



Crown Pastoral Land Tenure Review

Lease name : Ben Avon

Lease number : Po 251

Public submissions

These submissions were received as a result of the public advertising of the preliminary proposal for tenure review.

March 03

BEN AVON PASTORAL LEASE

Draft Tenure Review Comments

May 2002



To Ken Taylor
Alexandra

Dear Ken,

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Thank you for the opportunity to comment on this draft proposal.

General comment and concerns

While there are some significant areas being retained by the crown for conservation purposes, I have several concerns with this draft proposal as follows.

1. Very steep eastern slopes above the Ahuriri River (850-1400m) have significant conservation values in terms of native flora and fauna. Despite the recommendation of the Department of Conservation, on botanical grounds, these important areas are to be disposed of. These slopes contain significant beech forest and diverse shrubland communities that complement the alpine grasslands above. Rock faces are important here too as they support an array of lower plants and herbs that do not grow elsewhere. Additionally and importantly these areas of native vegetation are regenerating following decades of modification. Shrubland communities of the type represented here are nationally New Zealand's most diverse and important community for native invertebrates. The linkage with alpine grasslands and close proximity with low altitude areas such as kettleholes and wetlands makes them all the more important.
2. The Department of Conservation resources report does not cover invertebrates and is therefore fundamentally flawed. This is a serious omission and weakens the conservation case. It is surprising that given the importance of the Tenure Review Process that the Department does not fulfill its mandate and survey and assess the most abundant and speciose part of our biota. The potential for fine scale selection of areas of significance and resolution of possible conflicts is completely lost in this case.
3. I am pleased to see a significant area of wetland protected but disturbed to see that adjacent wetland of significance surrounding it and riparian areas are proposed to be freeholded. It is crucial that more of the wetlands and the balance of the kettlehole landform and vegetation are retained by the Crown in their entirety. Also that further riparian areas as indicated by the Department of Conservation are retained by the crown to protect the high conservation values present. Additionally these wetland areas together provide a robust area with its own internal buffering that will allow the core areas to be sustainable over time. These kettleholes are of National Importance as proposed by a number of reports

available, including a popular book by Neville Peat and me (Wild Rivers, 2001 p64...).

4. I am surprised and alarmed to see that the sustainability of the Ben Avon farming enterprise is seriously considered in the Draft Proposal (see Page 5; Section 3.3 – discussion on "valuable summer country as part of an overall pastoral enterprise"). This is well outside the terms of reference of The Commissioner of Crown Lands. My understanding is that the Crown retains land with significant conservation value as judged by the experts and supported or otherwise by submissions. This sort of discussion is out of place and shows a lack of understanding of the process and outcomes. Please clarify. The discussion following shows a bias in my opinion and seeks to justify a predetermined position. I want to know why high altitude native grasslands are freeholded at all? Especially when, as the draft report states that they do contain "limited areas with significant inherent value".
5. I do not support the proposed Conservation Covenants. These areas should quite clearly be retained fully by the crown based on the Department of Conservation resources report (although I note the Kettlehole area is proposed as a CC by the Department of Conservation report). There is no fundamental reason why some developed grassland areas should not be retained by the crown if they are both small and provide vital linkage between significant landforms/vegetation/invertebrate key sites. CCs are possibly not sustainable long-term and management of them is problematic as they are a low priority for a cash-strapped Department of Conservation. If the values are there, why not restore to Crown Ownership?

Actions I propose to improve the Conservation outcomes

- Enlarge the large area to be retained by the Crown by including the steep eastern slopes, thereby subsuming one of the proposed CC completely.
- Ensure all Tenure Review reports make a serious attempt at assessing the native invertebrate values of these large Pastoral Leases
- Retain significantly more of the riparian and wetland areas of the Ahuriri River adjacent to the existing protected wetland area. These wetlands are nationally significant.
- Retain in Crown Ownership the Nationally significant Kettleholes to the southeast of the property. These are much more appropriately protected in Crown ownership. Additionally enlarge the area to the full 100 ha.
- Do not include statements or arguments about the viability of the farmland left following Tenure Review. This is irrelevant to the process, but a worrying insight into the thinking of the authors of these reports. Please assure me I'm wrong!

Please give me feedback on the outcome of this and other submissions. Actually, I would like to see public meetings where the draft case and submissions are discussed openly to ensure that a fair and reasonable outcome is achieved. The process is too important to risk failure to protect all crown land with significant conservation values.

Yours faithfully

Commissioner of Crown Lands,
C/o Knight Frank (NZ) Ltd,
Land Resources Division,
Box 27 ALEXANDRA.

KNIGHT FRANK
ALEXANDRA
28 MAR 2002
RECEIVED

Dear Sir,

Tenure Review of ^ABox Avon Run.

Public Access 12.0 p7.

Disturbingly, the owner is entitled to deny, limit, or charge for access in certain circumstances. Since this is not just private land access but access to public lands it is not an acceptable provision. I am happy to accept published statements that the present runholder is tramper-friendly, and that access is seldom if ever denied. Nevertheless I stand by my position which is that denial of access to public lands for the purposes of management of these lands, and for no other purpose.

Yours sincerely,

[Redacted signature block]

23/3/02.



Department of Botany

Division of Sciences
PO Box 56, Dunedin
NEW ZEALAND

Released under the Official
Information Act

University of Otago
Te Whare Wananga o Otago

Tel: National 03 479 7573 International 64 3 479 7573
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Email: amark@otago.ac.nz

Manager,
Knight Frank (N) Ltd.,
PO Box 27,
Alexandra.



April 15, 2002.

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

SUBMISSION ON PROPOSED TENURE REVIEW OF BEN AVON PASTORAL LEASE

Dear Sir,

Thank you for sending me a copy of this document and I appreciate the opportunity to comment on it, based on my knowledge of the area involved (limited on the upper slopes but good on the lower slopes and valley floor), gained over many years of ecological and botanical research on the tussock grasslands and associated mountain lands, particularly of the South Island high country.

Ben Avon Pastoral Lease is obviously complex ecologically and topographically, but also contains areas of very high conservation value and biological diversity. I believe the overall rationalisation between areas with high conservation values and areas with productive values has been very reasonable, this being a relatively rare example of a run where a greater area has been proposed for allocation to full Crown control and management (4804 ha) than for freeholding (3496 ha). There is concern, however, with the high proportion of land with significant conservation values which is proposed for covenanting (and thus require monitoring by the DoC) rather than being transferred to full Crown ownership. Short-term grazing licenses may be a preferable alternative for some of these areas.

Areas A and B (4729 ha), proposed for transfer to full Crown ownership and management, both have high conservation and landscape values and, although physically separated, there is a proposed easement with adequate conditions, connecting them. On the larger of these two areas, however, the Puke Mahariri block, the proposed lower boundary would allow grazing to continue to an elevation of 1200 m, on areas of diverse indigenous shrublands with high conservation values. This boundary should be lowered to about 1000 m.

The four areas shown as Area C, being 75 ha of Ben Avon Wetlands, to be restored to full Crown ownership as Scenic Reserve, are also accepted, and commended. It is unclear from the map, however, what is to be the fate of the small lagoon (?Ben Avon Lagoon; about 15 ha) in the right angle and adjacent to the road, as well as a similar sized adjacent area of wetland, which appear to be unallocated. It is assumed that this is either a conservation area already or is to become conservation land, like the area that adjoins it to the northwest. Either way, the present partial fencing should be completed alongside the road to prevent the continued access to stock and associated impacts.

The standard (20 m) marginal strip alongside the Ahuriri River is inadequate to protect the riparian and important wetland values in this area, including some oxbows and also to provide for adequate public access to both these areas and alst to the river. Such access here is presently unsatisfactory and tenure review provides an important opportunity to correct this situation. A riparian strip of 50 – 100 m width can be justified alongside this unbraided section of the Ahuriri River and is thus recommended.

Another unsatisfactory aspect of the proposal is freeholding of the narrow strip of land located between the road and the Ahuriri River (and associated wetlands), north of the 15 ha Ben Avon Lagoon on the right angle turn in the road, as far as the property boundary. The special conservation and landscape values of the Ahuriri River, being the only relatively large river in the Mackenzie basin that has not been developed for hydro-electric generation, and with a conservation order in recognition of these features, deserves special attention in such a tenure review exercise.

As for the two proposed Conservation Covenants, the conditions of the covenant on Area 1, on the Puke Makariri faces, of about 200 ha., would allow progressive removal of indigenous plant cover through oversowing, topdressing and also chemical spraying. If this covenant is to protect landscape values, as stated, then tighter controls, with prohibition of chemical spraying, would be required and is thus recommended. It is stated that the bottom and two lateral boundaries are either fenced or to be fenced and it is assumed that the "restricted grazing" "with cattle at any time" would involve "utilisation only during winter when snow and climatic conditions will prevent stock drift on to the adjoining conservation land." No monitoring has been proposed for this covenant area but presumably should be included. This, however, would be an additional cost for the DoC that would be hard to justify since there would be no cost recovery possible. In the circumstances it is recommended that this Area 1 be transferred to full Crown ownership with a grazing licence issued for up to five years, to allow adjustment to stock management. If the covenant proposal is retained the conditions should be modified to limit chemical spraying to individual patches and to retain the overall indigenous shrub and tussock cover.

With covenant Area 2, the area of about 75 ha seems to be minimal to protect what is stated to be prime kettle holes on this site. This may have been decided so as to use the existing fences as the boundary but it seems marginal for the purposes. While the impact of sheep grazing is to be "closely monitored." I assume that results of this monitoring could affect the continued grazing of this area, although there seems to be nothing to this effect in the relevant deed of covenant (Appendix 4). Such should be added. Cattle droving through this area should not be allowed and the proposed use of "topdressing, seed sowing and/or chemical spraying" (that are permitted other than on a 20 m wide margin around the kettleholes, should not be allowed anywhere in the covenanted area (except for spot spraying of exotic weeds), because of their likely impact on the biological integrity of this prime conservation area. Indeed, it would be preferable if this area, somewhat enlarged, was transferred to full Crown ownership and management, in deference to its very high intrinsic values and its vulnerability to continued pastoral use, as outlined in this proposal.

I trust that my recommendations will be seriously considered and, again, I thank you for the opportunity to comment on this proposed tenure review.

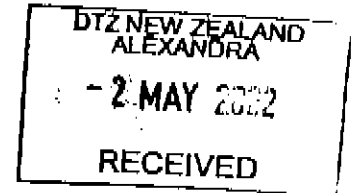
Yours sincerely,



Alan F Mark FRSNZ: DCNZM.
Emeritus Professor

28 April 2002

Knight Frank
41-43 Tarbert Street
Alexandra



Ref: Po251/1Ben Avon Tenure Review

Dear Sir

Thank you for letting the club have the opportunity to comment on the above proposal.

We have studied the proposal and are in favour of the proposal.

Yours sincerely,



Hans Arnestedt
Secretary

Dunstan 4WD Club,
C/o 32 Chutha St,
Alexandra.

08 May 2002.

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

The Commissioner of Crown Lands,
C/o DTZ New Zealand,
Land Resources Division,
PO Box 27,
Alexandra.

Dear Sir,

Subject: Crown Pastoral Land Act, Ben Avon Tenure Review, Preliminary Proposal.

We wish to see access provided for all New Zealanders, by foot and all modes of transport, both onto and through all high country areas reverting to Crown Land under the Tenure Review process.

To achieve this it is extremely important that suitable access for public 4WD vehicles be provided from public roads through areas of lands being Freeholded to all large areas of Crown Land. This is even more important where contiguous areas are to be the subject of Tenure Review at differing times and hence the most appropriate on / off routes at opposite ends of the greater area of Crown Land cannot be considered in relation to a single Pastoral Review Proposal.

The Dunstan 4WD Club has a current membership of approximately 60 and is itself a member of the international "Tread Lightly" organisation. It organises for its members, some 20 - 4WD trips per year. These vary in difficulty and length from a half to three days with the majority of trips being located in Central Otago. Its trips are currently repeated every 1 to 4 years.

The club reviews the following in scheduling and setting its quarterly Trip Calendars:

1. Is it within handy reach of its predominantly Queenstown-Alexandra membership?
2. What is the number of properties to be crossed en-route?
3. Is the route generally along an existing track?
4. What is the track difficulty rating?
5. Are there a variety of landform, vegetation, and riverscape for enjoyment and photostops?
6. Has it historical exploration, access, mining or early settlement areas to view?
7. Are there suitable smoko and lunchstops?
8. Has it an ability to be linked to another nearby route to provide for an optional weekend trip?
9. What is a suitable frequency for a repeat trip?

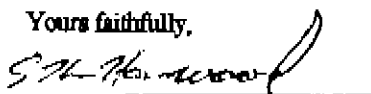
We the committee having read the "Proposal" consider that the objectives of "securing public access" and for "enjoyment of Crown Land" will be severely compromised by the present proposal and as a result are unable to support the proposal in full.

The Dunstan 4WD Club requests that changes to reflect the following, be incorporated into the easement documents to safeguard the interest of bona fide 4WD recreation groups and for those who wish to partake in organised events on occasions in order to try their vehicles and / or experience the normally inaccessible back country in a controlled and safe manner:

- a) that easement documentation be required to provide for summer access to recognised 4WD Clubs affiliated to "Tread Lightly" and Community organisations running non profit fund raising events across the Freehold on all alignments scheduling access for DoC 4WD vehicles.
- b) that permission for access be by a permit system administered by DoC (it is suggested that a maximum of 5 permits per year be granted)
- c) that such permission be required to be approved by the Freehold landowner whose permission for free access should not be be unreasonable withheld but subject to normal high country and grazing considerations being respected, eg - track and weather conditions, lambing, gates, fires, rubbish removal.

The club wishes to be notified of any other access or 4WD type submissions to the Proposal and the dates of any hearings. We thank you for the opportunity to comment on the proposal.

Yours faithfully,



Garry Harwood,
President.

Longslip Station Limited
142 Glenstrae Road
Redcliffs
CHRISTCHURCH 8008

email Longslip@xtra.co.nz
Phone 03 3846002
Fax 03 3846009
Cell Phone 025 794297

08/05/02

The Commissioner of Crown Lands
C/- Ken Taylor
Knight Frank
Alexandra



Dear David

**Subject: Submission on "Crown Pastoral Land Act 1998
Ben Avon tenure review: Notice of preliminary proposal.**

Longslip Station Limited has a 16 km plus boundary with Ben Avon station. Longslip Station Limited supports the Ben Avon tenure review as advertised with two exceptions. I have been of the firm understanding that each proposal for tenure review has to stand on its own merits in regard to providing public access under the objects of section 24 of the Crown Pastoral Land Act 1998. However the objects of section 24 of the Crown Pastoral Land Act 1998, in relation to the Ben Avon tenure review, will be enhanced by the tenure review proposed for Longslip. In recognition of the fact that the public access easements on Longslip Station Limited land, (which is also proposed to be freeholded under the tenure review process) will bear a lot of additional public access traffic. By virtue of the fact that a similar comprehensive network to the one proposed for the Longslip under tenure review, is conspicuous by its absence in the Ben Avon preliminary proposal as advertised. For example the simplest and easiest access to the points "c" and "d" on the map are potentially along either side of the pre tenure review freehold (or through the council road on the freehold). Rather than via the access easement on the proposed Longslip Station freehold, which will probably be the preferred route for the public's and DoC's management access. In other words there is no access easement to the conservation lands on Ben Avon (Area B) up the Avon Burn stream. It is only fair, equitable and reasonable that this access easement must be 50% on "Longslip land" and 50% on "Ben Avon land". If this access easement remains as proposed in the Ben Avon preliminary proposal as advertised (100% on Longslip Station land), then under the compensation proposal for the Longslip tenure review, the level of compensation for public access must be increased on a pro rata basis.

Longslip Station Limited submits that the legal boundary with Ben Avon must be altered at the time of issuing the "freehold title for Ben Avon" as follows: that the legal boundary follow the present fenced boundary line in the upper reaches of the Avon Burn stream as marked on the attached map - "Y - Z" in the colour orange. The balance to follow the legal boundary as defined on the attached map. In effect a small area of land currently held under the Ben Avon pastoral lease, which is proposed to be designated as land to be restored to full crown ownership and control as a conservation area, will become "Longslip" freehold land.

Longslip Station has cared for this piece of land for some 100 years, farming it in a diligent and husband like manner, constructed and maintained an access track along it (with consents from the Commissioner of Crown Lands) and has oversown and topdressed the area reducing its reversion to hieracium. Ironically it is this very length of track, which will provide public access for conservation land on what was previously part of the Ben Avon pastoral lease in the legal sense, but fenced into Longslip Station.

Under section 21 of the Crown Pastoral Land Act 1998, the Commissioner of Crown Lands has the power to change the boundaries between adjoining pastoral leases. Just as the lessee(s) has one opportunity to get it right under tenure review, so does the Commissioner of Crown Lands.

You will know only all too well from your files the great lengths that I went to as pastoral lessee of Longslip to ensure that I knew where the legal boundary was and that the actual fences were on this line. All this in order to avoid future complications!

