

Crown Pastoral Land Tenure Review

Lease name: BEN NEVIS

Lease number: PO 241

Public Submissions - Part 8

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

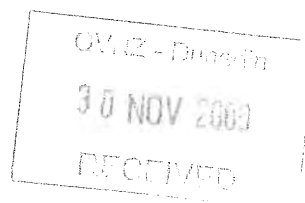
July

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Otago goldfields heritage trust

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Commissioner of Crown Lands
 C/o Darroch Valuations
 P O Box 215
 Dunedin
 Email: david.paterson@darrochvaluations.co.nz



Dear Sir,

Submission on Tenure Review Proposal Ben Nevis Pastoral Lease

I am writing as President and on behalf of the Otago Goldfields Heritage Trust, Inc (OGHT). OGHT is a registered charitable trust established in 1989 and now with a membership of some 500 people from throughout New Zealand. The aims and objectives of the Trust include:

- develop, represent and promote the historic Goldfields trails in Otago
- encourage awareness of heritage sites on the Goldfields Trail
- support and promote the preservation and protection of important heritage sites and artefacts

Background

In order to achieve these aims, the OGHT undertakes the following activities:

- for 18 out of the last 20 years running the popular Otago Goldfields Cavalcade. This is a re-creation by horse, light wagon, wagon and walking of the overland treks undertaken by early gold miners as they made their way to the Otago goldfields. The Cavalcade is always a heavily subscribed event with riders and walkers drawn from NZ and overseas and typically attracts 400-500 participants. Each Cavalcade ends at a different host town with Wanaka being the destination in 2010. Since 1993 there have been 10 trails of all types which have traversed through the Nevis Valley. Five of these trails have camped adjacent to the Craigroy Homestead and three have camped at the Ben Nevis homestead.
- developing and installing description and interpretation signs at key goldfields locations. In the Lower Nevis Valley for example we have six signs installed in the vicinity of the old Nevis Hotel describing in turn the following:

- the old crossing hotel
 - alluvial mining in the lower Nevis
 - alluvial mining in the upper Nevis
 - dredging in the Nevis
 - living in the Nevis
 - Lower Nevis settlement
- printing maps and brochures about historic goldfields sites. Attached to this letter is a copy of our main Otago Goldfields Trail guide together with a brochure describing the viewing and walking tour of historic sites in the Nevis valley
 - undertaking restoration and/or preservation work on important goldfields' relics, artifacts and buildings. For example, the OGHT have recently completed the restoration of the Come in Time stamper battery located in the Thompson Gorge area and this year have funded restoration work on the old Bendigo bakehouse (also done in conjunction with the Historic Places Trust and Department of Conservation)
 - Running field weekends for members where we organize interpreted trips to goldfields sites of interest.

In our view the whole Nevis valley, but particularly the lower Nevis (because of its relative ease of access) is a veritable outdoor museum of 19th and 20th century goldmining methods and the relics left behind by those technologies. The valley is an extremely valuable link with our past in a location which has changed little from the time when it was a hive of mining activity.

Crown Pastoral Land Act 1998 Part 2

The objectives of Part 2 of the Act (cl 24) are, in part, to:

- “(b) To enable the protection of the significant inherent values of reviewable land –
 - (i) by the creation of protective mechanisms; or (preferably)
 - (ii) by the restoration of the land concerned to full Crown ownership and control; and
- (c) Subject to paragraphs (a) and (b), to make easier –
 - (i) the securing of public access to and enjoyment of reviewable land; and
 - (ii) the freehold disposal of reviewable land

Our Submission

The Trust's objectives in this submission are to ensure that the significant inherent values, signaled in Part 2 of the Act, and associated with the lower Nevis area (roughly the area north of Commissioner's Creek to Nevis Crossing) are retained and protected,

and that the public and any future Cavalcades that might traverse the area can continue to enjoy access to the all historic gold sites, buildings and relics in this area.

We have read the tenure review proposal and note the proposal to designate an area of 8 hectares (labeled CA3 on the Plan in Schedule A) as a conservation area and to be retained in Crown control. This area is on the true left of the river and contains significant ecological and historical values associated with gold mining history. This would seem to be the only area to be so designated in the proposal which contains artifacts, relics and buildings. This area together with area CA4 (which seeks to protect the 1930s gold workings running round the faces between CA1 and the river), also on the same plan, seem to be the only areas which have specifically recognized gold mining sites.

While supporting these parts of the proposal, it is our view these proposals do not go nearly far enough in recognizing the inherent values in the lower Nevis.

We would draw your attention to the attached map c.1908 showing the extent of settlement along the Nevis flats from Commissioners Creek to Nevis Crossing – an indication of the wealth of material that is still to be found today

Accordingly we would submit the following:

That the area from Commissioners Creek to Nevis Crossing containing all current known historic sites, buildings and artifacts be restored to or retained in Crown ownership and control as a conservation area. The boundaries of this area to be determined after further consultation with the OGHT and other heritage organizations, and

That access by future cavalcades to the flats and the Ben Nevis homestead be assured, and

That public access to these sites be maintained, and

That if it is not feasible to retain all this area in Crown control that at least all the sites currently identified by either DOC or OGHT signage be retained together with their public access.

We indicate our willingness to present our submission in person if called upon to do so.

Yours sincerely,

Martin Anderson
President
Otago Goldfields Heritage Trust, Inc.

