

Crown Pastoral Land Tenure Review

Lease name: OMAHAU DOWNS

Lease number: PT 092

Public Submissions

These submissions were received as a result of the public advertising of the Preliminary Proposal for Tenure Review.

March

05

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Public Access New Zealand

INCORPORATED

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Thursday, 24 April 2003

Commissioner of Crown Lands
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FAXED
2.38 pm 24/4/03

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Submission on Omahau Downs Tenure Review Preliminary Proposal

Public Access New Zealand welcomes the intention to retain Crown ownership of the (bed of the) Twizel River.

As official documents associated with this review state, this is an important conservation and recreation resource. Its popularity is in large part due to its close proximity to Twizel.

There are however aspects of this proposal that do not appear to have been adequately considered or provide for. This is not "new information" but highly pertinent to the review and must be reconsidered. We believe not to consider the aspects we raise would be unlawful in terms of official duties for consultation.

1. The area for Crown retention is described as that "covered by the waters of the Twizel River". The area covered by water varies from season to season or in fresh or drought. 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. ①

2. The area defined to be retained in Crown ownership is based on survey office plan SO 20049 which was prepared in 1998. This defines boundaries in terms of the then course of the Twizel River. However the Due Diligence Report (pg 5) states "in places the Twizel River is known to be flowing outside its bed as depicted on SO 20049". Therefore the current proposal does not meet the stated intention to retain the area covered by the waters, let along the bed. ②

3. This situation illustrates the nonsense of the CCL's policy of leaving dealing with marginal strips consequent to his approval of tenure reviews. New marginal strips are legally required along both

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banks of the Twizel River within the current area of the pastoral lease. However, going by past official performance, there is no guarantee that these will necessarily be created. If they are created there would be no need to attempt to retain the bed of the river in Crown ownership via the preliminary proposal. This would automatically occur via section 24F.

NA

4. Leaving marginal strip matters outside of the CCL's tenure review process has resulted in faulty and deficient resource information and recommendations from DOC and F&G, that has a direct bearing on the adequacy of tenure review outcomes. DOC, while claiming to cover this matter in its Conservation Resources Report does not, presumably because of uncertainty as the existence of marginal strips. Fish and Game incorrectly confuses a legal road upstream of the SH 8 bridge as marginal strip and consequently do not recommend further provision.

NA

5. In our opinion the proposal does not adequately "secure public access and enjoyment of the reviewable land" as required by section 24(c)(i) Crown Pastoral Land Act. Future utilisation of the river and margins depends solely on public access upstream from the State Highway 8 bridge, whereas the present pattern of public access appears to be rely more on direct access from Twizel township. This is evidenced by at least two well established tracks from Glen Lyon Road. These are informal arrangements across either the land under review or other land beside the road (freehold?). This established pattern of access has not been considered in the tenure review proposals. One of the tracks, opposite Nuns Veil Road, appears to be on the pastoral lease. If so this should be formalised as public access to the river. If the track is not on PL, an alternative alignment along the PL boundary immediately nearby should be provided. There should be a minimum of foot access at all times, with no discretion for closure.

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6. It is crucially important that ready access to "wild" open space be provided close to urban populations such as Twizel. This is the only river flanking the town's boundaries. As the population grows, and subdivision pressures increase on the eastern side of Glen Lyon Road, over time it will become more important that riverside open space is retained and remain accessible to the public. In our view a standard 20m marginal strip on the true right bank of the Twizel River will be inadequate to satisfy public recreational needs. Passage along much of this bank would be difficult due to dense willow cover, whereas a wider strip would allow ease of passage. However the greater need is to retain in Crown ownership the flood plain between the current position of the Twizel river and old river channels near Glen Lyon Road. This area should be managed for informal public recreation and would be best designated recreation reserve. Control could be vested in the district council if DOC is disinterested in controlling the area. As this area appears to be flood prone there would be no loss of building/ subdivision potential.

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Other matters bearing on the review

7. We are most disappointed that DOC has not identified the bed and margins of the Twizel River as having "significant inherent values" - a prime consideration under the CPLA. In this regard we believe that the department has failed in its obligations. It is fortunate that other parties, presumably the Crown's agent, did identify that it is "important to the inherent values of the region" that full Crown ownership is restored.

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8. Failure to create marginal strips

The lease fell due for renewal in 1995. Renewal is a disposition. Disposition requires the laying off of marginal strips along qualifying waterways. The Twizel River is a qualifying waterway. No marginal strips were created. Instead the dubious device of a "variation of the term of the lease to expire 30 June 2028" was used, so avoiding "disposition" and the creation of marginal strips. This leads to doubts that other devious devices will be found to avoid the creation of marginal strips on this final disposition or freeholding of Crown land. We seek assurances that marginal strips will in fact be created.

