for a Substantive Proposal.

How those accepted points have been considered will be the subject of a Report on Public Submissions which will be made available to the public. This will be done once the Commissioner of Crown Lands has considered all matters raised in the public submissions in formulating a Substantive Proposal.

Analysis

The submissions have been numbered in the order in which they were received and the points have been arranged so similar points are grouped together.

Appendix III provides a table of the points raised by the various submitters.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
1	Statements of support for aspects of the proposal.	1, 2, 3, 4, 5, 6, 7, 9	Allow	Accept

Various submitters made specific statements of support for either the entire proposal or particular aspects of the proposal, as follows:

Submitter 1 supported the proposed easements 'a-b-c' and 'b-d-e'. They also stated that CA3 would provide valuable access across to the Godley River, and they regarded the proposed access easement in the vicinity of Stone Hut Stream (easement 'd-e') as significant.

Submitter 2 supported CA1 because it would provide more direct access to Rex Simpson Hut on the Two thumbs Range and because it may help reduce cattle from straying onto other conservation land to the south of Mt Gerald.

Submitter 3 provides support for each of areas CA1, CA2, and CA2 on the basis of improved public access and conservation preservation. They also considered that easement 'd-e' was an excellent addition to high country access in this area, offering potential loop trips either to the north or south. Submitter 3 did not suggest any changes to the proposal.

Submitter 4 supports CA1, CA2, and CA3, stating that these areas offer hunting opportunities. They also consider that the Macaulay River provides adequate access to the northern end of the property, and that easement 'a-b-c' provides sufficient access to Stone Hut Stream, and that all other public access should be retained.

Submitter 5 supports the proposal without reservation. The submitter considers that CA1 and CA2 will be valuable additions to the conservation estate and when combined with adjacent conservation land will significantly increase the opportunity for public recreation. The submitter regards CA3 as imaginative, and could provide new recreational activity.

Submitter 6 supports CA1, for the additional skiing opportunity it will provide, along with better access to Rex Simpson hut, supports CA2 for the protection this will offer native vegetation and supports CA3 for the protection of habitat for wetland birdlife. The submitter also supports the access provisions in the proposal, reinforcing the need for year-round access and to use existing tracks and to avoid unrideable terrain where possible.

Submitter 7 supports in principle the Mt Gerald preliminary proposal and the practice of undertaking consultation with Te Runanga o Ngai Tahu to identify Maori cultural and heritage values.

Submitter 9 provides specific support for the proposed transfer of the lower lying land to freehold, and for the proposed conservation area of CA3, The Island¹. The submitter regards the other proposed conservation areas as good, but recommends further land should also be retained, covered in point 15 of this analysis.

¹ On page 1 of submission 9, specific support is given for area "CA2" but from the discussion, and the 'Summary and recommendations' section of the submission, it is clear this reference should have been to CA3.

Some of the above submitters also suggest other changes to the proposal, which are covered in subsequent points in this analysis.

Rationale for Allow or Disallow

In providing support for aspects of the proposal, most submitters mentioned aspects related to the protection of significant inherent values, or public access. The protection of significant inherent values is identified in section 24(b) CPLA, and the making easier of public access is indicated in section 24(c)(i) CPLA. These matters can therefore be properly considered under the CPLA. The point has therefore been allowed.

Rationale for Accept or Not Accept

Statements of support for aspects of the preliminary proposal can be considered by the Commissioner when formulating the designations for a Substantive Proposal. Point 1 has therefore been accepted for further consideration.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
2	Those portions of the formed Lilybank Road which are not legal road should be designated as land to be restored to or retained in full Crown ownership for the purpose of roading.	1	Disallow	N/A

Submitter 1 noted that the northern end of the formed Lilybank Road deviates from the legal road, meaning that there is no legal formed access to the start of the proposed easement 'a-b-c'. They suggest this section of the formed Lilybank Road should be designated as land to be restored to or retained in full Crown ownership and control, for the specified purpose of roading, towards securing public vehicle access to the land under review. They comment that subsequent to the tenure review such Crown land could then be vested in the local authority as road.

Rationale for Allow or Disallow

While the point does relate to land included in the review, and the submitter has proposed a designation which is enabled under the CPLA, the situation concerned is a roading anomaly which is not appropriately dealt with in tenure review, and is a matter for the local authority. The point has therefore been disallowed.

