

Crown Pastoral Land Tenure Review

Lease name: ORCHARD ESTATE

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.

July

06

FINAL ANALYSIS OF PUBLIC SUBMISSIONS THROUGH PUBLIC NOTICE OF PRELIMINARY PROPOSAL FOR TENURE REVIEW

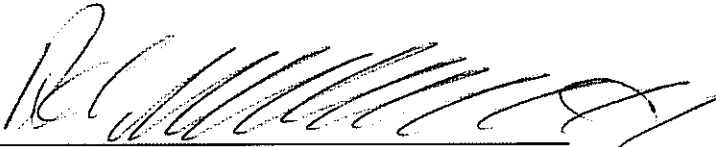
TR 103 ORCHARD ESTATE REPORT
Phase 8_7.4.1F

File Ref: Pt 142.01 Omahau Orchard Estate Report: 608 Report Date: 12 May 2006
Contractor's Office: Timaru LINZ Case No: TR 06/175 Date sent to LINZ:

RECOMMENDATIONS

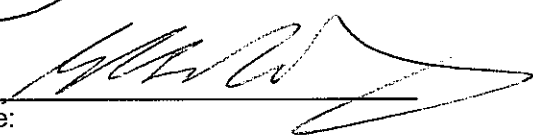
1. That the Commissioner of Crown Lands (*or his delegate*) **note** that no iwi submission was received.
2. That the Commissioner of Crown Lands (*or his delegate*) **note** that consultation has been carried out with the DGC delegate on those points allowed in the preliminary analysis of public submissions.
3. That the Commissioner of Crown Lands (*or his delegate*) **note** that consultation with the Holder has been carried out on those points allowed in the preliminary analysis of public submissions.
4. That the Commissioner of Crown Lands (*or his delegate*) **note** that there is consensus with the Holder on the points that are recommended be accepted in this submission.
5. That the Commissioner of Crown Lands (*or his delegate*) **note** and **approve** the final analysis of public submissions.
6. That the Commissioner of Crown Lands (*or his delegate*) **approve** the preparation of a draft substantive proposal for Omahau Orchard Estate Station on the basis of the attached public final analysis.

Signed for DTZ New Zealand Limited:



R A Ward-Smith

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



Name:

Date of decision:

24-5-06

Dr STEPHEN CHARLES URLICH
TENURE ASSESSOR
CROWN PROPERTY MANAGEMENT
C/-LINZ, CHRISTCHURCH

1. Background

This analysis has been carried out in partial fulfilment of the requirements set out in section 45(a) (iii) Crown Pastoral Land (CPL) Act 1998.

2. Details of lease

Lease Name: Orchard Estate

Location: Twizel

Lessee: High Country Rosehip Orchards Limited

(1) Consultation with the DGC delegate:

DTZ wrote to the DGC delegate on 10 October 2005 providing a copy of the information required under Section 45 Crown Pastoral Lands Act. The DGC delegate provided comment in an e-mail letter dated 16 November 2005 on those points he considered relevant to conservation issues. A consultation meeting was held with the DGC delegate and holder on 14 November 2005.

Inspection with DGC's Delegate 13 January 2006

A joint inspection and flagging of proposed boundaries was carried out on 26 April 2006.

A record of written consultation is included in Appendix 2 and full chronological record of all consultation in Appendix 3.

(2) Consultation with Iwi representative:

A copy of the Preliminary Proposal was forwarded to Iwi on 26 April 2005. This was followed up on 15 May 2006. No response has been received.

(3) Consultation with the holder:

There has been extensive consultation with the Holder since the Preliminary Proposal dated 8 March 2005 was put on 21 April 2005. Full notes in Appendix 3.

While there are 47 points in the submissions the points can be grouped into 5 parts;
Twizel River and Margins
Ohau River and Margins
Landscape
Access
Sustainable Use

A consolidated summary is in Appendix 5. These were the focus for consultation with the Holder.

The Holder was not very receptive to relinquishing any land from the Lease except the wetlands in the Ohau Riverbed as proposed in the PP. He continued to want amendments to the proposed easement to give access to and along the Twizel River.

Eventually a reasonable amount of land along the margins of the Twizel River were agreed to be restored to full Crown ownership and control. Even after it was thought agreement had been reached further negotiation continued when flagging the boundary.

Consensus was reached in relation to the points identified as accepted in the analysis.

The sequence of consultation can be followed through in the various meeting notes with those consulted. The notes are appended at appendix 3. Written consultation with the Holder is in Appendix 4.

(4) Discussion and conclusion:

A total of 9 submissions were received. Out of which, 47 points were identified, with 28 being allowed and 3 more allowed in part. Consultation has been carried out with the DGC delegate and Holder over the points allowed and allowed in part in the preliminary analysis of public submissions.

Public submissions have raised some issues that are of importance in this review.

The key issues surrounded the Twizel River and its environs. Of the 28 points allowed, 11 were in relation to the Twizel River and were raised by 3 submitters. The Ohau River tended to be a non issue because the Lease did not bound the Ohau River and neither did it bound any marginal strip or road reserve of the Ohau. The boundary having been modified some years previous by taking of land for water power development. There were however 10 allowed points relative to the Ohau raised by 4 submitters. Landscape had 9 points allowed raised by 2 submitters. Access was a relevantly important issue with 10 allowed points raised by 4 submitters. In the general category of sustainable use there were 3 allowed points raised by 2 submitters.