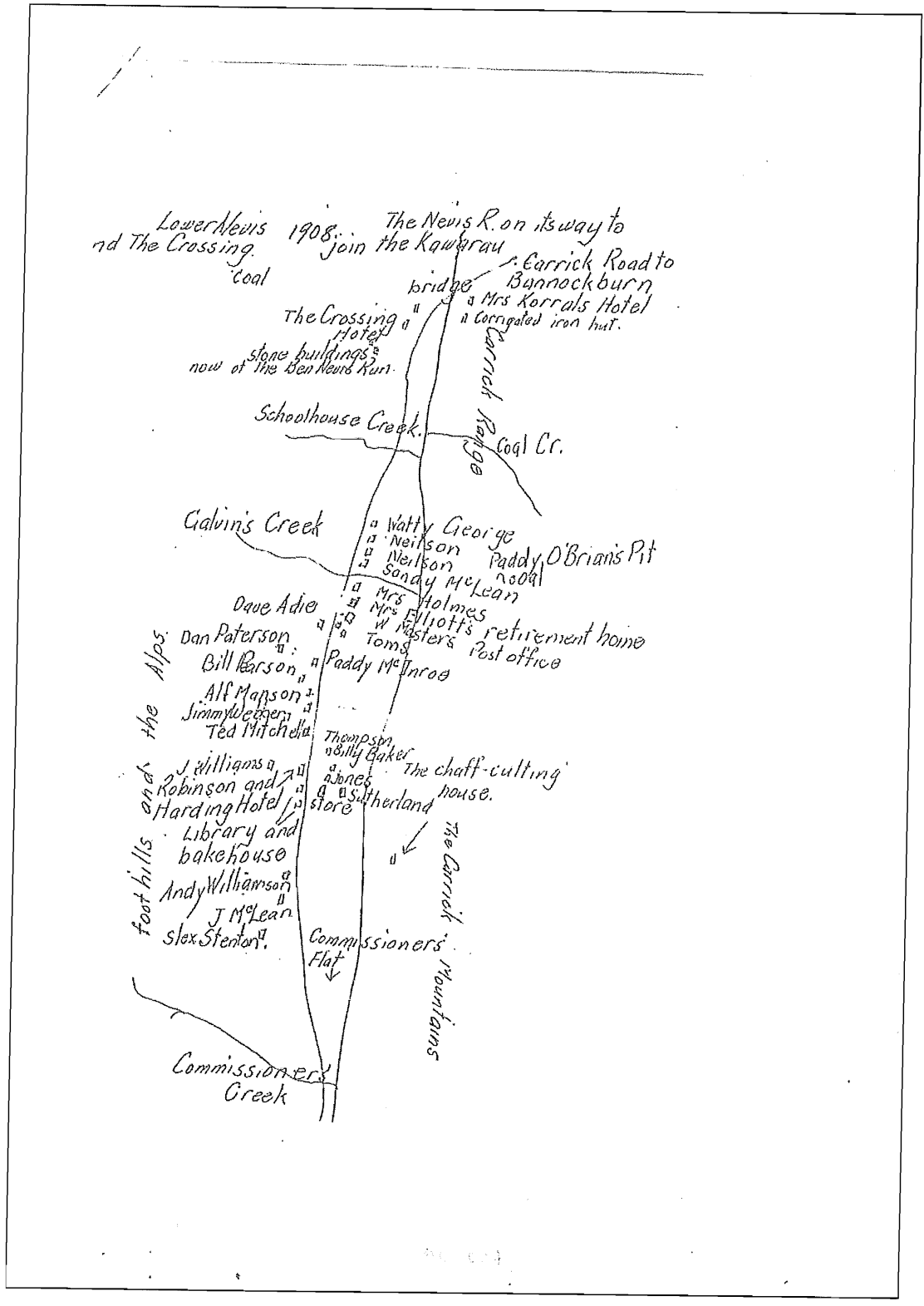
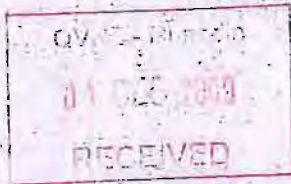


Figure 10: Sketch plan showing the occupation of the Lower Nevis Valley in around 1908 (Gavine McLean 96-007, Hocken Library, University of Otago).

275036

198 Kowhai Street
Eastbourne
New Zealand
Nov. 27th 09.



Commissioner of Crown Lands
of District Valuations,
P.O. Box 215,
Dunedin.

Dear Sir,

re the Tenure Review of The Ben Nevis and "Craigroy"

In your considering of the above, I request that
you ensure that the Nevis River retains its current form,
with protection of:-

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- 1) the habitation of the rare Emergent galaxies, &
retention of the river as a unique fishing resource, and
- 2) protection of the historically significant
Nevis goldfields, and its structures.

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Finally, I plead that the less measurable
qualities of the Nevis Valley, its peace & beauty,
are retained as they are now, for us, and
generations to come.

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Yours faithfully,
M. J. Farrant

Margaret Farrant

Darroch Valuations.

PO Box 215.

Dunedin.

Ben Nevis Tenure Review. Submission of W.D. Witherow. 29/11/09.

Sir,

Much of the preliminary proposal seems adequate, but there are salient aspects that I believe to be inappropriate.

The proposal to freehold 4,451 hectares of land to Pioneer Generation represents the most outstanding example of this. The area in question is of historic importance, on account of its early mining settlement and surviving evidences. It is also the habitat of rare plants and native reptiles, and there are endangered native galaxids in the Nevis tributaries flowing through the area.

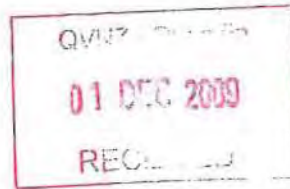
The land between the road and river in this region is vital for public access to the nationally-significant trophy trout fishery of the Nevis. (Access is required, also, for other recreational activities). The importance of the Nevis valley lies in its multiplicity of natural, historical, and amenity values – all encompassed in an amazingly unspoilt arena. The excision of 4,451 hectares in the midst of this integral landscape would be an absurdity.

I am aware, of course, of the reason for the proposed excision – to facilitate Pioneer in its plans for a Hydro Dam. Apparently, however, I am not permitted to comment upon this – an even greater absurdity.

I do not believe that the proposed landscape covenant is adequate in protecting access to the river. Neither does it provide protection to existing biological features of the area.

Dave Witherow.

Dave Witherow. 29/11/09.



Dave Witherow,

Rapid 281.