I attach a copy of a letter from SM Williams Chief Surveyor dated 11/05/1984, which indicates that the advice I received was less than helpful. If I had received the correct advice from SM Williams Chief Surveyor in letters dated 11/05/1984 and 23/07/1985 (and 6th & 15th of August 1985). This situation would have been resolved when the survey of the new boundary fence north west of this point was undertaken (costing each property some \$1500). I also query as to why the crown surveyors failed to pick up the anomaly between the position of the fence and the legal boundary at this time when they were handed copies of the attached letters from SM Williams Chief Surveyor. They verbally agreed with these letters, and failed to make any further comment later.

The reality is that the area as marked on the attached map is very small in comparison to the substantial area between the boundary fence and the legal boundary. Longslip has not been able to graze or benefit from this area of land in other ways, but has paid pastoral lease rent and local body rates on it for over 100 years.

In my view, ensuring that the objects of the "Crown Pastoral Land Act 1998" are going to be met in practice will require a lot of goodwill from the lessee, the Crown and DoC. So let's start off on the right foot, by ensuring that we have practical and workable legal boundaries on the ground.

Yours faithfully

Rod G Patterson MAgSc, MNZIPIM, CPAg
Director

Encs.

DEPARTMENT OF LANDS AND SURVEY

TELEGRAPHIC ADDRESS: 'LANDS'

FOR VERBAL INQUIRIES
PLEASE ASK FOR M R Brash

TELEPHONE No. 770 650



OUR REFERENCE: P 20

YOUR REFERENCE:

DISTRICT OFFICE,

P.O. BOX 896
DUNEDIN

11 May 1984

Mr R G Patterson
Longlip Station
Private Bag
OMARAMA

Dear Mr Patterson

Thank you for your letter of 6 May.


I regret that there is no modern boundary information available covering the land in your Pastoral Lease (Run 233, Longlip and Ahuriri Survey Districts).

Boundaries of your run, along with those adjoining were derived from topographical sketches of the area carried out over a century ago.

If you care to call at the office of the Chief Surveyor an attempt could be made to interpret the Run boundaries onto a modern topographical map.

Should all or part of your lease be reclassified as farm land at some future time, this Department would be responsible for carrying out any necessary survey.

Yours faithfully


W N Brash
for Chief Surveyor

DEPARTMENT OF LANDS AND SURVEY

TELEGRAPHIC ADDRESS: 'LANDS'

FOR VERBAL INQUIRIES
PLEASE ASK FOR Mr Williams

TELEPHONE No. 770 650



OUR REFERENCE: P 20

YOUR REFERENCE:

DISTRICT OFFICE,

P.O. BOX 896

DUNEDIN

13 March 1985

Mr R G Patterson
Longslip Station
Private Bag
OMARAMA

Dear Mr Patterson

SURVEY DEFINITION : LONGSLIP STATION

Our meeting at this Department on 7 March 1985 refers.

Further investigation has failed to locate any plan defining your southern boundary by survey. Because of the very approximate portrayal of this boundary on the original Run Plan, and the small differences you pointed out on NZMS 1 9116 Lindis, the position of the original fence on the ground should be accepted as the boundary between Longslip and Dalrachney Stations.

You mentioned that this fence was reported to be old and broken about 40 years ago, so it is good evidence of the boundary position.

This letter really confirms our discussion of last week. If you require any further information, please contact this office.

Yours faithfully

S M Williams
Chief Surveyor

DEPARTMENT OF LANDS AND SURVEY

TELEGRAPHIC ADDRESS: 'LANDS'

FOR VERBAL INQUIRIES
PLEASE ASK FOR M F Brash

TELEPHONE No. 770 650



OUR REFERENCE: P 20

YOUR REFERENCE:

DISTRICT OFFICE,

P.O. BOX 896

DUNEDIN

23 July 1985

Mr R G Patterson
 Longslip Station
 Private Bag
 OMARAMA

Dear Mr Patterson

Thank you for your letter of 15 July.

To answer your second query first, the Avon Burn is the boundary of your run.

However, because there are no road reserves or Crown land strips reserved from sale along the banks of the Avon Burn you do have rights to the middle of the stream between the permanent banks.

With regard to your first query the boundary north east from the Avon Burn to the Ahuriri River has only ever been illustrated on the early run rolls and has never been fixed by survey as we know it today.

The interpretation that I put on the position of this boundary is that it will follow the existing fence line, or the position of an earlier fence line, if the present one does not follow that earlier line.

I have studied the position of the fence from aerial photos and although it does not stand out clearly, you are correct in indicating that there is a slight bend in it. Our topographical map would seem to be slightly in error in showing the fence as straight from the Avon Burn to the Ahuriri River.

Note that the topographical map purports to show the physical boundary on the ground and not the legal boundary. There are many times of course when these boundaries coincide.

I cannot agree with your interpolation of the boundary shown by you as line 1. The bend in the Ahuriri River to which you have drawn line 1, is not the bend shown on the early print, or the copy of part of survey office plan 246 which I enclose. The original bend was almost

DEPARTMENT OF LANDS AND SURVEY

TELEGRAPHIC ADDRESS: 'LANDS'

FOR VERBAL INQUIRIES
PLEASE ASK FOR M I Brash

TELEPHONE No. 770 650



OUR REFERENCE: P 20

YOUR REFERENCE:

DISTRICT OFFICE,

P.O. BOX 896

DUNEDIN

6 August 1985

Mr R G Patterson
Longlip Station
Private Bag
OMARAMA

Dear Mr Patterson

Thank you for your letter of 26 July.

Although I have studied Field Books 752 and 763 I can find no reference to what you are describing. Could you give me a page reference to refer to. In Field Book 752 the page number is shown by a stamped number. In Field Book 763 the page number is hand written with a circle around it.

Yours faithfully

W N Brash
for Chief Surveyor

DEPARTMENT OF LANDS AND SURVEY

TELEGRAPHIC ADDRESS: 'LANDS'

FOR VERBAL INQUIRIES
PLEASE ASK FOR Mr Brash

TELEPHONE No. 770 650



OUR REFERENCE: P 20

YOUR REFERENCE:

DISTRICT OFFICE,

P.O. BOX 896

DUNEDIN

15 August 1985

Mr R G Patterson
Longslip Station
Private Bag
OMARAMA

Dear Mr Patterson

Thank you for your letter of 7 August.

When I replied to you on 6 August, I assumed from your letter of 26 July that you had sighted the specific pages in the field books which showed your boundaries running off towards the Avon Burn from the Ahuriri River.

If you have not seen anything in your search through the field books, then I can only go back to my letter to you of 23 July and quote paragraph five "The interpretation that I put on the position of this boundary is that it will follow the existing fence line, or the position of an earlier fence line (if its position can be identified), if the present one does not follow that earlier^{line}."

In the absence of any survey fixes, this can be the only interpretation of the position of your boundary.

Your map is returned.

Yours faithfully

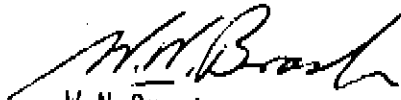
 A handwritten signature in dark ink, appearing to read 'W N Brash'.

W N Brash
for Chief Surveyor

half a mile south of that shown on the topographical map. You can perhaps get some idea from the print of the Record Map G 39B which I also enclose on which I have shown in pencil the approximate position of the 1916 bank.

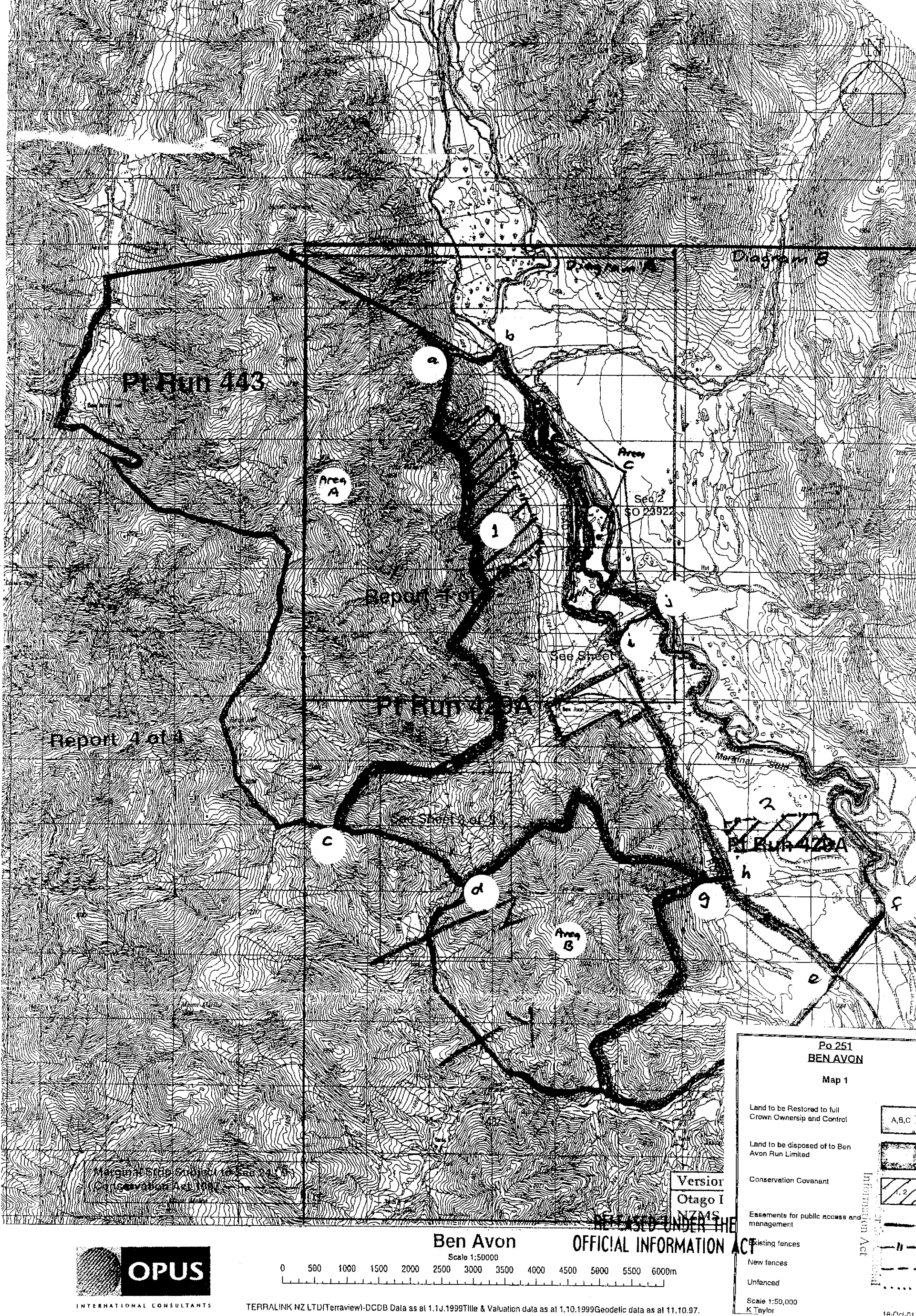
The maps and prints enclosed with your letter are returned.

Yours faithfully



W N Brash
for Chief Surveyor

encs



Report 4 of 4

Pt Run 443

Report 10

Pt Run 420A

Pt Run 420A

Po 251
BEN AVON
 Map 1

Land to be Restored to full Crown Ownership and Control	A,B,C
Land to be disposed of to Ben Avon Run Limited	[Stippled pattern]
Conservation Covenant	1,2
Easements for public access and management	[Dashed line]
Existing fences	[Solid line]
New fences	[Dashed line]
Unfenced	[Dotted line]

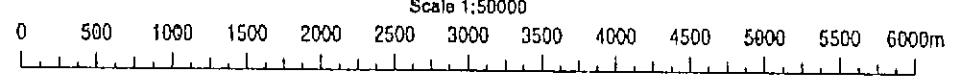
Version
 Otago I
 NZMS

Scale 1:50,000
 K Taylor

18-Oct-01

Ben Avon

Scale 1:50000



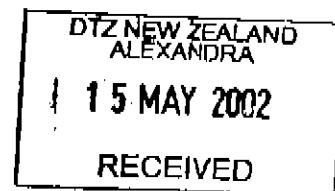
OFFICIAL INFORMATION ACT





FEDERATED MOUNTAIN CLUBS OF NEW ZEALAND (Inc.)
P.O. Box 1604, Wellington.

RELEASED UNDER THE
OFFICIAL INFORMATION ACT



13 May 2002

The Commissioner of Crown Lands,
C/- Knight Frank (N.Z.) Ltd.
Land Resources Division
PO Box 27
ALEXANDRA

Dear Sir

RE: Ben Avon Pastoral Lease: Preliminary Proposal for Tenure Review

I write on behalf of Federated Mountain Clubs of NZ Inc. (FMC), which represents some 13,000 members of tramping, mountaineering, climbing, and other outdoor recreation clubs throughout NZ. The FMC membership also comprises several hundred individual supporters and we indirectly represent the interests and concerns of many thousands of private individuals who enjoy recreation in the back country.

On their behalf, FMC advocates through the tenure review process for formalisation and enhancement of access and recreational opportunities, and protection of significant inherent values, on the high country lands that are presently under pastoral lease tenure.

FMC is grateful for the opportunity to comment on the preliminary proposal for tenure review of Ben Avon Pastoral Lease.

The Preliminary Proposal

- (1) 4729 ha of land to be restored to full Crown ownership and control as a conservation area.
- (2) 75 ha of land to be restored to full Crown ownership and control as scenic reserve.
- (3) 3496 ha of land to be disposed of by freehold disposal to the lessee, subject to the following protective mechanisms:
 - (i) An easement to provide for public access by foot, non-motorised vehicle or horse to the proposed conservation areas and to the Ahuriri River.
 - (ii) An easement to provide public access by foot, non-motorised bicycle, motorised vehicle or horse to the Ahuriri River
 - (iii) An easement for management purposes to the Ahuriri River and the proposed conservation areas
 - (iv) A conservation covenant over 2 areas: 71 ha of kettle holes between the Birchwood Road and the Ahuriri River; and 200 ha on the lower faces of Puke Makariri.

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OFFICIAL INFORMATION ACT

Crown Pastoral Land Act 1998

Part 2 of the Crown Pastoral Land Act 1998 (CPLA) created a specific process for tenure review of pastoral leases. Under Section 24 of the CPLA, these objects are:

- (a) To –
 - (i) Promote the management of reviewable land in a way that is ecologically sustainable;
 - (ii) Subject to subparagraph (i), enable reviewable land capable of economic use to be freed from the management constraints (direct and indirect) resulting from its tenure under reviewable instrument; and
- (b) To 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; and
- (c) Subject to paragraphs (a) and (b), to make easier –
 - (i) The securing of public access to and enjoyment of reviewable land; and
 - (ii) The freehold disposal of pastoral leasehold land.

FMC supports these objects. We note that the two objectives in (c) are subservient to the objectives in (a) and (b).

FMC Response to the preliminary proposal

FMC supports the general thrust of the preliminary proposal for tenure review of Ben Avon Pastoral Lease. The proposed changes will significantly enhance the availability of recreational opportunities in the area, and will result in greatly improved protection of substantial areas having significant inherent value.

There are, however, a number of deficiencies in the preliminary proposal and we believe it could be significantly improved, particularly in relation to the location of boundaries, fencing, and public access. We discuss these deficiencies and suggest remedies below.

Unfenced boundary in north branch of Birch Creek

Our first concern relates to the proposal for an unfenced boundary between the points marked H – I on Diagram B of the preliminary proposal. This proposed boundary crosses steep, south-facing gullied terrain immediately above forest remnants in the north tributary of Birch Creek. An unfenced boundary along this line will not prevent stock trespass into the neighbouring conservation land, including substantial beech forest remnants where the rare plant, *Pittosporum patulum* is found. A major reason for decline of this highly palatable small tree is recruitment failure caused by browse of juvenile plants by ungulates, including sheep and cattle¹. Protection of this rare plant could be significantly improved by a small shift in the location of the boundary, which would allow fencing to separate conservation land from freehold land. We suggest that this boundary run from point G on Diagram B to point 1210m on the main ridge, and then down across easier terrain to point I. This change would result in greater consistency with Section 24 (b) of the CPLA. An unfenced boundary allowing stock access into the conservation land at this point would not protect the significant inherent values present.

Protection of steeplands facing Ahuriri River

The proposal advocates that the areas below approximately 1200m on the steep mountains facing the Ahuriri River be disposed of by freeholding. These faces contain substantial areas of land classified under LUC Class VIIe and VIII, which have severe limitations for pastoral use, together with some areas where productive use is likely to be sustainable. Most of the gully catchments are actively eroding, while broad interfluves facing the Ahuriri River appear to be more stable. The preliminary proposal describes the significant inherent values present as "*shrubland remnants in the gullies and tussock grasslands on spurs*", but in fact the area also includes several stands of remnant beech forest. No fencing is proposed along much of the boundary between the proposed conservation land and freehold land. A covenant that would allow grazing at any time by cattle, and by sheep when an upper snow pack is present, is proposed as a way of protecting the significant inherent values present.

