

Crown Pastoral Land Tenure Review

Lease name: Glenfoyle

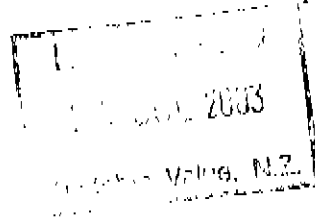
Lease number: Po 364

Public submissions

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

November 03

Wakatipu Tramping and Mountaineering Club
P O Box 137
Queenstown



Q V Valuations
P O Box 13443
Christchurch

16 July 2003

Attention: Barry Drench

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RE: GIENFOYLE TENURE REVIEW

We have perused the above proposal. Without having been to the area in consideration we believe that the proposal is satisfactory.

We appreciate to have the opportunity to been able to comment.

Yours faithfully

A handwritten signature in cursive script that reads "Hans Arnestedt".

Hans Arnestedt
Secretary

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Barry Dench

From: Ken Taylor [ken.taylor@dtz.co.nz]
Sent: Sunday, 3 August 2003 16:05
To: Barry Dench
Cc: cpearson86@aol.com
Subject: FW: (no subject)

Hi Barry,

This ended up in my mail box, so am forwarding it to you. At the last count Chris was overseas, so possibly my address was what he had.

Ken Taylor
 DTZ New Zealand Limited
 Alexandra
 email: ken.taylor@dtz.co.nz

-----Original Message-----

From: cpearson86@aol.com [mailto:cpearson86@aol.com]
Sent: Sunday, 3 August 2003 2:48 p.m.
To: Ken Taylor
Cc: cpearson86@aol.com
Subject: (no subject)

To:
 Tenure Review Team Leader
 Quotable Value New Zealand Limited
 P O Box 13 443
 CHRISTCHURCH
 Ph: (03) 341-1834
 Fax: (03) 341-1836

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Dear Sir:

I am writing to comment on the Glenfoyle Tenure review. Because it seems to leave out areas that have significant conservation values. The Pastoral lease is quite steep and extends up to over 1200 m elevation and encompasses the tops of a significant ridge, however only one small part of the area is to be retained in crown ownership and this does not include the tops. Now the range tops have fantastic views and would clearly be of interest from a recreational point of view however, while there is provision for public access to Bluenose there is none to Great Rock, which is slightly higher. I would prefer that the entire northeast corner of the Pastoral Lease, encompassing the summits of Great Rock and Bluenose be added to the region to be protected. This would produce a Conservation area more in keeping with other similar tenure reviews and would also rationalize the boundaries so that we do not have a small DOC reserve as an island surrounded by freehold land. It would also allow a range top reserve to be created in the future.

Best Regards,

Chris Pearson

Dr Chris Pearson
 National Geodetic Survey
 Illinois Geodetic Advisor
 IDOT Admin Bldg Rm 005
 Springfield IL 62764-0001
 ph 217 524 4890

03/08/2003

fax 217 524 4149
EMAIL Chris.Pearson@noaa.gov

PS I am 2/3 of the way through a 3 year posting in the US. We will be back in about a year though and I am watching the tenure review scene.

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OTAGO CONSERVATION BOARD

Our ref: SBC-08-34

1 August 2003

Commissioner of Crown Lands
c/- Quotable Value New Zealand Ltd
Box 13 443
CHRISTCHURCH

RECEIVED
1 AUGUST 2003
11:24 AM

Dear Sir

SUBMISSION ON TENURE REVIEW OF GLENFOYLE PASTORAL LEASE

Thank you for the opportunity to comment on the Preliminary Proposal for the tenure review of the Glenfoyle Pastoral Lease.

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

- the designation of about 435 ha as land to be restored to Crown control as a conservation area;
- the proposed conservation covenant and easements.

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

) Yours faithfully

F S
Fergus Sutherland
Chairperson

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Royal Forest and Bird Protection Society of New Zealand Inc

Upper Clutha Branch

30th July 2003

The Commissioner of Crown Lands
C/o Quotable Values
PO Box 13 443
CHRISTCHURCH NZ

Dear Sir,

GLENFOYLE – TENURE REVIEW – PRELIMINARY PROPOSAL

We would be pleased if you would accept this submission on behalf of our branch of the Royal Forest and Bird Protection Society that has a current membership of 184. The wider membership of our Society is 55,000 members nationwide, in 57 branches. Our Society is well known for its work in protecting the environment throughout New Zealand.

Our branch, as does the whole of our Society, fully supports the process of Tenure Review.

We carried out an inspection of this property some five years ago after it was first mentioned at a NGOs meeting. We would like to thank Mr Kane for allowing us to do so.

