

Crown Pastoral Land Tenure Review

Lease name: BEN NEVIS

Lease number: PO 241

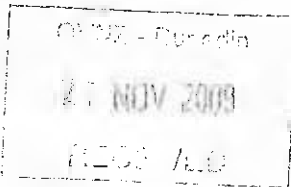
Public Submissions - Part 4

These submissions were received as a result of the public advertising of the Preliminary Proposal for Tenure Review.

July

10

275018



Ben Nevis Str.
% 25 Seal Pt Rd.
No 2 RD.
Dunedin.
24-11-09.

Dear Commissioner,

Ben Nevis Str Temuwa Kovein.
Schoolhouse Flat C.A.2.

My name is Trevor Heaney and I have been farming and caretaker of Ben Nevis Str for the past twelve years leasing the land from Pioneer Generation.

I think it is quite important to make it clear never has there been anybody refused permission to enter the property under any care. The controlling the hunting, hiking, kayaking and driving and finding these people return safely is quite a large part of life in the Nevis Valley.

My life in the Nevis Valley is second to none with its isolation, stark natural beauty big mountains and sky to the meandering river with its fishermen.

Winters however are harsh and have to be managed with great care.

This property is going to be reduced in size from 14500 hectares to 4000 hectares. This is a huge area going into conservation with high covenant covenants imposed. My concern is the Schoolhouse flat area being placed in C.A.2 area having no grazing. The Schoolhouse flat covers an area of around 700 hectares and has three distinct areas.

First being the river terraces growing native grasses and clovers providing a lot of grazing for stock, then to the mid terrace to top terrace all of this is under 750 metres which is considered mid altitude country.

At present 20 cows and 1000 merino wethers are grazed on this block. The wethers for 4½

months from August to mid December, being snow safe country with good shelter.

With the rabbit gone, controlled grazing will help control the small area of broom around the old townships with associated spraying. We in the Valley feel now grazing is going to result in a huge fire risk for the people that live or have houses in this area as we know it only takes someone to burn theseloo paper or a bonfire spark on a hot summer day with a breeze and the Valley would be alight.

The original advise was that sheep grazing would be beneficial to the conservation value of the area, but Pioneer not being pastoralists did not persue the issue but are more than happy for me to.

What I would propose is some grazing of sheep for a period of ten years with a right of 2 more ten year periods at no or very little cost.

This could all help in maintaining pastoral farming in the Valley which does employ two permanent and one part time person with years of accumulated knowledge and dependency.

I think it is very important to retain Pastoral farming in this area and with a warming climate and a history dating back to the 1860's.

J. Heaney

Trevor Patrick Heaney.

John Douglas
41 Glencarron St
Alexandra 9320

26th November 2009

The Commissioner of Crown Lands,
C/- Darroch Valuations
PO Box 215
DUNEDIN



Dear Sir

Re: Preliminary Proposal for Tenure Review: Ben Nevis Pastoral Lease

Thank you for the opportunity to comment on this proposal.

I write as a retired small tour operator and with over some 20 years of traveling and walking over large areas of Central Otago, having gathered an extensive knowledge information of Central Otago, its history, flora and to a lesser extent on that of its fauna

This submission is based on an examination of the proposal interms of its fulfillment of Part 2 of the Crown Pastoral Lands Act 1998, (CPLA), and an assessment using the guidelines for assessing areas of significant inherent values in the DOC Standard Operating Procedures.

The Preliminary Proposal As Presented

- 1) Support most of the proposal except that of the Nevis Township terrace and the associated mining area and buildings on the true left of the Nevis River flood plain from Commissioners Creek to the old Crossing. Settlement Brochures on the Nevis Valley, a 1908 map of Lower Nevis Valley mining & buildings and proposal and a sketch plan of the Lower Nevis mining claims 1898 enclosed.
- 2) DoC have made very little or no mention in the Proposal of the historic significance if these mining sites and buildings that provide evidence of the importance of both its early pastoral history and mining.
- 3) Again DoC have made very little or no mention of the scientific value of the Lower Nevis Valley floor up to the Schoolhouse Flat terrace face. A Flora and Fauna list also enclosed.

Recommendation

That all of the area associated with the early alluvial and dredge workings, all settlement remains from Commissioners Creek to The Crossing on the true left of the Nevis River be returned to the Crown. This will also provide protection to the rare and threatened valley floor flora and fauna. The area returned to be designated to be included into The Remarkables Conservation Park and administrated by DoC.

Yours sincerely

John Douglas

Enclosed: Otago Goldfields Heritage Trust Nevis Valley Brochures
Sketch map of the Lower Nevis Valley around 1908
Sketch plan of Mining Claims Nevis River 1898
Flora and Fauna List: Lower Nevis Valley Floor / Schoolhouse Flat Terrace
Face – Lower Nevis Valley

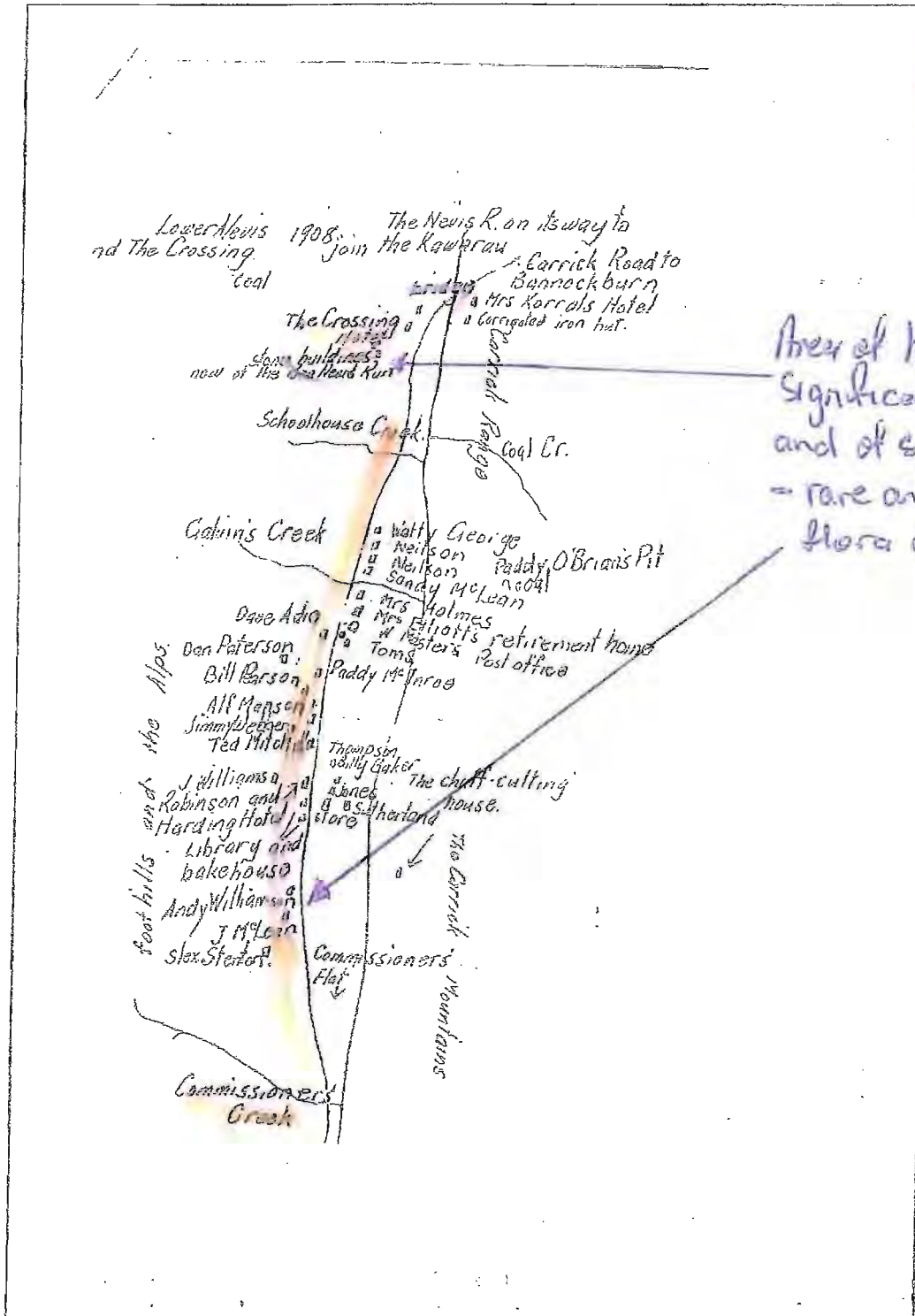


Figure 10: Sketch plan showing the occupation of the Lower Nevis Valley in around 1908 (Gavin McLean 93-107, Hocken Library, University of Otago).