FMC does not believe that these proposals are consistent with the objectives of Section 24 of the CPLA. Section 24(a) promotes ecologically sustainable management but we find it difficult to see how grazing of highly erodible LUC Class VIIe and VIII lands can be ecologically sustainable. Neither do we believe that the significant inherent values comprised by the beech forest remnants will be protected if stock access is allowed. On the other hand, protection from grazing is likely to assist forest regeneration and expansion in the gullies, thus helping to protect downstream values from flooding events.

FMC requests that these values are protected by either

- (a) Placing the boundary between conservation and freehold land lower on the mountain slopes so that actively eroding gullies and forest remnants can be fenced off from stable faces, and protected as conservation land, or
- (b) Ensuring that a large representative area containing significant inherent values is protected from the alpine zone right down to where it meets the colluvial fans of the valley floor, by return to full Crown ownership and control. The obvious candidate for such a proposal is the 200 ha area marked as conservation covenant 1 on Diagram A.

Recreational access and inherent values on the Ahuriri Valley floor

FMC believes that the boundary of any valley floor land that is made freehold should be placed far enough back from the Ahuriri River so as to provide for public access along the river and allow stock-proof fencing. A standard 20m riparian strip is unlikely to provide for adequate public access, nor protect the substantial inherent and landscape values present along the river. Swampy areas, river cliffs and terrace scarps that are present in the riparian strip necessitate a wider zone to allow practical public access. These features also deserve better protection for their significant inherent and landscape values. In addition, it has been reported to FMC that cattle from Ben Avon Pastoral Lease regularly cross the Ahuriri River. We therefore request that:

- (a) The lower margin of any freeholded land is securely fenced to prevent stock trespass.
- (b) The fenced lower boundary is kept back at least 20m from the margins of wetlands, terrace scarps and river cliffs so as to ensure practical public access. Given the dynamic nature of braided rivers, any buffer zone should take a precautionary approach to allow for changes in the location of the river bank.
- (c) Above Birch Creek, the lower boundary of freehold land should be aligned along the existing boundary between "improved" pasture below Birchwood Road and the

"unimproved" areas containing lagoons, swamps and oxbows adjacent to the Ahuriri River. The large lagoon north of Birch Creek needs to be fenced off with adequate buffers on all sides.

Apart from access issues along the Ahuriri River described above, FMC is generally pleased with the access provisions provided for by the preliminary proposal. The easements shown as a - b, c - d, e - f and g - h will be sufficient to allow public access to the conservation areas and Ahuriri River. We have one small concern about the access labelled i - j. This appears to be located on the true right of Birch Creek on Map 1, but on Diagram A is placed on the true left, following an existing 4WD track. We request that this access be provided for as in Diagram A, on the existing 4WD track.

Kettle hole vegetation (Area 2)

FMC believes that the significant inherent values² of the kettle hole wetland area would be best managed by the Department of Conservation. If necessary, grazing by sheep could be allowed by a grazing concession from the Department. Under Section 24 of the CPLA, freehold disposal of land is subservient to protection of significant inherent values, implying that where there is a conflict, areas of significant inherent value should be protected by return to full Crown ownership and control, with economic activities being allowed by way of concessions from the Department. It is clear even from the brief description provided in the preliminary proposal that the kettle hole ecosystems in Area 2 are very significant in terms of their inherent value. Kettle hole vegetation tends to vary markedly between different kettle holes, reflecting different water level regimes². This variation must be taken into account when making decisions on protection of kettle hole ecosystems. We suggest that the boundary of Area 2 be extended northward to include the entire area of kettle holes and thus protect the entire diversity of vegetation that is present.

Should FMC's request for return of Area 2 to full Crown ownership and control be declined, we ask that the conservation covenant proposed for Area 2 be amended to better protect the values of the kettle hole ecosystem.

FMC has three concerns about the draft covenant. Firstly, we do not believe it covers a large enough area (see above). Secondly, the terms of the proposed covenant allow topdressing, seed sowing and chemical spraying, with the proviso that a 20m buffer is maintained around kettle holes. It also allows for the droving of cattle within the area. We believe these activities are quite inappropriate for this conservation covenant. It is difficult to see how the 20m buffer zone can be practically complied with in this area. Increases in fertility through topdressing are likely to have diffuse effects across the buffer zones even if compliance is possible. The likely result is competitive displacement of the indigenous species of interest by invading exotics that prefer higher fertility levels. There is some evidence of this process with respect to the invasive grass, browntop³. Our third concern is that droving of cattle through the area will almost certainly result in damage to the sensitive vegetation growing on the kettlehole margins.

FMC strongly opposes cattle droving, topdressing, seed sowing and chemical spraying in this area. Should the area be disposed of by freeholding, we request that sections 3.4.2 and 3.4.3 of the draft conservation covenant be amended as follows:

3.4.2 Grazing of sheep only on area 2.

3.4.3 Topdress or sow seed in Area 1. Chemical spraying may be carried out in restricted areas for the purpose of allowing stock access, while maintaining the overall area of tussock and shrublands.

Conclusion

The Ahuriri Valley has extremely high conservation, recreation and landscape value. Tenure review of Ben Avon Pastoral Lease provides a major opportunity to enhance recreational opportunities and protect significant inherent values in this area. The draft proposals for tenure review would result in major gains for conservation and recreation, but contain some deficiencies that we feel can be improved upon.

For these reasons we urge the Agent to work with lessee to seek an improved arrangement that would address the matters we have detailed above.

FMC thanks Knight Frank, acting on behalf of the Commissioner of Crown Lands, for this opportunity to comment on the Ben Avon preliminary proposal.

Yours sincerely,



P-P
Barbara Marshall, Secretary.

¹ Townsend, A.J. (1998). *Ptilosporum parvulum* draft recovery plan. Department of Conservation, Wellington.

² Johnson, P.N. (1983). Kettle vegetation, Ahuriri Valley - Botanical Report. Unpublished report, Botany Division, D.S.I.R., Dunedin.

³ Johnson, P.N. (1991). Ahuriri Valley Wetlands: Botanical Report. D.S.I.R. Land Resources, Dunedin.



OTAGO CONSERVATION BOARD

Our ref: OCB 34

13 May 2002

DTZ NEW ZEALAND
ALEXANDRA

15 MAY 2002

RECEIVED

Commissioner of Crown Lands
c/- DTZ New Zealand Ltd
Land Resources Division
PO Box 27
ALEXANDRA

Dear Sir

SUBMISSION ON TENURE REVIEW OF BEN AVON PASTORAL LEASE

Thank you for the opportunity to comment on the Notice of Preliminary Proposal for the tenure review of the Ben Avon Pastoral Lease.

The Otago Conservation Board supports the following aspects of the preliminary proposal:

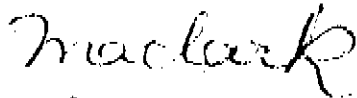
- the creation of conservation areas covering about 4729 ha in the western parts of the property;
- the creation of a scenic reserve to protect wetlands adjoining the Ahuriri River
- the creation of several easements for public access.

The board believes that the proposal should be changed as follows:

- the lower boundary of the proposed conservation area on the Puke Makariri block should be about 1000 m instead of 1200 m, in order to protect indigenous shrublands with high conservation values;
- the areas to be covenanted should be restored to Crown control as conservation areas, with the northern area of about 200 ha (or somewhat less if the above boundary change is implemented) being subject to a short-term grazing concession to allow some time for adjustments to stock management;
- the standard marginal strips adjoining the Ahuriri River should be widened to 50-100 m riparian strips, in order to better protect the significant riparian and wetland values which are present;
- the narrow strip of land to be freeholded between the road and the proposed scenic reserve should be added to the scenic reserve to reinforce the protection of the wetlands in the reserve and enhance the public access to them. Fencing along the roadside boundary would be needed to prevent ingress by stock.

We appreciate the opportunity to provide comment on this proposal and we are willing to elaborate on any of the issues we have raised.

Yours faithfully



P P

Les Cleveland
Chairperson

ROYAL FOREST AND BIRD PROTECTION SOCIETY OF NEW ZEALAND INC

UPPER CLUTHA BRANCH

PO BOX 38
LAKE HAWEA

12th May 2002

The Commissioner of Crown Lands
C/o Knight Frank
PO Box 27
ALEXANDRA



(Fax 03 773 9999)

Dear Sir

BEN AVON TENURE REVIEW - PRELIMINARY PROPOSAL

We thank you for sending us a copy of this proposal.

We would be pleased if you would accept this submission - we comment as follows:

- (1) To see from the Designation map (Appendix 1) that a larger area is to be returned to full Crown ownership and control, than that to be disposed of as freehold to the holder, is encouraging for conservation and recreation. However it appears to us that not all conservation values have been taken into consideration when drawing up the proposal.
- (2) The Ahuriri valley has significant natural landscape values. These could be lost by certain activities such as, forestry and undue earthworks. We believe there should be an overriding covenant in the proposal to protect these landscape values. (In this connection we note that the covenant over areas 1 and 2 requires that they be kept clear of exotic trees).
- (3) The Ben Avon lagoon at the bend in the Birchwood road is to be disposed of to the holder. To us this is a mistake. This lagoon, and the considerable wet lands to the north of it, should be retained by the Crown for adequate protection. The lagoon itself should be properly fenced off.
- (4) Also, further to the north of this, when erecting the new fences for area C it would be a better arrangement if these fences were placed alongside the road. This would be better for public access and for conservation.
- (5) The inherent conservation values in the Puke Makariri faces are going to deteriorate under a grazing regime. Also, to retain the integrity of the landscape, it would be better to return this area to full Crown ownership and control. A concession to allow for some grazing for a short period - no more than five years - to allow for any adjustment to stocking arrangements would be more appropriate for this area.
- (6) Considering the importance of the Ahuriri river as a

-2-

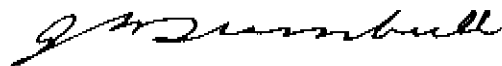
fishing resource, and for the public to enjoy the considerable conservation values on the river and its surrounds, we believe there should be an additional legal access route to the river between e - f and i - j. This should not be too difficult to arrange.

(7) The designated 70a. marginal strip on the west side of the river (base right) should be increased where necessary to take in all the oxbow wetlands associated with the river.

If the alterations we have suggested are made to the proposal, we believe there will be a good outcome to this review.

We thank you.

Yours faithfully



John T. Turnbull

for Upper Clutha Branch



FOREST RANGE STATION

15 May 2002

The Commissioner of Crown Lands
C/- Knight Frank (NZ) Ltd
Land Resources Division
P O Box 27
Alexandra.



CROWN PASTORAL LAND ACT BEN AVON TENURE REVIEW

SUBMISSION ON PRELIMINARY PROPOSAL

INTRODUCTION:

We acknowledge and fully support the concept of Tenure Reviews under the Crown Pastoral Land Act being an entirely voluntary process.

We support and respect the needs and wishes of the individuals concerned to support the proposal for their personal reasons and wish to make our comments from a personal view point, farming perspective, the perspective of a NZ taxpayer and rate payer, but also a nearby property who may be directly affected by the Commissioner's decision in the future.

OUR SUBMISSION IS IN ITALICS FOLLOWING EACH SECTION

-
1. 4729 ha (approximately) to be designated as land to be restored to full Crown ownership and control as a conservation area under Section 35 (2) (b) (i) Crown Pastoral Land Act 1998.
-

The Crown Pastoral Land Act 1998 Section 24 Objects of Part 2 are to promote the management of reviewable land in a way that is ecologically sustainable (a) (i)

Therefore it is necessary to prove how this will be achieved.

*We **oppose** the proposal to restore the 4729 ha area to the Crown for the following reasons:*

1. *The proposal contains no Risk Analysis:*

We would expect a comprehensive Risk Analysis to be carried out to identify the anticipated risks that the area is likely to be subject to, the various ways these risks can be mitigated, and decide the most desirable way to do this.

From our family's long term (since 1910) farming experience in this area we identify the main risks as:

- *decline in biodiversity*
- *invasion from weeds, especially hieracium, wilding trees, woody weeds*
- *pest damage (rabbits, hares and possums)*
- *decline in the biological health of the soil,*
- *uncontrolled fires,*
- *declining water, mineral and carbon cycles.*
- *Damage to flora and fauna as a result of public access pressure*
- *Introduction of Giardia and other health risks*
- *Political interference in management decisions*

Many of the above risks can be controlled and enhanced by the strategic management of livestock. By removing the use of animals as a management tool there will be a rapid decline in fertility, increase in weed invasion and continued biodiversity loss. This fact is accepted scientific knowledge overseas in many areas, where the experience of excluding animals from conservation areas that require protection has been a total disaster and not achieved the desired outcomes.

Continued hieracium invasion into this area will destroy the very values that the conservation designation desires to protect.

2. *There is no Conservation Management Strategy:*

A Conservation Management Strategy would detail:

- *goals and desired future outcomes for this area*
- *possible strategies that could be adopted*
- *best proposed future management practices*
- *a full cost analysis, especially in relation to the effects / benefits to the community / nation*
- *a thorough investigation into the range of methods available to achieve the desired outcomes*
- *health and safety issues in relation to public access*
- *ways to mitigate the affects of public access on the flora and fauna values*

3. *The reviewable land in this area is capable of economic use (a) (ii):*

This has been demonstrated by its continual pastoral use for the past 140 years.

The significant inherent values in this area have been identified to include landscape, flora and fauna and ecological integrity, which are still present today because of the knowledgeable and daily management practices of

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generations of farmers. The economic benefits of this viable farming property have contributed to the local and national community, and it has the ability to continue to do so into the future, especially if under freehold tenure.

4. *On farm impact:*

The removal from the property of an area representing more than 50% of the property with good pastoral grazing opportunities is likely to affect the long term commercial viability of the property. It has been publicly admitted (ODT March 15 2002) that the proposal "would turn his viable run into a much smaller, marginal one-person unit" and result in a reduction of 3000 stock units.

This does not promote the management of reviewable land in a way that is ecologically sustainable. If the freehold component of the reviewable land is not economically sustainable, the ecological values inherent in the land will be at risk in the future due to lack of funding.

There is potential for increased productivity by over sowing and top dressing parts of this area, which would have the added benefit of enhancing the biological diversity and improving soil health.

There is little likelihood of commercial gain being derived from subdivision and the sale of freehold land in this area due to District Plan rules.

Conclusion:

The Objects of the Act can be achieved by freehold disposal of the area with the use of Conservation Covenants under Section 40 (2) (a) Crown Pastoral Land Act to protect the inherent values (as also proposed for the 71 ha kettle holes and 200 ha Puke Makariri).

The land proposed to be designated as land to be restored to full Crown ownership and control as a conservation area contains both inherent landscape and natural values and productive farming values.

It is essential that this area is transferred into private ownership with its long term use and protection guaranteed by a written, legal and binding Covenant clearly setting out the conditions of management that are needed to ensure the long term ecological sustainability of this very special area. The Covenant would encourage a partnership approach between the on farm managers and conservation experts in the various fields required. Regular monitoring would be essential to ensure the management programme was ecologically sustainable, and in not be adjusted accordingly.

The Preliminary Proposal already promotes the use of Covenants to protect the smaller areas requiring protection; therefore the conditions contained in these indicate that a similar agreement could be entered into for this area.

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Released under the Official Information Act

RELEASED UNDER THE OFFICIAL INFORMATION ACT

This would satisfy all the Objects of the Act, and at the same time ensure hands on local management at all times at a much reduced cost to the tax payer.

If the Commissioner proceeds with the Conservation area as proposed it is essential that the formal agreement contains a cast iron guarantee in perpetuity that grants exclusive restoration of grazing rights to the reviewed lessee or his successors in the event of the Crown managed lands being identified as degrading and becoming ecologically unsustainable under their management regime.

-
- (1) 3496 ha (approximately) to be disposed of by freehold disposal to the holder under Section 35 (3) of the Crown Pastoral Land Act 1998 subject to protective mechanisms (i), (ii), (iii) and (iv):
-

We support the freeholding of 3496 ha.

This area is capable of economic use (as is the entire property) and freeholding will promote the management in a way that is ecologically sustainable.

We oppose the unrestricted access easement g - h to the Ben Avon Conservation Area.

For the following reasons:

- *Risks associated with the nature and remoteness of the country,*
- *climatic dangers*
- *health and safety issues*

Access into this remote area on foot, horse or bike traffic is likely to take a considerable time. People will need facilities for toilets, rubbish and camping, either by choice or necessity. What conditions have been established to cater for these needs?

An intentions system needs to be in place to monitor the entry and exit of people to ensure the safe passage and return of all using the track.

Restrictions would need to be in place to ensure the track was not used in winter, because of the dangers from rapid changes in weather and extreme climate in the area.

The liability on all users should be established and guaranteed in advance.

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It is preferable that public access is managed as part of a Conservation Covenant (suggested above) to ensure public safety at all times.

CONCLUSION:

We ask the Commissioner to consider carefully the issues we have raised in our submission.

