

Crown Pastoral Land Tenure Review

Lease name : West Wanaka

Lease number : Po 203

Report on public submissions

This document includes information on the public submissions received in response to an advertisement for submissions on the tenure review preliminary proposal. The analysis determines if an issue is accepted or not accepted as meeting the objectives of part 2 of the Crown Pastoral Land Act (CPLA) 1998, and if further consideration and consultation should be allowed or disallowed, as per Section 45 CPLA 1998.

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

January 02

ANALYSIS OF SUBMISSIONS

WEST WANAKA TENURE REVIEW

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1. Details of lease:

Lease Name: West Wanaka
Location: Wanaka
Lessee: Grant Clifford Cochrane and Janet Lesley Cochrane

2. Public notice of preliminary proposal:

Date, publication and location advertised:

Saturday – 13 April 2002:

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

A copy of the notice is attached as Appendix I.

Closing date for submissions:

11 June 2002

3. Details of submissions received:

A total of 11 submissions were received. Four submissions were received outside the closing date. A list of submitters is attached as Appendix 3 that references the submitters to the points raised in their submissions.

4. Analysis of submissions:

4.1 Introduction:

Explanation of Analysis:

Each of the submissions received has been reviewed in order to identify the issue raised and each issue has been given a number. Points around a similar issue have been given a sub-reference. Where submitters have made similar points, these have been given the same number.

The following analysis summarises each of the points raised along with the recorded number (shown in Appendix 3) of the submitter(s) making the point. Discussion of the point and whether or not the point is accepted/not accepted or allowed/disallowed follows.

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The following approach has been adopted when making recommendations:

(i) *To accept/not accept:*

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

(ii) *To allow/disallow:*

Where the decision has been made to accept, a further decision has been made as to whether the point made should be “allowed” or “disallowed”. The decision has been made to “**allow**” if the point raises new information and should be considered further. Where the matter has previously been decided by the Commissioner and there is no justification for further consideration then the decision is to “**disallow**”. Further justification for the decision has been made in the discussion paragraph following the summary for each point.

4.2 *Analysis:*

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
1	The small area of proposed freehold west of area 3.1.8 should be included in proposed wildlife management area.	1,2,4	Accept	Allow to enable further consultation

Discussion:

As the submissions deal with a decision concerning designations under Section 35 CPL Act the point is accepted. No new information has been provided in the submissions. The matter has previously been considered by the Commissioner. The three submitters who raised this point felt strongly that there was justification to re-visit this aspect of the review. The submitters reinforced the significance of the inherent values. Due to the concerns expressed for this particular aspect of the designation the matter shall be considered further by the Commissioner after further consultation. Therefore the point is allowed for the purpose of further consultation.

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<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
2	<p>Various areas proposed as freehold subject to conservation covenants should be retained in full Crown ownership and control as conservation area, particularly Area "c".</p> <ul style="list-style-type: none"> - Most of these areas contain very significant inherent values. - Area "c" has important conservation values and should be retained in Crown ownership. - All except areas "e and f" should be retained in Crown ownership. 	1,2,4,6,7,9	Accept	Allow to enable further consultation.

Discussion:

The submissions deal with matters related to the designation of land in terms of Section 35 CPL Act that is relevant matter to be considered under the CPL Act. The point is therefore accepted. No new information has been provided in the submissions. The matter has previously been considered by the Commissioner, however, the number of submissions on this point reveals a significant body of opinion that expresses concern for this aspect of the designations. In light of the weight of concern the matter is allowed for further consultation.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
3	The two areas comprising covenant "a" should be combined to form a single slightly larger area.	1,2,4,9	Accept	Allow.

Discussion:

This point relates to the protection of significant inherent values that is a relevant matter under Section 24 (b) CPL Act and is accepted. The submissions raise a reasonable concern about the scale of protected areas in relation to the boundary effects of surrounding land use. They submit that combining the two closely located areas to form one covenant area would better protect the inherent values identified. The significant inherent values identified arise from the beech forest remnants present within two gullies. The point raised in the submissions is not a matter the Commissioner has specifically considered previously. The concerns raised justify the point being allowed so that further consultation can be undertaken.

