



Crown Pastoral Land Tenure Review

Lease name : **Lease number:**

Geordie Hills **Po 053**

Merivale **Po 193**

Timburn Station **Po 237**

Nine Mile Station **Po 365**

Long Acre **Po 188**

Shirlmar **Po 192**

Public submissions

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

March 03



30th July 2002

The Commissioner of Crown Lands
C/o The Manager
DTZ New Zealand Ltd
Land Resources Division
PO Box 27
ALEXANDRA.

Dear Sir

TENURE REVIEW PROPOSAL - LINDIS GROUP OF RUNS

I would be pleased if you would accept these comments on some aspect of this proposal:

[REDACTED] these comments are entirely my own. May I also take the opportunity to thank those lessees I came into contact with for their courtesy and help in [REDACTED]

I would first like to comment on the land at the back of Shirimar, Long Acre and Timburn runs; namely the eastern side of the Chain Hills; also, with the whole valley in which the Dunstan creek flows - with the St Bathen range on the east side and the Chain Hills on the west. This whole area of land has high inherent conservation values. These conservation values are in the landscape of this unique and remote high country valley. This remoteness is an intrinsic value and together with the landscape should be preserved for future generations to enjoy.

While we cannot materially change the shape of the hills we can change the colour and cover of those hills which go to make up the landscape. In this instance the cover is to a large extent tall tussock with some woody plants in favoured places. We can also make a decision as to who or what lives there, and so ensure the valley's sense of emptiness.

The west face of the St Bathen range does not appear to have been developed to the same extent as the east faces of the Chain Hills. Each side has its own character, but together they go to make up the whole. It is the integrity of the whole which has to be preserved, therefore the impact of any further development has to be carefully assessed.

I am concerned that a covenant is going to be used to protect the inherent conservation values of the east side of the Chain Hills instead of the preferred method of protecting the area by returning it to full Crown ownership and control. A covenant that allows the area to be overgrown and topdressed together with the use of cattle, is going to see the cover, and therefore the colour of the landscape change, and so alter the important landscape values of the whole valley.

While there is some evidence of oversowing and aerial topdressing on the west side of the valley on the Chain Hills, at present it is still not too inconsistent with the east side, and if it were to be destocked and allowed to recover, the integrity of the landscape of the whole valley would only improve.

-2-

I was involved with the aerial sowing and topdressing of tussock country right from the days of the tiger moth aeroplane in both Central and North Otago. I have seen over the years large areas of tall tussock change to short tussock and finally to introduced grasses. This over a period of fifty years.

Once a farmer has decided to oversow and topdress an area of tussock it is inevitable that it will change - economics come into it. To get the full benefit of the aerial topdressing process, once started, the manure has to be kept up to the pasture so established on a regular basis to maintain the introduced grasses and clovers. Therefore the stock numbers have to be kept up on the area to pay for it. It is the pressure of stock that finally removes the tussock.

Another comment I would like to make is the walking access proposed on Nine Mile Run from the Lindis river to Lindis Peak. This access is a good gain for recreation and for future generations, and will prove very popular. The view from the summit is varied and extensive.

I would also like to make a suggestion regarding the summit area of Lindis Peak. In amongst the rocks in and around the summit, there are still a diverse number of interesting plants living in a fire refuge - *Helichrysum*, *Carmichaelia*, *Coprosma*, *Hebe*, *Colmesia*, *Chionochloa* and *Aciphylla* to mention the most obvious. - If a fence were to be erected within a radius of three to four hundred metres of the summit, there is a sufficient seed source available in the area so enclosed to allow it to recover to make an extremely attractive rock garden, and another reason for climbing the peak itself.

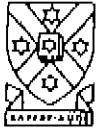
I would be pleased if you would give my comments on this proposal serious consideration.

I thank you.

Yours faithfully

[Redacted signature]

[Redacted address]



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DTZ NEW ZEALAND
ALEXANDRA

- 9 JUL 2002

RECEIVED

July 5, 2002.

Manager,
DTZ New Zealand Ltd.,
PO Box 27,
ALEXANDRA.

SUBMISSION ON PROPOSED TENURE REVIEW: LINDIS GROUP PASTORAL LEASES

Dear Sir,

Thank you for sending me a copy of this document and I appreciate the opportunity to comment on it based on my reasonable knowledge of the area involved and of the indigenous tussock grasslands of Central Otago in general.

Collectively, the separation of these six pastoral leases (Geordie Hill, Longacre, Shirlmar, Merivale, Timburn and Nine Mile) is very heavily weighted in favour of freeholding. Indeed, only four relatively small areas, totalling almost 34 ha, are proposed for full Crown ownership and control, while 18 959 ha is being proposed for freehold disposal, with contiguous conservation covenants being proposed for three of the properties (Shirlmar, Longacre and Timburn).

The four areas being proposed for full Crown ownership and control, a 3 ha proposed recreation reserve between the Lindis Pass highway (S H 8) and the Lindis River, a 5 ha proposed conservation area adjoining Short Spur Creek (with provision for fencing), a 15 ha proposed conservation area adjoining Coal Creek (also with provision for fencing) and a 10.8 ha proposed historic reserve over the site of the old Lindis Hotel plus the adjacent gold workings, are all endorsed.

Easements.

Several easements have been proposed to provide access of various types. Most are supported but some should be modified as follows:

The easement proposed on the Nine Mile property to provide car parking near the highway and public foot and mountain bike access (route a-b) from Elliots Bridge on the Lindis River to Lindis Peak (1226 m), is endorsed.

The easement on Longacre to provide public foot access and also DoC vehicle access along County Road (route f-g-h) should also be extended to provide for public vehicle access. The other easements proposed for public foot access on Longacre are endorsed.

Of the easements proposed on Shirlmar, that to provide access for DoC vehicles to a carpark at the proposed conservation area CA1 (route y-z) should be extended to also provide access for the walking public and mountain bikes. In addition, the easement to provide access for DoC vehicles to the Chain Hills and on to the Morven Hills boundary (route p-q-n-o), should also provide for access for the walking public and also for mountain bikes, at least on the track to the Chain Hills. The remaining easements are acceptable.

Of the easements proposed for Merivale, that for the use of DoC vehicles on County Road along the boundary with Shirlmar (route h-i-j-k) and for public foot access, should be extended for mountain bike and public vehicle use. The proposed easement for DoC vehicles to the start of an alternative track to the crest of Chain Hills (route i-p) should be extended to provide for public walking and mountain bike access. The remaining easements are acceptable.

Among the easements proposed on Timburn, all are acceptable except that to provide access for DoC vehicles to the proposed conservation area CA 2 (route d-d'), which should be extended to also provide for public foot and mountain bike access, and also to provide for public vehicle access on the County Road as far as the Tin Hut at 'd' (route f-d).

Conservation covenants.

A major concern with this overall proposal is the provision of one extensive conservation covenant running between Shirlmar, Longacre and Timburn properties (total area not given but likely to be about 1500 ha), on land to be freeholded, and without restrictions on oversowing and topdressing (to be permitted generally to 1200 m) or grazing, and without provision for boundary fencing (unlike the provision for fencing of the two proposed conservation areas: CA 1 and CA 2).

The presence of extensive areas with "significant inherent values" on the faces overlooking the Dunstan Burn and also in the headwaters of both the Timburn and Coal Creek, is stated in the report. There are apparently significant areas with continued dominance by narrow-leaved snow tussock (*Chionochloa rigida*), with lesser areas dominated by the much more vulnerable and rarer slim snow tussock (*C. macra*) on colder sites within the proposed covenant. The gray shrub, *Olearia odorata*, is also recorded as being present in these areas, which is also significant. Although, unfortunately, I have no recent direct knowledge of the area in question, it is obvious that continued oversowing/topdressing, also with the provision of continued grazing by cattle (and sheep), will be incompatible with the maintenance of the existing conservation, including landscape values. Such a proposal appears to be inconsistent with relevant provisions in the Crown Pastoral Land Act which specifies that: "the protection of significant inherent values of reviewable land" is to be 'enabled' "by the creation of protective mechanisms; or (preferably) By the restoration of land to full Crown ownership and control."

