

Crown Pastoral Land Tenure Review

Lease name: SILVERBIRCH

Lease number: PO 290

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

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FINAL ANALYSIS OF SUBMISSIONS

SILVERBIRCH TENURE REVIEW

1. **Details of lease:**

Lease name: Silverbirch

Location: On the Old Man Range, approximately 10 kilometres south of Roxburgh.

Lessees: Paul Benson Johnston and Blair Reginald Johnston

2. **Public notice of preliminary proposal:**

Date, publication and location advertised:

Saturday 27 September 2003:

Otago Daily Times	Dunedin
The Press	Christchurch
Southland Times	Invercargill

Closing date for submissions:

24 November 2003

3. **Details of submissions:**

A total of 6 submissions were received by the closing date. A further submission was received on 5 December 2003.

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. Each point has been numbered accordingly. Where submitters have made similar points, these have been given the same number.

The following analysis summarises each of the points raised along with the recorded number of the submitter making the point (*shown in Appendix 3*). Discussion of the point and the decision whether or not to allow/disallow the point follows.

The following approach has been adopted when making a decision:

(i) To allow/disallow:

The decision to “**allow**” the point made by submitters is on the basis that the matter raised is a relevant matter for the Commissioner to consider when making decisions in the context of the Crown Pastoral Land Act 1998. Conversely, where the matter raised is not relevant in terms of the Commissioner’s consideration, the decision is to “**disallow**”.

(ii) To accept/not accept:

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

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

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

4.2 Analysis:

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
1	The proposed freehold subject to a protective mechanism is fully supported	1,2	Allow	Accept

Discussion:

The freehold disposal of pastoral lease land is a matter for the Commissioner to consider pursuant to Section 24 (a) (ii) and 24 (c) (ii) CPL Act 1998. For this reason the point is allowed. This point is accepted but does not require a decision by the Commissioner’s delegate to amend the proposal.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
2	Public access to the covenanted area is not secure	1,3	Allow	Accept

Discussion:

The securing of public access is a matter for the Commissioner to consider pursuant to Section 24 (c) (i) CPL Act 1998. For this reason the point is allowed.

The submitters have noted that the legal road deviates from the formed track and believe that consequently, public access is not secured. The holder has agreed to an easement to provide access where the road formation deviates from the legal road. This amendment to the proposal better meets the objects with respect to Section 24 (c) (i) CPL Act. The point is therefore accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
3	The covenant does not adequately protect the significant inherent values	4,5,6	Allow	Not accept

Discussion:

The protection of significant inherent values is a matter for the Commissioner to consider pursuant to Section 24 (b) (i). The point is therefore allowed.

The submitters feel that in order to sufficiently protect the significant inherent values within the covenanted area, this area should be made stock proof. The advice of the DGC delegate is that the covenant has the necessary provisions to protect the significant inherent values. Fencing is not considered necessary, but under the covenant it should be noted that provision exists for fencing at a later stage if it becomes desirable.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
4	The land in the Silverbirch tenure review is highly prospective for mineral development. There is the potential under tenure review for significant loss of economic development opportunity.	7	Allow	Not accept

Discussion:

The potential for mineral development is a matter for the Commissioner to consider pursuant to Section 24(b) CPL Act. This section provides for the freeing of land capable of economic use from the management constraints resulting from its tenure under reviewable instrument. Therefore pursuant to Sections 24 (a) (ii) this point is allowed for further consideration.

The submitter feels that provision should be made to allow for mineral prospecting, exploration and mining activities to be undertaken regardless of the tenure of the land in the future. The CPL Act does not direct the Commissioner of Crown Lands to specifically consider various types of economic use. Rather, it directs the Commissioner to enable

reviewable land capable of economic use to be freed from the management constraints (direct or indirect) resulting from its tenure under reviewable instrument. Therefore, although economic use of the land could be with regard to mineral content, no special provision as an outcome of tenure review is necessary on the part of the Commissioner for Crown Lands. Access for mineral rights is dealt with under the Crown Minerals Act. Consequently, this point is not accepted.

