

Crown Pastoral Land Tenure Review

Lease name: Glenariffe

Lease number: Pc 129

Public submissions

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

November 03



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30 June 2003

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Tēnā koe

Glenariffe Pastoral Lease Tenure Review - Preliminary Proposal Under Crown Pastoral Land Act 1998

Te Rūnanga o Ngāi Tahu and the relevant Papatipu Rūnanga: Te Taumutu Rūnanga and Te Ngāi Tūāhuriri have considered the information provided in the Glenariffe Preliminary Proposal and have the following comments:

Awa / Rivers

All the rivers of the Canterbury high country were abundant in mahinga kai species which sustained our tupuna. Although rivers nowadays are not as abundant in mahinga kai as they once were it is still important that rivers are protected and enhanced for current and future generations of Ngāi Tahu. Therefore, any awa or wetland that transcends onto freehold property must have some form of protection mechanism such as a marginal strip or esplanade reserve to ensure its protection.

There are many streams that run through proposed freehold land i.e. Double Hill Stream, Glenariffe Stream, Gerard Stream and Glenrock Stream. These streams need protection. Firstly, we would like to know whether there are any protection mechanisms located on these streams. If there are no protection mechanisms on these streams then Ngāi Tahu seeks that some form of protection mechanism whether it be a marginal strip or esplanade reserve be placed on each river.

Recommendation: That some form of protection mechanism, whether it is a marginal strip or esplanade reserve, be placed on each stream that runs through proposed freehold land.

Access to all rivers were guaranteed under the Treaty of Waitangi. *"Her Majesty the Queen of England confirms and guarantees to the Chiefs and Tribes of New Zealand and to the respective families and individuals thereof the full exclusive and undisturbed possession of their Lands and Estates Forests Fisheries and other properties which they may collectively or individually possess so long as it is their wish."*

Ngāi Tahu has access to Glenrock Stream via the legal road. However, whether this legal road is formed or not, I am unsure so this may or may not provide practical access depending on the

condition of this legal road. Ngāi Tahu is concerned about how Ngāi Tahu can access Double Hill Stream, Gerard Stream and Glenariffe Stream. The preliminary proposal does not show how Ngāi Tahu can have access to the segments of these streams that run through proposed freehold title.

Recommendation: That access easements are provided across proposed freehold land to Double Hill Stream, Gerard Stream and Glenariffe Stream.

The North Branch of the Ashburton River/Hakaterere runs through proposed Conservation land. The Ashburton River/Hakaterere is a Statutory Acknowledgement under the Ngāi Tahu Claims Settlement Act (1998). The Hakaterere was a major mahinga kai for Canterbury Ngāi Tahu. The main foods taken from the river were tuna (eels), inaka (whitebait) and the giant kōkopu. Rats, weka, kiwi and waterfowl such as pūtakitaki (paradise duck) were also hunted along the river.

Place Names

The Canterbury high country includes landscape features for which there are historical place names. Te Papatipu Rūnanga seek to have a role in providing Māori names for the landscape features of the Glenariffe Pastoral Lease with the Crown.

Ara Tawhito

The Rakaiia River was a well-known trail that was regularly used by Ngāi Tahu for the trade of pounamu and for the collection and gathering of mahinga kai. Brailsford refers to this trail in his book 'Greenstone Trails: The Maori Search for Pounamu'. Travellers would have travelled through the area now occupied by Glenariffe Pastoral Lease but finding evidence of Ngāi Tahu occupation is low given the large-scale development of the area.

Discovery of Archaeological Sites

Considering the occupation of Ngāi Tahu Whānui within the Canterbury high country and the use of the Rakaiia River as a trail for Ngāi Tahu there is the possibility that archaeological sites maybe discovered on proposed freehold property, although the area may have been heavily developed. In the event of the discovery of any such site on the proposed freehold property, it would be appropriate that a relationship, and supporting documentation, be established between the proposed and future freehold owner/s and the Rūnanga associated with this area. Such a relationship would include issues of future access to a discovered site and protocols regarding the modification of the site.


We look forward to progressing the protection and/or implementation of these values with you.

Nāhaku nou, nā



Takerei Norton
Kaitiaki Pūraro Ngā Raua Taiao
Natural Resources Projects Co-ordinator

cc Te Taumutu Rūnanga
Terrianna Smith
Te Ngāi Toāhuriri Rūnanga





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

23 JUN 2003

The Commissioner of Crown Lands,
C/- Tenure Review Team Leader,
Quotable Value (NZ) Ltd,
P.O. Box 13-443,
Christchurch, 8001

21st June 2003.

Dear Sir,

Enclosed is our submission on the Preliminary Proposal for tenure review of Glenariffe pastoral lease.

We are supplying a copy to the Department of Conservation's tenure review team.

Yours sincerely,

David Henson
FMC Tenure Review Co-ordinator, North Canterbury

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A SUBMISSION FOR FMC ON THE PRELIMINARY PROPOSAL FOR GLENARIFFE PASTORAL LEASE

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Our Interest in this Tenure Review

Federated Mountain Clubs of New Zealand (Inc) is the national association of mountain recreation clubs. We have been established for 72 years and have 98 member clubs and groups with approximately 12,000 individual members. In Canterbury, we have 15 member clubs and groups with approximately 2000 members. Many of these are regular users of the pastoral high country.

For more than 20 years, FMC has campaigned for reformation of the pastoral lease system to allow farming where sustainable and return of the bulk of high land to the Public Estate. We have no doubt that many of the wider public share our vision for the future South Island high country.

Recreational Overview – The Ashburton High Land

The GLENARIFFE Tenure Review is part of a wider land use issue.

From a recreational viewpoint the block of high land bounded by the upper Rakaia River, the upper South Ashburton River and the plains is a single geographical unit. It is wedge shaped and comprises the Mt Hutt and Pudding Hill Ranges, Black Hill Range, Mt Somers and Old Man Ranges, Taylor Range and Palmer Range.

Our Patron is Allan Evans of Temuka. For many years he worked as the engineer and planner for the then South Canterbury Catchment Board. In 1963 he wrote a detailed report for his Board, recording the excessive erosion in the upper Ashburton catchments. He recommended destocking the high country with remedial works in streams. This was part of the growing awareness of the need to conserve water and soil in the high country. About 25 years ago FMC began to question the right of runholders to hold vast tracts of public land, with trespass rights, where grazing had limited production value but caused much damage. Allan Evan provided a summary of his 1963 paper to the Department of Conservation when the south bank Rakaia group of runs were listed for "early warning" in 1997.

Consequently for 20 to 30 years, FMC and its member clubs have advocated return of the high land in this unit to the Public Conservation Estate so that its natural and landscape values may be protected and so that it is freely available for public recreational use. Actual change began some years ago when the high altitude Glenariffe and Double Hill Pastoral Occupation Licences (POLs) expired. This land is currently Crown Land administered by the Commissioner of Crown Land (CCL) but should become Conservation land as tenure review proceeds.

Apart from Glenariffe, other properties flanking this area are undergoing tenure review. These are Double Hill, Glenrock and Redcliffe. These are all in the Rakaia catchment and should eventually provide a continuous band of public land above the south bank of the Rakaia River.

A preliminary submission re Glenariffe was made on behalf of FMC by Ian Rogers on 10 July 1998. **This is our appendix A.**

Glenariffe - Land to be returned to Full Crown Ownership

We support the proposal to transfer land as outlined in the draft proposal to the conservation estate. When added to the land in the expired Glenariffe POL this will make a coherent block of mid and high altitude land which will provide a significant step towards the aims stated above. The proposed boundary with freehold land appears logical in that it follows the existing fence line.

The Department of Conservation's Report & Recommendations

FMC agrees with and supports part of DOC's Conservation Resources Report. The sections on Landscape, Landforms and Geology, Vegetation and Fauna are a reasonably detailed summary of these values.

However we note that the comments on recreational opportunities and use are somewhat cursory. This is a typical flaw in DOC reports and often information supplied is no more than the personal impressions of the compiler(s) of the report.

Several tramping clubs in Canterbury have a tradition of high altitude tramping on most of the higher ranges to the east of the main divide. This involves physically (but not technically) demanding climbs to main summits. These are often done in winter or spring when the snow cover makes the country more interesting. Popular destinations in the Rakaiā area are Godley Peak (which is accessed from Double Hill), Steepface Hill (on Redcliffe) and Black Hill which is approached either from Turton's Saddle (on Glenariffe) or via ridges from the east (Glenrock).

When submitting on the Preliminary Proposal for the neighbouring Double Hill lease we supplied a sample of actual use based on the activities of one of our affiliated clubs in this area. In this case we supply an expanded list covering the activities of three clubs on the same land. **This is our appendix B.**

We are concerned by a misleading statement on page 5 of the DOC designations report. This is the statement that marginal strips "will be catered for by the Fish and Game Council who now have a statutory role in tenure review which wasn't so clear at the time of the 1995 NGO meeting". In fact Fish & Game Councils' roles are to identify where strips are required but it remains DOC's duty to implement these under The Conservation Act, Part IVa.

The Preliminary Proposal

Given that we agree with and support the areas of land to be returned to Crown control, the remaining issues are about access as follows:

Public Access to Turton's Saddle

This is a satisfactory means of access in so far as it provides a viable combination of the legal road across the flat land in combination with the existing formed vehicle track on the slopes up to the saddle. However EMC, in conjunction with the other NGOs in the High Country Coalition, is becoming increasingly concerned with the use of easements as the preferred means of providing access. This is because these have low legal security and can be extinguished or varied without public notice or involvement. In this case we submit that section a - b should be made more secure by dedicating it as a road. Research by our kindred NGO, Public Access New Zealand, shows that roads can be dedicated without survey on an identifiable route. Also the dedication can be for particular purposes such as foot and horse traffic and does not imply provision of vehicle access or a requirement for maintenance.

10/10/03
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Management Easement

We note that the original DOC recommendations included a management easement for DOC purposes (designated E2). This was not for public use but would have allowed vehicular access for staff to the Crown land for management purposes. We are concerned that this will make access more difficult for DOC staff and thus reduce management capability. We also have a concern about the general trend to reduce both public and management access provisions between the DOC recommendations and the notification of the Preliminary Proposal. This is not in the public interest. In this case we submit that the management easement should be reinstated.

Marginal Strips

Marginal strips should be laid off on the sections of Double Hill Stream, Glenariffe Stream and the main tributary of Glenariffe Stream where they run through the lease. Marginal strips should also be provided on Glenrock Stream. The existing legal road which is the primary access to Turton's Saddle does not provide access along both banks of this stream.

We understand that the Commissioner of Crown Land holds the view that marginal strips are not part of tenure review and are a separate DOC responsibility. We do not consider this is a rational position as intentions for riparian access should be made clear in Preliminary Proposals and thus be available for public comment. The High Country Coalition has brought this anomaly to the attention of Government in its recent paper recommending improvements to the tenure review process. In any event, we consider these marginal strips should be required by DOC on disposal of the lease.