In the end the Twizel River Landscape and Access issues tended to merge. The Twizel River and Access very much came together as one major issue and the Landscape issues fell within and on the periphery of the Twizel. The retention of more land within the old Twizel flood plain and some terrace land largely satisfies many concerns of protection of the river berm area and access along the river precincts together with protection of grey scrub, principally Matagouri. Landscape was a more difficult matter with strong conflicts between the desires of the Holder and the submitters. A large area of open flat space has been protected between State Highway 8 and the Pukaki River a few kilometres to the north out of the Ben Ohau tenure review. The latter is very visible from the highway and extends to a major river. Therefore in the case of Omahau Orchard Estate the position is taken that most public use and interest will centre around the Twizel River therefore it is desirable to try and protect landscapes that are associated with that area particularly when viewed from the Twizel River itself. The area close to the State Highway, has been highly modified by human use, therefore more of the mid and lower Twizel has been proposed as an area to be restored to Crown ownership and control including some open short tussock terrace land. This retention of land also gives better access but does not, for the most part, include the "track" on the high terrace requested by some submitters and initially by the DGC's Delegate.

Three submitters provided support for various points.

Other issues are adequately covered in the discussions under the relevant point.

(5) Appendices

1. Final analysis of submissions
2. Written comments from DGC's Delegate.
3. Record of consultation meetings with the DGC delegate and Holder
4. Record of written consultation with the Holder.
5. Consolidated summary of groups of points in submissions.

TR 103 Omahau Orchard Estate Pastoral Lease

FINAL ANALYSIS OF PUBLIC SUBMISSIONS

1. Explanation of Analysis:

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

The following analysis summarises each of the points raised along with the recorded number of the submitter(s) making the point. Discussion of the point and the decision whether to allow/disallow the point follows.

(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”. Further consultation occurs on the points allowed.

(ii) To accept/not accept:

Accept: The outcome of an accept decision is that the point is included in the draft substantive proposal. To arrive at this decision the point has been evaluated with respect to the following criteria:

- The objects and matters to be taken into account in the Crown Pastoral Land Act 1998 (Section 24 & 25 for Part 2 reviews or Sections 83 & 84 for Part 3 reviews) and;
- The views of all parties consulted and any matters relevant to the particular review, balanced against the objects and matters to be taken into account in the Crown Pastoral Land Act 1998.

Not accept: The outcome of a not accept decision is that the point is not included in the draft substantive proposal based on consideration of the above criteria. Note that the points that are disallowed in the preliminary analysis are automatically not accepted in the final analysis.

2. Analysis

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No.:</i>	<i>Decision</i>
1	<i>Electricity infrastructure:</i> Electricity lines cross the lease. Any prospective purchaser should be informed of the provisions of the Electricity Act 1992.	1	Disallow

Rationale for disallowing point 1

This point does not relate to any matters that can be considered under the CPL Act. Rather, the submitter’s point constitutes a request for the landowner to be informed of Electricity Act provisions as a courtesy. DTZ notes that the Electricity Act allows infrastructure associated with electricity provision to remain in place, regardless of land ownership. The Electricity Act also allows access to this infrastructure for maintenance purposes as a matter of right.

Point	Summary of Point Raised	Sub No.:	Decision	
2	<i>Support for proposal:</i> Support for the areas proposed to be designated as conservation land.	2,3	Allow	Accept

Rationale for allowing point 2

Preliminary Analysis

Support for certain designations can be allowed as the designation of land for various purposes is a matter explicitly considered under the CPL Act.

Final Analysis

As the submitters supported the proposal, no further decision is required.

Point	Summary of Point Raised	Sub No.:	Decision	
3	<i>Council sewage scheme:</i> Questions whether the council has enough land for treatment and possible expansion of the oxidation ponds.	2	Disallow	

Rationale for disallowing point 3

Proposed use of land by a local authority is not a matter that is provided for under the CPL Act.

Point	Summary of Point Raised	Sub No.:	Decision	
4	<i>Extension to conservation area:</i> CA1 should be enlarged by inclusion of approximately 50 ha adjacent to the Ohau River and east of CA1, as recommended in the scoping report for the reasons identified in the PNA survey.	3	Allow	Not Accept

Rationale for allowing point 4

Preliminary Analysis

The matter of the designation of land as conservation land is a matter explicitly provided for under the CPL Act. Refer to, for example, section 24(b) of the CPL Act.

Final Analysis

The DGC's Delegate agreed that these lines need to be further investigated. However it would appear that the submitter envisaged the terrace as depicted on the Topographical Plan indicated that there was a further low riverbed area down stream of area CA1. The area indicated is in fact above a high terrace and the proposed CA1 takes in all the land below the high terrace, which forms a large Wetland, largely man made for the DOC Stilt breeding programme. The point therefore is not accepted.

Point	Summary of Point Raised	Sub No.:	Decision	
5	<p><i>Support for freehold designation:</i></p> <p>No opposition to the proposed disposal of freehold land providing CA1 is enlarged in accordance with point 4.</p>	3	Allow	Not Accept

Rationale for allowing point 5

Preliminary Analysis

The matter of the designation of land as freehold land is a matter explicitly provided for under the CPL Act. Refer to, for example, section 24(c)(ii) of the CPL Act.

Final Analysis

The DGC's Delegate agreed that these lines need to be further investigated. The point is a qualified support.

It would appear that the submitter envisaged the terrace as depicted on the Topographical Plan indicated that there was a further low riverbed area down stream of area CA1. The area indicated is in fact above a high terrace and the proposed CA1 takes in all the land below the high terrace, which forms a large Wetland, largely manmade for the DOC Stilt breeding programme. The point therefore is not accepted.

Point	Summary of Point Raised	Sub No.:	Decision	
6	Support for public access easements and marginal strips.	3	Allow	Accept

Rationale for allowing point 6

Preliminary Analysis

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

Final Analysis

As the point is in support it can be accepted.

