

Crown Pastoral Land Tenure Review

Lease name: SANDY POINT

Lease number: PO 350

Final Report on Public Submissions

This document builds on the Preliminary Report on public submissions. The analysis determines if an issue that was allowed, and further consulted on, is accepted or not accepted for inclusion in the Substantive Proposal and to what extent. The report complies with the requirements of Section 45 Crown Pastoral Land Act 1998.

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

March

06

1/23/2006

Report in Accordance with Contract 50346

Final Analysis of Public Submissions for Preliminary Proposal

File Ref: CON/50000/16/12590/00/A-ZNO Submission No: QVV 729 Submission Date: 8/9/2005

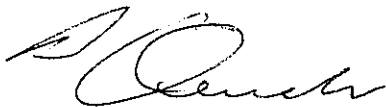
Office of Agent: Christchurch LINZ Case No:

Date sent to LINZ: 18/10/2005
& 7/2/2006

RECOMMENDATIONS

- (1) That the Commissioner of Crown Lands **approves** this report for tenure review of Po350 Sandy Point.
- (2) That the Commissioner of Crown Lands notes the attached file notes and plans covering consultation with the holder and DGC conservation officer, photographic and GPS evidence of location of CA3 (car park), proposed easements, covenant and conservation areas.

Signed by Q V Valuations:



Barry Dench
Team Leader for Tenure Review

2/3/06
Already approved 23/2/06
Minor Amendment made as
per Assessor request
[Signature]

Approved/Declined by:

Name: _____
Date of decision: / /

(1) Details of lease:

Lease Name: Sandy Point
Location: Luggate-Tarras Road, 20km from Wanaka, and
45 km from Cromwell.
Lessee: Glenfoyle Limited

(2) Public notice of preliminary proposal:

Date, publication and location advertised:

26th February 2005

- The Press Christchurch
- Otago Daily Times Dunedin

Closing date for submissions:

28th April 2005.

(3) Details of submissions received:

A total of eight submissions were received.

(4) Analysis of submission:

4.1 Introduction:

Explanation of analysis:

This is a final analysis of submissions. The purpose of this final analysis is to determine whether to accept or not accept the points raised in submissions for inclusion in the substantive proposal.

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 submission number of those submitters making that point.
- Provides a discussion of the point.
- Records the CCL decision whether or not to allow/not allow the point for further consultation.
- Records the CCL decision whether to accept the point for inclusion in the proposal.

The following approach has been adopted when making the decision:

(i) To allow / disallow for further consultation:

The decision to “**Allow**” the point made by submitters is on the basis that the matter raised is a matter than can be dealt with under the Crown Pastoral Land Act 1998. Conversely, where the matter raised is not a matter that can be dealt with under the Crown Pastoral Land Act, the decision is to “**Disallow**”. Those points that are ‘allowed’ will be given further consideration with respect to the proposal.

It should be noted that points relating to the Conservation Act, or any other statutory authority outside of the Crown Pastoral Land Act 1998 are not able to be considered by the Commissioner of Crown Lands.

(ii) To accept/ not accept:

The outcome of an “**Accept**” decision will be that the point is included in the draft Substantive Proposal. To arrive at this decision the point must be evaluated with respect to the following criteria:

- The objectives and matters to be taken into account in the Crown Pastoral Land Act (sections 24 & 25) and;
- The views of all parties consulted and any other matters relevant to the review, balanced against the objectives and matters to be taken into account in the Crown Pastoral Land Act 1998.

4.2 Analysis:

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>	
1	There is a highly disproportionate land allocation between conservation and freehold.	No. 1	Disallow	Not Accept

Submitter 1 stated “*The preliminary proposal being to allocate some 52.05ha to conservation and 1745ha for freehold disposal represents a highly disproportionate land allocation between the two categories.*”

As the allocation of land to freehold disposal or retention by the Crown is based on the objects set out in section 24 of the Crown Pastoral Land Act rather than a land area basis, the approach advocated is not

provided for under the Act. As it is not a valid criteria the point is not accepted and will not be included in the proposal.

Point	Summary of Point Raised	Submission No.	Decision	
2	Queries how well the proposed covenant CC1 will protect the native broom present.	No. 1, 2, 6, 7 and 8	Allow	Not Accept

Four submissions were received in support of removing/limiting the option of grazing the proposed 15ha covenanted area CC1 to varying degrees, and one submission was received suggesting a boundary change.

