

## **Crown Pastoral Land Tenure Review**

**Lease name: CRAIGROY**

**Lease number: PO 233**

### **Public Submissions - Part 6**

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

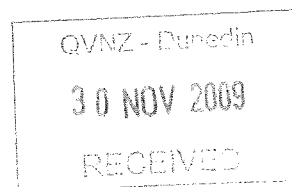
**July**

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## O t a g o   g o l d f i e l d s   h e r i t a g e   t r u s t

po box 91 • cromwell • 9342  
Phone: +64 3 445-0111 • email: goldfieldsinc@xtra.co.nz  
WEBSITE: www.goldfieldstrust.org.nz

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



Dear Sir,

### **Submission on Tenure Review Proposal Craigroy 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:

- 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 19<sup>th</sup> and 20<sup>th</sup> 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 including the area around Nevis Crossing and the significant number of historic mining sites along the Nevis river 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 note that a landscape covenant is proposed for the area marked CC on the plan which includes covenanting those historic mining sites along the Nevis river. While supporting this approach in principle we do not think the overall proposal goes nearly far enough in protecting and ensuring access to historic sites on the true right bank of the Nevis river.

It is unclear what the designation is of the land immediately adjacent to the Exchange area Exch2. If as we suspect this includes the Craigroy homestead then we would want to ensure that the homestead and particularly the land adjacent to the homestead continue to be available for use by future Cavalcades. As in our submission on Ben Nevis I attach a plan drawn in 1908 showing the extent to which settlements occurred on the Craigroy flats – an indication of the wealth of material that is still evident today.

**Accordingly we would submit the following:**

That the area from roughly opposite the mouth of 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. We would go further and request the draft proposals of 2004 be revisited regarding conservation area CA2 on the Craigroy flats on the true right of the river with a view to returning all this land to Crown ownership, and

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

That public access to these sites be maintained.

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.

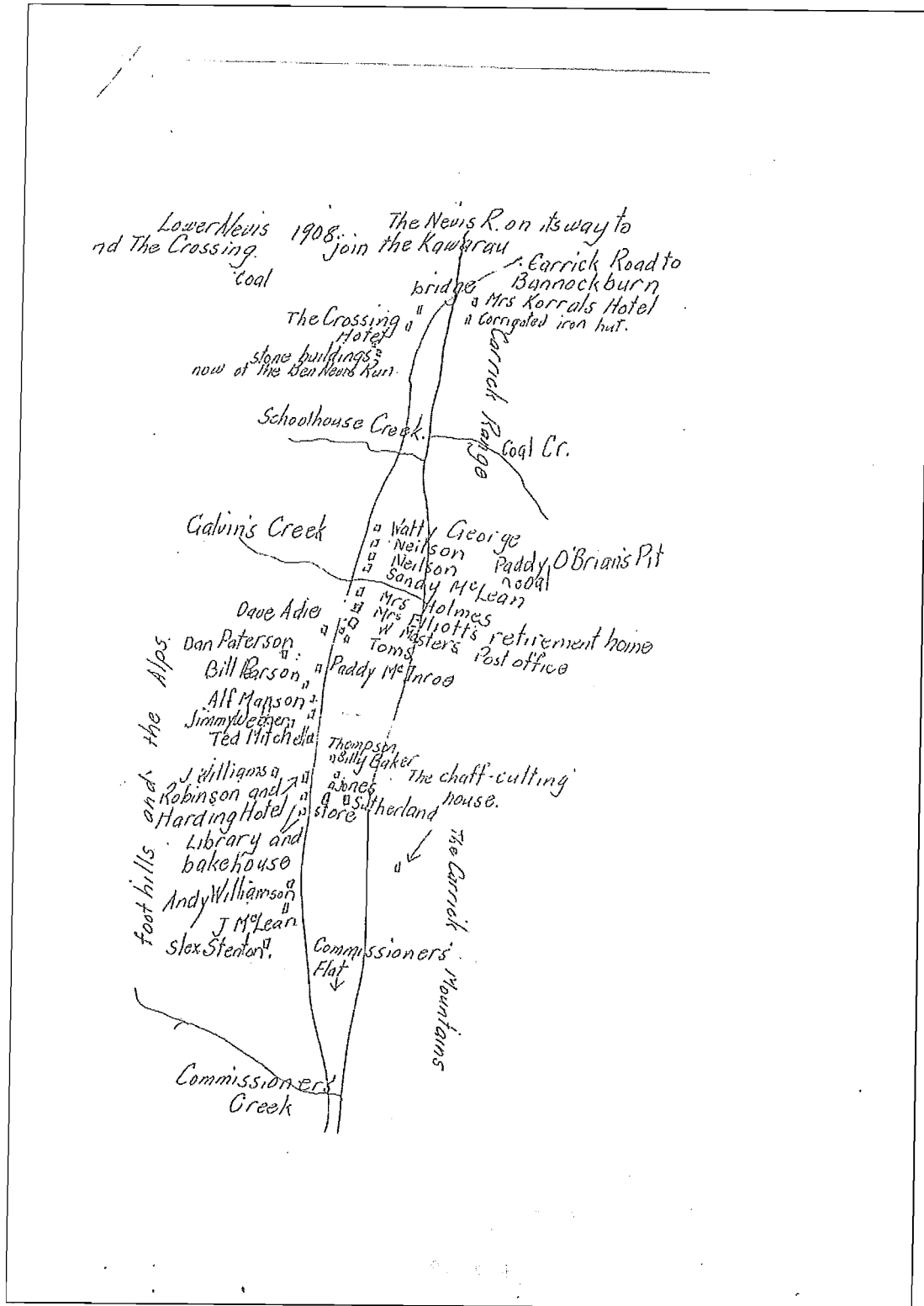
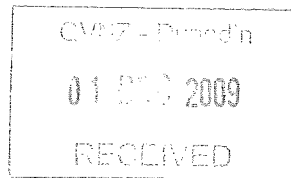