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<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
4	Proposed covenant areas will require fencing to protect them from encroachment from grazing.	1,2,9	Not Accept	

Discussion:

The point relates to fencing in the context of the protection of significant inherent values. Although the protection of significant inherent values is a relevant matter in terms of Section 24 (b) CPL Act, the Commissioner discharges his responsibility in terms of this section of the act by designating the land. Fencing is not a statutory obligation of the Commissioner and is not a relevant consideration under the Act. The point is therefore not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
5	Native shrublands south of Colquhouns Flat deserve protection by conservation covenant.	1,4	Accept	Allow to enable further consultation.

Discussion:

The point relates to protection of significant inherent values which is a relevant matter in terms of Section 24 (b) CPL Act. The point is therefore accepted. The submissions introduce new information. This area has not been specifically identified in reports by the DGC delegate. In light of the new information, it is a matter that warrants further consideration following consultation to establish the veracity of the point raised. Accordingly, the point is allowed so that further consultation can be undertaken.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
6	Object to the designations on the grounds that the Crown should pursue purchase of the whole lease. - Or at least retain in full Crown ownership and control from Area 3.1.7.	2	Accept	Disallow

Discussion:

The points relate to designating land under Section 35 that is relevant in terms of Section 24 (b) CPL Act relating to the protection of significant inherent values and is therefore accepted. The Commissioner has previously identified significant areas within the reviewable land that are capable of economic use where no significant inherent values have been identified as being present. The retention of the entire lease in Crown ownership and control is not therefore an option that meets the objects of the CPL Act.

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The Commissioner has also identified areas north of area 3.1.7 that are capable of economic use that have not been identified as containing significant inherent values. The points raised in the submission would clearly not meet the objects of the CPL Act and therefore do not justify further consideration by the Commissioner. The points are therefore disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
7	Area 3.1.11 should be combined with area "h" and retained in full Crown ownership and control. - Areas 3.1.12 and 3.1.13 should be combined for better reserve design.	2, 6	Accept	Allow to enable further consultation.

Discussion:

The point concerns the protection of significant inherent values which is a relevant matter in terms of Section 24 (b) of the Act and is therefore accepted. The point raises issues concerning scale and reserve design. The narrow strip of proposed freehold separating the proposed conservation areas/covenant has not been identified as containing significant inherent values. The long term boundary effect of unfenced freehold on the significant inherent values within the adjacent proposed conservation areas has not been specifically considered previously by the Commissioner in any detail. There has been sufficient concern expressed about this issue to justify the Commissioner considering this matter. Accordingly the point is allowed for further consultation.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
8	Public access easement E-O-F should be extended to include a branch to point trig height 525 south of Colquhouns Flat.	3	Accept	Allow

Discussion:

The point concerns public access which is a relevant matter under Section 24 (c) (i) CPL Act and is therefore accepted. The Commissioner has not previously considered this route and the submission introduces new information. The point justifies consideration and is therefore allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
9	Additional public access is required to existing conservation area from the Matukituki River.	4, 6, 7, 10	Not accept	

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Discussion:

The point concerns public access to the existing West Wanaka Conservation Area. The West Wanaka Conservation Area is not reviewable land the point is not a relevant matter under Section 24 (c) (i) CPL Act. The point therefore is not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
10	Express general support for the main thrust of the proposal.	5, 7	Accept	Disallow

Discussion:

Support is noted. As the submissions deal with a decision made under the CPL Act the point is accepted. The submissions with respect to this point do not require a further decision by the Commissioner. The point is therefore disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
11	Propose that all parts of the proposed freehold above an altitude of 400 metres be protected by way of a landscape covenant.	5, 6, 7, 9	Accept	Allow to enable further consultation.

Discussion:

Landscape can be considered a significant inherent value and its protection is therefore a relevant matter for consideration in terms of Section 24 (b) CPL Act. The point is therefore accepted. The matter of landscape protection on proposed freehold is a matter that has been previously considered by the Commissioner. The weight of submissions however justifies further consideration being given to this point by the Commissioner. The point is allowed so that further consultation can be undertaken.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
12	Easement "A - O" should be amended to include public foot, non-motorised vehicle and motorised vehicle access. - A new public access route should be established up the true left of the Matukituki River. - Need to provide secure public access along the true left bank of the Matukituki River.	5, 6, 7, 10	Accept	Allow to enable further consultation.