We request that he amend the proposal to achieve the objects of Part 2 of the Crown Pastoral Land Act 1998 whereby he is required to

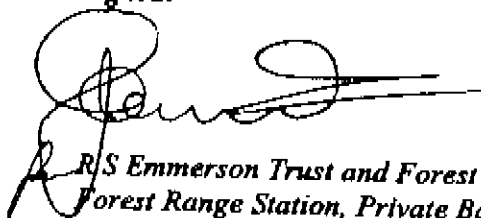
promote the 'management of reviewable land in a way that is ecologically sustainable'; enabling 'reviewable land capable of economic use to be freed from the management constraints resulting from its tenure under reviewable instrument' and enabling the 'protection of the significant inherent values of the reviewable land by the creation of protective mechanisms' and secure 'public access to and enjoyment of reviewable land'.

These objects can best be achieved by:

- the freehold disposal of the entire parcel of reviewable land (8300 ha)*
- establishing a Protective Mechanism over 4804 ha (being the two areas of 4729 ha proposed to be restored Crown control and 75 ha proposed to be restored to full Crown ownership and control as a Scenic Reserve under Section 35(2) 0 (a) (ii) of the Crown Pastoral Land Act as described in the Preliminary Proposal) to ensure the long term ecological sustainability of these special areas guaranteed by a written, legal and binding Covenant clearly setting out the conditions of management (including public access arrangements) in a partnership arrangement between the property owners and scientific experts. The Protective Mechanism could be a Conservation Covenant or Queen Elisabeth II Trust Open Space Covenant.*

We believe this simpler arrangement meets all the requirements of the Objects of the Crown Pastoral Land Act 1998 in the tenure review of the Ben Avon property.

Signed:



*R S Emmerson Trust and Forest Range Ltd
Forest Range Station, Private Bag, Tarras.
Phone 03 4452833, Fax 03 4452834, Email rsemerson@xtra.co.nz*

CC: Commissioner of Crown Lands, Wellington

Public Access New Zealand

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15 May 2002

Commissioner of Crown Lands
C/- DTZ New Zealand Ltd
P O Box 27
Alexandra



Submission on Preliminary Proposal Ben Avon Tenure Review

PANZ is pleased to support the broad thrust of the proposals, however the following areas require attention before the objects of the Crown Pastoral Land Act (CPLA) are fulfilled.

PANZ has inspected the property and appreciates the cooperation of the lessee in granting access for this purpose. We have also analysed a range of official documents relating to the proposals. This has greatly assisted our understanding of issues.

We are pleased that the proposals are integrated with those on the adjoining Longslip Station. We note the intended provision of public access on Longslip from the Birchwood Road to the Avon Burn. If this access were not to eventuate, it is essential that alternative provision be made on Ben Avon.

Northern Wetlands

Besides being of considerable biological value, the Ahuriri Valley-floor wetlands are of considerable aesthetic and recreational value. We are pleased that the lessee previously agreed to reservation of the Ben Avon Lagoon and covenanting of associated wetlands to the north. These are now proposed to be incorporated into a larger area to be retained in Crown ownership.

As the *DOC Conservation Resources Report* states, "the lagoon in the Scenic Reserve is a favourite site for tourists and photographers". However the boundary earlier chosen for this scenic reserve has been minimalist, with less than the equivalent of a marginal strip of 20 m reserved. Consequently

Public Access New Zealand is a charitable trust formed in 1992. Objects are the preservation and improvement of public access to public lands, waters, and the countryside, through retention in public ownership of resources of value for recreation. PANZ is supported by a diverse range of land, freshwater, marine, and conservation groups and individuals.

PANZ is committed to resist private predation of the public estate.

there is a narrow ribbon of pastoral lease, now proposed freehold, the southern boundary of the reserve, and inadequate access around the eastern shore of the lagoon. The road-side ribbon is as little as a few metres wide in places (photo 1). This should be included in the reserve so as to prevent incompatible development between the road and the lagoon, and to allow uninhibited public access. Currently legal access is only available at the SW corner of the reserve (bottom right in photo 1), however this unfenced, road-side open space implies uninhibited access along its full frontage.

It is highly desirable that stock are excluded from the unfenced southern shore of the lagoon, however we believe that fencing along the lagoon-side road boundary would be very intrusive and inhibiting of public access and enjoyment of the lagoon margins. The reserve classification of 'scenic' underlies the importance of public use and enjoyment, however the existing boundaries and those proposed in the tenure review do not reflect this. We submit that this ribbon of land be added to the scenic reserve, with the southern boundary of the road fenced.

Between the Birchwood Road and the Ahuriri River, north of the Ben Avon Lagoon, there are extensive wetlands most of which are proposed for Crown retention. However there is an almost continuous ribbon of developed pasture alongside the road that is proposed for freeholding, without provision for public access from the road to the wetlands and river. Because of the visibility of the wetlands and river from the road and their proximity, there will be a natural tendency for visitors to leave the road and cross these paddocks. During my inspection of the property I saw such activity. Without formal provision for public access, this is likely to continue. Seasonally there is intense public pressure for access, by anglers in particular (photo 2).

We submit that the whole area, from the Ben Avon Lagoon in the south to the northern boundary, out to the Ahuriri River, be retained in Crown ownership in recognition of its outstanding landscape and recreational values.

Marginal strips along Ahuriri River

We note that there are historic fixed or 'unmovable' marginal strips the entire length of the Ahuriri River on the true right bank.

A DOC plan of 2 March 2001 entitled 'Ahuriri River' plots the strips' landward boundary. This shows that, as can be expected with a braided river, this has shifted position since strip establishment. Substantial portions of the 'landward' margin of the strip now appear to be on the bank, mid-river, or even across the river. Consequently the legal alignment no longer serves the public purposes for which it was created.

The CCL has decided that marginal strips shall not be dealt with during tenure review; that these should be dealt with independently by DOC. PANZ vigorously rejects such unwarranted inaction by the CCL as this fails to advance the Crown's legitimate interests, and the public interest, on pastoral lands.

If the CCL's narrow view is applied to this case, on new sections of river bank (to be in a new position, away from an existing strip) there will remain a duty under s 24 Conservation Act to provide new, movable strips, whereas historical strips that remain along banks would be fixed in position. With further shifting of the river, both new and old strips will become disconnected and therefore unusable. Failure to rationalise marginal strips as part of tenure review will only serve to compound the problem. If tenure review does not provide an incentive to permanently rectify the situation, it is highly unlikely that any other opportunity will arise in the future. There certainly will not be further 'dispositions' of Crown land to trigger the marginal strip provisions of the Conservation Act - this tenure review will be the last Crown disposition.

We submit that, as a condition of CCL approval for tenure review, the lessee's approval is obtained to exchange the existing marginal strip the length of the river for a new movable strip. Authority for such action is provided by s24E Conservation Act. This provision was enacted in 1990 to accommodate this particular need, despite strong objections from DOC. The department unsuccessfully sought a general right of strip disposal, without a commensurate obligation to provide replacements. Contrary public opinion prevailed, as embodied in s 24E. It is most unlikely that DOC would ever initiate an exchange of strips unless forced upon them, even for this nationally important river. Now is the time for official action. The public credibility of the tenure review programme will be in large part hinge on official willingness to accommodate well-aired public aspirations for assured access to and along waterways. The current hands-off policy is inevitably destined to be subject to ridicule and contempt.

Access to the Ahuriri River

As noted above, there is a pressing need to provide for public access to the river from and to the north of the Ben Avon Lagoon. This would be best achieved by public reservation between the road and river.

However, south of the Birch Creek confluence, because of the considerable distance from the road, and the large extent of developed pasture, access easements are acceptable provided these provide practical and secure access.

Two easements are proposed. We welcome the proposed vehicle access 'i - j' over the existing vehicle track on the true left bank of Birch Creek. It is very desirable that vehicle access to the river is available for convenience of access, and to allow boat ingress. We do however have a concern about this proposed route as Birch Creek is braided and parts of the existing track have been washed away. This is likely to be an ongoing problem. We understand that, under New Zealand law, easements do not need to be defined between starting and end points, as long as these points are defined. This would convey a right of passage between start and finish irrespective of the current route being obliterated from time to time. There are no physical constraints to vehicles deviating off washed-out sections, and a new track being established.

The intention of foot, cycle and horse access over the second proposed easement 'e - f' is most welcome, however the implementation is "something less than desired". This route utilises the southern legal boundary of Ben Avon. I have inspected this alignment both from the air and ground.

Unless the intended users are into base-jumping / parachuting, it is difficult to envisage great popularity for this route. Horses would have particular difficulty in the latter pursuits and even greater difficulty surviving the experience. The route goes over a cliff more than 150 feet high! (photo 3).

It is obvious that this 'deficiency' has to be rectified (the only feasible alternative route is to traverse northwards along the lip of this eroded river terrace for approximately 700m to where a gully leads down to the river flats). However the more significant issue is how could such a proposal have ever got as far as being adopted as an advertised Preliminary Proposal? Who proposed this route and what field checking if any was done? This idiotic proposal brings into disrepute the tenure review process and those conducting it. It appears that public recreational needs amount to no more than after-thoughts, unwarranting even the more basic investigation.

There is a potential definition problem with this easement following the legal boundary rather than the actual fenced boundary with Longslip. If this area were afforested up to the existing fenceline, the route could become obscured unless clearly marked and maintained. It would be preferable to utilise the fenced boundary out to the lip of the river terrace cliff, then follow it northwards to the above mentioned gully leading to the river margin. As Longslip is being reviewed concurrently, it should be possible to reach agreement to align the legal property boundaries to the common fenced boundary.

Other access easements

There is no provision in the Ben Avon proposals for direct access to the Avon Burn from the Birchwood Road. However the advertised *Longslip Preliminary Proposal* makes such provision (easement 'a - m'). This is the much preferred route for non-motorised access, as it is shorter and avoids approximately 6 km of private road which would not be particularly interesting travel.

As we noted in our introduction, if this access were not to eventuate, it is essential that alternative provision be made on Ben Avon.

It appears that easement 'g - h' provides practical access to Ben Avon (the mountain) from the Birchwood Road. Likewise easement 'b - a' to Puke Makariri, however its location within the farmed Birchwood boundary could cause problems given the lengthy history of public access difficulties on this property.

If there is any rationalisation of legal boundaries between Ben Avon and Longslip or Birchwood these easements, including 'e - f', must be secured. To this end, conditions should be added to the easement documents that these encumbrances must remain registered on the titles no matter what changes to underlying land ownership occur.

Easement 'c -d' along the ridge crest between the high country blocks proposed for Crown retention is very necessary and we strongly support this. However this appears to duplicate easement 'm - n' on Longslip. The existing formed track should be the easement route, irrespective of which property it lies on.

Boundaries of high country blocks

We are generally happy with the Ben Avon boundaries, having inspected and photographed these from the air. However many of the proposed fence lines traverse steep and highly visible faces above the Ahuriri Valley. We request that no new earth disturbance be permitted in the construction of these fences. If that is unavoidable, then alternative boundaries, preferably existing fences, should be utilised.

While we are naturally happy that all the alpine Puke Makariri area, extending over to the floor of the Dingle valley, is proposed for Crown retention, there are problems with the proposed Birch Creek and Ahuriri valley boundaries.

There are two aspects to our concerns over the Birch Creek boundaries. One is that an unfenced boundary is proposed along a beech forest margin, whereas a practical fenceline could have been selected along a ridge crest. This was recognised as a desirable boundary in the *Draft Preliminary Proposal*, however the south-facing slope between the ridge and the beech is now proposed for freeholding (photo 4). This face is actively regenerating with woody shrubs and is hardly prime pastoral land. Burning would likely be required to maintain grazing on the slope above the beech forest, so endangering the forest. It is not unlike other regenerating faces proposed for Crown retention. A ridge-crest boundary would allow future fencing if required to exclude stock, however the official proposed boundary would be very difficult to fence if this proved necessary.

Our other concern is the provision of practical public access up the creek to the two beeched catchments (photos 4 and 5). Access is intimately related to marginal strip provision (see further discussion below). There are some existing fences up the valley floor, however if these are utilised as boundaries, public access could be inhibited. As marginal strips will/should be established, it would make sense to fence along the landward margin of the strip on the true right bank, rather than between the strip and conservation area on the true left. Fencing on the true right would also be easier.

The absence of fences on the true left bank would enable the most practical access close to the stream and further away where some track formations exist. It seems pointless to fence between a marginal strip and another form of conservation area, when the whole left bank should be stock proof and freely available for recreational use. There are beech fringed stream margins and small flats that are very attractive for camping or picnicking. These should all be retained in Crown ownership.

The alignment of a new fence up the spur beyond the second beeched catchment needs to be carefully chosen. The spur is very narrow at its base and the ridge crest, hemmed in by beech trees, and provides the only practical access on foot. A fence up this section of ridge would create an obstacle course (photo 5).

Another concern is the proposed boundaries is along the Ahuriri Valley faces. There is a natural boundary at the change of slope between the mountain faces and the broad fans leading to the valley floor. This is already fenced. From DOC recommending this as the boundary in their *Conservation*

Resources Report, the boundary has been progressively pushed upslope through the *Scoping Report* and *Draft Preliminary Proposal* stages to the current *Preliminary Proposal*.

What is now proposed, as a freehold/conservation area boundary, is a completely unnatural line that is incapable of fencing, if this proves necessary, as it cuts across deeply incised gullies and steep eroded faces (photo 6). There appears to have been little consideration of potential impacts on landscape values arising from present and future utilisation of the freehold area, except within Area 1 proposed for a conservation covenant. However this only extends over part of the lower faces proposed for freeholding.

We submit that the existing toe-of-the-hill fence become the conservation area boundary, as per the *Draft Preliminary Proposal*, with a grazing concession offered over the lower slopes.

Marginal strip provision

Unlike on some other pastoral leases subject to tenure review, we are pleased to see that on Ben Avon's lease renewal in 1992, marginal strips were established where they did not already exist.

The *Due Diligence Report* states, p 1, that in 1992 the Chief Surveyor defined marginal strips for the property. An exemption for Birch Creek was not granted. These strips were recorded on SO 23881, which also shows an existing s58 Land Act strip the length of the Ahuriri River.

The new marginal strips are on the Dingle (full length of leasehold), the Avon Burn (as far as the first forks), Birch Creek (as far as a narrows near the Homestead), around part of an 'unnamed lake over 8 ha' being Ben Avon lagoon, and what appears to be a duplicate strip along the Ahuriri.

We question the adequacy of these provisions along Birch Creek. My inspection revealed that the stream bed is approximately 8 metres wide at the 'narrows', and widens considerably upstream and remains well over the qualifying statutory "average width of 3 metres or more" as far as the mouth of the second forested catchment (photos 7, 4, 5). Therefore the Chief Surveyor failed to fully discharge his statutory duties. It appears that the CS did not do a field inspection, possibly relying solely on (inaccurate) air photo interpretation. This deficiency now has to be rectified, particularly as public access to proposed high county conservation areas depends on marginal strips being established up Birch Creek.

I note in the official information supplied to PANZ that DOC is of the view that this upper section of Birch Creek qualifies for marginal strips, however, going by official performance to date, there is no assurance that this will necessarily occur.

On 17 November 1999 the CCL, as a matter of policy, decided that despite marginal strips being a direct consequence of tenure review, that all decisions relating to them are left to DOC and are outside the formal review process.

Consequently, with all marginal strip decisions internalised within DoC, and Chief Surveyors' offices, there is no public accountability for official performance. This is despite marginal strips often being intimately related to public access proposals through the advertised tenure review process. It is nonsense, when it is the disposition of Crown land through tenure review that is the trigger for creating marginal strips, that these actions are arbitrarily divorced from the public arena.

What assurance can the public have that the intended access up Birch Creek will be provided by way of marginal strips? If not established, will the CCL implement an alternative access easement, as we believe he is obliged to do. An easement was originally proposed over an existing vehicle track past the homestead. We agree with the leasee's objection that this would be an invasion of privacy and support the alternative route via Birch Creek, provide this is in fact established.

SO 23881 reveals another anomaly. It depicts 'I - J' being the extent of a strip around the 'unnamed lake', excluding the 'frontage' onto Birchwood Road. The *Due Diligence Report*, p 11, states that this is no longer required because this area has become a Scenic Reserve. That is true for those shores within the reserve, however not for the southern shore. This remains as pastoral lease, being the narrow ribbon of land between the lagoon and the road earlier referred to in this submission (photos 1 and 2). It appears that the CS failed to reserve all the margins of the lake that lie within the leasehold. This must be rectified. A variable width strip must be created between the lagoon and the road reserve so that all these shores are protected from development and freely available for public use.

The Chief Surveyor's treatment of the **Ahariri River** requires examination. He records on SO 23881 'G - H' "Crown Land Reserved from Sale" and subject to section 24(3) Conservation Act effective from 10/4/90. Section 24(3) relates to every strip of land reserved from sale or other disposition prior to the commencement of this section, being 10/4/90. Section 24(3) strips are expressly excluded from the movable strip provisions (s24G(7)).

However the CS appears to make a duplicate reservation over 'G - H', being described as "Run 429A" and subject to section 24(9) from lease renewal date of 1/7/92. Section 24(9) strips are subject to the movability provisions of section 24G. If a s24(9) strip replaces the s24(3) strip a key element of this submission would be satisfied. If not, alternative action needs to be taken, as we advocate earlier in this submission.

