

Crown Pastoral Land Tenure Review

Lease name: SILVERBIRCH STATION

Lease number: PO 290

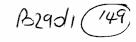
Public submissions

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

May

04







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

ALEXANDRA

- 6 COT 2003

RECEIVED

3 October 2003

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

Dear Sir,

Re: Preliminary Proposal for Tenure Review: Silverbirch Pastoral Lease

I write on behalf of Federated Mountain Clubs of NZ Inc. (FMC) which represents some 15,000 members of tramping, mountaineering, climbing and other outdoor clubs throughout New Zealand, 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 enhance recreation opportunities, to protect natural values, especially landscape and vegetation, and to improve public access to the back country through the tenure review process.

FMC fully supports the recently stated government objectives for the South Island high country especially the following:-

- to promote the management of the Crown's high country in a way that is ecologically sustainable.
- to protect significant inherent values of reviewable land by the creation of protective measures; or preferably by restoration of the land concerned to full Crown ownership and control.
- to secure public access to and enjoyment of high country land.
- to ensure that conservation outcomes for the high country are consistent with the NZ Biodiversity Strategy.
- to progressively establish a network of high country parks and reserves.

[EDC Min (03) 5/3; CAB Min (03) 11/5 refer]

FMC appreciates this opportunity to comment on the Preliminary Proposal for Silverbirch Pastoral Lease.

The Preliminary Proposal

Following an 'Early Warning' meeting in 1997, FMC submitted a Report on the recreational and conservation values of Silverbirch pastoral lease. A copy of that Report is attached for your information. At that time the lease covered some 1000ha and extended up to Mt Benger and beyond. Most of the features of recreational and conservation interest and value were associated with the upper part of the lease.

We understand that a deal has now been completed whereby most of the former leasehold land has been transferred to DOC and this review deals with the residual 111ha of pastoral lease on the front face of the Old Man Range. Consequently most of the features of conservation and recreation interest, identified in 1997, are now included in public conservation land.

FMC has studied the Preliminary Proposal for the review of Silverbirch and notes that it is proposed that 111ha is to be designated as land to be disposed of as freehold, with a conservation covenant over some 2.3ha of beech forest remnant near the head of an unnamed creek draining the east face of Mt Benger.

FMC fully supports this proposal.

Access

We understand that the Mt Benger Road follows closely a legal road which leads to Mt Benger and the Pomahaka valley. We note that the actual road formation deviates from the legal road alignment in a number of

Although this road only passes through the residual part of the pastoral lease for a short distance, this is one of the places where the legal road and the formation do not coincide, and is included in the area proposed for freehold disposal.

As such public access over this part of the road is not secure and therefore does not satisfy the government objective "to secure public access to and enjoyment of high country land". Not only has the government recently restated this objective, but we note it is also one of the Objects of Part 2 of the Crown Pastoral Land Act 1998, (S24c).

FMC submits that this situation should be resolved as an outcome of this tenure review.

Mitigation

The access problem would be resolved by formally recognising the road formation as the legal road. This should be done as part of this tenure review.

Conclusion

FMC fully supports the proposal that 11 lha should be designated as land to be disposed of by freehold disposal with a conservation covenant over 2.3 ha to protect a remnant of beech forest.

This would have been a good outcome if secure public access over the Mt Benger Road had also been provided. As the proposal stands it does not satisfy the governments stated objective "to secure public access to and enjoyment of high country land". We urge the Commissioner to secure public access over this road by recognising the formation as the legal alignment.

Finally, we thank you for this opportunity to comment on the Preliminary Proposal for the review of Silverbirch pastoral lease.

Muchaul Horb hh Barbara Marshall

Secretary, Federated Mountain Clubs of NZ, Inc.



Page 1 of 1

B290/1

Suzanne Smith

From:

Brian Patrick [bpatrick@xtra.co.nz]

Sent:

Monday, 27 October 2003 10:11 p.m.

To:

Suzanne Smith

Subject: Silverbirch Pastoral Lease Draft Tenure Review Proposal

Dear DTS

thank you for the opportunity to comment on the above.

I have reviewed the proposal, including the DoC resources report, and based on my first-hand experience of this lease I fully support the proposed outcome in terms of protection of identified inherent values, robust and sustainable configuration of the area to be retained in public ownership providing for the maximum buffering from adjacent landuses, and the public access to the area to be retained by the crown.