Access to Turton's Stream from the South

We note that access will be required from the south to the public land created by this and neighbouring tenure reviews. This should be given due attention during the tenure review of Winterslow and Clent Hills leases.

Summary of Recommendations

1. The proposed land to be returned to full Crown control is supported.
2. Proposed public access route to Turton's Saddle is supported but should be given greater security by dedication as a road.
3. Proposed management easement E2 should be reinstated.
4. Marginal strips should be laid off on Glenrock Stream, Double Hill Stream, Glenariffe Stream and the main tributary of Glenariffe Stream.
5. Public access to Turton's Stream should be provided from the south in due course.

David Henson
FMC Tenure Review Co-ordinator, North Canterbury
21.6.03



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

Monavale Road
RD 14
CAVE

10 July 1998

Glenariffe Pastoral Lease

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A report on proposals for recreation and public access as part of the Tenure review process.
Prepared by Federated Mountain Clubs of New Zealand (Inc.) in consultation with users of the area.

Introduction

The Glenariffe pastoral lease occupies 4799 hectares on the South bank of the upper Rakaia River between Double Hill pastoral lease and Glenrock pastoral lease. Most of the property fronts the Rakaia River with a long thin finger running from the top of Turtons Saddle down Turtons Stream into the head of the North branch of the Ashburton River. This finger is surrounded by the Glenariffe retirement area and the finger of Double Hill pastoral lease. The retirement area is not fenced which is not satisfactory. In the valley floor there is useful grazing land but this is impractical to fence off.

FMC firmly believes that all land above the high fence on the Rakaia faces and the finger beyond Turtons Saddle should be retained by the Crown for the protection and restoration of their inherent natural values.

Recreational Values

There is some limited hunting and climbing done but this is mainly on the retirement area. Some tramping takes place, generally over Turtons Saddle and down the North branch of the Ashburton River or over Clent Hills Saddle to the Lake Heron Basin. There is scope on the retired land and land recommended to be retained for more tramping, climbing, mountain biking and horse riding.

On the lower country fishing is popular in the Rakaia River and Double Hill and Glenariffe Streams. Some duck shooting also occurs.

Public Access Requirements

Marginal strips are laid off Glenrock Stream that allow access to the Rakaia River and also to the legal road that runs over Turtons Saddle and down Turtons Stream to the North branch of the Ashburton River. This road follows neither the 4WD track or the stream. This access from the Double Hill Road over Turtons Saddle is reported to be not a very practical one and should be checked and altered if necessary.

Neither Double Hill Stream or Glenariffe Stream have marginal strips and these should be put in place to give legal access for anglers.

A legal road passes through Double Hill pastoral lease and Glenariffe to the Rakaia River.

Federated Mountain Clubs of New Zealand is the national alliance of tramping, walking, climbing, skiing and deerstalking clubs; 96 clubs representing 14,000 members. Club members working for clubs on issues of access, recreation and wise management of our public lands, and the promotion of our sports.

Recommendations

- 1) All land above the high fence on the Rakaia faces and beyond Turtons Saddle be retained by the Crown. The rest could be freeholded with the exception of PNA's and RAP's.
- 2) Legal access via marginal strips / legal roads to Turtons Saddle be investigated for practicality, altered if necessary, and marked.
- 3) Marginal strips must be laid off Double Hill and Glenariffe Streams.
- 4) Check that the road through Double Hill and Glenariffe to the Rakaia River is legal, marked and O.K. for vehicles.


Ian Rogers
Consultant

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APPENDIX B

TRAMPS RUN BY THE CHRISTCHURCH TRAMPING CLUB
IN THE UPPER ASHBURTON RIVER AND SOUTH BANK RAKAIA DISTRICT
FROM 1991 TO 2002

| Date(s) | Tramp | No. In party | Run or area | Leader |
|--------------|-----------------------------------|--------------|---------------------------|----------------|
| 22 Sept 91 | Mt Winterslow | 6 | Winterslow | B. Abley |
| 6 Oct 91 | Godley Pk | 9 | Double Hill | S. Bruerton |
| 19 Jan 92 | Pudding Hill Stm | 13 | Mt Hutt Forest | D. Jenkinson |
| 8 Nov 92 | Pudding Hill Stm | 8 | Mt Hutt Forest | M. Newlove |
| 18 April 93 | Steepface Hill | 6 | Redcliffe | B. James |
| 17 April 94 | Godley & Moorhouse Pks | 8 | Double Hill | K. Dekkers |
| 6 Aug 94 | Black Hill | 2 | Glenariffe | M. Southerwood |
| 19 Feb 95 | Steepface Hill | 10 | Redcliffe | B. James |
| 30 April 95 | Godley Pk | 9 | Double Hill | J. Easton |
| 30 April 95 | Redcliffe Saddle | 7 | Glenrock | S. Keenan |
| 18 June 95 | Mt Taylor | 14 | Clent Hills | F. King |
| 1 Oct 95 | Black Hill | 10 | Glenariffe | M. Southerwood |
| 14 Jan 96 | Steepface Hill | 12 | Redcliffe | B. James |
| 23 June 96 | Black Hill | 7 | Glenariffe | M. Plug |
| 30 Nov 96 | Steepface Hill | 5 | Redcliffe | S. Brasch |
| 1-2 Feb 97 | Mt Taylor | 4 | Clent Hills | M. Stewart |
| 16 Mar 97 | Pudding Hill Stm | 8 | Mt Hutt Forest | D. Jenkinson |
| 16 Mar 97 | Mt Hutt - Steepface Hill | 9 | Redcliffe | S. Leckle |
| 31 Aug 97 | Black Hill | 11 | Glenariffe | S. Smith |
| 24 Jan 98 | Godley & Moorhouse Pks | 10 | Double Hill | F. Roberts |
| 5 April 98 | Black Hill | 5 | Glenariffe | J. Easton |
| 21 Feb 99 | Mt Hutt - Steepface Hill | 11 | Redcliffe | A. Sullivan |
| 20 June 99 | Mt Taylor | 9 | Clent Hills | J. Easton |
| 2 Oct 99 | Turton Saddle | 9 | Glenariffe | A. Turton |
| 5 Dec 99 | Steepface Hill | 12 | Redcliffe | P. Eman |
| 8 April 2000 | Redcliffe Hill | 19 | Glenrock | D. Henson |
| 27 May 00 | Black Hill | 3 | Glenariffe | P. Ashton |
| 8 July 00 | Godley Pk | 7 | Double Hill | A. Brown |
| 5 Aug 00 | Mt Winterslow | 11 | Winterslow | J. Western |
| 16 Sept 00 | Mt Catherine | 7 | Upper L. Heron? | A. Sullivan |
| 28 Oct 00 | Mt Winterslow from Sharplin Falls | 5 | Alford Forest, Winterslow | I. Dunn |
| 25 April 01 | Mt Winterslow | 10 | Winterslow | B. James |

Notes 1. Tramps were scheduled to Godley Pk on both 10.6.01 and 23.9.01 but were cancelled or diverted elsewhere owing to bad weather.

2. Black Hill is climbed from either Glenariffe or Glenrock

3. List does not include tramps up Mt Somers or on the Mt Somers Walkway. This area is visited 2 to 4 times each year.

**TRAMPS RUN BY THE PENINSULA TRAMPING CLUB IN THE UPPER
ASHBURTON RIVER AND SOUTH BANK RAKAIA DISTRICT
FROM 1996 TO 2002**

| Date(s) | Tramp | No. in party | Run or area | Leader |
|---------------|----------------------------------|--------------|--------------------------|-------------|
| 21-22 Jan 96 | Mt Catherine | 12 | Clent Hills / Top Lake | D. Kemp |
| 12 May 96 | Mt Hutt from Rakaia valley | 7 | Blackford / Mt Hutt | T. Thomsen |
| 18 Aug 96 | Black Hill | 10 | Glenrock | T. Thomsen |
| 16 Feb 97 | Godley Peak | 11 | Double Hill | T. Thomsen |
| 9 Mar 97 | Mt Alford | 20 | Alford Forest | J. Millar |
| 18 Oct 97 | Scotts Saddle / Pudding Hill Stm | 14 | Mt Hutt Forest | S. Britain |
| 9 Aug 98 | Black Hill | 14 | Glenrock | M. Flaws |
| 13 Sept 98 | Pudding Hill Range | 8 | Alford Forest | S. Britain |
| 19-20 Sept 98 | Mt Taylor from Woolshed Ck | 8 | Clent Hills? | M. Meredith |
| 7 Mar 99 | Godley Peak | 6 | Double Hill | M. Meredith |
| 28 Mar 99 | Redcliffes Stream | 6 | Redcliffes? | B. Smith |
| 9 May 99 | Mt Hutt from Rakaia valley | 9 | Blackford / Mt Hutt | B. Kershaw |
| 23 May 99 | Steepface Hill | 6 | Glenrock? | R. Bolch |
| 27 Feb 00 | Scotts Saddle / Pudding Hill Stm | 8 | Mt Hutt Forest | C. Horn |
| 29-30 July 00 | Ribbonwood Hut / Smito Peak | 7 | Lake Heron / Glenfalloch | M. McCloy |
| 30 July 00 | Mt Winterslow | 13 | Alford Forest | C. Horn |
| 6 Aug 00 | Black Hill | 6 | Glenrock | S. Hely |
| 12 Nov 00 | Mt Alford | 23 | Alford Forest | B. Smith |
| 11 Mar 01 | Scotts Saddle | 16 | Mt Hutt Forest | B. Smith |
| 2 Sept 01 | Godley Peak | 8 | Double Hill | M. Meredith |
| 6 Oct 01 | Scotts Saddle / Pudding Hill Stm | 11 | Mt Hutt Forest | I. Rowe |
| 3-4 Aug 02 | Ribbonwood Hut | 6 | Lake Heron / Glenfalloch | C. Leaver |

Notes:

- The following were scheduled to run in this area but were cancelled / diverted for the given reasons:

| | | |
|------------|----------------------------------|---------------------------------|
| 4 May 97 | Redcliffe Stream | - Permission denied - mustering |
| 10 Aug 97 | Mt Winterslow | - Adverse weather |
| 15 Mar 98 | Scotts Saddle / Pudding Hill Stm | - Adverse weather |
| 17 Apr 99 | Lagoon Hut / Old Man Range | - Permission denied |
| 17 July 99 | Redcliffe Saddle | - Adverse weather |
| 23 June 02 | Godley Peak | - Adverse weather |

- Upcoming tramp to Mt Winterslow scheduled for 18 Aug 2002.
- Club did maintenance on the track between Scotts Saddle & Pudding Hill Stm on 10 Nov 01.
- List does not include tramps to Mt Somers, Mt Somers Walkway, Cameron River, Ashburton River (South), Boulder Col or Thompsons Hut (both Glenfalloch & Upper Lake Heron)

**LIST OF TRIPS BY AVON TRAMPING CLUB IN THE ASHBURTON HIGH COUNTRY
DURING PAST 10 YEARS**

| DESTINATION | Number of trips in past 10 years | Year of last trip |
|-------------------------------------|---|------------------------------|
| Mt Hutt | 3 | 2001 |
| Awa Awa Reserve to Scotts Saddle | 8 | 2002 |
| Steepface Hill | 1 | 1995 |
| Old Man Peak | 1 | 1998 |
| Mt Taylor | 1 | 1995 |
| Godley Peak | 1 | 2001 |
| Moorhouse Peak | 1 | 1995 |
| Black Hill | 1 | 1998 |
| Shingle Peak | 1 | 1996 |
| Pudding Hill | 4 | 2000 |
| Mt Alford Hut | 4 | 2001 |
| Mt Barossa | 2 | 2001 |
| Mt Harper | 2 | 1995 |
| Mt Sinclair | 1 | 1997 |
| Rawtor | 1 | 1997 |
| Smite Peak | 1 | 2001 |
| Lagoon | 1 | 2001 |
| Mt Catherine | 1 | 2000 |

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Public Access New Zealand

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8 July 2003

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Submission on Glenariffe Tenure Review Preliminary Proposal

Public Access New Zealand wishes to comment on the following aspects of the Preliminary Proposal.