1. General:

Glenfoyle is a moderately sized property of approximately 4,500 ha. It is situated on what is known as the Grand View Range of hills: half the property drains into the Lindis River catchment to the east and the other half into the Clutha river catchment to the west. The Grand View Range is of significant landscape importance and forms a large part of the backdrop to the eastern side of the Upper Clutha basin. Apart from a small area of easy rolling country that has been cultivated on the west of the property, the lower slopes of Glenfoyle are mainly in exotic grasses. These slopes have been developed out of tussock by over-sowing and top-dressing with fertiliser, using an aeroplane. These slopes still carry a considerable amount of woody vegetation in the way of matagouri, coprosma and kanuka: briar is also present.

The upper slopes still carry some tall tussock and towards the northern end at Mt Bluenose the country is less modified and more alpine in its vegetation.

The bulk of the property is either Class VI or Class VII land.

A small part of LINDIS RAP A10 and all of LINDIS RAP A11 are contained within Glenfoyle.

2. The Proposal as Presented:

The following designations with covenants are proposed:

1. To be restored to full Crown ownership and control as a conservation area subject to covenants for access purposes under Section 35(2)(b)(i) and Section 36(1)(a) Crown Pastoral Land Act 1998:

Area: 435 ha (approximately) outlined in pink on the plan appended.

2. To be disposed of by way of freehold disposal to the holder subject to covenants for access purposes and a protective mechanism under Section 35(3) and Section 40(1)(b) Crown Pastoral Land Act 1998.

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1 JUL 2003
CROWN LANDS
CHRISTCHURCH



**FOREST
& BIRD**

ROYAL FOREST AND
BIRD PROTECTION
SOCIETY OF
NEW ZEALAND INC

Upper Clutha Branch
C/- PO Box 38
Lake Hawea
Central Otago 9192

Tel: (03) 443 8888
Fax: (03) 443 7888

Area: 3,100 ha (approximately) outlined green on the plan, to the holder, Glenfoyle Ltd:

3. Summary:

We see this preliminary proposal as being a reasonable outcome to this review. However there should be some adjustments made in the designations of the land, and one serious omission with regard to access rectified to fully meet the aims of the Crown Pastoral Land Act 1988.

- That the LINDIS RAP A11 AND part of RAP A10 are to be joined together to form a larger conservation area (Shown "CA1" on the plan) is positive recognition of the importance of the conservation values contained in these two RAPs; we fully support this move. However if the area had been increased in size to include Mt Bluenose, it would have been better still.
- We see that the small kanuka forest (Shown "CC1" on the plan) above the road to the airstrip and below the crest of the Grand View Range on its western side is to be protected by a covenant. This is to be commended.
- That 3,100 ha are to be disposed of on a freehold basis is a logical outcome: if it is managed in such a way as to keep it ecologically sustainable by the application of fertiliser. To do this it has also to be financially viable.
- As the QLDC District Scheme is not all that robust and as it can also be altered, it is important that a landscape covenant be placed on any title to protect the Grand View Range from undue earth works or forestry above the valley floor.
- Of considerable concern to us is the fact that no provision has been made for any public access, even on foot, to the crest of the Grand View Range.

4. Access:

We would be pleased to refer you to the Summary of the Preliminary Proposal on page 7, 5th paragraph.

"... The proposal has two easements designed to provide public access both through the higher altitude parts of the property as part of a possible future through route along the crest of the Grand View Range and along the same crest route as a means of gaining access to the proposed Camp Creek conservation area. These easements provide access on foot, on or accompanied by horses and non-motorised vehicles..."

That there is to be walking access along this ridge is good, but as there is no provision for access to it, it is of no great use. We would like to point out that:

(a) There is at present a legal road from SH8 A to the top of the Grand View Range. This road passes the present Glenfoyle homestead. We fully understand and appreciate the reluctance of the people living there to having the public using a road past their front gate. However we see no reason why a practical solution could not be found for this problem by way of a diversion around the homestead to the north.

(b) We do not regard a walking route along the crest of this range as a possibility. For a successful outcome of the tenure review process of this property, and also the other three properties involved on the Grand View Range, it is essential that there be access provided both at the two ends and also at other points of the route. It is also extremely important that any point of access must also be regarded as a point of exit in an emergency.

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- (c) This legal road after passing the homestead and other outbuildings deviates considerably from the present metalled formation to the airstrip - see attached portion of the cadastral map - but importantly, it also continues on to finish up in Sandy Point, the run to the south of Glenfoyle which is also in the tenure review process.
- (d) Although there are other farm tracks to the crest of the range through other properties, this legal road is the only road, and therefore the only legal access to the crest of the range between Timaru creek in the north, and Long Gully to the south of Sandy Point.
- (e) A conservation area is being created on the other side of the range. We would believe that the public of New Zealand should be entitled to have reasonable access to that area. "... **Section 24(b)(c)(i) The securing of public access to and enjoyment of reviewable land...**"

It would be against the intentions of the CPL Act and also the Conservation Management Strategy for Otago if the public were excluded from enjoying this route along the Grand View Range because of a lack of access to it. If each preliminary proposal, put to each run-holder, were to describe the route as a future possibility the exclusion of the public could become a reality. This will not happen if the matter is rectified on Glenfoyle. The possibilities for recreation for the future population must be considered now.