Recommendation on proposed conservation covenant: It is recommended that the single large area spanning three properties, proposed for covenanting, be restored to full Crown ownership and control as a conservation area. The provision of grazing, topdressing/oversowing and fencing will then be at the discretion of the Department of Conservation. Under such management oversight there could be much greater opportunities for restoration/rehabilitation of the tussock land ecosystems in the foreseeable future than is likely to exist under the option offered in the formal proposal.

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

Yours sincerely,



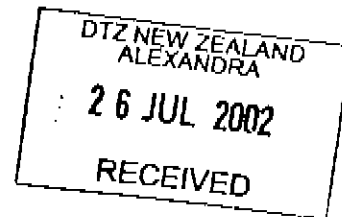
Alan F. Mark
Professor Emeritus



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

24 July, 2002

The Commissioner of Crown Lands,
C/- DTZ New Zealand Ltd.
Land Resources Division
PO Box 27
ALEXANDRA



Dear Sir

Re: Preliminary Proposal for Tenure Review: Lindis Group of Leases.

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

On their behalf, FMC aims to enhance and have formally recognised, the recreation opportunities on leases under review, to protect significant inherent values, and to ensure public access on high country pastoral leases through the tenure review process.

FMC fully supports the aims of tenure review: "to promote the management of reviewable land in a way that is ecologically sustainable..... to enable the protection of the significant inherent values of the reviewable land..... and to make easier the securing of public access to and enjoyment of reviewable land" (Crown Pastoral Land Act 1998, S.24).

FMC is grateful for this opportunity to comment on the preliminary proposal for Lindis Group of Pastoral Leases.

THE PRELIMINARY PROPOSAL

The following designations and protective mechanisms are included in the proposal:-

- 3 ha (approximately) to be designated as land to be restored to full Crown ownership and control as a recreation reserve. This area lies between the Lindis River and State Highway 8.
- 5 ha (approximately) to be designated as land to be restored to full Crown ownership and control as a conservation area. This area adjoins Short Spur Creek.
- 15 ha (approximately) to be restored to full Crown ownership and control as a conservation area. This area adjoins Coal Creek.
- 10.8094 ha (approximately) to be restored to full Crown ownership and control as a historic reserve. This area comprises the Lindis Hotel site and adjacent gold workings.
- 2094 ha (approximately) to be designated as land to be disposed of by freehold disposal to the holder of Geordie Hill Pastoral Lease.
- 3341 ha (approximately) to be designated as land to be disposed of by freehold disposal to the holder of Longacre Pastoral Lease subject to public foot access easement, conservation management easement, and a conservation covenant.
- 3517 ha (approximately) to be designated as land to be disposed of by freehold disposal to the holder of Shirimar Pastoral Lease, subject public foot access easement, public motor vehicle

access easement, reserve management easement, conservation management easement, and a conservation covenant.

- 2667 ha (*approximately*) to be designated as land to be disposed of by freehold disposal to the holder of Merivale Pastoral Lease subject to public foot access easement, public access and parking easement, conservation management easement, and reserve management easement.
- 5117 ha (*approximately*) to be designated as land to be disposed of by freehold disposal to the holder of Timburn Pastoral Lease subject to public foot access easement, conservation management easement, and a conservation covenant.
- 2223 ha (*approximately*) to be designated as land to be disposed of by freehold disposal to the holder of Nine Mile Pastoral Lease subject to a public access and parking easement.

Subject to the following Protective mechanisms:

- An easement to provide for car parking and public foot and mountain bike access from the Lindis River to Lindis Peak.
- An easement to provide for public foot and mountain bike access from the Lindis River via McPhies Ridge to Goodger Road.
- An easement to provide for public vehicle access from Goodger Road to a carpark within the Merivale Pastoral Lease.
- Easements to provide for public foot and mountain bike access from the carpark in the Merivale Pastoral Lease to Dunstan Creek, along the Chain Hills, and to Dunstan Pass.
- Easements to provide for conservation management access to the conservation areas in Short Spur Creek and Coal Creek and also to Dunstan Creek.
- Conservation covenants over parts of the proposed freehold from Shirlmar, Longacre and Timburn pastoral leases for the purpose of preserving the natural environment and landscape amenity of the western faces of Dunstan Creek, the headwaters of the left branch of the Timburn and the headwaters of Coal Creek.

FMC POSITION

FMC supports the general principles of tenure review and also supports the general thrust of the changes proposed for the Lindis group of pastoral leases. We are pleased to note that many of the items discussed at an Early Warning and included in the written submission from FMC (dated February 1997) have been included in the Preliminary Proposal. We note that very little land has been proposed for return to full Crown ownership and control. Instead, a large area on the east-facing slopes of the Chain Hills (west of Dunstan Creek) has been proposed for protection under a Conservation Covenant to preserve their natural environment and landscape amenity.

FMC believes that the DOC Conservation Resources Report (CRR) has correctly identified the natural and landscape values in the Dunstan Creek catchment as significant inherent values. The Preliminary Proposal however, fails to adopt the preference expressed in the object of the CPL Act 1998 (Section 24) "*To enable the protection of the significant inherent values of reviewable land - by the creation of protective mechanism; or (preferably) by restoration of the land to full Crown ownership and control.*"

The Draft CMS for Otago states that "*opportunities arising out of pastoral lease tenure reviews or other processes involving leasehold land will be taken to achieve negotiated protection of areas for their landscape or biological significance, or to achieve more efficient or integrated conservation management, or to secure access to recreational opportunities*".

The tenure review of the Lindis group of pastoral leases provides an opportunity for these objectives to be advanced.

Land to be disposed of as freehold

FMC has reservations regarding the recommendations in the Preliminary Proposal that almost the entire area of all 6 Pastoral Leases should be disposed of as freehold.

As stated in our Early Warning Report, protection of the landscape values is considered to be essential, and one of the main issues in this set of reviews. The landscape qualities in the Dunstan Creek catchment have been classified as high for distinctiveness and significance, and moderate/high for intactness and coherence. Only visibility ranks less than moderate. This is an area which would rank as an outstanding natural landscape, worthy of protection as a matter of national importance under the Resource Management Act 1991 (Section 6).

We also note that the vegetation of the Chain Hills is in part different from and less modified than the remaining parts of these properties on the Tarras hills, terraces and fans, which have been extensively modified by pastoral farming and land improvement. The highest parts of the Chain Hills support a flora which bears some resemblance to the era prior to pastoralism. While the sunny and dry mid altitude slopes are highly modified, even these support a rich diversity of native and introduced species.

The DOC Conservation Resources Report (CRR) states with reference to the Dunstan Creek catchment that *"This highly distinctive landscape forms a neat topographic unit and geological transition from greywacke to schist. It represents a large scale remote back country valley with impressive, varied and highly visible landforms clothed in continuous tussock from valley floor to high altitude... .. Visually it still appears more or less as a homogeneous tussock grassland."*

The transition from greywacke to schist is of particular biogeographic importance and should be fully protected so that the indigenous vegetation can reflect the changes in underlying geology, rather than being further modified by pastoral use.

Although more modified than other parts of the Dunstan Creek catchment, *"the eastern flanks of the Chain Hills... ..are however an integral part of the valley system and landscape as a whole. Tributary catchments of Dunstan Creek are visually impressive viewed from Chain Hills ridge towards the St Bathans Range. Tussock and matagouri remain the dominant cover."* It is almost certain that in the absence of grazing and burning, these slopes and hills would progressively revert towards their ecological origins as indigenous woody shrublands and forest.

"Although the flora and soils in Dunstan Creek are somewhat modified, the floodplain remains significant as it is unaltered by drainage or flood protection works. Fluvial processes in Dunstan Creek continue to function in a natural manner, with flooding and infiltration supplying water and nutrients to springs and wet areas."

"Dunstan Creek with its open landscape and wilderness qualities provides a high quality recreational experience."

