

Crown Pastoral Land Tenure Review

Lease Name: Dunstan Downs

Lease Number: Po019

Public Submissions - Part 2 (Submission 8 Part 1)

These submissions were received as a result of the public advertising of the Dunstan Downs Preliminary Proposal

SUBMISSION ON PRELIMINARY PROPOSAL FOR TENURE REVIEW OF DUNSTAN DOWNS PASTORAL LEASE, MACKENZIE BASIN

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INTRODUCTION

- 1 This is a submission on the Commissioner of Crown Land's (**Commissioner**) Preliminary Proposal for tenure review of the Dunstan Downs pastoral lease (**Preliminary Proposal**) publicly notified under s 43 Crown Pastoral Land Act 1998 (**CPLA**).
- 2 The Environmental Defence Society Incorporated (**EDS**) is a not-for-profit, non-government, national environmental organisation. It was established in 1971 with the objective of bringing together the disciplines of law, science, and planning in order to promote better environmental outcomes in resource management. EDS has been active in assessing the effectiveness of statutory processes in addressing key environmental issues including landscape, natural character, and biodiversity. It has previous involvement in processes relating to the Mackenzie Basin¹, including submissions on a number of tenure review proposals.
- 3 The Dunstan Downs pastoral lease forms part of the 'iconic' Lindis Pass, the gateway to the Mackenzie Basin when coming from Central Otago. The Lindis Pass, including the whole of the Dunstan Downs pastoral lease, has been identified in RMA documents as an outstanding national landscape at a regional scale. It is an area of 'exceptional aesthetic and shared and recognised landscape values, and high natural science, legibility and transient values' and is one of the best examples of tussock landscapes in the Canterbury region.² The Lindis landscape unit has very high public visibility and forms an important enclosure and scene-setting for the Lindis Pass highway when travelling in either direction.³ The area contains a range of vegetation types, including the presence of full ecological sequences and provides important habitat for a number of threatened or declining species.
- 4 Attached to and forming part of this submission are:
 - Statement by Diane Jean Lucas – landscape (**Attachment A**)
 - Summary of: tenure review outcomes; tenure review in the Mackenzie Basin; legal framework (**Attachment B**)

¹ The north-eastern portion of Dunstan Downs falls within the geographic scope of the Mackenzie Basin Agency Alignment Programme.

² *Canterbury Regional Landscape Study Review: 2010 report*, Boffa Miskell, p 92

³ See Ms Lucas' Landscape Assessment (Attachment A)

5 The following issues are discussed:

- Summary of preliminary proposal
- EDS position
- Relief

SUMMARY OF PRELIMINARY PROPOSAL

6 The Dunstan Downs lease covers⁴ an area of approximately 12,351.3705 hectares within the part of the Mackenzie Basin subject to Waitaki and Otago District Council jurisdiction. The land is owned by the Crown but subject to pastoral lease no. PO019 established under s 66 Land Act 1948.

7 Under the Preliminary Proposal:⁵

- Approximately 1,000 hectares are proposed to be designated as land to be restored to full Crown ownership and control by the Department of Conservation (**DOC**) as conservation area pursuant to s 35(2)(a)(i) CPLA. This designation comprises two areas marked CA1 and CA2 on the accompanying maps.
- Approximately 5,356 hectares are proposed to be designated as land to be restored to Crown control as a conservation area pursuant to s 35(2)(b)(i) CPLA subject to an easement concession pursuant to s 36(1)(a) CPLA. This designation compromises the area marked CA3 on the accompanying maps.
- Approximately 850 hectares are proposed to be designated as land to be restored to Crown control as a conservation area pursuant to s 35(2)(b)(i) CPLA. This area is subject to a grazing concession pursuant to s 36(1)(a) CPLA and the continuation of an existing easement in favour of the New Zealand Police pursuant to s 36(3)(c) CPLA. This designation compromises the area marked GC1 on the accompanying maps.
- Approximately 2,320 hectares are proposed to be designated as land to be restored to Crown control as a conservation area pursuant to s 35(2)(b)(i) subject to a grazing concession pursuant to s 36(1)(a) CPLA. This designation compromises the area marked GC2 on the accompanying maps.
- Approximately 2,815 hectares are proposed to be disposed of by freehold disposal to Dunstan Downs Limited pursuant to s 35(3) CPLA. This designation compromises the area marked FH on the accompanying maps. This area is subject to two protective conservation covenants pursuant to s 40(1)(b), 40(2)(a) and 40(2)(b) CPLA. This first, marked CC1, comprises 30 hectares and the second, marked CC2, comprises 865 hectares. The proposed Special Conditions for covenant CC2, allows for the grazing of sheep and cattle and the maintenance of existing oversowing and topdressing of the land.⁶

8 Reasons for the proposed designations are set out in the Summary of Preliminary Proposal⁷ (Proposal Summary). Key reasons are:

⁴ Lease PO019; Legal description sections Part Run 201A, situated in Ahuriri, Hawkdun, Lindis, Longslip and St Bathans Survey Districts, Section 4 SO Plan 23073 and Section 2, Block 16 Longslip Survey District; Certification of Title OT 338/47

⁵ See: Summary of Preliminary Proposal; Preliminary Proposal Schedule 1 and 2.

⁶ Preliminary Proposal, Appendix 8, Schedule 2: Special Conditions

⁷ The Preliminary Proposal document itself sets out the specific terms of the proposal. It provides no analysis, explanation or reasons.

- Area CA1 contains significant inherent values primarily related to the natural vegetation that is in “*good to excellent condition*”. It also contains significant landscape values and is highly visible from SH8. Area CA2 contains a continuation of tussock grasslands at altitudes between 1140 to 1780 metres.
- A number of threatened species were identified in the area CA3, with further species likely to be present. From a landscape perspective, the area is considered to have “*a high degree of naturalness, intactness, coherence and legibility*”.⁸ Much of the significance of the area comes from the scale of the landscape involved.
- Area GC1 has similar significant inherent values to areas CA1 and CA2. The significant inherent values will be “*best managed by the removal of grazing allowing for recruitment and growth*”.⁹ However, a grazing concession for a term of 15 years is proposed to allow time to restructure the current farming operation.
- Area GC2 contains a number of ecological and recreational significant inherent values. From a landscape perspective the area sustains “*a special natural quality and integrity in relation to the high country landscape*”.¹⁰ Similar to GC1, the area will best be managed by the removal of grazing, however a grazing concession of a term of 10 years is proposed.
- Area FH contains significant inherent values, particularly in relation to landscape, but “*these values can be adequately protected through covenants*”. This is the residual area after the “*recognition of the most significant inherent values*”.¹¹
- Much of the significant inherent values across the lease are a result of the “*scale of the landscape and the transitions that occur within the vegetation types*”. The preference of restoration to Crown ownership has been pursued where appropriate.¹²
- It is anticipated that the proposed freehold land is “*capable of maintaining pastoral use in an ecologically sustainable manner*”.¹³

EDS POSITION

9 EDS opposes the Preliminary Proposal on the basis that it:

- Reflects an unlawful application of the decision-making framework and statutory objects applying to tenure review under Part 2 CPLA.
- Is based on outdated, inadequate and insufficient information.
- Fails to provide sufficient reasons for the decision reached and the designation proposed.
- Fails to consider alternatives to the proposed designation.
- Does not promote land management that is ecologically sustainable.
- Does not enable protection of all significant inherent values on the property.

⁸ Summary Proposal at 2.3

⁹ Summary Proposal at 2.4.1

¹⁰ Summary Proposal at 2.5

¹¹ Summary Proposal at 3.5

¹² Summary Proposal at 3.3

¹³ Summary Proposal at 3.1

- Fails to recognise the National Water Conservation (Ahuriri River) Order 1990.
 - Fails to take a landscape-scale strategic approach.
- 10 EDS contends that the proposed designations will not enable protection of significant inherent values on the Dunstan Downs's lease nor provide for its management in a way that is ecologically sustainable. These two outcomes are mandatory and are the primary objects of tenure review.
- 11 Significant inherent landscape values are identified across the lease. Much of the inherent value is derived from the scale of the landscape and the ecological transitions that occur within it. The presence of significant inherent landscape values from the Dunstan Range summit down to Longslip Creek, SH8 and the lease boundary (the area proposed to be disposed of by freehold) is confirmed in Ms Lucas's statement of evidence (Attachment A).
- 12 EDS considers that to provide for these significant inherent landscape values the entirety of the lease (homestead and curtilage excepted) should be restored to full crown ownership and control by DOC as a conservation area. To support the management of appropriate vegetative cover, the area should be subject to briar and wilding pine removal.
- 13 The disposal of the land to freehold will open the land up to significant development pressure. The area designated as FH lies within the Waitaki District, and the FH area comprises both 'ONL' and 'Rural Scenic' zoning (see sheet 13 to Attachment A). The Waitaki District Plan provisions applying to Rural Scenic land are much weaker than those applying to ONL. Pastoral intensification and agricultural conversion are permitted activities. Subdivision to a lot size of 20 hectares is a discretionary activity. Intensification of farming and further subdivision could both have significant effects on landscape and biodiversity values.
- 14 In addition, as some of the FH area is not identified as an ONL, afforestation and replanting of plantation forestry is likely to be a permitted activity under the National Environment Standard for Plantation Forestry. Plantation forestry is not a suitable land use for the Mackenzie Basin as it is incompatible with the area's landscape and dryland ecosystems. Exotic plantation forestry also carries a significant risk of wilding conifer proliferation in these ecosystems.

Specific concerns

Information

- 15 It does not appear from the Preliminary Proposal documents that adequate information has been considered:
- a. There is no assessment of the ecological sustainability of the proposed designations at a property or wider landscape scale. As a result, EDS does not understand how the Proposal Summary's conclusions that the proposed designations achieve ecological sustainability were reached.
 - b. The Conservation Resources Report prepared in 2002 is outdated. Significant change has occurred in the Mackenzie Basin in the past 18 years. No updated assessment of significant inherent values or ecological sustainability in the 2020 context appears to have been undertaken.
 - c. The Preliminary Proposal also does not take into account the effects of the designation on the National Water Conservation (Ahuriri River) Order 1990. The Proposal currently seeks to

freehold part of the lease directly adjacent to the River, which may result in adverse effects on the qualities the water conservation order seeks to protect.

16 As a result, the Preliminary Proposal has reached a conclusion as to appropriate designations and protective mechanisms that is unreasonable, and which will not give effect to the objects in s 24 CPLA.

Reasons: inadequate

17 The Preliminary Proposal supporting documents do not give adequate reasons for the designation decision reached.

18 Reasons must be more than a statement of conclusion¹⁴ or of the test to be applied. They may be abbreviated,¹⁵ but should be “sufficient to show to what they were directing their mind”¹⁶ thereby showing whether the decision was lawful. The three underlying grounds for the importance of giving adequate reasons for decisions are:¹⁷

- To uphold the principle of openness in the administration of justice¹⁸. Openness is critical to maintenance of public confidence in the justice system. Without reasons it may not be possible to understand how a decision was reached, excluding public from decision-making. Accountability is undermined¹⁹.
- To provide a basis on which the lawfulness of decisions can be assessed on appeal or review.²⁰
- To provide protection against wrong or arbitrary decisions.²¹

19 Failure to give adequate reasons leaves decisions vulnerable to challenge.²²

20 The reasons given for the Preliminary Proposal are inadequate because they do not:

- Explain how and to what extent the hierarchy in s 24 CPLA has been taken into account.
- Explain how and to what extent the Treaty of Waitangi has been taken into account.

¹⁴ In the RMA context the Court has confirmed that ‘reasons’ must be more than a statement of conclusion: **Environmental Defence Society Inc v Manawater-Wanganui Regional Council; Friends of Houghton Valley Inc v Wellington City Council** [2015] NZHC 234, (2016) 19 ELRNZ 62, [2016] NZAR; **Marche Ltd v Auckland Council** [2016] NZHC 145, (2016) ELRNZ 55, [2016] NZRMA 139, [2016] NZAR 542.. At the level of principle are transferrable to CPLA decision-making.

¹⁵ **Lewis v Wilson Horton Ltd** [2000] 3 NZLR 546 (CA) at [81].

¹⁶ **Lewis** fn7 at [81] quoting Lord Donaldson MR in **R v Civil Service Appeal Board, ex parte Cunningham** [1991] 4 ER 310, 319.

¹⁷ **Lewis** fn 7 at [70]. Unsuccessful appeal by Lewis of a decision of the High Court quashing an order made in the District Court prohibiting the publication of his identify in any report of the court proceedings. Both appellate courts found that it was impossible to know what factors the District Court had considered relevant from the decision. The High Court had been correct to find this an error of law]. Note that this collapsed the 6 grounds previously identified by the Court of Appeal in **Sing v Chief Executive, Department of Labour** [1999] NZAR 258 (CA) at 262-263:

“(1) Formulating reasons imposes discipline on decision-makers as the cognitive process involved can cause preliminary views to be revisited;

“(2) Reasons assure parties that their evidence and arguments have been carefully assessed in accordance with law;

“(3) Reasons identify the chain of logic that supports a decision and assists parties to decide whether to challenge it by appeal, review or other complaints mechanism;

“(4) Reasons ensure parties of an effective right of appeal or review and assist counsel and the court in marshalling the challenge and assessing its merit;s

“(5) A practice of providing reasons establishes a body of precedence or guidance affecting the exercise of powers; and

“(6) Reasoned decisions assure the legitimacy and openness of the exercise of power and promote public accountability.”

¹⁸ **Lewis** fn7 at [76].