6. The Landscape:

In the Summary of the Preliminary Proposal on page 7, 1st paragraph: mention is made that the small kanuka forest which is to be protected by a covenant, "...provides an attractive example of a natural component in an otherwise pastoral landscape..." While this pastoral landscape has been to some extent modified; with its woody plants as well as the kanuka it is still relatively natural, and higher up it is still a tussock landscape. It forms the eastern backdrop to the Upper Clutha basin. It is seen by thousands of people passing up and down SHB A, on the east side of the Clutha River and from SH6 on the west side. It is on the main route from the Linds and Central Otago to Lakes Hawea and Wanaka and through to the West Coast: it is an extremely important landscape.

It is classified as An Outstanding Natural Landscape in the Queenstown Lakes District Scheme Plan. While this is something, we do not consider the QLDC plan is strong enough to protect the features that make it an Outstanding Natural Landscape. We believe a covenant should be attached to the freehold title to protect it from such things as undue earthworks, unsympathetic structures and forestry. Forestry could be considered a legitimate use for the lower land if the importance of the landscape was reflected in the covenant.

6. Land to be Designated Freehold:

It is noted in the Summary, 3.2, last paragraph, page 5, that most of this property is Class VI land (approximately 1110ha) and Class VII (approximately 1839ha). Class VI land is considered capable of being used for pastoral purposes, while Class VII land is regarded as marginal. As most of the property has been over-sown and top-dressed from the air, it must be presumed that it is economic to do so. Fertilising the Class VII land on a regular basis to replace the nutrients taken off the place, in the shape of meat and wool, should make it ecologically sustainable and therefore on that basis it could be considered for disposal to the holder on a freehold basis.

Due to the significant conservation values it contains, we believe the area above about 1100masl surrounding Mt Bluenose should not become freehold land but be added to that to be returned to full Crown ownership and control and attached to the area CA1 on the plan.

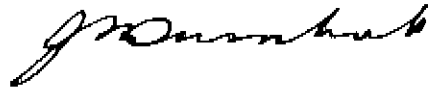
7. Land to be returned to full Crown Ownership and Control:

Having the two RAPS joined together and the area around Mt Bluenose added to them (as mentioned above) to make one conservation area would be an ideal outcome for this review. With the transference of fertility Mt Bluenose could become a large sheep camp, but if included in the conservation area it could become an attractive rock garden with the alpine vegetation already present.

We thank you for the opportunity to have this input into the tenure review of Glenfoyle. If required we would only be too happy to attend any meeting for further discussion on the proposal at your convenience. We await with interest the outcome.

We attach a copy of the cadastral map referred to in our submission.