Figure 10: Sketch plan showing the occupation of the Lower Nevis Valley in around 1908 (Gavine McLean 96-007, Hocken Library, University of Otago).



Darroch Valuations.

Dave Witherow.

PO Box 215.

Rapid 281.

Dunedin.

Bush Road, Mosgiel, Otago.

Craigroy Tenure Review: Submission of W.D.Witherow, 29/11/09.

Sir.

While I find many features of the Preliminary Proposal quite acceptable, there are critical aspects that I do not.

The principal one of these is the proposed granting of land to Pioneer Generation. I understand that this has not been opposed by DOC on account of some "gentleman's agreement" between Jeff Connell (ex-Conservator), and Pioneer. I doubt the binding legality of this deal, never mind its morality. I also understand that the covenant "protecting" specified values in this area permits the Minister to allow hydro development – rendering the covenant meaningless. I totally oppose any such accommodation.

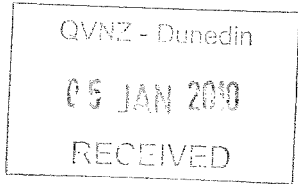
The landscape covenant is also deficient in failing to protect all the values of biological, historical, and recreational importance. The Nevis Valley and River are unquestionably unique in more than just their natural values – the associated goldmining and settlement history, together with the highly-valued trophy fishery, make it imperative that this part of Otago be protected from all inappropriate so-called "development". To set out with an implicit provision allowing hydro development would make a mockery of the whole process.

I have heard that you are unwilling to hear any discussion of the hydro aspect. I hope that any such manifestation of bureaucratic myopia is merely an unfounded rumour.

My submission is that the Tenure Review ensure the holistic protection of the intrinsic values of the Nevis.

Dave Witherow.

*Dave Witherow, 29/11/09.*



*- Emailed 2/10/09*



**Forest & Bird**  
GIVING NATURE A VOICE

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

Royal Forest and Bird Protection  
Society of New Zealand Inc.  
Southern Office  
PO Box 631  
Dunedin 9016  
New Zealand

2 December 2009

P: +64 3 477 967

F: +64 3477 5232

[www.forestandbird.org.nz](http://www.forestandbird.org.nz)

Dear Sir

### **Submissions to Preliminary Proposal, Craigroy Pastoral Lease, PO 233**

We appreciate the opportunity to submit to the review of Craigroy 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**

**Conservation area, CA1.** *An area of 8,807 hectares (approximately) to be designated as land to be restored to or retained in Crown control as conservation area (labelled CA 1 on the Plan in Schedule A) subject to qualified designations under section 35(2)(b)(i) and section 36(1)(a) Crown Pastoral Land Act 1998.*

The Society supports restoration to full crown ownership and control of CA1 provided that it is extended to the fence line that appears to run more or less along the 1000m contour line.

There are identified siv's below the water race, which will be discussed in more detail below.

**Granting of a grazing concession to Pioneer Generation Limited.** A grazing concession under Section 17Q (1) Conservation Act 1987 to be granted to Pioneer Generation Limited over the land marked "CA 1" on the Plan.