Finally, the CCL's position of 'leave-it-to-DOC' must be abandoned. It is untenable for such a negligent policy to continue.

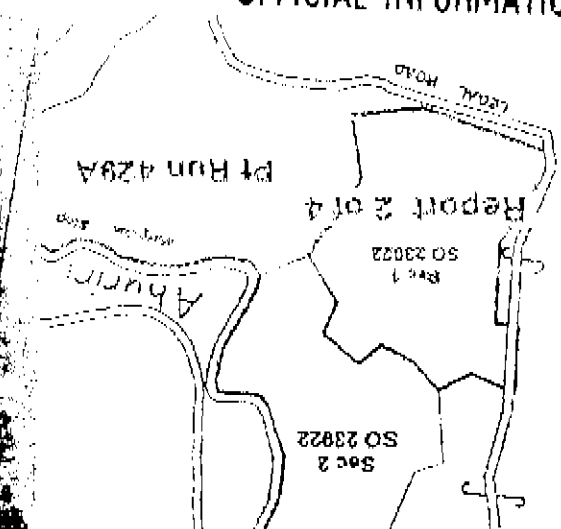
Yours faithfully



Bruce Mason
Researcher and Co-Spokesman

Appendices: 7 A4 colour photographs

RELEASED UNDER THE
OFFICIAL INFORMATION ACT





Scenic Reserve

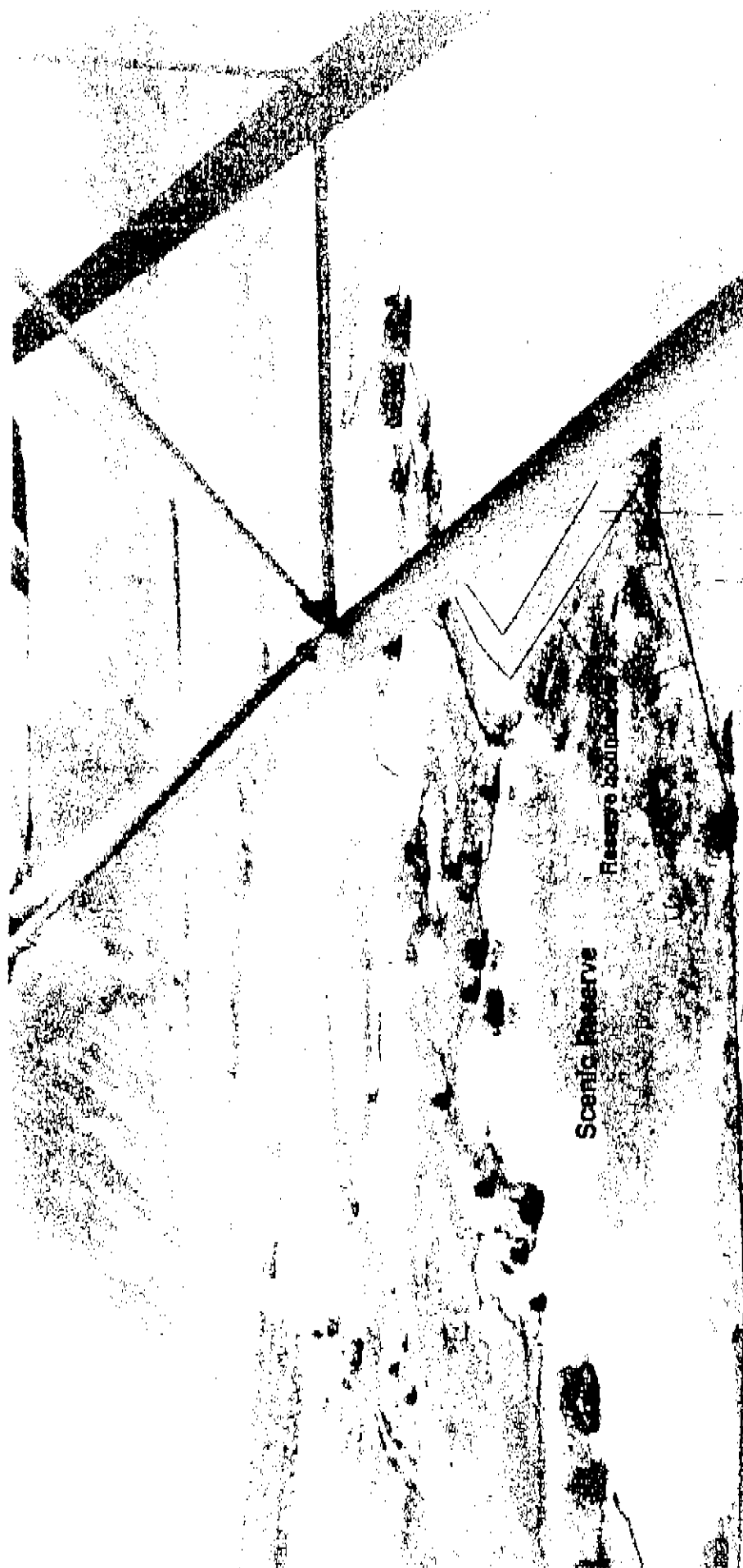
Road sign

Proposed additions
to reserve

The whole area between the
road and the scenic reserve
should be included in the
reserve. The road sign and
road should also be included.

Ben ...
tenure Review

PHOTO 2



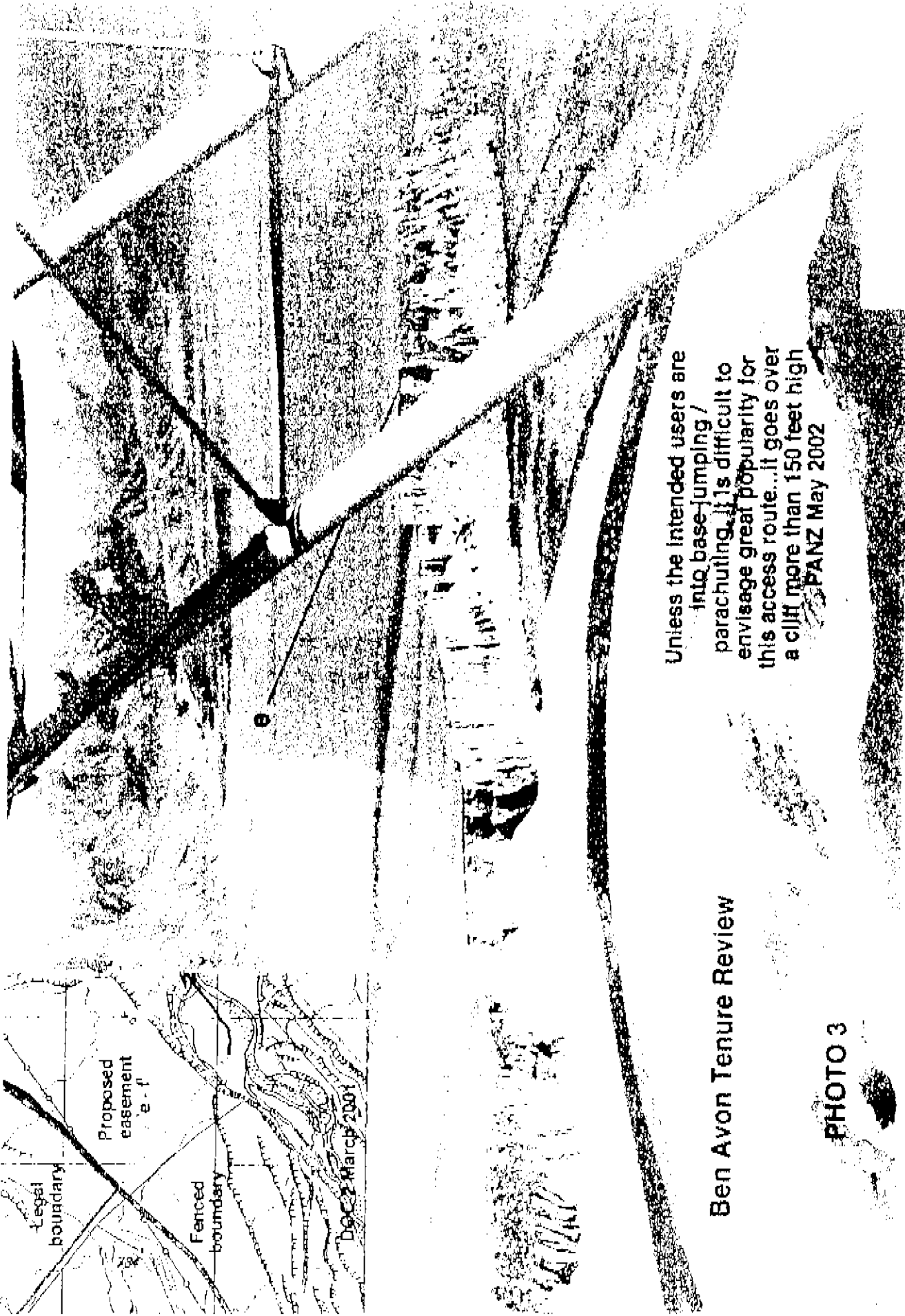
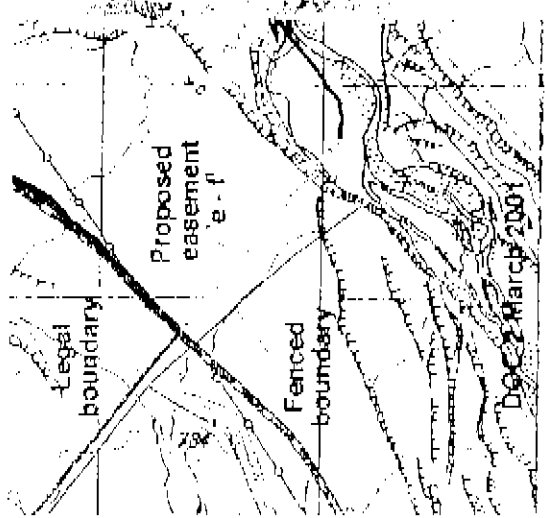
Ben Nevis Tenure Review

The whole area between the road and the Achna River should be retained as Crown ownership in recognition of its outstanding landscape and scenic qualities.

PATZ 10/1/72

Proposed additions
to reserve

PHOTO 2



Unless the intended users are
into base-jumping /
parachuting, it is difficult to
envisage great popularity for
this access route...it goes over
a cliff more than 150 feet high
PANZ May 2002

Ben Avon Tenure Review

PHOTO 3



Ben Avon Tenure Review

Access to
Dingle

RANZ
proposed
boundary

Birch Creek

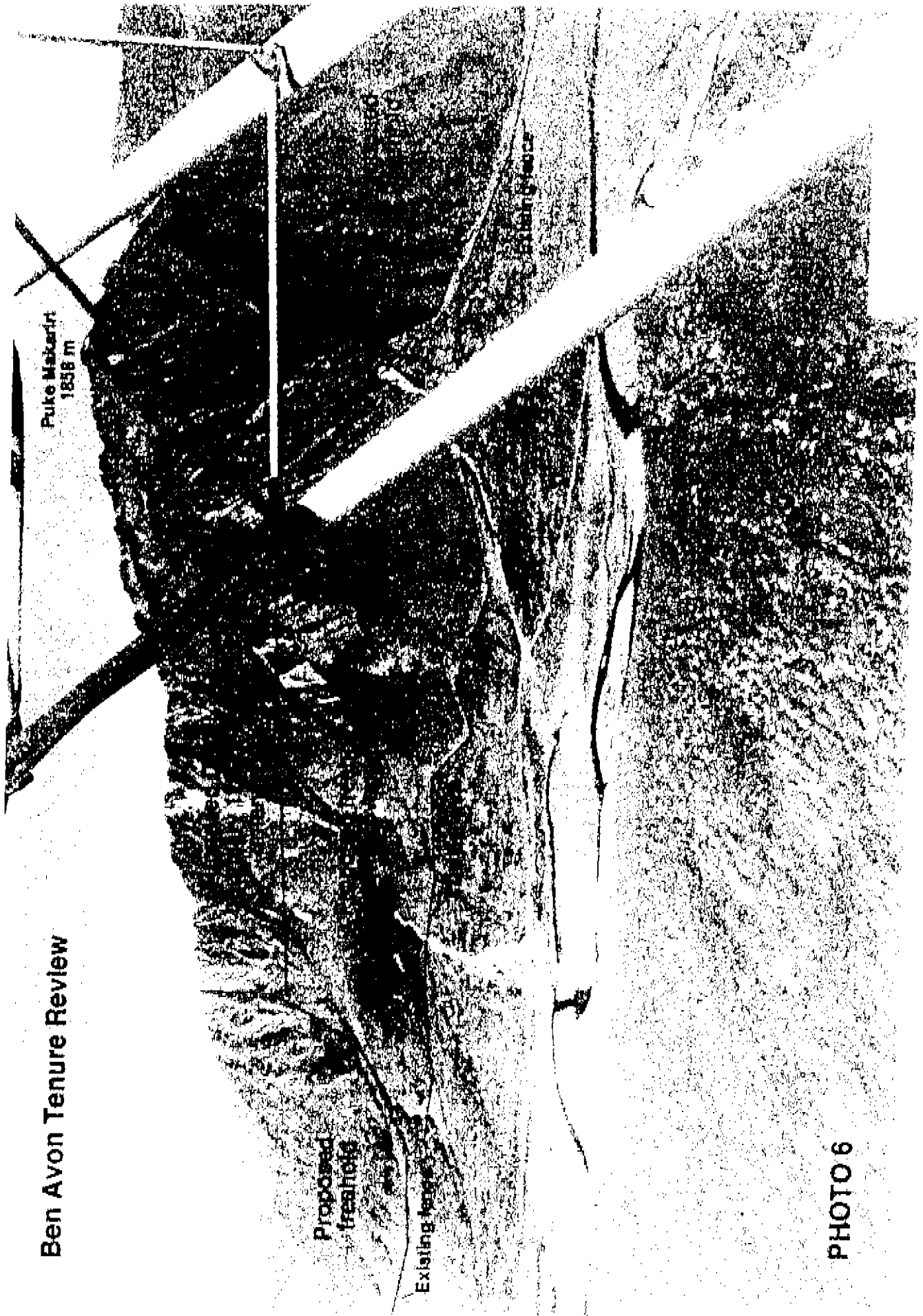
Marginal strips required

Ben Avon Tenure Review



PHOTOS

Ben Avon Tenure Review



Puke Mazariri
1858 m

Proposed
freatheing

Existing fence

PHOTO 6

Ben Avon Tenure Review



two
km of
strip

12. Marginal strips required

Birch Creek

PHOTO 7

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15 May 2002

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Manager
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Alexandra



**FOREST
& BIRD**

ROYAL FOREST AND
BIRD PROTECTION
SOCIETY OF
NEW ZEALAND INC

SUBMISSION ON PRELIMINARY TENURE REVIEW PROPOSAL FOR BEN AVON, AHURIRI VALLEY

INTRODUCTION

The Royal Forest and Bird Protection Society (Forest and Bird) is New Zealand's oldest and most active voluntary conservation organisation. Formed in 1923 the Society has around 38,000 members in 56 branches around New Zealand. This evidence is on behalf of the Central Office. The Society's constitution requires it to :

"take all reasonable steps within the power of the Society for the preservation and protection of indigenous flora and fauna and natural features of New Zealand for the benefit of the public including future generations."

"Protection of natural heritage includes indigenous forests, mountains, lakes, tussocklands, wetlands, coastline, marine areas, offshore islands and the plants and wildlife found in those areas."

GENERAL COMMENTS

The preliminary proposal highlights the need for adjacent properties with high conservation values to be dealt with together. The Department of Conservation (DoC) Conservation Resources Report (Part I) noted that Ben Avon, Birchwood and Quailburn pastoral leases were being dealt with as one tenure review. There is no evidence of this in the preliminary proposal (eg no reference to easements connecting with only easements or recommended conservation land on adjacent properties). Given the outstanding landscape values and integrity of the upper Ahuriri valley is disappointing that they have not been dealt with together

Wetland values need better protection

The wetlands of the Ahuriri Valley including Ben Avon are regionally, if not nationally, outstanding. The freeholding and continued grazing and pastoral development of the kettlehole tarns in the proposed covenant in Area 2, for example, is a major threat to their integrity and health. Nor does the proposal provide an adequate buffer between land to be freeholded and the river meanders and associated wetlands in the south eastern part of the property.

Wetlands are one of New Zealand's most depleted and threatened ecosystems. More than 90 % of wetlands and around 95 % of fertile lowland wetlands have been destroyed.

Those remaining such as Ben Avon's kettlehole tarns, oxbow ponds, morainic bogs and riparian wetlands therefore assume a greater importance.

Grazing in and around wetlands reduces vegetation stature. This and the increased exposure to wind and sunlight causes wetlands to dry out and shrink. There is a corresponding increase in exotic plants which displace indigenous plants.¹ Protecting inherent values requires an end to grazing in and around wetlands.

Wetlands are highly productive ecosystems which support a high diversity of indigenous plants and animals. They support a range of species which are adapted to living in wet conditions and which do not occur in other ecosystems.² Wetland systems should be a priority for protection through tenure review, particularly on Ben Avon given the significance of its wetlands.