Yours faithfully

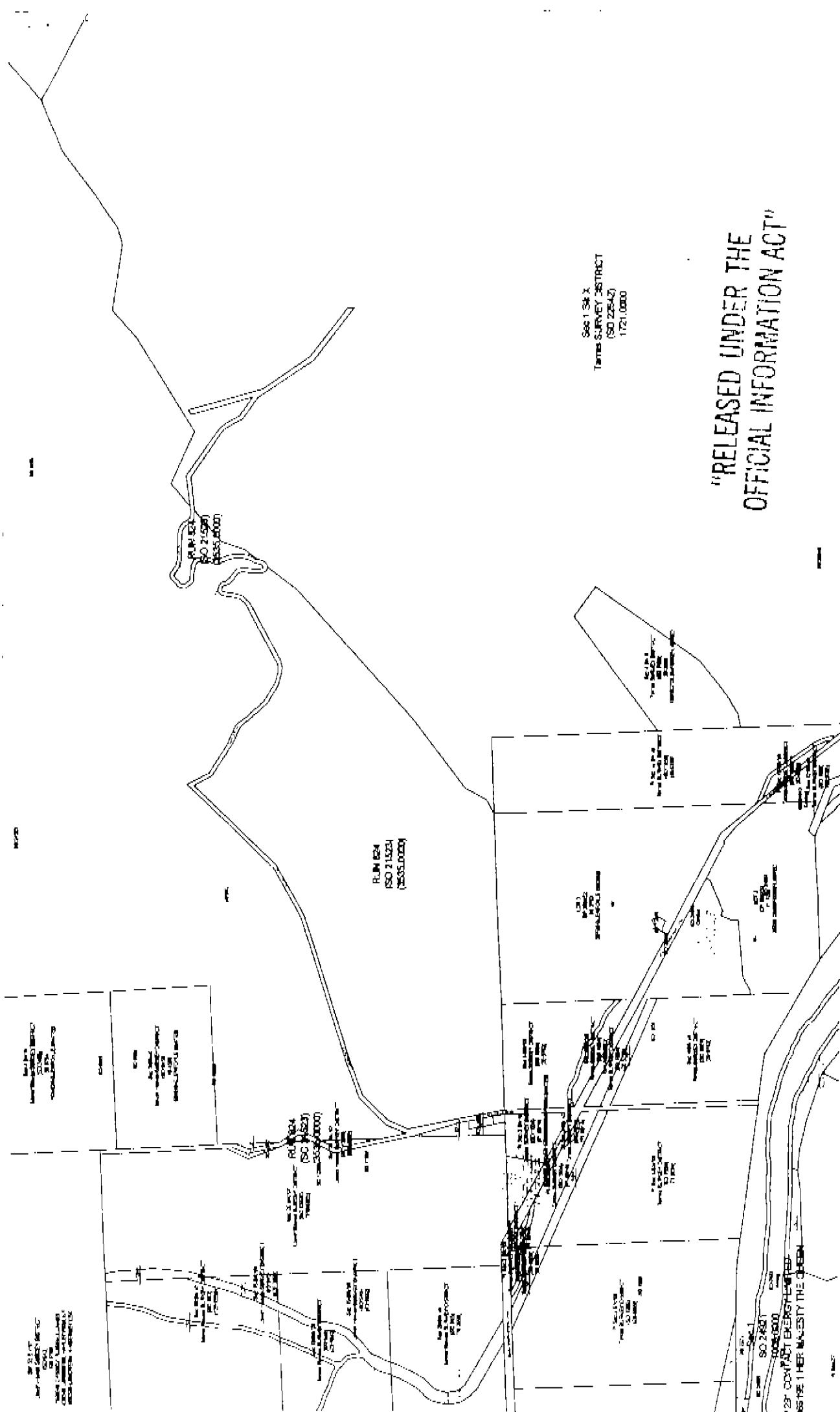


John L Turnbull

for Upper Clutha Branch Forest and Bird.

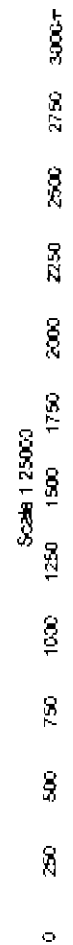
Attached map.

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Sec 1, S4 X
Tama Survey District
(SO 20842)
1721,0000

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LABORATORY

12" CONTACT ESTABLISHED
AS THE OTHER INVESTIGATE THE OTHER

Public Access New Zealand

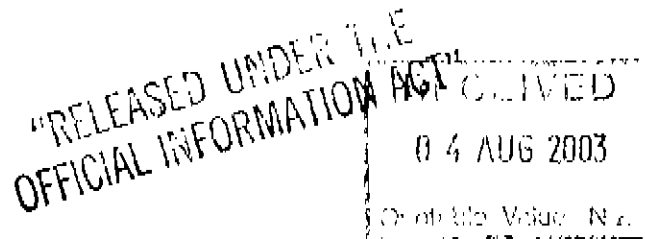
INCORPORATED

R D 1 Omakau 9182 Central Otago New Zealand
www.publicaccessnewzealand.org

Phone & Fax 64-3-447 3554
panz@es.co.nz

Monday, 4 August 2003

Commissioner of Crown Lands
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Christchurch
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Submission on Preliminary Proposal Glenfoyle Tenure Review

Proposed Conservation Area

The design of the boundaries means that the conservation area CA1 will have little public appeal. It would be very difficult to traverse through it to view its internal features. There has been no landscape consideration in the selection of boundaries. Complete catchments should be reserved. This would also permit public passage along boundary ridge crests. The whole upper catchment to include Great Rock should be reserved. DOC described a significant area around Great Rock as having "Chionochloa rigida grasslands of moderate stature and native diversity". Just because DOC doesn't want this area isn't reason for lack of protection. The Crown is obliged to fulfil the objects of the Crown Pastoral Land Act. Only that area considered "most suitable for conservation" is reserved. DOC rejects higher altitude areas because they "don't include areas of high inherent value (Proposed Designations Report at 4.2.81. Whereas the objects of the CPLA are to enable the protection of "significant inherent values". That obligation is not met by merely protecting the most significant areas (our emphasis).

Freehold access strips through conservation area.

The conservation area is only to be in Crown ownership. It would be under full Crown ownership and control if not for access tracks through the area being proposed for freehold status. The first designations report proposed full Crown ownership and control. We believe that having freehold access tracks through a conservation area is a messy arrangement that sets bad precedent for other tenure reviews. It should be possible to grant easements or concessions for farm vehicle passage etc, in the same manner as for easement 'f-j'.

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.

PANZ is committed to resist private predation of the public estate.

This proposal leads to the situation of having to create easements for public passage "through" a conservation area, with a consequentially ridiculous provision dealing with "trespassing" off the freehold tracks onto a conservation area (Appendix 7 at 8.1.5).

Public easement 'c-e-k-l-d' along crest of Grand View Range.