Due to the failure to secure public access to and enjoyment of this reviewable land, and the failure to ensure marginal strips are created, Public Access New Zealand opposes implementation of this tenure review.

Failure to secure public access

The proposed access to the proposed main conservation area depends on utilisation of a "road reserve running beside Glenrock Stream". However there is no assurance that this provides practical access as the alignment is uncertain. A shelterbelt immediately upstream of Double Hill Road may obstruct access. This matter should be dealt with as an integral part of tenure review, as DOC earlier recommended by including adjoining freehold as "other land" for the purposes of tenure review.

Without certain, practical public access to the boundary of the proposed conservation area, the proposal completely fails the objects of Part 2 of the CPLA including a duty under section 24(c)(i), to "secure public access to and enjoyment of reviewable land".

We note that the proposed easement along Glenrock Stream provides the public only with rights of foot and non-powered vehicles (i.e. cycle) access. Access for DOC extends to horses. We see no necessity for exclusion of horse access for members of the public. We submit that this form of access be provided.

Public Access New Zealand is a charitable trust formed in 1992. Objects are the preservation and improvement of public access to public lands, waters, and the countryside, through retention in public ownership of resources of value for recreation. PANZ is supported by a diverse range of land, freshwater, marine, and conservation groups and individuals.

We are concerned that the proposed easement partly utilises the alignment of a legal road. In law public roads are incapable of having easements registered over them. An intention to do so, if implemented, would amount to an unlawful stopping of the road and must not proceed. Any easement must be confined to those parts of the alignment that are not legal road.

'Securing' access as required by section 24(c)(i) CPLA entails more than a passive duty or one that permits inadequate access provision. There is an active duty to secure access. Whilst no definition of 'securing' is contained in section 2 CPLA it is normal judicial practice, in the absence of applicable statutory definition, to look at ordinary dictionary interpretations for meaning. The *Concise Oxford, Seventh Edition*, defines 'secure' as "safe against attack, impregnable, reliable, certain not to fail or give way, having sure prospect...from interruption".

We submit that in most respects, the proposed 'protective mechanism' along Glenrock Stream in the form of an easement pursuant to section 80 CPLA and section 7(2) Conservation Act fails to be "safe against attack, impregnable, reliable, certain not to fail or give way, having sure prospect...from interruption". We refer to the express terms of the draft easement document-

Clause 4. Exclusion of schedules.

Whilst the Ninth Schedule of the Property Law Act 1952 is expressly excluded from the terms of the easement, section 126G of that Act is not. Section 126G allows modification or extinguishment of easements through the courts, at the initiative of either party to their creation or one alone. There is no ability for public notification or objection. This omission constitutes a fundamental failure to "secure" public rights of passage, as required by the CPLA.

Clause 6. Temporary suspension.

"The Transferee may, at any time in exercise of her/his powers, temporarily close all or part of the Easement Area for such period as she/he considers necessary".

'Easement areas' are not conservation areas or reserves, but freehold. It appears to us that the Crown, and DOC on particular, have no statutory powers of closure over freehold. The absence of any legal authorities for closure is of great concern. If there are lawful powers of closure applicable they must be cited. Without such there can be no accountability for DOC's future actions, and therefore no certainty of secure public access.

If genuine reasons for closure of conservation areas to public recreation exist, these should be directly exercised over the lands concerned, and not on access ways leading to such. Police and rural fire authorities have more than sufficient power of closure now without DOC attempting to extend its jurisdiction beyond land it administers.

Clauses 7.1 - 7.4. Dispute resolution.

Despite the 'Transferee' being defined to include "any member of the public" (clause 1.5), there is no provision for public involvement in resolving any disputes between the Transferee (meaning DOC) and the freehold landowner. This means that "any member of the public" is totally dependent on DOC to uphold the public interest. There has to be provision for DOC to be publicly accountable for its handling of disputes if there is to be any confidence that access will not become insecure as a result of secret negotiations. We submit that, if an easement mechanism is used for public access provision, clauses 7.1 to 7.4 be amended to require public notification and submission on disputes when not resolved within 5 working days of DOC being notified by any member of the public of obstructed access.

A factor not widely known is that under the Crimes Act (section 58) the public is liable to eviction notwithstanding rights under any easement. The reality is that these are private lands notwithstanding any public privileges granted. The Crimes Act negates any security of use for the public via an easement.

The scheme of the CPLA is that protective mechanisms, including easements, are only applicable over natural resources. This 'easement area' is not a natural resource.

Section 24(b) CPLA enables protective mechanisms, such as access easements, only over lands with significant inherent values--

24(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

Inherent values are confined to natural resources or historic places--

"Inherent value", in relation to any land, means a value arising from---

- a. A cultural, ecological, historical, recreational, or scientific attribute or characteristic of a natural resource in, on, forming part of, or existing by virtue of the conformation of, the land; or
- b. A cultural, historical, recreational, or scientific attribute or characteristic of a historic place on or forming part of the land:

(Section 2 CPLA)

"Natural resources" means---

- (a) Plants and animals of all kinds; and
- (b) The air, water, and soil in or on which any plant or animal lives or may live; and
- (c) Landscapes and landform; and
- (d) Geological features; and
- (e) Ecosystems;---

and "natural resource" has a corresponding meaning:

(Section 2 CPLA)

Therefore 'natural resource' cannot be extended to mean recreational attributes or desires such as public access, in the absence of natural resources. The land either side and on the proposed easement area is proposed for freeholding, because there are insufficient inherent values to either warrant Crown retention or some form of protective mechanism. The proposed easement area has even less natural characteristics than the surrounding land, as it has been modified by the formation of a vehicle track. As well there is no suggestion in accompanying official documents for this proposal that any historic values exist within the proposed easement area. It therefore cannot qualify as a 'natural resource' or 'historic place' "of significant inherent value" meaning "inherent value of such importance, nature, quality, or rarity that the land deserves the protection of management under the Reserves Act 1977 or the Conservation Act 1987" (Section 2 CPLA).

Besides, the land itself is not obtaining "the protection of management" under the Conservation Act, as it to become freehold and capable of modification by the owner so long as access is maintained over it. Therefore there is no protection of the land *per se* from the existence of an easement despite this being the dominant tenement over the land.

We therefore submit that the granting of this 'protective mechanism' for the purpose of public access is *ultra vires* the powers contained in the CPLA, and must not be implemented.

Retention of Crown ownership and designation as a 'public highway' required.

The only form of secure public access in New Zealand is public road. At common law, every member of the public has a right to assert unhindered passage at all times. Such rights are vested in the public and not the roading authority. Over many centuries, such rights have proven to be very robust, notwithstanding inadequate and at times unlawful administration by roading authorities. The existence of direct public remedies against anyone whom obstructs passage is the key ingredient for securing access. The remedies available are removal of obstructions, suing the obstructing party, or both. No such remedies exist for obstructed public easements. Experience from earlier tenure reviews has demonstrated that no reliance can be placed on DOC to uphold the public interest when access easements are obstructed.

There are statutory abilities to temporarily close or to permanently stop roads, however the grounds for such are very constrained. There are public processes and a large body of case law to ensure that the exercise of such powers is not unwarranted or unreasonable. The same cannot be said of the terms of the proposed easement.

While it appears that DOC does not want the public having unfettered access to the boundaries of land it administers, much like some private landowners, it is not DOC's wishes that must prevail in this case. It is the objects of the CPLA that must be observed. In regard to provision of public access the objects are clear - "secure access to and enjoyment of reviewable land". The 'reviewable land' is not DOC's in the first place. DOC needs to accept any 'encumbrances' on its future discretion to act, just like any private owner whom accepts freehold title subject to the constraints of protective mechanisms.

PANZ submits that secure public access must be provided to the proposed conservation area from Double Hill Road and along alignment a-b through designation of a strip of land pursuant to section 35(2)(a)(iii) for the specified Crown purpose of "public highway", where this is not already a public road. The Commissioner of Crown Lands should dedicate this road as a public highway for foot, cycle and horse passage, with *animus dedicandi* being fulfilled by public acceptance and use.

The mechanism in the CPLA to enable what we propose is section 35(2)(a)(iii). Designation of land held under reviewable instrument, freehold land, and unused Crown land---

(2) A preliminary proposal may designate all or any part of any land to which this section applies as---

(a) Land to be restored to or retained in full Crown ownership and control---

(i) As conservation areas; or

(ii) As a reserve, to be held for a purpose specified in the proposal; or

(iii) For some specified Crown purpose.

The specified Crown purpose should be "public bridle path". Under the Law of Highways (the total body of common and statutory law), horse passage would also grant foot and cycle use. Use would not extend to motor vehicles.

If and when a substantive proposal is put to the holder, authority for this designation would continue via section 46(1)-

46. Substantive proposals may be put to holders— (1) If a preliminary proposal has been put to the holder of 1 or more reviewable instruments and notified under section 43, the Commissioner may in writing put to the holder a substantive proposal that is the same as or a modified version of the preliminary proposal.

In conclusion, while there are several options open in regard to the administration of any Crown purpose road, the CPLA provides the ability to retain in full Crown ownership and control assets which further the objects of the Act. Those assets can include roads. In this case we submit that there is an obligation for the Crown to retain ownership of strips of land of sufficient width to permit practical access, as public road/bridle path additional to roads already in existence. This is the only proven means of fulfilling the CPLA's object of "securing public access and enjoyment of reviewable land".