The proposal provides for CA 1 and Reserve R1 (Scenic) to be grazed as a single unit of approximately 1,000ha. The stocking rates equate to 0.8 SU/ha/annum.

These stocking rates are above the <0.2 SU/ha suggested by Lee et al.<sup>1</sup>, for the Carrick Range, and will not promote the ecologically sustainable management of this area.

In a study at 1200 - 1300m on the Carrick Range, Lee et al investigated the regeneration of *C. rigida* in two adjacent unburnt sites subjected to different levels of grazing by merinos over an 8 year period. They found that grazing affected regeneration by;

- a. reducing overall recruitment, (0.90 versus 4.0 immature plants per tussock);
- b. reducing the proportion of seedlings in the smallest size class, (20% versus 41.4%);
- c. reducing mean seedling height; and
- d. reducing the proportion of more distant immature plants.

In this study the authors found that seedling establishment was related to tussock height and suggested that there may be a tussock size threshold below which regeneration is negligible, either because small tussocks are reproductive immature or because the seed crop is not large enough for effective regeneration. They noted that increased levels of sheep grazing appear to cause a general reduction in the number of tussock seedlings establishing. This suggests a degree of selection by sheep for immature plants. The reduction in height of mature tussocks in the moderately grazed sites suggests that grazing may also reduce the seed output of adult tussocks, probably through reducing the vigour of tillers and the removal of young flowering stems. Lee et al., suggest that *C. rigida ssp.rigida* may possibly withstand sustained grazing provided that stock management was closely controlled, especially in years following mast seeding when the greatest potential for regeneration occurs. They found that regeneration was successful in the absence of fire and at low grazing intensity, probably <0.2 stock units ha<sup>-1</sup>yr<sup>-1</sup>.

The special conditions in schedule 2 are insufficient to promote the ecologically sustainable management of this land. There is no way of measuring how the concessionaire will determine if the land is being overstocked. The vegetation and the

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<sup>1</sup> Lee, W.G., Fenner, M., Duncan, Richard p. 1993. Pattern of natural regeneration of narrow-leaved snow tussock *Chionochloa rigida ssp.rigida* in Central Otago, New Zealand. *NZ Journal of Botany*. Vol 31:117 - 125.



values to be protected are not described and there is no monitoring regime. If the stocking rate is set at  $<0.2\text{SU}/\text{Ha}$  this may not be necessary for a 5 year term, however if they remain as high as provided for in the concession damage could occur, and set back tussock regeneration.

**Submission**

1. **To promote the ecologically sustainable management of CA1 and R1 the stocking rate for the full 5 year term be reduced to <0.2 stock units per ha.**
2. **Add a description of the values to be protected and establish a photo point monitoring regime, if stocking rates exceed <0.2SU/ha.**

**R1 (Scenic).** An area of 190 hectares (approximately) to be designated as land to be restored to or retained in Crown control, as Scenic Reserve *subject to a qualified designation (labelled "R1 (Scenic)" on the Plan) under section 35(2)(a)(ii) and section 38(c) Crown Pastoral Land Act 1998.*

The PP does not make it clear whether or not all the identified values of the Barn Creek RAP are included in the proposed R1. The table below indicates that there are or were significant vegetation communities, with threatened species. The LENZ threat analysis map indicates that the Barn Creek catchment includes Critically under protected and Chronically threatened environments. See attached map. These do not appear to have been given adequate consideration in the PP.

Plant Species	Threat of extinction classification (Hitchmough in prep)	Details
<i>Simplicia laxa</i>	Nationally Endangered	Grass growing under rock in Barn Creek catchment
<i>Podocarpus nivalis</i>	-	Has a very restricted distribution in Old Man Ecological District.
<i>Carmichaelia vexillata</i>	Gradual decline	In short tussock grassland.
<i>Carmichaelia compacta</i>	Range restricted	Scattered along streamsides. Some with browsing damage
<i>Gingidia baxterae</i>	Range restricted	In moist sites in blue tussock grassland
<i>Ranunculus berggrenii</i>	Range restricted	Otago/Southland endemic; in small wetlands.
<i>Aceana tesca</i>	Range restricted	An endemic, confined to Central Otago, in low-high alpine tussock grassland.
<i>Olearia bullata</i>	Sparse	Scattered along streamsides and around rocky areas
<i>Carex kaloides</i>	Sparse	Scattered along streamsides in tributaries and Barn Creek