Threat on Ben Nevis Station
 - true left of the Nevis River

**FLORA AND FAUNA LIST: LOWER NEVIS VALLEY FLOOR /
SCHOOLHOUSE FLAT TERRACE FACE - LOWER NEVIS VALLEY**

Compiled by Brian Patrick & John Douglas.

This list comprises of only natives species.

Species that have been asterisked are local, rare or threatened.

- Acaena caesiglauca* - a small bluish-leaved bidibid.
A. microphyllum - a very small leafed bidibid. In along the face of the sluiced river terrace.
Aciphylla aurea - golden speargrass found along the face of the sluiced river terrace slopes and on the old tailings
Blechnum penna-marina subs *alpina* - hard fern - a small common fern
Carex breviculmis - dryland grassland sedge
Carex coriacea - common wetland sedge
* *Carex kaloides* - locally common in drylands here - uncommon species nationally
* *Carex muelleri* - a nationally rare sedge, though here locally common in patches in valley-floor. This is the best population of the species in the world
Colobanthus strictus - small rosettes in dryland rocky areas of valley-floor
Coprosma petriei - a cushion coprosma forming large hard patches
Discaria toumatou - matagouri (Irish thorn) found along amongst the tailings the face of the sluiced river terrace.
Elymus apricus - a tall native tussock grass
Festuca novae-zelandiae - hard fodder tussock. Common in patches throughout the flats.
* *Galium* new species - found only here and on the Pisa Flats. Sweet smelling with a small white flower often found growing within cushions of *Raoulia australis*
Geranium sessiliflorum - a cranesbill found throughout - green and bronze form
Leucopogon fraseri - a small prickly heath found in large patches across the flats.
* *Leptinella* new species - rare tiny button daisy along on the river terrace found only here and on the Pisa Flats.
Luzula rhadina - a common reddish tinge woodrush
Muehlenbeckia axillaris - pohehue - large patches of this sub-shrub in rocky areas
Melicytus alpinus - porcupine shrub - this is a new undescribed species
Olearia odorata - scented tree daisy shrubs found along the face of sluiced river terrace
Pimelea oreophila - dryland subshrubs are locally common in valley-floor
Poa aff *colensoi* - bluegrass is locally common
P. cita - silver tussock
P. maniototo - small desert grass
Raoulia apicenigra - a loose mate cushion plant. (Flower buds are black at first.)
R. australis - a dense greenish cushion plant yellow daisy.
R. beauverdii - a loose mate cushion plant daisy.
R. parkii - a loose mat cushion plant daisy. Locally common
R. subsericea - a pale greenish cushion plant daisy. Common in small patches above the river terrace.
Rhytidosperma buechananii - dryland cushion grass - uncommon here
Scleranthus uniflorus - orange-coloured cushion plant - uncommon here
Stellaria gracilentia - small chickweed. which is common in places in valley-floor

**FAUNA : RIVER FLATS / SCHOOLHOUSE TERRACE FACE -
LOWER NEVIS VALLEY**

Lepidoptera (Moths & Butterflies)

Arctesthes catapyrrhas - small diurnal moth.

Lycaena boldenarum - boulder copper butterfly.

* *Orocrambus sophistes* - rare. - Tiger moth The female moth is flightless.

Zizina oxleyi - southern blue butterfly.

Coleoptera (Beetles)

* *Mecodema chiltoni* - a large carabid (ground beetle) and now rare here.

Megadromus sandageri - a large black carabid.

Lizards - both skinks and gecko are common on the tailings

Birds feeding and / or breeding observed on the valley floor;

* Black-billed gull

* Black-fronted tern

* Branded dotterel

Paradise shelduck

South Island pied oystercatcher



Federated Mountain Clubs of NZ (Inc)

P.O. Box 1604
WELLINGTON 6140
www.fmc.org.nz

26 November 2009

The Commissioner of Crown Lands,
C/- Darroch Valuations,
PO Box 215,
DUNEDIN.



Emailed 29/11/09
JJP

Dear Sir,

Re: Preliminary Proposal for Tenure Review: Ben Nevis Pastoral Lease (Po 241)

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 clubs throughout New Zealand. We also indirectly represent the interests and concerns of many thousands of private individuals who may not currently be members of clubs but who enjoy recreation in the back country.

On their behalf, FMC aims to enhance recreation opportunities, to protect natural values, especially landscape and vegetation, and to improve public access to the back country through the tenure review process.

FMC fully supports the objectives of tenure review as set out in the Crown Pastoral Land (CPL) Act 1998, and the more recently stated government objectives for the South Island high country especially the following:-

- *to promote the management of the Crown's high country in a way that is ecologically sustainable.*
- *to protect significant inherent values of reviewable land by the creation of protective measures; or preferably by restoration of the land concerned to full Crown ownership and control.*
- *to secure public access to and enjoyment of high country land.*
- *to ensure that conservation outcomes for the high country are consistent with the NZ Biodiversity Strategy.*
- *to progressively establish a network of high country parks and reserves.*

[EDC Min (03) 5/3; CAB Min (03) 11/5 refer]

FMC appreciates this opportunity to comment on the Preliminary Proposal for the review of Ben Nevis Pastoral Lease.

THE PRELIMINARY PROPOSAL

1.1. An area of 8,807 hectares (approximately) to be designated as land to be restored to or retained in Crown control as conservation area (labelled CA I on the Plan in Schedule A) subject to qualified designations under section 35(2)(b)(i) and section 36(1)(a) Crown Pastoral Land Act 1998.

Qualified designations pursuant to Section 36(1)(a) Crown Pastoral Land Act 1998

1.1.1 Easement Concession:

An easement concession for farm management purposes under Section 17Q(1) Conservation Act 1987 to be granted to Pioneer Generation Limited over the land marked "e-b1 -k" and "k1 -k2" in CA1 on the Plan in Schedule A.

1.1.2 Heliskiing Concession:

A heliskiing concession under Section 17Q(1) Conservation Act 1987 to be granted to Pioneer Generation Limited over the land in CA 1 on the Plan in Schedule A.

1.2 An area of 950 hectares (approximately) to be designated as land to be restored to or retained in Crown control as conservation area subject to a qualified designation (labelled "CA 2" on Plan in Schedule A) under section 35(2)(b)(i) and section 36(1)(a) Crown Pastoral Land Act 1998.

Qualified designations pursuant to Section 36(1)(a) Crown Pastoral Land Act 1998

1.2.1 Easement Concession:

An easement concession for farm management purposes under Section 17Q(1) Conservation Act 1987 to be granted to Pioneer Generation Limited over the land marked "a2-n-s" and "m-n" in CA 2 on the Plan in Schedule A.

1.3 An area of 140 hectares (approximately) to be designated as land to be restored to or retained in Crown control, as conservation area subject to a qualified designation (labelled "CA 4" on the plan in Schedule A) under section 35(2)(b)(i) and section 36(1)(a) Crown Pastoral Land Act 1998.

Qualified designation pursuant to Section 36(1)(a) Crown Pastoral Land Act 1998

1.3.1 Grazing Concession:

A grazing concession for the grazing of sheep under Section 17Q(1) Conservation Act 1987 to be granted to Pioneer Generation Limited over the land labelled CA 4 on the Plan in Schedule A.

1.4 An area of 160 hectares (approximately) to be designated as land to be restored to or retained in Crown control as conservation area subject to a qualified designation (labelled "CA 5" on the plan in Schedule A) under section 35(2)(b)(i) and section 36(1)(a) Crown Pastoral Land Act 1998.

Qualified designation pursuant to Section 36(1)(a) Crown Pastoral Land Act 1998

1.4.1 Grazing Concession:

A grazing concession for the grazing of sheep under Section 17Q(1) Conservation Act 1987 to be granted to Pioneer Generation Limited over the land labelled CA 5 on the Plan in Schedule A.

1.5 An area of 8 hectares (approximately) to be designated as land to be restored to or retained in full Crown ownership and control as conservation area (labelled "CA 3" on Plan in Schedule A) under section 35(2)(a)(i) Crown Pastoral Land Act 1998.

1.6 An area of 52 hectares (approximately) to be designated as land to be restored to or retained in full Crown ownership and control as Scenic Reserve (labelled "R1 (Scenic)" on Plan in Schedule A) under section 35(2)(a)(ii) Crown Pastoral Land Act 1998.

1.7 An area of 4,451 hectares (approximately) to be designated as land to be disposed of by freehold disposal to Pioneer Generation Limited (shown edged in green on Plan in Schedule A) under section 35(3), section 36(3)(b) and section 40(i)(b) Crown Pastoral Land Act 1998 subject to protective mechanisms and a qualified designation.