Bush Road, Mosgiel.



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

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2 December 2009

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Dear Sir

Submissions on the Preliminary Proposal for Ben Nevis Pastoral Lease

We appreciate the opportunity to submit to the review of Ben Nevis Pastoral Lease.

This submission is on behalf of the Central Office of Forest and Bird.

Introduction

The Royal Forest and Bird Protection Society Inc. (Forest and Bird) has campaigned for more than 80 years for the protection of New Zealand's native species and the habitats on which they depend. Around 38,000 New Zealanders in 55 branches nationwide belong to Forest and Bird, supporting the Society's objectives of secure protection for native species, ecosystems, and landforms.

Forest and Bird's constitution requires it to:

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

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

Land to be restored to Crown Control

CA1 An area of 8,807 hectares (approximately) to be designated as land to be restored to or retained in Crown control as conservation

Support CA1 provided that it is amended to include the fingers of CC2 and CC3, as discussed below.

CA1 clearly meets the objects of the CPLA and is best protected by restoration to full Crown ownership and control. The Society endorses the significant inherent values (siv's) described in the Summary of the Preliminary Proposal.

Easement Concession:

An easement concession for farm management purposes over the land marked "e-b1-k" and "k1-k2" in CA1 on the Plan in Schedule A.

The Society has no objections to the above easement

Heliskiing Concession:

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

The Society accepts that this run its course.

CA2. 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.

CA2 clearly meets the objects of the CPLA and is best protected by restoration to full Crown ownership and control. The Society endorses the significant inherent values (sivs) described in the Summary of the Preliminary Proposal.

There appears to be no justification for having a separate conservation area and we submit that CA2 be amalgamated with CA1. This would better meet the CPLA objectives by recognising the altitudinal sequence from valley floor to mountain top, acknowledged as an important siv.

The maps in the PP are inadequate. It is not possible to accurately tell where the boundary between CC3 and CA2 lies in relation to School House Creek. The boundary must be on the north side of the creek, as to the south lies a *Carex* wetland, on a threatened land environment which although modified has sivs. This will not be protected by allowing continued grazing by cattle.

Submission

- 1. Add CA2 to CA1***
- 2. Ensure School House Creek wetland included in CA2***

Easement Concession:

An easement concession for farm management purposes over the land marked "a2-n-s" and "m-n" in CA2 on the Plan

The Society has no objection to the above easement

CA4 An area of 140 hectares (approximately) to be designated as land to be restored to or retained in Crown control

The Society supports the restoration to full crown ownership and control of this important historical sequence of mining history. It also has important remnant shrublands, and rare plants and is a threatened environment.

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 CA4 on the Plan in Schedule A.

The Society is opposed to the detail of the grazing concession.

Clause 3 Term:

The Society is opposed to a 21 year concession. Knowledge of sivs and their management requirements changes rapidly and concessions are notoriously difficult to amend or discontinue, and as a consequence long term concessions do not provide adequate protection for the sivs in CA4. In our view 7 or a maximum 10 years is adequate and at the end of 10 years any further requirement for grazing should be publicly advertised.

Clause 10

This section lacks any mention of wilding trees and exotic trees, which are a threat to the sivs.

(f) fails to include all methods of vegetation clearance.

Submissions

- 1. Rewrite (f) to read: carry out any vegetation clearance, including burning and spraying, top dress, sow seed, or carry out earthworks.....***
- 2. Inert new clause in 10.2 to read: (c) Remove exotic trees including all wildings***

Schedule 3 1(a) :

This describes the vegetation as if it was all exotic, and does not recognise the existing indigenous vegetation in a threatened environment as a siv which warrants protection under the CPLA. Objects.

The management of vegetation should not be to maintain or enhance the cover of exotic species. This is contrary to the goal described as being in part to protect the landscape values and the vegetation.

Submission:

Rewrite 1(a) Schedule 3 to read:

To manage the vegetation within the concession area to maintain or enhance the cover of indigenous species (including matagouri) whilst minimising the risk of invasion by exotic woody weeds and trees.

Schedule 3 1 (c):

This appears to leave the option of controlling woody weeds that are not covered by the Biosecurity Act to the concessionaires discretion. Wilding trees are not covered under the Biosecurity Act and if present must be controlled.

There is no definition of woody weeds in the concession document and as many people consider matagouri to be a woody weed, it needs to be clear that matagouri contributes to the sivs of CA4.

Submissions

1. **Add a requirement to control wilding and exotic trees.**
2. **Insert the words *exotic* or *excluding indigenous shrubs such as matagouri and coprosma, or olearia species* as follows: “Methods of exotic woody weed control practices be limited to:” or “Methods of exotic woody weed control practices, excluding indigenous shrubs such as matagouri and coprosma or olearia species, be limited to:” or add a definition of woody weeds to exclude all indigenous species.**

CA5. An area of 160 hectares (approximately) to be designated as land to be restored to or retained in Crown control as conservation.

The Society supports restoration of this to full crown control but submits that it be incorporated into CA1 as it contributes an important altitudinal sequence including woody shrublands below 1000m and that CC1 be also included in CA1.

Grazing Concession:

A grazing concession for the grazing of sheep over the land labelled CA 5 on the Plan in Schedule A.

The Society does not support this grazing concession to allow for stock straying from CC1. CC1 has outstanding sivs including threatened plants on critically underprotected and underprotected land environments as described in the March 06 Addendum to the Conservation Resources Report. These warrant by preference restoration to full crown ownership and control under the CPLA objectives. The addition of CC1 to CA1 along with CA5 would obviate the need for a grazing concession as there is a fence along the ridgeline over Trig U at 1269m at the lower boundary of the proposed CC1.

Submissions

1. **Reject grazing concession**
2. **Add CA5 and CC1 to CA1.**

Specific submissions on the proposed grazing concession (These should not be read as suggesting we endorse the grazing concession.)