Point	Summary of Point Raised	Sub No.s	Decision	
7	<p><i>Streambeds should become Crown land:</i></p> <p>All streambeds should be retained in full Crown ownership and control. There are significant inherent values in the streambeds and they are public property with expectations of public access and use.</p>	4	Allow	Accept

Rationale for allowing point 7

Preliminary Analysis

The matter of the protection of significant inherent values is relevant under CPL Act, Part 2, Section 24(b). The matter of public access is relevant under CPL Act, Part 2, Section 24(c)(i) and the point is therefore allowed.

Final Analysis

The DGC's Delegate agreed that these riverbeds and their environs need protection as Public Conservation land. The only river in contention is the Twizel River as other rivers such as the Ohau are outside the Tenure Review. There are no other streams. With unformed road reserve each side of the Twizel River did not offer the opportunity for a widened marginal strip and in some places where the river has not eroded through the road reserve there would not be a movable marginal strip applying to the river berm. Therefore a wider area each side of the river has been negotiated with the Holder for most of the length of the Twizel River. For the most part where a high terrace exists the boundary on the Freehold will be 6m on the landward side from the top of the high terrace, and in other areas a suitable boundary has been pegged and flagged. On the true left of the river within the Tenure Review the opportunity has been taken to incorporate a significant Tussock terrace and aligning the proposed boundary with the top of a high terrace. A small area, un-vegetated, adjoining the river, except for marginal strip or road reserve continues to be shown as Freehold on the true left bank to allow access and development opportunity to the Holder.

At the upstream end of the river adjacent to the state highway a small island, completely covered in Broom and Willows will remain in the proposed Freehold, subject to a marginal strip. A small stony flat below the island on the true right bank for about a kilometre will be part of the Freehold subject to marginal strip downstream of which a high river terrace will be followed.

The proposal considerably expands the area of Conservation land in and adjacent to the riverbed.

The significant inherent values protected will include Matagouri shrub land, Tussock covered riverbed flats and sparse Tussock terrace land. The point is therefore accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No.:</i>	<i>Decision</i>	
8	<i>Adequacy of easement:</i> Concern regarding whether the proposed easement along the Twizel River provides adequate public access.	4	Allow	Not Accept

Rationale for allowing point 8

Preliminary Analysis

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

Final Analysis

The DGC's Delegate noted that the Easement had been marked and checked to ensure it is practical. He also commented that a line along the terrace edge where an existing track is located is more practical.

The proposed route did provide adequate public access however with additional land proposed for Conservation within the riverbed as set out in point 7 above the need for much of the Easement ceases to exist. Access will now be provided within the Conservation land except for a short length from the state highway to the riverbed beside the oxidation ponds. The point is not accepted.

Point	Summary of Point Raised	Sub No.:	Decision	
9	<p><i>Security of easements:</i></p> <p>The public access provided by the proposed easements will not be secure public access, as the easements can be modified or extinguished without public notification or objection. Any changes to the easements should be publicly notified. Also, There is no cited legal authority for DoC closure of easement.</p>	4,5	Allow	Not Accept

Rationale for allowing point 9

Preliminary Analysis

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

Final Analysis

The DGC's Delegate was satisfied that the use of Easements is an appropriate tool for access. Therefore the point is not accepted.

Point	Summary of Point Raised	Sub No.:	Decision	
10	Support for easement provisions 11 and 12	4	Allow	Accept

Rationale for allowing point 10

Preliminary Analysis

Protective mechanisms such as easements are explicitly provided for under the CPL Act therefore a statement of support for the easement can be allowed. Refer to, for example, section 36(3)(b) of the CPL Act.

Final Analysis

The point is in support therefore can be accepted. No further decision was required.

Point	Summary of Point Raised	Sub No.:	Decision
11	<p><i>Marginal strips:</i></p> <p>Fixed marginal strips should be replaced with movable marginal strips so that access is retained regardless of movement of water courses.</p>	5	Disallow

Rationale for disallowing point 11

The matter of marginal strips is not a matter that that the CCL can consider under the CPL Act. Rather, the matter of marginal strips is for the Minister of Conservation (MoC) to consider, therefore the point is disallowed.

Point	Summary of Point Raised	Sub No.:	Decision
12	<p><i>Sewerage easement:</i></p> <p>That an outfall soakage trench easement be granted in the space marked as C on SO 18355 and that the total width of the easement be extended to 120 metres.</p>	6	Disallow

Rationale for disallowing point 12

Section 25(1)(c) of the CPL Act stipulates that the CCL must take into account any use or intended use of the land by the Crown. However, there is no evidence that the Crown had any intention to use the land to grant an easement. Other legislation is available outside of the tenure review to resolve this issue.

Point	Summary of Point Raised	Sub No.:	Decision
13	<p><i>Future sewage treatment:</i></p> <p>That an area of 3 hectares at the southern end of Section 1 SO Plan 18355 be vested in Council for the purpose of creating a future effluent disposal field.</p>	6	Disallow

Rationale for disallowing point 13

Section 25(1)(c) of the CPL Act stipulates that the CCL must take into account any use or intended use of the land by the Crown. However, there is no evidence that the Crown had any intention to use the land to grant an easement. Other legislation is available outside of the tenure review to resolve this issue.

Point	Summary of Point Raised	Sub No.:	Decision
14	<p><i>Future sewage treatment:</i></p> <p>That an area comprising a width of 150 metres around the entire land comprised in Section 1 SO Plan 18355 <u>and</u> the additional 3 hectare future disposal field (as referred to in paragraph 8.2 above) be vested in Council for the purposes of an odour control zone.</p>	6	Disallow

Rationale for disallowing point 14

Tenure review is concerned only with reviewable land and the CPL Act does not provide for considering the use of adjoining land. Section 25 CPL Act directs the CCL to take into account any Crown use of land or intended use of land. However, there is no evidence of any Crown intention to use the land identified by the submitter for any particular purpose. The point is therefore disallowed. Other legislation is available outside of the tenure review to resolve this issue.