Protective mechanisms pursuant to Section 40(1)(b) and Section 40(2)(a) and Section 40(2)(b) Crown Pastoral Land Act 1998

1.7.1 Conservation Covenant.

A conservation covenant under Section 77 Reserves Act 1977 for the purposes of protecting the natural environment of the area (marked "CC 1", "CC 2", "CC 3" on the Plan in Schedule A)

Conservation Covenant CC 1 (Doolans)

Conservation Covenant CC 2 (Nevis Burn)

Conservation Covenant CC 3 (Schoolhouse Creek) and CC 3A

1.7.2 Landscape Covenant.

A conservation covenant under Section 77 Reserves Act 1977 protecting the landscape values of the area shown coloured marked "CC (Landscape)" on the Plan in Schedule A.

Qualified Designations pursuant to Section 36(3)(b) Crown Pastoral Land Act 1998

1.7.3 Public Access and Minister of Conservation Management Purposes Easement in Gross. An easement under Section 7 Conservation Act 1987:

(i) to provide public access for persons on foot, or on or accompanied by horses, or by non-motorised vehicles powered by a person or persons, or by motor vehicle, provided however that persons with guns and persons accompanied by dogs are permitted to use the easement area provided they have a hunting permit issued by the Department of Conservation over that part of the land shown marked as "a-b-y-c-d" on the Plan attached in Schedule A.

(ii) to provide public access for persons on foot, or on or accompanied by horses, or by non-motorised vehicles powered by a person or persons, provided however that persons with guns and persons accompanied by dogs are permitted to use the easement area provided they have a hunting permit issued by the Department of Conservation over that part of the land shown marked as "c-e", on the Plan attached in Schedule A.

(iii) to provide public access for persons on foot, or by non-motorised vehicles powered by a person or persons, provided however that persons with guns and persons accompanied by dogs are permitted to use the easement area provided they have a hunting permit issued by the Department of Conservation over that part of the land shown marked as "b-bl" "f-g-h" "g-i", "s-t", "n-n1" "u-v" and "w-x" on the Plan attached in Schedule A.

(iv) to provide access for tenants, agents, contractors and invitees of the Minister and any employee or contractor of the Director-General of Conservation on foot, or on or accompanied by horses, or by motor vehicle, with or without machinery and implements of any kind, and with or without guns and dogs, for management purposes over that part of the land marked "a-b-y-c-d", "b-bl" "c-e", "f-g-h", "g-i", "n-n1", "s-t" and "u-v" on the Plan attached in Schedule A.

1.8 An easement under Section 26S Conservation Act 1987 to provide access for employees, agents, contractors, honorary rangers and invitees of the Otago Fish and Game Council on foot or by motor vehicle, with or without machinery and implements of any kind for management purposes over that part of the land marked "a-b-y-c-d" and "y-z" on plan in Schedule A.

INTRODUCTION

It should be noted that FMC provided a Report in November 2002, following the Early Warning meeting related to properties introduced in 2002. That Report was entitled "*FMC Report on the Recreational and Related Significant Inherent Values: BEN NEVIS and CRAIGROY*".

The review of Ben Nevis is a particularly important one for recreational users of the back country as it provides important settings for both summer and winter recreation – notably tramping, climbing, mountain bike riding; and cross-country skiing in the winter. It provides access to the eastern flanks of the Remarkables and Hector Mountains.

The Garston – Nevis Road is becoming increasingly popular as a mountain bike trip perhaps because of the annual "Pub to Pub" (Garston to Bannockburn) mountain bike event. This traverses Ben Nevis for a considerable distance along the valley floor.

Ben Nevis, and especially the higher and more remote parts of the lease, are valued because of their natural values which provide an ideal setting for outdoor recreation. Ben Nevis Station lies on the western side of the Nevis Valley and its western (top) boundary runs along the summit ridge of the Hector Mountains including James Peak (2,072m) and Ben Nevis (2,234m). The property also includes a series of stream catchments which are all tributaries of the Nevis River. From north to south these are the Left Branch of the Doolans, which marks the northern boundary of the property, The Nevis Burn, Schoolhouse Creek and Commissioners Creek, each of which are separated by prominent spurs running from valley floor to mountain top.

The Remarkables are undoubtedly better known than the Hector Mountains but the latter offer a range of opportunities for summer and winter recreation. Traditional access has been from the Queenstown side, and more recently easy access has become available via the Remarkables skifield. Lake Hope, Ben Nevis, James Peak, Staircase Creek and Wye Creek are the usual objectives for tramping parties setting out on the western side, but all of these, except Staircase Creek and Wye Creek could equally well be approached from the Nevis side.

With the improvement in, and securing of, public access through tenure review it is highly likely that recreational use from the Nevis side will increase. By vehicle it is not difficult to get to a dramatic and remote setting in the Nevis valley where lots of opportunities open up for day trips or longer excursions to the Hectors and Remarkables, and over Coal Pit Saddle to the Kawarau Gorge.

Mason (1989) has underlined the historic and continuing importance of the Remarkables and Hectors for recreation: *"The Remarkables, since the time of the earliest European settlement, have been regarded as the single most spectacular feature in a highly scenic region.*

Passive appreciation remains its greatest recreational value. The "stupendous declivity" of jagged crags, from level base to saw-toothed summit ridge, has a dominating presence over the Queenstown district. It is unrivalled by any similar landform in New Zealand and provides a backdrop for all manner of outdoor activities undertaken by many thousands of visitors from throughout New Zealand and overseas. For many it is an object of marvel and inspiration, without generating a need to touch or climb. The absence of any natural or man-made weaknesses in the 'declivity' inspires almost mystical qualities that give it a value beyond mere rock and cleft.

Government geologist TN. Hackett and party made the first recorded ascent of Double Cone in October 1864. As Queenstown became less of a goldrush town and more of a resort, interest in climbing to the summit increased. Since at least the 1890s the climb up the northern Kawarau face or the western face, to Lake Alta and the summit, has been a popular attraction.

Before road construction, the Lake Alta area of the Rastus Burn was the focus of attention for trampers and climbers, with Single or Double Cone the objective. Two days, or a very long day, was required for the return trip."

The Garston — Nevis Road gets a great deal of public use when flooding of tributary creeks is not a problem. In recent times it has become increasingly popular for mountain biking and an annual 'Pub to Pub' bike race is now held between Garston and Bannockburn. The valley floor and Nevis River are popular destinations for family groups, and for picnicking, fishing, camping, and gold panning.

Public access for tramping and mountain bike trips into the Doolans and over the Coal Pit Saddle road, tramping routes up the major spurs on Ben Nevis, ski mountaineering and touring on the Hector Mountains, together with exploration of historic gold mining areas and other family activities in the Nevis valley, are the main priorities for recreation in this tenure review.

It should be noted that while much of the recreational interest focuses on access, the natural values and landscapes of the recreational settings have a fundamental impact on the value of the back country. Furthermore, the views to be had from the many vantage points, and opportunities for exploring the relics of the gold mining era also greatly influence the quality of recreational experience enjoyed. It is for this reason that we are making submissions on natural, historic and landscape values of Ben Nevis.

It is also for all these reasons that, FMC supports the concept that some 8,800ha of leasehold land on the Nevis faces of the Remarkables and Hectors Mountains are likely to become part of the emerging Remarkables Conservation Park.

The valley floor and lower slopes of Ben Nevis contain many remains of 19th century gold mining activities which are of representative significance. There are examples of all stages of alluvial mining from the earliest paddocking and sluicing methods to electric and coal powered dredging operations which were at their peak around the turn of the century. There was also much hydraulic sluicing which has made its mark on the valley sides. The evidence, which is still clearly visible today includes not only the sluicing scars, but also the many water races which fed the sluicing and hydraulic elevating operations.

The Otago Conservation Management Strategy (CMS) recognises the Nevis as part of the Remarkables Special Place 26. The CMS describes the Nevis as “*a supreme example of a little modified and virtually treeless Central Otago landscape with one of the most intact goldfields landscape remaining in Otago*”. It is important to note that the CMS Objectives include “*the protection of the high historic values and remoteness of this Special Place*”.

The flats and terraces contain a wide diversity of plants, many of which are small but significant because of their rarity. The relatively rare species include an unnamed *Leptinella* and *Galium*, both only found elsewhere in Otago on the Pisa Flats. A sedge, *Carex kaloides* is also becoming increasingly rare in Otago and the Nevis population is now one of the most important. Near the terrace edge above the Nevis River, *Olearia odorata* and matagouri occur, along with *Muehlenbeckia exillaris*, *Myosotis glauca* and *Raoulia australis*.