The DOC Resources Report concludes that *"Although more modified than surrounding lands, it is very important that DOC attain firm control over activities which could compromise the integrity of the entire Dunstan Creek headwaters. The Dunstan Creek as a whole is identified as having very high inherent landscape values. It requires consistent management over the whole catchment to protect and ultimately enhance these values. The area's supreme open landscape and wilderness qualities could be compromised by future land use activities including further subdivision, forestry or tourism development."*

For all these reasons, FMC believes that there is a strong case why the land in the Dunstan Creek catchment should not become freehold, but rather that it should be restored to full Crown ownership and control and be managed for conservation and recreation purposes. We do not accept that natural values can be enhanced (as envisaged above) under pastoral management.

We are therefore surprised that having recognised all the above attributes (which surely constitute significant inherent values) and having rehearsed arguments for their protection in the CRR, the recommendation in the Preliminary Proposal is for protection under a Conservation Covenant. The CPL Act 1998 makes it quite clear that full Crown ownership and control is the preferred means of protection of significant inherent values.

If on the other hand, the area is not returned to full Crown ownership and control and managed for conservation and recreation purposes, the alternative is that the eastern slopes of the Chain Hills would have to be managed in a way that is ecologically sustainable. The nutrient balance of the land would have to be maintained by regular fertiliser application. Further modification of the vegetation would occur and even the remaining areas which are closely related to the era prior to pastoralism are likely to be lost.

The DOC CRR recognised that *"it requires consistent management over the whole catchment to protect and ultimately enhance those values"* The concern expressed in the Report was that *"the integrity of the entire Dunstan Creek headwaters could be compromised... .."* FMC's argument is therefore, that DOC's own recognition of the threat of that compromise, will eventuate if the area is not protected *"by restoration of the land to full Crown ownership and control"* as recommended in the CPL Act 1998.

Two of the leases in this review have frontage onto State Highway 8 through the lower Lindis Gorge. This is an important scenic feature on the tourist route from Christchurch and Mt Cook to Queenstown. As such, it is seen and enjoyed by thousands of tourists every year. The gorge provides an interesting contrast to the well known tussock landscapes of the Lindis Pass itself. The scenic features of the gorge should be protected from the adverse effects of inappropriate subdivision and development such as afforestation, tracking and erection of structures.

FMC does not accept that the landscape protection provisions of District Plans are sufficiently robust or enduring to afford an appropriate level of protection. We submit that protection of landscapes in the Lindis Gorge under a Conservation Covenant should be considered as a designation in the reviews of Nine Mile and Geordie Hills pastoral leases.

Transfer to Crown ownership and control

We see all the proposed conservation areas and reserves as being useful additions to the existing conservation areas and reserves in the vicinity. FMC supports these proposals.

We support the recommendations 3, 4 and 5 (in the CRR) to protect sites of historic significance and of interest to the public in general. It appears from the maps and diagrams provided with the Preliminary Proposal that the following have been recognised in the Preliminary Proposal:-

Recommendation 3 for an Historic Reserve to include the old bridge gold workings and the ruins of the old Lindis Pass Hotel. (in Designation 4)

Recommendation 4 that the Camp Creek workings be subject to formal protection under a Conservation Covenant (in Designation 4)

However, Recommendation 5 that the previously unrecorded gold mining site on Geordie Hills be given formal protection under a Conservation Covenant does not appear to have been adopted in the Preliminary Proposal. This site consists of an area of sluicings on the true left of the Lindis River fed by a small race from a tributary creek, close to the main highway. FMC submits that this should be reconsidered with a view to providing protection under a Conservation Covenant.

Easements

We support all the proposals for easements in the preliminary proposal, but believe that there are a number of significant omissions:- We present a summary of the proposed easements in the form of a

Table which includes, as footnotes, the matters we consider to be omissions. We discuss the justification for including those matters in greater detail below.

Pastoral Lease	Route	Purpose of Use for Easement	Description	Note
LONGACRE	f-g-h	Public foot easement	County Road	.. 1
	t-u	Public foot easement	Track along crest of Chain Hills	
	v-w	Public foot easement	Track from Chain Hills to Dunstan Creek	
	g-u	Public foot easement	Track to Mt Misery (Longacre section)	
	f-g-h	DOC Vehicle	County Road	
SHIRLMAR	m-n-o	Public foot easement	Alternative route to Chain Hills to Morven Hills	.. 2
	n-q-r-s	Public foot easement	Track along Chain Hills, down to Dunstan Creek	
	q-t	Public foot easement	Track along crest of Chain Hills	
	l-k	Public foot easement	County Road	
	l-k	Public Vehicle	County Road	
	l-k	DOC Vehicle	County Road	
	y-z	DOC Vehicle	Access to Carpark Conservation Area CA 1	
	p-q-n-o	DOC Vehicle	Track to Chain Hills, on to Morven Hills boundary	
MERIVALE	q-r-s	DOC Vehicle	Track from Chain Hills to Dunstan Creek	.. 4
	h-i-j-k	DOC Vehicle	County Road along Merivale/Shirlmar boundary	
	h-i-j	Public foot easement	County Road along Merivale/Shirlmar boundary	
	j-k j-m	CP 1 Public Carpark	Access to Carpark CP 1	
TIMBURN	i-p	DOC Vehicle	Start of alternative track to crest of Chain Hills	.. 6
	c-d-f	Public foot easement	Track along McPhies Ridge	
	v-u	Public foot easement	Track to crest of Chain Hills	
	u-x	Public foot easement	Track over Mt Misery (Timburn Section)	
	f-d-o	DOC Vehicle	Access to and through CA 2	
NINE MILE	d-d'	DOC Vehicle	Access to Conservation Area CA 2	8
	a-b	Public foot and vehicle	Track to Lindis Peak	.. 9
CP 2	Public Carpark	Carpark at Elliots Bridge		

Submission Notes 1-9

1. Public vehicle use of the County Road is required (f-g-h)
2. Public foot and MTB access to Conservation Area CA 1 is required (y-z)
3. Public foot and MTB use of the track to the Chain Hills is required (p-q)
4. Public vehicle use of the County Road is required (h-i-j)
5. This section of the County Road should be available for public vehicle use as well as foot and MTB (h-i-j)
6. Public foot and MTB use of this section of track is required to complement p-q (i-p)
7. Public vehicle use of the County Road is required as far as the Tin Hut at d (f-d)
8. Public foot and MTB access to Conservation Area CA 2 is also required (d-d')
9. Easement appears to permit public vehicle use to Lindis Peak but FMC questions if this is appropriate (a-b)

We note that public vehicle access is to be permitted as far as the proposed car park in the vicinity of a tributary of the Timburn on Merivale at 'm' on Map 2. We also note that from this point to the Richmond Yards access is proposed only for public foot and non-motorised vehicle use and DOC vehicle use. We submit that the intention of the original legal road (roughly parallel to this route) was intended to be full road access for foot, vehicle and horse traffic to pass and repass over the defined

route. FMC therefore submits that either the existing formation should be recognised as the legal road, or the easement provisions over the road d-f-g-h-j should be widened to include public vehicle use to the hut by Coal Creek at 'd' (map reference G40 455.002). We further submit that the provision for car parking should be moved from the proposed site to a new location, close to the hut at 'd' near Coal Creek, at a location convenient for the holders.

We understand that there is an obligation in tenure review to provide public access to newly created conservation land. We note that access for management purposes (presumably DOC vehicles) is to be provided for by way of easements to CA 1 and CA2, but that neither public foot nor mountain bike access is provided to either of these new Conservation Reserves. This omission should be rectified by the provision of an easement for, at the very least, public foot access to conservation areas CA 1 and CA 2.

We note that the track p-q-n-o is proposed for management vehicle use only and there is no provision for public use (even on foot) over the section i-p-q. This omission should be rectified by provision of an easement for public foot and non-motorised vehicle use over the track to the Chain Hills (i-p-q).

Our final comment with respect to access is that the easement over the track to Lindis Peak summit (a-b) appears to permit public vehicle use to Lindis Peak. FMC questions if this is appropriate, or intended, as it is shown as only a public foot and mountain bike easement on Map 1.

CONCLUSIONS

The Preliminary Proposal for the tenure review of the Lindis group of pastoral leases contains many good clauses which will result in valuable gains for public recreation and conservation. We particularly appreciate the attention which appears to have been paid to our 1997 submissions. In particular we appreciate the many new access routes by way of easements for foot and mountain bike use which have been proposed and which will greatly enhance recreational opportunities in the area.

