

Crown Pastoral Land Tenure Review

Lease name : Otamatapaio

Lease number : Po 343

Report on public submissions

This document includes information on the public submissions received in response to an advertisement for submissions on the tenure review preliminary proposal. The analysis determines if an issue is accepted or not accepted as meeting the objectives of part 2 of the Crown Pastoral Land Act (CPLA) 1998, and if further consideration and consultation should be allowed or disallowed, as per Section 46 CPLA 1998.

The report attached is released under the Official Information Act 1982.

August 03

**REPORT IN ACCORDANCE WITH
CPL PRELIMINARY PROPOSAL FOR TENURE REVIEW
STANDARD 8**

**Analysis of submissions received through public notice of
preliminary proposal for tenure review**

OTAMATAPAIO

File Ref: CON50232/12585 (Po343) **Submission No:** AT2176 **Submission Date:** 20 November 2002
Contractor's Office: Alexandra **LINZ Case No:** **Date sent to LINZ:**

RECOMMENDATION:

1. That the Commissioner of Crown Lands or his delegate **notes** the submissions received, and makes the decisions as set out in the analysis of submissions.
2. That the Commissioner of Crown Lands or his delegate authorise DTZ to consult with the DGC delegate on Point 15 in the analysis.

CERTIFICATION:

DTZ certifies that this report has been prepared in accordance with the CPL Preliminary Proposals for Tenure Review Standard.

Signed for DTZ New Zealand Limited:



K R Taylor:

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

Name:

Date of decision:

1. Details of lease:

Lease Name: Otamatapaio

Location: Omarama

Lessee: Otamatapaio Station (1993) Limited

APPENDICIES:

1. Analysis of submissions.
2. Copy of public notice.
3. List of submitters.
4. Copy of annotated submissions.

APPENDIX 1

ANALYSIS OF SUBMISSIONS

OTAMATAPAIO TENURE REVIEW

1. Details of lease:

Lease Name: Otamatapaio
Location: Omarama
Lessee: Otamatapaio Station (1993) Limited

2. Public notice of preliminary proposal:

Date, publication and location advertised:

Wednesday, 3 July 2002:

- Otago Daily Times Dunedin
- The Press Christchurch
- The High Country Herald Timaru

Closing date for submissions:

28 August 2002

3. Details of submissions:

A total of 2 submissions were received by the closing date. A further 2 submissions were received by 5 September 2002. The details of these submissions are contained in Appendix 3.

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

The following approach has been adopted when making recommendations:

(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 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 "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 Commissioner, and there is not justification for the 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:

Point	Summary of Point Raised	Sub Nos	Decision	
1	That Sections 5 and 11 Block II Gala Survey District be restored to full Crown ownership and control as conservation land. DoC may subsequently decide to vest some or all of these areas in the local authority.	1,2,3,4	Accept	Disallow

Discussion:

The issues relating to these sections arise from public recreation (*a significant inherent value*) and public access. These are matters for the Commissioner of Crown Lands to consider in tenure review pursuant to Sections 24 (b) and 24 (c) (i) CPL Act. The point is therefore accepted.

Section 5 is a significant area of land between the state highway and Lake Bepmore and bounded by the Otamatapaio River. Other than the lakeshore area this area does not have any known use for public recreation. The protection of this section was considered during the preparation of the Conservation Resources Report and no significant inherent values were identified that supported its restoration to the Crown. The submitter has suggested some future expansion of the Sailors Cutting Recreation Reserve but has not provided any specific information in relation to the inherent values of this section.

Section 11 is a strip of Crown land adjacent to freehold land held by the holders. This area has previously been considered and no significant inherent values were identified in relation to it. The submitter raises the issue of this strip providing public access to the lake, but there is no parking adjacent to this area and that there is better access to the lake in the close vicinity. These matters were considered during consultation with the holder, but on review the significant inherent values were not identified and this was not deemed to be an appropriate route for public access.