Point	Summary of Point Raised	Sub No.:	Decision
15	<i>Future sewage treatment:</i> That the area of land shown marked B on SO Plan 18355 be vested in Council for the purposes of access to Section 1 SO Plan 18355 and the land referred to in paragraph 8.2 above.	6	Disallow

Rationale for disallowing point 15

Section 25(1)(c) of the CPL Act stipulates that the CCL must take into account any use or intended use of the land by the Crown. However, there is no evidence that the Crown had any intention to use the land to grant an easement. Other legislation is available outside of the tenure review to resolve this issue.

Point	Summary of Point Raised	Sub No.:	Decision
16	<i>Electricity easement relating to future sewage treatment:</i> That an easement be registered over the area marked H-G centreline easement on SO Plan 18355 for the purpose of conveying electricity to Section 1 SO Plan 18355.	6	Disallow

Rationale for disallowing point 16

Section 25(1)(c) of the CPL Act stipulates that the CCL must take into account any use or intended use of the land by the Crown. However, there is no evidence that the Crown had any intention to use the land to grant an easement. Other legislation is available outside of the tenure review to resolve this issue.

Point	Summary of Point Raised	Sub No.:	Decision
17	<i>Future sewage treatment:</i> That a new easement be registered alongside the area marked H-G centreline for the purpose of conveying sewage to the oxidation ponds situated on Section 1 SO Plan 18355 and the land referred to in paragraph 8.2 above.	6	Disallow

Rationale for disallowing point 17

Section 25(1)(c) of the CPL Act stipulates that the CCL must take into account any use or intended use of the land by the Crown. However, there is no evidence that the Crown had any intention to use the land to grant an easement. Other legislation is available outside of the tenure review to resolve this issue.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No.:</i>	<i>Decision</i>	
18	<i>Inherent values:</i> The preliminary proposal (PP) does not provide for the maintenance and protection of scenic, landscape, natural, cultural and recreational values.	7	Allow	Accept in Part

Rationale for allowing point 18

Preliminary Analysis

This point relates to inherent values that may be significant therefore it is a relevant matter under section 24(b) of the CPL Act.

Final Analysis

The DGC's Delegate stated that the CPL Act does not require all significant inherent values to be protected. Further investigation resulted in a wider area being protected along the Twizel River together with some Tussock terrace land. The point is therefore accepted in part.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No.:</i>	<i>Decision</i>	
19	<i>Intensification of land use:</i> The preliminary proposal does not focus on implications of changing or intensifying land use.	7	Allow	Not Accept

Rationale for allowing point 19

Preliminary Analysis

This point relates to ecological sustainability and therefore the CCL can consider it under section 24(a)(i) of the CPL Act.

Final Analysis

The DGC's Delegate considered it was a RMA issue. The submitter had concerns for the effect of land intensification on the adjoining rivers, in particular the Twizel River. While Ecological sustainability is a valid consideration further intensive use of the land, which is likely if irrigation expands in the area, is not a matter that can be fully managed as the result of Tenure Review. It is strictly a matter for the RMA. The concern for rivers has already been addressed in other points. The decision therefore is to not accept.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No.:</i>	<i>Decision</i>	
20	<i>Land improvement agreement:</i> That future owners or lessees of land within the Orchard Estate pastoral lease are made aware that the terms of the Rabbit & Land Management Property Plan (R&LMPP) Land Improvement Agreement for the Orchard Estate lease will be binding through any proposal for the freeholding of land through Tenure Review.	7	Disallow	

Rationale for disallowing point 20

The lessee's awareness, or lack of awareness, in regards to the R&LMPP LIA is not a matter that can be considered under the CPL Act through this submission process. Rather, the submitter's point constitutes a request for the landowner to be informed of the existence of R&LMPP as a courtesy.

Point	Summary of Point Raised	Sub No.:	Decision	
21	<i>Rabbit fences:</i> That the rabbit netted fences around the property should be maintained.	7	Disallow	

Rationale for disallowing point 21

The maintenance of fences is not a matter that can be considered under the CPL Act through this submission process. According to the submitter, the maintenance of the rabbit-proof fences is required under the R&LMPP, the requirements of which will be continue to be in place when the R&LMPP is brought down on the freehold title.

Point	Summary of Point Raised	Sub No.:	Decision	
22	<i>Protection of matagouri shrublands</i> The PP does not protect the Twizel River dry matagouri shrublands.	7	Allow	Accept

Rationale for allowing point 22

Preliminary Analysis

This point relates to inherent values that may be significant therefore it can be allowed under section 24(b) of the CPL Act.

Final Analysis

The fact that there are shrub lands in the riverbed justifies further consideration in the view of the DGC's Delegate. The riverbed and close terraces is about the only area on the property where there is remnant Matagouri, some of it of good quality. It is proposed that further areas within the high terraces of the Twizel River be restored to Crown ownership and control as Conservation land thereby protecting significant areas of, but not all, of the Matagouri shrub land. Part of the area was within the Lessee's proposed irrigation programme and much of the area is within the riverbed and adjacent road reserves, which are not within the Tenure Review. The decision is to accept.

Point	Summary of Point Raised	Sub No.:	Decision	
23	<i>Protection of short tussock grasslands:</i> The PP does not protect any Mackenzie short tussock grasslands.	7	Allow	Accept

Rationale for allowing point 23

Preliminary Analysis

This point relates to inherent values that may be significant therefore it can be allowed under section 24(b) of the CPL Act.

Final Analysis

The DGC's Delegate notes that while this proposal does not protect Short Tussock grasslands they have been protected locally with a substantial area nearby between the state highway and Pukaki River bed. However during investigation it was found that a representative sample of Tussock grassland could be protected on the river terraces along the true left of the Twizel River. The submitter makes the statement that the proposal does not protect any Mackenzie Short Tussock grasslands. It's now proposed to protect some Mackenzie Short Tussock grasslands therefore the point is accepted.