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Discussion:

The point relates to public access which is a relevant matter in terms of Section 24 (c) (i) CPL Act and is therefore accepted. The submissions assert that public access up the true left bank of the Matukituki River to proposed conservation areas is particularly important due to public safety issues caused by crossing the Matukituki River. Although previously considered, public access routes up this side of the river have not formed a part of any previous proposal. The existing track is suitable for 4WD vehicles only and is not considered suitable for general public vehicle use. The track dissects the main pastoral farming operation. Previous consideration concluded that public access in this situation would result in undesirable conflict between the public and the economic use of the proposed freehold. However, new information has been provided on alternative routes from the West Wanaka Road for public foot access up the true left of the Matukituki River. As this information has not previously been considered the point is allowed for further consultation.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
13	Propose an additional public access easement over Station Creek/Soft Creek Saddle extending to lookout hill.	5, 10	Accept	Allow

Decision:

The point concerns public access which is a relevant matter in terms of Section 24 (c) (i) CPL Act and is accepted. The Commissioner has not previously considered access on these routes. The submissions introduce new information. The point is therefore allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
14	Covenant Area "c" should be retained in Crown ownership and control to provide an additional access route to the conservation area.	6, 7	Not accept	

Discussion:

The point concerns public access to the existing West Wanaka Conservation Area. As the West Wanaka Conservation Area is not reviewable land the point is not a relevant matter under Section 24 (c) (i) CPL Act. The point therefore is not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
15	Part Section 1 Block 18 Lower Wanaka Survey District designated to remain conservation area should be set aside as road and vested in QLDC.	8	Not accept	

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Discussion:

Public roads are not a relevant matter for consideration under the CPL Act. The point therefore is not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
16	Proposed Covenant Area "b" and Conservation Area 3.1.8 should be linked as one conservation area.	9	Accept	Allow

Discussion:

The point relates to designations of the reviewable land which is a relevant matter for consideration under Section 35 CPL Act. The point is therefore accepted. Since the designation of area "b" is to be reconsidered by allowing Point 2, it would be appropriate to reconsider the designation of the small area of land between area 3.1.8 and area "b". While area "b" is a silver beech forest remnant and area 3.1.8. is for the protection of *Olearia hectorii*, the submitter has introduced the concept that the intervening land may hold significant inherent values as a linkage and for the survival of *Olearia hectorii*. The point is therefore allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
17	The entire Lake Wanaka foreshore between proposed Covenant Area "f" and Area 3.1.11 should be retained as conservation area to protect the landscape and provide for reversion to native shrubland/forest.	9	Accept	Disallow

Discussion:

The point relates to the protection of significant inherent values which is a relevant matter for consideration under the Section 24 (b) CPL Act and is therefore accepted. The Commissioner's decisions concerning the designation of land under Section 35 can only be made in accordance with the objects of Part 2 of the Act. Advice received by the Commissioner from the DGC delegate did not identify any values that could be considered significant inherent values along this portion of the reviewable land. Note is also made that the immediate lake margin 20 metres from the foreshore is contained within a Section 24 Conservation Act marginal strip which is not reviewable land. The Act does not provide for the protection of potential for significant inherent values to occur in the future. No new information is provided in the submissions on significant inherent values in this area. As the Commissioner has previously considered this matter after consultation with the DGC delegate, there is no justification for further consideration by the Commissioner. The point is therefore disallowed.

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<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
18	Proposed Conservation Area 3.1.11 should be fenced to prevent stock reaching lake margin.	9	Not Accept	

Discussion:

The point relates to fencing in the context of the protection of significant inherent values. Although the protection of significant inherent values is a relevant matter in terms of Section 24 (b) CPL Act, the Commissioner discharges his responsibility in terms of this section of the act by designating the land. Fencing is not a statutory obligation of the Commissioner and is not a relevant consideration under the Act. The point is therefore not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
19	Cattle should be excluded from proposed Covenant Area "g" to achieve objects of the CPL Act.	9	Accept	Allow

Discussion:

The point concerns the protection of significant inherent values which is a relevant matter for consideration under Section 24 (b) CPL Act and is therefore accepted. The Commissioner received advice that the significant inherent values present with this area comprised "natural and undeveloped wetlands containing numerous ponds". These provide important habitat for wildlife. The Commissioner has not previously specifically considered the issue of the effect of cattle grazing in the context of whether the covenant adequately protects the significant inherent values identified. The point is therefore allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
20	Extension to access easement K-L required to provide practical access to conservation area via Daniel Spur.	10	Not accept	

Discussion:

West Wanaka Conservation area is not reviewable land. The provision of public access to land not included in the review is not a relevant consideration under the CPL Act. The point therefore cannot be accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
21	Public access should be provided to Lookout Hill from access easement R-F to join with proposed easement across Soft Burn Saddle.	10	Accept	Allow

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Discussion:

The point concerns public access that is a relevant matter under Section 24 (c) (i) CPL Act and is therefore accepted. This access route has not been considered previously by the Commissioner. The submission provides new information and justifies the Commissioner's consideration. The point is therefore allowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
22	Object to certain technical legal aspects of the easement. - Should include express requirement for changes to terms of easement. - Easements cannot be legally closed as they are not conservation areas (<i>Section 13 Conservation Act</i>). - Closure of easements I-J and G-H under Section 12 Reserves Act is ultra vires.	10	Accept	Disallow

Discussion:

As the easements relate to public access which is a relevant matters under Section 24 (c) (i) CPL Act, the point is accepted. The Commissioner has previously determined that it is not appropriate that he consider generic technical aspects of documents when considering individual tenure reviews. Accordingly the point is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
23	Two gate system should be applied for horse access through deer paddocks.	10	Not Accept	

Discussion:

The specific issue of a "two gate" system is a DoC management issue that is not relevant to the CPL Act. The point is therefore not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
24	Easement document I-J and G-H Clause 10 should be amended to state that "unlocked gates are not an impediment".	10	Accept	Disallow

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Discussion:

The point relates to public access that is a relevant matter in relation to Section 24 (i) CPL Act and is therefore accepted. The Commissioner has previously considered the issue of appropriate access to areas 3.1.6 and 3.1.7 after consultation with the DGC delegate. The easement that is proposed provides for public foot access only. The Commissioner has determined that gates, locked or unlocked, do not constitute an impediment in terms of the intended purpose of the easement. No new information has been provided by the submission. There is no justification for further consideration by the Commissioner of this issue. The matter is therefore disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
25	Support the exclusion of tenants and licensees of DoC from the definition of transferee in Easement L-K.	10	Accept	Disallow

Discussion:

The point is in relation to public access that is a relevant consideration in terms of Section 24 (c) (i) CPL Act and is therefore accepted. The point does not require a further decision by the Commissioner and accordingly is disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
26	Object to Clause 12.4 in Easement D-E providing a discretion by the transferee to allow gates to be locked.	10	Not Accept	

Discussion:

Clause 12.4 states "The transferor must install gates no less than 3.6 metres in width and keep the gates unlocked at all times unless agreed with the Transferee". The clause deals with a management discretion of the Minister of Conservation and is not a relevant consideration of the Commissioner when making decisions under the CPL Act. The point is therefore not accepted.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
27	Concern expressed that not all qualifying streams have marginal strips.	10	Not accept	

Discussion:

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

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<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>
28	The issue of burning should be addressed in the covenant documents	6	Accept

Discussion:

The submission is relevant in terms of section 24 (b) of the CPL Act and is therefore accepted. Clause 3.1.5 in the draft conservation covenant documents prohibits burning of vegetation without the consent of the Minister. The submission is therefore not correct and is therefore disallowed.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No</i>	<i>Decision</i>	
29	Provision should be made for practical public foot access beyond the foot of Round Hill Spur, possibly utilising the existing vehicle track.	10	Accept	Allow

Discussion:

The point is relevant in terms of Section 24 (c)(i) CPL Act and is therefore accepted. The point raises a valid concern regarding the practical use of the marginal strip as an access route along the true left of the Matukituki River in periods of floods. The point is therefore allowed.

(5) Discussion and conclusions:

A total of 11 submissions were received. A letter was received from Federated Mountain Clubs expressing concern at the number of discrepancies in the information provided to submitters in the actual areas of land proposed for either full Crown ownership and control or for conservation covenants. The public notice printed in local newspapers was correct. There were however, some discrepancies in areas shown under the description of proposed covenants and conservation areas in the information provided to submitters. The submitters were provided with corrected copies of the information and asked to advise the contractor if they intended resubmitting as a result of these corrections. No response was received to this request.

The proposal to protect a significant area within the reviewable land under conservation covenant rather than by retention in Crown ownership attracted particular attention in the submissions. There was also concern expressed about the perceived lack of public access from the Matukituki Valley to the West Wanaka Conservation Area. As access to the existing conservation area is not a relevant matter under the CPL Act this matter could not be considered.