References:

Mason Bruce. 1991. Public Roads: A Guide to Rights of Access to the Countryside. Public Lands Coalition.

Mason Bruce. 1994/2002. Public Roads. A Users' Guide. Public Access New Zealand. Mason Bruce. 2002. Proof of dedication as public road: A brief guide. Public Access New Zealand.

[Available from www.publicaccessnewzealand.org]

Adequacy of proposed conservation areas

PANZ has not inspected the boundaries of the proposed conservation area CA1 and is unable to comment on the appropriateness of these.

However the CMS recommended that the full length of the ravine in Powerhouse Stream be retained in Crown ownership but this is not provided for by the Preliminary Proposal. We also note that the CMS recorded NGO wishes that foot access be available to Donald Hill from Double Hill Road. This is not provided by the Preliminary Proposal, leaving a gap of several hundred metres between the road and the proposed conservation area CA3 lower boundary.

The only alternative access to Donald Hill will be along Glenrock Stream, which will require over 3.5km of travel to reach the conservation area boundary before climbing the hill. For those wishing to climb Donald Hill this is an unnecessary diversion. Additional access should be provided along Powerhouse Stream. This would allow direct access to Donald Hill and round trips via Glenrock Stream. This would provide a valuable opportunity for day walks.

We submit that the boundaries of CA3 are extended to Double Hill Road, to provide practical foot access from the road along either shoulders of the stream and above the Powerhouse Stream ravine on both banks to provide practical access. We do not favour the creation of an easement as such would be an insecure mechanism not in accordance with "securing public access and enjoyment of the revisable land", as required by section 24(c)(i) of the Crown Pastoral Land Act.

Double Hill Road alignment

We note from official documents supplied to us that parts of Double Hill are not on the 'legal' alignment. Also it is recorded that the Salmon hatchery "straddles" the legal road. This is unsatisfactory. We believe that the CCL has an obligation to instigate actions with the district council to ensure that the formed and currently utilised road become legal road if not already.

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Marginal strips not laid off

We are most disappointed that in the past the Crown has failed to lay off marginal strips from this property, and fails to state where such strips will be created either on expiry of the lease on 1 July 2003 or as a result of disposition of land from tenure review. Fish and Game identified both Double Hill and Glenariffe Streams as nationally important salmon fisheries, with a pressing need to exclude cattle and provide secure public access. No weight has been given to these concerns by the Preliminary Proposal.

Failure to identify where marginal strips will be created, if at all as a consequence of tenure review, is an abject failure to either enable the protection of significant inherent values or provide secure public access, both of which are required by the objects of the CPLA. It is a disgrace that DOC did not take up this issue because it erroneously argued that provision of marginal strips is a Fish and Game responsibility rather than DOC's, "because of the department's emphasis on natural ecosystems"

(DOC Designations Report). Such an argument defies the department's legal responsibilities under both the Conservation Act. It raises the possibility that, if left to their own devices, DOC will not ensure the provision of marginal strips on freeholding of the property.

The extent of qualifying streams for marginal strips should be identified in the Preliminary Proposal so that deficiencies can be identified and alternative provisions for protection and access can be considered.

In conclusion we submit that the Preliminary Proposal not proceed in its present form. We request consultation on any revised proposals, prior to any Substantive Proposal being put to the holder. Section 26 CPLA provides discretion for the CCL to consult any person or body at any time

Yours faithfully



Bruce Mason
Researcher & Co-Spokesman

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**COMBINED
4WD CLUBS
P O BOX 5457
CHRISTCHURCH**

7th July 2003

Commissioner of Crown Lands
C/- Quotable Value New Zealand Ltd
P O Box 13-443
CHRISTCHURCH

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RE:- SUBMISSION ON TENURE REVIEW GLENARIFFE STATION

Dear sir

Our organization Combined 4WD Clubs Inc, represent some 650 families who in turn are members of 8 individual recreational 4WD Clubs based in Canterbury, wish to make a submission regarding the tenure review of Glenariffe Station.

Proposal

We support in principle the proposal for the sale of the 1593 ha section of Run 337 to the lessee.

We support the establishment of the balance of the land to be restored to full Crown ownership as outlined in the proposal. The remaining area, does have natural values, does have strong scenic attributes, and incorporates land to the headwaters of the Ashburton River. Whilst we support the retaining of the land for its natural values in the areas marked CA2 and CA3, it is especially the area marked CA1 that adds value to us as recreational users, and hence our support for the proposal.

Appurtenant Easement.

The document calls for an appurtenant easement over what is a legal road. (marked "a-b" on the map) The logic here is not consistent with the definitions of a legal road. We are unclear as to why the document calls for an appurtenant easement. We believe this easement needs further consideration.

Whilst there may be an argument that the road has not been fully surveyed and the position of the legal road therefore not determined on the ground, the fact still remains that there is a legal road in place and the current 4WD track does more or less follow that legal road, and is a defined track, and would therefore be determined as the legal road. Its status overrides its alignment in our view. Environment courts have recently upheld that legal roads do have status in their own right, and that its use even if solely for recreational purposes remain as free and legal access for public use.

Additionally we do not agree with the restrictive nature of the easement, in that it restricts the public to the use of foot, horse or non motorised vehicle. Furthermore should it be the intent of the appurtenant easement to in fact restrict public access, then we strongly oppose its existence in the review.

Combined 4WD Clubs Submission Page 2

Our recommendation is for the appurtenant easement provision to be removed.

Easement Concession

The easement concession (marked "c-d" and "g-h" on the map) we support as access for farm management purposes.

Discussion of the proposed designation in relation to the Objects of CPL Act

We agree with the points raised here in the document, and in particular we agree that this property will encourage a reasonable level of public use for recreation. Fishers in particular (who we do not represent as an organisation, only by association as many of our members are keen fishers) will appreciate the ability to access the headwaters of the Ashburton River. Additionally we see that 4WD Clubs will want to visit the area from time to time on club organised day trips where members can enjoy the scenic attributes that the property makes available as well as being able to walk, picnic, fish, mountain bike and recreate generally in the area. Formal facilities such as car parking, toilets and the like will not be an issue, as in the main recreational use will be from people with a more dedicated out of doors style activity, who are in the main well prepared for back country recreational activities and are more self contained.

We support also the ongoing public access by way of the public road over Turtons Saddle following the road reserve.

Yours faithfully



Paul A Dolheguy
Access Officer

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Royal Forest and Bird Protection Society
PO Box 2516
Christchurch Mail Centre
Ph 03 3666 317
Fax 03 3660 655



**FOREST
& BIRD**

ROYAL FOREST AND
BIRD PROTECTION
SOCIETY OF
NEW ZEALAND INC

7 July 2003

Barry Dench
Team Leader Tenure Review
Quotable Value
PO Box 13 443
Christchurch

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SUBMISSION ON PRELIMINARY TENURE REVIEW PROPOSAL FOR GLENARIFFE, RAKAIA VALLEY

1. INTRODUCTION

The Royal Forest and Bird Protection Society (Forest and Bird) is New Zealand's oldest and most active voluntary conservation organisations. Formed in 1923 the Society has around 38,000 members in 56 branches around New Zealand. This submission is on behalf of the Central Office. The Society'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, tussocklands, wetlands, coastline, marine areas, offshore islands and the plants and wildlife found in those areas."

2. PRELIMINARY PROPOSAL

Forest and Bird understands the preliminary proposal for Glenariffe to be:

- a) Approx. 3173 ha to be restored to or retained in full Crown ownership and control on the upper Rakaia Faces, Donald Hill and all of the North Branch of the Ashburton River catchment within the pastoral lease; and part of Glenrock Swamp.
- b) Approx. 33 ha in the lower part of Powerhouse Stream and a narrow strip of the Rakaia Faces above the Powerhouse Stream gully to be restored to Crown control with a farm management easement concession.
- c) Approx. 1593 ha to be disposed of by freehold disposal to Glenariffe Station Ltd with a public access easement along Glenrock Stream to give access to Turton's Saddle.

3. SUMMARY OF SUBMISSION CONCERNS

1. The proposed freeholding of areas of high significant inherent value (ecological and landscape) on the Rakaia Faces including part of Mt Hutt Ecological District, RAP 12 - Powerhouse Stream and the failure to protect these areas as conservation land.

2. The proposed freeholding of part of an area of significant inherent value within Mathias Ecological District RAP 2 -Glenrock Swamp, and failure to protect all of this wetland area as conservation land.
3. The failure to protect an area of significant inherent value, namely indigenous forest in Gerard Stream, part of Mt Hutt RAP 14- Rakaia Faces Forest Remnants by restoration to full Crown ownership and management as conservation land.
4. The failure to identify marginal strips and ensure that these are laid off beside Double Hill, Powerhouse Stream, Gerard Stream and other waterways. Forest and Bird and other NGOs have repeatedly raised their concerns about marginal strips not being identified on maps accompanying the preliminary proposal to ensure that these were laid off. Forest and Bird understood that this would occur in future but it has not.
5. The proposed freeholding of approx. 463 ha of indigenous vegetation which has not been heavily modified by pastoral farming. The Scoping Report¹ in its description of Vegetation Patterns (p3) identifies 1130 ha of oversown country yet freeholding of 1593 ha is proposed. Indigenous shrublands, tussock grasslands and associated vegetation have significant inherent value, which deserve recognition and protection.
6. The use of an easement rather than legal road dedicated for use by walkers and mountain bikes on route "a-b" along Glenrock Stream which provides access to Turton's Saddle. Forest and Bird endorses the concerns raised in FMC's submission on the preliminary proposal about the lack of certainty about easements and a preference for dedicated legal roads.
7. The perpetual term of the farm management easement concessions.

4. DETAILED COMMENTS

1. Rakaia Faces and RAP 12 - Powerhouse Stream

Ecological values

The Preliminary Proposal does not implement section 24(a)(i) or s24(b) in the proposal to freehold part of the lower Rakaia Faces which were recommended for protection as part of the Mt Hutt RAP 12 Powerhouse Stream (280ha). It ignores the high ecological and landscape values of the area.

The boundaries of the RAP extend from the Double Hill Run Road to the summit of Donald Hill. See Appendix 1 - Relevant RAP descriptions - attached. As the PNA survey report notes² one of the four reasons for selecting the site as an RAP is: *"the fescue - tussock - silver tussockland on the faces between Powerhouse Stream and Donald Stream are the most dense and unmodified representatives on the glacially smoothed, steep faces of Rakaia Faces land system. It is important to protect*

¹ Information released under the Official Information Act - File Ref CON/50231/09/12780/A-ZNO-01, 18 September 2000

² Arand, J and Glenn D (1990) "Mathias and Mt Hutt Ecological Districts - Protected Natural Areas Programme, Survey Report 12" Department of Conservation at p 148.

