

Crown Pastoral Land Tenure Review

Lease name: PISGAH DOWNS

Lease number: PO 248

Preliminary Report on Public Submissions - Part 1

This document includes information on the public submissions received in response to an advertisement for submissions on the Preliminary Proposal. The report identifies if each issue raised is allowed or disallowed pursuant to the CPLA. If allowed the issue will be subject to further consultation with Department of Conservation, or other relevant party.

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

February

06

PRELIMINARY ANALYSIS

OF

PUBLIC SUBMISSIONS

PISGAH DOWNS



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**ANALYSIS OF PUBLIC SUBMISSIONS
FOR PRELIMINARY PROPOSAL
PISGAH DOWNS PASTORAL LEASE**

File Ref: CON/50000/16/12526/00/A-ZNO **Submission No:**DN0257

Submission Date: 21/11/05

Office of Agent: Dunedin

LINZ Case No:

Date sent to LINZ: 24/11/05

RECOMMENDATIONS

1. That the Commissioner of Crown Lands **notes** the receipt of this report for land held under pastoral lease Po 248 Pisgah Downs.
2. That the Commissioner of Crown Lands **approves** the recommendations in this report to allow or disallow the points raised in the submissions received.
3. That the Commissioner of Crown Lands **authorises** further consultation with the Director General of Conservations delegate on those points allowed.

Signed by Opus:

Peer Review:

Simon de Lautour
Property Consultant

Dave Payton
Tenure Review Contract Manager

Approved/Declined by:

Name:

Date of decision: / /

1. Details of lease:

Lease Name: Pisgah Downs
Location: McKenzies Road, 18 kilometres south west of Duntroon, North Otago.
Lessees: Pisgah Downs Limited.

2. Public notice of Preliminary Proposal:***Date, publication and location advertised:***

Saturday 10 September 2005.

- The Press Christchurch
- The Otago Daily Times Dunedin
- The Southland Times Invercargill

Closing Date for Submissions:

7 November 2005.

3. Details of Submissions received:

A total of 8 submissions were received. Details of submitters are in Appendix 1.

4. Preliminary 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 the appended tables) of the submitter(s) making the point.
- Discussion of the point.
- Recommendations whether or not to allow for further consultation.

The following approach has been adopted when making the recommendation to allow for further consultation:

The points raised have been analysed to assess whether they are matters that can be dealt with under the Crown Pastoral Land Act. Where it is considered that they are the recommendation is to allow them.

4.2 Analysis:

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Recommended Decision</i>
1	Supports CA1, most pointed out it incorporates all of the portion of the "Dansey RAP 7 Pisgah" that lies within Pisgah Downs property	2,3,4,5,6,7&8	Allow

This part of the Preliminary Proposal for this property is considered by these submitters to be an acceptable outcome and to this extent it is regarded as meeting the objects of Part 2 of the Crown Pastoral Land Act. The point should therefore be allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Recommended Decision</i>
2	Would like to see public vehicular access extended up the Pisgah Spur, some support it to the boundary of CA1	2,4,5,7&8	Allow

The submitters suggest that given the generally good condition of the road, that further public vehicular access could easily be permitted and would greatly improve the access to CA1. Submitter 2 wanted vehicular access to the boundary of CA1 and suggested it could be permitted to those with a hunting permit.

The securing of public access to and enjoyment of reviewable land is an object of Part 2 of the Crown Pastoral Land Act therefore the point should be allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Recommended Decision</i>
3	The existing fence between the Hut and Snowy blocks should form the boundary of conservation area CA1	3,4,5,7&8	Allow

It was generally noted by the submitters that the proposed boundary of CA1 doesn't utilise the existing fence line as suggested in DoCs Proposed Designations Report and also in reports provided various NGOs as part of the information gathering at the early warning meeting stage of the Tenure Review process. The proposed fence line excludes some of the lower altitude tussocklands from the proposed conservation area CA1 which concerns submitters. Most also believed the proposed boundary results in the exclusion of an old hut which was actually destroyed in a fire several years ago. Several submitters were concerned a representative section of the historic water race would be excluded and believe the proposed new fence line would not make good landscape sense.

