

# **Crown Pastoral Land Tenure Review**

**Lease name: SANDY POINT**

**Lease number: PO 350**

## **Preliminary Report on Public Submissions**

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.

**January 06**

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**Report in Accordance with Contract 50346**

**Preliminary Analysis of Public Submissions for Preliminary Proposal**

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File Ref: CON/50000/16/12590/00/A-ZNO-02 Submission No: QVV 698 Submission Date: 10/05/2005

Office of Agent: Christchurch

LINZ Case No:

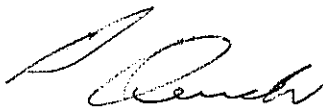
Date sent to LINZ: 17/05/2005

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**RECOMMENDATIONS**

- (1) That the Commissioner of Crown Lands approves this report for tenure review of Po350 Sandy Point Pastoral Lease.

**Signed by Contractor:**



Barry Dench  
Team Leader for Tenure Review

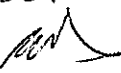


Carolyn Latham  
Tenure Review Consultant

**Approved/Declined by:**



Stephen Ulrich  
Name:  
Date of decision: 19/7/05

Changes made as directed  
by Assessor B. Webster  
13/6/05. 

**(1) Details of lease:**

**Lease Name:** Sandy Point

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

**Lessee:** Glenfoyle Limited

**(2) Public notice of preliminary proposal:**

***Date, publication and location advertised:***

26 February 2005

- The Press Christchurch
- Otago Daily Times Dunedin

***Closing date for submissions:***

28 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 preliminary analysis of submissions. The purpose of this preliminary analysis is to identify those issues raised which are appropriate for further consideration.

After such further consideration and appropriate consultation, a final analysis of submissions will be completed which will record the outcome of such consideration on each point and whether or not it has been approved for inclusion in the draft 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.
- Discusses the CCL decisions whether or not 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.

**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 & freehold.	Nos 1	Not allow

Submitter 1 states “*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 allow”.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
2	Queries how well the proposed covenant CC1 will protect the native broom present.	Nos. 1, 2, 6, 7 and 8	Allow

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

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

Submitter 7 advocates 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 suggests *“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.”*

One of the objectives of the Crown Pastoral Land Act is to (b) enable the protection of the significant inherent values of reviewable land –

- (i) By the creation of protective mechanisms; or (preferably)
- (ii) By the restoration of the land concerned to full Crown ownership and control

As these submissions promote these objectives this point should be “Allowed” for further consultation and consideration.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
3	Support for proposed conservation areas and easements.	Nos. 1, 2, 3 and 7	Allow

Four submitters fully endorsed the proposed conservation areas and easements.

Submitter 1 notes *“the proposal for the three conservation areas CA1, CA2 and CA3, as a car parking area, are endorsed, as are the various easement”. And further notes “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 supports the proposal that 50 hectares (CA1) are returned to full Crown ownership and control as conservation area”* and in a similar note *“strongly supports that 2 hectare (CA2) be returned to full Crown ownership and control”*. The latter however is qualified to the extent that the area be extended to provide an accessway at least 20 metres wide above the top of the scree face.

Submitter 3 considers 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 expresses support for conservation area CA1. Likewise CA3 is supported but doubts if the car parking area is large enough.

As the retention of land in Crown ownership and for freehold disposal plus the securing of public access to and enjoyment of reviewable land are objectives of the Crown Pastoral Land Act 1998 the point should be allowed so that these views can be taken into account in further consideration of the proposed designations.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
4	Proposed public access to main ridge and to land above the Clutha River	No.s 1, 2, 3, 4, 5, 6, 7 and 8	Allow

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 have been suggested, along with a request for clarification of easement alignment.

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

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

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

Submitter 4 specifies *“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 questions the use of three mechanisms for public recreation along the banks of the Clutha River and submits *“that instead of conservation area and easements ‘i-j’ and ‘k-l’, the existing marginal strip should be extended in width.”*

In contrast to other submitters’ comments regarding perceived difficulties over the top section of proposed easement f-d, submitter 5 expresses the view *“that it is desirable that a diversity of riding and walking experience is maintained by leaving this upper section undeveloped”*. The submitter notes a short section of scrub in the bottom section requiring clearance of scrub 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 queries 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 notes- *“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 goes on to acknowledge that the route does not provide the most direct access for the public, but that they support it and the proposed easements a-b-d, b-c and d-e.