COMMENTS ON SPECIFIC ELEMENTS OF THE PROPOSAL

1. Kettlehole tarns Proposed covenant, Area 2

Forest and Bird opposes freeholding the kettlehole tarns with a covenant rather than protecting them as conservation land with a grazing lease as DoC recommended (Proposed designation report). The proposed 71 ha covenant area is substantially smaller than the 100 ha recommended for protection by DoC. The current boundary appears to have been chosen primarily to utilise some existing fences and excludes the smaller tarns to the north east and closer to the river.

The kettlehole tarns have high and well recognised inherent values. The Ben Avon moraine system is one of only 11 such systems in the South Island. The tarns have been identified as representing the "best concentration of kettleholes in the Ahuriri (Ecological District)".³ They differ from the moraine kettleholes close to Lakes Ohau and Pukaki. The

¹ Davis Mark (Oct 1999) "Canterbury Region Wetlands, Report and Preliminary Inventory. Part One: Desktop Review." Report U99/64 at p 44.

² As a Canterbury Regional Council report (ibid) on the effects of grazing on Canterbury wetlands has noted:

"Many wetlands are in poor or deteriorating state of health. This is particularly so in lowland areas, but it also applies throughout much of the high country, except for those which are larger, wetter or at high altitude. The main reason for this include a reduction in water supply, increasing physical isolation, an increase in exotic plants, accelerated eutrophication and the effects of on-going grazing.

"As wetlands become more isolated and reduced in size, they become increasingly vulnerable to outside influences through increased edge effects. The reasons for that are that edge effects, such as those from grazing, tend to extend further into smaller wetlands than larger ones, as they have a relatively small area."

"Numerous wetlands that were observed in earlier photos or maps, were much reduced in recent photos or had clearly deteriorated over time." From Davis, Mark (October 1999) "Canterbury Region Wetlands, Report and Preliminary Inventory. Part One: Desktop Review." Report U99/64 at p 41.

³ Treskanova, M (May 1996) "Assessment of conservation values on the sites for the Waitaki District Plan." RAP 7 Ahuriri 7 Mid Ahuriri. Unpublished report for the Department of Conservation.

presence of several kettleholes close together increases the range of habitats available at different times of year (eg for bird feeding). The Protected Natural Areas survey report notes that "*Many waders and waterfowl use the kettles in this area for feeding and breeding including the black stilt. Large numbers of aquatic and terrestrial insects were recorded, including a new species of Zealandotipula (Dipteria: Tipulidae).*"⁴ The tarns' high wildlife habitat values are an important part of their inherent values.

The kettlehole area has high landscape values and vividly demonstrates its glacial history. Its distinctive morainic topography was formed by the advance of the Ahuriri Glacier. The area is part of the Ahuriri Valley landscape unit which the DoC Conservation Resources report (section 2.1 at p 3) describes as having "high visual and scenic values" and part of a regionally significant landscape.

Freeholding an area with such high landscape and ecological values is contrary to the preference in the Crown Pastoral Lands Act for restoration to full Crown ownership. While a covenant may be appropriate for one small wetland in a sea of developed land, here the kettlehole tarns and the hummocky moraine country are a larger unit which deserves restoration to full Crown ownership.

The draft conservation covenant (Appendix 4) fails to protect inherent values because :

- It allows continued sheep grazing which is likely to lead to desiccation, and changes in vegetation composition, and trampling of sensitive turf and cushion vegetation around the margins, directly exposing water to evaporation. Trampling around the margins was obvious during a field inspection in Easter 2002.
- Grazing can spread weeds through seeds in dung, on hooves and through damage to indigenous vegetation giving exotic plants a competitive advantage.
- There are no limits on sheep numbers. With rotational grazing sheep numbers can be high and their impacts on the wetlands can be severe, especially in dry periods. Even when stocking rates are not high past reports on the wetlands indicate that sheep often congregate in or around the wetland, depositing dung, increasing nutrient levels and causing soil compaction.
- The covenant allows oversowing and topdressing. Over time this could completely change the vegetation composition and allow the progressive destruction of the botanical values of the kettlehole tarns.
- It allows droving of cattle. The movement of a mob of cattle through the area is likely to cause considerable trampling and pugging, particularly in the softer soils around the tarn margins. And particularly in wet weather. Given the generous area of freehold land around the covenant, surely cattle can be driven through these areas or down the road.
- Provision 3.1.1 of the covenant would prevent any restoration plantings. Prohibition of exotic plantings is supported but some restoration plantings may be desirable around the kettlehole tarns.
- It includes no details of the proposed monitoring regime for comment. There is no guarantee that monitoring will be implemented or that the wetlands' values will be protected. Periodic inspections and assessments by at least two independent scientists have already established that grazing and pastoral farming is damaging these kettleholes. Further monitoring is not needed to confirm this.

⁴ Espie, P et al (1984) "*Mackenzie Ecological Region New Zealand Protected Natural Area Programme*" Survey report published by the Department of Lands and Survey at p 69. The report recommends an investigation of the kettlehole tarns to determine whether to include them in RAP 7 - Mid Ahuriri opposite Ben Avon Station.

- There is no clear mechanism in the covenant to indicate an "unacceptable" level of damage which would see grazing ended nor a means of achieving this.

Past grazing and farming use has already caused changes in vegetation and degradation of the kettleholes and is described in a May 1996 report by Dr Marta Treskanova (see extract from report in Appendix 1 attached). Botanist, Dr Peter Johnson described changes in composition and condition between 1980 and 1991 as a result of pastoral use. As the Treskanova report notes: *"He noted new formation of turf margins caused by a decrease of water level in the large kettlehole. He also observed the trend in desiccation reflected in the vegetation structure around the second largest kettlehole in the area. He suggested that intensive development may reduce the natural values of the area."*

A later inspection in 1996 by Marta Treskanova confirmed this development and noted: *"Large quantities of droppings were an undisputable sign of high stocking rate. Dry kettleholes which became favourite camping sites were particularly affected by the accumulation of manure. Trampling by sheep and cattle was obvious on the soft surfaces of the tarn's edges."*

If grazing continues, the wetland values will continue to be degraded. At present recovery is possible. Further grazing combined with pastoral development may prevent this.

"Despite modification by farming development, the whole morainic complex represents high natural values. The physical environment characterised by the presence of water and fertile morainic soil, has the ability to regenerate the natural system. However, when modification processes exceed a certain level, these self-regenerating forces are likely to be dysfunctional."

Decision sought

1. Forest and Bird seeks a change in status of the proposed kettlehole covenant in Area 2 to conservation land, an extension of this area to follow the boundaries originally recommended by DoC to include the smaller tarns close to the river. Grazing should be ended so that wetland values are protected and no grazing lease granted.

2. If the covenant proceeds (not Forest and Bird's preference) make the following amendments:

a) amend clause 3.1.1 of the covenant to add *"except for restoration plantings of locally sourced indigenous species"*.

b) delete the second sentence of clause 3.4.2 which allows the droving of cattle through the covenant area.

c) delete clause 3.4.3 and amend the covenant terms to prohibit any oversowing, top dressing or spraying (except patch spraying of exotic weeds). This would better ensure the ecological values of the covenant are maintained.

2. Ben Avon pond

The 15 ha Ben Avon pond (scenic reserve in the right angle and adjacent to Birchwood road) is only partially fenced. Pugging and dung is obvious around the pond margins beside the road. As well as trampling and degrading turf and edge vegetation the dung is likely to be affecting water quality. The roadside margin and the eastern edge of the pond need to be fenced to keep stock out. New cattlestops on the road do not appear to be doing this because stock, including cattle, graze the terrace to the south of the lagoon and appear to have ready access to the lagoon

Decision sought

Extend existing fencing, particularly on the pond's southern and eastern margins to prevent stock access to the pond.

3. Margins of Ahuriri River

That the Ahuriri River is protected by a water conservation order is evidence of its nationally outstanding status. Riparian margins contribute significantly to the natural character and functioning of waterways. The short tussock grasslands on the river margins also contribute to the river's landscape values. Oversowing with exotic grasses would reduce the indigenous component of the grassland and reduce the natural character of the river banks.

A 20m wide marginal strip along the river is inadequate to protect riparian and wetland values, particularly some of the oxbow wetland areas or public access up and down the river.

There is increasing recognition of the value of protective management of riparian vegetation in buffering water quality from the impacts of adjacent land uses and in protecting aquatic ecosystems. Nutrient run-off (especially nitrogen and phosphorus) as a result of fertiliser application and stock effluent run-off close to waterways can stimulate aquatic plant growth and can cause nuisance growths of algae (algal blooms) and other aquatic plants.

Because the main river is confined to one channel and hugs the banks (rather than having an expansive braided stony bed which people can easily walk up and down) only allowing public access at 3 points over 11 kms on the property is likely to cause problems. Locals have indicated that overseas fishers have been charged substantial fees to use farm tracks to get exclusive access to sections of the river. Allowing such a large area of riparian land to be freeholded with such a narrow marginal strip will compound this.

A wider marginal strip is also needed to protect water quality and the nationally outstanding values of the river. It would better buffer the river from the effects of adjacent land uses including pastoral development. Fertiliser applied close to the river risks nutrient enriched run-off. Cultivation risks elevated sediment levels.

The DoC recommendations sought a protection of a much wider area adjoining the Ahuriri River than the notified proposal. No reasons are provided as to why this was not implemented.

Forest and Bird understands that historically, cattle from Ben Avon have regularly crossed the river to graze on the Quailburn Flats in the middle reaches of the river. The draft proposal includes no proposals for fencing the marginal strip/ riparian boundary on Ben Avon to prevent stock continuing to access riparian areas. Fencing would compromise landscape values but would be desirable along the boundary of developed land and a wider marginal strip to keep stock out of the riverbed.

Willows

The scattered willow infestations along the river meanders could be relatively easily controlled if they are tackled now. Leaving them will enable further spread and create a more costly weed problem.

Decision sought:

Protect a much wider riparian area on the true right bank of the Ahuriri River by increasing the width of the marginal strip to 100 metres.

Provide for the Crown to fell and/or poison the existing riverbank willows as part of the tenure review process.

4. Roadside strip beside Ben Avon wetlands in Area 2 and adjacent to Area C

Forest and Bird opposes the proposed freeholding as part of Area 2 of a narrow strip of land between the Birchwood Road and proposed Area "C" conservation land beside the Ahuriri River to the north of Ben Avon pond (the 15 ha lake in the bend in the road). It does not provide adequately for conservation values, or public access and recreation.

Freeholding it would not provide an adequate protective buffer for some of the river's meanders and associated wetland, particularly if grazing continues. It has high landscape and recreational values and should be added to Area C as conservation land. These values heavily outweigh the additional grazing which this small area provides.

DoC recommended that all of the land between the road and the river to the north and north-west of Ben Avon Lagoon be protected as conservation land. No reasons are given why this recommendation has not been implemented.

The strip of land proposed for freeholding has been oversown and topdressed and pasture cover has a high exotic component. It also includes areas of scattered matagouri and without grazing these are likely to regenerate strongly.

The Ahuriri River is one of the more accessible rivers in the Mackenzie Basin because of the lack of hydro development, the gentle gradients of the land beside the river, and the fact that the public road is close to the river.

The road is not yet a major tourist highway road but is increasingly popular and is likely to become more so with the expanded opportunities for public recreation that tenure review provides. Ben Avon lessee, Jim Morris reports that it up to 50 vehicles a day now use the Birchwood Road in summer, compared to half a dozen or so 10 years ago. In the northern part of the property, the road comes close to the river, and is closer here than at any other point on the property.

In such an open and gentle landscape, people's inclination is to want to stop, get out and walk to the river, photograph it or picnic beside it. Freeholding this narrow strip between the road and the river will prevent this and is likely to create management problems in future, particularly if ownership changes.

A nearby pastoral lease property, Killermont, has erected large "Private Property- Keep Out" signs on the gates and fences beside the State Highway north of the Ben Avon/ Birchwood turnoff to prevent people accessing this downstream stretch of the Ahuriri River. During Easter 2002 several people, including overseas tourists, said they were very frustrated by seeing the river close to the highway but being unable to get access to it because of the signs.

Decision sought

That all of the land between the Birchwood Road and the Ahuriri River, to the north and upstream of Ben Avon pond in Diagram A be protected as conservation land. See area highlighted in green on the attached map.

That the boundary of Area C (proposed conservation land) be redrawn to include wetlands and riparian margins between the existing fenceline and point "j" of the proposed easement. This is necessary to protect riparian values, buffer the river, and restrict stock access and damage.

5. Puke Makariri faces

A much less extensive area on the Puke Makariri faces is being protected as conservation land than was originally sought by DoC. The proposed boundary between freehold and conservation land would allow grazing to continue at altitudes of 1200 m. Vegetation cover includes diverse shrublands with a strong indigenous component despite oversowing and topdressing. Burning has occurred to high altitudes in the recent past including burning of beech forest remnants.

5.1 Covenant Area 1 Puke Makariri faces – covenant terms

The covenant terms would allow the lessee to remove indigenous vegetation cover progressively, through oversowing and topdressing and chemical spaying. The covenant is supposed to protect landscape values. If this is to be achieved, much tighter controls on the use of chemical spraying are required.

The covenant does not include any monitoring programme or state who pays the costs of monitoring. One assumes that it will be the Department of Conservation. This imposes an additional administrative and cost load on the department without any revenue from the landholder to cover this. Monitoring the impacts of grazing on private land is not a good use of conservation funds

A preferable option would be to make Area 1 conservation land and issue a short term (5 year maximum) grazing lease to the current lessee to allow time for rationalisation of stock. The property offers many opportunities for alternative land uses especially those related to fishing, given the popularity of the river.

Decision sought

Preferably make Area 1 conservation land and issue a 5 year grazing lease to the current lessee.

If the covenant proceeds:

a) delete clause 3.4.3 of the covenant and replace with:

" in Area 1 topdress and sow seed, and limited patch spraying using hand held equipment to allow stock access while maintaining the overall indigenous tussock and shrubland cover."

b) Include details of monitoring programme in the covenant and provide for costs to be borne by the landholder.

6. Conservation covenant needed for wetland protection

An extensive areas of wetland on the Ahuriri valley floor (opposite Ben Avon homestead road) has been cultivated, developed and converted to exotic pasture since 1991. The ecological and landscape values of remaining wetlands in Area 2 proposed for freeholding on the valley floor would be destroyed by similar development. The Resource Management Act 1991 and the proposed Waitaki and Queenstown Lakes District Plans

have obviously been ineffective in protecting wetlands given the extent and thoroughness of the development.

There are no other high country river valleys in Canterbury or Marlborough which Forest and Bird is aware of that have such a distinctive and significant sequence of oxbow ponds, meanders, sedgeland and associated wetlands as the Ahuriri. Given the extensive depletion of wetlands which has occurred throughout New Zealand and further up the valley, all remaining wetlands deserve protection, particularly those on Ben Avon because of their high ecological, landscape and recreational values.

Decision sought

Make the freeholding of Area 2 subject to a conservation covenant which prohibits the cultivation or oversowing and topdressing with exotic pasture species of any wetland areas on the valley floor including seeps, flushes and riparian margins.

7. Sustainable management covenant needed to control forestry

Ben Avon is a key part of the spectacular and dramatic landscape of the Ahuriri Valley. The relative lack of obvious tracking and the absence of exotic forestry on Ben Avon have helped maintain these high landscape values. The impacts of less sympathetic landholders are obvious on both Longslip and Ribbonwood where extensive tracking has scarred hillslopes and degraded natural character. Shelterbelt and forestry plantings on Ribbonwood are a major visual intrusion – breaking up and obscuring the glacial landforms and compromising the entrance to the valley close to the State Highway. They also create a potential wilding spread problem. Forestry does not, however, currently extend on the true left bank beyond a point opposite Ben Avon's southern boundary.

Any future change in ownership of Ben Avon means there is no guarantee that the more landscape sympathetic management of the current lessee will continue. The Resource Management Act does not provide adequate mechanisms to control forestry. The proposed Waitaki District Plan contains few controls on earthworks, vegetation clearance or forestry plantings. Appeals to the Environment Court by DoC and Forest and Bird on the Waitaki and Queenstown Lakes district plans have yet to be resolved and may not be resolved for some years.

Forestry and shelter belt plantings on Ben Avon would be an obvious disruption in the landscape, gridding its expansive tawny character with lines of dark green trees, blocking views from the road, and obscuring glacial landforms. Forestry on the valley floor could deplete wetlands of water. Trees could cause a major wilding spread problem. These impacts could be avoided by a sustainable management covenant under section 97 of the Crown Pastoral Lands Act which prohibited exotic afforestation.