Submitter 1 noted in the context of the argument of an under allocation of land to conservation area advanced under Point 1, *“there is strong justification in allocating the proposed 15 hectare covenant which has the purpose of protecting an area of native broom, to full Crown Ownership and control. This would provide the option of removal of grazing.”*

Submitter 2 submitted *“if the values of the covenant area (CC1) are to be properly protected, the area should be fenced.”*

Submitter 6 confirmed *“There should be no grazing of the proposed 15 hectare covenant (CC1) by animals other than sheep.”*

Submitter 7 advocated for return to full Crown Management and control *“If the native broom is to be properly protected for all time ‘for the public to enjoy’ it should be returned to full Crown Management and control: a covenant is useless.”*

Submitter 8 suggested *“that the top of this area could more closely relate to landform rather than the existing fence which appears to cut unnaturally across the spur.”*

After consideration of pertinent matters the suggestion that the proposed covenant CC1 does not protect the area of native broom is not accepted and the point will not be incorporated in the proposal. The Crown Pastoral Land Act enables the protection of significant inherent values of reviewable land by the creation of protective mechanisms and the use of a covenant will adequately protect the values of this area.

An existing fence protects the native broom and enables controlled grazing of the area by sheep to an extent consistent with the objectives of the covenant. Grazing will assist in the protection of the values by ensuring the broom is not swamped by adventive grasses. As the purpose of the covenant is the protection of the shrubland values

comprising *Carmichaelia petriei* a distinctive feature of botanical interest, briar and occasional matagouri and mingimingi, and not landform as such in this case, the existing fence is seen as an appropriate boundary.

The terms of the covenant give the Minister of Conservation the right to request the owner stop grazing if monitoring carried out by the Department of Conservation determines the objectives of the covenant are not being achieved.

Point	Summary of Point Raised	Submission No.	Decision	
3	Support for proposed conservation areas and easements.	No. 1, 2, 3 and 7	Allow	Accept

Four submitters fully endorsed the proposed conservation areas and easements.

Submitter 1 noted *“the proposal for the three conservation areas CA1, CA2 and CA3, as a car parking area, are endorsed, as are the various easements”*. And further noted *“the easements a-b-c, b-d-e to provide public foot or horse or mountain bike access and for conservation management access along the crest of the Grandview Range, are supported.”*

Submitter 2 strongly supported the proposal *“that 50 hectares (CA1) are returned to full Crown ownership and control as conservation area”* and in a similar note *“that 2 hectares (CA2) be returned to full Crown ownership and control”*. The latter however was qualified to the extent that the area be extended to provide an accessway of at least 20 metres wide above the top of the scree face.

Submitter 3 considered the *“review to be a positive proposal both in terms of the public access that is proposed, and the protection of indigenous vegetation through conservation mechanisms”*, subject to one qualification regarding easement route “d-f”.

Submitter 7 expressed support for conservation area CA1. Likewise CA3 was supported but doubted whether the car parking area was large enough.

After consideration of pertinent matters the point supported by the submitters will be included in the proposal. The car park labelled “CA3” on the plans will be increased in size to 25 metres x 25 metres and marked to identify its boundaries (approximately 0.0650 hectares) to cater for predicted future use of up to three cars and horse floats. Car park issues are also discussed under points 4 and 14, and point 13 deals

specifically with the widening of the access at the top of the escarpment.

Point	Summary of Point Raised	Submission No.	Decision	
4	Proposed public access to main ridge and to land above the Clutha River.	No. 1, 2, 3, 4, 5, 6, 7 and 8	Allow	Accept in part

Eight submissions were received concerning access to the Grandview Range. A common observation amongst the submitters on this point was that the condition of the proposed easement for the purposes of public access was poor in places and required further formation. Alternative routes were suggested, along with a request for clarification of easement alignment.

Submitter 1 suggested *“A walking track (near the highway) up the small canyon or alongside it, would be much preferable to the easement of about 1kilometre from the proposed car park marked as CA3. (Easement ‘f-d’ is of concern in terms of its length and steepness towards the upper slopes.)*

Submitter 2 strongly supported the first and last of the three proposals for public access easements, but had *“reservations about the route to the range crest and submitted that a practicable route should be designated as discussed.”* The submitters concern was due to the apparent steepness at the top of the route below the ridge crest.