Mt Benger is a very special place in the Otago context with a suite of extremely rich plant and insect cordunities that are in excellent condition. This proposal encapsulates much of this special flora and fauna. Like Te Papanui Conservation Park across the Clutha River, this is another example of a mountain of modest altitude with an unheralded richness of alpine plants and insects on its wet summit.

Well done with this proposal in terms of DoC reporting also and the overall sartisfactory outcome for the public.

regards
Brian
Brian H Patrick
38 St Albans St
Bradford
Dunedin 9001
New Zealand
phone 03 4534002

18/11/2003 08:44

64-3-447-3554

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Monday, 17 November 2003

Commissioner of Crown Lands
c/- DTZ New Zealand Ltd

P O Box 27

Alexandra

Fax (03) 448 9099



Submission on Preliminary Proposal Silverbirch Tenure Review

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

The Commissioner of Crown lands has a duty under the Crown Pastoral Land Act 1998, s 24(c)(i), to secure public access to and enjoyment of reviewable land.

The whole property is proposed for freeholding subject to a conservation covenant. One of its terms is to provide "freedom of access on foot only for the benefit, enjoyment and recreational use of the land". This is via a defined access strip from a road formation to a covenanted patch of silver beech. However the road formation is not a surveyed alignment and may not be public road. There is a legal road in the vicinity, however the proposed access strip does not connect to this. Therefore, unless it can be determined that the formed road is legal road, the access will be 'internal' with no means for the public to reach it. Therefore the CCL will fail to discharge his duty to secure public access.

This situation must be rectified, not only for the property in question, but to secure public access to the much larger adjoining Mt Benger block recently purchased by DOC from the same owner. Anything less than rights of vehicle access at all times would be inadequate.

We submit that unless all the formed road within the area subject to this proposal is confirmed to be legal road, or alternatively is dedicated as legal road, then this proposal not proceed. There are no obligations on the Crown to proceed with unfavourable tenure reviews. Conversely there is an obligation to comply with the Act's requirements.

Yours faithfully

Bruce Mason

Researcher.



PO290/1



FOREST & BIRD

ROYAL FOREST AND BIRD PROTECTION S O C I E T Y O F NEW ZEALAND INC

Upper Clutha Branch

PO Box 38 LAKE HAWEA

18th November 2003

The Commissioner of Crown Lands C/o DTZ NZ Ltd PO Box 27 ALEXANDRA

Drear Sir

SILVERBIRCH - Tenure Review Preliminary Proposal

We thank you for sending us a copy of this proposal.

We have inspected the property and our thanks go to Mr Johnston for allowing us to do so.

We would be pleased if you would accept the following submission.

Now that the Government has adopted some "complementary objectives" for the South Island High Country, we believe this preliminary proposal should be re-visited. This is especially so when we all look at Complementary Objective (g) – "Ensure that conservation outcomes for the high country are consistent with the New Zealand Biodiversity Strategy"

We would quote from the Conservation Resource Report for Silverbirch.

SIGNIFICANCE OF THE VEGETATION

The Silverbirch pastoral lease has high conservation values on botanical grounds in the Otago context as it has a distinct mix of native species. It is quite different from both the Old Man Range and Umbrella mountains having more diverse and extensive shrublands than the former, and less diverse than the Umbrella Mountains. A feature of Mt Benger is its uniform quality on the summit plateau and the extent of good quality shrubland down to a very low altitude (880 m).

Our inspection showed that this distinct mix of native species extended a long way below 880 m. (See photo 1)

GENERAL:

- This property lies on the east side of the Benger Range at an altitude of between 500ms and 900ms.
- · It is a sheltered block and is well watered.
- The southern and eastern part of the block is covered mainly in exotic grasses and short tussock merging into taller tussock at the top. There is a patch of gorse on a bluff just below the gate into the block. (See photo 2)
- This pastoral lease land is situated below a larger area of land (892ha) recently taken over by the
 Department of Conservation and administered by them. This upper area takes in the top of Mt
 Benger itself.
- The northern and top areas of the block, totaling about one third of the whole lease, are covered in
 mostly tall tussock in a relatively unmodified state. On this side of the block there are considerable
 inherent conservation values contained in the landscape and the indigenous vegetation.
- The patch of Silver Beech is approximately the upper third of a tongue of beech contained in an unnamed creek.
 The other two thirds being in properties lower down. (See photo 3)

• This patch of beech is visible when driving on SH8 between Milllers Flat and Roxburgh.

