

Crown Pastoral Land Tenure Review

Lease name: BEN NEVIS

Lease number: PO 241

Public Submissions - Part 5

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

July

10

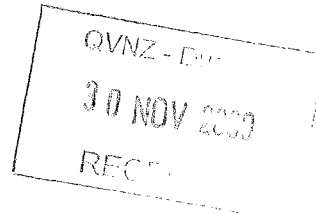


27 November 2009

275021

Darroch Valuations
P O Box 215
DUNEDIN

Attention: David Paterson



Dear David

**CRAIGROY & BEN NEVIS PASTORAL LEASES
TENURE REVIEW SUBMISSIONS BY CROWN MINERALS**

The Commissioner of Crown Lands has invited public submissions on the tenure review of Craigroy and Ben Nevis Pastoral Leases.

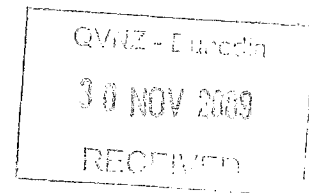
An assessment of the area has shown that these lease areas, and much of the surrounding land, are prospective for a range of metallic minerals and are currently overlain by granted permits.

Please find enclosed written submissions on these tenure review proposals.

Yours sincerely

Barry Winfield
Senior Analyst, Petroleum and Minerals Policy

275021



**Crown Pastoral Land Act 1998
Tenure Review
Preliminary Proposal**

Lease name: BEN NEVIS

Lease number: PO 241

**Submission by Crown Minerals
Ministry of Economic Development**

November 2009

BEN NEVIS PASTORAL LEASE PRELIMINARY PROPOSAL FOR TENURE REVIEW

SUBMISSION BY CROWN MINERALS TO COMMISSIONER OF CROWN LANDS

BACKGROUND

1. The Crown Pastoral Land Act 1998 provides a framework for the review of high country land in the South Island. In order to gain ownership of the all or part of the land leaseholders may request that their lease be considered for tenure review.
2. An invitation to undertake tenure review has been accepted for the Ben Nevis pastoral lease ('**Ben Nevis**') and the review has reached the stage where the Commissioner of Crown Lands has put a preliminary proposal to Pioneer Generation Limited as lessees of this pastoral lease. The Commissioner of Crown Lands has invited public submissions on this preliminary proposal for tenure review.
3. Ben Nevis comprises some 14,561 hectares of land located west of the Nevis River on the Hector Mountains approximately 25 km from Cromwell in central Otago.
4. It is proposed that 10,065 ha be restored/retained in Crown control as conservation area subject to qualified designations, 52 ha restored/retained in Crown control as scenic reserve, and 4,451 ha to be passed into freehold ownership subject to a protective mechanisms and a qualified designation.

CROWN MINERALS

5. The Crown Minerals Group of the Ministry of Economic Development is the government's business group that manages New Zealand's state owned oil, gas, mineral and coal resources known as the Crown mineral estate. Crown Minerals is responsible for the efficient allocation of prospecting, exploration and mining rights, the promotion of the mineral estate to investors, and ensuring that the Crown receives a fair financial return for the use of its mineral estate.
6. The Crown (on behalf of all New Zealanders) owns all in-ground petroleum, gold and silver and approximately half of the in-ground coal, non-metallic and other metallic minerals including industrial rocks and building stones.

LAND TENURE REVIEW

7. The Minister of Energy and Crown Minerals have previously registered their concern to both the Minister for Land Information and LINZ officials that the land tenure review process gives little consideration to the land's mineral prospectivity and potential for mineral development and that it does not recognise existing mineral permit and licence holders interest in the land. As a consequence of the ongoing review of pastoral leases, some land that is highly

prospective for mineral development is passing into the public conservation estate, or into private ownership, where it may become more difficult for permit holders (individuals and companies) to gain access to this land for the purpose of exploration and mining. This represents a significant loss of economic development opportunity.

8. The objectives of tenure review are set out in section 24 of the Crown Pastoral Land Act and include "enabling reviewable land capable of economic use to be freed from the management constraints (direct and indirect) resulting from its tenure under reviewable instrument".
9. The economic benefits from mineral development, particularly at a regional level, can be substantial and should not be overlooked. If the land has high mineral potential and/or significant mineral content, then consideration should be given to the mineral values when determining future ownership and use of such land.
10. The purpose of this submission is to bring to your attention the known and potential mineral wealth of the land subject to the Ben Nevis review and to request that this be taken into consideration when making a final decision on the review.

GEOLOGY

11. Basement rocks in the area of Ben Nevis are typically Palaeozoic Haast Schist Group sandstones, mudstones and volcanic sediments now metamorphosed to quartzo-felspathic schists of textural zone IV. In certain areas this basement is overlain by Pliocene Hawkdun Group sediments such as the Schoolhouse Fanglomerate which consists of sandy to boulder schist breccia. The Schoolhouse Fanglomerate overlies on quartz-lithic dell sandstone. Localised deposits of Quaternary outwash gravels potentially hosting alluvial gold.

MINERALISATION

12. Historic lode workings in the area occur in fault-controlled fractures and shears, tending to strike E-W or N-S. Gold mineralisation occurs in association with minor arsenopyrite and pyrite, but relatively little quartz. Around the turn of the century, a number of small hard rock 'shows' were worked on the Carrick Range, in what is now called the Carrick Goldfield, with total recorded production of about 24,000 oz of gold.
13. The area was drilled in 1934 by Tin Investigations Ltd which reported sub-economic gold in the gravels on the south side of Schoolhouse Creek. Subsequent exploration by L&M Mining showed that gold is present in concentrations along narrow incised channels. This resource has an estimated total gold content of 1,500 ounces (46 kg). On the south bank area there is an inferred resource estimated at one million cubic metres with a variable grade.