Clause 9

9.1. This should specifically include fence unless needed for conservation purposes.

Clause 10

10. (b) should refer to Plant any species of tree, shrub or other plant..

10 (f) needs to include chemical spraying or any other form of indigenous vegetation clearance including mob stocking.

10.2 Needs to require control of any wilding trees.

Management Prescription

The goal in 1 should include promoting carbon sequestration by indigenous vegetation.

CA3. 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

The Society endorses designating these areas as a Conservation Area for the reasons outlined in the PP.

R1. Scenic 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

The Society supports designating this area as Scenic Reserve for its outstanding scenic values associated with the red tussock grasslands. This area contains a significant area of red tussock.

Freehold Land

An area of 4,451 hectares (approximately) to be designated as land to be disposed of by freehold disposal to Pioneer Generation subject to protective mechanisms and a qualified designation.

CC1

The Society opposes the freeholding of this area albeit with a protective mechanism.

The Addendum to the Conservation Resource Report, described a diversity of outstanding sivs. In summary, 97% of CC1 and CA5 are on critically underprotected environments and are predominantly indigenous vegetation. The tussock grasslands are highly representative derivatives of the pre-human vegetation. Threatened plants are found in the upper and middle tussock grasslands. CC1 encompasses an important ecological altitudinal sequence dominated by indigenous vegetation.

The PP describes this area as having extensive mixed shrublands and according to the Addendum these are rare woody ecosystems, significant relicts of former forest and shrub cover. There is no evidence that the fact that CC1 contains indigenous vegetation on threatened land environments has been considered in arriving at the advertised PP.

Those who were able to inspect the area report that much of it is depleted tussock grassland with obvious erosion among the rock tors. It is probable that this area has been depleted as regular fertiliser applications do not appear to have been maintained and much of the block has not been fertilised.

Crown ownership and control is the most effective and appropriate protective mechanism given the significance of the sivs, the threatened land environment status and the questionable sustainability of continued grazing without fertiliser applications. The most ecologically sustainable management in the future is to allow this area to regenerate probably into shrublands and consequently sequester more carbon. Fertiliser application is not desirable for conservation.

Submission

To adequately fulfil the objects of the CPLA and to promote the ecologically sustainable management of this area, CC1 be returned to full crown ownership and control as part of CA1.

CC2 (Nevis Burn)

The Society opposes the freeholding of CC2.

This area has outstanding sivs that were recognised in the Addendum to the Conservation Resource Report. In summary, some 86% of CC2 is classified as critically under-protected, (less than 10% protected), it contains rare montane woody ecosystems, a continuous altitudinal sequence of indigenous vegetation, with high species richness, and wetlands with rare plants, which are a national priority to protect. Again there is no evidence that the fact that CCL contains indigenous vegetation with threatened plants on threatened land environments has been considered in arriving at the preferred protective mechanism.

There is no evidence in the summary of the PP that the proposed freeholding with covenant has considered the sivs associated with the native fish *Galaxias gollumoides*. Since the Addendum to the CRR was completed it has been confirmed that the *Galaxias gollumoides* population in the Nevis is a distinct taxa from the *Galaxias gollumoides* populations found through out Southland. The species has now been ranked as nationally vulnerable. The CRR Addendum shows that there are populations of *G. galaxias* within the proposed freehold CC2 area. However these are not mentioned in the values to be protected by the covenant.

This suggests that not all the sivs have been adequately considered in developing this tenure review proposal. The CPLA requires identification of the sivs, as opposed to *some of the sivs*.

There appears to be a fence at k1, between CC1 and CC which will keep stock out of CA1.

Given the significance of the sivs Crown ownership offers the most secure long term protection. Grazing without fertiliser application is not an ecologically sustainable use, and will continue to reduce soil fertility and degrade the natural ecosystem. Fertiliser application is not desirable for conservation. Natural dung and urine is not an adequate form of nutrient replacement for that lost through sheep farming.

Protection of the rare plants may require a specific stocking regime, eg intensive stocking for shorter periods, no stocking during spring or some other time to enable greater flowering and seed setting of indigenous species, and *Gollum's* habitat may require fencing. The covenant mechanism can not adequately provide for sensitive controlled grazing and adaptive management.

Submission

To adequately fulfil the objects of the CPLA and to promote the ecologically sustainable management of this area, CC2 be returned to full crown ownership and control as part of CA1.

CC3 (Schoolhouse Creek) and CC3A

The Society opposes the freeholding of the upper block of CC3.

These areas appear to contain indigenous vegetation, including remnant pre-human shrublands on acutely threatened and chronically threatened LENZ environments. These sivs are to be given the highest priority for protection according to the "Guidelines on Significance". There is no evidence that these values have been taken into account when devising the proposed protection mechanisms. The covenant provides for cattle grazing which will not promote the longterm sustainability of the shrublands as cattle are known to prevent or suppress the natural regeneration of most shrubland species.

There is an extensive *Carex* wetland on the true right of School House Creek. This contains wetland indigenous species, and seeps on a threatened environment. This requires protection from cattle grazing to ensure its ecological sustainability and needs to be included in CA1.

Submission

To adequately fulfil the objects of the CPLA and to promote the ecologically sustainable management of this area, the upper portion above about 1000m of CC3 be returned to full crown ownership and control as part of CA1.

Specific submissions on the Covenant provisions for CC1, 2 and 3

In addition to opposing the freeholding of the above areas, the Society wishes to point out problems with the covenant details.

Schedule 1 Values of Land to be protected

The landscape values are poorly described and the schedule lacks reference to the vegetation which contributes to the landscape character. The CRR report observes that Ben Nevis in its entirety has landscape values of national importance (p9). "The Nevis valley landscape is defined by the homogeneous dominant gold tussock cover, a distinctive highly diverse and visible landform and cultural influences from mining and pastoralism."

