

Crown Pastoral Land Tenure Review

Lease name: OMAHAU DOWNS

Lease number: PT 092

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.

March

05

ANALYSIS OF SUBMISSIONS

OMAHAU DOWNS TENURE REVIEW

1. Details of lease:

Lease Name: Omahau Downs

Location: Twizel, South Canterbury

Lessee: Neil Joseph Lyons

2. Public Notification of Preliminary Proposal

Details of advertisement, date, publication, location:

Date Advertised	Publication	Location
Saturday, February 15 th 2003	Timaru Herald	Timaru
Wednesday, February 19 th 2003	High Country Herald	Mid Canterbury – Central Otago
Saturday, February 22 nd 2003	The Press Otago Daily Times Timaru Herald	Christchurch Dunedin Timaru

A copy of the advertisement is attached at Appendix 2.

Closing date for submissions:

28th April 2003

3. Details of submissions received:

A total of three submissions were received by 28th April 2003.

No late submissions were received up to the date of this report.

4. Analysis of submissions:

4.1 Introduction:

Explanation of Analysis:

Each of the submissions received has been reviewed in order to identify the points raised and these have been numbered accordingly. Where submitters have made similar points, these have been given the same number.

The following analysis summarises each of the points raised along with the recorded number (*shown in Appendix 3*) of the submitter(s) making the point. Discussion of the point and the

decision whether to accept/not accept or allow/disallow the point follows.

The following approach has been adopted when making Decisions:

(i) To accept/not accept:

The decision to “**accept**” the point made by submitters is on the basis that the matter raised is a relevant matter for the Commissioner of Crown Lands (CCL) to consider when making decisions in the context of the Crown Pastoral Land Act 1998 (CPL Act). Conversely, where the matter raised is not relevant in terms of the Commissioner’s consideration, the decision is to “**not accept**”.

(ii) To allow/disallow:

Where the decision has been made to accept, a further decision has been made as to whether the point made should be “allowed” or “disallowed”. The decision has been made to “**allow**” if the point raises new information and should be considered further. Where the matter has previously been decided by the CCL, and there is not justification for further consideration then the decision is to “**disallow**”. Further justification for the Decision has been made in the discussion paragraph showing the summary for each point.

4.2 *Analysis:*

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
1	That the area of land to be retained by the Crown is described as “covered by the waters of the Twizel River” whereas it should be “the bed of the river, from bank crest to bank crest that should be retained in Crown ownership. That is the presumption behind section 24F Conservation Act 1987.”	1	Accept	Allow

Discussion Point 1:

The matter is relevant under CPL Act, Part 2, Section 24 (b) (ii), (c) (i) and is therefore accepted.

The submitter quite rightly points out that it is not only the area covered by water that should be retained by the Crown, but that area of land which forms the bed of the Twizel River. The current cadastral data is quite confused in that a riverbed is shown with a legal road on the true left side, however the Twizel River has through erosion shifted its bed outside of that shown on the cadastral and in places beyond (on the landward side of) the legal road. It is the area outside of that currently shown as road and river that is the subject of the Tenure Review. The Commissioner of Crown Lands or his Delegate considered a submission dated 28th February 2002 for the inclusion in the Tenure Review the Crown land in the Twizel and Fraser Riverbeds and the road reserve joining the Crown Land in the riverbeds. An email dated 5th May 2002 advised that the Contract Administrator rejected the report. The point is

allowed to enable further consultation and clarification.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
2	The current proposal does not meet the stated intention to retain the area covered by the waters of the Twizel River, let alone the bed.	1	Accept	Disallow

Discussion Point 2:

The matter is relevant under CPL Act, Part 2, Section 24 (a) (i), (b) (ii) and is therefore accepted.

This point is related to Point 1. The submitter suggests that the proposal does not intend to retain Crown ownership of the area of the lease where the Twizel River currently flows. This appears to be based on the wording of the Due Diligence report. It is however the intention the Tenure Review that the Twizel River, where it is currently flowing, will be retained by the Crown, the point therefore has been disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
3	The proposal does not adequately secure public access and enjoyment of reviewable land as required by section 24(c) (i) Crown Pastoral Land Act. There is an informal pattern of established access routes between the Glen Lyon Road (to the south west of the lease) and the Twizel River. One of the tracks opposite Nun’s Veil Road (the exit road from Twizel onto Glen Lyon Road) appears to be on the Pastoral Lease. If the track is not on the Pastoral Lease an alternative alignment along the Pastoral Lease boundary immediately nearby should be provided. There should be a minimum of foot access at all times with no discretion for closure.	1	Accept	Allow

Discussion Point 3:

The matter of access is relevant under CPL Act, Part 2, Section 24 (c) (i) and is therefore accepted.

The submitter has provided new information and the point is therefore allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
4	It is crucially important that ready access to “wild” open space be provided close to urban population such as Twizel. Over time it will become more important that riverside open space is retained and remain accessible to the public. A standard twenty metre marginal strip on the true right bank of the Twizel River will be inadequate.	1	Accept	Disallow

Discussion Point 4:

The matter of access is relevant under CPL Act, Part 2, Section 24 (c) (i) and is therefore accepted.