CURRENT ACTIVITY

14. There are at present two granted permits over Ben Nevis, refer attached map. Prospecting permit 39322, held by joint venture partners Glass Earth (New Zealand) Limited (90%) and New Zealand Minerals Limited (10%), is a regional scale permit that covers an area of 18,050 km² and is targeting a wide range of metallic and non metallic minerals. Glass Earth has already completed a detailed magnetic, radiometric, and resistivity aerial geophysical survey,

along with large amounts of desktop analysis, geochemical sampling and drilling. The company and has applied for, and has been granted subsequent exploration and mining permits within this prospecting permit.

15. On the south eastern flank of the Ben Nevis pastoral lease lies mining permit 41734 held by Golden Bush Mining Limited. This permit was granted in October 2002 for the mining of gravels for the recovery of gold, aggregate and building stone. The permit holder is currently waiting for resource consent processes to be finalised prior to the commencement of mining.
16. Given the large quantity of historical and current activity Crown Minerals is of the view that Ben Nevis, and the surrounding area, is highly prospective for both hard rock and alluvial gold.

COMMENT

17. Prospecting is a relatively high risk business and the very nature of mineral prospecting and exploration means that a company starts with a large area of land and with time it reduces the area after eliminating areas of no interest. Where early reconnaissance work under a prospecting permit justifies further exploration expenditure, a company will apply for an exploration permit. Progressively the size of the area will be reduced to only a fraction of the original area and more often than not, a company will fail to identify economic mineralisation and the ground will be surrendered or the permit will be allowed to expire. Modern day prospecting and exploration techniques present little threat to the environment and yet the ultimate outcome of exploration can be the development of a mine with numerous economic spin-offs for the local economy.
18. Crown Minerals acknowledges that the transfer of areas of the Ben Nevis lease to both the Department of Conservation and private ownership does not preclude access to the land for the purpose of prospecting, exploration and mining. Permit holders can apply to the Minister of Conservation and the private landowner and occupier for an access arrangement under section 61 of the Crown Minerals Act 1991. However, because the Minister of Conservation's consideration of an application for access largely relates to conservation objectives, it is fair to say that it can become more difficult for an exploration or mining company to secure a workable access agreement on conservation land.

CONCLUSION

19. The current and proposed prospecting activity by Glass Earth and NZ Minerals JV and the proposed mining by Golden Bush Mining highlights the new interest being shown to assess and mine the mineral potential of Ben Nevis, and the surrounding region, and testifies to the economic mineral potential of the area.
20. The Ben Nevis pastoral lease area should be recognised as being prospective for minerals. To further assess the mineral potential of the area it is critical that exploration and mining companies get ongoing access to this land. Whatever the outcome of this review, Crown Minerals would want to see provision made to allow for mineral prospecting activities to continue to be undertaken.
21. Crown Minerals requests that the Commissioner of Crown Lands takes notice of the mineral potential of Ben Nevis. Consideration should be given to some form of transitional provisions

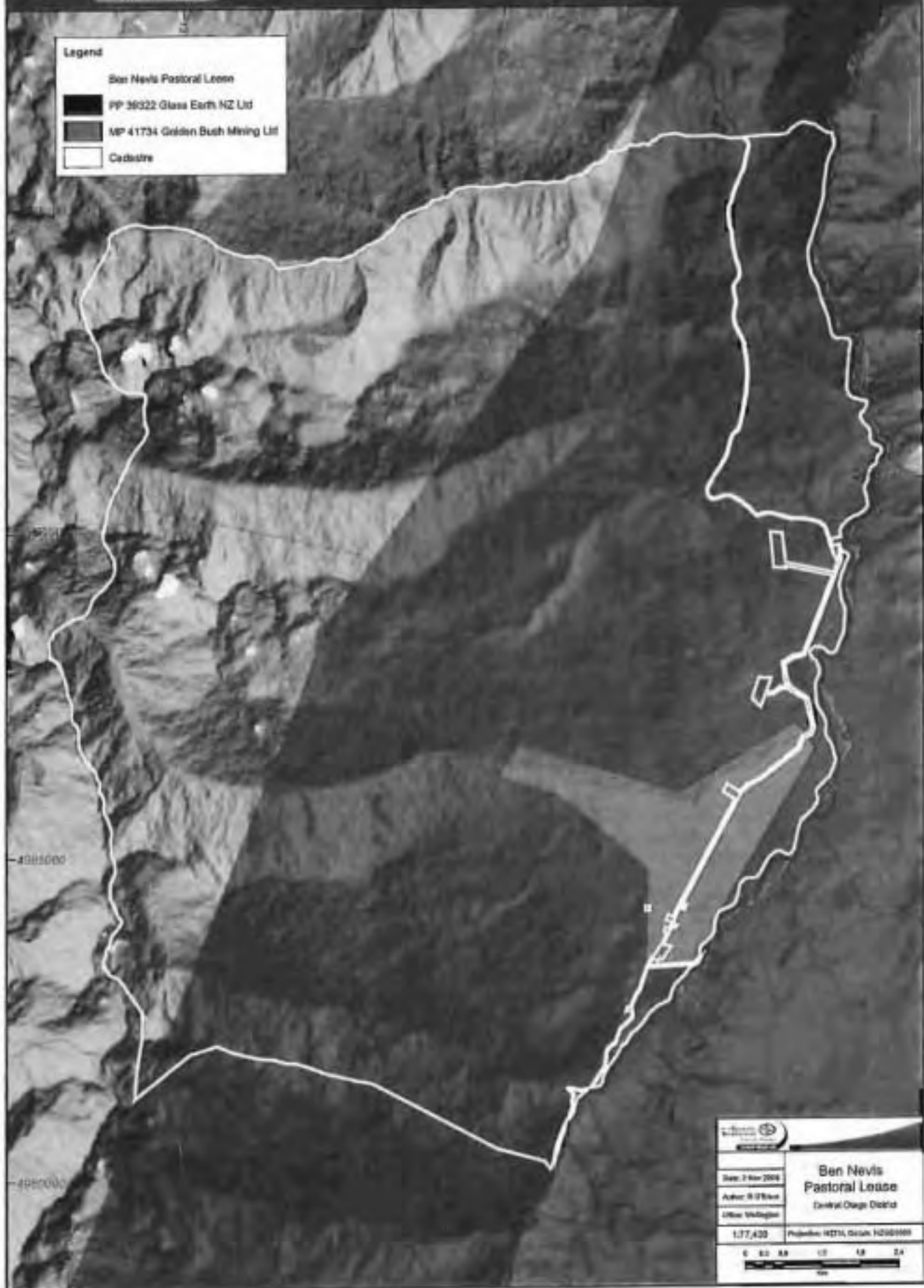
to ensure that future explorers and developers have a right to access to Crown and freehold land on reasonable terms for the purpose of carrying out prospecting and exploration activities and also any development activities under subsequent permits granted in accordance with section 32 of the Crown Minerals Act.