¹⁹ **Lewis** fn7 at [79].

²⁰ **Lewis** fn7 at [80].

²¹ **Lewis** fn7 at [82].

²² **Marche** fn 14 at [23] – [24]

- Explain why the proposed designations are the best way to achieve the objects of tenure review and what other alternative designation options (including use of protective mechanisms) have been considered.
- Set out what, if any, additional information has been considered in reaching a decision on the Preliminary Proposal.
- Identify how freehold ownership will enable protection of significant inherent values across that portion of the lease.
- Give supporting evidence and rationale for the conclusion that the land is capable of ecological sustainable management under a pastoral regime in its present state.
- Explain how freeholding land to enable further development is consistent with promoting ecological sustainability and enabling protection of significant inherent values.

Other material

- 21 EDS understands that LINZ's approach to decision-making on tenure review is to apply Cabinet Minute 'Crown Pastoral Land: 2009 and Beyond' (Minute (09) 267C) (**Minute**)²³. EDS accepts that application of the Minute is not recorded in the Preliminary Proposal documents.
- 22 The Minute sets an "*end outcome*" for Crown pastoral land (and so tenure review) that "*Crown pastoral land is put to the best use of New Zealand*"²⁴. That outcome is stipulated to mean "*that Crown pastoral land is put to the best use for economic, environmental, and cultural purposes*"²⁵.
- 23 The Minute also records the "*government's objectives for Crown pastoral land*"²⁶. Objectives different and additional to those in s24 CPLA are set, relevantly:
- Ensure that "*pastoral*" values are maintained and protected.
 - Promote "*the contribution of Crown pastoral land to New Zealand's economy*".
 - Value the "*iconic nature of high country farming and its contribution to New Zealand culture*".
 - Value "*viable rural high country communities*".
- 24 EDS considers the Minute is *ultra vires* the CPLA and should not be applied because:
- It is inconsistent with s 24 CPLA. Extraneous material can only be considered if consistent with the stated objects of tenure review. That is set in s 24. It contains a number of objectives which sit within a hierarchy and which are the intended end outcome of tenure review. At the top of the hierarchy are promoting land management that is ecologically sustainable and enabling protection of significant inherent values. Freeing from management restraint and freeholding and subordinate.
- The Minute effectively replaces and redrafts s 24 CPLA. No hierarchy is stipulated. New economically focused objectives are included. A balanced exercise between economics, environment, and cultural factors is applied²⁷.

²³ Email from Janet Harris 6/7/17 to Gary Taylor in response to request for information on LINZ process link to Minute and supporting Cabinet paper included.

²⁴ Minute at paragraphs 7 and 8.

²⁵ Minute at paragraph 9.

²⁶ Minute at paragraph 10.

- Cabinet cannot override legislation and purport to fetter the Commissioner’s ability to consider tenure review proposals under the decision-making framework in ss 24-26 CPLA²⁸.

RELIEF

- 25 With regard to those properties continuing through the tenure review process, EDS seeks that decision making be applied as set out in Appendix B.
- 26 With regard to the tenure review of Dunstan Downs:
- That the entirety of the lease (homestead and curtilage excepted) be restored to full crown ownership and control by DOC as a conservation area.
 - That the homestead block be freeholded.
- Alternatively:
- That no Substantive Proposal be put to the leaseholder and LINZ offers to buy out the lessee.
- 27 Prior to a Substantive Proposal being developed for Dunstan Downs, a thorough and up to date expert assessment of the landscape and ecological values should be commissioned by LINZ. This should include a final analysis of significant inherent values and designation recommendations as well as an analysis of the role and importance of each part of the property in terms of the ecological sustainability of the property, and its importance within the context of the entire Mackenzie Basin.
- 28 EDS also seeks to be involved in any negotiations or consultation on the development of a Substantive Proposal as available under s 26 CPLA.

²⁷ Cabinet Paper A676415 pg 4, [49] bullet 1: explanation of interpretation and application of strategic direction requiring balancing approach.

²⁸ For a recent analogous situation where fettering of decision-making power by governing body resolution was found to be unlawful see: *Wellington Fish & Game Council & Environmental Defence Society Inc v Manawatu-Wanganui Regional Council* [2017] NZEnvC 37 at [37]-[48] and [186].

ATTACHMENT A
Diane Jean Lucas (Landscape Assessment)

Dunstan Downs Pastoral Lease

Landscape Assessment – Lindis Landscape

1. INTRODUCTION

Further to the landscape assessment undertaken in 2002 of the whole of the Dunstan Downs Pastoral Lease, this report provides a more up to date assessment of the Lindis landscape unit, the northern area of the lease. Field assessment involved viewings from the highway.

The SIV assessment method has been updated since 2002, and the 2010 Revision of the Department of Conservation Guidance on SIVs has been applied. The report addresses only part of the pastoral lease.

Section 1 notes the location; the regional landscape context; and, the assessment methodology.

Graphic attachments are provided that show the location, biogeographical context and regional landscape recognition (Sheets 1 – 16).

Section 2 provides the landscape analysis and evaluation. This forms the basis for the identification of Significant Inherent Values (SIVs) as well as management recommendations.

Graphic attachments Sheets 17 – 31 are focused on the northern area of the lease, the area within the Lindis landscape unit.

Sheet 32 shows the Preliminary Proposal with the Landscape SIV 2002 outline overlain, then amended to include the assessed 2020 update on sheet 33.

2. METHODOLOGY (SECTION 1)

The process of landscape assessment included the following steps:

1. **Landscape Unit:** The northern section of the run is assessed to be a single landscape unit. That is, the area lying north of the Waitaki-Clutha watershed along the summit of the Dunstan Range assessed as the Lindis landscape unit.
2. **Landscape Character:** described for the landscape unit, which is divided into landform components.
3. **Visual and Scenic Values:** described for the landscape unit.
4. **Vulnerability:** assessed.
5. **Landscape Values:** assessed regarding:
 - a. **Naturalness** – the condition of the natural vegetation, patterns and processes and the degree of modification present.
 - b. **Legibility** – the expressiveness, how obviously the landscape demonstrates the formative processes leading to it.
 - c. **Aesthetic Factors** – including distinctiveness, the quality making a landscape visually striking; also, coherence, addressing intactness, unity, continuity, and compatibility. Noting intrusions, alterations and disruptions tend to detract from coherence.
 - d. **Historic Values** – historically valued attributes in the context of a high country landscape.

- e. **Visibility** – from public places such as highways and local vantage points.
6. From the above, a determination is made regarding SIVs on the reviewable land using the 2010 Revision of the Department of Conservation Guidance on SIVs. For the landscape unit, the results are compared spatially with the assessment undertaken in 2002.

3. LOCATION AND LANDSCAPE CONTEXT

Dunstan Downs PL extends from the Mackenzie Basin over into Central Otago. In the north Dunstan Downs clothes the Dunstan Range from the summit westwards down to Longslip Creek or State Highway 8 as they closely interweave from near the summit of the Lindis Pass down to the Ahuriri River. (refer maps Sheets 1 and 3)

Dunstan Downs PL straddles three Ecological Regions (ER) and Districts (ED), from the Ahuriri ED of the Mackenzie ER in the north, with the western 20km long block in the St Bathans ED of the Waitaki ER, and, a 20 km long strip in the Lindis ED of the Central Otago ER. The Lindis landscape unit straddles the Mackenzie – Waitaki Regions, and the Ahuriri (63.05) and St Bathans (64.04) Ecological Districts. (refer map Sheet 2)

The St Bathans Range flange of the lease is bordered to the east by the Oteake Conservation Park, formed in 2010. In the north, the Killermont Conservation Area borders from the crest of the Dunstan Range south to the Wether Range. The Lindis Pass Scenic Reserve also adjoins at the highway near the summit. (refer Sheets 2 and 6)

The Dunstan Downs PL straddles the Clutha-Waitaki watershed, hence the Otago-Canterbury Regional boundary, it laps both the Central Otago and Waitaki Districts, and spreads onto the St Bathans, Wether and Dunstan Ranges. The Ōmārama – Lindis Pass Road (SH8) runs through the northern tip of the run alongside the Ahuriri River and along near the western boundary to near the summit of the Lindis Pass. (Sheet 3)

The Dunstan Range defines the run. The central crest divides the run into northern and southern flanges. To the north the Lindis landscape unit all drains to Longslip Creek, a tributary of the Ahuriri. To the south the extensive rangelands all drain to Dunstan Creek.

This report addresses only the land north of the Dunstan Range summit, referred to as the Lindis landscape unit. The unit is part of the dominantly tussock-clad mountain valley that provides a mountain pass and high country gateway experience between the Mackenzie Basin and Central Otago. The Dunstan Downs' Lindis landscape unit has long contributed to the Lindis Pass corridor, an historic, popular and well-travelled route providing a nationally valued high country landscape experience. For tangata whenua this corridor involves the traditional trail, Ōmakō.

As well as the highway running alongside or close by, a transmission line passes through the Lindis landscape unit on the lower slopes and valley floor toward the western boundary.

The whole of Dunstan Downs PL has been identified in RMA documents as contributing to Outstanding Natural Landscapes (ONL). Assessed as per RMA s.6b, the whole of the northern flange, the Longslip catchment of the northern Lindis valley, is recognized as ONFL 17. Lindis and Ahuriri in the Canterbury Region (Sheet 12). The rest of the run is identified as ONL by the Central Otago District. For the Lindis landscape unit of Dunstan Downs at the district scale, most is already recognised as ONL by the (outdated) Waitaki District Plan. (Sheets 13 - 16)

Relevant to the Lindis landscape unit, **Key Landscape Values** of the Lindis Pass area identified in 2010 include:

Aesthetic Values

The coherent appearance of the Lindis Pass slopes with its extensive tussock cover is symbolic of this memorable landscape.

Shared and Recognised Values

The Lindis Pass (SH8) important connection to Otago region.

The Lindis Pass area is an 'iconic' New Zealand landscape.

Inspiration for many artists and authors alike.

Historic Values

Part of Canterbury's high country landscape with a rich history of pastoral farming.

EVALUATION

The Lindis Pass was identified as an ONL due to “*exceptional aesthetic and shared and recognised landscape values, and high natural science, legibility and transient values.*”

“The Lindis Pass area and parts of the Ahuriri Valley are amongst the best examples of accessible tussock landscapes of their kind in the country. The combination of landform and landcover is exceptional.”

“The dramatic Lindis Pass Highway links the Mackenzie Basin with the Central Otago region. This pass has exceptional shared and recognised landscape values. The landscape has many important historic and cultural associations that are important elements of Canterbury's high country.” (Boffa Miskell, 2010. page 144) (refer Sheet 11)

Undertaken in 2010, this regional assessment provides an appropriate context for the Lindis landscape unit of the Dunstan Downs PL and remains entirely relevant in 2020.

4. LANDSCAPE ANALYSIS AND EVALUATION (SECTION 2)

Whilst the Dunstan Downs Pastoral Lease extends south into Otago, the northern flange that lies in Canterbury is the section assessed. This section is defined as a single landscape unit and referred to as the Lindis landscape unit.

Character Description

The lands of the whole lease involve the steep, dissected mountain land type, H 15 (southern subhumid to humid mountain range land type).¹ The Lindis landscape unit presents similar patterns and character along its length, notably as a schist mountain block with:

- 15 (a) Upper mountain slopes with gentle crests along the Dunstan Range, from Killermont Hill in the north to Old Man Peak in the south, delineated as:
 - (a1) upper mountain slopes (>1200 m), and,
 - (a2) upper mountain undulating summits and crests.
- 15 (b) Lower mountain slopes, and,
- 15 (c) Colluvial side slopes, terraces and floodplains of the valley floor below. (Sheets 7 – 9)

¹ Ian Lynn. 1993. *Land Types of the Canterbury Region*. Landcare Research contract Report LC9394/2 for Lucas Associates. 53 pp.

The Lindis landscape unit comprises the northern band of mountain crest and upper slope country of the Dunstan Range and small areas of valley floor and colluvial slopes (Sheets 8-9; Lynn 1993, 2004, 2019).

The lease extends from the range crest down to the valley floor and Longslip Creek. The broader southern areas of the unit drain to McLays Creek, the primary tributary. (Sheets 18 – 19) The Creek and Ōmārama - Lindis Pass Road (State Highway 8) inter-weave with the north-western boundary down to the Ahuriri. The homestead and farm core are located at the northern end (Sheet 3 and 20).

Whilst typically extending down to Longslip Creek or the highway, for the 3.5 km length between the Ahuriri and to opposite the Dalrachney entry, the western extent of the Dunstan Downs PL is not easily legible. A long strip of valley floor Longslip Station paddocks separate Dunstan Downs PL from Longslip Creek and, more extensively, from the highway (Sheets 20, 23 – 27).

Prominently topped along its length by the summit crest and steep eroding upper slopes of the Dunstan Range, the Lindis landscape unit is predominantly lower mountain slope country. Along with several colluvial enclaves, the mountain slopes continue down to, or almost to, the valley floor boundary (Sheet 9). There is scant terrace or floodplain land within this Lindis landscape unit. It is dominantly dry grassland-covered mountain-land.

Visual and Scenic Values

Coming north on the Tarras-Ōmārama highway, from the Lindis Pass summit down to the Ahuriri forms the iconic gateway entry to the Mackenzie Basin. The Lindis landscape unit is a highly visual part of this gateway experience.