Submitter 3 expressed the same concern and requested *“that the access route labelled ‘d-f’ be formed to a suitable standard for its intended purposes.”*

Submitter 4 specified *“the route marked ‘d-f’ shall be designed and built in general accordance with the principles and concepts in the International Bicycling Association guide entitled ‘Trail Solutions’.”*

Submitter 5 questioned the use of three mechanisms for public recreation along the banks of the Clutha River and submitted *“that instead of conservation area and easements ‘i-j’ and ‘k-l’, the existing marginal strip should be extended in width.”* This sub-point touches on public access which is discussed in more detail under Point 13.

In contrast to other submitters’ comments regarding perceived difficulties over the top section of proposed easement “f-d”, submitter 5 expressed the view *“that it is desirable that a diversity of riding and walking experience is maintained by leaving this upper section undeveloped”*. The submitter noted a short section of scrub in the bottom section required clearance for a path and is concerned that there

is no provision to clear or form paths if the Crown deems such work necessary.

Submitter 5 queried the alignment of the easement "f-d" where it leaves the road almost at right angles to ascend up a paddock to the continuation of the easement along the base of the hill and noted "*Our inspection reveals a pine plantation at this location, with a boundary with the open paddock at a far more acute angle than shown on the plan. What is proposed?*" The Submitter went on to acknowledge that the route does not provide the most direct access for the public, but that they supported it and the proposed easement a-b-d, b-c and d-e.

Submitter 6 preferred more direct public walking access from the highway and stated "*There should be an easement up or beside the small canyon between the highway and the proposed 15 hectare covenant (CC1).*"

Submitter 7 supported easements "a-b-d", "e-d-b" and "f-d" but concurred with previous statements regarding difficulties for mountain bikes on "f-d". The submitter summarised their concern about "f-d" by stating "*In total we see the issue of walkers and cyclists obtaining access to the main Grandview ridge, 'd-f' as unreasonable – the public are being poorly served.*" They went on to outline an alternative route commencing at a proposed car park opposite CC1.

Submitter 8 was concerned with the proximity of the proposed public access easement to the lifestyle block on the south boundary, and commented "*it would be better to locate the access easement away from the fence for mutual privacy reasons.*" They went on to suggest "*Public access via an easement should be provided down Deep Gully and across the farm paddocks to give ready and direct access to the river at a very suitable point. There is space for car parking at the top of the gully on the east side of the road.*"

After consideration of relevant matters it was accepted that an alternative route between point "f" and lower Deep Gully, crossing the paddock and using two existing gateways, would provide more practical access from the car park area shown as CA3 on the plan. Therefore the route will be changed by moving the initial section from point marked "f" on the plan, further north to be more practical.

The Canyon route which is even further north was considered however was not regarded as a viable alternative route for public access and for management purposes due to the potential for interference with stock movement along a farm lane commencing at the exit of the Canyon route and secondly it would require a second car park to service easement "d-f". The proposal has provision for a single car park, within land designated for retention in Crown ownership, to service easements on both sides of the road but this would not be feasible in

the event that the entrance to easement “d-f” was moved to the area immediately west of Deep Gully (Canyon route).

It was accepted that moving the commencement point “f” further north coupled with a single car park was a better option rather than relocating the entry point “f” to bottom of the Canyon route where conflict with farm management could become an issue.

It was also accepted that the easement document should provide for the transferee to “clear, form and maintain a path or track on the easement area”. The inclusion of this provision will allow the Department of Conservation to address issues of practicality of access by foot and mountain bike over sections of easement ‘f-d’, and equally to secure future management purposes access by motor vehicle should it be required over this route. Alternative motor vehicle access for Minister of Conservation management purposes to the upper section of easement “d-f” is also available from easements running along the Grandview Range ridge crest part of which is via Glenfoyle Station.

Access to the conservation covenant will be limited to Minister of Conservation management purposes only with this provided for as a holder obligation under clause 3.2.5 of the covenant rather than being incorporated into the easement document.

Concern about the practicality over two steeper sections at the eastern end of the easement route “d-f” will be dealt with by widening parts to 40 metres to allow room for a reasonable gradient suitable for mountain bikes.

After consideration of the requirements for car parking, the car park area as currently proposed is satisfactory in its proximity to provide parking space for both easement “d-f” ascending to the Grandview Range ridge crest and also the easement labelled “g-h” running to the west as far as proposed conservation area “CA2”. It is therefore not accepted that there is a need for the car park to be relocated or another one created and these points will not be included in the proposal. Car park size is discussed in point 3.