Point	Summary of Point Raised	Sub No.:	Decision	
24	<i>Lack of marginal strips:</i> There is a very limited provision for marginal strips associated with the proposed freehold land.	7	Disallow	

Rationale for disallowing point 24

Marginal strips are not a matter that the CCL can consider under the CPL Act. Marginal strips are a matter for the MoC to consider.

Point	Summary of Point Raised	Sub No.:	Decision	
25	<i>Protection of habitats and bird species – Twizel River:</i> Critically under protected riparian habitats and threatened riverbed bird species along the Twizel River have been given only token protection.	7	Allow	Accept

Rationale for allowing point 25

Preliminary Analysis

This point relates to inherent values that may be significant therefore it can be allowed under section 24(b) of the CPL Act.

Final Analysis

This relates to further protection of riparian habitats along the Twizel River. While for a different reason this is similar to protection of the Twizel River area much of which will now be designated as Conservation land therefore the point is accepted. See point 7.

Point	Summary of Point Raised	Sub No.:	Decision	
26	<i>Protection of recent alluvial terraces and floodplains along the Twizel River:</i> Recent alluvial terraces and floodplains along the Twizel River should be protected due to their importance to birds, other indigenous fauna and their contribution to landscape values.	7	Allow	Accept

Rationale for allowing point 26

Preliminary Analysis

This point relates to inherent values that may be significant and may be considered under the CPL Act. Refer to, for example, section 24(b) of the CPL Act.

Final Analysis

It is proposed to now protect the alluvial terraces and flood plains along the Twizel River for the most part. Where high terraces exist these will be followed and at other parts an agreed boundary has been flagged so that much of the flood plain and in the lower reaches all of the flood plain will be either Conservation land or within the riverbed or legal unformed road. The point is accepted

Point	Summary of Point Raised	Sub No.:	Decision	
27	<i>Fencing marginal strips:</i> That marginal strips along the Twizel River are fenced and managed to maintain water quality and protect the riverbed habitat.	7	Disallow	

Rationale for disallowing point 27

This point is effectively to fence a boundary of the reviewable land for the benefit of inherent values that are not on the reviewable land. The CCL can only consider reviewable land and therefore the point is disallowed.

Point	Summary of Point Raised	Sub No.:	Decision	
28	<i>Geological features:</i> No geological sites of scientific or education value require protection.	7	Allow	Accept

Rationale for allowing point 28

Preliminary Analysis

This point relates to inherent values that may be significant therefore it can be allowed under section 24(b) of the CPL Act.

Final Analysis

The submitter states that no geological sites of scientific or educational value require protection. None are protected in the proposal therefore the point is accepted.

Point	Summary of Point Raised	Sub No.:	Decision	
29	<i>Lack of access:</i> The PP provides for poor public access.	7	Allow	Accept

Rationale for allowing point 29

Preliminary Analysis

Public access is a relevant matter under section 24(c) CPL Act therefore the point can be allowed.

Final Analysis

The DGC's Delegate considers that while marginal strips and existing legal roads combined with the proposed Easement do provide some access he considers that the access provided is poor for the public. The proposal to take more land into the Conservation Estate along each side of the Twizel River improves public access considerably. An Easement will no longer be required for much of its length with public access being provided within the Conservation land, legal road and marginal strips where appropriate together with the Crown riverbed itself. A short Easement will be provided from the state highway to the riverbed area in the vicinity of the oxidation ponds. The point is therefore accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No.:</i>	<i>Decision</i>	
30	<i>Crown retention of riverbed areas:</i> Riverbed areas alongside the Twizel and the Ohau Rivers should be retained in Crown ownership to secure access and avoid building on these erosion-prone areas.	7	Allow in part and disallow in part	Accept in part and not accept in part

Rationale for allowing point 30 in part and disallowing point 30 in part

Preliminary Analysis

Public access is a relevant matter under section 24(c) of the CPL Act therefore this part of the point can be allowed. The appropriateness of building in an erosion-prone area is not a matter that the CCL can consider under the CPL Act, and therefore this part of the point is disallowed.

Final Analysis

In relation to the Ohau River the submitter is referring to the same area of land covered in points 4 and 5. Other land beside the Ohau River is outside of the Tenure Review. The area referred to on the Ohau River is above a high terrace quite apart from the riverbed which is not within the Tenure Review.

Reference to the Twizel River in particular is to areas below the terrace on the north side below a broken line indicating a track. It is now proposed that much of this area will be designated to be restored to Crown ownership and control as Conservation land. A small area adjacent to the Bendrose boundary is relatively low lying but on a low terrace out of normal flood level. The matter of building on such low areas has been disallowed therefore no further comment is proffered.

The point is accepted in part.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No.:</i>	<i>Decision</i>	
31	<i>Protection of land for infrastructure purposes:</i> That land currently associated with the provision of community and public network facilities, including access ways for maintenance, and additional land to allow for expansion of these facilities, be formerly [sic] protected by restoring to full Crown ownership and by establishment of formal easement across freeholded land.	7	Disallow	

Rationale for disallowing point 31

The submitter refers specifically to the sewage treatment plant, and this plant is located on council land that is not part of the review. Additionally, there are no provisions in the CPL Act that relate to infrastructure except that section 25(1)(c) would allow for intended use of land by the Crown if the Crown had intended to use the land to grant an easement. However, there is no evidence that this is the case. Other legislation is available outside of the tenure review to resolve this issue.