People drive across the Mackenzie Basin, or up the Waitaki, past Ōmārama and alongside the Ahuriri to meet the base of the Dunstan Range. Past a sequence of three high country station farm nodes – Killermont, Dunstan Downs then Longslip Station – round the snout of the Range where it meets the Ahuriri. State Highway 8 then leads up through the Lindis Pass. It is a nationally important gateway experience, between the Mackenzie/Waitaki and Central Otago / Southern lakes. Across the mountain slopes of the Dunstan Range, the Lindis landscape unit forms the dominant eastern enclosing lands from the base for 15 km up the highway to the summit and Lindis Scenic Reserve.

The Lindis landscape unit has high inherent visual value due to the classic mountain character, from crest and steep upper slopes, above more gentle lower slopes which drop to colluvial side slopes. The dry grassland-covered slopes contribute importantly to the premier high country tussock landscape character of the Lindis Pass.

The Lindis landscape unit has very high public visibility. The unit forms important enclosure and scene-setting for the Lindis Pass highway when travelling in either direction. From the Pass entrance down by the Ahuriri, or arrival over the summit from Central Otago, the mountain slope lands of the Lindis landscape unit are highly visible. They provide crucial Lindis Pass high country experience.

The Lindis landscape unit is also an important visual contributor to the Lindis Pass landscape as enjoyed in views from surrounding public conservation lands and legal access routes (Sheet 2). For example, in views from the Wether Range easement up the northern boundary from the highway up to Killermont Hill, 1464 m. on the Dunstan Range Also, in views from the Lindis Conservation area to the southwest, including from up on Longslip Mountain, and, from the Lindis Pass Scenic Reserve, such as from Peak 1423 (Sheet 31).

SUMMARY EVALUATION of Lindis landscape unit:

Criteria	Value	Comment
Naturalness	High	Overall high. Much of the unit is undeveloped mountain slopes with a very high natural character. Some lower slope grasslands seasonally exhibit a degree of intensification and are rated moderate-high. The very small terrace and floodplain areas exhibit least naturalness, with pines, homestead node and pylons.
Legibility	High	The differing slope and altitude of the mountain landforms, their evident erosive processes and natural vegetative patterning, exhibit very high legibility.
Aesthetic Factors	High	The scantily vegetated, steep eroding slopes above contrast with the more vegetated lower slopes which are together the scene-setters. The narrow alluvial flats below are part of the access and stream pathway through the landscape. Two small areas of terrace pines and a pylon route detract, but are localised.
Historic/Cultural Values	High	The unit encloses the traditional pathway Ōmakō, the Lindis Pass, between the Waitaki and Mata-Au (Clutha) catchments that has been highly valued for centuries.
Visibility	High	Mostly prominent and on-show to travelers of the Lindis Pass Highway, as well as overviewed from surrounding public conservation lands and accessways.

Vulnerability / Threats

Excepting the upper slopes and pass summit, the lands enclosing the Lindis Pass highway corridor are vulnerable to farm intensification, forestry and development activity that would reduce the landscape naturalness and 'iconic' character.

Assessed as landscape, then, rather than the "cut-outs" on lower north-western areas as recommended in 2002, this re-assessment identifies that significant inherent landscape values continue over the full extent of the unit.

CONCLUSION

From this landscape assessment of the Lindis landscape unit of the Dunstan Downs PL, I conclude that the full extent of the lease area from the Dunstan Range summit down to Longslip Creek, State Highway 8 and the Lease boundary qualifies as demonstrating significant inherent landscape value. Contributing to a nationally highly valued high country landscape and gateway to the Mackenzie Basin, I assess that the lands are both highly significant and also vulnerable.

For this identified SIV, to both support and enable appropriate management of vegetative cover - including tussockland and shrubland recovery and restoration - then briar management and removal of the small terrace areas of wilding and woodlot pines is recommended.

The Preliminary Proposal involves freeholding much of the nationally significant Lindis Pass landscape corridor, including some areas identified as SIV in 2002 (sheet 32). Guided by the updated assessment, to manage the corridor for naturalness and integrity, landscape protection would be expanded, extended to the western and northern boundaries, to include full altitudinal sequences and landscape containment (sheet 33).

November 2020

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Heritage Conservation
Landscape Ecology

ATTACHMENT B

Summary of: tenure review outcomes; tenure review in the Mackenzie Basin; legal framework

TENURE REVIEW: SUMMARY OF OUTCOMES

- 1 The outcomes of tenure review to date have been subject to extensive academic scrutiny²⁹. Key points include:
 - Rapid loss of threatened, endemic high country ecosystems demand a moratorium on tenure review for a comprehensive process review.
 - Areas being retained in Crown ownership and control are not the areas which contain the most significant, rare, or threatened ecosystems. In other words, the more threatened the ecosystem, the more likely it is to be freeholded under tenure review.
 - A black and white approach is being taken with Crown ownership or fee simple being the only management options pursued. This is resulting in suboptimal outcomes. A more nuanced³⁰ and innovative approach is available if consistent with s24 CPLA.
 - The quantum paid by the Crown to the leaseholder for the lease is significantly more than that paid by the leaseholder to the Crown for the land. This is despite evidence that on average new freehold land sells for 493 times the Crown's selling price.
 - The entire Mackenzie Basin is a significant natural area for the purposes of s6(c) RMA. Those significant values are being lost quickly. There is a strong ecological and economic case for immediate moratorium.
 - Any freehold land should be subject to a wilding pine removal covenant.

TENURE REVIEW IN THE MACKENZIE BASIN

- 2 Tenure review is one of a number of land management processes at play in the Mackenzie Basin. The others are:
 - Regional consents for water take and discharges
 - District consents for land use
 - Establishment of the Mackenzie Country Trust
- 3 Failure by administrators to take a joined up and strategic approach between processes has resulted in deterioration of the natural environment with resultant loss of internationally, nationally, and regionally unique, rare, and threatened ecological, landscape and natural character values. This failure was recognised by the Environment Court³¹ and has resulted in the formation of the Mackenzie Basin Agency Alliance, which seeks to protect the iconic Mackenzie landscape, its water quality and its precious indigenous flora and fauna.

²⁹ By the PCE: April 2009 Report: *Changes to the High Country: Environmental Stewardship and Tenure Review*. June 2011 Follow up report. By various academics e.g.: *South Island High Country Land Reform 1995-2015*, Ann Brower: <http://igps.victoria.ac.nz/publications/PQ/2016/PQ12-1-Brower.pdf>, *Land reform in the Godzone: Case Studies in the Environment*, A Brower 2017, *Legal Aspects of High Country Pastoral Leases and the Tenure Review Process: A background paper*, Barry Barton, July 2006 (Report for the PCE) By the Courts: **Federated Farmers v Mackenzie District Council** [2017] NZEnvC53.

³⁰ For example a more nuanced approach might include freeholder land around a farm based area which does not exhibit ecological SIVs subject to a covenant for landscape purposes. Some land revert to Crown ownership and direct control and some reverting to Crown ownership and concession granted for low density grazing by DOC.

³¹ See **Federated Farmers of New Zealand v Mackenzie District Council** [2017] NZEnvC 53 (11th Decision).

4 The failures of the tenure review process have also been recognised and in February 2019 Cabinet agreed to end tenure review. This is reflected in the Crown Pastoral Land Reform Bill which is currently before the Select Committee. Until the law changes, tenure review proposals are to be assessed under the existing law. A summary of the legal framework is included below.

SUMMARY OF LEGAL FRAMEWORK

5 Tenure review is the process under which the tenure (ownership) of land currently owned by the Crown but subject to a pastoral lease established under s66 LA is reviewed and, potentially, changed.

6 The process is set out in Part 2 CPLA. It comprises 3 steps:

- Initial review (ss27-33 CPLA).
- Release of a preliminary proposal (ss34-45 CPLA).
- Release of substantive proposal (ss46-82 CPLA).

7 SS24-26 CPLA set out the underlying decision-making framework that applies to all 3 stages.

8 S24 CPLA sets out the objects of tenure review:

24 Objects of Part 2

The objects of this Part are—

(a) to—

(i) promote the management of reviewable land in a way that is ecologically sustainable;

(ii) subject to subparagraph (i), enable reviewable land capable of economic use to be freed from the management constraints (direct and indirect) resulting from its tenure under reviewable instrument; and

(b) to enable the protection of the significant inherent values of reviewable land—

(i) by the creation of protective mechanisms; or (preferably)

(ii) by the restoration of the land concerned to full Crown ownership and control; and

(c) subject to paragraphs (a) and (b), to make easier—

(i) the securing of public access to and enjoyment of reviewable land; and

(ii) the freehold disposal of reviewable land.

9 S24 “is not about balancing competing values; it has an internal structure that avoids that”³². It contains a hierarchy. The importance of the hierarchy in s24 to decision-making is discussed below.

10 S25 CPLA sets out the matters that must be taken into account by the Commissioner in acting under Part 2 CPLA. It sets out the framework for decision-making on tenure review: what is to be considered and how:

25 Matters to be taken into account by Commissioner

³² *Legal Aspects of High Country Pastoral Leases and the Tenure Review Process: A background paper*, Barry Barton, July 2006 (Report for the PCE) at pg 29.

(1) In acting under this Part, the Commissioner must (to the extent that those matters are applicable) take into account—

(a) the objects of this Part; and

(b) the principles of the Treaty of Waitangi; and

(c) if acting in relation to land used or intended to be used by the Crown for any particular purpose, that purpose.

(2) In acting under this Part in relation to any part of the land held under a reviewable instrument or reviewable instruments, the Commissioner must take the objects of this Part into account in the light of—

(a) their application to all the land held under the instrument or instruments; rather than

(b) their application to that part of the land alone.

11 S26 sets out consultation requirements that must be fulfilled before undertaking each of the 3 process steps:

26 Consultation

(1) Before taking any action specified in subsection (3), the Commissioner must consult the Director-General of Conservation.

(2) At any time, the Commissioner may consult any person or body the Commissioner thinks fit (including the Director-General of Conservation) about taking any action specified in subsection (3).

(3) The actions are—

(a) undertaking a review under section 27:

(b) putting a preliminary proposal to a person under section 34(1):

(c) putting a substantive proposal to a person under section 46.

CONSULTATION

12 Consultation is required at all 3 stages of the tenure review process. Consultation with DOC is mandatory. Consultation with “*any person or body the Commissioner thinks fit*” is optional.

13 There is no requirement to consult with the lease-holder. There is no prohibition on consultation at any stage with other interested groups, for example, the Mackenzie Trust and EDS.

14 Consultation involves the statement of a proposal not yet finally decided upon, and that the party obliged to consult must keep an open mind and be ready to change and even start afresh³³. It does not require neutrality.

15 Requirement to consult does not prevent the Crown from pursuing its own interests. In tenure review those interests are set out in s24 CPLA. The Crown cannot approach or participate in

³³ See: *Wellington International Airport Limited & Ors v Air New Zealand Ltd & Ors* HC Wellington CP403/91, 6 January 1992, McGechan. Referenced in CPLA context in *Kyeburn Downs Ltd & Ors v Commissioner of Crown Lands* CIV-2008-412-000197 (HC).

consultation in a way that secures outcomes contrary to s24 CPLA. To do so would be undertaking process mandated by the CPLA in a way that is unlawful under the CPLA³⁴.

DECISION-MAKING

16 EDS is concerned that an incorrect and so unlawful approach to decision-making has been applied to tenure review to date. Set out below is its understanding of correct legal process.

S25 CPLA: decision-making framework

17 S25 sets out the framework for decision-making on tenure review. In undertaking any action as part of the tenure review process the Commissioner must “take into account”:

- The objects of Part 2 CPLA. These are set out in s24 CPLA.
- The principles of the Treaty of Waitangi.
- In relation to land used or intended to be used by the Crown that purpose of that use.

18 Central to the application of s25 CPLA is interpretation of “must take into account”. EDS considers that the following interpretation applies:

- The obligation on decision-makers to “take into account” the listed considerations is mandatory – it “must” be done³⁵. Failure to do so is unlawful³⁶.
- Although the weight to be given to each of the listed mandatory considerations is a matter of discretion for the decision-maker³⁷ the Commissioner cannot reject a mandatory

³⁴ This issue has been succinctly addressed by Professor Barton in analysis commissioned by the PCE in *Legal Aspects of High Country Pastoral Leases and the Tenure Review Process: A background paper*, Barry Barton, July 2006 (Report for the PCE) at pg 30:
“(i) **consultation does not require neutrality**. It requires openness to what the consulted party has to say, and it requires fairness in making sure that the consulted party can provide its input effectively. But it does not prevent the consulting party from having policies of its own. While it would be wrong to consult on a proposal that it had no intention of changing, it can certainly consult on the basis of a proposal that is consistent with its usual policies, and which it intends to put into effect if nothing in the consultation is enough to make it change its mind.
(ii) **A party that must consult can also pursue its own interests**. Consultation need not deter a party from making a decision consistent with its own interests. *Wellington International Airport Ltd v Air New Zealand Ltd* [1993] 1 NZLR 671 (CA) is a good example – a commercial enterprise with profit as its motive was obliged by statute to consult the main users of its facilities as a restraint on its behaviour as the owner of an effective monopolist; but it was not obliged to obtain their consent to its prices. The veto power of the Commissioner – the power to withdraw from a tenure review at any time before the substantive proposal – is not compromised or watered down by reference to his or her duty to consult certain parties at certain points in the tenure review process.
(iii) **A party who must consult can also negotiate**. It is often said, rightly, that consultation is not negotiation. But the existence of a duty to consult does not prevent a party from negotiating as well if it thinks fit to do so and is not legally prevented from doing so. It can negotiate with the parties to be consulted, or with other parties.
(iv) **A party who must consult can also advocate**. It is commonplace in administrative law to find a decision-maker who is pursuing a definite policy, and is entirely at liberty to do so even while exercising statutory powers of decision. A usual case is a minister of the Crown who has been elected and appointed on a party policy platform. The cases generally hold that the decision-maker must exercise the power as Parliament had intended, and that usually requires him or her to be openminded, and willing to change or adapt the policy, or even abandon it. **But the decision-maker is not wrong to have a policy and to advocate for it**. Indeed, in government and administration we would often expect nothing less from conscientious officials.
(v) **The decisions that result after consultation can certainly favour one interest over another**. Indeed, a decision of any kind will inevitably do so. And the presence of a duty to consult in the procedures leading to the decision makes no difference to the range of decisions that can lawfully be made.
(emphasis added).