The point seeking a widening in the marginal strip along the Clutha River as replacement for the proposed conservation area, easement and the present marginal strip is not accepted and will not be included in the proposal.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>	
5	Protection of significant landscape values.	No. 2, 4, 7 and 8	Allow	Not Accept

Four submissions were received concerning the protection of significant landscape values and their visibility from important tourist routes.

Submitter 2 stated *"because of the landscape significance of the front faces of the Grandview Range, and their visibility from important tourist routes, a landscape protection covenant over these front faces should be registered on the freehold title, providing for the protection of landscape values from the adverse effects of inappropriate developments."*

Submitter 4 submitted *"I believe that the public deserves the landscape values to be taken into consideration and protected by way of covenant for future generations. They cited Queensbury Hills on the opposite bank of the Clutha River as an example "This site went through tenure review some time ago and is now all but carved up for lifestyle blocks and no longer farmed."* The submitter then advocated for a protective covenant covering all freeholded land such that the land will be retained in pastoral use (this could include tourism ventures), and any residential development would be a prohibited activity.

Submitter 7 considered *"there should be attached to any freehold title given, a covenant to prevent any undue alteration to the landscape from forestry, tracking or unseemingly or unnecessary structures."*

Submitter 8 was adamant the district planning process cannot be relied upon to protect the natural values of the River and Highway Corridor landscapes. The submission recommended *"A covenant with the purpose of protecting natural to pastoral landscape values should be placed over all the land west of the highway and the faces from the road to the crest. Forestry plantations and subdivision into smallholdings and the building of dwellings and other non-farming structures should be avoided."* This submission also suggested the scarp and lower Deep Gully area be retired permanently from grazing and the remnant grey scrub and kanuka shrubland be allowed to spread.

After consideration of the points raised and the suggestion that the proposal does not protect areas with significant landscape values is not accepted and will not be included in the proposal.

The Conservation Resources Report identified the areas considered to have significant landscape values (SIV's) including part of West Coast Gully and part of the flats adjacent to the Clutha River. The former area is protected under the proposal and the latter partly protected. The other areas advocated for have not been identified as having SIV's and the suggestion to have formal protection can not be included in the proposal.

The submitters are touching on measures that have the aim of controlling the post tenure review management or use of the land, a matter that sits outside the Commissioner's jurisdiction.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>	
6	Marginal Strips	No. 5	Disallow	Not Accept

Submitter 5 contended "*We note that this pastoral lease was renewed in 1994 by the practice of variation of lease. The consequence of this process is that if marginal strips were applicable to any water ways not already reserved from sale or other disposition, then 'renewal' through variation avoids disposition of Crown land and the requirement to create marginal strips under Part 4A Conservation Act.*"

Creation of marginal strips is a legislative requirement under Part 4A of the Conservation Act 1987 and is a matter for the Director-General of Conservation to administer. Marginal strips where appropriate will be created on the disposition of the land taking place at the conclusion of the tenure review. Consequently this point is not accepted and will not be included in the proposal.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>	
7	Availability of keys from DoC in Wanaka to allow horse access.	No. 5	Allow	Accept

Submitter 5 supported the proposal for keys to be available from DoC to enable horse access through potentially locked boundary gates, provided there is adequate sign posting and other information available locally concerning locked gates.

Subsequent to Holder consultation on 5th February 2004 when the issue of horse access was raised, the Department of Conservation has confirmed that they propose to have signage informing the public about the easement including availability of keys for horse riders. This is provided for in the easement documents covering public access over land to and over the Grandview Range.

As the provision of public access is catered for in the Crown Pastoral Land Act and access on or accompanied by horses is included in the easement to and along the ridge crest, the point is accepted and will be included in the proposal.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>	
8	Closure of easement for lambing purposes.	No. 5 and 7	Allow	Not Accept

Two submissions were received querying the need for the provision to close the proposed public easement access from 15th September to 30th October of any year, if required, for the purposes of lambing.