THE PROPOSAL:

- 1. 111 ha (approximately) to be designated as land to be disposed of by freehold disposal to the holder under Section 35 (3) Crown Pastoral Land Act 1998 subject too Part 14A of the Conservation Act 1987, Section 11 of the Crown Minerals Act1991 and the following protective mechanism under Section 40 (2) (a) Crown Pastoral Land Act 1998.
- A conservation covenant over an area of (approximately) 2.3 ha for the purpose of preserving the landscape amenity of the Area. This covenant also includes an access route to the beech forest.

CONSERVATION VALUES;

The silver beech area:

This area contains a mixed aged stand of beech. There are a few old trees of upwards of 200 years. The bulk of the trees would be in the vicinity of a 100 years with a patch of younger trees on the south side. Only one small patch of seedlings was seen under a rock bluff on the true left of the stream. The under-story of the forest contains some marble leaf, broad leaf, coprosma, dracophyllum and astellia. Cattle have been using a track cut through the area.

Tall tussock area:

This area of tall tussock on the north and top side above the beech forest is worthy of note. The tussock is in good order and it carries a good variety of indigenous vegetation. Hebe, dracophyllum, coprosma, hard fern, bracken, mountain flax, celmesia, cassinia, astellia and aciphylla are all present.

AREA CONSIDERED FOR FREEHOLDING:

This area of approximately 111 ha should be ecological sustainable if any nutrients taken off the property are replaced with fertilizer.

CONCLUSION:

Once the area becomes free of managerial restraints imposed by a pastoral lease it will no doubt be developed by over-sowing with exotic grasses and fertilised from the air. With the rainfall of the area it should respond well and carry an increased number of sheep and cattle.

We see this increase in the stocking rate as a threat to the beech forest as we do not see a covenant as the appropriate method of protecting this important stand of beech. It is our considered opinion that the area should be fenced off and returned to full Crown ownership and control, (Sec 24 (b) (ii). This small patch of silver beech is well worthy of protection as it is on the outside limit of other beech forest of this nature to the east and south. It will not stand a chance of surviving with stock, especially cattle, free to roam through it.

We must also point out that when the area is developed and cattle play a greater part in the development, we consider the tall tussock and its associated woody vegetation on the northern side, will be rapidly removed and replaced with exotic grasses. Apart from the further removal of yet another area of New Zealand's original tussock grassland vegetation, this will also have the effect of altering the landscape, in that there will be a definite change in colour and texture of that landscape where it boundaries the conservation land above. This will be very visible from SH8.

We believe that because the objects of Part 2 of the CPL Act and the Complementary Objective (g) are not being completely met this preliminary proposal should be re-visited.

- 1. There has been some cutting down of saplings in the beech forest to allow cattle to pass through this area a covenant is insufficient to protect the forest. Any future proposal must stipulate that the area be adequately fenced off.
- 2. Now that New Zealand has adopted a biodiversity strategy the significant inherent values contained in the tall tussock on the northern and top parts of the area should be given more protection. There is very little tall tussock grassland of this quality in the low to middle altitude range left for posterity to appreciate.

We thank you for this opportunity to make this submission.

PHOTOGRAPHS:

- Photo 1 Shows the tall tussock, mountain flax and aciphylla next to the beech forest.
- Photo 2 Shows the nature of the pasture on the south and east sides of the run below the patch of gorse.

Photo 3 - Again Shows the tall tussock shrublands extending down to the beech forest and the north boundary.

Yours faithfully

John L Turnbull and Jean McFarlane

For and on behalf of Upper Clutha Branch Forest and Bird.