³⁵ *Constitutional and Administrative Law in New Zealand*, 4th Edition, P A Joseph, Ch23.2.3(4) pg 953-955: Mandatory considerations may not be “rebuffed ... by a closed mind so as to make the statutory process some idle exercise” (**NZ Fishing Association Inc v Minister of Agriculture & Fisheries** [1988] 1 NZLR 544 (CA) at 551, quoted with approval in **A-G v Refugee Council of New Zealand** [2003] 2 NZLR 577 (CA) at 608).

³⁶ Failure to consider a relevant matter.

consideration under s25 CPLA or give it no weight. Actual provision must be made for each consideration³⁸.

- In reaching and recording a decision mandatory considerations must be weighed on a “*fine grained basis*”, “*openly and transparently*”, or risk a finding of “*no weight*”. Decision-makers should specifically refer to mandatory considerations and evaluate each consideration in turn. Failure to do so is a strong indication of a failure to engage in genuine evaluation³⁹.
- Considerations that are not listed in s25 CPLA cannot be taken into account. The considerations listed are comprehensive and detailed by virtue of reference to s24 CPLA⁴⁰. Ability to consider extraneous material is limited to information necessary to inform assessment of the listed considerations. Any material must be consistent with the hierarchy of objects of tenure review⁴¹.
- The requirement to “*take into account*” in s25 CPLA does not apply to s24 CPLA. It applies only to what is to be looked at in decision-making under Part 2 generally. The “*take into account*” balancing exercise cannot be transposed into s24. There is no ability to consider the different elements of s24 and give some greater weight over others. The hierarchy in s24 CPLA bites. S24 CPLA prescribes that ecological sustainability and protection of SIVs are the primary goals of tenure review. Those objects cannot be compromised.

S24: Objects of tenure review

19 Under s25(1)(a) and (2) the Commissioner must “*take into account*” the objects of Part 2 CPLA.

20 EDS is concerned that the objects in s24 CPLA have been misinterpreted and so unlawfully applied. It considers:

- S24 contains a hierarchy which must be applied. S24 “*is not about balancing competing values; it has an internal structure that avoids that*”⁴². Promotion of managing reviewable

³⁷ *Constitutional and Administrative Law in New Zealand*, 4th Edition, P A Joseph, Ch23.2.3(4) pg 953-955: However the weight to be given to mandatory considerations is a matter for the decision-maker: (*Valuer-General v Wellington Rugby Football Union Inc* [1982] 1 NZLR 678 (CA). Most recently applied in *Minister of Immigration v Al Hosan* [2008] NZCA 462, [2009] NZAR 259 at [66].)

³⁸ The Court has been clear that ultimately which meaning applies depends on context. It is a matter of statutory interpretation: *Bleakley v Environmental Risk Management Authority* [2001] 3 NZLR 213 (HC) at [72]. In some situations, for example, where there is a deliberate legislative contrast between directions in different purpose sections e.g. take into account v recognise and provide for (as per RMA) a consideration subject to a take into account directive can be given no weight. In other situations the phrase has been held to require actual provision be made for the factor concerned. Interpretation of “*take into account*” that requires actual provision to be made for each factor must apply to the CPLA. It does not contain a second or alternate decision-making provision requiring that certain factors be considered in a more directive way (e.g. recognised and provided for). The only decision-making provision that applies to all stages of the tenure review process is s25 CPLA and it states the Commissioner “*must take into account*” the factors listed (**emphasis added**). The first factor is “*the objects of*” tenure review. The objects are multifaceted. They address the public interest in environmental protection and leaseholder interests. They are arranged in a hierarchy and environmental protection is given precedence. Where the factor that must be taken into account is the underlying object(s) of a statutory process it cannot be Parliament’s intention that it can be cast aside in preference for other, unlisted, objects. Particularly when that object along with other listed decision-making factors cover multiple interests: public, private, Maori, Crown. For the Commissioner of Crown Lands to be able to take the objects of tenure review into account and ignore them would render the tenure review process farcical: the objects in s24 CPLA may as well be deleted.

³⁹ *Constitutional and Administrative Law in New Zealand*, 4th Edition, P A Joseph, Ch23.2.3(4) pg 953-955 quoting relevant case law at footnotes 134-138.

⁴⁰ *Constitutional and Administrative Law in New Zealand*, 4th Edition, P A Joseph, Ch23.2.3(4) pg 953-955 quoting relevant case law at footnotes 134-138.

⁴¹ The Commissioner’s discretion to consider other factors or information is fettered. Statutory powers are given for an object/purpose and their exercise must always promote that object/purpose: *Constitutional and Administrative Law in New Zealand*, 4th Edition, P A Joseph, Ch23.2.3 pg 941; *Constitutional and Administrative Law in New Zealand*, 4th Edition, P A Joseph, Ch22.7 pg 895 referencing *Unison Networks Ltd v Commerce Commission* [2007] NZSC 74, [2008] 1 NZLR 42 at [53].

⁴² *Legal Aspects of High Country Pastoral Leases and the Tenure Review Process: A background paper*, Barry Barton, July 2006 (Report for the PCE) at pg 29.

land in a way that is ecologically sustainable and protection of SIVs sit at the top of the hierarchy. Sitting underneath (or “*subject to*”) is the subordinate object of enabling reviewable land capable of economic use to be freed from the management constraints (direct and indirect) resulting from its tenure under a reviewable instrument. That objective does not necessitate freeholding. Multiple management techniques are available⁴³. Sitting under that are the third tier objects of making easier public access and freehold disposal of reviewable land. There is also a hierarchy in respect of how protection of SIVs should be achieved. Return of pastoral lease land to Crown ownership and control is preferred over other protective mechanisms.

- Promotion of ecological sustainability requires affirmative action^{44 45}.
- An accurate, clear, and scientifically derived definition of “ecological sustainability”⁴⁶ is imperative if tenure review is to avoid perverse outcomes and the s24 objects are to be achieved.
- The relevant ecosystem is that at the time tenure review is occurring. There is no express reference that ecosystems are indigenous. But indigeneity is strongly implicit. The relevant ecosystem is that at the time tenure review is occurring. It is the ecosystem naturally occurring in the particular area. For example, in the Mackenzie Basin the mosaic of cushion mat, shrub and tussock grassland vegetation and associated fauna in its different manifestations is determined by the Basins ecotone gradient. That ecosystem may thrive in conditions that are not conducive to productive use e.g. shallow, dry soils are a natural part of the Basin. The relevant ecosystem is not the ecosystem that would exist subsequent to human manipulation to facilitate intensified farming that is to be sustained.
- Enabling protection means to make something possible.⁴⁷ It requires positive action. Meaning of protection should be assessed by reference to the Conservation and Reserves Act⁴⁸.
- Protection of SIVs by restoration to full Crown ownership and control must be preferred.⁴⁹

⁴³ S40 CPLA.

⁴⁴ *Legal Aspects of High Country Pastoral Leases and the Tenure Review Process: A background paper*, Barry Barton, July 2006 (Report for the PCE) at pg 25.

⁴⁵ In the RMA context the meaning and strength of the requirement to promote sustainable management under s5 RMA was recently considered by the Supreme Court in *EDS v NZ King Salmon Co* [2014] NZSC 38. Its commentary is useful for interpretation under the CPLA:

[21] Part 2 of the RMA is headed “Purpose and principles” and contains four sections, beginning with s 5. Section 5(1) identifies the RMA’s purpose as being to promote sustainable management of natural and physical resources. The use of the word “promote” reflects the RMA’s forward looking and management focus. While the use of “promote” may indicate that the RMA seeks to foster or further the implementation of sustainable management of natural and physical resources rather than requiring its achievement in every instance, the obligation of those who perform functions under the RMA to comply with the statutory objective is clear. At issue in the present case is the nature of that obligation.

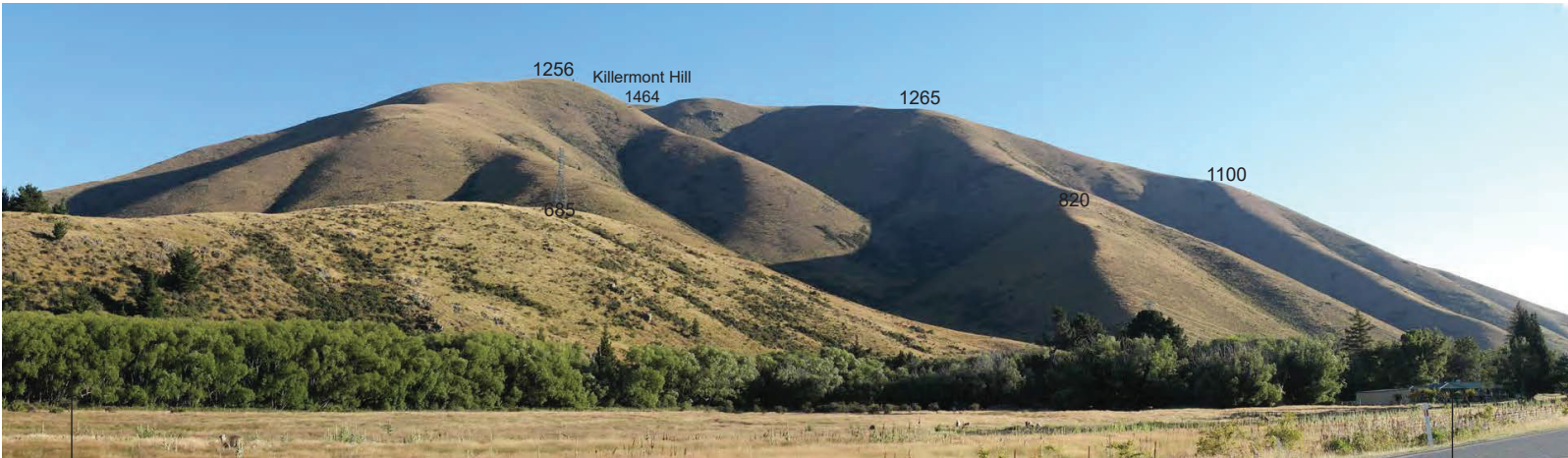
The CPLA is similarly forward looking in its focus on future management and use of New Zealand’s high country landscapes currently held under pastoral lease.

⁴⁶ Not defined by the CPLA. Ecosystem is defined in s2 CPLA: a system of interacting living organisms and their environments.

⁴⁷ Oxford Online Dictionary.

⁴⁸ This is considered to be the correct approach given qualification for protection under the CPLA is determined by reference to qualification for protection under the Conservation and Reserves Acts: s2 and s24 CPLA.