The submitters have not provided any new information in relation to these sections and therefore the point has been disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
2	That the Glen Creek Scenic Reserve be extended to protect the entire 650 ha area originally recommended for protection by DoC.	1,2,3,4	Accept	Disallow

Discussion:

The point raised relates to the protection of significant inherent values a matter which the Commissioner considers under Section 24 (b) CPL Act. The point is therefore accepted.

The Department of Conservation identified an area of approximately 650 ha containing significant inherent values in the Glen Creek catchment. During consultation with the holder in preparing the Preliminary Proposal this area was visited on a number of occasions and extensive consultation occurred. A compromise was reached whereby the area with the most significant inherent values is proposed for restoration to full Crown ownership and control. The consultation ascertained that this was the best compromise that was available and this was considered by the Commissioner in putting a Preliminary Proposal. The submitters have not provided any new information in relation to the significant inherent values of this area and therefore the point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
3	That a greater area be protected in conjunction with the Hawkdun Range Conservation Area. It is suggested that as a minimum the 2675 ha previously identified for surrender should be retired and restored to full Crown ownership and other options include the restoration of the full area of 3300 ha previously recommended by the Department of Conservation for restoration to full Crown ownership and control.	1,2,3,4	Accept	Disallow

Discussion:

The various areas referred to by the submitters do contain significant inherent values. The protection of significant inherent values is a matter for the Commissioner to consider in terms of Section 24 (b) CPL Act. The point is therefore accepted.

As with the Glen Creek catchment this area was subject to extensive consultation with the holder and the DGC delegate. Also relevant to this discussion was the matter of ecological sustainability, also a matter for the Commissioner to consider in terms of Section 24 (a) (i) CPL Act. The conclusion from the consultation was that the key inherent values were being protected by the Preliminary Proposal and this was considered by the Commissioner in putting the Preliminary Proposal. The submitters have not provided any new information in relation to these areas and therefore the point has been disallowed. The matter of previous actions under Soil and Water legislation is not a relevant matter for tenure review but does provide an indication of the extent of ecological sustainability. These previous actions were not specific considerations in the tenure review but had some relevance in relation to ecological sustainability. Once again this not new information and also led to the point being disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
4	That the Nature Heritage Fund be approached seeking the inclusion of Glenburn Swamp in the proposal or its purchase by the Nature Heritage Fund.	1	Not accept	

Discussion:

The Glenburn Swamp lies on freehold land which is not part of this tenure review. The point is therefore not accepted in the context of the tenure review. This does not preclude the submitter making approaches to appropriate agencies outside of tenure review to seek protection of this area.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
5	That 18 ha of UCL along adjacent to the Otamatapaio River be restored to full Crown ownership and management by the Department of Conservation.	1,2	Not accept	

Discussion:

The submitters note that this 18 ha of UCL close to the Otamatapaio River has been farmed with the adjacent pastoral lease since the late 1970's. The submitters further note that there is no legal or other basis for freeholding this area. It is noted that this area is not contained with the tenure review and that there is no proposal to freehold the area. As this area lies outside the tenure review and there is no proposal to include it in the review the point is not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
6	That the freeholding be subject to a sustainable management covenant under Section 97 CPL Act which prohibits exotic forestry and subdivision and the construction of any non-farm buildings on the front faces between Knob 740 and State Highway 83 as marked on a plan attached to the submission.	1,3,4	Accept	Disallow

Discussion:

The submitters have made some generalised comments in relation to the landscape associated with this area. Landscape is an inherent value for the Commissioner to consider in terms of Section 24 (b) CPL Act. The point is therefore accepted.