We agree that it is strategically important that provision is made for this access route, but we question the adequacy of easements, and the necessity for overlapping easements in gross and appurtenant to the conservation area, and the terms of such easements. We agree that use should be confined to foot, horse and cycle.

Utilisation of this route depends on connection to further such provisions through adjoining properties. If no such provision is made then this access will provide no access at all, and hence would be a failure to fulfil the CPLA requirement to "secure public access and enjoyment of revisable land" (section 24 (c)(i)).

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Terms of public access easements

The objects of Part 2 of the CPLA include a duty under section 24(c)(i), to "secure public access to and enjoyment of reviewable land". 'Securing' entails more than passive or inadequate provision of public 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 mechanisms' in the form of public easements pursuant to section 80 CPLA and section 7(2) Conservation Act fail 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 documents-

Exclusion of schedules. Whilst the Ninth Schedule of the Property Law Act 1952 is expressly excluded from the terms of the easements, section 126G of that Act is not. Section 126G allows modification or extinguishment of easements through the courts, at the initiative of either parties 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.

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".

The total absence of any cited legal authorities for closure is of great concern. If there are lawful powers of closure applicable they must be expressly 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 and reserves to public recreation exist, these should be

directly exercised over such areas, 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 the land it administers.

Dispute resolution. Despite the "Transferee" being defined to include "any member of the public", there are no provisions 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 being held 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.

Another 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. This is in marked contrast to the protections and certain rights afforded by public roads which are wholly public property.

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Protective mechanisms like easements only applicable over natural resources

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-

Section 2 Interpretation-

"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;

"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) Landscape and landform; and
- (d) Geological features; and
- (e) Ecosystems;---

and "natural resource" has a corresponding meaning:

Therefore 'natural resource' cannot be extended to mean recreational attributes or desires such as public access in the absence of natural resources. The land comprising the proposed easement areas

are proposed for freeholding, presumably because there are insufficient inherent values to either warrant Crown retention or some form of protective mechanism. There is no suggestion in accompanying official documents for this proposal that any historic values exist within the proposed easement areas. They therefore cannot qualify as a 'natural resource' or 'historic place' "of significant inherent value" to "deserve the protection of management under the Reserves Act 1977 or the Conservation Act 1987".

Cf., Section 2 Interpretation-

"Significant inherent value", in relation to any land, means 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.

Besides, the land itself is not obtaining "the protection of management" under the Conservation Act, as it remains as freehold and is 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.

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

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Retention of Crown ownership and designation as '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 easements.

While it would appear that DOC would 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".

PANZ submits that secure public access must be provided along the crest of the Grand View Range and to the proposed conservation area through designation of strips of land pursuant to section

35(2)(a)(iii) for the specified Crown purpose of "public highway". This road should be dedicated by the Commissioner of Crown Lands as a public highway for foot, horse and cycle passage, with animus dedicandi being fulfilled by public acceptance and use.

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 area; or

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

(iii) For some specified Crown purpose.

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The specified Crown purpose should be "public highway".

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 roads, 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 the currently proposed 'easement areas', but as public roads. This is the only proven means of fulfilling the CPLA's object of "securing public access and enjoyment of reviewable land". The alternatives offered are clearly inadequate.

No access to range crest.

The unformed Glenfoyle Road is not useless as claimed by DOC (Conservation Resources Report pp18-19) but has potential, with marking and possibly some light formation, for well-graded foot access. The alignment was surveyed and pegged in 1882 (SO 945) along a practical alignment. We do not advocate opening this up to public use unless alternative access on to the range crest cannot be negotiated from the south. If it were to be utilised, we would be amenable to realignment in its lower section so as to maintain the privacy of the homestead area. This would be conditional on any realignment being legal road, in exchange for redundant sections. The latter could be 'stopped' and disposed of to the adjoining owner.

Need to provide for future access link to Lindis highway

A need for this was raised during the 'Early Warning' meeting but no provision has been made in the Preliminary Proposal.

The Bargour Block was included in the proposed conservation area "for future protected area connectivity" (Proposed Designations Report). We question why such foresight did not extend to future access provision to and from the east. The track along the ridge between Camp and Ram Valley Creeks would provide an ideal route.

The only 'alternative access' cited by DOC as a reason for not pursuing the above route is along the Grandview Track which is miles to the north.

The justification for the Grand View Range crest access was to allow future connection when other properties enter tenure review. As the DOC Conservation Resources Report (p 27) states "not taking this opportunity to secure this portion of the route would narrow options for future tenure reviews". Not making provision for a future link directly to the Lindis would forgo similar opportunities. This would allow a low-level crossing and connection onto the range, unlike the Grandview track.

Our preference is for connecting foot, horse, cycle access along the existing track from the eastern corner of the property in the vicinity of 'i', to 'e', or up the leading ridge / southern boundary to join the range crest in the vicinity of Trig Hill.