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Active Mineral Permits in the vicinity of Ben Nevis Pastoral Lease

Legend

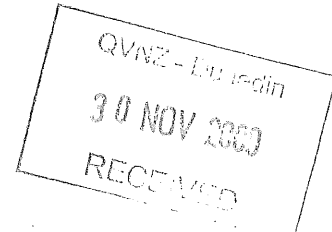
- Ben Nevis Pastoral Lease
- PP 36922 Glass Earth NZ Ltd
- MP 41734 Golden Bush Mining Ltd
- Cadastral



Date: 3 Nov 2006	Ben Nevis Pastoral Lease Central Otago District
Author: R D Evans	
Editor: M Douglas	
1:77,420	Project No: W2716, Geotitles: N2000000

CENTRAL OTAGO WHITEWATER (INC)

P O BOX 41
ALEXANDRA



25 November 2009

Darroch Valuations
P O Box 215
DUNEDIN

For: David Paterson

Dear Sir

B. Submission on Ben Nevis Tenure Review Preliminary Proposal

This submission is made by: John Gordon Rayner on behalf of Central Otago Whitewater (Inc) c/- Checketts McKay Law Limited, P O Box 41, Alexandra, (phone 03-448 6969, email gordon@cmlaw.co.nz)

BEN NEVIS PROPOSALS:

1.1 Retention of 8,807 ha. Higher Altitude Lands to Crown Control.

This land area has high landscape and natural values and is recreationally important. We think its retention by the Crown is appropriate subject to the proposed continuation of rights to take and convey water- a long established high level water and also a recreation concession. This designation is supported.

1.2 Retention of 140 ha Lower Altitude Lands to Crown Control (CA4)

This land area is composed of lower hill slopes. It has high historic, landscape and natural values. Its retention as Crown land is appropriate subject to proposed conditions and is supported.

1.3 Retention of 160 ha. Of Lower Altitude Lands by the Crown.(CA5)

This land situated in the middle reaches of Doolans Creek catchment has high botanical values and landscape values. Its retention by the Crown under the conditions proposed is appropriate and is supported.

1.4 Retention of 8 ha. of Floodplain Land by the Crown.(CA3)

This small land area is on the Nevis River floodplain. It has high historic, landscape, public access and natural values. Its retention as Crown land is appropriate and is supported.

1.5 Retention of 52 ha. of Lower Altitude Land by the Crown.(RI Scenic)

This small land area is on the Nevis lower slopes and valley floor. It has high landscape, public access and natural values. Its retention as Crown land is appropriate and is supported.

1.6 Disposal of 4,451 ha to Pioneer Generation as Freehold

This area of land includes lower slopes and terraces and the valley floor. It has high landscape values, high historic values because goldfield sites are spread across the floodplain and up the side slopes in some areas, rare plants and native skinks are found on mine tailings on the floodplain, rare native fish are found in tributaries. Much of the land between the Nevis Road and the river is important for public access for recreational activities including angling and kayaking, nature and history appreciation. The valley floor is an important landscape feature which contributes to its outstanding landscape status. We submit that all of these attributes are significant inherent values and therefore deserve protection under the CPL Act 1998. We see that the Commissioner has acknowledged landscape as a "significant inherent value" by proposing a conservation covenant to protect landscape values. It is important that several areas along the margins of the Nevis River (in addition to the laying off of marginal strips) be retained by the Crown to meet present and future recreational needs and to protect historic and biodiversity values.

1.6.1 Conservation Covenants (CC1,CC2,CC3)

These cover lower altitude slopes proposed for freehold and focus on botanical values. We can't advise on their appropriateness.

1.6.2 Landscape Covenants (CC Landscape)

We submit that the landscape covenant is flawed. It doesn't cover all the values present, public access rights to and along the river and generally over the lower floodplain are not mentioned. Native fish require specific protection in tributaries but aren't covered. Rare plants and skinks aren't mentioned and so aren't protected either.

Central Otago Whitewater (Inc) is strongly opposed to freeholding valley floor land with multiple significant inherent values. Even if a secure covenant was proposed it is more appropriate to protect these lower lying valley floor areas through retention in Crown ownership.

We ask that the Crown provide for more access easements to the Nevis River through the proposed freehold. We submit that covenants are an inefficient way of providing public access and also that access must be practicable and not hinder farming operations.

Of most concern, the covenant is designed to protect specified values in perpetuity, however has a clause in schedule 2 which requires the Minister to allow hydro development, which effectively means only some of the threats to the values are prevented. From a kayakers perspective, the surrounding landscape is an integral part of the Nevis River experience and any hydro development will have an adverse effect on the outstanding landscape values present on Ben Nevis and Craigroy. So the covenant is

valueless and does not meet the object with respect to Section 24(b) CPL Act 1998. We therefore do not support the covenant.