Point	Summary of Point Raised	Sub No.:	Decision	
32	<p><i>Objectives of the CPLA:</i></p> <p>The areas designated as conservation land only partially fulfil the objects of the CPL Act.</p>	7	Allow	Accept

Rationale for allowing point 32

Preliminary Analysis

The Objects of Part 2 of the CPL Act are a relevant matter that can be considered under the CPL Act.

Final Analysis

The submitter identifies that the proposal fails to include a range of habitats or to provide for the integrated management of soil and water resources, particularly with regard to the management of river margins and the prevention of any adverse effects of future land intensification on water quality. The range of habitats and the protection of river margins, therefore contributing to improved water resources is addressed by an enlarged area of Conservation land to be provided either side of the Twizel River. The point is therefore accepted.

Point	Summary of Point Raised	Sub No.:	Decision	
33	<p><i>Necessity of protection for freehold land:</i></p> <p>If the management recommendations are not achieved through the restoration of the above areas of land to full Crown ownership, then some other, equally secure form of protection should be provided for as a condition of freeholding.</p>	7	Allow	Not Accept

Rationale for allowing point 33

Preliminary Analysis

This point suggests that, if designation as Crown land is not possible, another form of protection should be applied to land with inherent value currently proposed to be freeholded. These inherent values may be significant and can therefore be considered under the CPL Act.

Final Analysis

The submitter suggests that there be an equally secure form of protection of the proposed Freehold land as if it were in full Crown ownership. It would appear the submitter is obliquely requesting the area remain in Pastoral Lease or some other form of Leasehold Tenure. The land is currently subject to a Land Improvement agreement under the Soil and Water Conservation Act 1941 and is subject to the Resource Management Act. These two mechanisms would appear to provide adequate protection to the management of land under Freehold Tenure particularly in this case where it is flat, close to habitation for easy development and commanded by water. The point is not accepted.

Point	Summary of Point Raised	Sub No.:	Decision	
34	<i>Protection of landscape values:</i> The PP does not recognise landscape values of 'the point' between Tekapo and Ohau Rivers. 'The points' between Tekapo and Twizel, and Twizel and Ohau Rivers should be restored to full Crown ownership as shown on the map attached to submission 8.	8	Allow	Accept in part

Rationale for allowing point 34

Preliminary Analysis

The matter of the protection of significant inherent (landscape) values is relevant under CPL Act, Part 2, Section 24(b) and the point is therefore allowed.

Final Analysis

The DGC's Delegate notes that this area has been partly developed but is worthy of further consideration. The protection of the terrace land on the true left of the Twizel River which is in the area known as "The Point Block" goes some way to protecting a wider landscape particularly when viewed from the Twizel River area. A further small area is to be protected right on the point between the Twizel and Ohau Rivers. The protection of vast areas of open flat Tussock land was difficult to justify therefore focus was centred on the Twizel River bed and immediate environs including the flat terraces. The point therefore is accepted in part.

See also point 23.

Point	Summary of Point Raised	Sub No.:	Decision	
35	<i>Provision of public access:</i> Opposed to the freeholding of current tracks alongside the Twizel and Ohau Rivers.	8	Allow in part and disallow in part	Not Accept

Rationale for allowing point 35 in part and disallowing point 35 in part.

Preliminary Analysis

The matter of public access is relevant under CPL Act, Part 2, Section 24(c)(i) however, some of the tracks alongside the Ohau River are generally outside the lease boundaries therefore the point is allowed in relation to tracks located on the lease but disallowed for tracks that are not on the lease.

Final Analysis

The matter of public access has been covered in previous points. The enlarging of Conservation area either side of the Twizel River adjacent to which the tracks run has enhanced public access however it does not include the full length of the tracks referred to.

The track along the Ohau River is outside of the land included in the Tenure Review therefore it has been disallowed.

The Lessee was adamant that the tracks not be included as part of the access except where they fell within the legal road or within the 6m strip proposed along the top of some terrace areas. The point is not accepted.

Point	Summary of Point Raised	Sub No.s	Decision	
36	<i>Conservation land allows secure access:</i> Opposed to the use of easements to provide for public access, prefer more secure access to be provided via land being designated as conservation land.	8	Allow	Accept in part

Rationale for allowing point 36

Preliminary Analysis

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

Final Analysis

The use of Easements is previously discussed and is a means of access acceptable to the DGC.

The enlarging of Conservation area along the Twizel River has partially fulfilled the point raised in that the Easement will be significantly reduced in length due to access being available through Conservation land. The point is accepted in part.

Point	Summary of Point Raised	Sub No.s	Decision	
37	<i>Ecologically sustainable management:</i> PP fails to achieve ecologically sustainable management.	8	Allow	Not Accept

Rationale for allowing point 37

Preliminary Analysis

The extent to which the PP provides for ecologically sustainable management is a relevant matter under the CPL Act, therefore the point is allowed.

Final Analysis

The DGC's Delegate considered this was a matter for the Commissioner to consider. Much of the land proposed to be Freeholded is flat land of poor structure and poor natural vegetative cover. The submitter says that the proposal fails to achieve ecologically sustainable management. The point is similar to point 33 and has the same issues. The point is more applicable to the Resource Management Act in this circumstance due to the land being flat, commanded by water, and close to services. The point is therefore not accepted.

Point	Summary of Point Raised	Sub No.s	Decision	
38	<i>High country objectives:</i> PP fails to implement the government's high country objectives.	8	Disallow	

Rationale for disallowing point 38

While the review may contribute to the High Country Objectives, the CCL can only address matters under the CPL Act.

Point	Summary of Point Raised	Sub No.:	Decision	
39	<i>Recreational values:</i> PP fails to recognise high recreational values of lake and riverside areas.	8	Allow	Accept

Rationale for allowing point 39

Preliminary Analysis

A recreational value may be a Significant Inherent Value, and therefore this is a relevant matter under the CPL Act, therefore this point can be allowed.