Submitter 5 stated *"We question the necessity for this provision given that access has been routed along the 'top side' of the fence bordering the road-side paddocks. We presume lambing will be confined to the latter. A fenced lane could be provided. It is highly desirable that the whole Grandview route is available year-round."*

Submitter 7 believed *"This is too long a closure for lambing. A month should be sufficient."*

This matter has been considered however the point is not accepted for inclusion in the proposal because closure of the easement in exceptional circumstances such as lambing is to be permitted. Closure for lambing is accepted as a legitimate reason considering the route of the easement "d-f" partly through lower parts of the property.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>	
9	Support for proposed West Coast Gully covenant.	No. 2, 5 and 7	Allow	Accept

Three submissions were received in support of a proposed covenant to protect the fish habitat in West Coast Gully.

One of the objects of the Crown Pastoral Land Act is to enable the protection of the significant inherent values of reviewable land by the creation of protective mechanisms. After consideration of all views, the point supported by the submitters will be included in the proposal.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>	
10	A containment policy for existing pine trees.	No. 8	Disallow	Not Accept

Submitter 8 believed *"A containment policy should be applied to the existing pine trees, allowing only a few new replacements as they mature. Old trees should be removed."*

This point relates to future management of the land subsequent to the conclusion of the review but not to considerations that need be taken

into account for tenure review. It is therefore outside of the provisions of the Crown Pastoral Land Act and is not accepted for inclusion in the proposal.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>	
11	There is no definition in the Act of ecological sustainability.	No. 7	Disallow	Not Accept

While the submitter was making a point about one particular part of the legislation and although arguing that there is no guarantee the land will become ecologically sustainable just because it is freed from the management constraints of a pastoral lease, the legislation enables freehold disposal of reviewable land.

As the submitter was not making a direct reference to any particular land area in the Sandy Point proposal and was touching on management of the land post conclusion of the review, it is not a matter to be taken into account for this review and will therefore not be included in the proposal.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>	
12	Application within the Property Law Act which allows modification or extinguishment of easements.	No. 5	Disallow	Not Accept

In summary, the submitter was claiming that such easements can be extinguished or modified without public input.

As it is clearly anticipated that the creation of easements is an adequate method of securing public access to meet the objects of the Act, and that future management under the Conservation Act will ensure continuity, this matter is not accepted for inclusion in the proposal.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>	
13	Widening of access way above top of scree face in CA2.	No. 2, 7 and 8	Allow	Accept

Three submitters were concerned about long-term access in this area due to the unstable nature of the escarpment.

Submitter 2 submitted *“that the area should provide an access way of at least 20 metres wide above the top of the scree face.”*

Submitter 7 agreed the area should be much wider *“part of CA2 is a cliff face, or escarpment, liable to slip away at any time, and the available walking area only a few metres wide in places. The area should be at least doubled in width.”*

Submitter 8 believed *“This area should include a good 30-50m of land behind the crest of the scarp, to provide long term access along the top of this actively back-eroding gravel scarp.”*

After consideration of practical matters the calls to extend the boundary at the top of the escarpment to prevent future loss of access through erosion are accepted and will be included in the proposal. An inspection of the area concerned revealed there had not been any movement of the escarpment for many years, evidenced by the condition of the vegetation and presence of some quite well established trees.

The Holder had also previously stated he did not believe there had been any movement of the escarpment during his lengthy tenure of the area. Whilst it was initially thought a 10 metre wide strip would be sufficient, it was agreed to extend this to 15 to 20 metres wide in case there is some slippage in the future (refer to Map 3). The revised top boundary for CA2 has been identified and will be fenced.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>	
14	Support for provision of car park.	No. 2, 5 and 7	Allow	Accept in part

Three submissions were received in support for the provision of a public car parking area.

Submitter 2 fully supported the proposal as outlined.

Submitter 5 suggested minimising horse exposure to vehicular traffic by removing the need to cross the road *“We note there is a relatively large unplanted area on the west side of the road which appears to be level.”*

Submitter 7 supported the car parking area but *“would doubt if the area is big enough to meet fully all future requirements.”*

After consideration of future car parking needs this point is accepted in part for inclusion in the proposal specifically in relation to the size of the car park, which will be increased to 25 metres x 25 metres to cater for future demand estimated by Department of Conservation to be

three cars and horse floats. Location is to remain unchanged. This subject is also discussed under point 3. The suggestion to have an additional car park is not accepted and will not be included in the proposal.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>	
15	Objection to the ability of the Transferee to temporarily close all or part of the easement area.	No. 5	Allow	Not Accept