Rationale for Accept or Not Accept

N/A

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
3	Public walking access should be provided from the Lilybank Road to the southern end of CA3.	1, 6	Allow	Accept

Submitter 1 suggested the proposal should provide legal public walking access from the Lilybank Road to the southern end of CA3, since the preliminary proposal only provides access to CA3 further to the north, near the Macaulay River. They suggest this could provide an access loop.

Submitter 6 also suggests that public access to CA3 should be provided from the Lilybank Road, possibly near the airstrip, and that this should allow for parking.

Rationale for Allow or Disallow

This point relates to securing public access to the reviewable land, which is an object of tenure review under s24(c)(i) CPLA. The point has therefore been allowed.

Rationale for Accept or Not Accept

The point relates to the objects of tenure review, as discussed above. Although this access possibility has been previously considered, the submitter has provided a reason for this alternative outcome, being the provision of access with a potential round trip incorporating the access available further to the north. The point has therefore been accepted for further consideration.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
4	Stiles or gates should be erected in any fences which are across the margins of waterways with an average width of 3m or more.	1	Disallow	N/A

Submitter 1 suggested that a number of streams across the review land would qualify for marginal strips on completion of the tenure review, and they proposed that stiles or gates should be erected in any fences across the streams concerned, on the basis that this would facilitate or improve access to the Two Thumb Range and enjoyment of the marginal strips.

Rationale for Allow or Disallow

While the provision of public access is an object of tenure review, the erection of stiles and gates is not provided for under the CPLA. The erection of any such structures on access routes is a matter dealt with by the Department of Conservation after tenure review. The point has therefore been disallowed.

Rationale for Accept or Not Accept

N/A

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
5	Requests to be kept informed on progress of the review.	1, 2	Disallow	N/A

Submitter 1 requested timely advice as to how points they have raised have been analysed and what amendments if any are proposed to the designations

Submitter 2 requested to be kept informed as the review progresses.

Rationale for Allow or Disallow

Tenure review provides for the advertising and consideration of public submissions on preliminary proposals under s43 and s45 CPLA, but does not provide for subsequent advice to specific public submitters. This point has therefore been disallowed.

However, as pointed out in the Introduction, a Report on Public Submissions will ultimately be available to the public, and will be posted on the LINZ web site.

Rationale for Accept or Not Accept

N/A

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
6	Foot and mountain bike access should be provided along the 4WD track on the south-eastern bank of the Macaulay River, from 'b-d' to 'X' on the preliminary proposal plan.	2	Allow	Accept

The submitter suggests that it would be desirable if there was foot and mountain bike access on the 4WD track on the review land adjoining the south-eastern bank of the Macaulay River. The submitter states that this would be more environmentally friendly than using the adjoining riverbed for access, which also gets washed out and very bumpy.

Rationale for Allow or Disallow

The point relates to the provision of public access, which is relevant to tenure review and can be considered under the CPLA. The point has therefore been allowed.

Rationale for Accept or Not Accept

The provision of public access is an object of tenure review under s24(c)(i) CPLA. While the provision of public access has been considered, the submitter has provided reasons for enabling such access, relating to problems in the use of the alternative access in the Macaulay riverbed. The point has therefore been accepted for further consideration.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
7	Further information is requested on an existing easement on Richmond.	4	Allow	Not accept

The submitter sought further information on the existing easement on Richmond, the freehold land adjoining Mt Gerald to the south, for confirmation that adequate access will be provided.

Rationale for Allow or Disallow

Making appropriate decisions on the need for access within the reviewable land does require consideration of existing access provisions outside the lease boundary, and a protocol exists for specific consultation with Fish and Game within tenure review, as authorized by the Commissioner. The point is therefore allowed.

Rationale for Accept or Not Accept

Public access is a matter to be taken into account in tenure review, under s24(c)(i) CPLA. However, this point does not introduce new information, does not indicate an alternative outcome, and does not provide support for the proposal, and consequently cannot be accepted in this analysis.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
8	Access should be provided on the unsealed access road up to Ribbonwood Stream and to Mount Gerald Stream, by prior arrangement with the landowner.	4	Allow	Accept in part (Ribbonwood Stream access)

Rationale for Allow or Disallow

The securing of public access is a matter that can be properly considered under section 24(c)(i) CPLA, and this point relates to the appropriate provision of such access. The point has therefore been allowed.