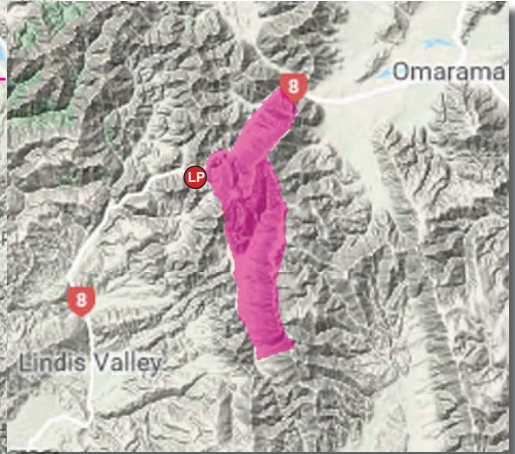
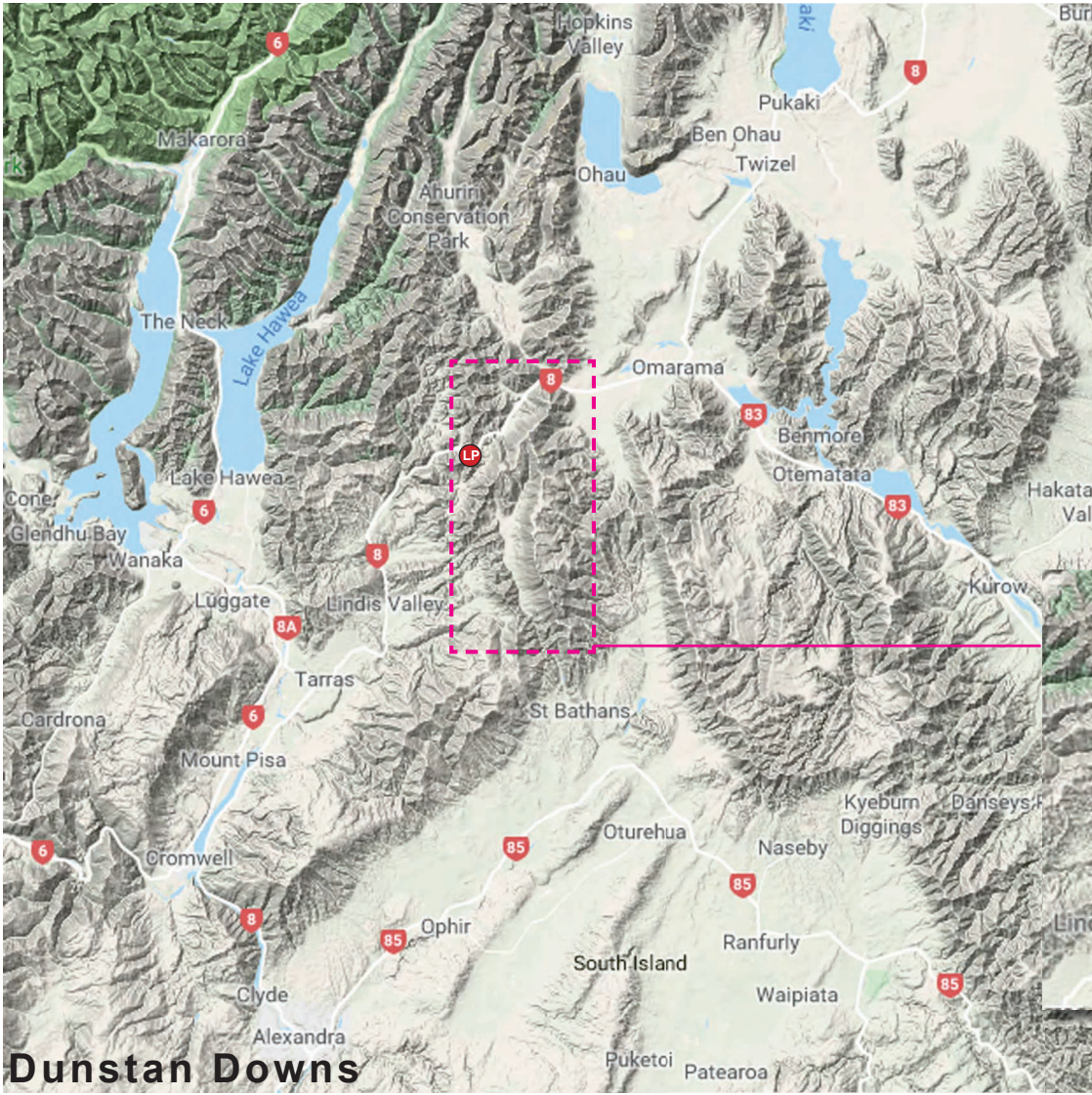
⁴⁹ It appears that an alternative approach may be being applied: The Cabinet Paper supporting the current Strategic Direction for Tenure Review Minute 0927C mandates an approach inconsistent with s24’s preference for Crown ownership and control stating: “Whether the lessee or the Crown is the most appropriate party to protect those values should be considered on a case by case basis, rather than an objective stating a clear preference.” (Cabinet Economic Growth and Infrastructure Committee Paper, A676415 Appendix C Row 2 Discussion Column). That may be the author’s or Cabinet’s view but it is not the law. Decision-making applying that approach is open to legal challenge.



Longslip Creek **Dunstan Downs on Dunstan Range slopes beyond the Longslip Creek boundary** (Longslip Station flats in foreground, refer Sheet 20) Longslip Station farm node

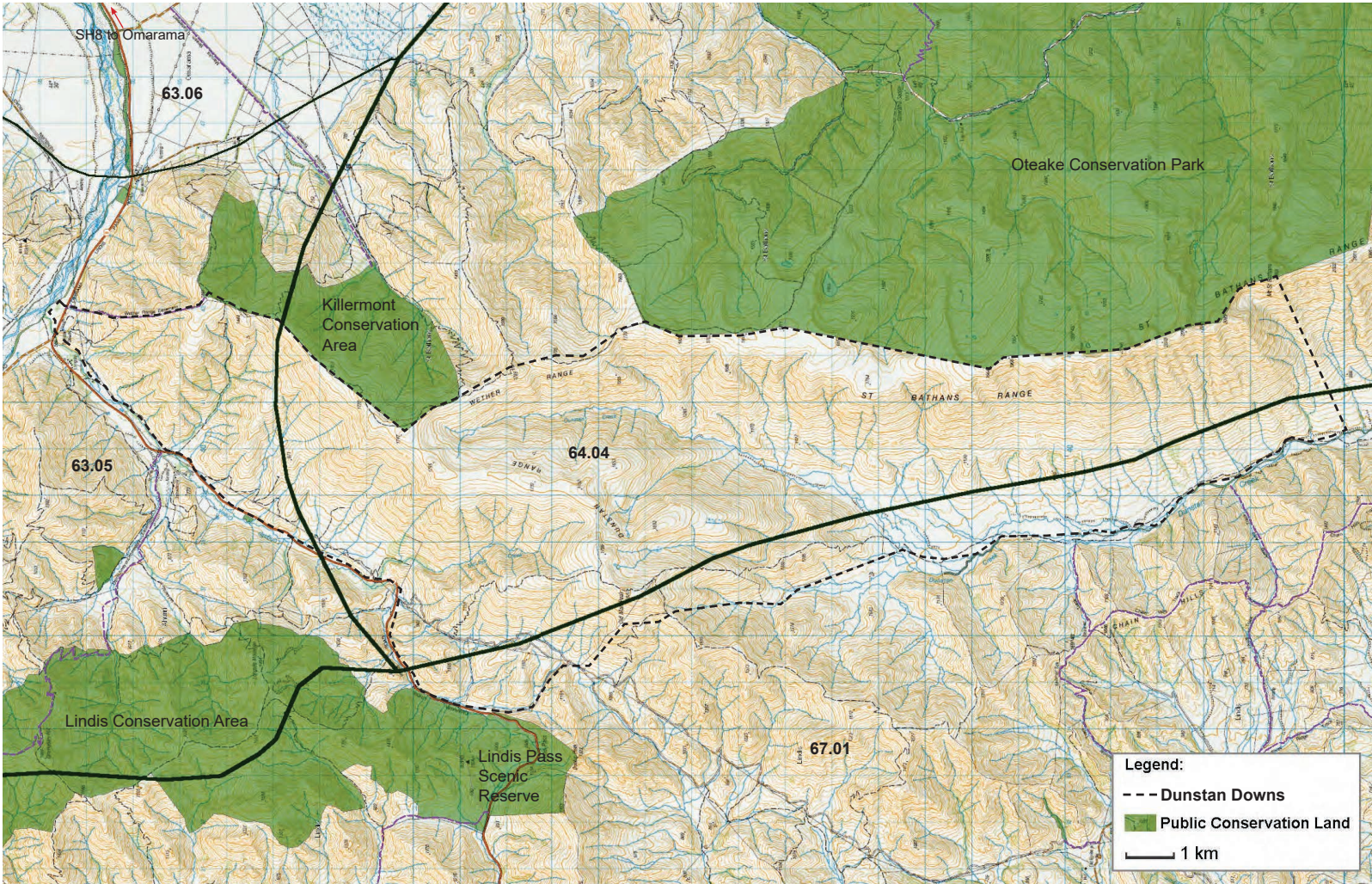


Dunstan Downs, Dunstan Range (McLays Creek between the mountain slopes, 1755 & 860, refer Sheet 21)



LP Lindis Pass

Sheet 1



Legend:

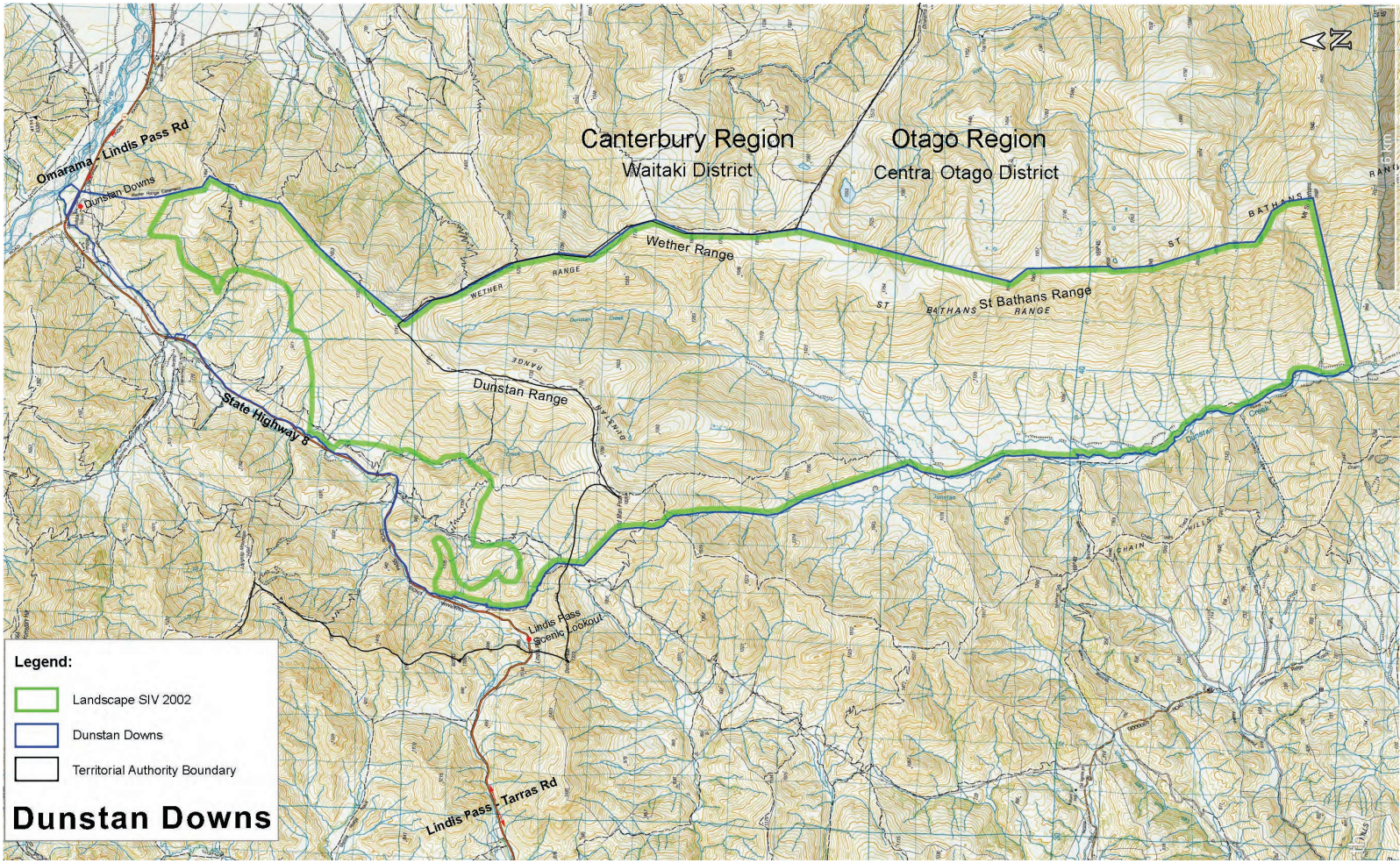
- - - Dunstan Downs
- Public Conservation Land
- 1 km

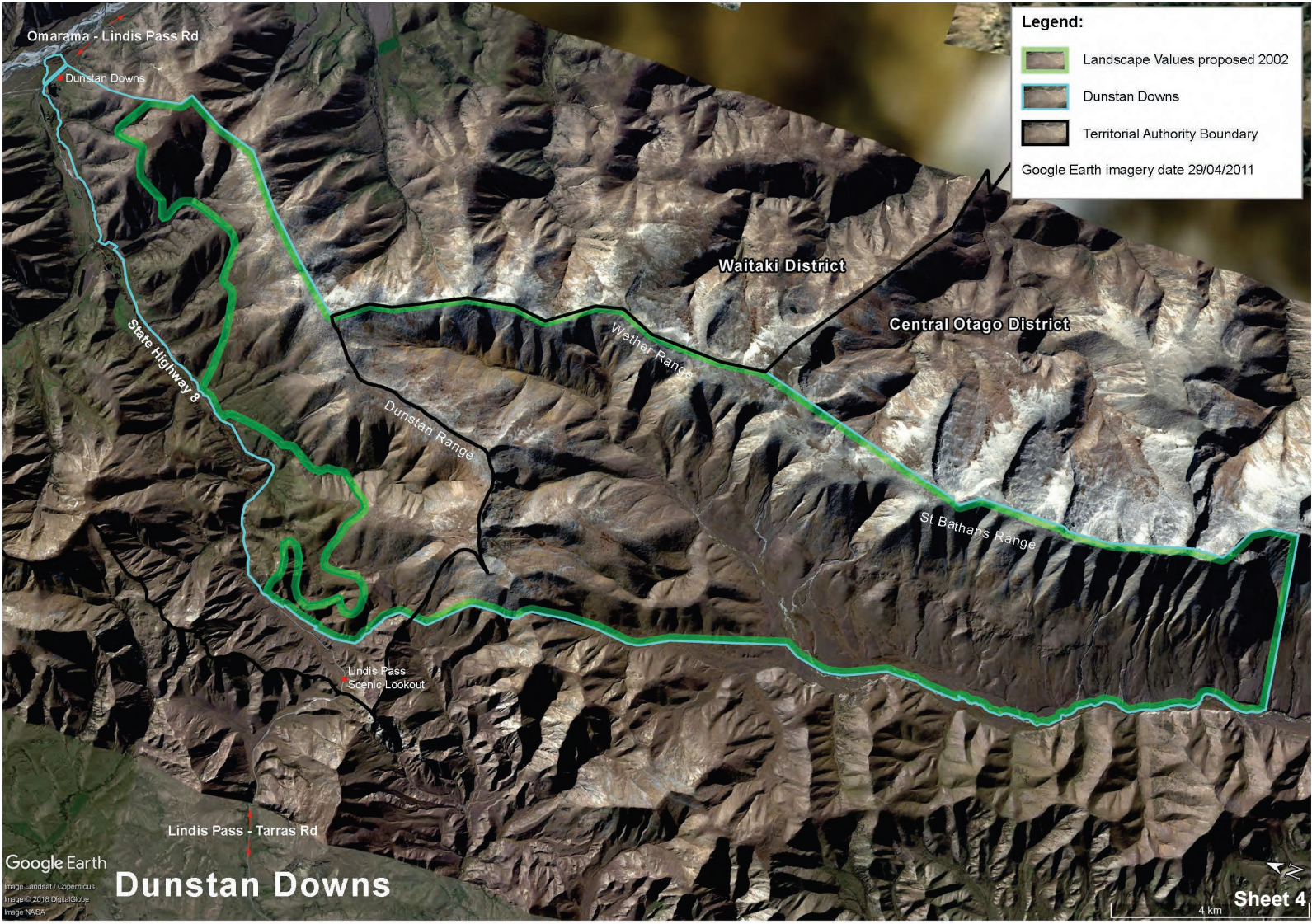


SH8 to Tarras

- | | | |
|---------------------------|-----------------------------|---------------|
| Ecological Region: | Ecological District: | |
| 63 Mackenzie | 63.05 Ahuriri | 63.06 Omarama |
| 64 Waitaki | 64.04 St Bathans | |
| 67 Central Otago | 67.01 Lindis | |

Note: The Ecological Regions and Districts share the same boundary lines except for Omarama 63.06.