The submitter refers to access in context with marginal strips. The matter of marginal strips is not a matter the CCL must consider under the CPL Act, the point is therefore disallowed. Provision of a larger recreation area in the same location is considered under point 5 below.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub Nos</i>	<i>Decision</i>	
5	A recreation reserve be created between the Glen Lyon Road/old river channels and the Twizel River, and include section nine between the existing Twizel River and the Fraser Stream to enable good riparian management.	1, 2	Accept	Allow

Discussion Point 5:

The matter of public enjoyment of reviewable land is relevant under CPL Act, Part 2, Section 24 (c) (i) and therefore can be accepted.

This point is related to point 4 above. This matter has not previously been considered and is therefore allowed for further consultation.

5. Discussion and conclusions:

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

Paragraphs three and four, and similarly paragraphs seven and eight, of the Public Access New Zealand submission (submission number 1) included material of a generic nature, a vehicle through which to assert longstanding opinion regarding the Crown’s stance on marginal strips. Such comments are not necessarily particular to the Tenure Review of Omahau Downs, and consequently analysis of these issues should be managed within another forum.

The Environment Canterbury submission was more a letter of statements and did not raise any issues that need be discussed under the Crown Pastoral Land Act.

ANALYSIS OF SUBMISSION

OMAHAU DOWNS TENURE REVIEW

1. *Details of lease:*

Lease Name: Omahau Downs
Location: Twizel, South Canterbury
Lessee: Neil Joseph Lyons

2. *Details of submission:*

The Commissioner of Crown Lands advised Iwi of the Preliminary Proposal for the Omahau Downs tenure review in accordance with Section 43 Crown Pastoral Land Act. Iwi responded by letter dated 13th March 2003 and raised five distinct points in relation to this review.

3. *Analysis of submission:*

3.1 *Introduction:*

Explanation of Analysis:

The submission has been reviewed in order to identify the points raised and these have been numbered accordingly.

The following analysis summarises each of the points raised. Discussion of the point and the decision whether to accept/not accept or allow/disallow the point follows.

The following approach has been adopted when making Decisions:

(i) To accept/not accept:

The decision to “**accept**” the point made is on the basis that the matter raised is a relevant matter for the Commissioner of Crown Lands (CCL) to consider when making decisions in the context of the Crown Pastoral Land Act 1998 (CPL Act). Conversely, where the matter raised is not relevant in terms of the Commissioner’s consideration, the decision is to “**not accept**”.

(ii) To allow/disallow:

Where the decision has been made to accept, a further decision has been made as to whether the point made should be “allowed” or “disallowed”. The decision has been made to “**allow**” if the point raises new information and should be considered further. Where the matter has previously been decided by the CCL, and there is not justification for further consideration then the decision is to “**disallow**”. Further justification for the Decision has been made in the discussion paragraph showing the summary for each point.

3.2 *Analysis:*

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Decision</i>	
1	Marginal strips to be applied to all rivers and streams.	Not Accept	

Discussion Point 1:

The matter of marginal strips is not a matter the CCL is required to consider under the CPL Act, and the point is therefore not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Decision</i>	
2	That fishing rights, access to mahinga kai and cultural materials are to be enabled on DoC estate.	Not Accept	

Discussion Point 2:

While access and enjoyment of reviewable land is a matter to be considered under the CPL Act, the future management of land restored to full Crown ownership and control is not a matter for the Commissioner to consider, nor are matters on existing DoC estate.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Decision</i>	
3	Those areas of the Twizel River that are not to be in DoC estate to be fenced to exclude stock and have riparian strips retained that are sufficient to allow good riparian management.	Accept	Allow

Discussion Point 3:

The matter is relevant under CPL Act, Part 2, Section 24 (a) (i) and is therefore accepted.

The point is restricted to areas that are not to be in the DoC estate. Part of the land in the tenure review is to be restored to full Crown ownership for riverbed purposes will not be in DoC estate. The comments strongly note that the River is highly valuable and should be fenced. For that reason the point is allowed to enable further consultation with the DGC's Delegate.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Decision</i>	
4	That areas of high inherent value be retained in Crown ownership.	Accept	Disallow

Discussion Point 4:

The matter is relevant under CPL Act, Part 2, Section 24 (b) (ii), and is therefore accepted.

The retention in Crown ownership of areas of significant inherent values has previously been considered by the Commissioner's delegate, and as no new information is provided, the decision is to disallow the point.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Decision</i>	
5	That the Crown use traditional place names in promotional material, as long as Papatipu Runanga provides the information.	Not Accept	

Discussion Point 5:

The matter of place names is not a matter the CCL is required to consider under the CPL Act, the point is therefore not accepted.

4. Discussion and conclusions:

Discussion relevant to each particular point has been made under each point for simplicity and clarity. Most points are interrelated and largely revolve around the Twizel River and access along it.