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applicable) that are of high aesthetic value determined on how memorable they are, on their naturalness, on their composition (coherence) and on other important aesthetic factors." The study was only asked to determine whether landscapes were regionally outstanding. The nationally outstanding values of the Rakaia River are recognised in part by the gazettal of the water conservation order.

The Ashburton District Plan (Part III Natural Environment, Policy 3) identifies the upper Rakaia River valley as an "outstanding" landscape and the front ranges including the Black Hills Range as a "significant" landscape.

The Rakaia Faces are a dramatic and distinctive landform and landscape, very visible from the northern banks of the Rakaia River and the Lake Coleridge area. They vividly show the glacial history of the area. The Rakaia Faces are readily visible and accessible from the Double Hill Run road. Protecting accessible front country areas is just as important as protecting higher altitude back country (and often more important, given their under representation of lower altitude areas in the conservation estate).

The Conservation Resources Report for tenure review highlights the outstanding landscape values of the upper Rakaia and the Rakaia Faces. It notes (p2):

"The upper Rakaia valley landscape is a well-known, dramatic and readily accessible high country landscape considered to be of nationally outstanding landscape value. Vivid glacial landforms provide a spectacular backdrop to the braided Rakaia riverbed. The mountain ranges along the river's southern edge have been described as regionally significant."

.....

"The northern faces of the Palmer Range, Black Hill Range and those below Donald Hill, stretching for 16 km along the south side, of the Rakaia valley, are considered collectively to be the most significant natural feature of the south side of the upper Rakaia valley because of their highly distinctive (and highly visible) natural form and their size. Approximately 6 km of these are within the Glenaan-Glenariffe pastoral lease."

.....

"The low grassland cover and the relative lack of visible cultural modification contribute to the vividness of the landforms and the subtle topography of their surfaces, and to their high overall intactness and natural appearance. The large scale and simplicity of the landscape is also emphasised."

The Department's map of Values (Appendix 2 attached) identifies all of the Rakaia Faces as having landscape values. In Powerhouse Stream and Gerard Stream these overlap with areas of ecological value.

Section 3(b) of the Reserves Act provides for the Department of Conservation to ensure as possible ... *"the preservation of representative samples of all classes of natural ecosystems and landscape which in the aggregate originally gave New Zealand its own recognisable character."*

None of the lower Rakaia Faces are to be protected as conservation land. Alienating all of the lower faces on Glenariffe by freeholding fails to protect significant inherent values as required by the CPLA or implement the Reserves Act requirements.

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The definition of inherent values in section 2 of the CPLA clearly includes landscape values by its reference to "culturalor scientific attribute or characteristic of a natural resource."

The apparent simplicity of the landforms and their visibility makes them very vulnerable to landscape degradation from land uses such as forestry, shelter-belts, oversowing and topdressing and change in vegetation cover, and from structures and tracking. While the current lessees have (apart from modifying indigenous vegetation through OSTD) maintained these landscape values, future owners once the land is freeholded, may adopt less sympathetic or appropriate land uses.

Land use intensification (cultivation, planting of vineyards, subdivision, buildings) has often followed freeholding through tenure review. The proposal fails to recognise the risk to landscape and ecological values, and the need to protect at least part of this regionally and nationally outstanding landscape as conservation land.

The Resource Management Act will not necessarily safeguard ecological and landscape values. The Ashburton District Council has not notified one single resource consent application to clear indigenous vegetation in the high country or elsewhere since the plan became operative in the late 1990s. Forest and Bird has no knowledge of any applications for exotic forestry, tracking, or earthworks activities being notified either. The Council's administration of the Plan means there is considerable uncertainty about whether the ecological and landscape values of the Faces will be protected in future.

Forest and Bird questions why LINZ and their agents have failed to protect landscape values which have been so clearly identified. This is an abuse of what the legislation requires and the tenure review process is supposed to provide.

Nowhere does the Preliminary Proposal provide any justification as to why these well-established and recognised significant inherent values are not being protected, as the CPLA requires. The Scoping Report (File Ref CON/50231/09/12780/A-ZNO-01, 18 September 2000) notes the presence of indigenous vegetation including short tussock, grasses and matagouri on the faces and the RAP 12 Powerhouse Stream. It recognises the area's landscape values and states: "*The native area has significant landscape features on account of their high visibility, their large scale, clearly defined and spectacular glacial form in their role as a setting for the Rakaia River.*"

Protecting the eastern part of the Rakaia Faces on the property would recognise the ecological and landscape connections between the mountain ranges and the Rakaia River. It would implement section 24 of the CPLA. The current proposal results in landscape fragmentation by allowing a band of developed future freehold land between the river and the range. Land use intensification here in future risks a significant change to vegetation cover and degradation of landscape values.

Decision sought

Restore to full Crown ownership and protective management by the Department of Conservation all of the Rakaia Faces from:

- a) Preferably Glenrock Stream east to the Glenariffe pastoral lease boundary;
- b) Or as minimum from Powerhouse Stream east to the Glenariffe pastoral lease boundary

See area highlighted in green on Appendix 3 – Map of Changes sought.

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2. Glenrock Swamp

The boundaries of Glenrock Swamp (Mathias RAP 2-Glenrock Swamp) identified in the Mathias and Mt Hutt PNA report (pp39-41) are larger than the area proposed for protection in the preliminary proposal. The RAP was 33 ha in size.

The original DoC recommendations (Map 5 March 1999 and DoC Maps of Values) proposed protection of a corridor down Powerhouse Stream to Glenrock Swamp. This recognised ecological linkage and that the wetland is fed by Powerhouse Stream (and a small unnamed stream to the west). Protecting the inflows to the wetland helps sustain its hydrological functioning.

The preliminary proposal implements "postage stamp style conservation". It fails to recognise the wetland's landscape context.

Decision sought

Protect a corridor down Powerhouse Stream (eg 20 metres wide) and the faces to the east and ensure that this is contiguous with the land to be protected around Glenrock Swamp.

Extend the boundaries of the Glenrock Swamp area to those covered in the Mathias - Mt Hutt survey report or the DoC Values Map (Appendix 2 attached).

3. Farm and hydro management easement concessions

The granting of an easement concessions "c-d" and "g-h" in perpetuity for stock, person and vehicle access is opposed because it provides no capacity for the Department of Conservation to review this if monitoring shows adverse effects (eg from greater use of motor vehicles than is now proposed). Long term concession agreements (eg Hermitage lease) have created major problems for the department in controlling impacts on conservation land. A perpetual concession fails to recognise changed circumstances in future, including change in landowner who may have different aspirations and land uses. It is ridiculous to assume that the land will always be farmed or that land uses will not have changed in 200 years.

The concession terms (Schedule 1) fail to impose adequate constraints on machinery use or on uses not associated with farm management eg tourism.

Decision sought

Amend concession term to 30 years.

Delete concession "c-d" if lands east of Glenrock or Powerhouse Stream are protected.

4. Gerard Stream Shrublands

The preliminary proposal fails to protect part of Mt Hutt RAP 14 Rakaia Faces Forest Remnants in the Gerard Stream area by restoring this to full Crown ownership and protection or at the very least including a covenant over it to prevent any stock access, burning, spraying, planting of exotic forestry above or on the margins of the gully or other damage to vegetation.

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The Mathias- Mt Hutt PNA survey report notes that Gerard Stream and other forest remnants were selected because they contain notable plants such as *Olearia ilicifolia* and because:

"mixed species lower montane forest is not extensive or widespread throughout the district. Larger remnants exists in Double Hill and Glenariffe Streams (Mt Hutt RAP 3) but all deserve protection because they represent the vegetation that originally covered the planar slopes above Rakaia River" (my emphasis).⁵

The PNA report notes that where stock gain access to the gorges they damage the understorey. The failure to protect such as priority area for conservation and protect highly significant inherent values does not implement the CPLA.

The Gerard Stream remnant is identified in the Department of Conservation's map of values (attached as Appendix 2) as having both ecological and landscape values because the area is part of the Rakaia Faces.

Decision sought

Protect the Gerard Stream gorge and forest remnant as conservation land (preferably) or at the least with a covenant which disallows burning, spraying, any damage to indigenous vegetation and which includes fencing to deny stock access.

Forest and Bird requests a copy of the submission analysis as soon as this is available (or advice that it is available on the web site).

E. M. Sage

Eugenie Sage
Regional field officer

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Appendices

1. Relevant extracts from Mathias and Mt Hutt Ecological Districts PNA Survey Report (1990)
2. Map of Values – Department of Conservation.
3. Map of Changes which Forest and Bird seeks.

⁵ Arand, J and Glenn D (1990) at p 154-156

Appendix 1

Relevant Extracts from
**MATHIAS AND MT HUTT
ECOLOGICAL DISTRICTS**

**Protected Natural Areas Programme
Survey Report 12**

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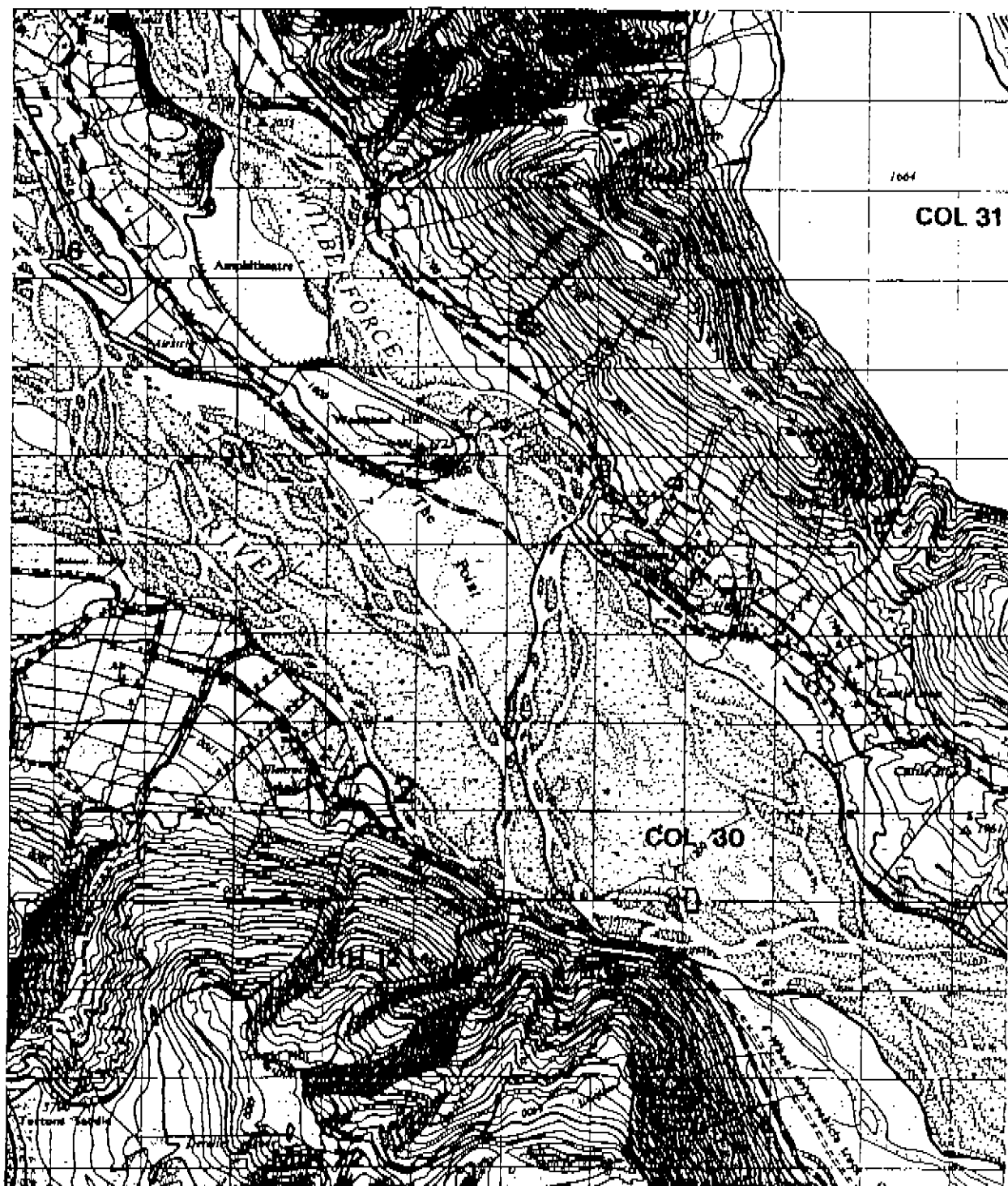
J. Arand and D. Glenny