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Future marginal strips

There are no marginal strips currently laid off within the property. We note on SO 21523 that future provision for marginal strips have been confined to Camp Creek. We seek assurance that marginal strips will be created along all qualifying waterways when freehold title is raised as a consequence of tenure review.

There is no intended marginal strip provision along the Crook Burn. This may qualify with a bed width of an average of 3 metres or more over much of its lower reaches. Although LINZ has disallowed from consideration during tenure review the matter of marginal strips, we believe such direction to be wrong in law. Not to consider marginal strip provision, and the creation of alternative means of access if certain stream beds do not meet the width criterion of the Conservation Act, is a material failure to comply with the objects of the CPLA, in particular section 24(c)(i).

Yours faithfully



Bruce Mason
Researcher & Co- Spokesman

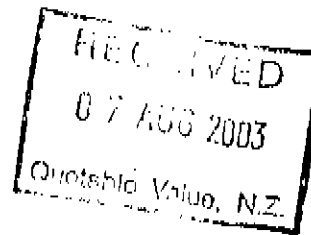


②

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

3 August 2003

Commissioner of Crown Lands
c/- Quotable Value NZ Ltd.
PO Box 13 443
CHRISTCHURCH



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Dear Sir

re: Preliminary Proposal for Tenure Review: Glenfoyle Pastoral Lease

I write on behalf of Federated Mountain Clubs of NZ Inc. (FMC) which represents some 15000 members of tramping, mountaineering, climbing and other outdoor clubs throughout NZ, and indirectly represents the interests and concerns of many thousands of private individuals who may not currently be members of clubs but who enjoy recreation in the back country.

On their behalf, FMC aims to formalise and enhance recreation opportunities, to protect public interest 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 draft proposal for Glenfoyle

THE PRELIMINARY PROPOSAL

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

1. An area of approximately 435 ha to be designated as land to be restored or retained in Crown control as conservation area subject to a qualified designation. This conservation area to be subject to a farm management easement concession.
2. An area of approximately 3,100 ha to be designated as land to be disposed of by freehold disposal subject to protective mechanisms in the way of a conservation covenant and public access and vehicles for management purposes easements. The freehold to be subject to the following 5 easements:
 - (a) An appurtenant public access easement along the crest of the Grandview Range for public access on foot, on or accompanied by horses or by non-motorised vehicle.
 - (b) A second public access easement in gross covering the same route as the appurtenant easement.
 - (c) A public access easement over land on tracks through the conservation area for access on foot. The proposal is for land in the tracks to be disposed of by freehold disposal.

(d) Two DOC management purposes easements providing access over tracks along the crest of the Grandview Range and from Glenfoyle Road to the edge of the conservation area and on tracks within and outside the conservation area.

3. A Conservation Covenant to afford protection of approximately 20ha of kanuka shrubland.

FMC SUBMISSIONS

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FMC supports the general principles of tenure change, and recognises that the proposal goes some way to meeting the Crown Pastoral Land Act 1998 objectives by ensuring that significant recreation, conservation and inherent natural values on Crown Land should be retained in Crown ownership. However, we do have a number of concerns regarding access, the protection of landscape values, and the proposal to freehold land in the tracks in the conservation area.

In general, we believe that the proposed allocation of land between full Crown ownership and control and freehold is reasonable, as it recognises the significant inherent natural values of an area of 435ha within the Camp Creek catchment. Some 200ha of this area had been identified by the Protected Natural Area (PNA) Programme as all or part of two Recommended Areas for Protection (RAP A10 and RAP A11 in the Lindis Ecological District). It is appropriate that this area will become a conservation area.

In the FMC Early Warning Report (1999) it was stated that "*An area of ridge crest above about 1000m in the vicinity of Bluenose which, by analogy with comparable vegetation over the boundary to the north, would regenerate to Hebe/Celmisia sub-alpine heath or cushionfield in the absence of grazing.*" FMC believes this area should be included with the area proposed for return to full Crown ownership as a conservation area, which it adjoins at the head of the Camp Creek catchment.

FMC submits that it is not appropriate to dispose of the land in the tracks within the proposed conservation area by freehold disposal. We believe that there is a justifiable need for access for farm management purposes across parts of the conservation area, and that this should be provided for by way of an easement concession. As has been done in all similar cases that we are aware of, the concession could provide for farm access by foot or with vehicles or livestock for farm management purposes over existing tracks, but the land should remain as Crown land.

The problem we foresee with freehold disposal of the land in the tracks is that public access could be denied by some future owner. Indeed freehold ownership would fail to achieve the "*securing of public access to and enjoyment of reviewable land*" as required by the Crown Pastoral Land Act 1998. FMC is therefore strongly opposed to the proposal to freehold land within the tracks in the proposed conservation area and submits that this should be deleted from the proposal.