However, we submit that there are some omissions which require attention in the next stage of tenure review. These omissions are as follows:-

1. Our analysis of the proposed Easements for access by the public and by DOC for management purposes has revealed some important omissions. These are detailed above. FMC urges that these omissions be rectified in the next stages of the review of the pastoral leases in the Lindis Group.
2. For reasons explained above, we submit that the area designated as Conservation Covenant in Dunstan Creek should instead be restored to full Crown ownership and control and be managed for conservation and recreation purposes. However, if this area is freeholded under a protective covenant, we request that the covenant includes provision for a public 'right to roam' (similar to that operating in the Greenstone Valley). Linear easements will not allow the public to enjoy the full recreational benefit provided by the wilderness qualities of this outstanding area.
3. The scenic features of the Lower Lindis Gorge, adjacent to SH 8 (on Nine Mile and Geordie Hills pastoral leases) should be protected from the adverse effects of inappropriate subdivision and development such as afforestation, tracking and erection of structures. A Conservation Covenant would be appropriate.
4. An historic site which was recognised in the CRR, should be protected under a Conservation Covenant as proposed in Recommendation 5 of the CRR.

FMC would like to remind the Department of Conservation of its commitments given in the CMS for Otago:-

The Objective for the North Dunstan Special Place was, and still is to: *"extend protection in the area to cover the remaining higher altitude areas of nature conservation importance, and to secure appropriate public access."*

The Implementation statements indicate that this will be achieved by:-

- *"Pastoral lease tenure review on properties in the area may provide opportunities to negotiate to protect the areas of interest. Overall management of these new areas with the existing conservation areas will confer net conservation and management benefits."*
- *Opportunities to legalise public access points and develop appropriate public facilities will be explored. Once access is improved, public awareness of the area can be increased.*
- *Attempts will be made to negotiate as of right, public foot and mountain bike access to high altitude protected areas."*

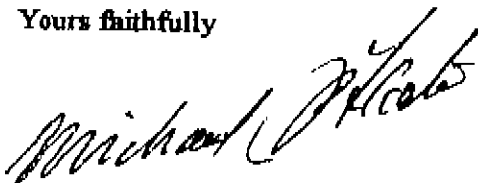
Finally, we would point out that the CMS policy was that the priority for the North Dunstons was that:- *"The negotiation of protection arrangements for areas of biodiversity importance and recreational opportunities and access are the priority activities in this Special Place"*.

The tenure review of the Lindis Group of pastoral leases provides an ideal opportunity to progress these objectives and FMC strongly urges DOC to take the appropriate action to achieve these objectives.

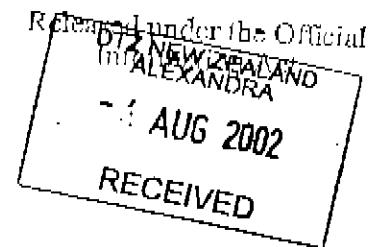
We urge that discussion be re-opened with the lessees to seek an improved arrangement which would include the matters we have detailed above.

Finally, we appreciate this opportunity to comment on the Preliminary Proposal for the tenure review of the Lindis group of pastoral leases, and wish to be heard in support of this submission if a hearing is held. We would be happy to be involved in further discussions regarding any of the issues discussed in this submission.

Yours faithfully



pp Barbara Marshall
Secretary, Federated Mountain Clubs of NZ (Inc.)



Central Otago Four Wheel Drive Club
P.O. Box 314
Alexandra.

31 July, 2002

Commissioner of Crown Lands,
C/- DTZ New Zealand Limited,
Land Resources Division,
P.O. Box 27,
ALEXANDRA.

With reference to: Lindis Group Tenure Review.

The Notice of Preliminary Proposal for the Lindis Group Pastoral Lease gives members of the Central Otago Four Wheel Drive Club very great concern. This is an area to which the club has had traditional access, and we object to the easement concessions excluding Four Wheel Drive Vehicles of members of the public over existing tracks,

especially a to b, which is an access from the Lindis Pass Highway through Lindis Peak to Hawea;

c to d, which is a link from the Lindis Pass Highway to Dunstan Creek.

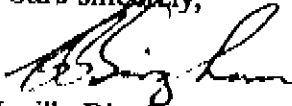
Similarly, the link x through u, t, q, n to o along the Chain Hills opens up vehicle access north back to the highway and to points w and r on Dunstan Creek, which is a traditional popular 4WD recreational route which is totally destroyed by the removal of a small section r to s, denying access to the upper valley!

The links through d, f, g, h, p, i, j, m, k, y across to u, q and n should also be retained as vehicle access through to the Chain Hills and beyond to Dunstan Creek, and especially in the listing of methods of recreation which can be carried out on existing farm management tracks. Not everyone is able to tramp and cycle great distances, and changed social demands on our workforce restrict recreation time. Our vehicles are often used as a means of access to areas in which we can walk. Our organised club practises care and respect for the land, has traditionally helped to keep tracks open in the area, and our vehicles are an important means of allowing families, including the young and elderly, to appreciate, respect

and enjoy the wonderful high country of this nation with its tradition of access to public lands. We support conservation in High Country areas.

We hope that your proposal will be revised to allow a greater number of New Zealanders to enjoy continued access to our heritage, and to see that well organised clubs, who by their rules seek permission to access landholders' properties and follow their directives, will continue to be included.

Yours sincerely,

A handwritten signature in cursive script, appearing to read 'N. Bingham', written in dark ink.

Neville Bingham
Secretary.



The Land Rover Owners Club (Otago) Incorporated
P O Box 47
DUNEDIN

28 July 2002

The Manger
DTZ New Zealand
P O Box 27
ALEXANDRA

Attention: K R Taylor

Dear Sir or Madam

Re: Tenure Review - Lindis Group Pastoral Leases

In respect of the above Review we, the Submitters, would like to record the following submission.

1. Background
 - 1.1 The Submitters are comprised of the New Zealand Four Wheel Drive Association Incorporated, Land Rover Owners Club (Otago) Incorporated (LROC) and the Southland Land Rover Owners Club Incorporated. The members of these organisations have an active interest in outdoor pursuits which include tramping, climbing, hunting, camping and conservation. These factors were combined into a common interest in the use, maintenance and understanding of four wheel drive vehicles.
 - 1.2 It has always been an integral part of the Submitters activities that they are concerned about access to and the care and maintenance of tracks and evidence of land degradation. Stewardship of the land is important to the Submitters and this is demonstrated by the fact that both the New Zealand Four Wheel Drive Association and LROC are party to and supportive of the "Off Road Code of Ethics". Both the National Association and the Land Rover Owners Club (Otago) Incorporated are affiliated to the International "TREAD LIGHTLY" programme. The Southland Land Rover Owners Club Incorporated adheres to the principles of "TREAD LIGHTLY".
 - 1.3 "TREAD LIGHTLY" is an educative programme targeting all off road users. The purpose of the programme is to encourage and initiate awareness

programmes to promote a responsible attitude to all those who participate in outdoor recreation. The rights of all those pursuing recreation to have access to public areas pursue their legitimate rights provided that there is minimal impact on the environment is a foundation stone of the programme. Members of the Submitters have for many years had access to tracks in and around the areas included in the Lindis Group Pastoral Leases.

- 1.4 We have no problem with other user groups using the tracks in these areas but see no reason why areas should exclude one group and encourage others. Indeed many of our members also use the area for recreational activities other than four wheel driving. We as a user group have never demanded large amounts of expenditure be spent exclusively for our particular interests and have always expected to most of the work required to make tracks passable for our vehicles.