**CONSERVATION
TE PAPA ATAWHAI**



Mathias Ecological District RAP 2 - Glenrock Swamp



| | |
|-------------------|--|
| Scale | :  |
| GR centre | : NZMS 1 S73 916812 |
| Area | : 15 ha |
| Altitude range | : 427 m |
| Tenure | : freehold (Glenrock), pastoral lease (Glenariffe (Glennaan)) |
| Sample sites | : QE101-03 |
| Aerial photograph | : SN8584 I/3 |

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Mathias RAP 2 - Glenrock Swamp

Land system: Rakaia

Ecological units:

| Vegetation group (no.) | name | Landform | (% ecological unit cover in RAP) | PLOTS |
|------------------------|---------------------------|-------------------------|----------------------------------|-------|
| (12) | <i>Schoenus</i> sedgeland | on floodplain backswamp | (5-25 %) | QE101 |
| (13) | raupō reedland | on floodplain backswamp | (>75 %) | QE102 |
| (13) | <i>Carex</i> sedgeland | on floodplain backswamp | (5-25 %) | QE103 |

Landform

Geology : Recent alluvium

Soils : Tasman recent and Dobson gley recent

The wetland is on a low, Rakaia River floodplain terrace tread at the toe of the fan at the mouth of the unnamed stream known locally as Powerhouse Stream. Small streams flow in braided channels parallel to the Rakaia River along the northern boundary of the RAP.

The area is fed by Powerhouse Stream and a small unnamed stream to the west. It is sometimes flooded by the Rakaia River.

Vegetation

Number of vascular plant species recorded: 33 (14 adventive)

Raupō is much more abundant than harakeke in the flax reedland. Other less abundant species include matagouri, *Carex geminata*, *Coprosma propinqua* and pūkio, as well as the adventives *Arrhenatherum elatius*, red clover and Yorkshire fog. At drier sites this community grades to a *Carex geminata* sedgeland, with minor amounts of *Arrhenatherum elatius*.

Adventive species are abundant in the other ecological units recorded. Common species include red clover, *Juncus effusus*, *J. articulatus*, *Festuca rubra*, gorse and Yorkshire fog.

Selection criteria:

(i) as a result of drainage, oversowing, cattle pugging and grazing, floodplain wetlands of moderate to high natural value are uncommon in the district; others on south bank Rakaia River include the wetland near Double Hill (RAP 1) and Coleridge Ecological District RAP 2 - Blackford Swamp (Shanks *et al.* 1990).

(ii) raupō reedland was only recorded at two other sites elsewhere in the district, but is only also recommended for protection at RAP 6 - Martello Swamp.

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(iii) notable plants:

Carex coriacea, *C. geminata*, *Microtis unifolia* and *Lemna* "minor NZ" were not recorded elsewhere in the district; raupō, harakeke, pūkio, *Ranunculus glabrifolius* and *R. rivularis* rarely were recorded elsewhere.

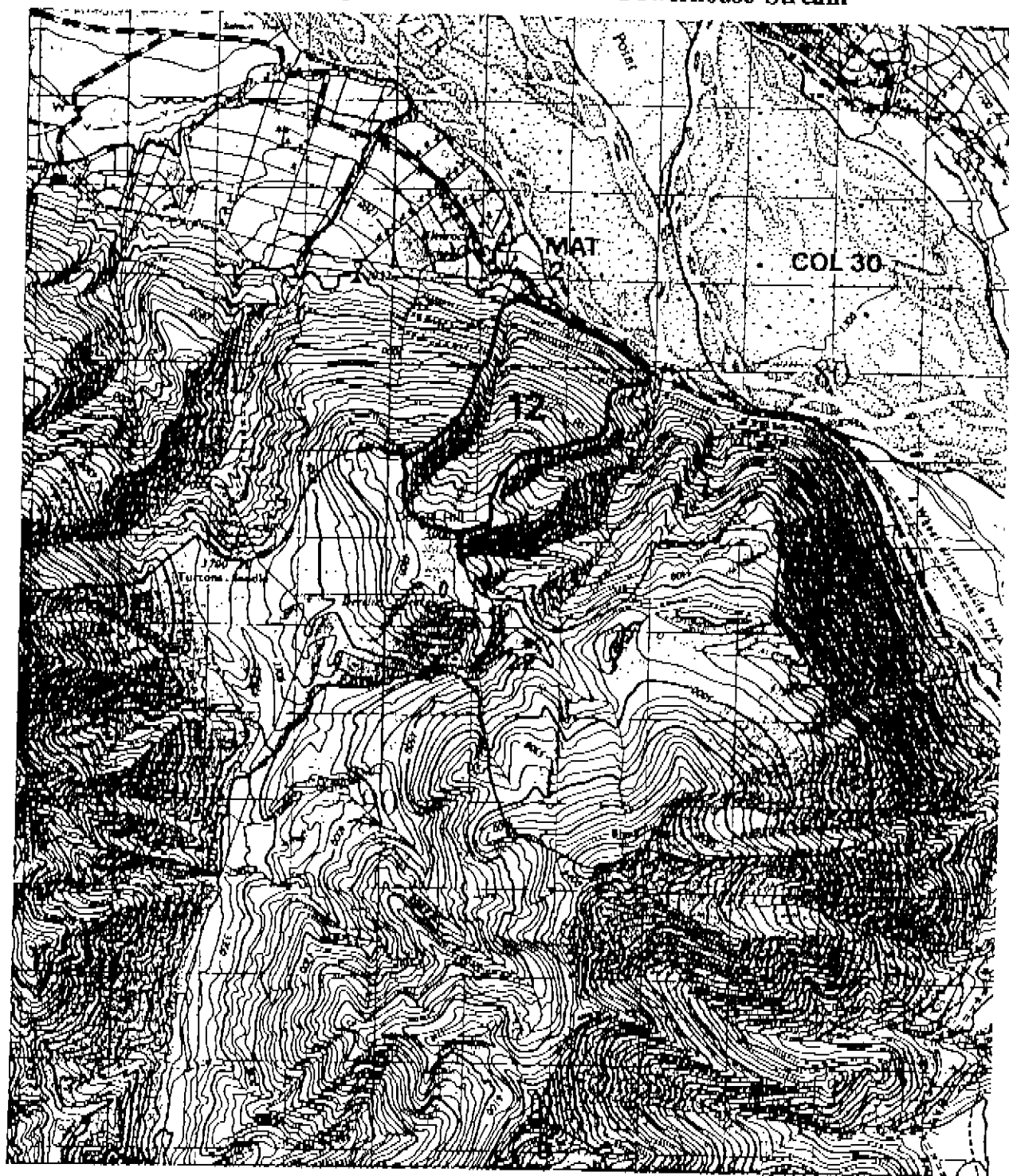
Notes


The area contains the troublesome adventives brier, gorse, willow and radiata pine. It is unfenced and parts have been pugged by cattle.

The area has been looked at by the QEII Trust as a possible covenant area.

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Mt Hutt Ecological District RAP 12 - Powerhouse Stream



| | |
|-------------------|--|
| Scale | :  2 km |
| GR centre | : NZMS 1 S73 915795 |
| Area | : 280 ha |
| Altitude range | : 488-1524 m |
| Tenure | : pastoral lease (Glenariffe (Glenaan)) |
| Sample sites | : POW01 |
| Aerial photograph | : SN8584 J/5 |

Mt Hutt RAP 12 - Powerhouse Stream

Land systems: Hutt and Rakaia Faces

Ecological units:

| Vegetation group (no.) | name | Landform | (% of RAP covered by ecological unit) | PLOTS |
|------------------------|-------------------------------|-----------------------------|---------------------------------------|-------|
| (8) | fescue tussock grasslands | on colluvial mountain slope | (25-50 %) | |
| (9) | induced slim snow tussockland | on colluvial mountain slope | (25-50 %) | |
| (15) | mixed species hardwood forest | on bedrock mountain slope | (< 5 %) | POW01 |

Landform

Geology : greywacke and argillite

Soils : lowland yellow-brown earths of the Hurunui set (below approximately 900 m) grading up to Tekoa (900-1400 m) and Kaikōura (above 1400 m) high country yellow-brown earths on the mountain slopes, and Pukoteraki set variants on the rolling ridge crests (near Donald Hill)

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Powerhouse Stream (a local name) drains a small, very steep catchment below Donald Hill at the northern end of Black Hill Range. The lower part of the catchment is extremely steep and narrow, with bluffy sidewalls and high (50 m) waterfalls along the stream bed. The catchment widens in its mid-sections where there is a large area of eroding scree and bedrock (probably a fault shear zone). Upper parts of the catchment are less steep and well vegetated, with rounded, till- and outwash-mantled ridgetops (probably deposited during Tui Creek Glacial Advance).

The RAP also includes planar mountain slopes adjacent to the true right side of Powerhouse Stream. These slopes were glacially-scoured by successive advances of the Rakaia glacier and are, in places, mantled by small, lateral moraine ridges (probably deposited during the Bayfield and Acheron Glacial Advances).