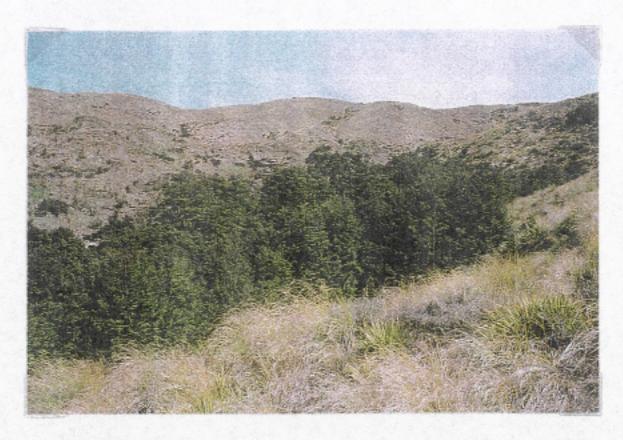
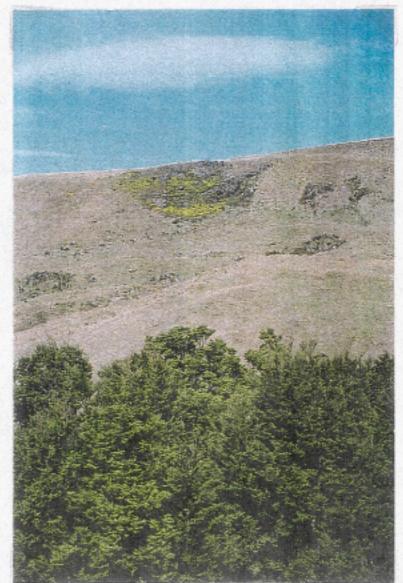


Photo 1. Shows tall tussock, mountain flax, aciphylla and coprosma next to the beech forest.

Photo 2.

Shows the nature of the pasture on the south and east side of the run below the gorse.











University of Otago Te Whare Wananga o Otago

Division of Sciences PO Box 56, Dunedin **NEW ZEALAND**

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November 17, 2003.

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



SUBMISSION ON PROPOSED TENURE REVIEWS SILVER BIRCH PASTORAL LEASE

Dear Sir,

Thank you for sending me a copy of this document and I appreciate the opportunity to comment on it, based on my knowledge of the areas involved, gained over many years of ecological research on the tussock grasslands and pastoral leases of Central Otago.

I have read the proposal for tenure review of Silver Birch Pastoral Lease and feel that the porposal is reasonable. My main concern is the lack of fencing provisions for the proposed Conservation Covenent involving the upper limits of the stand of slver beech forest, the only such stand on the eastern slope of Mt Benger and one which is in full view from the valley floor. This stand should be allowed to regenerate and extend marginally so that the area to be covenanted should be both large enough and secure enough to provide for this. Thus a secure fence some 50 m beyond the existing margin should also be the boundary of the covenant.

Ideally the lower portion of this beech stand should be similarly secured, so that the ecological and landscape values could both be recognised and protected.

I trust that my recommendations will be given serious consideration, and I thank you again for the opportunity to comment on this proposed tenure review.

Yours sincerely.

Alan F. Mark FRSNZ. Professor Emeritus.



OTAGO CONSERVATION BOARI

Po2901

Our ref: SBC-08-34

20 November 2003

Commissioner of Crown Lands c/- DTZ New Zealand Ltd Land Resources Division PO Box 27 **ALEXANDRA**

Dear Sir

SUBMISSION ON TENURE REVIEW OF SILVERBIRCH PASTORAL LEASE

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

The Otago Conservation Board generally supports the preliminary proposal, but believes that it should be modified as follows:

a secure fence about 50 metres from the existing forest margin should mark the boundary of the covenant, so that this very significant stand of silver beech can be allowed to regenerate naturally and extend its margin outwards.

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

Yours faithfully

Fergus Sutherland Chairperson





24 November 2003

Commissioner of Crown Lands

SUBMISSION BY CROWN MINERALS ON THE SILVERBIRCH TENURE REVIEW

Background

- 1. The Commissioner of Crown Lands has invited submissions on a preliminary proposal for tenure review to Paul Benson Johnston and Blair Reginald Johnston as lessees of the Silverbirch Pastoral Lease.
- The Crown Pastoral Land Act 1998 provides a framework for tenure review of high country land in the South Island. In order to gain ownership of the land leaseholders may request that their lease be considered for tenure review.
- Silverbirch Pastoral Lease occupies an area of some 111.8 hectares within part Blocks V and X of the Warthill Survey District and is located, in general terms, seven kilometres southwest of Roxburgh on the upper slopes of the Old Man Range.
- 4. Crown Minerals is the government agency that manages the New Zealand state owned oil, gas, mineral and coal resources known as the Crown mineral estate. Crown Minerals is responsible for the promotion of the mineral estate to investors, the efficient allocation of prospecting, exploration and mining rights and ensuring that the Crown receives a fair financial return on the mineral estate.
- 5. The Crown (on behalf of all New Zealanders) owns all in-ground petroleum, gold and silver and approximately half of the in-ground coal, non-metallic and other metallic minerals including industrial rocks and building stones.
- 6. Crown Minerals is concerned that the land tenure review process gives no consideration to the land's mineral value and potential for mining development and that it does not recognise that existing mineral permit and licence holders have an interest in the land. As a consequence of the review process some land that is highly prospective for mineral development is passing into the Conservation estate or into private ownership where it may become more difficult, if not impossible in some cases, for mining companies to gain access to this land for the purpose of exploration and mining. This represents a significant loss of economic development opportunity.
- 7. The objectives of tenure review are set out in section 24 of the Crown Pastoral Land Act and include "enabling reviewable land capable of economic use to be freed from the management constraints (direct and indirect) resulting from its tenure under reviewable instrument"