2. What the Submitters Would Like to See Happen

- 2.1 The Submitters would like to see the continuation of vehicle access continued for the general public.
- 2.2 It is submitted that with clearly defined and well used tracks already in existence in the area this is an appropriate case for continued freedom of vehicle access.
- 2.3 It is further submitted that to allow continuation of the existing vehicle access is not incompatible with the retention and preservation of the natural or scenic value of the area.
- 2.4 There is a large number of people who have, or will have in the future, obtained benefit and enjoyment as a result of driving into the area by four-wheel drive vehicle.
- 2.5 Retaining the existing track system will not necessarily lead to an increase in numbers of vehicles using them but will simply retain status quo. If there are concerns about vehicle numbers increasing then it is submitted that rather than excluding vehicles per-se, a permit type system could be introduced. Whereby for a nominal fee permit holders could have vehicle access to the area.
- 2.6 In particular, there is a safety aspect in keeping tracks for four wheel drive vehicles available. In the past these vehicles have provided a search and rescue service to trampers, cyclists and hunters. Some of club members have provided transport for trampers, hunters and cyclists who had become lost, hurt and unable to ride and found while we have been on such tracks.
- 2.7 The area is not overused by four wheel drive vehicles. There will always be, in some people's minds, the view that there may be a conflict of use between vehicles and other visitors. Some may even have the opinion that some areas should be for their own private exclusive use, but to most enlightened reasonable users of this area, operating in a sensible and responsible manner,

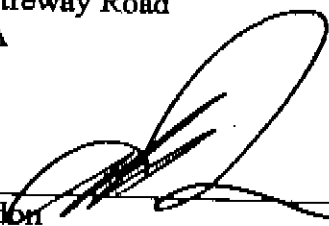
there should be no real unselfish conflict of use between the various user groups. If user numbers were to soar far beyond what they are now, then some directional controls may need to be proposed. Users should themselves be responsible to use this area in a safe and sensible manner.

This submission is made by:

The Land Rover Owners Club (Otago) Incorporated
P O Box 47
DUNEDIN

The Southland Land Rover Owners Club Incorporated
C/- 31 Vernon Street
INVERCARGILL

New Zealand Four Wheel Drive Association Incorporated
187 Centreway Road
OREWA


C A Paddon

Signature of person authorised to sign on behalf of the Submitters

28/July 2002
Date

Address for Service of Submitters Lawyer

Craig Paddon
P O Box 7123
Dunedin

Telephone (03) 453 6999
Fax (03) 453 6998



OTAGO CONSERVATION BOARD

Our ref: OCB 34

31 July 2002



Commissioner of Crown Lands
c/o DTZ New Zealand Limited
Land Resources Division
Box 27
ALEXANDRA

Dear Sir

SUBMISSION ON THE LINDIS GROUP TENURE REVIEW

Thank you for the opportunity to comment on the Notice of Preliminary Proposal for the tenure review of the Lindis Group pastoral leases.

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

- the creation of a 3 ha proposed recreation reserve between the Lindis Pass highway (S H 8) and the Lindis River;
- the creation of a 5 ha proposed conservation area adjoining Short Spur Creek (with provision for fencing);
- the creation of a 15 ha proposed conservation area adjoining Coal Creek (also with provision for fencing);
- the creation of a 10.8 ha proposed historic reserve over the site of the old Lindis Hotel and the adjacent gold workings; and
- the creation of several easements for public access.

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

- the single large area spanning the eastern parts of Shirimar, Longacre and Timburn, which is intended to be subject to a proposed Conservation Covenant, should be restored to full Crown ownership and control as a conservation area. The provision of grazing, topdressing, oversowing and fencing would then be at the discretion of the Department of Conservation. Under such management oversight, there would be much greater opportunities for restoration and rehabilitation of the tussock land ecosystems than is likely to exist under the option being proposed. The presence of extensive areas with "significant inherent values" on the faces overlooking the Dunstan Burn and in the headwaters of both the Timburn and Coal Creek is mentioned in the report. There are apparently significant areas with continued dominance by narrow-leaved snow tussock (*Chionochloa rigida*), with lesser areas dominated by the much more vulnerable and rarer slim snow tussock (*C. macra*) on

colder sites within the proposed covenant. The gray shrub, *Olearia odorata*, is also recorded as being present in these areas. This is also significant.

It seems obvious to the board that continued oversowing and topdressing, combined with continued grazing by cattle and sheep, will be incompatible with the maintenance of the existing conservation (including landscape) values. Section 24 of the Crown Pastoral Land Act 1998 states that: "the protection of the significant inherent values of reviewable land" is to be "enable[d]" "(i) By the creation of protective mechanisms; or (preferably) (ii) By the restoration of the land concerned to full Crown ownership and control; ..." (underlining added);

- The easement on Longacre to provide public foot access and DOC vehicle access along County Road (route f-g-h) should be extended to provide for public vehicle access;
- Of the easements proposed on Shirlmar, the one intended to provide access for DOC vehicles to a carpark at the proposed conservation area CA1 (route y-z) should be extended to provide access for the walking public and mountain bikes too;
- The easement intended to provide access for DOC vehicles to the Chain Hills and on to the Morven Hills boundary (route p-q-r-o), should also provide for access for the walking public and for mountain bikes, at least on the track to the Chain Hills;
- Of the easements proposed for Merivale, the one intended for the use of DOC vehicles on County Road along the boundary with Shirlmar (route h-i-j-k) and for public foot access, should be extended for mountain bike and public vehicle use. The proposed easement for DOC vehicles to the start of an alternative track to the crest of Chain Hills (route i-p) should be extended to provide for public walking and mountain bike access;
- The easements proposed on Timburn to provide access for DOC vehicles to the proposed conservation area CA 2 (route d-d') should be extended to provide for public foot and mountain bike access, and also to provide for public vehicle access on the County Road as far as the Tin Hut at 'd' (route f-d).

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

Yours faithfully



F P

Les Cleveland
Chairperson

Royal Forest and Bird Protection Society of New Zealand Incorporated
Upper Clutha Branch
PO Box 38
Lake Hawea

FOREST & BIRD

2 August, 2002

The Commissioner of Crown Lands
C/- DTZ
PO Box 27
ALEXANDRA

DTZ NEW ZEALAND
ALEXANDRA
- 2 AUG 2002
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Dear Sir

Lindis Group – Preliminary proposals for Tenure Review

Thank you for sending us a copy of these proposals. We would be pleased if you would accept this submission from our branch of Forest and Bird.

Forest and Bird is well known throughout New Zealand for its work in protecting the environment, and the interests of the public in this respect. Our society supports the aims of the Tenure Review process, and our branch takes particular interest in the process throughout Central Otago, the Upper Clutha and Wakatipu Basins.

We have inspected the Shirlmar, Longacre, Merivale, Timburn and Nine Mile Stations with permission of the leasees both by four wheel drive vehicle and on foot.

Landscape

The western face of the Chain Hills which are at the eastern extremity of Shirlmar, Longacre and Timburn, form a very visible foreground to the iconic steep almost-parallel ridges of the St Bathans Range. Lindis Peak on Nine Mile is also very visible from the main Lindis Pass - Tarras Road, in fact it is the location of the main survey trig for the area with sweeping 360° views as far as the Remarkables, the Old Man Range, the Dunstan Range, the Chain Hills, St Bathans, the hills around the Lindis Pass, Grandview, Mt Aspiring, and the Pisas. It would be crucial that landscape values of these highly visible slopes are not reduced by inappropriate fencing and uneven land management practises where land either side of a fence line is visibly very different.

Although not easily accessible to the public the eastern face of the Chain Hills also has significant landscape importance in our opinion. It forms the western side of the Dunstan Creek catchment with the magnificent St Bathans Range forming the eastern side. Looking into this valley from the highest point on Longacre and from Mt Misery on Timburn Station after walking for several hours in each case - the sense of remoteness and untouched beauty is unexpected and inspiring. Any further development of this catchment would be to the detriment of its significant inherent landscape values. We would like to see an overall landscape covenant over all the runs to protect them from inappropriate or insensitive planting of pines or firs which can be seen from State Highway 8 as the landscape protection provisions of the Transitional Central Otago District Plan are not adequate to ensure this.

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Proposed Covenants

In the Notice of Preliminary Proposal, the proposed covenants on Shirlmar, Longacre and Timburn recognise the value of the Chain Hills landscape in particular the "the landscape which forms part of the experience of the Dunstan Creek remote area". The proposal also points out that the area has "retained significant inherent values whilst being managed and developed for farming purposes".