5. Discussion and conclusions:

A total of seven submissions were received. Out of which, four points were raised, with all being allowed. Consultation has been carried out with the DGC delegate and the holder over the points allowed in the preliminary analysis of public submissions.

Point 1 (The proposed freehold subject to a protective mechanism is fully supported) is a supporting submission and does not require an amendment to the proposal.

Agreement was reached between the DGC delegate, holder and service provider over *Points 2 (Public access to the covenanted area is not secure)* and *3 (The covenant does not adequately protect the significant inherent values)*. An easement over the road formation where it varied from the legal road is necessary (accept Point 2). This secures public access to and enjoyment of the reviewable land. Fencing of the conservation covenant to protect significant inherent values is not necessary (not accept Point 3). Provision exists in the covenant for fencing if this becomes desirable at a latter stage.

Point 4 (The land in the Silverbirch tenure review is highly prospective for mineral development. There is potential under tenure review for significant loss of economic development opportunity) has been considered by DTZ and discussed with the holder. Agreement was reached that access for mineral rights is dealt with under the Crown Minerals Act and therefore no special provision as an outcome of tenure review is necessary.

The outcome is a tenure review proposal that meets the objects with respect to Section 24 CPL Act and is acceptable to the holder.

FINAL ANALYSIS OF IWI SUBMISSION

SILVERBIRCH TENURE REVIEW

1. **Details of lease:**

Lease name: Silverbirch

Location: On the Old Man Range, approximately 10 kilometres south of Roxburgh.

Lessees: Paul Benson Johnston and Blair Reginald Johnston

2. **Public notice of preliminary proposal:**

Date, publication and location advertised:

Saturday 27 September 2003:

Otago Daily Times	Dunedin
The Press	Christchurch
Southland Times	Invercargill

Closing date for submissions:

24 November 2003

2. **Details of submission:**

Land Information New Zealand advised iwi of the Preliminary Proposal for tenure review in accordance with Section 43 Crown Pastoral Land Act. A written response was received from the Office of Te Runanga o Ngai Tahu on 12 November 2003. Two points were raised by iwi.

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. Each point has been numbered accordingly. Where submitters have made similar points, these have been given the same number.

The following analysis summarises each of the points raised along with the recorded number of the submitter making the point (*shown in Appendix 3*). Discussion of the point and the decision whether or not to allow/disallow the point follows.

The following approach has been adopted when making a decision:

(i) To allow/disallow:

The decision to “**allow**” the point made by submitters is on the basis that the matter raised is a relevant matter for the Commissioner to consider when making decisions in the context of the Crown Pastoral Land Act 1998. Conversely, where the matter raised is not relevant in terms of the Commissioner’s consideration, the decision is to “**disallow**”.

(ii) To accept/not accept:

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

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

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

4.2 Analysis:

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Decision</i>	
1	Ngai Tahu supports the proposed freehold of Silverbirch Pastoral Lease	Allow	Accept

Discussion:

The freeholding of land capable of economic use is a matter for the Commissioner to consider pursuant to Sections 24 (a) (ii) and 24 (c) (ii) Crown Pastoral Land Act. Therefore this point is allowed. This point is accepted but does not require a decision by the Commissioner’s delegate to amend the proposal.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Decision</i>	
2	Ngai Tahu support the protective mechanism proposed	Allow	Accept

Discussion:

The protection of significant inherent values by protective mechanism is a matter for the Commissioner to consider pursuant to Section 24 (b) (i) CPL Act. Therefore this point is allowed. This point is accepted but does not require a decision by the Commissioner's delegate to amend the proposal.

5. *Discussion and conclusions:*

There have been no issues raised as a result of the iwi submission on the Silverbirch Preliminary Proposal. Ngai Tahu has indicated their support for both the proposed freehold and the proposed covenant to protect the significant inherent values.

As a result, the final analysis has concluded that there is no further consideration necessary in relation to this part of the tenure review process.