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- The economic benefits from mineral development can be substantial and should not be overlooked. If the land's mineral content can be shown to be significant then consideration should be given to the mineral value when determining future ownership and use of such land.
- 9. The purpose of this submission is to bring to your attention the potential mineral wealth of the land subject to the Siverbirch tenure review and to request that this be taken into consideration when making a final decision on the review.

Geology

10. The rocks of the Silverbirch Pastoral Lease comprise finely foliated quartzofeldspathic schist classified as textural subzone III of the Haast Schist Group which outcrop over most of the Otago region. They are similar to those rocks further east at Macraes Flat where a resource of at least five million ounces of gold, with a current value of NZ\$3.5 billion, has been identified. During metamorphism the rocks were strongly folded and the bedding and metamorphic foliation is now contorted into a vast number of minor folds of varying size and style. An upper Mesozoic age has been assigned to the metamorphism.

Past Exploration and Mining

11. There are no known significant quartz reef exposures or records of alluvial gold, coal or base metals being mined on Silverbirch Pastoral Lease. Mining to date has been limited to the lease holder quarrying some farm rock for general use on the lease area.

Current Activity

- 12. Today there are two prospecting permit applications over the area of the Silverbirch Pastoral Lease. The two applications, PPA 39 258 and 39 260, share a common boundary that intersects the eastern part of the lease area. Prospecting permits are permits designed to provide for a company to undertake early stage reconnaissance work.
- 13. Prospecting permit application 39 258 is over an area of 182 square kilometres centred around the township of Roxburgh and includes the Western and Ettrick sectors of the Roxburgh Coalfield. The application covers the eastern portion of Silverbirch Pastoral Lease and extends to the eastern boundary of adjacent prospecting permit application 39 260. The application has been made by Solid Energy New Zealand Limited. Solid Energy is a state-owned enterprise, which operates as a commercial company but with only one shareholder, the New Zealand Government. Solid Energy, which has significant technical and financial resources, extracts, processes, markets and distributes around 3 million tonnes of coal a year from its opencast and underground mines located in both the North and South Islands. More than half of the annual output is sold for export with the remainder being used domestically as an energy source in major industries such as steel making, dairying, cement making, timber and meat processing. Based on a combination of export and national growth, Solid Energy plans to double its total production and sales to reach 6 million tonnes by 2006. Solid Energy is

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- proposing to prospect for coal within the application area with an aim to consolidate geological knowledge on the regional area, determine areas for new exploration and generate drill targets.
- 14. Prospecting permit application 39 260 is over an area of 256 square kilometres located to the west of Roxburgh. It covers the central and western parts of Silverbirch Pastoral Lease and extends to the western boundary of prospecting permit application 39 258. The application has been made by HPD New Zealand Limited. HPD is a United Kingdom gold exploration company that has recently arrived in New Zealand. The company has been attracted to the Otago region because of the history of gold mining and what the company views as highly prospective geology. HPD is proposing field studies with the aim of delineating target mineralisation. It is expected that, on the basis of encouraging results, HPD will apply for an exploration permit in order to carry out exploration drilling.