Summary of recommendations

- The LINZ Process for Analysing Public Submissions be acknowledged to not fulfil legal duties for consultation as summarised in Crown Pastoral Land Standard 8, page 44.
- All points raised in this submission (being consistent with the objects of the CPLA) be accepted for consideration irrespective of whether they have previously been officially considered or not, or if new information is provided or not.
- Documentation of existing and future marginal strip requirements become an integral part of the tenure review process.
- Marginal strips be created along both banks of the Twizel River
- The bed, rather than the area covered by the waters of the Twizel River, be retained in full Crown ownership and control
- A wide marginal strip be created along the true right bank
- A recreation reserve be created between the Twizel River and the old river channels near Glen Lyon Road
- Assured public access be created from opposite Nuns Veil Road to the Twizel River bank.

Yours faithfully



Bruce Mason

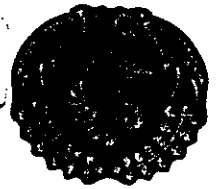
Researcher and Co-Spokesman

Public Access New Zealand is a charitable trust formed in 1992. Objects are the preservation and improvement of public access to public lands, waters, and the countryside, through retention in public ownership of resources of value for recreation. PANZ is supported by a diverse range of land, freshwater, marine, and conservation groups and individuals.

PANZ is committed to resist private predation of the public estate.

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28 APR 2003



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& BIRD

ROYAL FOREST AND
BIRD PROTECTION
SOCIETY OF
NEW ZEALAND INC

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DTZ New Zealand Ltd
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Thursday, April 24, 2003

SUBMISSION ON PRELIMINARY TENURE REVIEW PROPOSAL FOR OMAHAU DOWNS (PT 141)

1. INTRODUCTION

The Royal Forest and Bird Protection Society Inc. (Forest and Bird) has campaigned for 80 years for the protection of New Zealand's native species and the habitats on which they depend. Around 38,000 New Zealanders in 56 branches nation wide belong to Forest and Bird, supporting the Society's objectives of secure protection for native species, ecosystems, and landforms.

The Society's constitution requires it to :

"take all reasonable steps within the power of the Society for the preservation and protection of indigenous flora and fauna and natural features of New Zealand for the benefit of the public including future generations."

"Protection of natural heritage includes indigenous forests, mountains, lakes, tussocklands, wetlands, coastline, marine areas, offshore islands and the plants and wildlife found in those areas."

This submission is on behalf of the Central Office of the Society.

The writer inspected the property on 7 March 2003 and thanks Neil Lyons for that opportunity.

2. PRELIMINARY PROPOSAL

Forest and Bird understands the preliminary proposal to be:

- the restoration to full Crown ownership and control as conservation land of approximately 10 hectares along the banks of the Twizel River,
- the freehold disposal of approximately 178 hectares to N J Lyons.

3. SUMMARY OF CONCERNS

Forest and Bird is concerned about the freehold disposal of sections 3 (18 ha) and 9 (2.68 ha) between the true right bank of the Twizel River and Glen Lyon Road.

Our field inspection indicated that a walking path known as the 'Twizel Walkway' runs along side the true right of the Twizel River. This path is well-formed and winds along side the river passing one prominent swimming hole with a rope swing attached to a willow. In places willows provide shade and sometimes the path runs along terraces of grass. The path has some orange triangles, some seats and a viewing point of Mt Cook/Aoraki. We observed other walkers, mountain bikers and swimmers using the area. The area clearly has high recreational and amenity value to the residents of Twizel as it is the closest riverside walk to the township.

There is already a large house overlooking this area. The increasing demand for land for subdivision close to Twizel is likely to mean this area would be subdivided if it were disposed of by way of freehold title.

The 'Twizel Walkway' has clearly-marked public access points from Glen Lyon Road which cross section 3.

Forest and Bird is concerned that the freeholding of section 3 would potentially:

- result in subdivision or another land use that would adversely affect the recreational amenity of the Twizel Walkway area,
- remove the open space values of the Twizel Walkway,
- deprive the Twizel community of a valuable area that could be set aside as recreation reserve vested in the Mackenzie District Council,
- cut off the public access routes from Glen Lyon Road to the Twizel Walkway.