Submitter 5 was concerned about the absence of any cited legal authority for closure *“If there are lawful powers of closure applicable they should be expressly cited. Without such there can be no accountability for DoC’s future actions, and therefore no certainty of public access.”*

As the easement is a contractual term negotiated between parties, the Department of Conservation does not require a ‘cited legal authority’ to temporarily close all or part of the easement area. Therefore this point is not accepted and will not be included in the proposal.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>	
16	There is no complete vehicle access to the main ridge.	No. 7	Disallow	Not Accept

Submitter 7 believed it was a misnomer in clause 2.2 of easement document for route “d-f” to say there is complete access for the public and DoC management purposes to the main ridge, either up or down.

As motor vehicular access is provided for Department of Conservation management purposes via an easement over the neighbouring property Glenfoyle to and along Grandview Range ridge crest, access requirements have been met. Notwithstanding the aforesaid clause 2.2, covering DoC management purposes only, provides for foot , on or accompanied horses as well as motor vehicle access, with route “d-f” able to be used by one or more of these modes.

After consideration of these pertinent matters this point is therefore not accepted and will not be included in the proposal.

Discussion and conclusions:

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

The submissions that come under the jurisdiction of the Crown Pastoral Land Act fell into several main themes:

- Greater control over the management of the proposed 15 hectares covenanted area CC1.
- General support for the proposed conservation areas and easements, subject to improvement of the physical condition of the access and consideration of alternative routes.
- Concern regarding limitation of access due to closure during lambing.
- Protection of significant landscape values from inappropriate developments.

A number of submissions covered a range of issues that fell outside of the tenure review process, and explanations for not accepting their inclusion in this final analysis have been provided above.

REPORT IN ACCORDANCE WITH CONTRACT 50346

Final Analysis of Iwi Submission for Preliminary Proposal

File Ref: CON/50000/16/12590/00/A-ZNO Submission No: QVV 731 Submission Date: 8/09/2005

Office of Agent: Christchurch LINZ Case No: Date sent to LINZ: 13/09/2005
& 2/3/2006

RECOMMENDATIONS

- (1) That the Commissioner of Crown Lands **approves** this report for the review of Po350 Sandy Point pastoral lease.
- (2) That the Commissioner of Crown Lands notes the attached file notes and plans covering consultation with the holder and DGC conservation officer regarding marginal strips proposed for parts of the Clutha River.

Signed by Contractor:



Barry Dench
Team Leader for Tenure Review

2/3/06

Already approved 23/2/06

Minor amendments made as per Assessor request

[Handwritten initials]

Approved/Declined by:

Name:
Date of decision: / /

(1) Details of lease:

Name: Sandy Point

Location: Luggate-Tarras Road, 20km from Wanaka, and 45km from Cromwell.

Lessee: Glenfoyle Limited

(2) Details of Iwi Submission:

Received On: 28th April 2005

Received From: Takarei Norton
Natural Resources Unit Project Co-ordinator
Office of Te Runanga o Ngai Tahu

On Behalf Of: Te Runanga o Ngai Tahu and the relevant Papatipu Runanga: Te Runanga o Otakou, Te Runaka o Hokonui, Kati Huirapa ki Puketeraki and Te Runanga o Moeraki.

(3) Analysis of submission:**3.1 Introduction:***Explanation of Analysis:*

This is a final analysis of the submission received. The purpose of this final analysis is to determine whether to accept or not accept the points raised in the submission, to record the outcome of the consideration on each point and whether or not it has been approved for inclusion in the Substantive Proposal.

The following analysis:

- Summarises each of the points raised.
- Provides a discussion of the point.
- Records the CCL decision whether or not to allow/not allow the point for further consultation.
- Records the CCL decision whether to accept the point for inclusion in the proposal.

The following approach has been adopted when making the decision:

- (i) To allow / not allow for further consultation:

The decision to “**Allow**” the point made by submitters is on the basis that the matter raised is a matter than can be dealt with under the Crown Pastoral Land Act 1998. Conversely, where the matter raised is not a matter that can be dealt with under the Crown Pastoral Land Act, the decision is to “**Not Allow**”. Those points that are ‘allowed’ will be given further consideration with respect to the proposal.

It should be noted that points relating to the Conservation Act, or any other statutory authority outside of the Crown Pastoral Land Act 1998 are not able to be considered by the Commissioner of Crown Lands.