The focus of botanical interest in the flats is centred around Schoolhouse Fan and adjacent terraces. The majority of these fans have not been developed, and have only been extensively grazed. The flat is a mosaic of short tussock, sedges, exotic grasses, bare ground, cushion vegetation and the occasional remnant of *Chionochloa rubra cuprea*. A few herbs occur within these stands including the rare *Ranunculus ternatfolius*. Other species are *Gentiana grisebachii*, *Gaultheria nubicola* and *Ranunculus cheesemanii*. The remaining conservation interest on parts of this broad fan is the sedge *Carex muelleri*, a dense tough rhizomatous species only 10-16cm high. It forms distinctive communities that at first glance look like highly degraded festuca grasslands. This species is not common in Otago and the Nevis is described as the type locality for the plant. Schoolhouse Flat is the only area where it survives as a viable community.

FMC believes that the main issue in the tenure review of Ben Nevis is protection of the wide range of important values on the valley floor and lower slopes of this property. Historic and botanical values have been mentioned above and will feature again in our discussion of the proposal for freeholding (see 1.7 below). Other factors include (a) the need to protect examples of land types and ecosystems present in the Nevis which are rare elsewhere, (b) the wild and scenic value of the river itself which is very important for fishing and water-based recreation such as kayaking and rafting, and (c) more passive activities such as photography and family picnics are no less important for people to be able to enjoy and appreciate the special qualities of the Nevis Valley.

Mason (1989) has described the natural values of the Remarkables and Hectors as follows: “*The flora of the area is somewhat unique in its combination of a few of the larger, more colourful alpine plants that characterize the wet mountains west of the Otago lakes, together with many of the distinctive high-alpine cushion plants that are a special feature of the drier Central Otago highlands. In addition there are a few alpine species of limited east-west range that are centred on the Remarkables and Hectors.*”

The plant cover consists of a mosaic pattern of high-altitude snow tussock grassland, dwarfed cushion, snowbank, herbfield and bog, with sparsely vegetated fellfield and rock debris slopes. These different environments are separated chiefly by altitude and topography. The most extensive plant community is snow tussock grassland rising from 1,000m to 1,800m dependent on aspect. The narrow-leaved snow tussock gives way to slim snowgrass at 1,200-1,500m, which in turn merges into blue tussock, or ends abruptly at the toe of the fellfield. The condition of the grassland is generally as good as, or better than, that found on the Central Otago ranges.

The extensive fellfields are relatively stable, consisting of jagged schist. The highest peaks of the Hectors are more rubbly than the central Remarkables and this is reflected by the restricted distribution of several fellfield species. A notable feature of these fellfields is heavy growth of leaf-like and twiggy lichens”.

It is understood that a large fenced area (6,844ha) which includes the true right bank of the Doolans left branch, and the catchments of the Nevis burn, Schoolhouse and Commissioners Creeks, was voluntarily retired in 1980 and is fenced. The botanical values in this area vary and include shrublands, tussocklands, herbfield, fellfield, wetlands and rocky slopes. These are found within an altitude zone extending from 800m near the flats to the crest of the Hector Mountains at about 2,000m. The lower slopes of all these valley systems include scattered tall tussock at the lower altitudes which is thicker above about 1,250m. Fescue and blue tussock are a component throughout, along with adventive grasses at the lower altitudes. The creeks are steep and the riparian zones contain a shrubby element of matagouri, Hebes and Coprosmas. In Schoolhouse Creek on a south facing slope, a large shrubland of *Hebe anomala*, *Carmichaelia arborea*, *Coprosma ciliata* and *C. propinqua* extends between 900m to 1,200m. Above 1,500m, depending on aspect, slim leaved snow tussock (*Chionochoa macra*) occurs in patches along with *Celmisia sessiliflora* and *Aciphylla kirkii*. Above 1,700m the snow tussock thins and becomes restricted to sheltered sites. The more exposed sites and those above 1,750m contain cushion vegetation of *Dracophyllum muscoides*, *Poa colensoi*, *Chionohebe thomsonii* and *Raoulia hectori*.

Given that this area has been voluntarily retired from grazing, and contains significant inherent values, it should be restored to full Crown ownership and control and managed for conservation and recreation purposes.

On Ben Nevis, most of the Hector Mountains are characterised by High Country Yellow Brown Earth Dunstan Steepland soils with extensive areas of alpine soils and bare rock. Almost all the land above 1,000m is either LUC Class VII or VIII with a high proportion of Class VIII land. Yellow Grey Earth Blackstone Hill soils of LUC Class VI characterise the lower slopes below about 800m and alluvial soils of LUC Class IV occur on some of the flats. These areas of higher capability are suitable for freeholding because they can be managed in a way that is ecologically sustainable, but they occupy less than a quarter of the property. Furthermore, their productive value needs to be compared with the significant inherent value of rare and endemic species and ecosystems and the unique assemblage of heritage values. FMC believes that for much of the Nevis valley floor and lower slopes these natural and historic values exceed the productive worth of the land in the harsh environment of the Nevis.

Land which is classified LUC Class VIII or VIIe, is either entirely unsuitable (Class VIII) or of very limited suitability (Class VII) for pastoral farming. Because sheep grazing on high country soils is a depletive process (loss of nutrients through burning and removal of animal products) the land cannot be managed “in a way that is ecologically sustainable” (as required by the CPL Act 1998) unless nutrient removals are replenished by fertiliser applications. However, such applications are not likely to be economically justifiable above about 1,000m because of climatic limits on growth potential. We therefore argue that they cannot be managed in a way that is ecologically sustainable in the long term.

The alternative is that these lands be restored to Crown control and be managed by DOC for conservation and recreation purposes. The removal of grazing and burning would allow recovery of formerly more extensive ecosystems such as shrublands on the lower slopes and alpine cushionfields higher up. The tussock grassland would also benefit from the cessation of grazing and their vigour would improve.

There are two major reasons why FMC believes that significant areas of Ben Nevis should be restored to Crown control. The first of these is the significant inherent value of vegetation and landscape and the potential of the existing alpine communities, tussock grasslands, herbfields, and remnant shrublands to recover from past grazing and burning and regain their former ecological status. The second is that they cannot be managed in a way that is ecologically sustainable (as required by the Act) without nutrient replenishment (see the discussion above).

FMC is pleased to note that a number of our recommendations (made in 2002) have been included as formal designations in the present Preliminary Proposal document. Where our recommendations have been followed, this will be acknowledged in the submissions that follow.

FMC SUBMISSIONS

The details of FMC views on, and support for, or objections to, the Preliminary Proposal are presented below and are arranged in the same format as the Preliminary Proposal quoted above, with numbering as in the Preliminary Proposal document.

1.1 An area of 8,807 hectares (approximately) to be designated as land to be restored or retained in Crown control as conservation area subject to qualified designations (labelled CA 1 on the Plan in Schedule A) under section 35(2)(b)(i) and section 36(1)(a) Crown Pastoral Land Act 1998.

This proposal takes in the alpine lands of the Hector Mountains from Doolans Creek Left Branch to the spur on the true right of Commissioners Creek. The proposal includes the highest peak (unnamed) on the Hector Mountains (2307m), Ben Nevis (2234m), and southwards along the ridge to near James Peak. The proposal then extends down slope to about 800 – 1,300m altitude.

The area comprises jagged rocky peaks, cirque basins and tarns, steep sided mountain streams and open tussock covered faces. This proposal adjoins the Remarkables (Wentworth) Conservation Area to the north; the Remarkables (Loch Linnhe) Conservation to the west and the proposed Nevis Valley Conservation Area to the east.

This is an area likely to be incorporated into the emerging Remarkables Conservation Park, which is a concept fully supported by FMC because of its remote back country values for tramping, rock and ice climbing, and cross-country skiing. It is also an area recognised in the FMC Report (2002) as one recommended for return to full Crown ownership and control.

Most of this area is in native vegetation, with a high proportion having been de-stocked voluntarily since 1980. The vegetation communities present include shrublands, tussock lands, herbfields, fellfield, wetland and rocky slopes. There are some introduced grasses on the lower slopes, being a relic of past development and induced fertility from grazing.

We also understand that there are a number of threatened species in this area including those reported in the Preliminary Proposal. FMC believes that it is appropriate for an area likely to become part of the emerging Remarkables Conservation Park, that there should be protection for these threatened species within this area.

We note that the proposal also states that *“This proposal offers high quality semi remote recreational opportunities in what can only be described as a spectacular setting. Access will be available from existing legal roads plus access easements created by the proposal”*. FMC is happy to agree with this statement which is largely in accord with the FMC Report (2002).

FMC strongly supports and endorses the proposal for the reasons and values we described in the introduction, for the reasons referred to above and for the high values ascribed to the criteria for the evaluation of the 7 criteria used for assessment by PNA survey methods.