Rationale for Accept or Not Accept

The point relates to the objects and matters that can be taken into account in the CPLA, as discussed above. Access along the existing routes to Ribbonwood Stream is not a matter that has been specifically considered before, so that matter is accepted for further consideration. Access to Mount Gerald Stream has been previously considered, in relation to accessing CA1, and the submitter has not indicated any reason for such access, so this aspect is not accepted for further consideration.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
9	Marginal strips should apply on the Macaulay River and up the North east Gorge.	4	Disallow	N/A

Rationale for Allow or Disallow

Marginal strips will be laid off on qualifying waterbodies as determined by the surveyor at the time of implementation of the tenure review outcome. Whether marginal strips will apply to streams is not a matter that can be considered under the CPLA and therefore the point is disallowed.

Rationale for Accept or Not Accept

N/A

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
10	Snowmobiles should be excluded from CA1	6	Disallow	N/A

Rationale for Allow or Disallow

The terms and conditions relating to land proposed for full Crown ownership and control are matters for the Department of Conservation to consider after tenure review, and are not matters that can be considered in tenure review under the CPLA. The point is therefore disallowed.

Rationale for Accept or Not Accept

N/A

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
11	Information signs and a walkway should be created within CA3, and the public should be discouraged from driving vehicles along the legal road on the western side of The Island.	6	Disallow	N/A

Rationale for Allow or Disallow

The development of facilities, and management of the public within land retained in full Crown ownership and control is a matter for the Department of Conservation to consider after tenure review, and are not issues that can be considered in tenure review under the CPLA. In addition, the legal road on the western side of the island is not included in the tenure review. The point is therefore disallowed.

Rationale for Accept or Not Accept

N/A

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
12	Easements should exclude stock (especially cattle) to prolong the life of the track. Signage for easement 'b-d-e' should specifically exclude snow mobiles.	6	Allow in relation to stock exclusion, but disallow in relation to matters of signage	Accept in relation to stock exclusion.

Rationale for Allow or Disallow

Public access is a relevant object of tenure review under s24(c)(i)CPLA. However, while the location and terms and conditions of easements are matters that can be taken into account in tenure review, signage is a matter for the Department of Conservation to consider after tenure review is completed. The point has therefore been allowed in relation to stock access, but disallowed with respect to signage.

Rationale for Accept or Not Accept

As stated above the point relates to objects and matters that can be taken into account in the CPLA. The exclusion of stock from easements is not something that has been previously considered, so this point has therefore been accepted for further consideration.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
13	An updated historic resources report should be completed for the area not covered by the existing historic resources report, and then the submitter would like to be involved in further discussions.	7	Allow	Accept

The submitter states that the existing historic resources report only covers the land proposed for freehold at the stage that report was written, and that a new area is now proposed as freehold on the upper slopes between the Second Waterfall Stream and Mt Gerald Creek which they consider should be further investigated.

The submitter would then like to reconsider appropriate heritage protection after a further historic resources report.

Rationale for Allow or Disallow

Significant inherent values includes historic resources, and the protection of significant inherent values is a relevant object of tenure review, under s24(b) CPLA. The point relates to the adequacy of advice on such resources, and ways of protecting such values. The possibility of further consultation with the submitter is enabled under s26(2) CPLA which allows for the Commissioner to consult with any person or body the Commissioner thinks fit. The point has therefore been allowed.

Rationale for Accept or Not Accept

The point relates to matters that can be taken into account in the CPLA as discussed above. The possibility of a further historic resources report to cover areas not included in the first report followed by further consultation with the Historic Places Trust are both matters not previously considered.

The point has therefore been accepted for further consideration. The Commissioner's approval will be required for any further consultation with the Historic Places Trust.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
14	Current and future owners should be made aware of recorded and potential archaeological sites and their responsibilities under the Historic Places Act 1993 by the addition of a condition on the Final Plan.	7	Disallow	N/A

Rationale for Allow or Disallow

The submitter has suggested that a condition be added to the Final Plan. It is assumed that the point relates to more than placing wording on the designation plan, which will not persist after tenure review. However the submitter has not suggested any mechanisms available under the

CPLA to achieve this. The point really relates to informing land owners of their responsibilities under other legislation. On this basis the point has been disallowed.