(ii) To accept/ not accept:

The outcome of an “**Accept**” decision will be that the point is included in the draft Substantive Proposal. To arrive at this decision the point must be evaluated with respect to the following criteria:

- o The objectives and matters to be taken into account in the Crown Pastoral Land Act (sections 24 & 25) and;
- o The views of all parties consulted and any other matters relevant to the review, balanced against the objectives and matters to be taken into account in the Crown Pastoral Land Act 1998.

3.2 Analysis:

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Decision</i>	
1	Support for conservation areas “CA1” and “CA2”	Allow	Accept

Ngai Tahu supported that areas shown labelled as “CA1” and “CA2” have been included in the proposed area to be retained in full Crown ownership and control as conservation areas. The submission made the following comments:

“Ngai Tahu supports the protection of significant values and therefore supports the proposed CA1.” They went on to say “The Clutha River/Matau-au contains spiritual, cultural and historical values to Ngai Tahu Whanui and the proposed Conservation Area 2 will assist in the protection and access to these values.”

As the retention of land in full Crown ownership and control is enabled by the Crown Pastoral Lands Act 1998, after due consideration of the view put forward the point supported by the submitter will be included in the proposal.

Point	Summary of Point Raised	Decision	
2	Marginal strips proposed for parts of the Clutha river.	Allow	Not Accept

The submission pointed out that the Clutha River is of considerable significance to Ngai Tahu Whanui. It quoted the following from the Ngai Tahu Claims Settlement Act 1998:

“The Mata-au river takes its name from Ngai Tahu whakapapa that traces the genealogy of water. On that basis the Mata-au is seen as a descendant of the creation traditions.

On another level the Mata-au was part of a mahinga kai trail that led inland and was used by Otakou kapu, including Ngati Kuri, Ngati Ruchihiki, Ngati Huirapa and Ngai Tuahuriri.

The river was also very important in the transportation of pounamu from inland areas down to the settlements on the coast from where it was traded north and south. Thus there were numerous tauranga waka (landing places) along it. The tupuna has an intimate knowledge of navigation, river routes, safe harbours and landing places and the locations of food and other resources on the river. The river was an integral part of a network of trails which were used in order to ensure the safest journey and incorporated locations along the way that were identified for activities including camping overnight and gathering kai.

Knowledge of these trails continues to be held by whanau and hapu and is regarded as a taonga. The Mata-au is where Ngai Tahu’s leader, Te Hautapunui o Tu, established the boundary line between Ngai Tahu and Ngati Mamoe. Ngati Mamoe were to hold mana (authority) over the lands south of the river and Ngai Tahu were to hold mana northwards. Eventually, the unions between the families of Te Hautapunui o Tu and Ngati Mamoe were to overcome these boundaries. For Ngai Tahu, histories such as this represent the links and continuity between past present generations, reinforce tribal identity, and document the events which shaped Ngai Tahu as an iwi.”

Ngai Tahu sought the opportunity to discuss with LINZ the options for protection mechanisms under the Crown Pastoral Land Act 1998 for the land immediately surrounding the Clutha River to ensure the greatest method of protection possible.

The Department of Conservation confirmed that there is an existing marginal strip along the Clutha River and therefore the river itself does not adjoin the lease. Unless the river has cut through the marginal strip, in which event a new marginal strip would be created at this point at the conclusion of the tenure review under provisions of Part 4A Conservation Act.

However if the existing marginal strips are still intact these will remain and are considered to provide an adequate form of protection.

In addition to the matter of a marginal strip part of the land, in the nature of an escarpment and easier contoured land at the top rim, has been designated as land to be restored to or retained in full Crown ownership and control as conservation area. See Point 1 noting the iwi authorities support for conservation area CA2.

Further to the west where the land drops to a lower level it is considered that the existing marginal strip or if on investigation under Part IVA of the Conservation Act new marginal strip, will provide a satisfactory level of protection.

After due consideration this point is not accepted for inclusion in the proposal as the existing marginal strip or if applicable, after investigation at the end of the tenure review process, any additional marginal strip is regarded as an adequate method of protection without the need for additional measures under the Crown Pastoral Land Act 1998.

Discussion and Conclusions

Te Runanga o Ngai Tahu has provided a submission that takes into consideration the local Maori interest in the Sandy Point Preliminary Proposal. Each point is discussed in detail in this analysis.