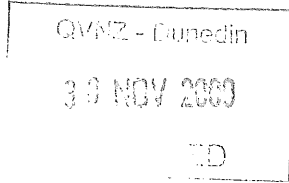
1.6.3 Public Access Easements

There are public access easements over the proposed freehold in several locations leading to Crown land areas, some at higher altitude, to access points on the river, and down the valley. These are supported where land is freeholded. We also suggest that the vehicle track to the river marked y-z be extended from Fish & Game access only to provides access for all members of the public, including vehicle use.

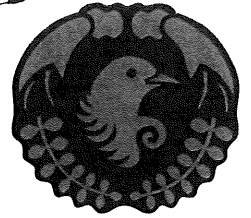
Yours faithfully



J G Rayner
Central Otago Whitewater (Inc.)



Central Otago-Lakes Branch
Denise Bruns (Secretary)
4 Stonebrook Drive
WANAKA 9305



**FOREST
& BIRD**

Royal Forest and Bird
Protection Society
of New Zealand Inc

27th November 2009

The Commissioner of Crown Lands
C/o Darrock Valuations
PO Box 215
DUNEDIN

(david.paterson@darrockvaluations.co.nz)

Dear Sir

Ben Nevis Po 241 – Tenure Review – Preliminary Proposal

We thank you for forwarding to us a copy of this proposal; we would be pleased if you would accept this submission and comments on it. We also thank Pioneer Generation for the help they have given us in arranging an inspection of the property, and the supplying of a helicopter to help us in that inspection.

Our branch of the society fully supports the aims and objectives of the Crown Pastoral Lands Act 1998, We have been involved in the process of tenure review and the making submissions on tenure review proposals for many years now. It is pleasing to see that some notice has been taken of our earlier report made to you on Ben Nevis and Craigroy in November 2002

We have read and studied the Conservation Resources Reports in particular the addendum produced after an additional inspection on 19th to 20th 2005. In our branch with a membership of 171 there are some members who are familiar with the Nevis Valley having visited it from time to time; we also draw on their knowledge in making this submission.

The land being returned to the Crown out of this proposal will be a fine addition to the conservation land further west; the Remarkables Conservation Area. This review will give protection for all time those significant inherent values present on Ben Nevis; a large part of the Remarkable range of mountains. It will be of benefit to those who recreate there both in winter and in summer.

This proposal requires modifications made to better protect more of the significant inherent values on the property and meet the objectives of the Crown Pastoral Land Act 1998.

We would be pleased if you would accept this submission and comments on it.

1.0 Designations:

1.1 An area of 8,807 hectares (approximately) to be designated as land to be restored to or retained in Control subject to qualified designations, labelled CA1 on the plan.

Ben Nevis pastoral lease has two component landscape parts; the valley floor encompassing the more modified landscape containing some cultivated land, and then above that the terraces and mountains.

A very large portion of Ben Nevis was voluntarily destocked in 1980; we presume under an Otago Catchment Board Run Plan, this is all of CA1 on the designation plan.

We endorse the remarks made in the document a) – g) and add that, the Remarkables, Although some distance from the Southern Alps offer similar recreational opportunities as the Southern Alps in a drier climate, therefore when they become better known will prove extremely popular. When the access points being made available to these mountains on their eastern flanks of the range, even more so: The cirques and basins with their associated tarns and wet lands are fascinating places.

The whole Nevis Valley is under-appreciated at present; this review of tenure together with that of Craigroy will make its uniqueness more available to the general public.

1.1.1 An easement concession for farm management purposes:

We have no objection to this

1.1.2 Heliskiing Concession:

No Comment

1.2 An area of 950 hectares (approximately) to be designated as land to be restored or retained in Crown control, as a conservation area subject to a qualified designation. CA2 on the map

We fully support this as it makes an altitudinal sequence of extremely interesting country containing a whole host of significant and varied values rising from the Nevis River to the top of the Remarkables available to the public to enjoy. It is also good in that it takes in all the historic values of the Lower Nevis as well.

1.2.1 Easement Concession:

We so no reason for objecting to this.

1.3 An area of 140 hectares (approximately) as land to be restored to or retained in Crown ownership, as a conservation area subject to a qualified designation, CA4 on the map.

We approve of this area being returned to Crown control for protection.

1.3.1.

We offer no objection to this but await with interest the results of grazing this type of land.

1.4 An area of 160 hectares (approximately) to be designated as land to be restored or retained in Crown ownership; as conservation area subject to a qualified designation, CA5 on the plan.

We viewed this country from the air; it is steep, lies to the sun and will be very dry most of the time. It is rich in woody shrubs, much of it olearia; a botanically different piece of country. It should not be grazed at all. To avoid this it should become part of CA1.

Another concern would be that as it is a sunny face, a face that would become clear of snow earlier than other surrounding country, it would become especially favoured by sheep and be eaten out.

1.4.1 Grazing concession:

This will not be necessary if the CA5 land is returned to the Crown as CA1 as we suggest?

1.5 An area of 8 hectares (approximately) to be designated as land to be restored or retained in full Crown ownership and control, as conservation area, CA3 on the plan.

We approve of this.

1.6 An area of 52 hectares (approximately) to be designated as land to be restored or retained in full Crown ownership and control as a scenic reserve, "R1(Scenic)" on the plan.

We fully support this move and note that it is going to be fenced – this is positive.

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, subject to protective mechanisms and a qualified designation

This land to become freehold could be described as marginal both economically and ecologically. However its future can be through tourism, and if handled in a proper manner its remoteness, its landscape and its climate have considerable appeal to certain sections of society.