Submission

Replace description of landscape values with words to this effect:

The land forms a component of a wide open comparatively unmodified highly legible landscape and contributes significantly to the natural landscape character of the Nevis Valley and the Remarkables Ecological District. Golden tussock and grey shrublands contribute to the overall natural appearance.

The covenant does not list the habitat of the unique populations of *Galaxias gollumoides* as a value of the land to be protected.

Submission

Add new section to the effect of: The native fish Galaxias gollumoides found in tributary streams of the Nevis River are considered to be a distinct taxa separate from Galaxias gollumoides elsewhere. They have been given the third highest threat ranking – Nationally Vulnerable.

The values do not include wetlands. The extensive *Carex* wetland on the true right of School House Creek warrants listing as a value to be protected.

Schedule 2 Special conditions

Clause 3.1.4 potentially allows replacement structures to be bigger than existing structures.

Submission

Delete the words 'or other improvements' and add words to the effect 'replacement structures or facilities to be of the same scale and in keeping with the landscape'.

Clause 3.1.5 (b) refers to 'open grassed areas'. This needs to be restricted to pasture grasses and not include short indigenous tussock grasses.

Submission

Add words 'pasture grassed' in (b). To read '..to keep existing open pasture grassed areas.....'

Clause 3.1.5 (c) - needs to prevent irrigation, and or any method of vegetation clearance including mob stocking, or intensive cattle stocking.

Submission**Insert these words into 3.1.5.**Schedule 3**MANAGEMENT PRESCRIPTION**

Clause 1(a) does not include a full list of vegetation communities.

CC2: Communities associated with mossy seeps, *C. rigida* grasslands with predominantly native ground cover, rare and threatened plants - *Carmichaelia vexillata* (upper slopes) and *Vittadinia australis* (mid slopes).

CC2: alpine herbfields, wetlands with rare plants, *C. rigida* grasslands with predominantly native ground cover, indigenous cover over an altitudinal sequence.

CC3. The valley floor contains scattered short tussocks, scabweeds, some wetlands with carex sedges. It is not clear from the maps whether CC3 includes any tailings and if the tailings have indigenous species, including rare plants.

Add the following communities to the list:

- *Chionochloa rigida* and *C macra* grasslands with rare plants and indigenous ground cover
- *Alpine herbfields*
- *Communities associated with wetlands*
- *Short tussock grasslands and scabweed turf*
- *Indigenous communities associated with tailings (if these are in CC3)*

Clause 6. 1 – The covenant goals do not provide protection for the landscape sivs, or *Galaxias gollumoides*.

Submission

Add new goals along lines of:

- 1. To maintain the existing natural and substantially unmodified appearance of the landscape, notably the uninterrupted views across open features, the homogenous gold tussock cover, distinctive rocky outcrops and indigenous shrublands. The whole Nevis valley requires consistent management to avoid fragmentation.**
- 2. To protect riparian vegetation along streams and maintain and enhance the habitat of *Galaxias gollum*.**

Clause 2: This restricts attainment of these goals to regular monitoring, liason with the owner and revision of grazing limits **prior** to the preparation of management prescription documents. The Society submits this is too narrow and introduces conflicting provisions. Ability to amend grazing and any other management that is resulting in adverse impacts on the values must be provided for at any stage and not limited to reviews of management prescriptions. The *Galaxias gollumoides* habitat may require fencing if grazing is contributing to bank erosion, stream instability, pollution etc. This eventuality must be provided for given the importance and threat status of this population. Maintaining rare plants may require more intensive grazing for shorter periods and no grazing during spring. This does not appear to be provided for.

Submission

Rewrite the management that will be required to meet the covenants goals to address the above requirements.

Clause 2 -3- The proposal document does not appear to include recent knowledge in relation to rare plants especially spring annuals. It is difficult for us to tell from the supplied maps whether there are threatened spring annuals within the proposed covenants. If they are these would be difficult to record using photopoint monitoring.

Add clause requiring a rare plant survey prior to the preparation of management prescription documents and every 10 years thereafter.

Clause 4 – only provides for revision of stock limits every 10 years – revision should occur whenever damage is noted.

Reword: The grazing limitations shall be reviewed following any breaches of the covenant or observed damage to the covenant values and or every 10 years in light of monitoring results.

Clause 5 refers to cattle pugged wetlands in CC2. This is unnecessary as the covenant does not provide for further cattle grazing and by mentioning cattle pugged wetlands it suggests that the wetlands are to be maintained in a pugged state.

Submission

Delete the words 'cattle pugged' in CC2.

CC

The Society is opposed to the freeholding of the valley floor between the formed road and the Nevis River and seeks that it be designated as either a scenic or historic reserve.

The provision of a covenant for landscape purposes is not sufficient to protect the diversity of sivs found within the area of CC, and does not fulfil the purposes of the CPLA.

There is no evidence in the summary of the PP that the proposed freeholding with landscape covenant has considered the sivs associated with the native fish *Gollum galaixias*. The CRR Addendum shows that there are populations of *G. galaixias* within the proposed freehold CC area. However these are not mentioned in the values to be protected by the covenant. The Non-migratory Galaxiid Recovery Plan (DOC 2004) indicates that the preferred land protection is Crown ownership or covenants that allow DOC full management of the galaxiid inhabited catchment and no water abstraction is allowed. The Covenant does not give the Department adequate control over the catchment in the event that the management regime may contribute to degradation of the riparian stream margins, damage stream banks, or pollute waterways. The Covenant provides for cattle grazing which is not compatible with the long term protection of the waterways as habitat for the *Galaxias*.

There is also no recognition of the Nevis Valley cryptic skink, *Oligosoma sp'Eyres/Nevis*, in the Summary PP nor is it a listed value in the covenant. Recent studies have found that the *Oligosoma sp.* found in the Nevis is distinct from other cryptic skinks, and may be distinct from the skink found in the Eyre Mountains. Work is in progress to determine if these are one or two species. The Nevis cryptic skinks are unusually highly abundant around old gold tailings on the eastern side of the Nevis River and occur widely over the river flats and around the foothills up to the Nevis Crossing.