The protection of significant inherent values is an object of Part 2 of the Crown Pastoral Land Act. The point should therefore be allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Recommended Decision</i>
4	Supports CA2 being designated as land to be restored to full Crown ownership and control.	3,5,6,7&8	Allow

This part of the Preliminary Proposal for this property is considered by these submitters to be an acceptable outcome and to this extent it is regarded as meeting the objects of Part 2 of the Crown Pastoral Land Act. The point should therefore be allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Recommended Decision</i>
5	Consider Conservation Covenant (CC) area should be added to CA2 as grazing is incompatible with protecting the values.	3,4&5	Allow

It was believed the shrubland values contained in this area were incompatible with any grazing and since it borders conservation area CA2 it should be added to it. Two submitters made mention that they had no objection to the proposed strip for stock access which allows the owner to clear vegetation.

The protection of significant inherent values is an object of Part 2 of the Crown Pastoral Land Act. The point should therefore be allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Recommended Decision</i>
6	Public access along Pisgah Spur from McKenzies Road to CA1 would be best achieved by formal recognition of the formation as legal road.	3,4,5&7	Disallow

Submitters noted the Pisgah Spur route is of major significance as it provides access to the Kakanui crest, and along the main crest of the Kakanui Mountains. As a consequence they suggest the alignment of the road formation should be compared with the legal alignment, and if there are any differences the formation should be formally recognised as the legal road.

Guaranteed access to conservation areas is often perceived as being only possible, if formations are formally recognised as legal roads. We have secured access to the conservation area by proposing the creation of an easement along the alignment of the existing formation where that maybe found by survey to deviate from the alignment of the legal road. The extent of any discrepancy between the alignment of the formation and the legal road is unknown until survey is undertaken at the implementation stage. The determination of whether the legal alignment can be adjusted where necessary to correspond with the current formation is a matter for survey and is encompassed under legislation other than the Crown Pastoral Land Act. Legalisation of roads is not therefore a matter to be dealt with under Tenure Review and the point should be disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Recommended Decision</i>
7	No objection to the establishment of the specified easements for management purposes.	3	Allow

This part of the Preliminary Proposal is considered by these submitters to be an acceptable outcome and to this extent it is regarded as meeting the objects of Part 2 of the Crown Pastoral Land Act. The point should therefore be allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Recommended Decision</i>
8	Recommend covenant over middle country, all submissions propose Snowy and Stony Blocks be included, some support more land.	4,5,7&8	Allow

The submitters' state that given the generally good condition of the snow tussock over the "Snowy" and "Stony" Blocks that it is best protected by a covenant. The area is noted for its landscape values and several submitters state that country such as this in the 600-900m range is not well represented in the conservation estate.

The protection of SIV's is an object of Part 2 of the Crown Pastoral Land Act therefore the point should be allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Recommended Decision</i>
9	Concerned that a larger area around CA2 will not be fenced to provide for future extension of woody remnant stands beyond the strict confines of the gorge.	4	Allow

The submitter asserts that the area set aside for protection does not provide a large enough buffer.

The protection of SIV's is an object of Part 2 of the Crown Pastoral Land Act therefore the point should be allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Recommended Decision</i>
10	Would like the area currently proposed as CC extended a small distance south to take in more water races, in particular race lines at GR 740N.	5,7&8	Allow

The submitters suggest the area of the proposed covenant should be extended slightly with the focus of incorporating more water races.

The protection of SIV's is an object of Part 2 of the Crown Pastoral Land Act therefore the point should be allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Recommended Decision</i>
11	Supports conservation covenant CC	6&7	Allow

This part of the Preliminary Proposal for this property is considered by this submitter to be an acceptable outcome and to this extent it is regarded as meeting the objects of Part 2 of the Crown Pastoral Land Act. The point should therefore be allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Recommended Decision</i>
12	Supports all the proposed easements for public access.	6	Allow

This part of the Preliminary Proposal for this property is considered by this submitter to be an acceptable outcome and to this extent it is regarded as meeting the objects of Part 2 of the Crown Pastoral Land Act. The point should therefore be allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Recommended Decision</i>
13	Lower boundary of CA1 should be further north than existing fence to include significant native shrublands and associated communities.	6	Allow

The submitter suggests an extension to conservation area CA1 beyond the existing fence line to include additional significant inherent values in the form of native plants and insects.