1.7.1 Conservation Covenant:

This covenant is to protect the significant values in CC1, CC2 and CC3.

- We visited these three areas during our inspection.
- We noted that the top edges of CC2 and CC3 areas are high and are above the accepted level for land capable of being farmed in an ecologically sustainable manner.
- The land is Class VI rising to Class VII
- All these three areas lie well to the sun, and will be clear of snow earlier than most other areas on the property and thus be especially favoured by sheep.
- On their upper edges they still carry significant conservation values in the form of good tall tussock and woody vegetation..
- We have read the description of the vegetation present on the three areas covered by the covenant

We are of the opinion that these three areas CC1, CC2 and CC3 should all become part of CA1 because of their altitude, except that in the case of CC3 a fence could be erected at the foot of the slope and only the area above could form part of CA1.

If the present vegetation is altered in any way the landscape in the valley also alters.

While the covenant specifically states the number, type and time of the year sheep can graze the three areas and the strict monitoring to be applied, over long term the areas are going to suffer under any grazing regime. It is not a good covenant.

1.7.2 Landscape Covenant: "CC(Landscape)' on the plan.

We note the description of the landscape, the values placed on them and the method intended to be used to protect them in the document.

We see them as being barely sufficient in so far as pastoral farming is concerned.

As we stated in the beginning there are two distinct landscapes in the valley – the valley floor and the hills behind. The valley floor between the road and the river is of concern to us, as apart from the areas under cultivation, the rest of the floor is an historical gold mining history book. The history of mining gives the valley its character as much, or even more, than pastoral farming.

These historic values are not being given sufficient protection under this covenant. It is our considered opinion that the whole valley floor up to Commissioners Creek should become an Historic Reserve under section 18 of the Reserves Act 1987. This should also include the Craigroy side of the river.

The structural objects, and sites illustrate with integrity the history of New Zealand Sec. 18 (a)

This reserve would then give protection to all the historic mining sites and would also give the public freedom of access Sec. 18 (b).

The scenic, archaeological, geological, biological, and other scientific feature of the Reserve, be managed and protected to be compatible with the principal purposes of the Reserve Sec. 18 (c). Note: there are rare plants here and it provides habitat for banded dettreils.

It should be noted that a large part of the Upper Nevis above the gorge received some protection as a result of the Glen Nevis tenure review.

1.7.3 Public Access and Minister of Conservation Management Purposes Easement in Gross:

Without actually having walked the access routes under consideration in this proposal, it appears b-bi will probably be the longest, about 2 hours, and f-g-h probably 1 1/2 hours.

It is disappointing that there is no walking access y-z. This upper part of the gorge is spectacular and people should be able to see more of it, so suggest the marginal strip from the Nevis Crossing bridge to the Dell be widened sufficiently to allow easy walking to the Dell in a similar manner as is suggested for Craigroy on the other side of the river. We see no reason why the Fish and Game easement cannot be a public access easement.

2.0 Summary:

2.1 Grazing Concession, CA5. This will not be necessary if the area becomes CA1

2.2 Covenant over CC1, CC2 and CC3. We believe as these are too high to be ecologically sustainable, under grazing, they should be CA1 above 1000ms. In CC3 only the upper part (from the base of the hill up) should be removed from grazing and become part of CA1.

2.3 Public access easement. Walking access should be made available from y - z. Failing that the marginal strip on the true left of the gorge should be widened sufficiently to allow easy walking to the Dell.

2.4 The floor of the Nevis Valley between the road and the marginal strip from Commissioners Creek down to the Crossing should become and Historic Reserve under Section 18 of the Reserves Act 1987.

3.0 Conclusion:

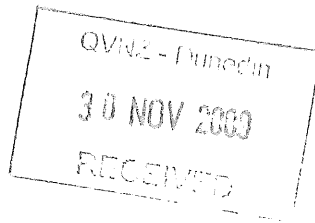
3.1 If it is not possible to reach agreement on the above matters consideration should be given to leaving Ben Nevis as a pastoral lease.

3.2 We thank you for the opportunity to make these comments.

Yours faithfully

A handwritten signature in black ink, appearing to read "Denise Bruns". The signature is written in a cursive style with a large, stylized initial "D".

Denise Bruns (Secretary)



24th November 2009

Darroch Valuations
P O Box 215
DUNEDIN

Dear sir

Re Ben Nevis Land Tenure Review

Combined 4WD Clubs Inc represents over 600 family members of our 9 member clubs. Our member clubs, being separately incorporated societies, are situated in Christchurch, and Timaru and are formed for the purpose of running outdoor 4WD recreational activities for their members, and in the main these are 4WD trips into the out of doors. Family membership of our member clubs is made up of a good cross section of people of our society, including both able and in some cases disabled or less able people of our community. Predominantly, Combined 4WD Clubs Inc represents the Clubs on issues of public access, and on going access to remote areas, and as such we also form a single point contact that allows for better communication between land managers and our members, and we are pleased to make our submissions to the Ben Nevis Tenure Review.

We support this review and have the following comments to make:-

Easement "a-b-y-c-d"

We support this easement being a public vehicle access easement, however we would suggest that this easement be converted to a public road.

Logic;

- 1 There is already a paper road that runs from Nevis Crossing through to the northern boundary by Doolans Saddle, then beyond to Coal Pit Saddle Road.
- 2 The Easement follows a different path but for all it does is replaces the public road by the fact it is a simpler route and more practicable route for the road.
- 3 From the northern boundary the road more or less follows the legal alignment, where by it does not within the property of Ben Nevis
- 4 Moving the public road will, allow for completeness in the entire road not just within the Ben Nevis boundaries.
- 5 The cost is minimal in our view although stopping a public road is ended and submission s called we believe that cost is minimal comp oared to the long term completeness aspect of this change.
- 6 We acknowledge that formation of public roads may fall outside of the Tenure Review process, but that aspect should not at least allow to have this explored by the [parties to benefit both the Crown and the purchaser of the freehold land and any ongoing purchaser.