We note in the special conditions (Schedule 3) that the owners may aerial oversow and topdress land below 1200 metres above sea level, grazing sheep is permitted (with no limit to numbers being set) and a specified number of cattle between 1 November and 30 June each year with one year in four being spelled from grazing. The highest elevations are around 1377m on Shirlmar to 1447m on Timburn so very little of the covenanted area is exempt from oversowing and topdressing. The land above 1200 metres will be grazed but not have any nutrients returned. This can not be ecologically sustainable.

The regime of topdressing, oversowing and grazing will change the landscape over time – just as the land is no longer covered mainly with tall tussock and grey shrubs as it was when the first Europeans started farming here and has only remnants of these; so too will this decline continue if the proposed land management practices for the proposed covenanted areas are adopted. Even now the ground either side of the track along the top of McPhies Ridge on Timburn was very sparsely covered with a large proportion of bare ground and hieracium. Inputs will require returns and this put pressure on the land from higher stocking levels and smaller paddock sizes, hence more fences.

From walking to the top of the Chain Hills in two different locations we could see there was a reasonable cover of native vegetation remaining – *Carmichaelia monroi*, *Carmichaelia petriei*, *Corallospartium crassicaule* - Coral Broom, tall tussocks, *Olearia odorata* and *Olearia lineata*, some kowhai on Longacre and matagouri which would provide a reasonable basis for regeneration of native vegetation if the land was totally protected from topdressing, oversowing and grazing. We would like the land in the areas proposed as covenanted freehold land to be '*restored to full Crown ownership and control*'. It is our understanding that the purpose of conservation covenants is to protect small discrete areas of conservation value – not large continuous areas such as that proposed for the Lindis Group.

Access Walking access/easements

Lindis Peak proposed walking access on Nine Mile provides an easily accessed walk to the top of a most spectacular view. We really enjoyed testing this proposed walking access and look forward to it being joined up through the adjoining run and then on to the track along the ridge from Long Gully to Grandview Mountain.

It would greatly facilitate day walking if the public was to have the right to drive the sections f-g-h (on Longacre) and h-i-j (on Merivale) and f-d (on Timburn) to the tin hut. As the proposed access stands at the moment it is a very long walk or bike ride to reach the base of the Chain Hills.

We also note that public access is not provided to the two proposed small parcels of conservation land – this needs to be arranged as we understand there is an obligation to provide public access to such lands as part of the tenure review process.

Wetlands

It is good to see that two areas are to be reserved for the protection of flathead galaxids, one on Timburn and one on Shirlmar. We did note during our inspections that there were quite a few remnant wetlands on Longacre and Shirlmar, one on Shirlmar having some copper tussock as well as Carex. We would like to see the larger areas protected by fencing them off to protect the vegetation and the riparian values from particularly the cattle.

Lindis Peak - Nine Mile

The top of Lindis Peak still has some interesting native vegetation - *Celmisia prorepens*, *Helichrysum intermedium*, *Brachyglottis bellidiodes*, *Myrsine nummularia*, and others. We would like to see this area covenanted, protected from burning and fenced at a diameter of 300-500 metres from the peak to allow this interesting remnant to recover.

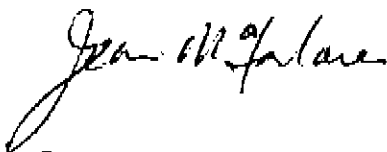
In conclusion

We would see this as a good proposal if

- 1 The proposed covenanted areas on Shirlmar, Longacre and Timburn are '*restored to full Crown ownership and control*'.
- 2 If the vehicle access is extended to include the County Road to facilitate walking and mountain bike access to the Chain Hills
- 3 If the remnant wetland areas are given protection from stock.
- 4 If the top of the Lindis Peak was protected to regrow into the rock garden it has been in the past.

Thank you for the opportunity to make a submission.

Yours faithfully



Jean McFarlane

Chairperson

Southern Office
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**FOREST
& BIRD**

ROYAL FOREST AND
BIRD PROTECTION
SOCIETY OF
NEW ZEALAND INC

August 14, 2002

The Commissioner of Crown Lands,
C/- DTZ New Zealand Ltd.
Land Resources Division
PO Box 27
ALEXANDRA

Dear Sir

Re: Preliminary Proposal for Tenure Review – Lindis Group

Thank you for this opportunity to comment.

Due to being away for a month and then work overload I am unable to provide a detailed submission. However I have visited these leases several years ago and generally concur with the submission lodged by our Upper Clutha Branch.

Conservation Covenant

Forest and Bird believes the entire covenant area along the Chain Hills should be returned to full crown ownership and control. As the proposal document on p11 notes this land contains significant inherent values, being the landscape values, remaining tussock grasslands and shrubland remnants. We strongly agree that the landscape values are presently the most significant values as they form part of the experience of the remote Dunstan Creek area, which is one of the last big relatively low altitude valleys in Central Otago that retains a strong natural element.

We do not agree with the suggestion that the covenant will provide the protection that is needed to ensure that the identified significant inherent values will be protected, thus a Covenant does not meet the objects of the Crown Pastoral Land Act 1998, (CPLA).

The areas to be covenanted contain remnant tussocks and shrublands including Kowhai trees. Continued grazing will gradually diminish these populations, as the shrublands can not regenerate under a grazing regime, because stock graze the palatable seedlings. Continued oversowing and topdressing and grazing by cattle in particular will continue to diminish both the extent and stature of the remaining snow tussocks.

Public Access

Forest and Bird supports the submission of PANZ in relation to marginal strips and public access requirements, we also support the Upper Clutha Branch submission in

relation to the need to extend vehicle access to include the County Road, and access to the small parcels of conservation land. The ability of the public to access and enjoy the Chain Hills would be greatly facilitated by the ability to drive along the formed track marked c-z. I have not had time to investigate the legal road status, on these properties however it appears that parts of the existing access tracks are close to legal roads. If this is the case then we would be opposed to an easement being created which may extinguish any underlying legal status that may exist. The proposed easements do not provide equivalent rights and security of public use. Easements are appropriate where they do not overlay an existing legal road.

There is an ambiguity in the relationship of the access provisions in the proposed covenanted area as opposed to the proposed easements. Do the provisions of the covenant over ride the provisions of the easement in relation to public access?

There is a further problem with the Covenants as they enable the owners to charge for the use of facilities or services provided by the owner. Use of facilities and services are not defined. Forest and Bird considers these provisions to be inadequate and contrary to securing public access and enjoyment of the covenant areas. (S24 (c) (i)). The terms of the covenant must require the owner to provide free public foot and mountain bike access, and to not charge for such activities, albeit they may be using tracks provided by the owner. The Covenant also allows the owner to restrict public access to certain specified tracks. This provides a loop hole for future owners who may be less public spirited than the current owners, to restrict access to tracks and then charge for the use of the tracks. This would mean that a situation could arise when there is no secure public access, which is contrary to the CPLA.

In Conclusion

To meet the requirements of the CPLA this proposal needs to be modified to provide for:

1. Restoration to full crown ownership and control of the proposed covenant area on Shirimar, Longacre and Timburn.
2. Provision for vehicle access along the formed track marked c-z.
3. New access easements restricted to access ways, which are not aligned with existing legal roads.
4. Wetland areas to be fenced to exclude stock.
5. Top of Lindis Peak to be protected from stock.
6. Free public foot and mountain bike access must be provided year round to the proposed Covenant Area.

Yours sincerely



Sue Maturin
Southern Conservation Officer

Ken Taylor

From: Bruce Mason [panz@es.co.nz]
Sent: Saturday, August 17, 2002 12:39 PM
To: Ken Taylor
Subject: Lindls Group submission

DTZ NEW ZEALAND
ALEXANDRA
19 AUG 2002
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Lindls Group PANZ
subm.pdf



Lindls Group PANZ
submission



ATT270699.txt

Hi Ken

Yesterday, immediately after dropping off at your office a copy of the PANZ submission on the Lindls Group, I noticed a couple of typos.

Attached are Word and pdf corrected versions that should replace the original paper copy.