Final Analysis

The point raises the issue of recreational values along lake and riverside areas. While the Tenure Review land does not adjoin a lake it does adjoin the Twizel River environment. The legal river is separated from the Tenure Review by legal road however the river formation has wandered over the years and does not represent the true cadastral position. Previous points have discussed the merits of further Conservation land along the Twizel River and this point raises the issue of recreational values. This is closely aligned to access. The inclusion of further areas of Conservation land on either side of the Twizel River has increased the availability of recreational land in river side areas. The point is therefore accepted.

Point	Summary of Point Raised	Sub No.:	Decision	
40	<i>Strategic factors:</i> Lake and riverside areas strategically important and there is an absence of publicly protected land close to Lake Benmore.	8	Disallow	

Rationale for disallowing point 40

The amount of land that is already protected, outside of the land under review, is not a relevant matter under the CPL Act

Point	Summary of Point Raised	Sub No.:	Decision	
41	<i>Riparian areas:</i> The PP fails to protect riparian areas.	8	Allow	Accept

Rationale for allowing point 41

Preliminary Analysis

This point could be interpreted as relating to inherent values that may be significant, therefore it can be allowed under section 24(b) of the CPL Act.

Final Analysis

The issue of riparian protection is similar to many earlier points in regard to riverbeds. It is proposed that further areas be protected along the Twizel River, which is the only one within the Tenure Review, and this will further protect the riparian areas. The point is accepted.

Point	Summary of Point Raised	Sub No.s	Decision	
42	<i>Lack of protection for landscape values:</i> PP fails to protect landscape values appropriately, e.g.: it's aesthetic and transitory values.	8	Allow	Accept in part and not accept in part

Rationale for allowing point 42

Preliminary Analysis

These inherent (landscape) values may be significant therefore they are a relevant matter under section 24(b) of the CPL Act.

Final Analysis

This point is very similar to point 34. Landscape values are subjective and this Tenure Review includes part of the huge flat Mackenzie Basin. As a large area of flat Tussock land has been protected in an earlier Tenure Review nearby, protection of the flat open landscape is already represented in this locality. Considerable focus has been on the peripheral area of the Twizel River and this has been protected by an enlarged Conservation area so that viewed from the river valley there will be a minimum of intrusion thereby protecting a different part of the landscape. The point is accepted in part and not accepted in part.

Point	Summary of Point Raised	Sub No.s	Decision	
43	<i>Significance of the point:</i> PP fails to recognise the significance of 'the point'.	8	Allow	Accept

Rationale for allowing point 43

Preliminary Analysis

This point relates to landscape values and this is a relevant matter as landscape values are a type of inherent value that may be significant, which can be considered under section 24(b) of the CPL Act.

Final Analysis

This point is almost identical to point 34 and has relevance to point 42. It is proposed that the very tip of the point be protected to ensure that the flat open vista that the submitter refers to when viewing the major river deltas is preserved. The point is therefore accepted.

Point	Summary of Point Raised	Sub No.s	Decision	
44	<i>Recreational values:</i> PP fails to protect recreational values.	8	Allow	Accept

Rationale for allowing point 44

Preliminary Analysis

These inherent (recreational) values may have significance therefore the matter can be considered under section 24(b) of the CPL Act.

Final Analysis

While the summary of the point focuses on protecting recreational values the submitter is linking these two values close to water and river sites, which focuses on the Twizel River. Therefore the point is similar to previous points in the request to retain areas along the Twizel River, which the proposal now does with the expansion of Conservation land. The point is accepted.

Point	Summary of Point Raised	Sub No.:	Decision	
45	<i>Lakeside and riparian areas:</i> These areas are unique from a recreational perspective and deserve protection.	8	Allow in part and disallow in part	Accept

Rationale for allowing point 45 in part and disallowing point 45 in part

Preliminary Analysis

This point relates to inherent values that may be significant under section 24(b) of the CPLA, therefore it can be considered by the CCL. The point is allowed in part in relation to the areas that are part of the reviewable land, and disallowed in part in relation to areas that are not part of the reviewable land.

Final Analysis

This point is the same as point 39 riparian areas along the Twizel River, which are now to be protected as Conservation land. The allowed part of the point is accepted.

Point	Summary of Point Raised	Sub No.:	Decision	
46	<i>Car turn-off and parking area:</i> CA2 should be increased in size to allow for a car turn-off and parking area.	8	Allow	Not Accept

Rationale for allowing point 46

Preliminary Analysis

This point relates to access therefore the CCL can consider it under section 24(c) of the CPL Act.

Final Analysis

The Twizel River flows under the state highway and the start of the Easement is located nearby opposite Twizel Township. It was anticipated that adequate parking was available close by in the Twizel Township, particularly near to the highway and that many users would be Twizel residents who should not require parking at the start of the Easement. The roadside is relatively wide and occasional parking can be accommodated. There was only one submitter requesting a parking area. There is also a sealed area on public land on the true left bank of the Twizel River currently used as a contractors yard. The point is not accepted.

Point	Summary of Point Raised	Sub No.s	Decision	
47	<p><i>Ownership of the Twizel Riverbed:</i></p> <p>The legal Twizel River boundary is different to the physical river boundary. The submitter suggests that the Crown should retain ownership of the Twizel River along its physical, rather than its legal extent.</p>	9	Allow	Accept

Rationale for allowing point 47

Preliminary Analysis

While the submitter has not referred to, or implied, any reasons under the Objects of the CPL Act regarding why this land should be retained or restored to Crown ownership, the point is allowed as the physical riverbed within the reviewable land could be designated as Crown land for riverbed purposes under section 35(2)(a)(iii) of the CPL Act.