Rationale for Accept or Not Accept

N/A

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
15	An opportunity is sought to discuss how the submitter could provide expert heritage advice prior to the preliminary proposal stage.	7	Disallow	N/A

Rationale for Allow or Disallow

This point is of a generic nature and does not relate specifically to the land being reviewed under the CPLA, especially given that Mt Gerald has already passed the preliminary proposal stage. The point has therefore been disallowed.

Rationale for Accept or Not Accept

N/A

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
16	Other options should be explored for areas CA1, CA2, and CA3 to enable some continued grazing and management of the land by the farmer.	8	Allow	Accept

The submitter expressed concern at the potential loss of farm production on Mt Gerald and in tenure review in general, where land is retained under full Crown ownership and control. The submitter expressed concern at wildlife and weed management on conservation land. He mentions various alternatives to retirement of land under DOC control in the wider tenure review programme, and suggests some of these options should be explored on Mt Gerald. The alternatives he suggests include retaining whole properties as leasehold, use of QEII Trust covenants, or allowing some continued grazing if the land does transfer to DOC. The submitter lists a variety of controls that could be placed over land where continued grazing is allowed on land, including stock limits, timing of grazing, and agreements over pasture development and management.

Rationale for Allow or Disallow

This point relates to the protection of significant inherent values, which is an object of tenure review under section 24(b) CPLA, while enabling economic use, which is an object under s24(a)(ii) CPLA. The methods suggested include retaining the pastoral lease, which can be achieved by discontinuing a review under s33 CPLA, establishing QEII covenants, which is a method of protection enabled by s40, or by establishing grazing concessions over DOC land, covered under s36(1)(a) CPLA. The point is therefore relevant to tenure review and can be properly considered under the CPLA, and is therefore allowed.

Rationale for Accept or Not Accept

The point relates to objects and matters that can be taken into account in the CPLA, as discussed above. The submitter has suggested an alternative outcome, and provided reasons for such an outcome, relating to enabling economic use and possibly leading to better protection of the values. The point has therefore been accepted for further consideration.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
17	Consideration should be given to creating a single conservation area for the land above 900 - 1,000 metres asl right across the property, making CA1 and CA2 part of a coherent unit.	9	Allow	Accept

The submitter identified the land above 900 - 1000 metres asl between CA1 and CA2 as having landscape values associated with its location in the Mackenzie Country and its prominent lateral glacial moraines, and also as having streams with riparian shrubland values, including Ribbonwood Stream and Stone Hut Stream. The submitter stated that this zone was only used for grazing in summer and that it was not essential for a sustainable and profitable livestock operation. The submitter expressed concern that the land could be developed in future in some way which could degrade the significant values, for example by tree planting or oversowing. Given these factors, the submitter considered that this area should be designated as Conservation Area, perhaps with a short term grazing concession to enable a smooth transition to new practices.

Rationale for Allow or Disallow

This point relates to the protection of significant inherent values, which is an object of tenure review under section 24(b) CPLA. The retention of land as Conservation Area is enabled by the restoration or retention of land to full Crown ownership and control, or by Crown control, under s35 CPLA. The point is therefore relevant to tenure review and can be properly considered under the CPLA, and is therefore allowed.

Rationale for Accept or Not Accept

The point relates to the objects of tenure review, as discussed above. Although the retention of this area of land has been previously considered, the submitter has provided a reason for this alternative outcome, being significant inherent values associated with the land, and limited grazing use of the area. The point has therefore been accepted for further consideration.

Summary

Overview of analysis:

Overall, the submissions generally supported the proposal, both in relation to the designations and public access provisions. Suggested changes mostly related to public access. However, one submitter considered that further consideration should be given to alternative designations for the proposed Conservation Areas that would enable greater economic use of those areas, while another submitter felt that more land should be retained as Conservation Area.

Appendix III lists the points raised by each submitter.

Generic issues:

Overall, there was a fairly high degree of support for the Mt Gerald proposal. Where alternative outcomes were sought, this mostly related to providing improved public access.

Gaps identified in the proposal or tenure review process:

One submitter identified that the Historic Resources Report only covered land proposed to be freeholded at the time the report was written, and consequently did not cover the additional land proposed for freehold disposal in the current proposal. No other gaps in the proposal or process were identified, although several submitters asked to be kept informed of progress, or for the opportunity to review the proposal after considering further information.

Risks identified:

No risks were identified.

General trends in the submitters' comments:

Discussed under generic issues above.

List of submitters:

A list of submitters is included in Appendix II and a summary of the points raised by submitters is included in Appendix III.