FMC submission

FMC endorses and fully supports the proposal that the area marked on the Plan as CA 1 should be restored to Crown control as a Conservation Area. We note that this area is subject to qualified designations which are discussed below.

Qualified designations pursuant to Section 36(1)(a) Crown Pastoral Land Act 1998

1.1.1 Easement Concession:

An easement concession for farm management purposes under Section 17Q(1) Conservation Act 1987 to be granted to Pioneer Generation Limited over the land marked “e-b1 -k” and “k1 -k2” in CA 1 on the Plan in Schedule A.

FMC understands that the purpose of this easement concession is to allow continued farm management access along an existing farm track. We do not expect that this will impact on the conservation values in CA 1.

FMC submission

FMC has no objection to the granting of this easement concession to Pioneer Generation Limited.

1.1.2 Heliskiing Concession:

A heliskiing concession under Section 17Q(1) Conservation Act 1987 to be granted to Pioneer Generation Limited over the land in CA 1 on the Plan in Schedule A.

FMC understands that the ski runs advised by the applicant are mostly in the upper areas of Commissioners and Schoolhouse Creeks. We do not believe that there should be serious conflict with freedom skiers in this area and therefore recommend that the existing concession should be allowed to run its course. On expiry of the concession a new application will be required.

FMC submission

FMC recommends that this existing concession should be allowed to run its course. Any continuation of the concession after its expiry date will need to be applied for anew from DOC.

1.2 An area of 950 hectares (approximately) to be designated as land to be restored to or retained in Crown control, as conservation area subject to a qualified designation (labelled "CA 2" on Plan in Schedule A) under section 35(2)(b)(i) and section 36(1)(a) Crown Pastoral Land Act 1998.

FMC understands that the area covered by this designation includes a large part of Schoolhouse Flat, the Lower Nevis Township and that part of the lease between the Nevis Road and the true left of the Nevis River from the Township northwards to Trig "Y". It may exclude two or more small parcels of freehold land, and at least 2 small parcels of existing Conservation land.

FMC is impressed by, and fully supports the analysis reported in the Proposal, of the importance of natural landscape values, the recognition of significant inherent values, the assessment high values assigned to criteria as used in PNA surveys, the recording of several threatened species, and the recognition of the special historic goldmining relics and evidence of past goldmining activity on and around Schoolhouse Flat. In particular we agree with and strongly endorse the statement: *"These landscapes form an integral part of the Nevis Valley landscape, which is considered to be of national significance."*

We also note the following statement: "The Nevis Valley landscape is outstanding, being defined by the homogenous dominant gold tussock cover, jagged peaks of the Hector Mountains and the rolling plateaux of the Old Woman and Carrick Ranges to the east. The early mining workings including tailings, sluice faces, and dredging are set in a landscape that has seen little modification since the nineteenth century. The sites are highly visible due to the lack of forest and shrubland. The Nevis Valley has national importance because of its high heritage values and ease of interpretation. The wild and scenic characteristics of the Nevis River contribute to the scenic values of the valley. FMC believes that this statement is of critical importance when considering future land use changes and/or resource consent applications in the Nevis Valley.

In view of the significant inherent values referred to in our introduction, and the analysis reported in the Preliminary Proposal above, FMC believes that it is entirely appropriate to designate this area as conservation land to be retained in Crown control. We are however unclear why CA 2 should be recognized as distinct from CA 1, it is after all part of the altitudinal sequence from river bank to mountain top.

FMC submission

FMC endorses and strongly supports the proposal that the area marked on the Plan as CA 2 should be restored to Crown control as a Conservation Area. We note that this area is subject to qualified designations which are discussed below. We recommend that the need to distinguish between CA 1 and CA 2 should be reviewed.

Qualified designations pursuant to Section 36(1)(a) Crown Pastoral Land Act 1998

1.2.1 Easement Concession:

An easement concession for farm management purposes under Section 17Q(1) Conservation Act 1987 to be granted to Pioneer Generation Limited over the land marked "a2-n-s" and "m-n" in CA 2 on the Plan in Schedule A.

FMC understands that the purpose of this easement concession is to allow continued farm management access from Nevis Road to Sunny Schoolhouse (but we are not sure what 'Sunny Schoolhouse' refers to, although we assume it to be the name of one of the farm blocks adjacent to the Schoolhouse Flat.). We do not expect that farm use of this easement will impact greatly on the conservation values in CA 2. We are however, not convinced that the original advice to the Contractor that sheep grazing might have conservation benefits was in fact good advice. It is our opinion that this suggestion needs to be tested and monitored very carefully.

FMC submission

FMC is not opposed to the granting of this easement for farm management purposes. We are however, sceptical of the advice that grazing might have conservation benefits because of the adverse impacts of grazing and burning on this area. We submit that this suggestion needs to be tested and monitored very carefully to determine whether in fact grazing is beneficial or not under these circumstances. Appropriate conditions specifying monitoring should be included in the Concession.

1.3 An area of 140 hectares (approximately) to be designated as land to be restored to or retained in Crown control, as conservation area subject to a qualified designation (labelled "CA 4" on the plan in Schedule A) under section 35(2)(b)(i) and section 36(1)(a) Crown Pastoral Land Act 1998.

FMC understands that this area comprises the 1930s gold mine workings running around the faces between CA 1 and the Nevis River. We also understand that advice received by the Contractor suggested that grazing of this area with sheep was required to keep the vegetation under control. The proposed Conservation Area as a consequence is not fenced and will be run with the adjoining farm land grazing sheep only.

FMC is pleased to note that the historic values identified in the FMC Report (2002) have been recognised in the Proposal and that protection as a Conservation Area is recommended. We fully support this proposal but have reservations concerning the absence of fencing around the area. While we accept that some grazing may not do appreciable damage to the goldmining remains, the actual grazing pressure on the surrounding area is not defined. We recommend that a stock limitation (sheep only) of less than 1 SU/ha/annum be imposed on the surrounding area.

FMC submission

FMC supports the establishment of this Conservation Area to protect historic goldmining works running around the faces between CA 1 and the Nevis River. In order that these values are not degraded by grazing stock we recommend that a stock limitation (sheep only) of less than 1.0 SU/ha/annum be imposed on the surrounding area.

1.3.1 Grazing Concession:

A grazing concession for the grazing of sheep under Section 17Q(1) Conservation Act 1987 to be granted to Pioneer Generation Limited over the land labelled CA 4 on the Plan in Schedule A.

As noted above FMC is somewhat sceptical of the suggestion that grazing sheep was one way of controlling the vegetation in this conservation area.

FMC Submission

In order that the historic goldmining workings described in 1.3 above are not degraded by grazing stock, we recommend that a stock limitation (sheep only) of less than 1.0 SU/ha/annum be imposed on the surrounding area.

1.4 An area of 160 hectares (approximately) to be designated as land to be restored to or retained in Crown control, as conservation area subject to a qualified designation (labelled "CA 5" on the plan in Schedule A) under section 35(2)(b)(i) and section 36(1)(a) Crown Pastoral Land Act 1998.

FMC understands that this area contains a raft of significant values mostly associated with woody shrublands below 1,000m. These shrublands are dominated by Olearia, Coprosma and matagouri. The shrublands closer to the river margin are described as some of the best examples in the area.

The area also includes a significant altitudinal sequence from 700 to 1,300m when included with the conservation covenant on the adjoining freehold. We note that the Proposal states that the contour makes it difficult and expensive to fence. As a result the proposal states that *"the boundary will not be fenced."*

If our recommendations regarding Covenant Area CC 1 (see below) are followed (CC 1 to be designated conservation area which could be added to CA 5), then there will be no need for fencing because the fencing around the proposed CC 1 would provide the necessary protection. Similarly there would be no need for the grazing concession to cover the possibility of stock trespass. We do not believe that there is good reason to separate CA 5 from CA 1 because they are essentially part of the same sequence from the Doolans valley floor to the crest of the Hector Mountains.

FMC Submission

In order that the significant inherent values of the shrublands described in 1.4 above are not degraded by grazing stock, and because there is a continuum from valley floor to mountain top, we recommend that CA5 and CC 1 should be amalgamated and added to CA 1.

Qualified designation pursuant to Section 36(1)(a) Crown Pastoral Land Act 1998

1.4.1 Grazing Concession:

A grazing concession for the grazing of sheep under Section 17Q(1) Conservation Act 1987 to be granted to Pioneer Generation Limited over the land labelled CA 5 on the Plan in Schedule A.

If our recommendation under 1.4 above is followed there will be no need for this concession. If however our recommendation is not accepted then we make the following comment and submission.