**Table 1:** Threatened or restricted plant species in Barn Creek

**Submission**

**R1 be completely fenced and expanded to include the Barn Creek RAP, habitat of *Galaxias gollumoides* and a full altitudinal sequence.**

**Land to be Freeholded**

**CC (landscape).** An area of 3,442 hectares (approximately) to be designated as land to be disposed of by freehold disposal to Pioneer Generation Limited (*shown on Plan in Schedule A*) under section 35(3), section 36(3)(b) and section 40(1)(b) Crown Pastoral Land Act 1998 *subject to protective mechanisms and a qualified designation.*

The Society does not support the freeholding of land with siv's above the 1000m contour.

There are significant landscape values as described in the PP and CRR, as well as botanical values on threatened LENZ environments and habitat for the threatened *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 *Galaxias gollumoides* within the proposed freehold CC area. These are not mentioned in the proposed covenant.

The covenant provides for cattle grazing which will not promote the ecologically sustainable management of *Gollum's* habitat, nor of the shrublands.

The land has not been fertilised above 1000m which means that it is not currently being managed in an ecologically sustainable manner as lost nutrients from farming are not being adequately replenished. There is considerable bare ground over much of this area.

The Society also does not support the freeholding with landscape covenant over the river flats between the farm track/road and the river.

This land has important siv's including significant historic mining sites, landscape values and recreation.

Jill Hamel (1994) in "*The cold sequestered Nevis*", describes the mining relics which include gold workings and buildings (Ritchie's Ruins) at the foot of the hill constructed using 'brake' stones, various uses for re-cycled gold mining gear around Craigroy homestead, an unusual stone dog kennel, extensive heaps of tailings along the river flats left by the long serving Crossing Dredge, as well as dredge holes abandoned by other dredges. The importance of these historic remains was pointed out in the FMC Report (2002). "*The valley floor and lower slopes of Craigroy contain many remains of 19<sup>th</sup> century gold mining activities which are of representative significance. There are examples of all stages of alluvial mining from the earliest paddocking and sluicing methods to electric and coal fired dredging operations.*" All the relics identified and described by Hamel (1994) should be protected within a Historic Reserve, which could still accommodate some controlled sheep grazing.

Continued cattle grazing will not promote the ecologically sustainable management of the streams, including the ability of these streams to support life in the adjacent river outside the reviewable land.

A marginal strip does not provide adequate access to and along the Nevis River which has outstanding recreation values. The river flats are important also for family picnics, being easily accessible from Cromwell in the summer.

There is also no recognition of or protection for 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.

The area north of Nevis Crossing bridge has significant recreational values associated with the stacked stone left from gold workings. It is a good picnic place with interesting views into the gorge. There is also a threatened plant species identified by the Department in a 2004 survey of rare plants. *Myosurus minimus* subsp. *novae-zelandiae* is listed as Nationally Critical. This species occurs on a Chronically threatened LENZ environment. This is not mentioned in the PP, the CRR nor is it listed in the values to be protected in the Covenant. The PP fails to provide adequate protection to this outstanding siv.

**Submission**

- 1. Extend CA1 to the 1000m contour line.**
- 2. The preferred protective mechanism to protect the significant botanical and historic values recognised in the originally proposed 200ha area of CA 2 is to protect this area by return to Crown control.**
- 3. The significant inherent values of 750ha in Barn Creek were recommended for protection by the PNA survey as RAP Barn Creek 1/4. This entire area should be withdrawn from this freeholding proposal and instead the 190ha area proposed as Scenic Reserve should be extended to include the entire 750ha area recognised by PNA survey.**
- 4. Create a scenic or historic reserve between the formed track/road and the Nevis river marginal strip and in the area north of the road up to the informal track.**
- 5. The Society accepts that the balance of the property, much of which is significantly modified is probably capable of supporting ecologically sustainable pastoral production and could be disposed of by freehold disposal to Pioneer Generation Limited.**

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

**Schedule 1 Landscape Covenant**

Clause 3 Values of the land to be protected does not list all the above values, especially *Galaxias gollumoides* habitat, shrublands, cryptic skink habitat. These omissions mean that the protective covenant fails to meet the objectives of the CPLA to protect the siv's.

**Submission**

**Add the above values to clause 3.**

**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 siv's 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 needs to also prevent irrigation, and or any method of vegetation clearance including mob stocking, or intensive cattle stocking.