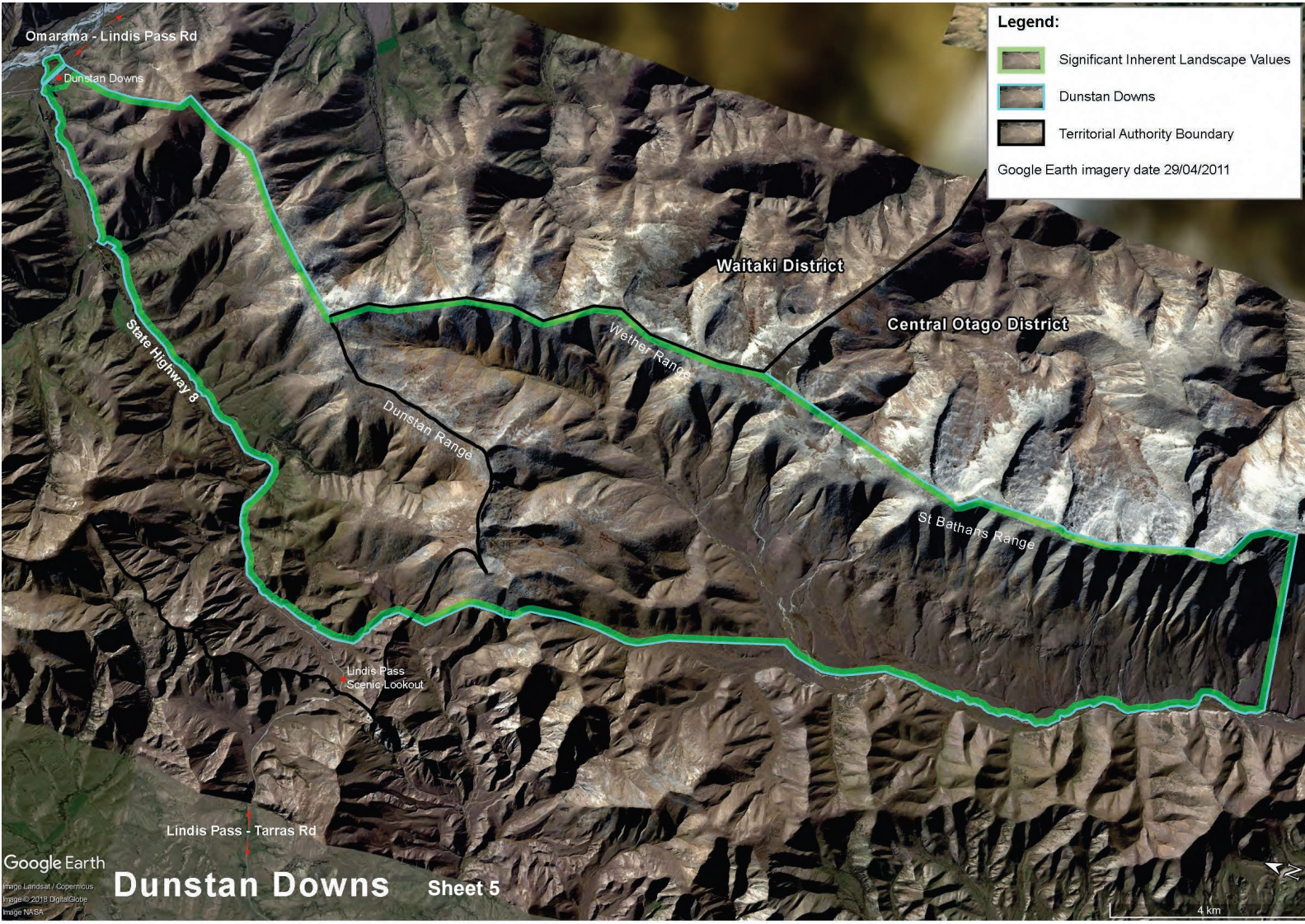
Legend:

-  Landscape Values proposed 2002
-  Dunstan Downs
-  Territorial Authority Boundary

Google Earth imagery date 29/04/2011

Google Earth
Imagery Landsat / Copernicus
Imagery © 2018 DigitalGlobe
Imagery NASA

Dunstan Downs





CONSERVATION LAND

CONSERVATION LAND

DALRACHNEY FREEHOLD

DUNSTAN DOWNS PL

MORVEN HILLS PL

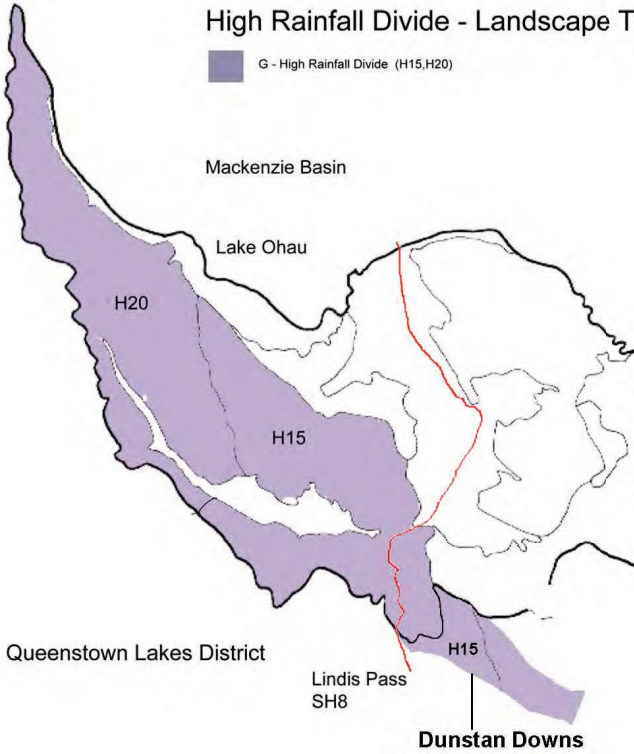
HIGHWAY RESERVE

CONSERVATION LAND



High Rainfall Divide - Landscape Type G

G - High Rainfall Divide (H15, H20)

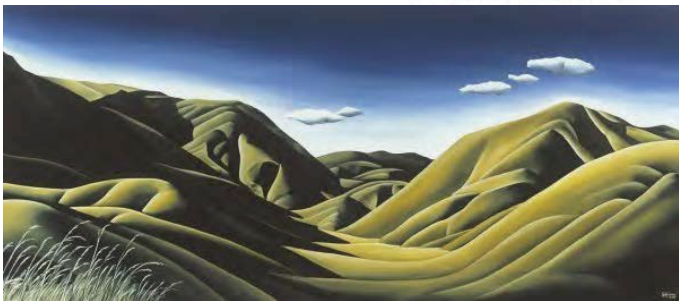


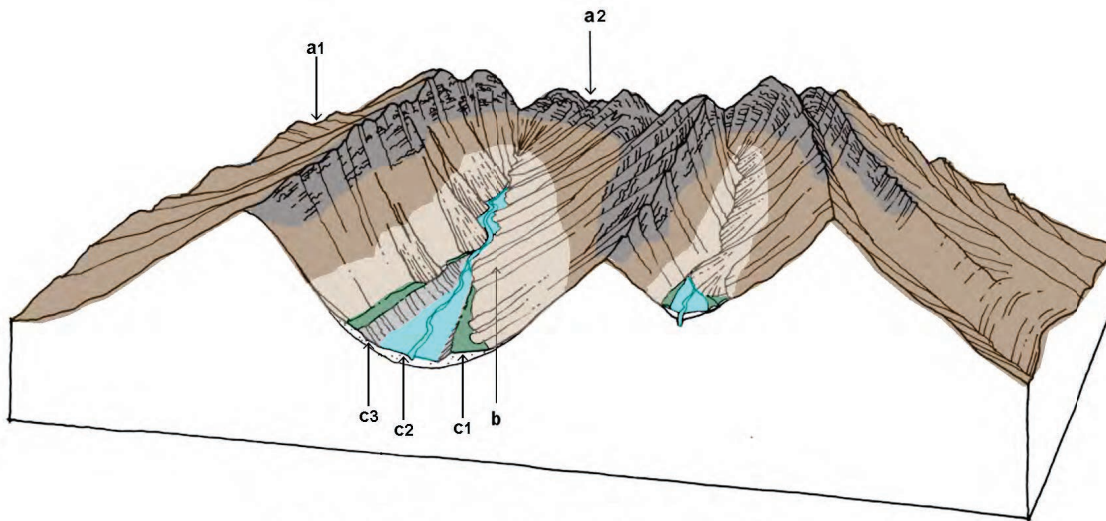
(Source: Lucas Associates 2004)

High Country Land Types

- H1 Major River, Valley Fill Land Type
- H2 Glacial and Fluvial Valley Flood Land Type
- H3 Glacial and Fluvial Basin Flood Land Type
- H4 Basin Floor Outwash Plains Land Type
- ★ H15 Southern Subhumid to Humid Mountain Range Land Type
- H17 Semi Arid to Humid Mountain Range Land Type
- H18 Semi Arid to Humid Fault Block Mountain Range Land Type
- H20 Southern Main Divide and Associated Ranges Land Type

Land Types of Waitaki District





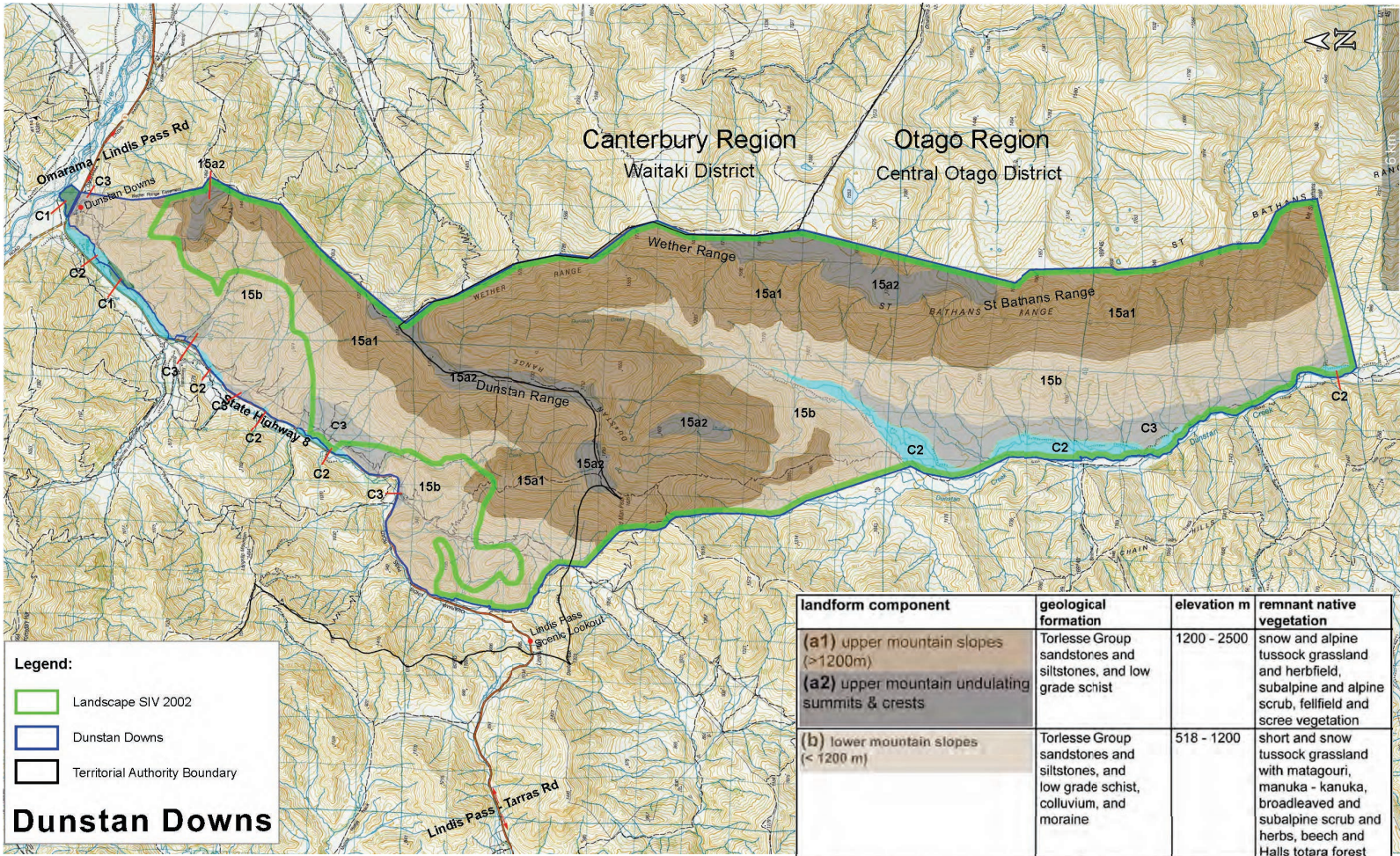
H 15 SOUTHERN SUBHUMID TO HUMID MOUNTAIN RANGE LAND TYPE

Steep to very steep, dissected, subhumid to humid mountain ranges up to 2500 m; formerly valley and strongly cirque glaciated, with narrow sharp ridges and minor permanent snow and ice accumulations, extensive scree and bedrock outcrop especially at higher elevations. Significant moraine and kame terraces and deep colluvium mantle moderately steep to steep rectilinear lower mountain slopes and upland plateaus. Elevations range from 500 to 2500 m, and rainfalls between 1300 to 4500 mm/A. Snow tussock, subalpine scrub and alpine and rockfield vegetation features above 1100 m, with an induced short tussock grassland, matagouri and manuka scrubland, with remnant beech forest on the lower slopes only in the south west. Example locations include the Ben Ohau, Barrier and Diadem Ranges.