Final Analysis

It is a legal obligation that the physical river and a marginal strip be protected particularly where it has eroded through the legal road shown on the cadastral plan. This will be the case at the extreme western end of the Twizel River adjacent to the state highway. Further down stream a widened proposed Conservation area will ensure protection of the river riparian area, in addition to any protection provided through marginal strips where they are implemented. The point is accepted.

3. Summary

28 points have been allowed and 16 points have been disallowed. Three points have been allowed in part and disallowed in part.

Of the allowed points 16 have been accepted. A further 5 have been accepted in part including those allowed in part. The remaining points were unable to be accommodated in the context of this review.

FINAL ANALYSIS OF IWI SUBMISSIONS THROUGH PUBLIC NOTICE OF PRELIMINARY
PROPOSAL FOR TENURE REVIEW

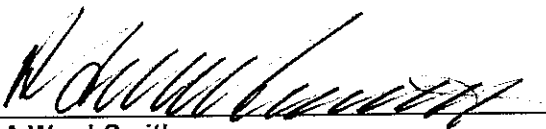
TR 103 ORCHARD ESTATE REPORT
Phase 8_7.4.1F

File Ref: Pt 142.01 Omahau Orchard Estate Report: 613 Report Date: 30 May 2006
Contractor's Office: Timaru LINZ Case No: 1206/183 Date sent to LINZ: 30 May 2006

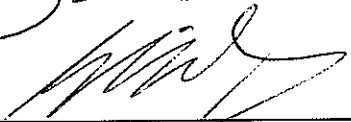
RECOMMENDATIONS

1. That the Commissioner of Crown Lands (*or his delegate*) **note** the iwi submission.
2. That the Commissioner of Crown Lands (*or his delegate*) **note** that no consultation with the Holder has been carried out on the point allowed in this analysis of the iwi submission.
3. That the Commissioner of Crown Lands (*or his delegate*) **note** and **approve** the final analysis of iwi submission.

Signed for DTZ New Zealand Limited:


R A Ward-Smith

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


Name:
Date of decision: 31/5/06

Dr STEPHEN CHARLES URLICH
TENURE ASSESSOR
CROWN PROPERTY MANAGEMENT
C/-LINZ, CHRISTCHURCH

1. Background

This analysis has been carried out in partial fulfilment of the requirements set out in section 45(a) Crown Pastoral Land (CPL) Act 1998.

2. Details of lease

Lease Name: Omahau Orchard Estate

Location: Twizel

Lessee: High Country Rosehip Orchards Limited

(1) Consultation with the DGC delegate:

No consultation was necessary as a result of the Ngai Tahu response of 24 May 2006. The response was copied to the delegate on 25 May 2006.

(2) Consultation with Iwi representative:

A copy of the Preliminary Proposal was forwarded to Iwi on 26 April 2005. This was followed up on 15 May 2006. A submission by way of a letter dated 24 May 2006 was received by email. No further consultation was required.

(3) Consultation with the holder:

There has been extensive consultation with the Holder since the Preliminary Proposal dated 8 March 2005 was put on 21 April 2005. Full notes were appended to Omahau Orchard Estate report 608 dated 12 May 2006. The Iwi submission did not necessitate further consultation.

(4) Discussion and conclusion:

Te Runanga o Nagai Tahu concluded in their letter of 24 May 2006 that they were satisfied that the values identified have been appropriately integrated into the Preliminary Proposal

(5) Appendices

1. Iwi letter dated 24 May 2006.
2. Final analysis of submission



Te Rūnanga o Ngāi Tahu

Level 6, Te Waipounamu House
158 Hereford Street
PO Box 13-046, Christchurch
Phone 03-366 4344
Fax 03 365 4424

24 May 2006

Ray Ward-Smith
DTZ
PO Box 27
ALEXANDRA

Tēnā koe Ray

OMAHU ORCHARD ESTATE TENURE REVIEW – PRELIMINARY PROPOSAL

Thank you for forwarding us the Preliminary Proposal for the abovementioned Tenure Review property.

Upon review of the Cultural Values Report Te Rūnanga o Ngāi Tahu are satisfied that the values identified have been appropriately integrated into this proposal.

Nāhaku noa, nā

A handwritten signature in black ink, appearing to read 'D O'Connell', written over a light blue horizontal line.

David O'Connell
Strategic Environmental Projects Manager
Toitū te Whenua

TR 103 Omahau Orchard Estate Pastoral Lease

FINAL ANALYSIS OF IWI SUBMISSION

1. Explanation of Analysis:

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

The following analysis summarises each of the points raised along with the recorded number of the submitter(s) making the point. Discussion of the point and the decision whether to allow/disallow the point follows.

(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”. Further consultation occurs on the points allowed.

(ii) To accept/not accept:

Accept: The outcome of an accept decision is that the point is included in the draft substantive proposal. To arrive at this decision the point has been evaluated with respect to the following criteria:

- The objects and matters to be taken into account in the Crown Pastoral Land Act 1998 (Section 24 & 25 for Part 2 reviews or Sections 83 & 84 for Part 3 reviews) and;
- The views of all parties consulted and any matters relevant to the particular review, balanced against the objects and matters to be taken into account in the Crown Pastoral Land Act 1998.

Not accept: The outcome of a not accept decision is that the point is not included in the draft substantive proposal based on consideration of the above criteria. Note that the points that are disallowed in the preliminary analysis are automatically not accepted in the final analysis.

2. Analysis

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No.:</i>	<i>Decision</i>
1	That the values identified in the Cultural Values Report have been appropriately integrated into the proposal.	1	Allow / Accept

Rationale for allowing point 1

Preliminary Analysis

Support for certain designations can be allowed as the designation of land for various purposes is a matter explicitly considered under the CPL Act.

Final Analysis

As the submitter supported the proposal, no further decision is required.