Cheers

Bruce

Public Access New Zealand

INCORPORATED

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Phone & Fax 64-3-447 3554
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15 August 2002

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



Submission on the Lindis Group Tenure Review Preliminary Proposal

Through a combination of semi arid climate and a lengthy history of pastoral use, the Lindis group of six properties are highly modified, with only limited areas retaining a natural vegetative character.

The main public interest value of the properties is for their potential for extensive recreation via a variety of access routes. This activity, in modified hill and high country settings, will provide a welcome addition to public recreational opportunities. The Dunstan Creek frontage of the Chain Hills is part of a wider high country landscape of exceptional value.

PANZ supports the Preliminary Proposal, with modification to improve the public outcomes and compliance with the requirements of the Crown Pastoral Land Act. None of what we have to say is "new information", in terms of the narrowly constrained criteria officially used to assess submissions. However the matters we raise must be reconsidered, along with aspects of earlier decision-making, if the public submission process is to have any meaning and effect. The CCL is obliged to satisfy public law requirements in regard to open-minded consideration of public input into official proposals, irrespective of any the constraints in the way of this that arise through adopted Standard Operating Procedures.

Public Access New Zealand wishes to comment on the following aspects of the review

- Conservation covenant
- Recreation and historic reserves
- Public access easements
- Marginal strips

Chain Hills Conservation Covenant

As we identified in the early warning meeting for these properties, DOC has confirmed that the Dunstan Creek catchment has high landscape values that warrant active protection. As DOC states (*Conservation Resources Report*, p 42), "Dunstan Creek with its open landscape and wilderness qualities provides a high quality recreational experience". A lack of practical legal access into Dunstan Creek has been a major deterrent to wider public appreciation of this area.

DOC's original recommendations for protection of the Chain Hills (p55), on recreational grounds, made the following justification for a conservation covenant-

"Recreation

The area currently represents an exceptional backcountry recreational experience. Further land development in this area stands to compromise the values, which make up the wilderness qualities of the entire headwaters of Dunstan Creek.

NGO s during consultation considered that it is essential to protect the landscape and wilderness qualities of this area. A special lease was considered desirable although it was conceded that a covenant may be appropriate. Provided a covenant is well prepared and adequately administered such a mechanism stands to be effective as conservation objectives are relatively clear-cut." (our emphasis).

The conservation objectives for this area are clear-cut. The draft conservation covenant specifies (2.1.1 and Background 'C') that the objective is the preservation of the natural environment and landscape amenity (our emphasis). We fail to see that over-sowing and topdressing, and cattle grazing can preserve this environment; rather these developments and activities will further degrade the environment. All the covenant achieves is a prohibition on direct actions such as new earth disturbance, structures, tree planting, removal of plant material (other than by grazing), and burning, but even these could occur with Crown approval.

There is discretion to prepare a joint management plan, but no express public process for doing so.

Despite an objective of the covenant being (2.1.2) - "to provide, subject to this Covenant, freedom of access to the public for the benefit, enjoyment and recreational use of the Land" (our emphasis), the terms of the covenant seriously undermine this objective.

The Owner may:

- "Temporarily decline access to the Land for reasonable farm management reasons" (4.2.1)
- "Limit access to specified tracks" (4.2.2)
- "Charge for use of facilities or services provided by the Owner" (4.2.3)
- "Prohibit any person from bringing onto the Land any animal, gun, or vehicles (4.2.3)
- Trespass rights continue to apply (8.2)

Whilst there is stock present, we do not take issue with 4.2.3, however we believe all the other powers are capable of abuse to the detriment of public use and enjoyment.

There is an ambiguity in limiting access to specified tracks. Does this mean that access will be confined to those routes covered by access easements (being separate encumbrances on the Land to that created by covenant), or that the intention is for public access and enjoyment over all the land under covenant?

The potential for 4.2.2. and 4.2.3 operating in conjunction provides a monetary incentive to limit public use, quite contrary to the espoused objectives of the covenant. This is entirely unacceptable. We submit that the terms of the covenant are obviously contrary to Crown's obligations under Part 2 CPLA to -

- 24(a) (i) Promote the management of reviewable land in a way that is ecologically sustainable:
- (b) To enable the protection of the significant inherent values of reviewable land
- (c) (i) The securing of public access to and enjoyment of reviewable land

- and therefore the CCL is obliged to review all previous decisions in this regard.

Reproduction of the objects of Part 2 of the CPLA in the 'Summary of the Preliminary Proposal' with unsubstantiated official claims that this agreement, and any others, comply with the Act no matter the degree they conform or don't conform to the objects, is no discharge of the CCL's obligation to abide by the law.

We are also concerned that the terms of the covenant could be amended at any time by agreement between the parties, or even extinguished in total, without any public process. There is therefore no long-term assurance that the protective mechanism will persist, notwithstanding the agreed registration "in perpetuity" of this encumbrance against freehold titles.

Due to the insecurity of the proposed covenant and the inadequacy of its protection of the natural environment and landscape amenity, we submit that this area instead become a conservation area, subject to a publicly prepared management plan, and the issuing of grazing concessions in accordance with that plan.

Recreation and historic reserves

We support the creation of a recreation reserve beside the Lindis River in an area traditionally used for camping. This will be a valuable provision that meets a real need. If DOC or the local authority will not accept vesting of control over this reserve, we recommend that it remain Crown land, for recreation purposes.

We are concerned that Diagram F of the *Preliminary Proposal* does not coincide with the area proposed for Crown retention in the Designations Plan, or Diagram G. The Designations Plan depicts

continuous Crown retention between the historic (R3) and recreation reserves (R4), whereas the small scale Diagram G does not. Our inspection indicates that all the narrow strip of land ownership between the state highway and the river should be retained in Crown ownership.

The nearby proposed reservation for historic purposes is welcome, encompassing historic gold workings and the old Lindis Hotel ruins. This area has recreational value, independent of historic value. The reserve should be managed for both purposes. We applaud the owners of the freehold hotel site for their willingness to include this site in the tenure review and for agreeing to its transfer to the Crown.

Public access easements

We welcome the intention of creating a network of public access ways to and along the Chain Hills, from both northern and southern approaches from the Lindis Valley. Continuation of that access into Dunstan Creek, and up the spectacular viewpoint of Lindis Peak, are essential components of tenure review. However our support for such should not be interpreted as agreement that the mechanisms proposed are in accord with the duties of the Crown to "secure public access to and enjoyment of reviewable land" under section 24(c)(i) CPLA. The lack of security of use, the absence of provision for horse riding, and the ability to suspend use, are unacceptable outcomes which must be rectified. Further comment on these aspects follows.

Lack of security

We note all the proposed public access easements are under section 12 of the Reserves Act, whereas all the DOC management easements are secured under section 7(2) of the Conservation Act. DOC recommended (*Conservation Resources Report, Recommendation 13*) that all access routes be established as easements under Section 7(2) Conservation Act (1987), however this has not occurred.

To date, section 7(2) has been used for easements in tenure reviews. This section creates a Crown interest in land that, through other provisions in the Conservation Act, requires public notification and objection procedures if disposal of that interest is proposed.

Section 12 Reserves Act provides no such protection. The Minister can acquire interests in land to provide recreational tracks in the countryside, but without any statutory restraint on disposal of those interests. As a minimum, all easements should be secured under section 7(2) Conservation Act.

PANZ does not favour easements as the preferred means of "securing of public access to and enjoyment of reviewable land" (s24(c)(i) CPLA), because of the inherent insecurity of these mechanisms, notwithstanding any express protections that may exist against their disposal or modification. Section 126G of the Property Law Act provides overriding powers for extinguishment or modification of easements through the Courts, without any public process.

We note that all the public access easements are in gross, rather than appurtenant to lands held by the Crown as in the case of the DOC management easements. While these public easements should be in

gross, because that are not attached to particular parcels of Crown land, there is no necessity to create them under section 12 Reserves Act. They should be created under section 7(2) Conservation Act to provide a measure of public protection against future disposal. We submit that failure to provide this minimal level of public security is a failure to comply with section 24(c)(i) CPLA. We are aware of one other easement in gross for public purposes arising from tenure review. This is proposed for Double Hill Station in the Rakaiia Valley, and is to be subject to section 7(2) Conservation Act. Therefore it appears that there is no legal obstacle to this same mechanism being used for all the public easements over the Lindis Group of properties. We submit that this be done.