landform component	geological formation	elevation m	remnant native vegetation	present land use	agronomic potential	potential land use	potential impacts
(a1) upper mountain slopes (>1200m)	Torlesse Group sandstones and siltstones, and low grade schist	1200 - 2500	snow and alpine tussock grassland and herbfield, subalpine and alpine scrub, fellfield and scree vegetation	conservation land, recreation limited 'wild' animal grazing	very low to nil	conservation land, recreation, 'wild' animal grazing	recreational impacts, tracking, buildings, tow lines etc.
(a2) upper mountain undulating summits & crests							
(b) lower mountain slopes (< 1200 m)	Torlesse Group sandstones and siltstones, and low grade schist, colluvium, and moraine	518 - 1200	short and snow tussock grassland with matagouri, manuka - kanuka, broadleaved and subalpine scrub and herbs, beech and Halls totara forest	extensive grazing, conservation land, recreation	low	extensive grazing, exotic forestry < 1000 m, recreation	increases in scrub cover with reduced grazing pressure, tracking, exotic forest, recreation impacts
(c) minor valley floors and colluvial side slopes: c1 terraces c2 floodplains c3 colluvial side slopes	alluvium, colluvium and moraine from Torlesse Group sandstones and siltstones, and low grade schist	500 - 900	short tussock grassland with matagouri, manuka - kanuka, broadleaved scrub, red tussock and wetlands, and beech forest	extensive grazing, conservation land, recreation	low to medium	semi intensive grazing, exotic forestry	increase in exotic species, fencing, shelter trees, exotic forest

(Source: Lucas Associates 2004)



Legend:

- Landscape SIV 2002
- Dunstan Downs
- Territorial Authority Boundary

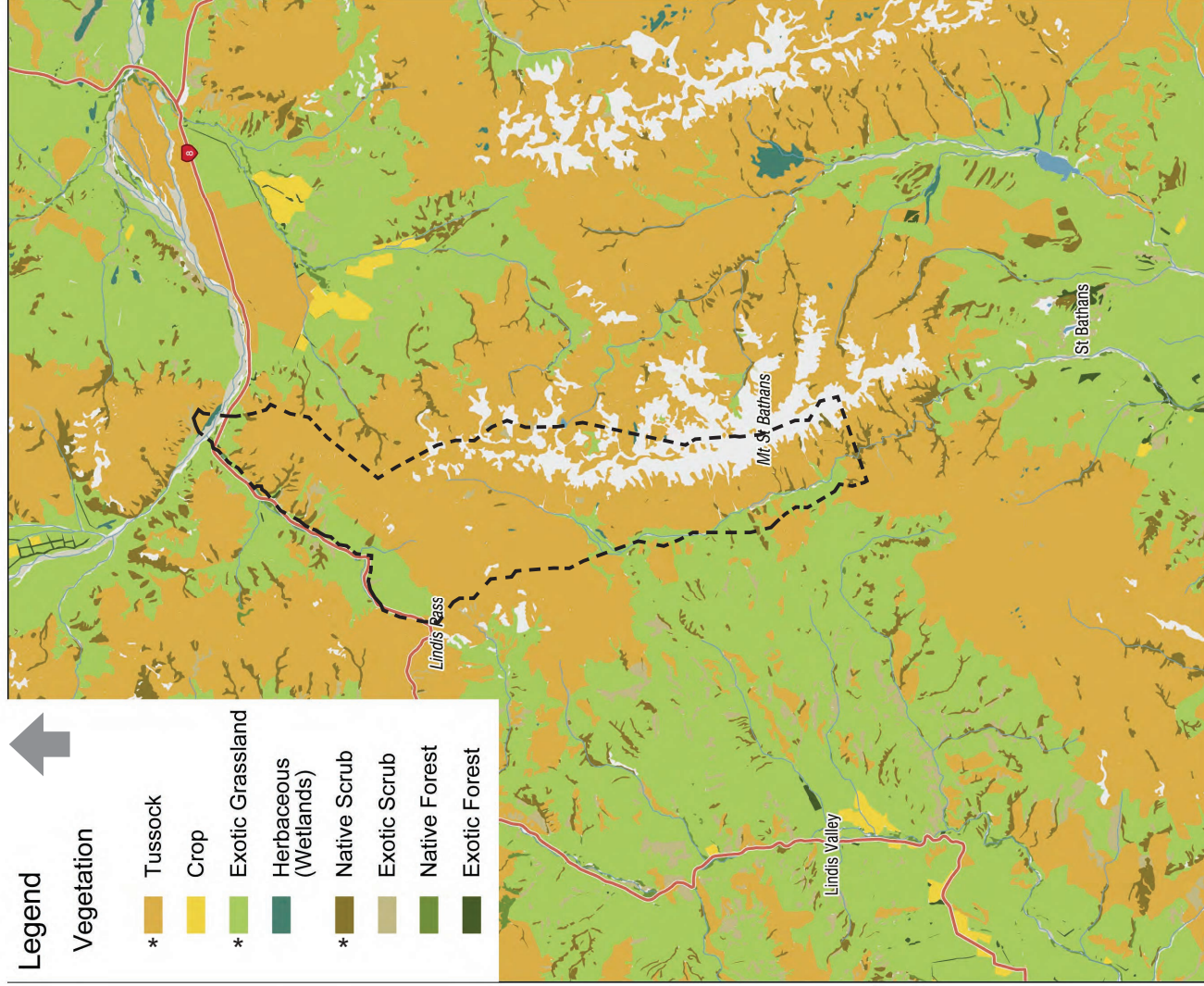
Dunstan Downs

landform component	geological formation	elevation m	remnant native vegetation
(a1) upper mountain slopes (>1200m)	Torlesse Group sandstones and siltstones, and low grade schist	1200 - 2500	snow and alpine tussock grassland and herbfield, subalpine and alpine scrub, fellfield and scree vegetation
(a2) upper mountain undulating summits & crests			
(b) lower mountain slopes (<1200 m)	Torlesse Group sandstones and siltstones, and low grade schist, colluvium, and moraine	518 - 1200	short and snow tussock grassland with matagouri, manuka - kanuka, broadleaved and subalpine scrub and herbs, beech and Halls totara forest
(c) minor valley floors and colluvial side slopes:	alluvium, colluvium and moraine from Torlesse Group sandstones and siltstones, and low grade schist	500 - 900	short tussock grassland with matagouri, manuka - kanuka, broadleaved scrub, red tussock and wetlands, and beech forest
c1 terraces			
c2 floodplains			
c3 colluvial side slopes			

Legend

Vegetation

- * Tussock
- Crop
- * Exotic Grassland
- Herbaceous (Wetlands)
- * Native Scrub
- Exotic Scrub
- Native Forest
- Exotic Forest

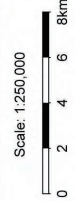


OURENVIRONMENT



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17. Lindis and Ahuriri

This ONF/L is located within the Intermontane Basins and Ranges and High Rainfall Divide landscape types (see Section C for landscape character and value descriptions).

LOCATION

The Ahuriri River Valley and Lindis Pass area has been identified as an Outstanding Natural Feature and Landscape (ONF/L).

The eastern boundaries of this ONF/L remain unchanged from the 1993 study.

The ONF/L now joins up with new ONF/L areas including the Barrier Range to the east and tributaries of the Hopkins River to the north.

KEY LANDSCAPE VALUES

Natural Science Values

- The Ahuriri River is protected by a National Water Conservation Order (1990).
- River valleys and wetlands in this area provide outstanding habitat for many species.
- The mountainous headwaters of the Ahuriri River have a high degree of naturalness and are protected by the Ahuriri Conservation Park (DOC).
- Largely weed-free.
- Beech forest slopes adjacent to the Ahuriri River have high natural science value.
- The large area of tall tussock grassland in the Lindis Pass area is ecologically significant.

Legibility Values

- The extensive river terracing and braided river bed are highly legible features.

Aesthetic Values

- The Ahuriri River Valley is a dramatic and spectacular landscape.
- Has a special, wild character, an expansive and vast valley setting.
- The coherent appearance of the Lindis Pass slopes with their extensive tussock cover are symbolic of this memorable landscape.

Transient Values

- The braided Ahuriri River is a highly expressive and constantly evolving landscape feature.

- The movement of tussocks in the wind is one of the characteristic features of the Lindis.

Shared and Recognised Values

- The Lindis Pass (SH8) important connection to the Otago region.
- The Lindis Pass area is an 'iconic' New Zealand landscape.
- Inspiration for many artists and authors alike.
- Historic Values
- Part of Canterbury's high country landscape with a rich history of pastoral farming.

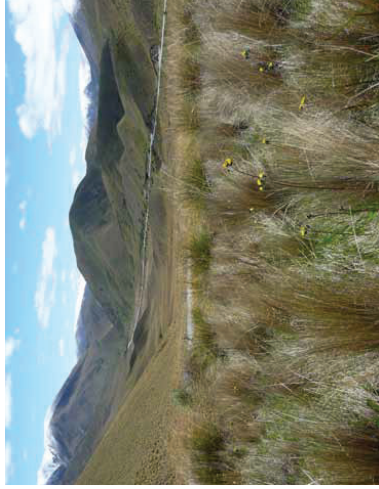
EVALUATION

The Lindis Pass and Ahuriri River valley have been identified as an Outstanding Natural Feature and Landscape. These landscapes are considered Outstanding due to their exceptional aesthetic and shared and recognised landscape values and high natural science, legibility and transient values.

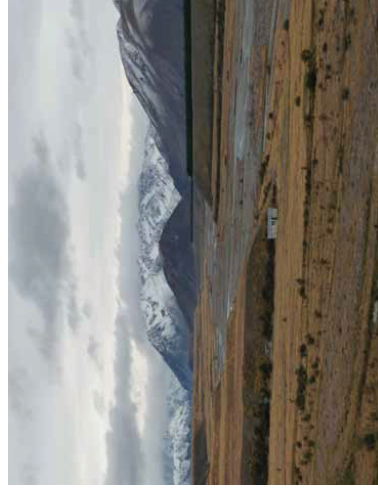
The Lindis Pass area and parts of the Ahuriri Valley are amongst the best examples of accessible tussock landscapes in the region and are arguably the most recognised landscapes of their kind in the country. The combination of landform and landcover is exceptional.

The outstanding wildlife habitat, outstanding fisheries, and angling features' of the Ahuriri River are protected by a National Water Conservation Order (1990). The mountainous slopes of the Upper Ahuriri River Valley contain significant areas of beech forest and large parts of these landscapes are managed by DOC. The extensive river terracing and braided river bed found in the Ahuriri River valley are highly legible features.