In the immediate area there is a parcel of crown-owned land known locally as the 'Twizel Domain'. This parcel of perhaps 100 by 500 metres in area is next to Glen Lyon Road, further to the north west of where section 3 ends at Glen Lyon Road. This parcel includes a small length of Fraser Stream above its confluence with the Twizel River. Forest and Bird understands that the Twizel Community Board wants the Mackenzie District Council to buy the land for its recreation and amenity value.

This parcel and section 3 could eventually be set aside as recreation reserve for the benefit of the Twizel community. These two parcels should in the long term be owned by Mackenzie District Council which already owns a parcel bounded on three sides by section 3 (and bounded on the fourth side by SH 83). The logical rationalisation of these three parcels is for them to be owned and managed by Mackenzie District Council.

Forest and Bird has a further concern with section 9 (2.68 ha) proposed for freehold disposal. This small piece of pasture is between Fraser Stream and the Twizel River. It is separated from the larger section 1 (157.2 ha) by the Twizel River. If it is to be managed for pastoral use in conjunction with the larger section then stock will be crossing the Twizel River repeatedly. This does not represent good riparian management, but there is no other legal access provided.

Forest and Bird has no concerns about the freehold disposal of section 1 (157.2 ha).

4. DECISION SOUGHT

Forest and Bird opposes the preliminary proposal as failing to promote ecologically sustainable management and not adequately protecting inherent values. The proposal is contrary to section 24 of the Crown Pastoral Land Act 1998 (the Act or CPLA), in particular section 24(a)(i) and s24(b) because it proposes the freeholding of section 3 (19 ha) between Glen Lyon Road and the Twizel River. This is an area with significant inherent values, particularly for recreation and amenity.

Forest and Bird's first preference is for section 3 (18 ha) and section 9 (2.68 ha) be designated for Crown ownership as recreation reserve administered by Mackenzie District Council.

Our second preference is for section 3 (18 ha) and section 9 (2.68 ha) to be retained as pastoral lease.

If section 3 (18 ha) and section 9 (2.68 ha) are to be freeholded then our third preference is for those areas to have a sustainable management covenant that prevents subdivision or forestry and which requires stock to be fenced off from the river

Yours sincerely



Simon Johnson
Field Officer

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28/4/03 1723 hrs

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29 APR 2003



28 April, 2003

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3

Dear Anna

**OMAHAU DOWNS TENURE REVIEW
SUBMISSION ON PRELIMINARY PROPOSAL FROM ENVIRONMENT CANTERBURY**

Thank you for advising Environment Canterbury of the release of the Preliminary Proposal for Omahau Downs Tenure Review. We appreciate the opportunity to review the proposal and make a submission in relation to the future management of this land.

Environment Canterbury has a function under the Resource Management Act 1991 (RMA) to control the use of land for the purpose of soil conservation [sec 30(1)(c)]. In line with this function, the Council has a responsibility to review proposals for tenure review where this involves a review of the future management of land in the region.

Technical and planning staff dealing with land management have looked at the Preliminary Proposal for Omahau Downs Tenure Review to assess the impacts, if any, of this proposal on soil conservation management.

Environment Canterbury is satisfied that the proposal to freehold most of the property is unlikely to result in any soil conservation issues of concern for the management of the land identified. We support the retention of the Twizel River bed in Crown ownership and request that adequate river margins are included to protect the instream and river margin habitats, to maintain water quality in the river, and to provide for public access.

We note that the proposal identifies the property to be classified as 1/3rd Class VI land with the balance Class VII. A check by our staff has identified that the correct breakdown of Land Use Capability classes is as follows:
35% Class III; 30% Class IV; 30% Class VI; and 5% Class VII

Thank you for the opportunity to contribute to this process.

Yours sincerely

John D Talbot
DIRECTOR POLICY AND PLANNING

Our Ref: PL5C - 103
Your Ref:
Contact: Cathie Brumley

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28 April, 2003

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John D Talbot
DIRECTOR POLICY AND PLANNING

Our Ref: PL5C - 103
Your Ref:
Contact: Cathie Brumley



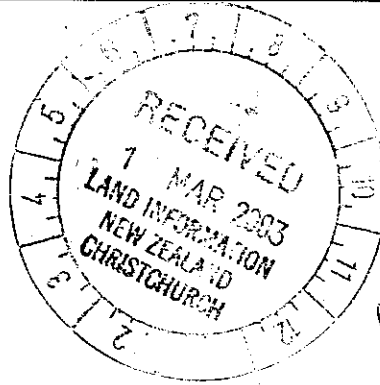
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13 March 2003