**Submission**

**Insert the words irrigation, and or any method of vegetation clearance including mob stocking, or intensive cattle stocking 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 siv's 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 siv's 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 siv's 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 siv's 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 it's 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 (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, or the skink habitat.

**Submission**

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

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 siv's 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, and provides habitat for cryptic skinks.

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

**Public Access and Minister of Conservation Management Purposes Easement in Gross: an easement under Section 7 Conservation Act 1987:**

*(i) to provide public access for persons on foot, or on or accompanied by horses, or by non-motorised vehicles powered by a person or persons, provided however that persons with guns and persons accompanied by dogs are permitted to use the easement area provided they have a hunting permit issued by the Department of Conservation over that part of the land marked as "c-d", "e-f", "f-f1", "g-h" and "i-j" on the Plan attached in Schedule A.*

The farm road along the flats in Craigroy Lease is well formed and suitable for all vehicles. In order to provide for enjoyment of reviewable land there is considerable merit in making this access available to public vehicular access, as is the spirit of the CPLA.

**Submission**

*That the existing road from c-j provide an easement for all forms of public access. including vehicular access*

**Access a-b to provide public access for persons on foot, or on or accompanied by horses, or by non-motorised vehicles ...over that part of the land marked as "a-b".**

The Society endorses this access provision.

**New Access provisions needed**

The Society supports the recommendations by CORUF and the New Zealand Walking Access Commission that a new access walking route circumnavigates the unnamed stream catchment that lies between Barn Creek and Coal Creek.

There appears to have been no discussion or consideration of the need to provide access to enjoy the Nevis Gorge. The marginal strip will not provide feasible access. To secure access and enhance enjoyment access is needed along the rim of the gorge.

***Submission***

***1 Create public access easements along the route identified by the NZ Walking Access Commission and CORUF.***

***2 Create public access easement along the rim of the gorge.***

## **Exchange Areas 1 and 2**

**1.72 hectares Local Purpose Reserve to be designated as land to be disposed of by way of exchange** for the area labelled R1 (Scenic) on the plan to Pioneer Generation Limited (labelled "Exch 2" on Plan) under section 38(1)(c) Crown Pastoral Land Act 1998.

**1.65 hectares Conservation land to be designated as land to be disposed of by way of exchange** for the area labelled CA 1 on the plan to Pioneer Generation Limited (labelled "Exch 1") under section 37(1)(c) Crown Pastoral Land Act 1998.

Four of the five blocks lie across the river itself, at the bridge in Exch.1, and on the flats at Exch.2.

The Society does not agree that there are no conservation values on these existing areas of Crown land. Exchange 1 may include the habitat of the *Myosurus minimus* subsp.*novae-zelandiae* which is listed as Nationally Critical. This species occurs on a Chronically threatened LENZ environment. This is not mentioned in the PP, the CRR nor is it listed in the values to be protected in the Covenant. From what we can tell from the imprecise boundaries shown on the maps in the PP these areas have important recreational values including for picnicking, river appreciation, preparing for fishing, and camping.

These areas should be protected and included in our recommended scenic or historic reserve.

The Society is dismayed at the lack of detail on the maps in the PP and it is only through FMC making enquiries from the Contractor regarding access provisions as well as property boundaries that we learn that the Crown has commissioned a new survey of property boundaries in the vicinity of the Nevis River on Craigroy, Ben Nevis and Carrick Stations together with other small parcels of freehold land.

The proposal appears to be based on an incomplete and maybe faulty description of land parcels and therefore it is impossible for submitters to assess whether the proposal meets the CPLA objectives. The Society therefore requests that this part of the proposal be re-advertised with the correct land boundaries shown in detail on a topographical map and the public be given further opportunity to make submissions.

There are a number of problems here: (a) the location and description of the land in the areas referred to as Exch 1 and Exch 2 are inadequate (b) the rationale behind the proposed exchanges is not explained, nor is it clear how vehicle access for



management purposes between f1-g will be achieved. There appears to be no secure public access provided across the freehold land between f-f2 and f3-g.

**Submission**

1. *This part of the proposal does not meet the requirements of the CPLA in that the land has not been adequately surveyed to determine the boundaries of the proposed designations, thus it is not possible to ascertain the values of these parcels of land. This requires that this part of the proposal be readvertised.*
2. *Exchange Areas 1 and 2 will have significant recreational siv's and may have outstanding botanical siv's and should be retained as Crown owned land as either scenic or historic reserve.*

**Public Access over Nevis Road**

Public access over the entire length of the Nevis Road is not presently guaranteed, due to variations of the formations from the legal road. As this is the primary access to the reviewable lands in this tenure review the CPLA objectives require that this problem be resolved during tenure. The most secure form of access is by recognition of the actual formation as the legal road alignment.