Vegetation

Number of vascular plant species recorded: 29 (4 adventive)

At the entrance of the stream there is scrub of kōwhai (4 m tall) emergent over matagouri and sweet brier, with *Muehlenbeckia australis*, *Calystegia tuguriorum* and tātarāmoa climbing through it. *Crassula sinclairii* and *Verbascum thapsus* are present on the stony ground under the scrub. This scrub extends up the stream to a waterfall cascading over a rock face. Trees and shrubs are rooted in the rock either side of the waterfall, most notably southern rātā, but also kōwhai, pāpāuma, *Olearia paniculata*, tī kōuka, *Hebe traversii* and kōhūhū.

Haloragis erecta, *Gnaphalium trinerve*, *Epilobium brunnescens* and *Adiantum cunninghamii* occur within the spray zone of the waterfall.

Above the waterfall there is a scrubby forest remnant of pāpāuma, houhere, *Olearia avicenniifolia*, tī kōuka and kōwhai bordered by bracken fernland. There is no mountain beech present in the valley.

Dense slim snow tussockland starts at about 1200 m and extends to the head of the stream catchment and on to Donald Hill.

The face between Donald Stream and Powerhouse Stream has a tussock grassland cover of silver tussock, fescue tussock, as well as sweet vernal and the green form of *Elymus rectisetus*.

Selection criteria:

(i) the small mixed hardwood forest remnant bordering the stream in the lower half of the catchment is a valuable remnant of the original forest vegetation. Similar ecological units are only represented elsewhere in RAP 14 - Rakaiā Faces Forest Remnants and RAP 18 - Shingly Creek.

(ii) the dense slim snow tussockland on north-facing slopes in the head of the catchment is uncommon in the district (most north facing slopes have been disturbed and have a short tussockland or grassland cover).

(iii) the fescue tussock - silver tussockland on the faces between Powerhouse Stream and Donald Stream are the most dense and unmodified representatives on the glacially smoothed, steep faces of Rakaiā Faces land system. It is important to protect these ecological units, even though the tussockland is several steps removed from the original forest vegetation.

(iv) notable plants:

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Pleurosorus rutifolius: found growing on dry soil under a rock overhang in the valley at GR: S73 914804, 750 m. This species is uncommon in Canterbury but known locally from Lake Benmore to Lowry Peaks Range (North Canterbury). Early records were made by Potts in the Ashburton Gorge area in 1868 and Cockayne in the lower Waimakariri Gorge (Given 1972). The liverwort *Targonia hypophylla*, a common associate of *Pleurosorus* on the Port Hills, was also present at the Powerhouse Stream site.

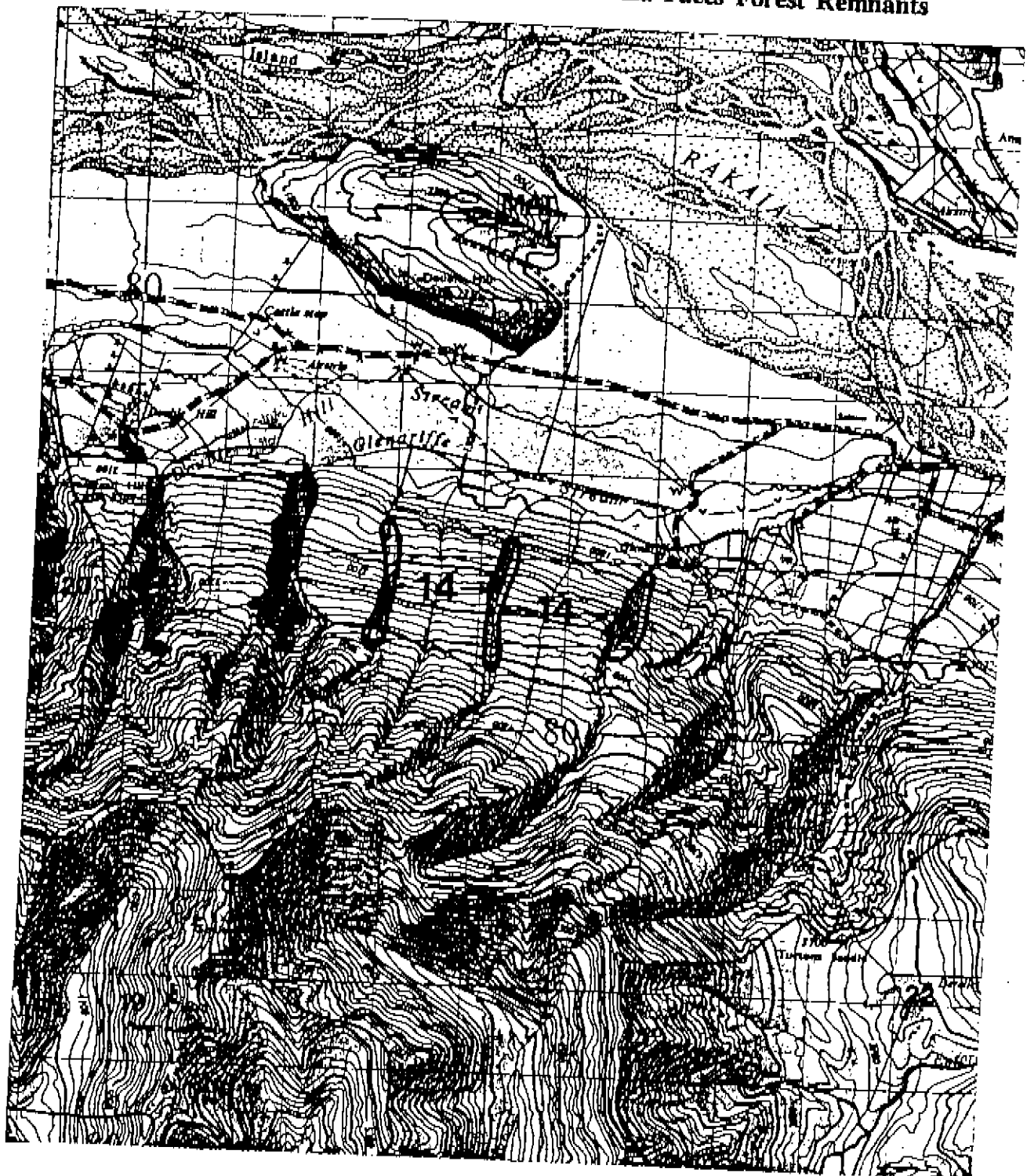
Calystegia tuguriorum, *Crassula sinclairii*, *Gnaphalium trinerve* and *Echinopogon ovatus* were not recorded elsewhere in Heron Ecological Region. *Adiantum cunninghamii* was not recorded elsewhere in Mt Hutt District.

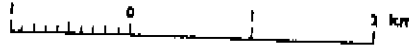
Epilobium brunnescens, *Haloragis erecta* and southern rātā rarely were recorded elsewhere in the district. Approximately 30 small southern rātā trees are on the rock walls either side of the waterfall in the valley. Rātā has a scattered distribution throughout higher rainfall parts of inland Canterbury. In Mt Hutt District it also occurs at RAP 10 - Mount Somers (in Sharplin Falls Scenic Reserve and in Woolshed Creek) and RAP 13 - Pudding Hill.

Notes

The lower part of Powerhouse Stream is tracked and grazed by sheep, but the scrub is protected by the bluffs.

Mt Hutt Ecological District RAP 14 - Rakala Faces Forest Remnants



| | |
|-------------------|--|
| Scale | :  km |
| GR centres | : NZMS 1 S73 829817, 842816, 858813 |
| Area | : 40 ha |
| Altitude range | : 549-1128 m |
| Tenure | : pastoral lease (Double Hill) |
| Sample sites | : COL01-03; GER01 |
| Aerial photograph | : SN8585 N/11 |

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Mt Hutt RAP 14 - Rakaiā Faces Forest Remnants

Land system: Hutt

Ecological units:

| Vegetation group (no.) | name | Landform | (% of RAP covered by ecological unit) | PLOTS |
|------------------------|---|----------|---------------------------------------|-----------------|
| (15) | mixed species hardwood forest on colluvial gorge slope (> 75 %) | | | COL01-03; GER01 |

Landform

Geology : steeply-dipping alternating greywacke and argillite
Soils : Tekoa set rankers and high country yellow-brown earths

The forest remnants are located in deep (50 m), extremely steep-sided gorges that dissect the planar, ice-scoured, north-facing slopes of the Palmer Range.

Sideslopes are predominantly well vegetated but there are frequent rock buttresses and long, narrow screes in each remnant.

Stream beds are narrow and very steep with high waterfalls and cascades over their length.

Vegetation

Number of vascular plant species recorded: 67 (3 adventive)

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Mixed species lower montane forest occupies most of the gullies. The canopy is dominated by pāpāuma, *Olearia paniculata*, Hall's tōtara, mountain beech, kōhūhū, orihou and horoeka. Other less common canopy species include tī kōuka, kānuka and putaputāwētā. Korokio, *Coprosma propinqua*, *C. robusta*, koromiko, *Aristotella fruticosa*, *Gaultheria antipoda*, *Helichrysum aggregatum*, kakaha, tutu (*Coriaria sarmentosa*) and bracken fern are the dominant species in the rich understorey. Kōwaowao often forms part of the ground cover.

On rock bluffs *Helichrysum intermedium*, *Olearia avicenniifolia* and tutu (*Coriaria sarmentosa*) are the most common species.

On its margins the forest grades to a scrub dominated by kānuka, matagouri, *Coprosma propinqua* and tī kōuka, and then to a pasture cover of predominantly silver tussock, fescue tussock, sweet vernal, browntop and Yorkshire fog.

Selection criteria:

(i) mixed species lower montane forest is not extensive or widespread throughout the district. Larger remnants exist in Double Hill and Glenariffe Streams (RAP 3) but all deserve protection because they represent the vegetation that originally covered the planar slopes above Rakaia River.

(ii) notable plants:

miro: three trees, about 8 m high, in an inaccessible site in Colonel Stream gorge. At 700 m altitude these trees are amongst the highest in New Zealand. Other miro trees occur across the river in the Mt Algidus Ecological Area, which is part of Mathias Ecological District RAP 7 - Mt Algidus.

Olearia ilicifolia: the only occurrence of this species in the district. It is common in higher rainfall districts to the west.

Cheilanthes sieberi and *Blechnum chambersii* were not recorded elsewhere in the district.

Coprosma crassifolia, *Asplenium trichomanes*, *Fuchsia perscandens*, *Haloragis erecta* and *Polystichum richardii* were rarely recorded elsewhere in the district.

(iii) there are few adventive plant species throughout the forest although some (e.g. Himalayan honeysuckle and elderberry) are locally abundant.

Notes

Korimako, piwakawaka and tititi were seen in the forests.