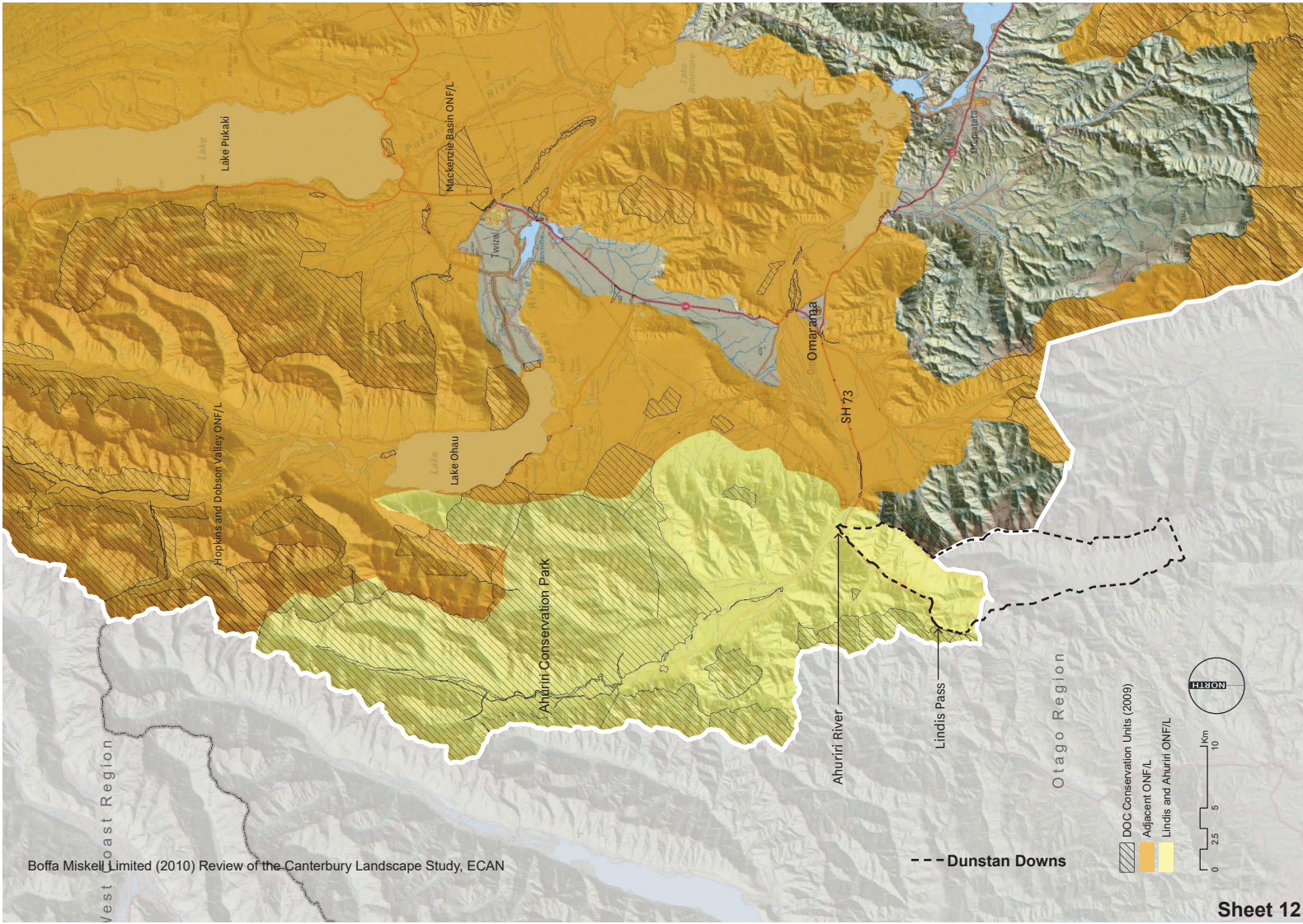
The dramatic Lindis Pass Highway links the Mackenzie Basin with the Central Otago region. This pass has exceptional shared and recognised landscape values. This landscape has many important historic and cultural associations that are important elements of Canterbury's high country.



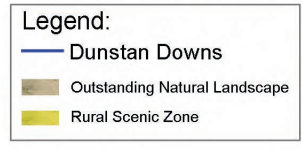
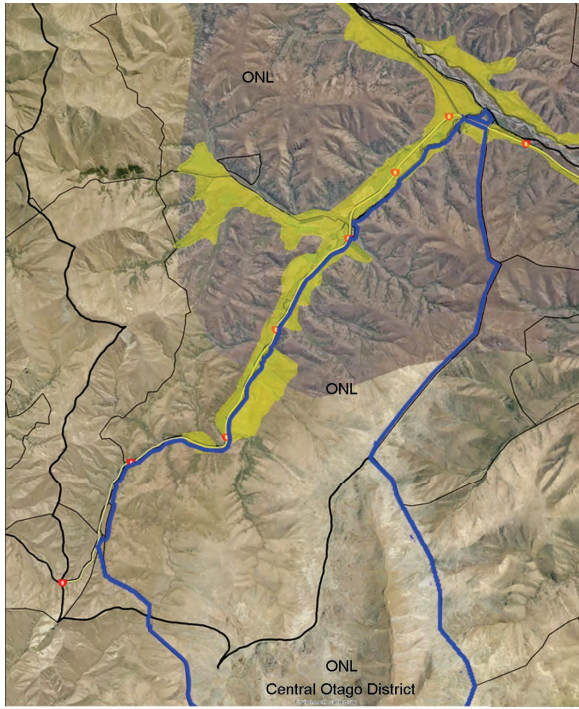
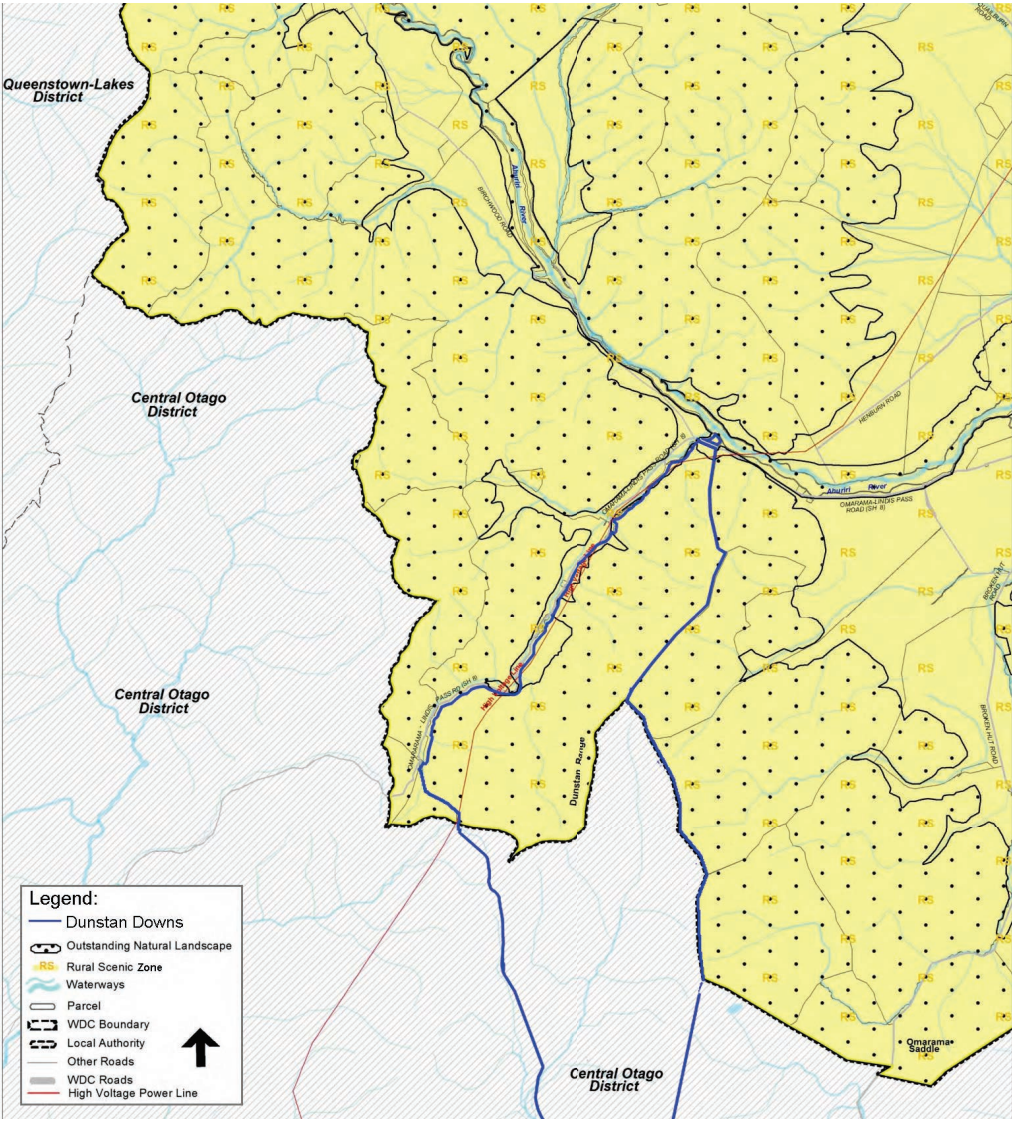
Above: The Lindis Pass (SH8) is an iconic tussock landscape.

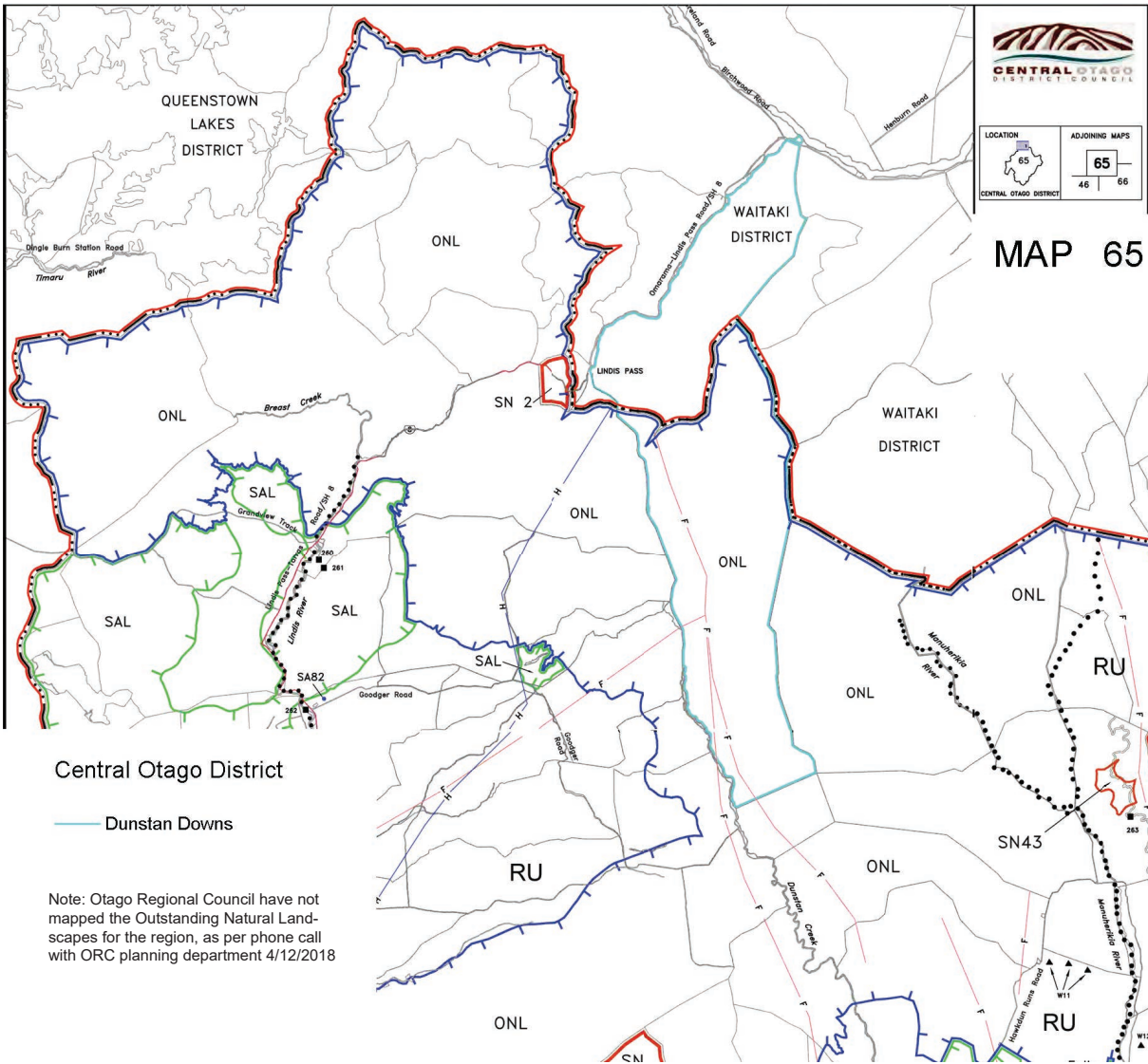


Above: The extensive terracing of the Ahuriri River are highly legible.



Boffa Miskell Limited (2010) Review of the Canterbury Landscape Study, ECAN





MAP 65

- 123 Heritage Building, Place, Site or Object (Schedule 19.4)
- - - Active Geological Fault
- ▬ District Boundary
- ▭ SN12 Area of Significant Natural Value (Schedule 19.6.1)
- ▭ ONL Outstanding Natural Landscape (Schedule 19.6.2)
- ▭ SAL Significant Amenity Landscape
- ▲ W12 Additional Wetlands (Schedule 19.6A)
- - - Esplanade Provision (Schedule 19.9)
- - - High Voltage Transmission Lines that are part of the transmission network (See Rules 4.7.6 A (g) and 12.7.8)

Central Otago District
 — Dunstan Downs

Note: Otago Regional Council have not mapped the Outstanding Natural Landscapes for the region, as per phone call with ORC planning department 4/12/2018

CENTRAL OTAGO DISTRICT COUNCIL

LOCATION	ADJOINING MAPS
	65 46 66

Scale 1:120,000 (at A3)

0km 2 km 4 km 6 km
Kilometres

Northpoint Vertical

See LEGEND for key to map notations

Amended: 15 July 2013

Publicly Notified : 18 July 1998
 Amended by Decisions : 1 July 2000
 Operative Date : 1 April 2008

CENTRAL OTAGO DISTRICT PLAN

MAP 66
Sheet 14