There is also no recognition that all of the proposed CC is classified as either; Acutely Threatened, Chronically Threatened or Critically Underprotected. These are national priorities to protect if they retain indigenous cover, which for the most part they do in the Nevis. See Threat map in Appendix one.

The PP does not mention the presence of rare plants, nor are these included in the values to be protected in the covenant document. The Addendum to the CRR describes the vegetation above the gorge on the north eastern boundary of Ben Nevis as containing highly significant and good examples of intact extensive mixed shrublands, which are regarded as rare in montane zones, a diversity of herbs and shrubs which are uncommon or absent from surrounding grasslands and shrublands, and at least two chronically threatened plant species. The covenant provides for cattle grazing which is not compatible with protecting rare shrublands.

Scenic or historic reserve status for area between the Nevis River and the existing formed road.

The proposal does not recognise or provide for the outstanding sivs that exist between the formed road and the future marginal strip of the Nevis River. Adequate protection of the outstanding botanical, landscape, recreational, historical values of this area of land is a requirement of the CPLA. There can be no argument that there are outstanding, indeed nationally outstanding values here. These include populations of threatened plants, skinks, and banded dotterel breeding habitat on chronically threatened land environments. Adequate protection of these ecosystems is essential to meet Goal Three of the NZ Biodiversity Strategy. The semi natural landscape of this unit is described as outstanding in the CRR. The Nevis valley is one of the last substantially unmodified valley floor landscapes in Otago. It includes a number of historic tailings and dredge ponds, and contributes to the outstanding historical values of the Nevis valley. This area is likely to be the focus of recreational activity and provides access to the river from the road.

Continued grazing by sheep and cattle will not protect the sivs associated with the river flats, and will not promote ecologically sustainable management as cattle will continue the degradation of the water quality of the streams and river, degrade the wetlands and flushes, cause bank erosion and create risk for banded dotterels breeding success, and degrade the habitat of skinks and *Galaxias gollumoides*.

Provision for sheep and cattle grazing here will also prevent the objectives of the CPLA to be met.

The officially agreed understanding of ecologically sustainable management in the CPLA context means making decisions that safeguard the life supporting capacity of the land's ecosystems in the long term, including the ability of those ecosystems to support life outside of the reviewable land.

The covenant does not provide secure long term protection for the sivs or the ecologically sustainable management of this land or of the adjacent freshwater ecosystems as it will give way and cease to exist if hydro electric development is approved.

Submissions

- 1. The covenant fails to protect the identified sivs and fails to promote the ecologically sustainable management of reviewable land and does not meet the objectives of the CPLA.***
- 2. The covenant for landscape purposes is an inappropriate protective mechanism to protect the range of nationally outstanding landscape and biodiversity sivs of the area proposed for freeholding.***
- 3. The most appropriate protective mechanism to protect the sivs and promote ecologically sustainable management of the land between the river and the formed road is Scenic or Historic Reserve under the Reserves Act.***

- 4. *The most preferred mechanism to protect the outstanding sivs and promote ecologically sustainable management in the remainder of CC (not including the developed paddocks) is Conservation Area with grazing concession for sheep only.***

Specific submissions on the Covenant provisions for CC

In addition to opposing the freeholding of the above areas, the Society wishes to point out problems with the covenant details.

Clause 8.2

This fails to provide for adequate access to the future and current marginal strip along the Nevis River.

Submission

Amend to provide for 'wander at will' access to the river between the formed road and the river from Nevis Crossing to Trig Y at the beginning of CA2.

Schedule 2 -Values:

As described above the Covenant fails to adequately describe the diversity of values present. The values are more than landscape.

Submissions

Add the following values:

- 1. There are highly significant examples of intact extensive mixed shrublands, a diversity of herbs and shrubs and at least two chronically threatened plant species Hebe pimeliodes subspecies faucicola and Pachycladon cheesemanii.***
- 2. The threatened native fish Galaxias gollumoides is found in tributary streams of the Nevis River, and the Nevis Valley cryptic skink, Oligosoma sp'Eyres/Nevis, occurs widely over the river flats and around the foothills up to the Nevis Crossing. Banded dotterels breed on the short turf herbfields and scabweed flats.***

Schedule 2 Special conditions

Clause 3.1.1:

This provides for cattle grazing which will not promote the ecological management of this area, nor provide adequate protection for the sivs as cattle will continue the degradation of the shrublands, tussock grasslands, wetlands, riparian margins, and the water quality of the streams and the river and degrade *Galaxias Gollum habitat*.

Submission

Delete provision for cattle grazing.

Clause 3.1.3.

This provides for Shelter belts to be replanted. This needs to specify the species that will not be permitted to ensure that species used are compatible with the landscape and will not become wilding.

Submission

Provide list of suitable non wilding tree species

Clause 3.1.4

This potentially allows replacement structures to be bigger than existing structures.

Submission

Delete the words 'or other improvements' and add words to the effect 'replacement structures or facilities to be of the same scale and in keeping with the landscape'.

Clause 3.1.5

Clause 3.1.5 (b) refers to "open grassed areas". This needs to be restricted to pasture grasses and not include short indigenous tussock grasses.

Submission

Add words 'pasture grassed in' (b). To read '..to keep existing open pasture grassed areas.....'

Clause 3.1.5 (c) - needs to prevent irrigation, and or any method of vegetation clearance including mob stocking, or intensive cattle stocking.

Submission

Insert these words into 3.1.5.

Clause 7

Clause 7 is inconsistent with the objectives of the CPLA and must be deleted.

Clause 6 of the Covenant provides that this covenant is in perpetuity. However Clause 7 in Schedule 2 provides for it to cease to exist upon the submission of a plan identifying the proposed hydro electric development. This conceivably could be read to mean that the covenant could be lifted prior to a resource consent being granted.