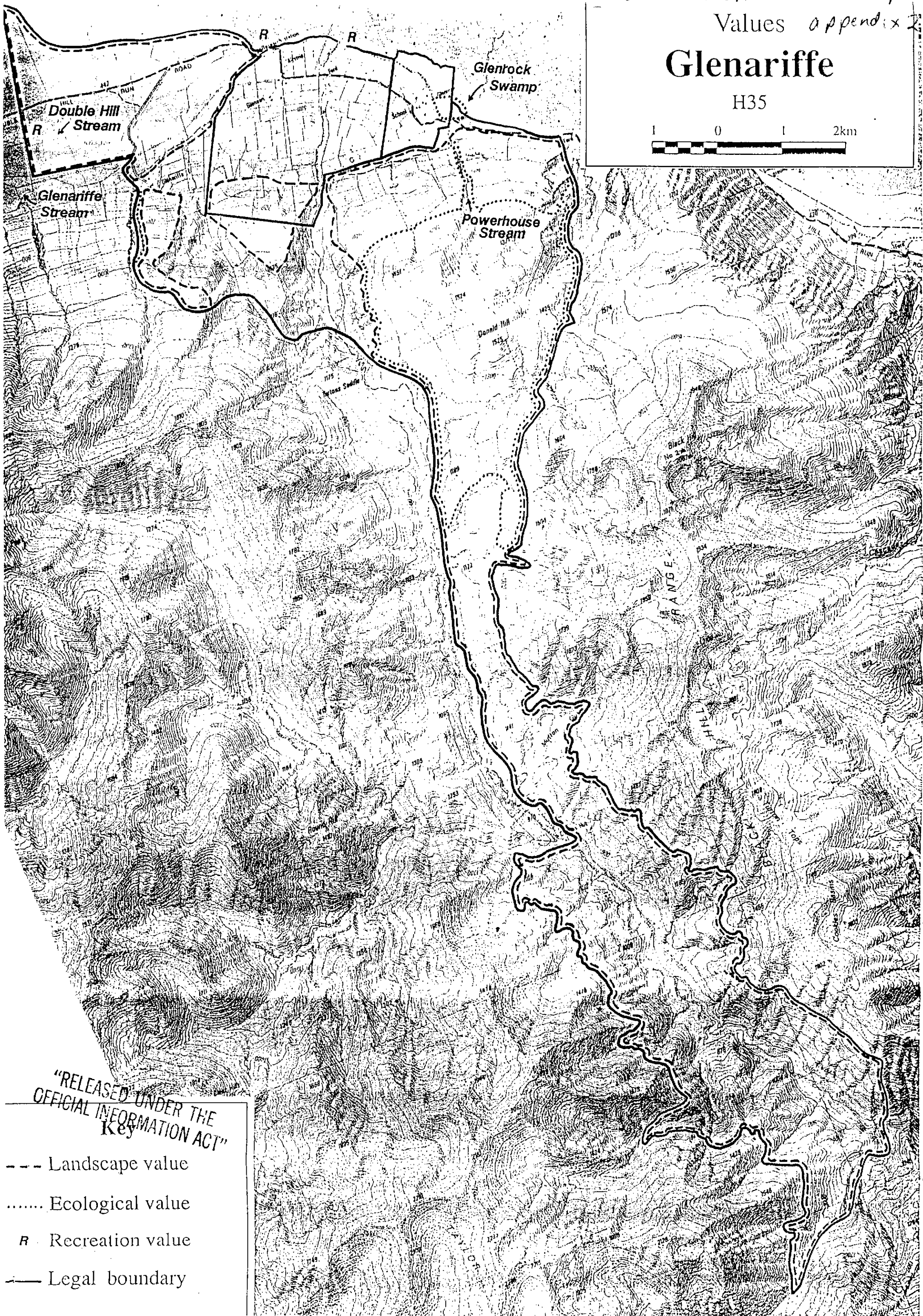
The greatest threat to these remnants is fire, especially if regenerating kānuka scrub on the faces next to the gorges continues to be burnt.

Stock entering the gorges damage the understorey in accessible places.

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Glenariffe

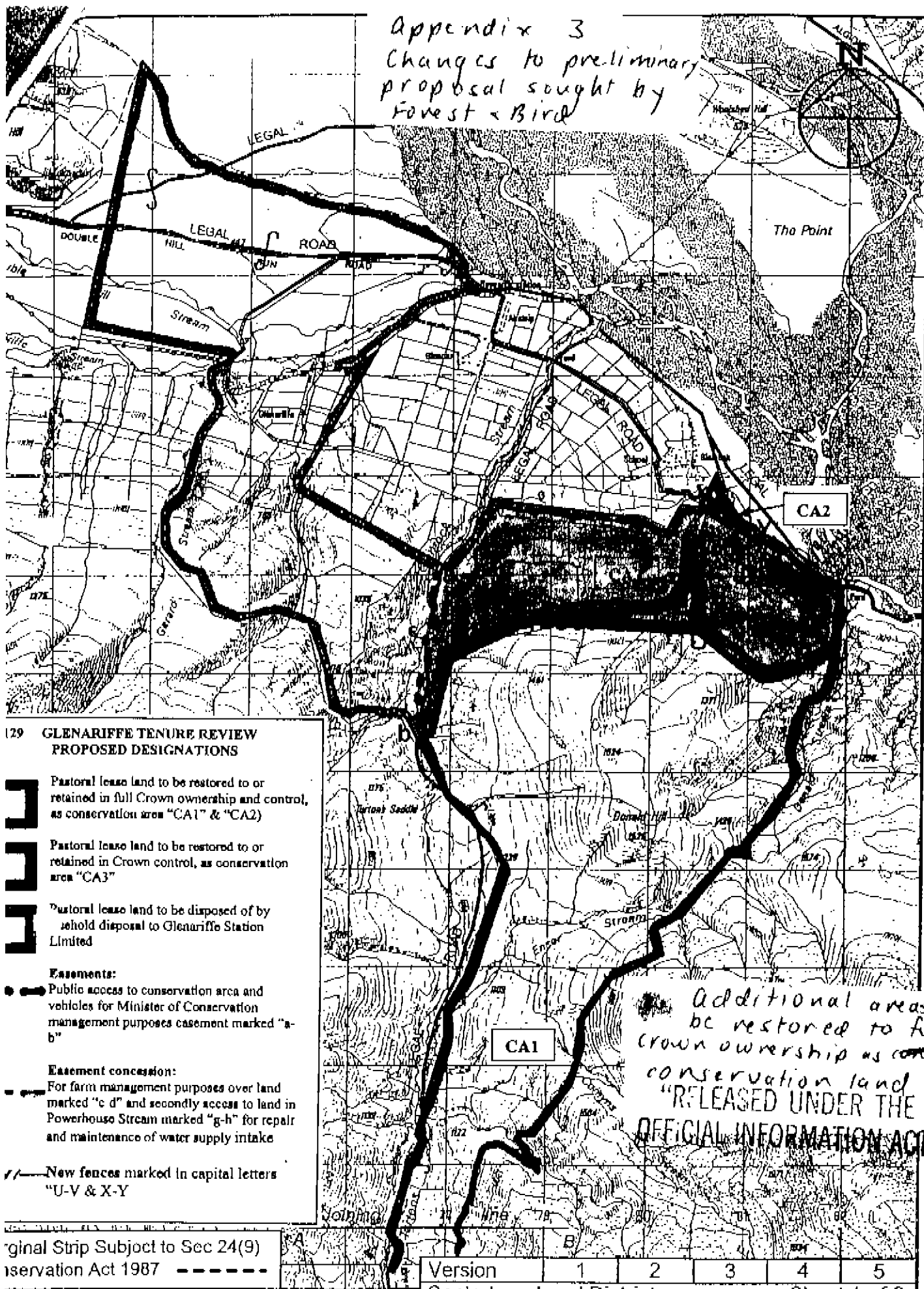
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- Landscape value
- Ecological value
- R Recreation value
- Legal boundary

Appendix 3
 Changes to preliminary
 proposal sought by
 Forest & Bird



- 129 GLENARIFFE TENURE REVIEW
 PROPOSED DESIGNATIONS
- Pastoral lease land to be restored to or retained in full Crown ownership and control, as conservation area "CA1" & "CA2"
 - Pastoral lease land to be restored to or retained in Crown control, as conservation area "CA3"
 - Pastoral lease land to be disposed of by rehold disposal to Glenariffe Station Limited
- Easements:**
- Public access to conservation area and vehicles for Minister of Conservation management purposes easement marked "a-b"
 - Easement concession: For farm management purposes over land marked "c-d" and secondly access to land in Powerhouse Stream marked "g-h" for repair and maintenance of water supply intake
 - New fences marked in capital letters "U-V & X-Y"

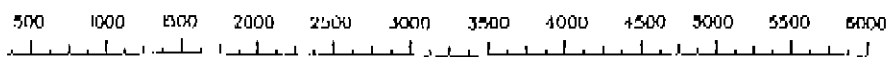
Additional areas to be restored to full crown ownership as conservation land
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Original Strip Subject to Sec 24(9)
 Conservation Act 1987

| | | | | | |
|---------------------------|---|---|---|---|--------------|
| Version | 1 | 2 | 3 | 4 | 5 |
| Canterbury Land District | | | | | Sheet 1 of 2 |
| Topographic Map 260 - K35 | | | | | Date 21/6/01 |

Glenariffe (Run 337)

Scale 1:50000



THE GERALDINE TRAMPING CLUB.

76 Pye Rd. RD.21
Geraldine.
7th. July 2003.

The Manager ,
Quotable valuation New Zealand Ltd.
P.O.Box 13 443,
CHRISTCHURCH.

Attention:- BARRY DENCH.

Dear Sir,

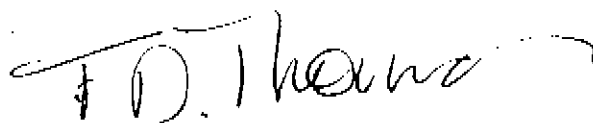
TENURE REVIEW GLENARIEFF STATION.

As regular users of the high country, and particularly areas under current tenure review, we are participating in the review process through F.M.C. We of the above club have read the Q.V. preliminary proposal, dated May 2003.

We agree with all the points outlined, and the manner in which the appropriate areas are designated, we are aware also of the Henson F.M.C. submissions on your draft. We would, however, submit that access to TURTONS SADDLE by the proposed D.O.C. vehicle route, marked "a--b", on the report's map, be for public vehicle use as well. This is to permit the more elderly of the recreational organisations users to enjoy the more distant tracts of the area. For security, and control of whom and volume, driving along the track access, should be through a locked gate, permission only by D.O.C. or the run holder, and to be not unreasonably withheld

We trust that these points are of value when the review is negotiated.

For THE GERALDINE TRAMPING CLUB.



F.D. Thomas.
Liaison Officer.

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