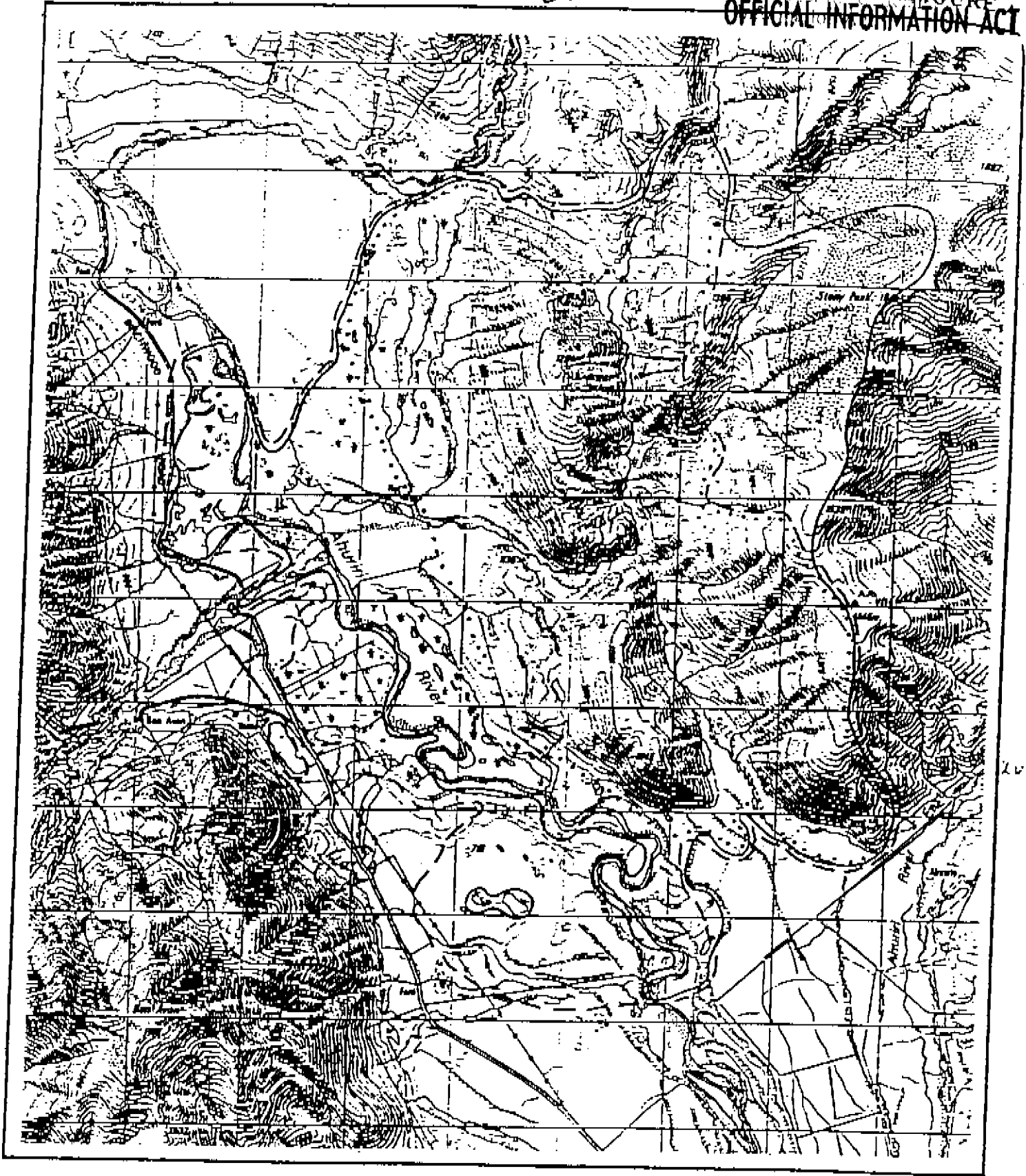
Decision sought

Make the freeholding of Areas 1 and 2 subject to a sustainable management covenant which prohibits exotic afforestation (preferred) or make any such planting subject to the approval of the Commissioner of Crown Lands.

Thank you for the opportunity to make a submission.

Eugenic Sage
 Regional field officer
 For Conservation Manager

E M Sage



RAP Site 36

- Original boundary
- - - 1st modified boundary
- Current boundary

appendix 1

Extract from: "Assessment of conservation values on the sites for the Waitaki District Plan" by Marta Treskanova, Report prepared for Depart. of Conservation, Canterbury, May 1996.

Site 36

RAP Ahuriri 7, Mid Ahuriri opposite Ben Avon Station

This is a diverse area consisting of scrub communities, tall and short tussock grasslands, a stand of snow totara and bog pine. In the PNA report (Espie 1984) it was suggested to investigate inclusion of the kettle lake vegetation present south-west of the original RAP.

-1430 ha, altitude 730-1245 m.

4.7.1 Extended area

On the basis of the study by Johnson (1991), an extension was proposed to include a morainic area with a number of tarns. A visit was arranged to assess current conservation values and to identify the boundaries of the extended area.

Date of visit 11 March 1996
Persons present Nick Head, Marta Treskanova

4.7.2 Current condition of the extended area

Representativeness

Ben Ohau Moraine system is one of 11 such systems present in the South Island. It represents the best concentration of kettle holes in the Ahuriri District.

Diversity and pattern

The characteristic morainic topography was formed by advance of the Ahuriri Glacier. This topography has determined the ecological pattern and diversity. Pastoral use and farm development are responsible for changes of vegetation communities in this area. Peter Johnson studied the Ben Avon Moraine in 1980, then in 1991 (Johnson 1991) he visited the area again to describe changes in composition and condition. He refers to about 10 kettleholes present in this area, ranging in size from 20 to 250 m across. He noted new formation of turf margins caused by a decrease of water level in the large kettlehole. He also observed the trend in desiccation reflected in the vegetation structure around the second largest kettlehole in the area. He suggested that intensive development may reduce the natural values of the area.

During our recent visit to the Ben Avon morainic complex, the impact of intensive development was confirmed. Brown top, clover, and broken cover of *Hieracium pilosella* were the main features of the area. Large quantities of droppings were an undisputable sign of high stocking rate. Dry kettle holes, which became favourite camping sites, were particularly affected by the accumulation of manure. Trampling by sheep and cattle was obvious on soft surfaces of the tarn's edges (Photo 6).

Naturalness/Modification

Despite modification by farming development, the whole morainic complex represents high natural values. The physical environment characterised by the presence of water and fertile morainic soil, has the ability to regenerate the natural system. However, when modification processes exceed a certain level, these self-regenerating forces are likely to be dysfunctional.

Fragility and threat

Progress of desiccation is the most serious threat. It is a result of changes in the vegetation structure in a wider ecosystem. These changes include transformation from tall natural grasslands with high moisture holding capacity to low and open modified grasslands lacking vertical structure and a protective layer of litter. Under pastoral use, vegetation composition is changing towards a more uniform and more arid structure. Preventing continuation of these trends is absolutely essential for the long term sustainability of this unique morainic tarn system.

4.7.3 Summary

Despite recognition of the need to protect the whole morainic system, it is difficult to justify such a decision on the basis of vegetation alone. The high level of improvement and high stocking rate resulted in disruption of the natural system. A suggested solution is to protect the area with the two largest tarns including a sufficient buffer zone determined by the watershed of the tarns. Any pastoral activities need to be excluded from the area sloping towards the tarns. An opinion of a landscape specialist and the view of a wildlife expert is required to decide whether protection of only a part of the area is sufficient, or whether the whole morainic system should be protected.

4.8 Site 39 (RAP Ahuriri 11, Iron Bridge)

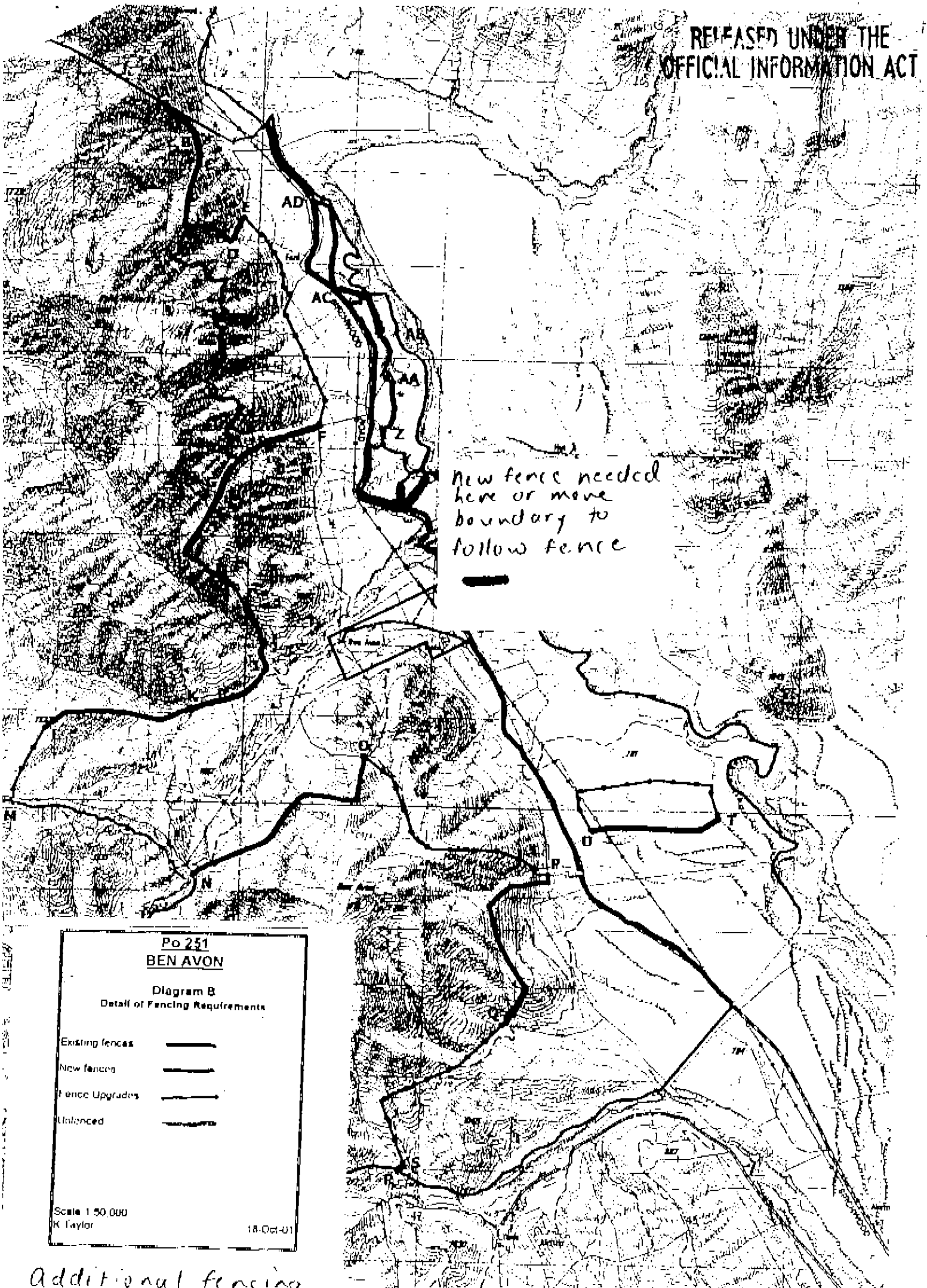
Grid ref.	S 108, 450 420	Property	Dunstan Peak Station
Area	24 ha	Lessees	P & A Patterson
Altitude	625 - 760 m	Boundaries	Figure 7

The original RAP described by Espie (1984), represents a small area of matagouri/*Coprosma* scrub associated with the threatened species *Hebe cupressoides*. The area is located on a steep and rocky bank of the Ahuriri River. In the report prepared for PASAC, Ward (1986) comments that up to 100 plants of *H. cupressoides* grow on this site.

4.8.1 Extended area

A small extension was proposed to include some *H. cupressoides* plants outside of the original RAP, and to create a more ecologically compact and practical unit. Boundaries of the original RAP did not provide a buffer from the adjacent grasslands modified by grazing. In the extension, the stream communities in the lower part of the area were included. A more natural boundary was used.

Date of visit 6 March 1996
Persons present Robin Delamore, Nick Head, Marta Treskonova



New fence needed
here or move
boundary to
follow fence

Po 251
BEN AVON

Diagram B
Detail of Fencing Requirements

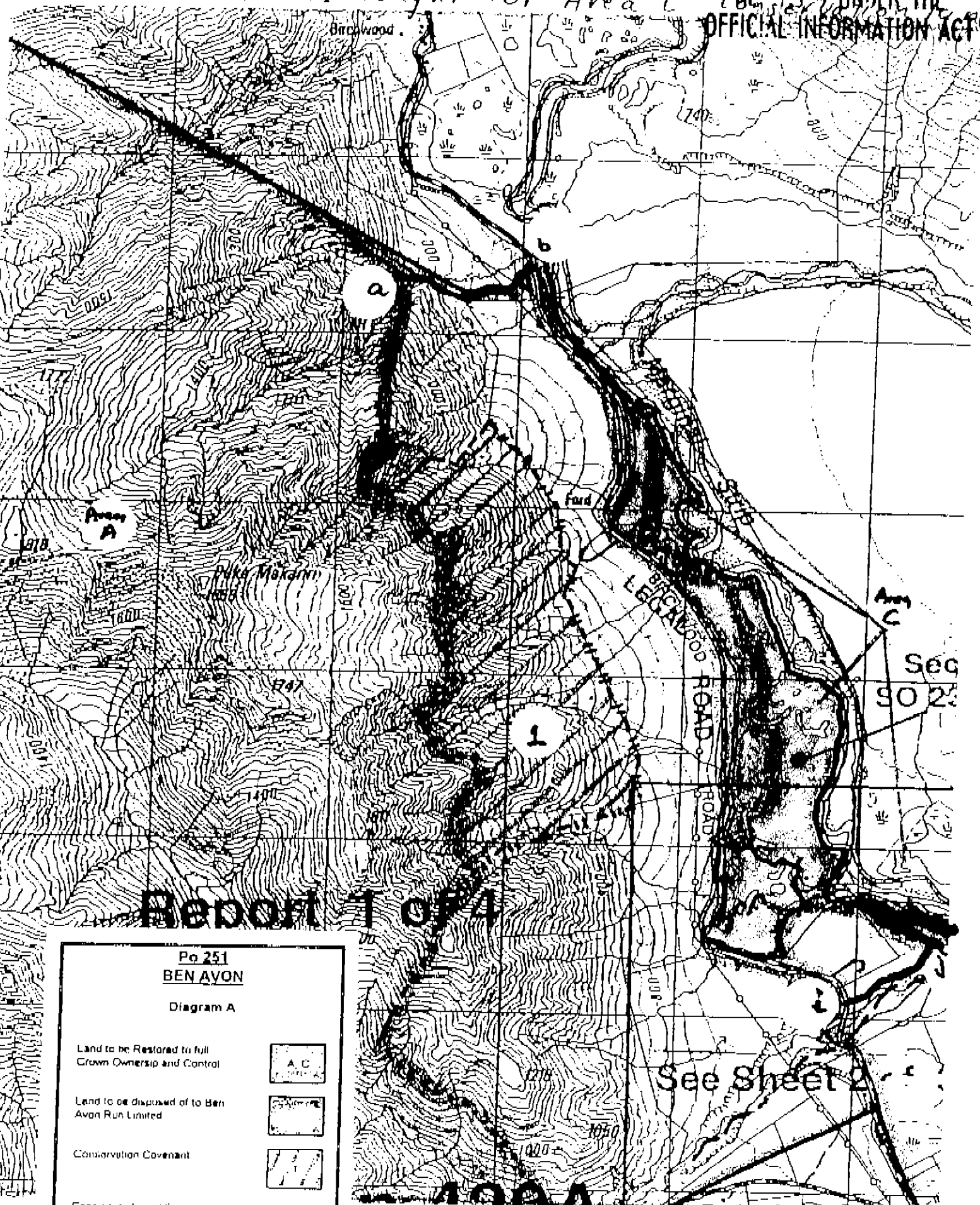
- Existing fences ———
- New fences ———
- Fence Upgrades ———
- Unfenced ———