The covenant clearly contemplates that there is a probability that the covenant will not remain in place, thus there would be no protection for the range of sivs identified in CC nor would there be any constraints to safeguard the life supporting capacity of the land's ecosystems in the long term, including the ability of those ecosystems to support life outside the reviewable land.

The area of CC is not a minor component of the proposed tenure review, neither is the range of or the importance of the sivs present, minor. Thus it can not be claimed that the overall tenure review promotes the management of reviewable land in a way that is ecologically sustainable.

Clause 7 gives preference to economic development, as it provides for any protection of the sivs to fall away should a dam proposal be presented. This is contrary to the hierarchy of the CPLA objectives which provides for the protection of the sivs as a primary objective and economic development as a secondary objective, which can be achieved provided the primary objectives are achieved.

Submission

Delete clause 7 in its entirety as it is contrary to the objectives of the CPLA

Special condition needed for public access

There is no clause providing for public access from the road to the river. The Nevis River and its immediate environs is a highly valued recreational resource and access along the marginal strip does not adequately secure public access to and enjoyment of the reviewable land.

Submission

Provide for 'wander at will' across the river flats between the road and the Nevis River.

MANAGEMENT PRESCRIPTION

Clause 1(a)

Vegetation does not include a full list of vegetation communities. The valley floor contains scattered short tussocks, scabweeds, some wetlands with carex sedges, and the tailings have indigenous species, including rare plants. Clause (b) does not include; wide uninterrupted views across low stature vegetation.

Submission

Provide a full list of vegetation communities

New Clause

There is no objective for the maintenance and enhancement of the *Galaxias gollum* populations, the skink or the banded dotterels.

Submission

Add new clause: To maintain and enhance the habitat of *Galaxias gollum* and the Nevis cryptic skink, and banded dotterels.

Clause 3

There are rare spring annuals and other rare minute plants present that are unlikely to be picked up by photopoint monitoring. A survey of spring annuals, and an updated plant list needs to be prepared prior to the preparation of a management prescription, and be repeated as part of any review of the management prescription.

Clause 4

This provides for sheep and cattle grazing. As described above cattle grazing will not promote the ecologically sustainable management of this land and its soils and ecological services, or the ability of these ecosystems to support life in the adjacent Nevis River and its marginal strip.

This clause implies that a stock limit can only be introduced at the expiry of the management prescription document. This could create a conflict with clause 2a which provides for stocking levels to be adjusted if grazing is damaging the values at any time.

Submissions

1. Delete provision for cattle grazing.

2. *Ensure there is no potential for conflict between clauses 2 and 4*

Clause 5

This is not an adequate vegetation description as there is no mention of mining tailings habitats which have a range of indigenous species, including rare plants.

Easements

Support proposed access easements with the following exceptions:

Easement under Section 26s Conservation Act to provide access for the Otago Fish and Game Council a-b-y-c-d and y-z

The track to the Dell offers a fantastic general public recreational opportunity. Securing public access along this easement would contribute to fulfilling the CPLA objective to secure public access to and enjoyment of reviewable land.

Submission

Provide a public access easement along y-z

New Access Easement required

In order to secure public access to and enjoyment of reviewable land there is a need to provide for access to and along a passable route along the top of the Nevis Gorge. The marginal strip up the Gorge is impassable. The gorge is a major recreational feature of this land and will be a focus for future recreational enjoyment. This is not adequately provided for in the proposal.

Submission

Provide a walking access easement along the rim of the gorge.

Access along Formed Road

The formed Nevis-Garston Road does not appear to align with the legal road line. We note that an easement is to cover the anomalies. An easement is not as secure as a public road.

Submission

Create legal road status for the formed road - Ben Nevis to Garston

Process of Formulating the PP

There is a statutory preference within the CPLA for Crown ownership of land with sivs. In developing a tenure review proposal sivs are to be assessed for their merits. While tenure reviews involve a process of negotiations and some compromises the primary objectives of the CPLA must still be met. The primary objectives mean the tenure review must primarily provide for ecologically sustainable management of reviewable land and must enable the protection of significant inherent values by the creation of protective mechanisms or (preferably) restoration of the land to full crown ownership and control.

The fact that the Department of Conservation had a prior agreement with Pioneer Generation's predecessor, Central Electric, that in return for allowing an exception in the

WCO of the Nevis Hydro Proposal the Department would provide for this through tenure review. This agreement was made before all the sivs on Ben Nevis had been identified.

It is clear that the tenure review process has been coloured by this agreement. The Department of Conservation's Otago Conservator, Mr Jeff Connell stated in a letter to David Patterson 27 March 2008 that:

'During consultation on Ben Nevis and Craigroy, it was agreed to freehold all areas required by Pioneer Generation Limited for possible hydro development.'

The CRR Adendum report does not appear to include an earlier rare plant survey carried out 25-26 November which was prepared to help evaluate the impact of a dam proposal.

There is no mention of the rare plants found within CC in the Summary of the Preliminary Proposal, nor are they recorded as values to be protected within the Covenant. A significant population of the nationally vulnerable *Myosotis pygmaea var glauca* appears to be in the area proposed for CC.

The CRR does note that the most popular recreation area in the Nevis is the river and its environs. "In summer, picnickers and campers make use of the broad river flats. This significant recreational use is not provided for in the PP and does not appear to have been considered in developing the proposal.

The proposal does not provide adequate protection for *Galaxias gollumoides*. Dr Richard Allibone in his rebuttal evidence for NZ Fish and Game Council to the application to amend the Water Conservation Order (Kawerau) concluded that a unique, rare and threatened *assemblage* of native fish does occur in the Nevis Catchment. The proposal only provides for full Crown ownership and protection of one small stream which has a population of *Galaxias gollumoides*. The remaining populations occur within the proposed freehold areas, inadequately protected by covenants CC2 and CC, neither of which mention *Galaxias gollumoides* as a value to be protected.

In formulating this tenure review some sivs on CC have been recognised, but are not protected by the covenant, others appear to have been ignored.