We understand that the concession is intended to deal with sheep straying into the conservation area. We also note that the concession is intended to apply to wandering stock but does not allow the owner of the adjoining land to encourage stock into the conservation area. FMC submits that this is a weak statement of intent which should be strengthened. For example, it might state that active steps should be taken to minimise the risk of wandering stock, and that sanctions may be applied if repeated straying events occur.

The reason for this strengthening of protection is that the clear intent is to protect the shrublands and to encourage regeneration. The latter would be inhibited by grazing or browsing by wandering stock, particularly if they persisted in the area for longer than a brief period.

FMC Submission

If our recommendation under 1.4 above is followed there will be no need for this concession. If our recommendation (1.4) is not accepted, then we submit as follows:

In order to minimise the risk of stock wandering into the concession area the concessionaire should be advised to take active steps to minimise stock wandering, and warned that if repeat instances of wandering do occur, sanctions may be applied.

1.5 An area of 8 hectares (approximately) to be designated as land to be restored to or retained in full Crown ownership and control, as conservation area (labelled "CA 3" on Plan in Schedule A) under section 35(2)(a)(i) Crown Pastoral Land Act 1998.

FMC understands that the area includes a small area of the Nevis River streambed located on the true left of the Nevis River. The area is currently fenced in within the Ben Nevis pastoral lease. This area has significant ecological and historical values associated with the gold mining history.

FMC is disappointed that the proposal does not describe or explain what these ecological and historic values are. From the location, we suspect they may include the remains of the Nevis Crossing Dredge wedged under the true left bank of the Nevis River near a gnarled old willow tree. If this is the case the remains are certainly worthy of protection and it is recommended that provision should be made for more active protection against further flood damage.

FMC Submission

FMC supports this proposal to protect significant ecological and historical values

1.6 An area of 52 hectares (approximately) to be designated as land to be restored to or retained in full Crown ownership and control, as Scenic Reserve (labelled "R1 (Scenic)" on Plan in Schedule A) under section 35(2)(a)(ii) Crown Pastoral Land Act 1998.

FMC understands that this area contains a significant area of red tussock grasslands with associated wetlands. Amongst the wetland communities are strong populations of rare and endangered species of Carex and Erechtion. These areas are at risk from continued stock grazing and the Proposal considered it necessary to remove this area and create a separate reserve to ensure the survival of rare species and communities present.

FMC Submission

FMC supports the recommendation that the Area R1 be designated as a Scenic Reserve to protect the rare and endangered species of Carex and Erechtion present therein.

1.7 An area of 4,451 hectares (approximately) to be designated as land to be disposed of by freehold disposal to Pioneer Generation Limited (shown edged in green on Plan in Schedule A) under section 35(3), section 36(3)(b) and section 40(i)(b) Crown Pastoral Land Act 1998 subject to protective mechanisms and a qualified designation.

FMC understands that the proposed freehold comprises the balance of the pastoral lease (ie the leasehold area excluding areas designated CA 1 through CA 5, and R1 (Scenic)). It includes all of the hill slopes within the Nevis Burn and Doolans Creek Left Branch catchments plus the valley flats from Nevis Crossing to just south of the Ben Nevis homestead. Most of this area extends up to about 1,100m and is characterised by Yellow Grey Earth Tiroiti Hill and Blackstone Hill soils which have been classified Land Use Capability (LUC) Class VI. Class VI soils are of medium suitability for pastoral farming. Most of this area has been oversown and topdressed, especially below about 1,000m and though there are some patches of snow tussock, the area generally has been heavily modified. We agree with the statement in the proposal that this land *"is capable of ecologically sustainable use with appropriate management"*. Appropriate management should include replenishment, through fertiliser application, of soil nutrient reserves depleted through removal of animal products and occasional burning.

Most of the land between about 1,100m and the highest points (~1,300m in CC 1, ~1,600m in CC 2, and ~1,400m in CC 3) and up to 1,680m at the highest point within the proposed freehold, is characterised by High Country Yellow Brown Earth Carrick Hill soils and Dunstan Steepland soils classified LUC Class VIIe, with very limited suitability for pastoral use. We do not accept that these areas can be managed in a way that is ecologically sustainable without the use of maintenance fertiliser, as discussed in our introduction. However, fertiliser application is unlikely to be carried out because of severely limited pasture response (and therefore a lack of economic justification) at these higher altitudes.

We also note that the three highest areas are the north facing sunny slopes in Covenant Areas CC 1, CC 2, and CC 3. There are strong arguments why these areas should not be freehold but instead should be added to the high country block CA 1 and returned to Crown control. This will be discussed more fully below (see 1.7.1 below).

We also note that the proposed freehold area includes the valley floor flats and low angle fans (notably Schoolhouse Flat) and the lower slopes where there are numerous archaeological and heritage values which should be protected. In the introduction we referred to the special values of the valley floor and lower slopes which warrant protection. These include (a) a vast collection of historic and heritage features which constitute a veritable outdoor museum of goldmining, (b) botanical and ecological values which include rare and endemic species, (c) natural and historic landscapes which include the surroundings of a wild and scenic river, (d) the recreational values, both active and passive of the river and its immediate surroundings, (e) land units and ecosystems which are present in the Nevis but which are rare or threatened elsewhere. These significant inherent natural historic and landscape values are such that under the terms of Section 24(b) of the CPL Act they should be protected *"(preferably) by restoration of the land concerned to full Crown ownership and control"*.

FMC Submission

FMC is not opposed to the freeholding of much of the proposed area because it appears that it should be capable of supporting ecologically sustainable pastoral use. We are however, opposed to the freeholding of the three Covenant areas (CC 1, CC 2 and CC 3) because of their altitude, probable inability to support sustainable land use, and because of the significant inherent values recognised as worthy of protection under conservation covenant.

We also submit that there are rare and unique values associated with plants, landscapes, ecosystems and heritage sites on the valley floor and lower slopes which warrant protection. These significant inherent natural historic and landscape values are such that under the terms of Section 24(b) of the CPL Act they should be protected "(preferably) by restoration of the land concerned to full Crown ownership and control". This land could be managed as a Reserve which could be designated Scenic, Scientific or Historic. The absolute minimum size of such a Reserve which would be acceptable to FMC would be that between the true left bank of the Nevis River and the Nevis Road but a much more satisfactory upper limit would be defined by the 680m contour.

1.7.1 Conservation Covenant.

A conservation covenant under Section 77 Reserves Act 1977 for the purposes of protecting the natural environment of the area (marked "CC 1", "CC 2", "CC 3" on the Plan in Schedule A).

FMC notes that these areas contain a range of values from woody vegetation in the river margins and lower slopes to tall tussock grasslands as the altitude rises. The higher altitude areas are mainly native snow tussock grasslands. As altitude decreases there is an increase in exotic species through over sowing, top dressing and grazing management. We understand that the intention is that the covenants will allow sheep grazing and limited cattle grazing in CC 2 and parts of CC 3. We understand that they will also allow continued over sowing and top dressing on areas previously developed.

If our submissions that these covenant areas should be returned to Crown Control are accepted, then the grazing provisions will become redundant. It is likely that some 'phase-out' grazing concession may be issued. We submit that the term of such 'phase-out' grazing should not exceed 10 years.

We deal with each of the three proposed covenant areas in the discussion below:

Conservation Covenant CC1 (Doolans)

Below approximately 1,000m there are extensive mixed shrublands dominated by *Olearia*, *Coprosma* and matagouri. Within these shrublands there are occasional trees of kowhai while the shrublands on the lower-most river terraces are comprised of almost pure *Olearia odorata*.

The upper parts of the face support a moderate cover of tussock grassland with a predominantly native groundcover. The landscape of the area is enhanced by tors and rock outcrops which are characterised by distinctive vegetation, including some threatened plants.

Thanks to the good offices of Pioneer Generation Ltd, all three proposed covenant areas (CC 1 through CC 3) were inspected using air access on 15 November 2009. This inspection revealed that CC 1 carried tussock grassland that was significantly depleted with only sparse tussocks remaining in some places. There were also areas of eroded land among the tor rocks at higher altitudes. It did not appear to us that this land would be capable of ecological sustainability in the long term, especially if grazing pressure is increased to compensate for loss of other grazing land through tenure review. On the other hand the area does have significant inherent values which were recognised as requiring protection under covenant. We recommend that instead the area proposed as CC 1 should be returned to Crown control and added to conservation area CA 5. Furthermore we recommend that CA 5 could be amalgamated with CA 1 as both parcels of land are parts of the same sequence from the floor of the Doolans to the crest of the Hector Mountains.