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Tēnā koe

OMAHAU DOWNS PASTORAL LEASE TENURE REVIEW – PRELIMINARY PROPOSAL UNDER CROWN PASTORAL LAND ACT 1998

Te Rūnanga o Ngāi Tahu and the relevant Papatipu Rūnanga; Te Rūnanga o Moeraki, Te Rūnanga o Arowhenua and Te Rūnanga o Waihao have considered the information provided in the Omahau Downs Preliminary Proposal, and have the following comments:

Summary of Ngāi Tahu Association with the Area

The Ngāi Tahu history of association with the Omarama District goes back to the dawn of settlement in Te Waka o Aoraki. Omarama or Te Ao Marama as it was known in the old times was a place of great spiritual significance to Waitaha and then Rapuwai. This association has been passed down through the generations to present day descendants.

Te Ao Marama is near to the resting place of Aoraki and his three brothers, Rakiroa, Rakirua and Rarakiroa. The plains, which form Te Ao Marama, have their whakapapa in these awe inspiring Atua/Tipua. Te Ao Marama is known in part due to the clarity of the sky in this area. In *nga wa tawhito* (old days) the tohunga would go to Te Ao Marama to read the stars and portent the times for planting and mahinga kai gathering activities.

The Omarama basin was a rich source of ground dwelling birds, particularly kakapo and weka and in the old days moa. Moa and other birds were hunted on the plain that forms down from Lake Ohou, in surrounding hills and up the Ahuriri valley. Umu with moa gizzard stones are silent monuments to these historical labours. At these umu the birds were processed into poha and ferried down the Waitaki to the coastal settlements.

Tuna (eels) were a rich resource of the area, the larger longfinned eels spending much of their adult life in the lakes until they were mature enough to make the arduous journey of migration out the Waitaki to Te Moana Nui a Kiwa (Pacific Ocean) for spawning. Lake Ohou and the rivers that are associated with it were once extremely rich in eels. Lake Ohou, the home of a legendary monster, the pukutuora, is watch over by the sentinel presence of Te Rua Taniwha (Ben Ohau) and Te Tari o Te Mauka Atua (Neumann Range).

Whakpapa, Whakamate and Opakia were settlements around the lake sustained in large part by the fisheries and birding resources. Large areas of wetlands were present around both lakes Pukaki and Ohau with the myriads of streams in a previously unmodified landscape providing optimal habitat for wading fowl and waterfowl; birds such as the putakitaki, parera, tataa and whio might be found as flappers driven into nets called karumahaka.

The following recommendations are extracted from the Cultural Values Report for Omahau Downs Pastoral Lease prepared by Te Rūnanga o Ngāi Tahu.

1. **Recommendation from Cultural Value Report**

Marginal Strips to be applied to all rivers and streams transecting freehold and Crown owned land. Crown ensures access into all areas Twizel River and in all areas to all streams be maintained Department of Conservation (DoC) estate.

Comment

The Preliminary Proposal outlines that sections of the Twizel River will adjoin both conservation and freehold land. The preliminary proposal does not outline if a marginal strip will be provided for the Twizel River. It is requested that LINZ provides a written response to Ngāi Tahu explaining if a marginal strip will be provided for the Twizel River. (1)

If no marginal strip is to be provided for the Twizel River then Ngāi Tahu recommends either a marginal strip, a riparian margin or an appropriate protection mechanism is provided for the Twizel River. This is required to protect the instream values of the entire river, in particular those sections of the river that will transcend freehold land.

2. **Recommendation from Cultural Value Report**

Fishing rights, access to mahinga kai and cultural materials are to be enabled on DoC estate.

Comment

The legal road that runs parallel to the Twizel River will provide vehicle access for Ngāi Tahu to various points of the Twizel River. The proposed conservation areas on the Twizel River will also provide Ngāi Tahu with access to a variety of points along the Twizel River. As stated above if a marginal strip is located on the Twizel River this will provide Ngāi Tahu access to the entire river. (2)

3. **Recommendation from Cultural Value Report**

Those regions of the Twizel River that are not in DoC estate to be fenced to exclude stock and have riparian strips retained that are sufficient to retain or restore instream values.