FMC is pleased to note that public access will be provided along the crest of the Grandview Range from the northern boundary at Bluenose, to the southern boundary with Sandy Point. We do not however, understand why it is necessary to have two easements, one 'appurtenant' and the other 'in gross'. In the absence of access from Glenfoyle Road (or some other alternative within the Glenfoyle lease), recreational use of the range crest will depend on the provision of public access to the range crest through the successful outcome of tenure reviews on neighbouring properties. We regard this as unsatisfactory in that it fails to secure public access to the conservation area.

We note that there is a proposed easement for Minister of Conservation management purposes from Glenfoyle Road to the edge of the conservation area (marked a-b-k-e on the Plan). FMC submits that there should be provision for public foot, and non-motorised vehicle access over the same or similar route. We note that the lower part of this route is legal road in any case.

FMC notes the following rationale provided in the Proposed Designations Report:- *"This route was considered and rejected for 2 reasons (a) better routes exist on other pastoral leases elsewhere on the range (b) the route goes right past the homestead, yards and implement sheds."*

FMC does not accept these arguments. We note that the other nearby pastoral leases currently under review are Lake Hawea Station and Sandy Point. While Lake Hawea Station may provide good access the review is not yet complete and access provisions are unknown. The access over Sandy Point is less satisfactory than the Glenfoyle Road. In any case, multiple points of access to and from the range crest are needed to provide for a variety of round trips and for escape routes in the event of severe weather. Furthermore, there is an alternative to passing close by the Glenfoyle homestead.

In the FMC Early Warning Report (1999) it was stated that: *"A problem of public use may arise however because the main access road [Glenfoyle Road] passes close to the Glenfoyle homestead. While this has advantages in allowing the runholder to monitor the use of the road, personal disturbance could be a problem. This might be avoided if the public easement was via the gravel road from the Luggate-Tarras Road (starting near [north of] the Grandview homestead), and thence around the terraces at the base of the spur to a point near the ford about 1km up from the Glenfoyle homestead (grid ref. 201.033, Infomap 260 G 40)".*

Another alternative would be to provide access by way of the legal road up the spur leading to the range crest and Trig Hill, if this is a feasible route and not merely a 'paper road'.

For this tenure review to be concluded without guaranteed public access to the range crest is unacceptable.

FMC believes there are four alternatives: (a) that negotiations should be reopened, with a view to public access being provided up the Glenfoyle Road as suggested above (b) that the review be put on hold until guaranteed public access is provided on a neighbouring property, or (c) access is provided via the legal road to Trig Hill if this is a feasible route or finally (d) that the review should be terminated. FMC prefers option (a).

Access is also needed from the Lindis Pass highway (SH 8) via Camp Creek. Provision should be made now for future foot, horse and non-motorised vehicle use of the farm track which weaves in and out of the proposed conservation area in the Camp Creek catchment. We state future use because completion of this route will depend on a review of the Bargour Lease at some time in the future. This would extend the range of round trips which should become available.


The FMC Early Warning Report (1999) recognised that *"The natural, landscape and historic values which enhance the recreational value of Glenfoyle include the following:-*

- (i) *Kanuka shrublands on the true left of the main valley near the woolshed, and which extend up the steep scree and rocky slope to point 1046m near Trig Hill,*
- (ii) *Kanuka shrublands in Camp Creek catchment which have been identified in PNAP surveys as Recommended Areas for Protection,*
- (iii) *An area of ridge crest above about 1000m in the vicinity of Bluenose which, by analogy with comparable vegetation over the boundary to the north, would regenerate to Hebe/Celmisia subalpine heath or cushionfield in the absence of grazing,*
- (iv) *Landscape values of the faces seen from the Luggate-Hawea Road,*
- (v) *Landscape values associated with the diversity of tussock, shrubland and rock outcrops throughout the Camp Creek catchment."*

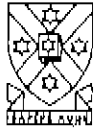
FMC is pleased to note that most of these are accommodated in the Preliminary Proposal. The protection of the landscape values of the faces seen from the Luggate Hawea Road is a notable exception. These faces are very prominent, especially when travelling towards Tarras on the Luggate - Tarras road (State Highway 8A). This is a very well used tourist route between Christchurch and Wanaka and the West Coast. For this reason FMC argues that the significant landscape values should be protected from the adverse effects of inappropriate developments (such as roads, structures, subdivision or afforestation). Although the area is recognised as an Outstanding Natural Landscape in the Queenstown Lakes District (QLD) Plan, FMC does not accept that this provides sufficiently secure protection. This is because District Plans are subject to change by Councils at regular intervals and the QLD Council does not have a strong record of environmental protection. FMC submits that the landscape should be protected under a binding covenant registered on the freehold title.

Finally, we appreciate this opportunity to comment on the Preliminary Proposal for the tenure review of Glenfoyle 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 raised in this submission.

Yours faithfully


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

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August 2, 2003.

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Manager,
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CHRISTCHURCH..

SUBMISSION ON TENURE REVIEW OF GLENFOYLE PASTORAL LEASE.