This area is particularly important because it encompasses a continuous altitudinal sequence of predominantly indigenous vegetation between approximately 700m and 1,300m, that forms part of a greater ecological and landscape sequence from the valley floor to the summit ridge of the Hector Mountains. Even if it were for this reason alone, FMC believes that the area should be returned to Crown control, perhaps with a short period of phase-out sheep grazing.

With the scientific and public awakening of the importance of climate change the protection of altitudinal sequences has taken on a new significance. Such sequences allow plants and organisms an opportunity to adapt to climatic change and for studies to be undertaken of those changes. This significance applies to all three proposed conservation areas CC 1, CC 2, and CC 3. FMC recommends that these areas should all be returned to Crown control.

Conservation Covenant CC2 (Nevis Burn)

This area features another continuous altitudinal sequence which stretches from alpine herbfield on the ridge tops (c. 1,680m) to valley floor riparian shrublands (c. 1,000m). The alpine herbfield includes a large population of the rare *Myosotis pygmaea* among scattered snow tussock. The lower portion of the area near the Nevis Burn is interspersed with tussock and wetlands. These wetlands contain occasional but important rare and endangered plants. Within the area there are also two historic water races which run along the face between about 900 and 1,000m. These are part of the extensive goldmining history of the Nevis Valley and have important heritage value.

The continuous altitudinal sequence of predominantly indigenous vegetation between approximately 1,000 m and 1,680 m, forms part of a greater ecological and landscape sequence, from the lower slopes to the summit ridge of the Hector Mountains. This sequence is important in that it complements the sequence included in CC 1 described above.

Our own inspection supported the observations made in the Preliminary Proposal regarding the natural values of the vegetation within the proposed covenant area CC 2.

All these natural, historic and ecological values combine to build a strong case as to why this area should not be disposed as freehold. Instead, it should be retained in Crown control, perhaps with provision for a short period of phase-out sheep grazing. We recommend that the area proposed as Covenant CC 2 should be returned to Crown control and added to Conservation Area CA 1 which almost completely surrounds CC 2.

Conservation Covenant CC3 (Schoolhouse Creek) and CC3A

There appears to be a distinct contrast between these two areas. Exotic grasses and herbs are the dominant ground cover in the lower portion of this area (CC 3A) and their cover decreases with altitude. In that part of the covenant area surrounding the 1930s gold workings (CA 4) indigenous vegetation is limited to scattered *C. rigida*. All this lower country, up to about 900m would appear to be suitable for freeholding, with protection for natural values under covenant.

Remnant shrubland is present in the riparian area along Schoolhouse Creek and on adjoining slopes between approximately 700m to 1,200m in CC 3. Characteristic species of these shrublands include matagouri, Hebe and *Coprosma* species. These shrublands and the north facing sunny slope, dominated by tussock grasslands extending up to c.1200m are of much higher conservation value, and for reasons discussed above may not be capable of being managed in a way that is ecologically sustainable in the long term.

Our inspection revealed that the tussock grassland in the upper part of the block, west of the water intake on the lower of two disused water races, and between about 1,000m and 1,200m was in very good condition with significant inherent value. It is probable that this sunny facing block, which carries less snow than other parts of the property, will be increasingly grazed in compensation for loss of other grazing land through tenure review, and will be more heavily grazed than in the past. There could be transfer of fertility and the creation of sheep camp areas. This would be an undesirable result not only because of the change in natural ecology but also from a landscape perspective. This block is clearly seen from the road over Duffers Saddle and the sheep camps would stand out as green islands in a tussock landscape.

Like the other two proposed covenant areas, this area contains a continuous altitudinal sequence of indigenous vegetation between approximately 700m and 1,460m, that forms part of a greater ecological and landscape sequence from the valley floor to the summit ridge of the Hector Mountains.

The significant inherent values of the shrublands and tussock grasslands, together with the ecological importance of the altitudinal sequence, combine to provide a strong case for retaining this (higher) part of the proposed covenant area CC 3 in Crown control.

FMC Submission

FMC is opposed to the freeholding of the three Covenant areas (CC 1, CC 2 and CC 3) because of (i) their altitude, (ii) probable inability to support sustainable land use, (iii) the ecological importance of and recently realised significance in relation to climate change of the altitudinal sequences described in each of the three areas, and also (iv) because of the significant inherent values previously recognised as worthy of protection under conservation covenant. For all these reasons, including the detail discussed above, we strongly recommend that these areas should be returned to Crown control and be incorporated into CA 5 (in the case of CC 1) and CA 1 in the other two cases. In fact, we do not see any reason why CA 5 should not also be incorporated into CA 1 as it is essentially part of the same altitudinal sequence from valley floor to mountain top.

If our submissions that these covenant areas should be returned to Crown Control are accepted, then the grazing provisions will become redundant. It is likely that some 'phase-out' grazing concession may be issued. We submit that the term of such 'phase-out' grazing should not exceed 10 years.

FMC has no objection to the freehold disposal of the lower parts of the covenant areas CC 3 and the whole of CC 3A including that surrounding the 1930s gold workings (CA 4).

1.7.2 Landscape Covenant.

A conservation covenant under Section 77 Reserves Act 1977 protecting the landscape values of the area shown coloured marked "CC (Landscape)" on the Plan in Schedule A

FMC understands that the landscape covenant applies over the total area of the freehold apart from the land covered by conservation covenants CC 1, CC 2, CC 3 and CC 3A and is designed to afford the area the same or similar level of protection as is afforded by the Central Otago District Plan. The area includes a number of historic mining sites along the Nevis River.

We agree that the nationally significant landscape values which sustain the special natural quality and integrity of this wide open, highly legible landscape contribute significantly to the natural landscape character of the Remarkables Ecological District.

Much of the land's visual character is derived from pastoral farming and mining activity which has occurred in the valley since the 1860s. The farmscape comprises cultivated flatlands, oversown and top dressed hill country, and extensively grazed tall and short tussock lands. The area's colourful mining history is reflected in a myriad of diggings, sluicings, sluice faces, dredge tailings, water races, exploration pits, discarded mining equipment and building ruins. The valley could be described as a veritable outdoor museum of all the early gold mining techniques, and as such reflects an important era in Central Otago's history. It is worthy of protection.

The CPL Act (S. 24(b)) expresses a clear preference for return to Crown control and we have submitted above (See discussion of 1.7) that the preferred form of protection of the significant inherent natural values and historic values on the valley floor and lower slopes would be return to Crown Control. However, if this proves not possible then FMC supports the protection of all these component parts of the landscape under covenant.

FMC Submission

FMC would prefer the return of the valley floor and lower slopes with significant inherent values and evidence of goldmining workings to be returned to Crown control, but failing this, FMC would endorse and support the Landscape Covenant over all the proposed freehold area. Furthermore, we believe that the terms and conditions of the covenant should remain in force regardless of any resource consent application for change in land use which would have a significant adverse effect on the landscape on any part of this covenant area. If the terms of the covenant do not remain in force, then it makes a mockery of designating the covenant in the first place.

Qualified Designations pursuant to Section 36(3)(b) Crown Pastoral Land Act 1998

1.7.3 Public Access and Minister of Conservation Management Purposes Easement in Gross. An easement under Section 7 Conservation Act 1987:

(i) to provide public access for persons on foot, or on or accompanied by horses, or by non-motorised vehicles powered by a person or persons, or by motor vehicle, provided however that persons with guns and persons accompanied by dogs are permitted to use the easement area provided they have a hunting permit issued by the Department of Conservation over that part of the land shown marked as "a-b-y-c-d" on the Plan attached in Schedule A.

The easement will provide for significant public access to the conservation area and through the property to Wentworth Station. Public vehicle access will be available from Nevis Crossing through to Doolans Saddle between 1 December and 15 March each year.

FMC supports this proposal for public access over the route "a-b-y-c-d" because it will provide new opportunities for recreational access between the Gibbston Valley and the Nevis Valley. We are aware that the lowest part of the Nevis Burn (or Dell Burn) and its confluence with the Nevis River at "the Dell" is a very popular fishing and picnicking spot for local people. We would recommend that public vehicle access over the short length of track "y-z" should also be included.

(ii) to provide public access for persons on foot, or on or accompanied by horses, or by non-motorised vehicles powered by a person or persons, provided however that persons with guns and persons accompanied by dogs are permitted to use the easement area provided they have a hunting permit issued by the Department of Conservation over that part of the land shown marked as "c-e", on the Plan attached in Schedule A.

FMC supports this proposal "c-e" because it will provide access for a variety of recreational activities including hunting, tramping, climbing and cross country skiing via a prominent spur between the Left Branch of the Doolans and Nevis Burn (Dell Burn) catchments.