Comment

"The braided waterways, swamps, gravel beds, and tributary streams of Omahau are important habitats for the black stilt, banded dotterels, pied stilt, South Island pied oystercatcher, brown bittern, marsh creke, grey duck, New Zealand shoveler, New Zealand scaup and the occasional white heron. The flats are important for black stilt management. The lower Twizel River is an important nesting area for river bed birds e.g. black stilts, wrybills and banded dotterels." (Conservation Resource Report for Omahau Pastoral Lease, p5). (3)

"The Twizel River is a prominent fishery in the are due to its accessibility from the main road providing a popular fishing area for locals and visitors to the District. The Lake Benmore Fishery is reliant upon rivers such as the Twizel River to provide spawning and juvenile

habitat in order to sustain local fishing. Trout spawning is known to occur upstream as far as the Duncan Stream, a tributary of the Twizel River, upstream of the lease." (Summary of the Preliminary Proposal for Omahau Downs Pastoral Lease).

"Ngā awa (rivers) were valued as a source of food and as huarahi (trails). An abundance of eels were once caught in the streams and lakes of this area. The Twizel River is still an important habitat for water fowl and wading birds," (Cultural Values Report, Te Rūnanga o Ngāi Tahu).

Since the area and Twizel River is an important habitat for a variety of birds and fish, and is of cultural importance to Ngāi Tahu its full protection is required.

4.4 of the Preliminary Proposal states that *"...the Holder's stock may from time to time stray onto Schedules One Land. If such straying occurs, the Holder will, at its own cost, remove the stock within a reasonable time after the Holder becomes aware of the straying or after being requested by the Minister to remove the straying stock."* detrimental

This condition in the preliminary proposal is insufficient to protect the instream values of the Twizel River for the following reasons.

- Once stock enters the Twizel River or proposed conservation areas stock will damage the instream values of the Twizel River and/or conservation values on Conservation land. Once the damage has occurred it can not be taken back.
- If stock regularly accesses the Twizel River the accumulation of the detrimental effects on the conservation and instream values will have a significant effect on the Twizel River.
- There are concerns on monitoring stock access to the Twizel River and proposed conservation areas. Effective monitoring would require DoC to regularly monitor the area, which is a great demand. The only method of ensuring stock do not access these areas is by fencing.

The only method of ensuring protection of the instream values of the Twizel River is by appropriate fencing of the Twizel River and proposed conservation areas. It is strongly recommended that the Preliminary Proposal be altered to include appropriate fencing of the Twizel River and proposed Conservation Areas.

4. **Recommendation from Cultural Value Report**

It is important that all freshwater resources in this lease have access to the marginal strip at a number of points along their length, through both DoC and freehold portions. This may be achieved through esplanade reserves, buffer zones and/or marginal strips.

Comment:

The legal road that runs parallel to the Twizel River will provide vehicle access for Ngāi Tahu to various points of the Twizel River. The proposed conservation areas on the Twizel River will also provide Ngāi Tahu with access to a variety of points along the Twizel River. As stated previously if a marginal strip is located on the Twizel River this will provide Ngāi Tahu access to the entire river. (1)

5. **Recommendation from Cultural Value Report**

Areas of high inherent natural values be retained in Crown ownership and managed by the DoC for conservation and cultural purposes. (4)

Comment:

The Conservation Resources Report outlines the Omahau Downs Pastoral Lease has low conservation values. Ngāi Tahu accepts the proposed conservation areas in the preliminary proposal is sufficient to protect natural values with appropriate fencing.

6. Recommendation from Cultural Value Report

The Crown to use traditional place names in promotional material as long as Papatipu Rūnanga provides the information.

Comment:

This recommendation refers to the future management of the proposed conservation areas. This will be dealt with in the future.

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Summary of Recommendations

- That LINZ provides a written response to Ngāi Tahu outlining if a marginal strip will be provided for the Twizel River.
- That if no marginal strip is proposed for the Twizel River, then either a marginal strip, riparian margin or an appropriate protection mechanism be provided for the Twizel River to protect the instream values of the entire river.
- That the Preliminary Proposal be altered to include appropriate fencing of the Twizel River and proposed Conservation Areas to exclude stock access.

Where to From Here?

I propose the next step in this process is the Commissioner of Crown Lands provides a written response to Ngāi Tahu outlining whether each of the recommendations outlined in this letter are to be accepted. Once the response has been received a possible hui with the appropriate representatives of LINZ and Papatipu Rūnanga can be organised to deal with any outstanding issues.

We thank you for the opportunity to comment on the proposal.

Nāhaku noa, nā



Takerei Norton
Kairuruku Pūrero Ngā Rawa Taiao
Natural Resources Projects Co-ordinator

cc Te Rūnanga o Arowhenua
Te Rūnanga o Waihao
Mandy Waka Homes
John Wilkie
Te Rūnanga o Moeraki