The protection of SIV's is an object of Part 2 of the Crown Pastoral Land Act therefore the point should be allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Recommended Decision</i>
14	Extend CA2 further upstream to include important vegetation & head of the water race	7	Allow

The submitter suggests an extension to conservation area CA2 further upstream beyond the proposed boundary to include additional significant inherent values in the form of native shrublands in the gully.

The protection of SIV's is an object of Part 2 of the Crown Pastoral Land Act therefore the point should be allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Recommended Decision</i>
15	Covenant document should be amended to allow for an increase in the protection of potential values.	7&8	Allow

It was believed the terms of the special conditions for the covenant were not robust enough to protect the shrubland values identified in this area. A number of suggested changes are made including amendments to various clauses, these are listed below.

- (a) The goals of the covenant should be for a gradual increase in the indigenous cover not just maintains the existing balance of exotic and indigenous vegetation. Amend to state “indigenous” vegetation where the goal is to enhance and ensure the expansion of the indigenous vegetation. It should also include the preservation of both the landscape and historic values.
- (b) The monitoring programme needs to include quantitative ecological monitoring (measure regeneration and biomass or stature of the vegetation including its composition).
- (c) A decline in or absence of regeneration should be listed as an adverse effect. A typographical error is noted in 5 (iii) of the Management Prescription Document.
- (d) Amend Clause 3.1.1 to remove the right to graze cattle.
- (e) Amend Clause 3.1.5 to remove the right to sow seed.
- (f) The additional biodiversity values within the shrublands need to be listed, these include skinks, birds and invertebrates.
- (g) Amend Clause 12.1 to exclude individually as it is believed the owner should not be able to individually take any action to improve the values, unless in line with the management prescription.

The protection of SIV's is an object of Part 2 of the Crown Pastoral Land Act therefore the points should be allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Recommended Decision</i>
16	Access "a-b-c" (for DoC administration purposes) should be available to the public so they can make a round trip.	7&8	Allow

The submitters have identified that if the public were permitted over an alternative route to conservation area CA2 that it would provide a round trip.

The securing of public access to and enjoyment of reviewable land is an object of Part 2 of the Crown Pastoral Land Act therefore the point should be allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Recommended Decision</i>
17	The covenant CC area should be fenced now as part of the tenure review process so that 50% of cost is not a burden to conservation later.	8	Disallow

The submitter is concerned on the potential cost to conservation, if in the future the area is required to be fenced (50% shared cost between owner & DoC) and suggest it should be fenced now as part of Tenure Review.

The issue of cost in relation to future potential liability for fencing is not a matter for consideration under the CPLA and therefore this point should be disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Recommended Decision</i>
18	Question whether the proposed covenant CC boundary constitutes a practical fence line and suggest redefining the boundary in case the area is required to be fenced in the future.	8	Allow

The submitter is concerned that the proposed boundary may not in fact constitute a practical fence line. Because the covenant conditions require the area to be fenced if the values are found to declined in the future, the submitter has suggested the boundaries of the covenant should be redesigned.

We believe the current boundary can be fenced but accept it should be verified to this effect. The protection of SIV's is an object of Part 2 of the Crown Pastoral Land Act, therefore the point should be allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Recommended Decision</i>
19	Ensure DoC and CCL have secure legal advice that the management prescription can be enforced.	8	Disallow

The submitter has expressed concern at the legal process of enforcing the covenant. The legal process for enforcing the covenant is administered under the Reserves Act 1977, and therefore it is not a matter considered under the CPLA 1998. The point should therefore be disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Recommended Decision</i>
20	Request Pisgah Downs freehold boundary in the vicinity of Dome Hills houses be pegged on the ground.	1	Disallow