Both Craigroy and Ben Nevis are in our view special recreation places, and when the original surveys were undertaken and meetings with NGO's held everyone had that point to make, therefore as the values in all respects are valuable special attention needs to be made to ensure that the long term is protected and established, therefore this aspect alone supports our view for this is our chance to establish every aspect correctly thus a public road aspect does give completeness.

Thank you

Yours faithfully



P A Dolheguy
Access coordinator

KAYAK

OTAGO CANOE AND KAYAK CLUB



275025

Mrs. M E Oakley
72 Signal Hill Road.
Opoho
DUNEDIN 9010



Ph: (03) 4 737 752
Email: roakley@xtra.co.nz

Dear Sir,

Please find below two individual submissions on Ben Nevis and Craigroy Preliminary Proposals

B. Submission on Ben Nevis Tenure Review Preliminary Proposal

This submission is made by:
ME Oakley and P Sinclair for the Otago Canoe and Kayak Club (OCKC)

OCKC believes that it should be possible for the proposed tenure review outcome to provide for the future needs of recreational kayaking as a priority.

Ben Nevis Proposals

Retention of 140 ha Lower Altitude Lands to Crown Control (CA4) OCKC agrees that this area has high landscape and natural values. Its retention as Crown land is appropriate.

Retention of 160 ha. Of Lower Altitude Lands by the Crown.(CA5) This land situated in the middle reaches of Doolans Creek catchment has high botanical values and landscape values. Its retention by the Crown under the conditions proposed is appropriate.

Retention of 8 ha. Of Floodplain Land by the Crown.(CA3) This small land area is on the Nevis River floodplain. It has high historic, landscape, and natural values. More importantly it provides public access for kayakers. Its retention as Crown land is appropriate.

Retention of 52 ha. Of Lower Altitude Land by the Crown.(RI Scenic) This small area of land is on the Nevis lower slopes and valley floor has high landscape, public access and natural values. Its retention as Crown land is appropriate

Disposal of 4,451 ha to Pioneer Generation as Freehold. This area of land includes lower slopes and terraces and the valley floor. It has high historic values because the goldfield sites are spread across the floodplain and up the side slopes in some areas; rare plants and native skinks are found on mine tailings on the floodplain. Much of the land between the Nevis Road and the river is important for public access for recreational kayaking, nature and history appreciation. The valley floor is integral to the landscape features, which contributes to its outstanding landscape status. OCKC oppose free holding land towards the river

Landscape Covenants (CC Landscape) OCKC believes public access rights to and along the river and generally over the lower floodplain are not mentioned or secured Rare plants and skinks aren't mentioned and so aren't protected either.

Public Access Easements There are public access easements over the proposed freehold in several locations leading to Crown land areas. OCKC believes access would be better protected if this land remained in Crown ownership.

Submitter's name

Date

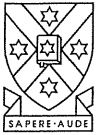
Pete Sinclair

Date: 27/11/2009

PHL

Maggie Oakley
27/11/2009.

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Department of Botany

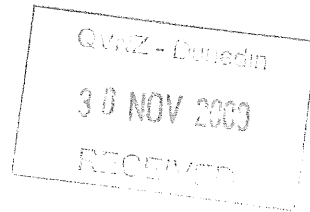
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Te Whare Wananga o Otago

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November 25, 2009.

Manager,
c./o Darroch Valuations,
PO Box 215,
DUNEDIN.



SUBMISSION ON PROPOSED TENURE REVIEW: BEN NEVIS 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 very good knowledge of the general area, having been associated with over-viewing the vegetation of the property as part of the assessment of the Hector and Remarkables Ranges for the Lands and Survey Department back in the 1980s and many subsequent visits to these areas for a series of ecological studies.

I have read the very large and complex report of the Preliminary Proposal prepared for this important exercise for the relatively large (14,561 ha) property which, from an ecological perspective, complements the adjoining property on the opposite aspect of the lower Nevis Valley, with the same lessee and also under review at this time. Many aspects of this preliminary proposal are endorsed, but I have grave reservations regarding conditions placed on the proposed large Landscape covenant which I will elaborate on later. Some 10,110 ha (69.4% of the total area) has been proposed for restoration and/or retention in full full Crown ownership and control as five separate conservation areas (CA 1-5, albeit subject to qualified designations), including a proposed Scenic Reserve of 52 ha (R1 Scenic), while the remainder, 4451 ha (or 30.57% of the total area), is proposed for freehold disposal to the lessee, Pioneer Generation Ltd, subject to certain protective mechanisms and a qualified designation.

Dealing first with each of the areas proposed for conservation status, the proposed Conservation Area CA1 of some 8807 ha takes in the property's alpine lands between Doolans Creek, Left Branch, to the spur to the south (true right) of Commissioners Creek, from the upper property boundary (which includes Ben Nevis (2307 m), the highest peak of the Hector Mts, southwards along the mountain crest to very near James Peak (2072 m), down the property boundaries north and south, to a generally irregular lower line, varying from about 800 to 1300m, associated with the up-slope intrusion of two proposed conservation covenants, CC2 and CC3. This area (CA 1) comprises a wide, very impressive, and representative range of alpine landscapes and topography, together with an equally wide (and representative) range of alpine plant communities: boulderfields, fellfield, cushionfields, snowbanks, herbfields, wetlands, slim and narrow-leaved snow tussock grasslands, and shrublands, arranged in a natural pattern with a wide range of environmental (both altitudinal and lateral/topographic) gradients. As the report states, these diverse intrinsic values are clearly of national, even international significance, which clearly meet all of the criteria for "Recommended Areas for Protection" under the established Protected Natural Areas Programme (which has not been conducted in the Remarkables Ecological District). The report lists most of these values, including important biological, recreational, scenic, and landscape values, which therefore won't be repeated here, but I will add that future conservation management of the upper

mountain slopes of the property (which have been retired from pastoral use for some time) is likely to enhance soil conservation and and maximise water yield, based on our published research findings on several mountains in Central and coastal Otago.