Comment

- 15. Prospecting is a relatively high risk business and the very nature of mineral exploration means that a company starts with a large area of land and with time it reduces the area after eliminating areas of no interest. Where early reconnaissance work under a prospecting permit justifies further exploration expenditure, a company will apply for an exploration permit. Progressively the size of the area will be reduced to only a fraction of the original area and more often than not, a company will fail to identify economic mineralisation and the ground will be surrendered or the permit allowed to expire. Modern day prospecting and exploration techniques present no threat to the environment and yet the ultimate outcome of exploration can be the development of a mine with numerous economic spin-offs for the local economy.
- 16. Crown Minerals acknowledges that the freeholding of Silverbirch Pastoral Lease of land to the lease holders does not preclude access to the land for the purpose of prospecting, exploration and mining. A permit holder can enter land to carry out minimum impact activities by giving 10 working days written notice to every landowner and occupier of the land. For other than minimum impact activities¹, permit holders can apply to the new landowner for an access arrangement under section 54 of the Crown Minerals Act, however, if an agreement cannot be reached between the two parties access to the land can be denied and, unless otherwise agreed with the landowner, the matter cannot be taken to an arbitrator for resolution.

Conclusion

17. The rocks of the Silverbirch Pastoral Lease are considered to have similar mineralisation to the ore being mined at the Macraes Gold Mine in eastern Otago. The permit applications highlight the new interest being shown to assess the mineral and coal potential of Silverbirch Pastoral Lease and the surrounding area. Although the applications for the prospecting permits are still being processed, on the basis of information provided, it is probable that the permits will

¹ Minimum impact activities are defined in section 2 of the Act. They include sampling and surveying by hand held means, aerial surveying and any activities that do not result in other than minimum scale impacts. 390169-1

be granted. While it is acknowledged that it is early days yet for both applications it does testify to the economic mineral potential of the Silverbirch Pastoral Lease.

- 18. To further assess the mineral potential of the Silverbirch Pastoral Lease it is critical that exploration and mining companies get ongoing access to the land. Whatever the outcome of the tenure review is Crown Minerals would want to see provision made to allow for mineral exploration activities to be undertaken.
- 19. Crown Minerals requests that the Commissioner of Crown Lands takes notice of the mineral potential of the Silverbirch Pastoral Lease when deciding the final outcome of the tenure review and considers the merits of some form of transitional provisions to ensure that the two permit applicants have a right to access to land on reasonable terms for the purpose of carrying out prospecting activities, should the applications be granted, and also any exploration or mining permit activities under subsequent permits granted in accordance with section 32 of the Crown Minerals Act.

Darryl Thorburn Group Manager Crown Minerals

any Tholows

390169-1



FAXED

Office of Te Rūnanga o NGĀI TAHU

Level 1, Te Walpounamu House 158 Hereford Street PO Box 13-046, Christchurch Phone 03-366 4344 Fax 03-366 4267

10 November 2003

Ken Taylor DTZ New Zealand PO Box 27 ALEXANDRA



Tënä koe Ken,

SILVERBIRCH PASTORAL LEASE –
PRELIMINARY PROPOSAL UNDER CROWN PASTORAL LAND ACT 1998

Te Rünanga o Ngäi Tahu and the relevant Papatipu Rünanga, Te Rünanga o Awarua, Te Rünanga o Waihopai, Te Rünanga o Hokonui and Te Rünanga o Oraka-Aparima, have considered the information provided in the Silverbirch Preliminary Proposal, and have the following comments:

Values associated with the area

The entire high country of Te Waipounamu is fundamental to what it means to be Ngäi Tahu. Before the arrival of Europeans the entire high country was one major source of mahinga kai. There were a large number of Mäori settlements throughout the high country.

The numerous trails that once covered the high country was part of an infrastructure that linked all Ngäi Tahu settlements to the important mahinga kai and pounamu networks. Trails followed mahinga kai resources, such as indigenous vegetation, wetlands, harakeke, raupo, patiti and freshwater resources. Travellers used all of these resources to survive the danger of the harsh Te Waipounamu environment. Particularly, Ngäi Tahu seasonally migrated to the high country to gather mahinga kai, which was used in trade and for survival through the winter period.

Preliminary Proposal

- 2.1. Land to be disposed of by freehold disposal to the holder subject to a protective mechanism (under Section 35 (2) (a) (i) CPLA (1998)).
 Ngäi Tahu supports 2.1.
- 2.2 Protective Mechanism Ngäi Tahu supports 2.2.

We thank you for the opportunity to comment on the proposal.

Nähaku noa, nä

akerei

Takerei Norton

Kairuruku Pürero Ngä Rawa Taiao Natural Resources Projects Co-ordinator

CC

Te Rünanga o Awarua Te Rünanga o Oraka-Aparima

Te Rünanga o Hokonui

Te Rünanga o Waihopai