Our preferred mechanism for public access provision over freehold is the dedication of public paths, as legal roads, for specified classes of user, e.g. pedestrians, pedestrians and cyclists, pedestrians and cyclists and horse riders, or all these and motor vehicles. I refer you to all our previous tenure review submissions on this subject. We believe that the security and certainty of public passage provided by public roads, provides the only assurance that the Crown's obligation under section 24(c)(i) CPLA will be fulfilled. As the 'legality' of roads depends on express or implied dedication, rather than survey action, this would provide a considerably cheaper means of securing public access than the proposed easements and their attendant survey costs.

We note that many of the proposed easements cross or overlie existing public roads, and in the case of McPhies ridge for much of its length. We point out that because the public, without exception, already has a right of passage over these roads; it is not legally possible to create easements over them. The proposed intention to create easements could amount to an extinguishment of the underlying roads. The Courts have held that the ONLY lawful means of stopping roads are through express statutory provisions for this purpose. If easements are to be created they must be confined to the sections of track that are not legal road. This of course would require survey definition of roads and easements.

OSH and ACC

We note that in official papers supplied to us in regard to the Longslip tenure review, the holder raised concerns about Occupational Safety and Health, and Accident Compensation Commission liabilities arising from easements over freehold. This is a generic issue that has not been dealt with in this or any other tenure review. The CCL's failure to deal with these issues potentially undermines all easement provisions arising from tenure review. There is no assurance, despite the express terms of these easements, that the public right to pass and repass at all times will prevail over land holders taking action to remove liabilities that may arise from having members of the public on their freehold. The holders' solution may be to bar public passage, notwithstanding the terms of this or other easements.

The dedication of public paths, rather than the creation of public easements, would avoid such difficulties. Paths would be public rather than private property, and unable to be deemed places of work or employment for the purposes of OSH or ACC.

No provision for horse passage

We are most disappointed that no provision has been made for horse riding along any of the easements. In view of the long history of pastoral farming, we see no conflicts with other recreational users, or the environment, from continuation of this historic activity.

DOC repeatedly identified these routes as being very suitable for horse use-

"Routes into Dunstan Creek are also well suited to horse trekkers" (*Conservation Resources Report*, 8(b)).

"From Lindis Peak there is potential to embark on substantial mountain bike, horse or 4WD journeys through Lindis Peaks, Deep Creek Long Gully and Sandy Point Stations to the Clutha..." (*Conservation Resources Report*, 8(b)).

In DOC's RECOMMENDATION THIRTEEN, horse trekking access up Coal Creek (Timburn pastoral lease), from County Road to Coal Creek (Longacre pastoral lease and a short stretch of Merivale pastoral lease), from County Road to Dunstan Creek via Shirlmar Pastoral Lease, from County Road to crest of the Chain Hills via Longacre Pastoral Lease, along the Crest of the Chain Hills through Timburn, Longacre and Shirlmar pastoral leases, and on the west side of Dunstan Creek were all recommended for horse riding (*Conservation Resources Report*).

DOC's 'management considerations' relating to public access raised the possibility of gates permitting walkers, mountain bikers and horse trekkers, but excluding motorised vehicles at track entrances.

We therefore consider that lessee objections to horse use because of "potential problems with use of gates and damage to tracks" (*Report on Consultation*, p 5) unwarranted. The former can be overcome through gate design, as already intended as part of the West Wanaka tenure review. We believe the latter concern is unwarranted given the year-round presence of stock, including cattle, on these properties. Damage from occasional horse passage would be insignificant by comparison.

We submit that the Crown reopen proposals for horse passage along the public easements, and make this a bottom-line for further progress on this review of tenure.

Dispute resolution

We note mechanisms for resolving disputes between the Transferor and the Transferee, but there is no provision for public involvement. Given that "any member of the public" is included within the definition of 'Transferee', but excluded from any settlement of disputes, we think it only proper that there be an express requirement for s49 Conservation Act procedures whenever any change, or extinguishment, to the terms of public easements are proposed, or if protracted obstruction or closure of public access occurs. The Waiorau case shows that neither the CCL or DOC are inclined to be strong defenders of public rights, therefore "the public" needs a direct say in proceedings.

Exclusion of schedules

We note an express exclusion of the rights and powers contained in the Ninth Schedule of the Property Law Act, but not of those in section 126G which enable modification or extinguishment of easements through the Courts, without public process. We submit that section 126G of the Property Law Act be expressly excluded from the terms of the public access easement.

Temporary closures/suspension

We are concerned about the 'temporary suspension' provisions of the draft public easement documents. These state that -

"The Transferee may close all or part of the Easement Area and suspend public access to it if it is necessary for the protection and wellbeing of the Easement Area, or for the protection and control of the public".

In view of DOC's partiality towards tourism, iwi, and other private interests at the expense of public recreation, we do not trust the department with powers of considerable discretion and vagueness such as "public safety".

These provisions reinforce the insecure nature of these easements, and their failure to properly comply with "the securing of public access to and enjoyment of reviewable land" as required by section 24 (c)(i) CPLA.

Lambing closure

We are disappointed that closures are proposed 10 October - 5 December annually over so many of the public easements. We appreciate that on one route at least, up Lindis Peak, conflict with lambing is unavoidable, however we wonder if this is necessarily the case for all the other easements proposed for closure.

This restriction is partly compensated by year-round vehicle access to a carpark at "m" and then by foot or cycle to "n" on the crest of the Chain Hills, along the crest of these hills north to south, and into Dunstan Creek at "r". This access into Dunstan Creek is strategically important, as it will provide the shortest and only all-season access to future public lands in this catchment. The potential ridge-crest linkages north and south from the Chain Hills are also important.

Our welcoming of these year-round accesses should not be interpreted as acceptance of their terms and limitations as outlined above. They should all become public paths, dedicated for all forms of public passage except by motor vehicle. Refer to our web site www.publicaccessnewzealand.org, including our 'Guide to Road Dedication,' for further information on what may be required to achieve this.

Locking of gates

We are concerned with provision in the public easements for the locking of gates with Transferee (Crown) agreement. Such gates would provide an obstruction to heavily laden cycles, and certainly to motor vehicles over easements "l - k" and "k - m". This provision is an unwarranted and unreasonable degradation from the supposed purpose of these easements of public passage at any time. We submit that locking gates is contrary to "the securing of public access to and enjoyment of reviewable land" as required by section 24 (c) (i) CPLA, and should be deleted. "Secure" does not merely mean 'provide'. It means, "having sure prospect of or from interruption" (*Concise Oxford*). Locked gates, and all the other restraints and discretion to interrupt, or dispose of these public rights, are in defiance of the terms of the CPLA and totally unacceptable.

Marginal strips

The pattern of indeterminate status and location of existing marginal strips within pastoral leasehold, and uncertainty as to what new strips, if any, will be created as a consequence of tenure review, has been repeated on the Lindis Group of leases. The official information supplied to us reveals uncertainty as to whether some riparian areas are road, pastoral lease or marginal strip, whether or not strips exist along Coal Creek, and statements that "the whole of Short and Long Spur Creeks would qualify" for strips, but with no assurance that in fact these will eventuate.

This is an administrative and public policy mess. It must be dealt with as an integral and transparent part of tenure review, so that deficiencies can be clearly identified, further strips created, or alternative reservations or access mechanisms used. The latter can only be implemented through tenure review.

We refuse to accept the CCL's narrow view that marginal strips, arising from this last great Crown alienation of its land interests, is entirely a matter for DOC to determine. It is shameful that this situation is permitted to continue, given the well documented failings of successive Crown land administrations, including the current one, to properly implement the requirements of the Land and Conservation Acts. Tenure review provides the final opportunity for the Crown to rectify its past errors and omissions, and to ensure that present and future public needs for access along the margins of waterways is properly provided for.

We submit that this issue, despite the CCL's decree that it is not his business, is brought to his attention, so that tenure review procedures are amended as a matter of immediate priority.

Yours faithfully

Bruce Mason
Researcher & Co-spokesman