An existing **heli-skiing concession** under the Conservation Act, granted to Pioneer Generation Ltd, and apparently for the upper areas of Schoolhouse and Commissioners Creeks, is accepted, but on its expiry, presumably an application for renewal would be made to the Department of Conservation (assuming the Department becomes responsible for the management of the relevant area).

There seems to be no apparent reason why the proposed **Conservation Area CA 2** should be separated from the CA 1 area along their common boundary of several kilometers. The 950 ha area of CA 2 comprises the lower slopes, terraces and fans associated with lower Schoolhouse Creek, at the southern end of the property, and extends right down to the Nevis River. As the report acknowledges, the “substantially unmodified valley floor landscapes” ... “form an integral part of the Nevis Valley landscape, which is considered to be of national significance”. The large alluvial outwash fan at Schoolhouse Flat ... supports a mosaic of copper tussock remnants, short tussock grassland and waterways”. There are several indigenous plant species in this area which are of considerable interest and importance, most notably the annual gentian *Gentianella grisebachii*, *Ranunculus ternatifolius*, *R. cheesemanii*, *Myosurus minimus* ssp. *novae-zelandiae*, *Myosotis pygmaea* var. *minutiflora* and var. *glauca*, undescribed species of *Leptinella* sp. ‘Clutha River’, and *Galium* sp., and the sedges *Carex muelleri*, *C. uncifolia* and *C. kaloides*. Thus the high ecological and biological values of this area complement in an important way, the values present in the CA 1 area above. Incorporation of the two small areas of existing conservation land within the proposed CA 2, shown on Map 4 of the proposal, is endorsed.

It is assumed there is no **fence** separating these two blocks (CA1 and CA2), though indications of existing fences are conspicuously missing from the report (see the limited information on the Ben Nevis (Fencing) maps). It is further assumed (though not shown) that there is an existing fence along the proposed lower boundary of the Conservation Area CA 1 as far as the northern boundary of the property, as well as southwards to where it meets the boundary of the area CA 2, and then along the CA 2 – CC3 boundary (if not, one should be included to secure these conservation areas from those to be freeholded).

The **easements** shown associated with the CA 2 block (“m-n ‘and “a2-n-s”, for farm management purposes) are accepted, but of the two proposed for the CA 1 block, the “e-b1-k” is **accepted** but the “k1-k2” one would not be needed if the CC2 area was transferred to the adjoining conservation area CA 1, and so is **not endorsed**. Also, it is assumed that the area of the CA2 block extends as far as the marginal strip which is assumed to border this section of the Nevis River. If not, I **recommend** it does so.

I am concerned with two of the proposed **conservation covenants** which adjoin the area CA 1; these being CC 2 (Nevis Burn), and the upper part of CC 3 (Schoolhouse Creek), because of their relatively high elevation and also that they are northern aspect slopes which continue to be dominated largely by snow tussock grassland, and are important ecologically in complementing the opposite (south) aspect slopes, which are a part of the CA 1 area. All of these areas should be added to the proposed CA 1 as formal conservation land, in which case the proposed easement “s-t” (for public access and for management purposes), and k1 – k2 (for farm management access), would be redundant, as would be the proposed new fence on the line “H – I”, assuming the upper part of the CC 3 area is to be added to the CA 1 block, as recommended. .

The area proposed for CA 1 adjoins the Remarkables (Wentworth) Conservation Area to the north, the Remarkables (Loch Linnhe) Conservation Area to the west, and the proposed Nevis Valley Conservation Area to the east. It will thus almost certainly be formally proposed for incorporation into the larger Remarkables Conservation Park which has been foreshadowed in the Otago Conservation Management Strategy (see Item 10.26 “Remarkables” in the Otago CMS, 1998; with which I was involved as Chair of the Otago Conservation Board), and which I continue to endorse.

Recommendation: Support in full for implementation of the proposed Conservatiuon Areas CA1 and CA 2, which should be combined, together with additions of the areas of CC 2 and the upper part of CC 3 (above the line of point “s” projected due north to the right angle in the mapped lower boundary of CA 1, all to comprise an **enlarged single conservation area CA 1**.

An area of 8 ha proposed as **Conservation Area CA 3**, to be restored and/or retained in full Crown ownership and control, being two parcels of Nevis streambed, as shown on Map 3 of the proposal, that has significant ecological and historical values associated with the early gold mining. Further details are given in Schedule A of the proposal which is **endorsed**.

An area of 140 ha is proposed as **conservation land CA 4**, to be restored/retained in Crown control, subject to a qualified designation. This is an area of 1930s gold mine workings around topographic faces between the CA 1 area and the Nevis River. Grazing by sheep only, is to continue as a concession so as the mining features can be better revealed, and therefore the area is to remain unfenced and managed as part of the adjoining (to be freeholded) land. This proposal is **endorsed**.