(iii) to provide public access for persons on foot, or by non-motorised vehicles powered by a person or persons, provided however that persons with guns and persons accompanied by dogs are permitted to use the easement area provided they have a hunting permit issued by the Department of Conservation over that part of the land shown marked as "b-bl" "f-g-h" "g-i", "s-t", "n-nl" "u-v" and "w-x" on the Plan attached in Schedule A.

These routes are the principle means of access to the proposed high country conservation area. Several of the easements provide access to and through conservation areas with historic and scenic values on the lower country in the vicinity of Schoolhouse Flat and the Lower Nevis township. The easement has provision for persons with guns and accompanied by dogs, provided they have a hunting permit issued by the Department of Conservation. The access for hunting with the appropriate permits seems appropriate.

FMC supports this proposal which will provide access to a variety of recreational opportunities, both active and passive on the face and tops of the Hector Mountains and on the lower slopes in the vicinity of the Lower Nevis township.

(iv) to provide access for tenants, agents, contractors and invitees of the Minister and any employee or contractor of the Director-General of Conservation on foot, or on or accompanied by horses, or by motor vehicle, with or without machinery and implements of any kind, and with or without guns and dogs, for management purposes over that part of the land marked "a-b-y-c-d", "b-bl" "c-e", "f-g-h", "g-i", "n-ni", "s-t" and "u-v" on the Plan attached in Schedule A.

FMC considers that this proposal for conservation management purposes is entirely reasonable. The only one of these management access easements we question is that over the route "u-v". We cannot imagine why this would be required as the Scenic Reserve R1 can be so much more easily accessed over the route "m-n-nl".

FMC Submissions

FMC strongly supports this proposal for public access over the route "a-b-y-c-d" because it will provide new opportunities for recreational access between the Gibbston Valley and the Nevis Valley. We are aware that the lowest part of the Nevis Burn (or Dell Burn) and its confluence with the Nevis River at "the Dell" is a very popular fishing and picnicking spot for local people. We would recommend that public vehicle access over the short length of track "y-z" should also be included.

FMC supports this proposal "c-e" because it will provide access for a variety of recreational activities including hunting, tramping, climbing and back country skiing via a prominent spur between the Left Branch of the Doolans and Nevis Burn (Dell Burn) catchments.

FMC is strongly supportive of this proposed access route "b-b1" as it will provide important public foot and mountain bike access to the prominent spur (at point "e") between the Doolans and Nevis Burn (Dell Burn) catchments from the Nevis Crossing.

We also support the access route "f-g-h" because this will provide recreational access into the Nevis Burn catchment, and Conservation Area CA 1.

FMC also supports the proposed public access "g-i" because this will provide foot and mountain bike access into Conservation Area CA 4 for those keen to explore the gold mining relics in that area.

FMC notes that the access route "s-t" provides foot and mountain bike access along the boundary between Conservation Covenant CC 3 and Conservation Area CA 1, thus providing good recreational access to the upper reaches of Schoolhouse Creek.

FMC appreciates the provision of foot and mountain bike access over the route "n-n1" because this will provide much better public access into the Scenic Reserve R1 than the long route via "f-g-i" and "u-v".

FMC notes than route "u-v" would provide alternative access into Scenic Reserve R1 for those already in Conservation Area CA4. We appreciate the thought gone into the alternative routes provided in this tenure review.

FMC is not clear about the purpose of the short access route "w-x" which appears to provide public access (fishing access?) to the bank of the Nevis River from the Nevis Road, at a point just south of the Ben Nevis homestead. If this is its intended purpose, then we support it.

FMC endorses and supports the public access provisions made by way of the easements described in Clauses 1.7.3(i), (ii), and (iii) above and for Clause 1.7.3 (iv) making provision for management access

1.8 An easement under Section 26S Conservation Act 1987 to provide access for employees, agents, contractors, honorary rangers and invitees of the Otago Fish and Game Council on foot or by motor vehicle, with or without machinery and implements of any kind for management purposes over that part of the land marked "a-b-y-c-d" and "y-z" on plan in Schedule A.

FMC understands that this clause is only included to provide for the eventuality that Fish and Game is unable to make use of the easement for management purposes for DOC over the route "a-b-y-c-d" above (Clause 1.7.3 (iv)), and over the route "y-z".

FMC Submission

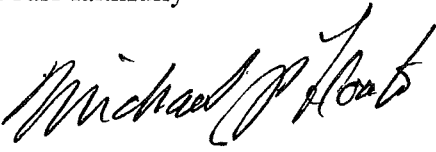
FMC supports the easement making provision for Fish and Game to use the route "a-b-y-c-d" if this is not available through Clause 1.7.3 (iv), and for Fish and Game to use the route "y-z" for management purposes.

We also believe that there is a strong case for public vehicle access over this short route as it leads to the river and a place very popular with locals for fishing and picnicking. We recommend that this easement provide for public vehicle access over the route "y-z".

Acknowledgements

FMC appreciates this opportunity to comment on the tenure review of Ben Nevis Station, and is grateful to the agent, Darroch Valuations, for making arrangements for the inspection and to Peter Mulvihill (on behalf of Pioneer Generation Ltd.) for generously making provision for air access to inspect high points on the face of the Hector Mountains. We are also grateful to Trevor Heaney for permission to inspect the property.

Yours faithfully



pp. Phil Glasson.
Hon Secretary, Federated Mountain Clubs of NZ Inc.

APPENDIX Supplementary Submission related to The Commissioner's statement in the Public Notification of this Preliminary Proposal, and in relation to the Minister's acknowledgement that "it is intended that the land be used for hydro electricity development, including the erection of transmission lines."

FMC is compelled to comment on the statement by the Commissioner of Crown Lands, in the Public Notice that "... Any submissions, or parts of submissions, which discuss use of the Nevis River for hydro-electric development will be treated as invalid." We submit that this an unreasonable ruling, given that paragraph 7 (in the Ben Nevis Proposal, and Paragraph 6 in the Craigroy Proposal) of Schedule 2 appended to the Landscape Covenant, specifically states that "The Minister acknowledges that it is intended that the land be used for hydro electricity development, including the erection of transmission lines." We submit that this intention is therefore part of the Preliminary Proposal and should be open for public submission. We note that Schedule 2 specifically deletes and amends clauses 3.1.4, 3.1.5, and 3.1.6 of the Landscape Covenant document, thereby providing for routine farm maintenance work, but does not seek to delete or amend Clauses 3.1.8, 3.1.9, 3.1.10, or 3.1.12. These clauses specifically prohibit activities related to hydro electricity development which would have adverse effects on the values that the covenant seeks to protect.

In terms of case law established in the 1948 *Wednesbury Case (Associated Provincial Picture Houses v Wednesbury Corporation [1948] 1 KB 223)* we submit that it is entirely unreasonable to obstruct the public submission process in the way described above. FMC therefore submits that "*intended use of the land for hydro electricity development*" will have adverse effects on the landscape and that the terms and conditions (especially Clauses 3.1.8, 3.1.9, 3.1.10, or 3.1.12) of the landscape covenant must be allowed to prevail.

More particularly, FMC notes that there are certain critical Clauses in the Landscape Protection Covenant Document:-

- (i) **Operative Parts** states that "In accordance with section 77 of the Reserves Act 1977, and with the intent that the covenant run with the land and bind all subsequent owners of the land"
- (ii) **Duration of the Covenant** states that "The Covenant binds the Minister and Owner in perpetuity to the rights and obligations contained in it."

We noted above the content of paragraph 6 (Criagroy) and Paragraph 7 (Ben Nevis) in Schedule 2, Special Conditions, which states:- "The Minster acknowledges that it is intended that the land be used for hydro electricity development, including the erection of transmission lines. Accordingly, it is agreed by the parties that a plan be prepared for submission to the Minister, which identifies the hydro electric development proposed, its location, extent, groundworks, associated services and facilities, for the Ministers consent (such consent not to be unreasonably withheld). In considering the Plan the Minister will read the provisions of the covenant, including in particular the provisions of clause 3.1, so as not to prohibit the hydro electric development but with the ability to impose such conditions as may be deemed reasonable to avoid, remedy or mitigate adverse effects upon the values identified in this covenant."

We question that part of the statement underlined above which appears to be in conflict with the standard terms of the Covenant indicated in (i) and (ii) above.

Furthermore, we seriously doubt whether there could be any conditions which could "avoid, remedy or mitigate the adverse effects [of hydro electric development] upon the values identified in this covenant"

FMC submits that the part of the Special Conditions which states that “In considering the Plan the Minister will read the provisions of the covenant, including in particular the provisions of clause 3.1, so as not to prohibit the hydro electric development” should be deleted.

FMC therefore submits that if this Covenant is agreed to as part of tenure review, then its standard conditions (other than those amended by Schedule 2) must be allowed to prevail.