The landscape values associated with this area were identified in the Conservation Resources Report prepared for the Commissioner. In preparing a Preliminary Proposal the Commissioner did not pursue the protection of this area. This matter has previously been considered and the submitters provide no new information in relation to these values therefore the point is disallowed. It is noted that the matters raised by the submitters relate largely to issues for consideration under the Resource Management Act.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
7	That two communities of totara and river bluff shrublands, and a connecting area identified by DoC in its conservation report be fenced and protected. It is noted that the connecting area was needed so that it is a viable system long term and regeneration can occur.	1,3,4	Accept	Disallow

Discussion:

The totara in this area have been identified as a significant inherent value. The protection of significant inherent values is a matter for the Commissioner to consider in terms of Section 24 (b) CPL Act. The point is therefore accepted.

This area of totara was identified in the Conservation Resources Report. During consultation with the DGC delegate, including a field inspection the significance of this area was questioned and formal protection was not proceeded with. These matters were considered by the Commissioner in preparing the Preliminary Proposal and the submitters have not provided any new information in this regard. The point is therefore disallowed.

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<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
8	The submitters note that the Conservation Resources Report refers to the driveway from State Highway 83 to the homestead as being legal road and note that the proposed conservation management easement may therefore be unlawful and seek to exclude the public from this public road.	1,2	Not accept	

Discussion:

The issue here relates to whether or not the driveway to the Otamatapaio homestead is on legal road. The Land Status Report does not identify this area as legal road. This status has subsequently been confirmed. There is therefore no issue here and the point is not accepted. Should the area have been legal road then the easement would purely identify the formation and could not extinguish the legal status of any road.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
9	The submitters raise a number of issues in relation to the extent and currency of margin strips on this lease. One submitter also suggests that marginal strips should be identified on Preliminary Proposal maps.	1,2	Not accept	

Discussion:

The creation of marginal strips is a provision of Part IV of the Conservation Act 1987 administered by the Director General of Conservation. Part 2 of the CPI Act does not extend to any decision making process in relation to the creation of marginal strips. This point is not a matter for consideration by the CCL and the point is not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
10	That public access from the end of the legal road over Otamatata Station and up the Otamatapaio Valley is negotiated as a matter of priority. The terms of use should include horses as well as foot and cycle use, as this route would be well suited for these activities.	2	Accept	Disallow

Discussion:

There are two components to this point. The first relates to the provision of access within the Otamatapaio tenure review which is a matter for the Commissioner to consider in terms of Section 24 (c) (i) CPL Act. This aspect of the point is accepted. The second aspect to this point relates to alternative access across Otamatata Station and hence into the Otamatapaio Valley. Otamatata Station is not part of this tenure review and on this aspect of the point is not accepted.

Originally access through Otamatapaio Station was proposed to the holder. During consultation it was accepted that this access was inappropriate and this point is also accepted by the submitter. The submitter then notes that the proposed alternative whereby the Otamatapaio River is accessed from legal road through Bog Roy is equally inappropriate. The submitter has however not identified the portion of the legal road that adjoins the marginal strip. The submitter has not provided any new information in relation to access within Otamatapaio Station, the subject of this tenure review and therefore the point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
11	The submitter contends that there is not good public access available throughout the property and onto the key recreational areas on the ranges.	2	Accept	Disallow

Discussion:

Public access is a matter that the Commissioner considers in the context of tenure review pursuant to Section 24 (c) (i) CPL Act. The point is therefore accepted.

This point is almost a corollary to Point 10 discussed above and relates to the distances involved in gaining access to this lease. The submitter expresses some concerns about the exclusion of horses from the easement routes and also the practicality of using mountain bikes. These aspects were considered during the preparation of the Preliminary Proposal and while it is noted that there are considerable distances involved in access within this property public access has been provided to the proposed conservation areas. Horses were not a practical alternative given the nature of this country and it considered that mountain bikes could be used on the routes proposed. This includes the marginal strips adjacent to the Otamatapaio River. The submitter has not provided any new information in relation to public access which would improve the public use of the area. For these reasons the point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
12	The submitter raises a number of comments in relation to the terms and conditions of easements and submits that all the proposed public easements be dedicated as public roads for pedestrian, cycle and horse passage as an alternative.	2	Not accept	