An area of 160 ha is proposed as **conservation land CA5**, to be restored/retained in Crown control, subject to a qualified designation, being a sheep grazing concession, for a term of 30 years (Item 3; Schedule 1 of Appendix 9), apparently required “in the event sheep may stray into the conservation area”. Note that this concession does not actually allow the owner of the adjoining land to encourage stock on to this conservation area, but merely provides for any strayed stock to be there. Presumably this area is, or will be, fenced on its upper boundary where it adjoins CA1. The CA 5 area contains significant inherent values in the form of mixed indigenous shrubland, predominantly *Olearia odorata*, *O. bullata*, *Coprosma propinqua*, *Discaria toumatou*, *Corokia cotoneaster*, *Carmichaelia petriei*, and *Melicytus alpinus*, described as “some of the best examples in the area”. The proposal also acknowledges the important altitudinal sequence (from 700 to 1300 m), particularly when included with the adjacent proposed **conservation covenant (CC1)**, which is also described as an extensive mixed shrubland with essentially the same composition (apart from the important addition of “occasional trees of kowhai, *Sophora microphylla*) as the adjoining proposed conservation area (CA5), giving way above, to “a moderate cover of narrow-leaved snow tussock with a predominantly native ground cover comprising *Aciphylla aurea*, *Pimelea oreophila*, *Carmichaelia vexillata*, *Festuca nvae-zelandiae*, *Leucopogon fraseri*, *Raoulia subsericea*, *Gaultheria depressa* and *Scleranthus uniflorus*. Given the general rarity of such shrubland and the species mix above, in the area, and its acknowledged indigenous diversity (which undoubtedly will include indigenous invertebrates), and the stated difficulty of fencing the boundary between the CA5 and CC1 areas, these two areas should be **combined as one enlarged Conservation Area (CA5)**. The larger area should also be **fenced** along its southern boundary (where the proposed Public Access and Conservation Management Easement “c-e” is shown), which would exclude the need for the sheep grazing concession associated with the CA5 block. Also, adoption of this recommendation would obviate the need for a fence between this combined area and the adjoining part of CA1, and indeed, the **combined area** could be **incorporated with the CA1 area**. This is my firm **recommendation** regarding the fate of the CA5 and CC1 blocks.

Given the length and also the climb involved in traversing this proposed public access and conservation management easement along the south side of the CC1 block (easement “c-e”), it is further **recommended** that as much as possible of this well established, currently 4WD access is made available for **motorised vehicle access** as far as a feasible parking area.

The area of 52 ha on the valley floor, proposed for full Crown ownership and control as a **Scenic Reserve (R1 “Scenic”)**, which contains an ecologically important area of red (copper) tussock grassland with an associated wetland containing an important mix of *Carex kaloides*, *C. uncifolia*, and *Euchiton ensifer*, is strongly endorsed. The importance of protection from grazing with fencing, which is proposed, is also **strongly endorsed**.

The **Conservation Covenants CC3** (apart from the higher altitude upper extension in Schoolhouse Creek, already discussed for exclusion), and including the area shown as CC3A, are described as containing “a range of [ecological] values from woody vegetation along the river

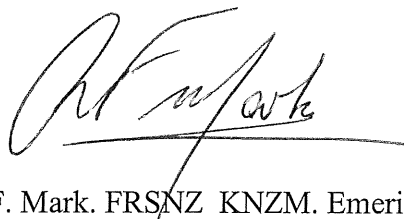
margins to tussock grasslands as the altitude rises” and areas of remnant indigenous shrublands and “a continuous altitudinal sequence of indigenous vegetation between 700 m and 1200 m. Conditions have been carefully specified as to the management which will be permitted. These conditions specified for grazing of sheep and limited cattle, with oversowing and topdressing to be permitted only on those areas which have previously been developed (shown on Map 1 in Schedule 4), are **approved**.

Provisions for special access easements for all those persons on **Otago Fish and Game Council** missions is accepted, but given the very high recreational values of the location involved, The Dell, this easement should be extended to the general public. This is my **recommendation**.

The proposed Landscape Covenant (CC Landscape) under the Reserves Act 1977, is stated as “for the purposes of protecting the landscape values”, with the same level of protection as is afforded by the Central Otago District Plan (where it is noted as an “outstanding landscape”), covers the very extensive area of lower slope and valley floor below and including Schoolhouse Flat. As is stated, this covenant on a “nationally significant landscape” will allow “cultivation of existing cultivated areas and spraying of woody vegetation to prevent its spread into areas currently free of woody vegetation. The objective of the covenant, as stated, is “for the land to be managed so as to preserve the Values”, being:”the Land’s natural environment, landscape amenity, wildlife, freshwater life, marine life habitat or historic values as specified in Schedule 1.” This area is also known to provide habitat for several plant species on the national ‘threatened plant list’ (e.g., *Myosurus minimus* ssp. *novae-zelandiae*, *Leptinella* sp. ‘Clutha’, *Myosotis pygmaea* var. *minutiflora*), as well as contain Land Environments (LENZ types) formally classified as ‘Acutely Threatened’, ‘Chronically Threatened’ and ‘Critically Under-protected’, which are all categories known to have negligible legal protection. As is also stated in the schedules covering the Landscape Covenant, “Any new development will require the approval of the Minister of Conservation” and “The covenant binds the Minister and Owner in perpetuity”. These conditions should prevail in any future role the Minister may be required to play with regard to Cl 7 of Schedule 2 under conditions pertaining to this covenant. It is clear from reading all of the relevant clauses in the schedules pertaining to this Covenant, that one particular clause (which I assume from information in the Proposal, cannot be quoted, can be over-riding to the extent that there is no permanent security provided for this “nationally significant landscape” and the many associated significant intrinsic values. Moreover, there apparently is no permanence in any of clauses in the schedules pertaining to this Covenant as most of the protection is in the so-called “management prescription” which can be reviewed every ten years, without public input. This situation is, to my knowledge, unprecedented, and must seriously undermine the public’s confidence in the concept of formal covenanting under specified legislation in this country.

I trust that this response and its recommendations will be given serious consideration. I also thank you again for the opportunity to assess and comment on this important proposal for tenure review.

Yours sincerely,



Alan F. Mark. FRSNZ KNZM. Emeritus Professor.