Dear Sir,

Thank you for sending me a copy of the Preliminary Proposal for the tenure review of Glenfoyle Pastoral Lease. The proposal includes provision for a block of 435 ha be restored to and retained by the Crown for its conservation values, being kanuka-manuka shrubland which also provides valuable habitat for Otago skink and Grand skink. I am concerned that there seems to be no provision to fence the boundary of this area, given its importance for both shrubland and endangered fauna. Both would benefit greatly from the total exclusion of stock. The various easement provisions proposed for this block will undermine its security for its various conservation values unless the one to be made available for farm management is securely gated at either end (assuming the main block is to be perimeter fenced). The eastern outlier of this proposed Crown area appears to have a very tenuous connection with the main block. I recommend that this continuity be adequate to provide ecological connectivity across the apparent bottleneck.

The 20 ha of proposed covenant under the Reserves Act, also to protect myrtaceous shrubland is probably less justified for fencing. I endorse the formal provision for public access to this Covenant although the map on the plan does not indicate the public access easement a-b actually makes contact with the covenant area, though I must assume that it does.

I trust these comments and recommendations will be taken seriously in reaching the final recommendation for the tenure review of this property.

Yours sincerely,

Alan Mark Emeritus Professor.



FAXED

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4 July 2003

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CHRISTCHURCH

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Tēnā koe

GLENFOYLE PASTORAL LEASE PRELIMINARY PROPOSAL

Te Rūnanga o Ngāi Tahu and the relevant Papatipu Rūnanga: Te Rūnanga o Ōtakou, Kāti Huirapa Rūnanga ki Puketeraki and Te Rūnanga o Moeraki have considered the information provided in the Glenfoyle Preliminary Proposal and have the following comments:

It appears that there is no intention to fence either the Crown conservation area, or the conservation covenant. This is an issue for Ngai Tahu as we find this rather bizarre to designate these areas for conservation if they have no physical protection from grazing animals, including the wild goats that frequent the area.

Mahinga Kai Values

The higher country of much of the lease, both the proposed conservation area and the freehold section, are good habitat for tikumu and taramea, both of which are noted in the conservation resources report. There are some important areas of woody vegetation also within the rocky bluffs and gullies of this high country, which it is pleasing to see being offered protection under the proposal (albeit apparently without fencing), although there are other areas of native scrub and subalpine plants with striking rock formations that area not included.

This area is an important habitat for moko, with three species of skink recorded including the Otago skink (in the highest priority for threatened species). Another very rare skink (the grand skink) has been recorded in similar habitat nearby. Karearea are also found in the higher country of the leasehold run. While no fish records are available for the property, the lower part of Camp Creek has had tuna recorded in the past, although no native fish were found in either of the creek systems during the survey. The vegetation of the upper Camp Stream will be enhanced by this proposal, thus promoting the health of the downstream waterways.

Access

The Glenfoyle Preliminary Proposal states that the Department of Conservation will have vehicle access for management purposes over the enclosed easements and that the public component of the easement is for foot, on horses, or by non-motorised vehicle.

Ngāi Tahu seeks to have vehicle access over the enclosed easements for management and mahinga kai purposes. If Ngāi Tahu is going to jointly manage the proposed conservation areas with the Department then Ngāi Tahu is going to require vehicle access to the proposed conservation areas.

There will be times in Ngāi Tahu when Ngāi Tahu will want to visit the proposed conservation areas for cultural purposes. It is imperative that these people have the right to visit these conservation areas. In particular, there are members of Ngāi Tahu Whānui such as kaumatua and children who may not be able to walk to these areas and will require vehicle access. It is important that these Ngāi Tahu members also have the opportunity to participate in cultural activities within this proposed conservation area.

Archaeological Values

While there appear to be no recorded Maori archaeological sites on the lease itself, there are several sites recorded in the general area. Given the proximity of this site to a major ara tawhito it is not unlikely that further discoveries are yet to be made. In these circumstances protocols for possible future investigations and discoveries should be included in the proposal.

Ara Tawhito

The major inland route from the coast up the Waitaki, through the Lindis Pass to the important mahika kai and kaika in the areas around Lakes Hawea and Wanaka, passed close to this area (over Mt Grandview?). Similarly the route from Te Tawaha o Hawea at the outlet from Lake Hawea south down the valley of the upper Matau to Cromwell may have run very close to the southeast corner of the property, that is, if travel was down the true left bank. As the broad Matau valley has been highly modified by agriculture, gold mining and roading over the years, any Maori archaeological evidence in this area which may once have existed is likely to now have been destroyed.

Heoi anō



Takerei Norton
Kairuruku Pūrero Ngā Rawa Taiao
Natural Resources Unit Project Co-ordinator

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cc Te Rūnanga o Moeraki
Kāti Huirapa ki Puketeraki
Te Rūnanga o Otakou
Te Rūnanga o Hokonui