**Submission**

*Ensure that there is secure legal protection for public access along the entire length of the Nevis Road by recognising the formed road as the legal road.*

**Process of Formulating the PP**

There is a statutory preference within the CPLA for Crown ownership of land with siv's. In developing a tenure review proposal siv's 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.

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 siv's on Craigroy 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 Addendum 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 plant *Myosurus minimus* subsp. *novae-zelandiae*, listed as Nationally Critical, and probably found within CC (or Exchange 1) in the Summary of the Preliminary Proposal. This value is not recorded as a value to be protected within the Covenant.

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 provides only 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, and are inadequately protected by covenant CC which does not mention *Galaxias gollumoides* as a value to be protected.

In formulating this tenure review some siv's 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 is an irrelevant matter 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."*

Provision for the possibility of hydro in the covenant documents is justified on the basis that future use of the land is not something that can be considered in tenure review. However as protecting siv's 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.. An undertaking that tenure review would provide for possible hydro development has prevented the PP adequately protecting siv's and promoting the ecologically sustainable management of reviewable land.***

**Conclusion**

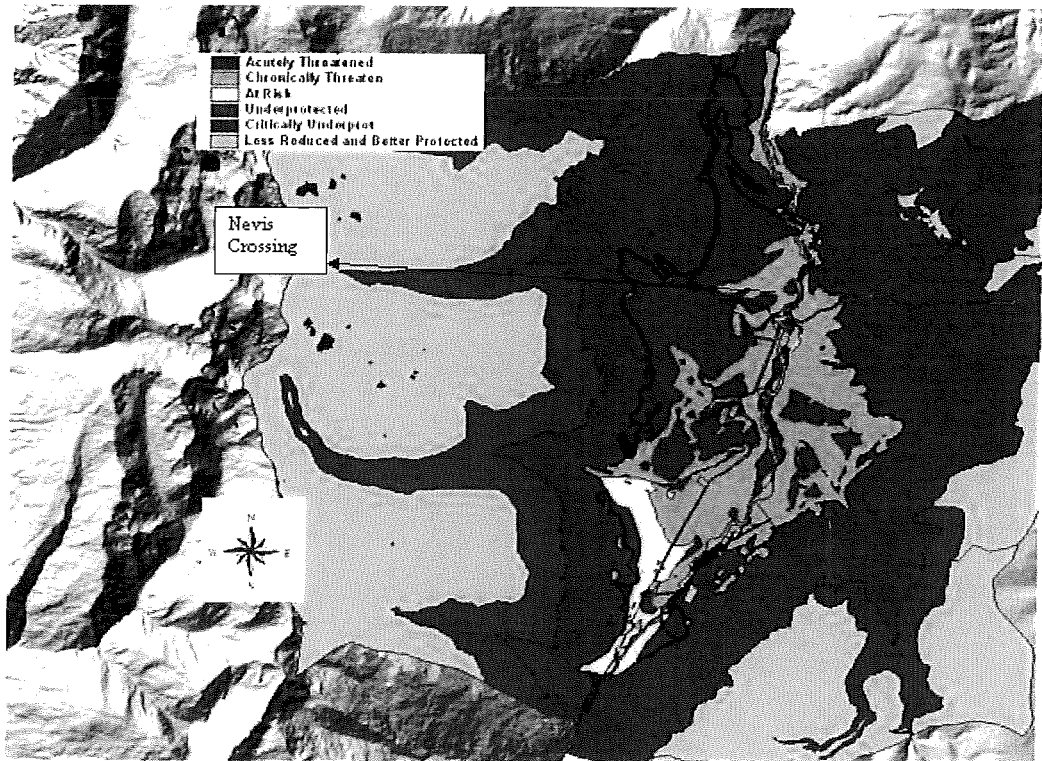
Taken overall this proposal does not promote ecologically sustainable management for reviewable land, nor does it adequately protect the nationally outstanding range of siv's present on the lands proposed for freeholding.

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.



**Looking towards Nevis Gorge from just above Nevis Crossing. This area has high recreation and historic sites that are not adequately provided for in the PP. A walking easement around the rim of the gorge would enhance public enjoyment of this area.**



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RECEIVED

Chris Pearson  
5322 Whitetail Dr #9  
Springfield IL 62703  
USA  
PH 217 585 6803


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