Consideration and provision of a prior agreement should be irrelevant in the tenure review process, under the CPLA. However in this case it has clearly influenced the proposal. This is potentially outside the provisions of the CPLA and may be illegal. Further under the CPLA the CCL is not entitled to compromise the Part Two CPLA objectives in favour of economic use of the land, yet this is clearly the case in this PP.

In advertising the PP it was stated:

"The Commissioner will not consider any submissions which discuss the possible future use of any part of the land for the generation of electricity from the Nevis River"..... "Any submission or parts of submissions which discuss use of the Nevis River for hydro-electricity development will be treated as invalid."

We understand that the Department of Conservation had a prior agreement with Pioneer Generation's predecessor, Central Electric that the Department would provide for the possibility of hydro development through tenure review in return for allowing an exception in the WCO of the Nevis Hydro. This agreement was made before all the sivs on Ben Nevis had been identified.

However as protecting sivs from such future uses as cultivation among others is the reason for protective mechanisms. Providing for a possible dam as an exception is a legal contradiction.

Submission

This tenure review pp has been influenced by a prior agreement which is an irrelevant matter and constitutes an error of law under the CPLA and an undertaking that tenure review would provide for possible hydro development which has prevented the PP adequately protecting sivs and promoting the ecologically sustainable management of reviewable land.

Conclusion

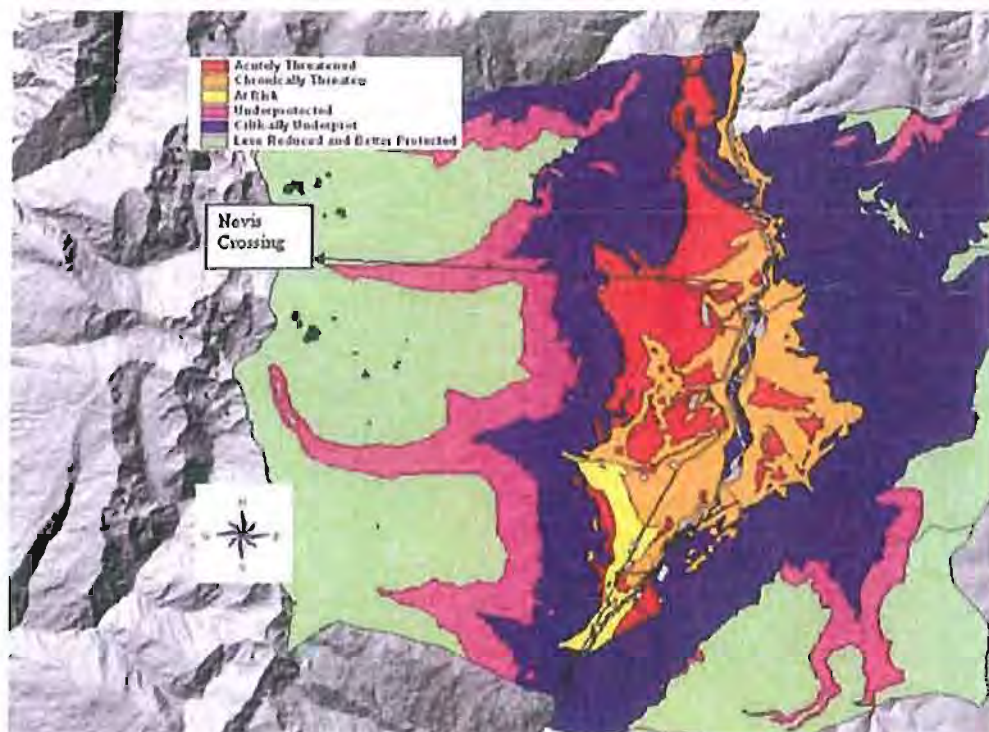
Taken overall this proposal does not promote ecologically sustainable management for reviewable land, nor does it adequately protect the nationally outstanding range of sivs present on the lands proposed for freeholding.

The Society concludes that unless this proposal can be significantly improved to take account of the matters raised in this submission, and fulfil the CPLA objectives then the proposal as advertised should not proceed and that it is preferable this land remain a pastoral lease.

Yours sincerely

Sue Maturin
Otago Southland Field Officer

Attachment one Land Environments New Zealand Map showing the threat categories for land in Ben Nevis, Craig Roy and Carrick.



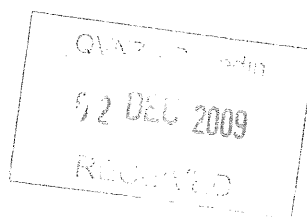


More than 200 people spelt out the name Nevis at a recent wild rivers event in the Nevis Valley. This indicates the level of community interest in this outstanding back country relatively unmodified valley.

Looking Immediately south of Nevis Crossing from the Nevis Road. The river flats below the road are predominantly natural in character, as they have not been developed for pasture. They have outstanding biodiversity, historical, recreation and landscape values that warrant restoration to full crown ownership and control as scenic or historic reserve.



275039



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November 23, 2009
Commissioner of Crown Lands, C/- Darroch Valuations
Darroch Valuations
P O Box 215
DUNEDIN
New Zealand

To Whom it may concern

I would like to make the following submission for Po 241 Ben Nevis and Po 233 Craigroy Pastoral Lease which are undergoing tenure review under the Crown Pastoral Land Act 1998. I strongly support both proposals I would like to express the wish that they be fully adopted. The Craigroy Pastoral Lease is the one I am most familiar with and I have cross country skied over this area at various times between 1987 and 2003. The area CA1 in the designations plan is the most valuable part of the lease for cross country skiing and incorporating this with the adjacent conservation lands will significantly increase the scope for cross skiing recreation on DOC lands. I have tramped on the area CA1 of the Ben Nevis area and I can attest that it would be a magnificent addition to the conservation estate.

So for these reasons I can give my full support to both proposed tenure reviews.

Sincerely yours,

Christopher Pearson