The need to undertake this is a survey issue that will be determined as part of the cadastral survey undertaken at the implementation stage of Tenure Review. It is not considered to be a matter required to be dealt with under the CPLC as the requirements relating to survey are encompassed under other legislation. The point should therefore be disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Recommended Decision</i>
21	Does not want the existing formed road to be surveyed as legal road if it is on Dome Hills freehold title.	1	Disallow

The submitter has referred to the adjoining property Dome Hills which is not part of the reviewable land. In addition, the existing legal road is determined from survey plans and marked out accordingly regardless of whether it is aligned to the formation or not. The survey of legal roads is a survey issue that will be determined as part of the cadastral survey undertaken at the implementation stage of Tenure Review. It is not considered to be a matter required to be dealt with under the CPLC as the requirements relating to survey are encompassed under other legislation. The point should therefore be disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Recommended Decision</i>
22	Supports the disposal of designated land to freehold subject to provisos, being a covenant over Snowy and Stony blocks as documented in pt 8	5	Allow

The submitter supports the designation of the area proposed to be disposed of by freehold disposal subject to the designation of the Snowy and Stony Blocks as a covenant to protect the tussock and landscape values.

The protection of SIV's is an object of Part 2 of the Crown Pastoral Land Act therefore the point should be allowed.

APPENDIX I

List of Submitters

APPENDIX II

Points Raised by Submitters

APPENDIX III

Copies of Submissions

PRELIMINARY ANALYSIS

OF

IWI SUBMISSION

PISGAH DOWNS



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Appendices:

I Copies of Submission

**ANALYSIS OF PUBLIC SUBMISSIONS
FOR PRELIMINARY PROPOSAL
PISGAH DOWNS PASTORAL LEASE**

File Ref: CON/50000/16/12526/00/A-ZNO **Submission No:**DN0257/1 **Submission Date:** 21/11/05
Office of Agent: Dunedin **LINZ Case No:** **Date sent to LINZ:** 24/11/05

RECOMMENDATIONS

1. That the Commissioner of Crown Lands **notes** the receipt of this report for land held under pastoral lease Po 248 Pisgah Downs.
2. That the Commissioner of Crown Lands **approves** the recommendations in this report to allow or disallow the points raised in the submissions received.

Signed by Opus:

Peer Review:

Simon de Lautour
Property Consultant

Dave Payton
Tenure Review Contract Manager

Approved/Declined by:

Name:

Date of decision: / /

1. Details of lease:

Lease Name: Pisgah Downs
Location: McKenzies Road, 18 kilometres south west of Duntroon, North Otago.
Lessees: Pisgah Downs Limited.

2. Public notice of Preliminary Proposal:***Date, publication and location advertised:***

Saturday 10 September 2005.

- The Press Christchurch
- The Otago Daily Times Dunedin
- The Southland Times Invercargill

Closing Date for Submissions:

7 November 2005.

3. Details of Submissions received:

A submission dated 27 September 2005 was received on 29 September 2005.

4. Preliminary Analysis of Submissions:**4.1 Introduction:*****Explanation of Analysis:***

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

The following methodology was used to analyse each point:

- A summary of each of the points raised along with the recorded number shown in the appended table
- Discussion of the point.
- Recommendations whether or not to allow for further consultation.

The following approach has been adopted when making the recommendation to allow for further consultation:

The points raised have been analysed to assess whether they are matters that can be dealt with under the Crown Pastoral Land Act. Where it is considered that they are, the recommendation is to allow them.

4.2 Analysis:

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Recommended Decision</i>
1	Ngāi Tahu supports the Preliminary Proposal and consider it protects the values they have identified.	Allow

Te Rūnanga o Ngāi Tahu have considered the information provided in the Pisgah Downs Preliminary Proposal, and consider that the values identified in the Ngāi Tahu Cultural Values Report have been integrated into the Preliminary Proposal.

This part of the Preliminary Proposal for this property is considered by Ngāi Tahu to be an acceptable outcome and to this extent it is regarded as meeting the objects of Part 2 of the Crown Pastoral Land Act. The point should therefore be allowed.

APPENDIX I

Copy of Submission