Submitter 6 prefers more direct public walking access from the highway and states *“There should be an easement up or beside the small canyon between the highway and the proposed 15ha covenant (CC1).”*

Submitter 7 supports easements “a-b-d”, “e-d-b” and “f-d” but concurs with previous statements regarding difficulties for mountain bikes on “f-d. The submitter summarises 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 go on to outline an alternative route commencing at a proposed car park opposite CC1.

Submitter 8 is concerned with the proximity of the proposed public access easement to the lifestyle block on the south boundary, and comments *“it would be better to locate the access easement away from the fence for mutual privacy reasons.”* They go 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."*

As one of the objectives of section 24 of the Crown Pastoral Land Act is – to make easier – (i) the securing of public access and enjoyment of reviewable land, this point should be allowed so that these views can be taken into account in further consideration and consultation of the practicality and ease of use of some parts of the easement route.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
5	Protection of significant landscape values	Nos. 2, 4, 7 and 8	Allow

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

Submitter 2 states *"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 submits *"I believe that the public deserves the landscape values to be taken into consideration and protected by way of covenant for future generations. They cite 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 advocates for a protective covenant covering all freeholded land such that the land will be retained in pastoral use (this could tourism ventures), and any residential development would be a prohibited activity.

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

Submitter 8 is adamant the district planning process cannot be relied upon to protect the natural values of the River and Highway Corridor landscapes. The submission recommends *"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 suggests the scarp



and lower Deep Gully area be retired permanently from grazing and the remnant grey scrub and kanuka shrubland be allowed to spread.

As one of the objects of the Crown Pastoral Land Act is to (b) enable the protection of the significant values of reviewable land –

(i) By the creation of protective mechanisms,

and as these submissions promote these objectives this point should be “Allowed” for further consultation and consideration

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Submission No.</i>	<i>Decision</i>
6	Marginal strips	No 5	Not Allow

Submitter 5 contends “*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.*”

The submitter should be assured that marginal strips where appropriate will be created on the disposition of the land taking place at the conclusion of the tenure review. This is a legislative requirement, governed by Part 4A of the Conservation Act 1987 and is a matter for the Director General of Conservation to administer.

Consequently the point is “Not Allowed”.

<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

Submitter 5 supports 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.

As one of the objects of section 24 of the Crown Pastoral Land Act is – to make easier – (i) the securing of public access and enjoyment of reviewable land, this point should be allowed so that these views can be taken into account in further consideration of the designations for public access.

<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

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

Submitter 5 states *"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 believes *"This is too long a closure for lambing. A month should be sufficient."*

As one of the objectives of the Crown Pastoral Lands Act is to make easier the securing of public access to and enjoyment of reviewable land this point should be allowed for further consideration and consultation.

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

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,

As these submissions promote this objective this point should be "Allowed" in the further consideration of 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	Not Allow

Submitter 8 believes *"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."*

The 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 Allow".

<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	Not Allow

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

The point is "Not Allowed"

<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	Not Allow

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

The Crown has an obligation under the Crown Pastoral Land Act is to 'make easier the securing of public access to and enjoyment of reviewable land'. One means is by way of easement over freeholded land. 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.

After considering this matter the point is "Not Allowed" as easements will remain as one of the means for public access and Minister of Conservation management purposes.

<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 & 8	Allow

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

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

Submitter 7 agrees 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 believes *“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.”*

As one of the objects of section 24 of the Crown Pastoral Land Act is – to make easier – (i) the securing of public access and enjoyment of reviewable land, this point should be allowed so that these views can be taken into account in further consideration and consultation of the means of providing public access.

<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, & 7	Allow

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

Submitter 2 fully supports the proposal as outlined.

Submitter 5 suggests 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 supports the car parking area but *“would doubt if the area is big enough to meet fully all future requirements.”*

As one of the objects of section 24 of the Crown Pastoral Land Act is – to make easier – (i) the securing of public access and enjoyment of reviewable land, this point should be allowed so that these views can

be taken into account in further consideration and consultation of this particular component of public access.

<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

Submitter 5 is 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.”*

Provision of public access is a matter that is relevant under s24 of the Crown Pastoral Land Act, and the matter is therefore allowed for further consideration.

<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	Not Allow

Submitter 7 believes it is 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 Department of Conservation motor vehicular access is provided 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.

As motor vehicle access is only being provided for Minister of Conservation / Director-General of Conservation management purposes and with that being available via the neighbouring access requirements have been satisfied. This point should be “Not Allow”.

***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 fall into several main themes:

- Greater control over the management of the proposed 15ha 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 allowing their inclusion in this preliminary analysis have been provided above.