Scale 1:50,000
K Taylor

18-Oct-01

Additional fencing
needed





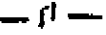


new boundaries sought for Area C



Report 1 094

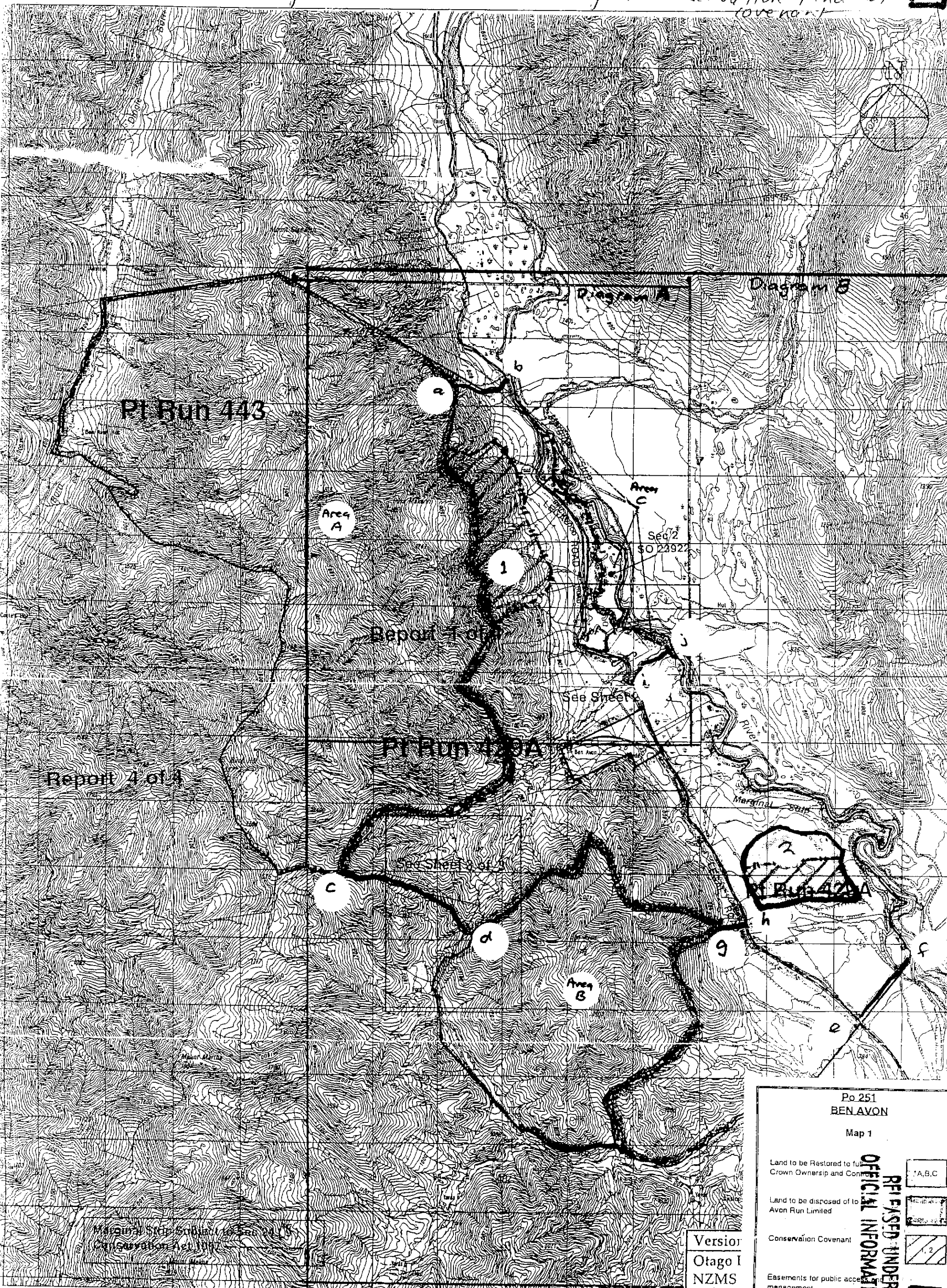
See Sheet 2

Po 251
BEN AVON
 Diagram A

Land to be Restored to full Crown Ownership and Control	
Land to be disposed of to Ben Avon Run Limited	
Conservation Covenant	
Essentials for public access and management	
Existing fences	
New fences	
Unfenced	

Scale 1:25,000 (Approx)
 K Taylor (18 Oct-01)

New boundaries sought for Kettlehole area - change to conservation land not covered



Po 251
BENA Von
 Map 1

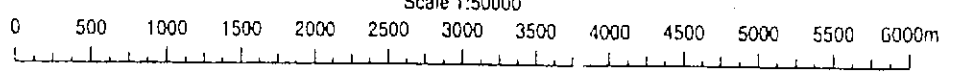
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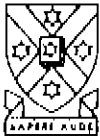
Land to be Restored to full Crown Ownership and Control	A, B, C
Land to be disposed of to Avon Run Limited	4, 5, 6, 7, 8
Conservation Covenant	1, 2
Easements for public access and management	1
Existing fences	---
New fences	---
Unfenced	---

Version
 Otago I
 NZMS

Ben Avon

Scale 1:50000





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Manager,
Knight Frank (N) Ltd.,
PO Box 27,
Alexandra.

DTZ NEW ZEALAND
ALEXANDRA May 14, 2002.
16 MAY 2002
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Amended.

SUBMISSION ON PROPOSED TENURE REVIEW OF BEN AVON PASTORAL LEASE

Dear Sir,

Thank you for sending me a copy of this document and I appreciate the opportunity to comment on it, based on my knowledge of the area involved (limited on the upper slopes but good on the lower slopes and valley floor), gained over many years of ecological and botanical research on the tussock grasslands and associated mountain lands, particularly of the South Island high country.

Ben Avon Pastoral Lease is obviously complex ecologically and topographically, but also contains areas of very high conservation value and biological diversity. I believe the overall rationalisation between areas with high conservation values and areas with productive values has been very reasonable, this being a relatively rare example of a run where a greater area has been proposed for allocation to full Crown control and management (4804 ha) than for freeholding (3496 ha). There is concern, however, with the high proportion of land with significant conservation values which is proposed for covenanting (and thus require monitoring by the DoC) rather than being transferred to full Crown ownership. Short-term grazing licenses may be a preferable alternative for some of these areas.

Areas A and B (4729 ha), proposed for transfer to full Crown ownership and management, both have high conservation and landscape values and, although physically separated, there is a proposed easement with adequate conditions, connecting them. On the larger of these two areas, however, the Puke Mahariri block, the proposed lower boundary would allow grazing to continue to an elevation of 1200 m, on areas of diverse indigenous shrublands with high conservation values. This boundary should be lowered to about 1000 m.

The four areas shown as Area C, being 75 ha of Ben Avon Wetlands, to be restored to full Crown ownership as Scenic Reserve, are also accepted, and commended. It is unclear from the map, however, what is to be the fate of the small lagoon (?Ben Avon Lagoon; about 15 ha) in the right angle and adjacent to the road, as well as a similar sized adjacent area of wetland, which appear to be unallocated. It is assumed that this is either a conservation area already or is to become conservation land, like the area that adjoins it to the northwest. Either way, the present partial fencing should be completed alongside the road to prevent the continued access to stock and associated impacts.

The standard (20 m) marginal strip alongside the Ahuriri River is inadequate to protect the riparian and important wetland values in this area, including some oxbows and also to provide for adequate public access to both these areas and alst to the river. Such access here is presently unsatisfactory and tenure review provides an important opportunity to correct this situation. A riparian strip of 50 – 100 m width can be justified alongside this unbraided section of the Ahuriri River and is thus recommended.

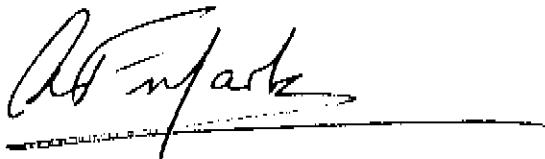
Another unsatisfactory aspect of the proposal is freeholding of the narrow strip of land located between the road and the Ahuriri River (and associated wetlands), north of the 15 ha Ben Avon Lagoon on the right angle turn in the road, as far as the property boundary. The special conservation and landscape values of the Ahuriri River, being the only relatively large river in the Mackenzie basin that has not been developed for hydro-electric generation, and with a conservation order in recognition of these features, deserves special attention in such a tenure review exercise.

As for the two proposed Conservation Covenants, the conditions of the covenant on Area 1, on the Puke Makariri faces, of about 200 ha., would allow progressive removal of indigenous plant cover through oversowing, topdressing and also chemical spraying. If this covenant is to protect landscape values, as stated, then tighter controls, with prohibition of chemical spraying, would be required and is thus recommended. It is stated that the bottom and two lateral boundaries are either fenced or to be fenced and it is assumed that the "restricted grazing" "with cattle at any time" would involve "utilisation only during winter when snow and climatic conditions will prevent stock drift on to the adjoining conservation land." No monitoring has been proposed for this covenant area but presumably should be included. This, however, would be an additional cost for the DoC that would be hard to justify since there would be no cost recovery possible. In the circumstances it is recommended that this Area 1 be transferred to full Crown ownership with a grazing licence issued for up to five years, to allow adjustment to stock management. If the covenant proposal is retained the conditions should be modified to limit chemical spraying to individual patches and to retain the overall indigenous shrub and tussock cover.

With covenant Area 2, the area of about 75 ha seems to be minimal to protect what is stated to be prime kettle holes on this site. This may have been decided so as to use the existing fences as the boundary but it seems marginal for the purposes. While the impact of sheep grazing is to be "closely monitored." I assume that results of this monitoring could affect the continued grazing of this area, although there seems to be nothing to this effect in the relevant deed of covenant (Appendix 4). Such should be added. Cattle droving through this area should not be allowed and the proposed use of "topdressing, seed sowing and/or chemical spraying" (that are permitted other than on a 20 m wide margin around the kettleholes, should not be allowed anywhere in the covenanted area (except for spot spraying of exotic weeds), because of their likely impact on the biological integrity of this prime conservation area. Indeed, it would be preferable if this area, somewhat enlarged, was transferred to full Crown ownership and management, in deference to its very high intrinsic values and its vulnerability to continued pastoral use, as outlined in this proposal.

I trust that my recommendations will be seriously considered and, again, I thank you for the opportunity to comment on this proposed tenure review.

Yours sincerely,



Alan F Mark FRSNZ: DCNZM.
Emeritus Professor

15 May 2002

The Commissioner of Crown Lands
C/- Knight Frank (NZ) Ltd
Land Resources Division
P O Box 27
Alexandra.



**CROWN PASTORAL LAND ACT
BEN AVON TENURE REVIEW**

SUBMISSION ON PRELIMINARY PROPOSAL

INTRODUCTION:

We acknowledge and fully support the concept of Tenure Reviews under the Crown Pastoral Land Act being an entirely voluntary process.

We support and respect the needs and wishes of the individuals concerned to support the proposal for their personal reasons and wish to make our comments from a personal view point, farming perspective, the perspective of a NZ taxpayer and rate payer, but also a nearby property who may be directly affected by the Commissioner's decision in the future.

OUR SUBMISSION IS IN ITALICS FOLLOWING EACH SECTION

-
1. 4729 ha (approximately) to be designated as land to be restored to full Crown ownership and control as a conservation area under Section 35 (2) (b) (i) Crown Pastoral Land Act 1998.
-

The Crown Pastoral Land Act 1998 Section 24 Objects of Part 2 are to promote the management of reviewable land in a way that is ecologically sustainable (a) (i)

Therefore it is necessary to prove how this will be achieved.

We oppose the proposal to restore the 4729 ha area to the Crown for the following reasons:

1. *The proposal contains no Risk Analysis:*

We would expect a comprehensive Risk Analysis to be carried out to identify the anticipated risks that the area is likely to be subject to, the various ways these risks can be mitigated, and decide the most desirable way to do this.

From our family's long term (since 1910) farming experience in this area we identify the main risks as:

- *decline in biodiversity*
- *invasion from weeds, especially hieracium, wilding trees, woody weeds*
- *pest damage (rabbits, hares and possums)*
- *decline in the biological health of the soil,*
- *uncontrolled fires,*
- *declining water, mineral and carbon cycles.*
- *Damage to flora and fauna as a result of public access pressure*
- *Introduction of Giardia and other health risks*
- *Political interference in management decisions*

Many of the above risks can be controlled and enhanced by the strategic management of livestock. By removing the use of animals as a management tool there will be a rapid decline in fertility, increase in weed invasion and continued biodiversity loss. This fact is accepted scientific knowledge overseas in many areas, where the experience of excluding animals from conservation areas that require protection has been a total disaster and not achieved the desired outcomes.

Continued hieracium invasion into this area will destroy the very values that the conservation designation desires to protect.

2. *There is no Conservation Management Strategy:*

A Conservation Management Strategy would detail:

- *goals and desired future outcomes for this area*
- *possible strategies that could be adopted*
- *best proposed future management practices*
- *a full cost analysis, especially in relation to the effects / benefits to the community / nation*
- *a thorough investigation into the range of methods available to achieve the desired outcomes*
- *health and safety issues in relation to public access*
- *ways to mitigate the affects of public access on the flora and fauna values*

3. *The reviewable land in this area is capable of economic use (a) (ii):*

This has been demonstrated by its continual pastoral use for the past 140 years.

The significant inherent values in this area have been identified to include landscape, flora and fauna and ecological integrity, which are still present today because of the knowledgeable and daily management practices of generations of farmers. The economic benefits of this viable farming property

have contributed to the local and national community, and it has the ability to continue to do so into the future, especially if under freehold tenure.

4. On farm impact:

The removal from the property of an area representing more than 50% of the property with good pastoral grazing opportunities is likely to affect the long term commercial viability of the property. It has been publicly admitted (ODT March 15 2002) that the proposal "would turn his viable run into a much smaller, marginal one-person unit" and result in a reduction of 3000 stock units.

This does not promote the management of reviewable land in a way that is ecologically sustainable. If the freehold component of the reviewable land is not economically sustainable, the ecological values inherent in the land will be at risk in the future due to lack of funding.

There is potential for increased productivity by over sowing and top dressing parts of this area, which would have the added benefit of enhancing the biological diversity and improving soil health.

There is little likelihood of commercial gain being derived from subdivision and the sale of freehold land in this area due to District Plan rules.

Conclusion:

The Objects of the Act can be achieved by freehold disposal of the area with the use of Conservation Covenants under Section 40 (2) (a) Crown Pastoral Land Act to protect the inherent values (as also proposed for the 71 ha kettle holes and 200 ha Puke Makariri.).

The land proposed to be designated as land to be restored to full Crown ownership and control as a conservation area contains both inherent landscape and natural values and productive farming values.

It is essential that this area is transferred into private ownership with its long term use and protection guaranteed by a written, legal and binding Covenant clearly setting out the conditions of management that are needed to ensure the long term ecological sustainability of this very special area. The Covenant would encourage a partnership approach between the on farm managers and conservation experts in the various fields required. Regular monitoring would be essential to ensure the management programme was ecologically sustainable, and in not be adjusted accordingly.

The Preliminary Proposal already promotes the use of Covenants to protect the smaller areas requiring protection; therefore the conditions contained in these indicate that a similar agreement could be entered into for this area.

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This would satisfy all the Objects of the Act, and at the same time ensure hands on local management at all times at a much reduced cost to the tax payer.

If the Commissioner proceeds with the Conservation area as proposed it is essential that the formal agreement contains a cast iron guarantee in perpetuity that grants exclusive restoration of grazing rights to the reviewed lessee or his successors in the event of the Crown managed lands being identified as degrading and becoming ecologically unsustainable under their management regime.

-
- (1) 3496 ha (approximately) to be disposed of by freehold disposal to the holder under Section 35 (3) of the Crown Pastoral Land Act 1998 subject to protective mechanisms (i), (ii), (iii) and (iv):
-

We support the freeholding of 3496 ha.

This area is capable of economic use (as is the entire property) and freeholding will promote the management in a way that is ecologically sustainable.

We oppose the unrestricted access easement g – h to the Ben Avon Conservation Area.

For the following reasons:

- *Risks associated with the nature and remoteness of the country,*
- *climatic dangers*
- *health and safety issues*

Access into this remote area on foot, horse or bike traffic is likely to take a considerable time. People will need facilities for toilets, rubbish and camping, either by choice or necessity. What conditions have been established to cater for these needs?

An intentions system needs to be in place to monitor the entry and exit of people to ensure the safe passage and return of all using the track.

Restrictions would need to be in place to ensure the track was not used in winter, because of the dangers from rapid changes in weather and extreme climate in the area.

The liability on all users should be established and guaranteed in advance.

It is preferable that public access is managed as part of a Conservation Covenant (suggested above) to ensure public safety at all times.

CONCLUSION:

We ask the Commissioner to consider carefully the issues we have raised in our submission.

We request that he amend the proposal to achieve the objects of Part 2 of the Crown Pastoral Land Act 1998 whereby he is required to

promote the 'management of reviewable land in a way that is ecologically sustainable'; enabling 'reviewable land capable of economic use to be freed from the management constraints resulting from its tenure under reviewable instrument' and enabling the 'protection of the significant inherent values of the reviewable land by the creation of protective mechanisms' and secure 'public access to and enjoyment of reviewable land'.

These objects can best be achieved by:

- *the freehold disposal of the entire parcel of reviewable land (8300 ha)*
- *establishing a Protective Mechanism over 4804 ha (being the two areas of 4729 ha proposed to be restored Crown control and 75 ha proposed to be restored to full Crown ownership and control as a Scenic Reserve under Section 35(2) 0 (a) (ii) of the Crown Pastoral Land Act as described in the Preliminary Proposal) to ensure the long term ecological sustainability of these special areas guaranteed by a written, legal and binding Covenant clearly setting out the conditions of management (including public access arrangements) in a partnership arrangement between the property owners and scientific experts. The Protective Mechanism could be a Conservation Covenant or Queen Elisabeth II Trust Open Space Covenant.*

We believe this simpler arrangement meets all the requirements of the Objects of the Crown Pastoral Land Act 1998 in the tenure review of the Ben Avon property.

Signed:

*R S Emmerson Trust and Forest Range Ltd
Forest Range Station, Private Bag, Tarras.
Phone 03 4452833, Fax 03 4452834, Email rsemerson@xtra.co.nz*

CC: Commissioner of Crown Lands, Wellington