Discussion:

While public access is a matter for consideration by the Commissioner pursuant to Section 24 (c) (i) CPL Act the alternative suggested by the submitter is not recognised as a protective mechanism within the CPL Act. The submitter has therefore raised matters that the Commissioner is unable to consider and the point is not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
13	The public access would be better served by extending the Glen Creek Scenic Reserve to the summit of Mount Horrible and that easements outside the reserve be subject to Section 7 (2) Conservation Act.	2	Accept	Disallow

Discussion:

The provision of public access as identified by the submitter is a matter for the Commissioner to consider pursuant to Section 24 (c) (i) CPL Act. The point is therefore accepted.

Extensions to the Glen Creek Scenic Reserve have been previously discussed under Point 2 above. This point does not provide any new information in this regard and therefore is disallowed. The second aspect of this point related to the authority for the easement and it is noted that as this easement is appurtenant to a reserve as opposed to a conservation area then Section 12 of the Reserves Act is the appropriate mechanism for its creation. This is not a matter of discretion and this aspect of the point is not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
14	The submitter raises two general issues in relation to tenure review noting the roles of the parties to tenure review. The submitter further considers that the Conservation Resources Report provided a far more appropriate outcome than Preliminary Proposal.	3	Accept	Disallow

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Discussion:

The submitter refers to significant inherent values identified in the Conservation Resources Report. The protection of significant inherent values is a matter for the Commissioner to consider pursuant to Section 24 (b) CPL Act and therefore the point is accepted.

While the two comments made are of a general nature and refer to the parties that have some involvement in tenure review it is noted that the Commissioner considered the Conservation Resources Report and following consultation with the DGC delegate and the holder derived a Preliminary Proposal that was different to this. The submitter has not provided new information, but merely referred back to the Conservation Resources Report. As no new information is provided the point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
15	That further public access be provided from Point "h" on the designations plan to meet up with easement "c-d" at about Point 1147 on the map. This would avoid the very steep climb from Glen Creek to Mount Horrible.	3	Accept	Allow

Discussion:

The provision of public access is a matter that the Commissioner considers in tenure review pursuant to Section 24 (c) (i) CPL Act. The point is therefore accepted.

As noted under previous points access within this property is difficult to achieve. The particular access route proposed by the submitters has not previously been considered and may provide alternative access to the Mount Horrible area. As this is new information the point is allowed to enable the point to be considered.

5. Discussion and conclusions:

While only four submissions were received in relation to this tenure review a number of very significant points were made. Discussion relative to the particular points been made above under each point for simplicity and clarity.

The submitters were all in agreement as to their concerns in relation to three points and the majority of these submitters were also in agreement in relation to two further points. Of particular concern to the submitters were the extent of the Glen Creek Scenic Reserve and the Ranger Block Conservation Area and also the freeholding of two sections between State Highway 83 and Lake Benmore. All of these matters had been traversed extensively during the preparation of the Preliminary Proposal and the submitters did not provide any new information in relation to these areas and particularly in respect to the first two relied entirely on the Conservation Resources Report which had previously been considered. While these concerns are significant and noted, the points have not been allowed as the consultation on these areas has already been extensive and exhaustive.

The other two points where the majority of the submitters were in agreement related to covenant protection of the front faces above State Highway 83 and the protection of a totara remnant in the Otamatapaio Valley.

Both these issues arose within the Conservation Resources Report and the former was discarded in drawing conclusions and recommendations from that report. The totara area was further investigated during consultation and the significance of the area was reconsidered and protection was not pursued. Once again the submitters did not provide new information in relation to these and the points were disallowed.

One submitter also provided extensive coverage of the public access difficulties in relation to this property. These points were also noted but no new information was provided to enable a reassessment of these provisions.

Another submitter did provide information relating to a possible alternative route to provide access to the Mount Horrible area. This point was new information and consultation with the appropriate parties in relation to this is considered desirable.