

## **Crown Pastoral Land Tenure Review**

**Lease name: KILLERMONT**

**Lease number: PO 207**

### **Public Submissions - Part 2**

These submissions were received as a result of the public advertising of the Preliminary Proposal for Tenure Review.

**July**

**05**

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# Public Access New Zealand

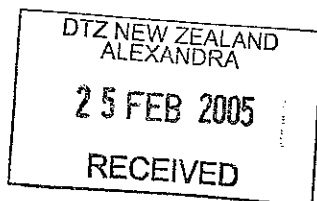
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25 February 2005

DTZ New Zealand  
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Alexandra  
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**FAXED**

25/2/05  
10.30am.

## Submission: Killermont Tenure Review Preliminary Proposal

### Proposed conservation areas

We have not had opportunity to inspect the proposed boundaries but in general terms we support this aspect of the proposals.

The Wether Range crest is potentially a high public interest area, dependent on convenient access being provided. The latter is proposed, with two access routes enabling day trips to the tops and well as round-trips. With signposting, particularly of 'g-h', this should prove popular. In winter the tops normally provide good cross-country ski terrain, leading to the Dunstan and St Bathans Ranges. The dramatic escarpment down into Longslip Creek, with views westward to rugged mountain peaks, make this a distinctive setting for recreation. I identified the Wether Range tops as worthy of protection in 1989, in FMC's 'Outdoor Recreation in Otago'. The 16-year wait for fulfillment of this vision has been worth it.

Given the national importance for recreation and nature conservation of the Ahuriri River environs, the proposed conservation areas along its banks could be more generous. We note that all river frontages were initially proposed for Crown retention however this has been greatly reduced. Due to the proximity of the state highway to the river and the dramatic transition from flat basin floor to steep hillsides, the landscape is dramatic. It is viewed by countless travelers bound to and from the Lindis Pass. It would be a blot on the landscape for housing or other intrusive development to occur between the road and the river.

As landscape is an inherent value under the Crown Pastoral Land Act, we submit that any freeholding between the road and the river be subject to protective mechanisms that retain the open space character, with all buildings and shelter belts specifically prohibited.

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Public Access New Zealand is a charitable trust formed in 1992. PANZ's objects are the preservation and improvement of public access to public lands, waters, and the countryside, through retention in public ownership of resources of value for recreation. PANZ draws support from a diverse range of land, freshwater, marine, and conservation interests representing approximately 200,000 people from throughout New Zealand. We are committed to resist private predation of the public estate

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### **Terms of public access easements**

The objects of Part 2 of the CPLA contain a duty under section 24(c)(i), to "secure public access to and enjoyment of reviewable land". 'Securing' entails more than passive or inadequate provision of public access. Whilst no definition of 'secure' is contained in section 2 CPLA it is normal judicial practice, in the absence of applicable statutory definition, to look at ordinary dictionary interpretations for meaning. The Concise Oxford, Seventh Edition, defines 'secure' as "safe against attack, impregnable, reliable, certain not to fail or give way, having sure prospect...from interruption".

We submit that in most respects, the proposed 'protective mechanisms' in the form of public easements pursuant to section 80 CPLA and section 7(2) Conservation Act fail to be "safe against attack, impregnable, reliable, certain not to fail or give way, having sure prospect...from interruption".

A factor not widely known is that under the Crimes Act (section 58) the public is liable to eviction notwithstanding rights under any easement. The reality is that these will be private lands notwithstanding any public privileges granted. This highlights the reality that this is freehold land and the right's granted are constrained and vulnerable. This is in marked contrast to the protections and certainty afforded by public roads which are wholly public property.

We refer to the express terms of the draft easement documents-

#### *Exclusion of schedules.*

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

#### *Temporary suspension.*

Under the easement "the Transferee (not being a member of the Public) may, at any time in exercise of her/his powers, temporarily close all or part of the Easement Area for such period as she/he considers necessary".

The absence of any cited legal authority for closure is of great concern. If there are lawful powers of closure applicable they should be expressly cited. Without such there can be no accountability for DOC's future actions, and therefore no certainty of public access. If genuine reasons for closure of conservation areas exist, these should be directly exercised over such areas, and not on access ways leading to such. Police and rural fire authorities have more than sufficient power of closure now without DOC attempting to extend its jurisdiction beyond the land it administers.

We submit that the above easements, even with amendment, cannot meet the test of securing public access as required by the CPLA, and should not be used. Public paths, dedicated as public roads, are required, as set out below.

### **Designation as 'public highway' required**

The only form of secure public access in New Zealand is public road. At common law, every member of the public has a right to assert unhindered passage at all times. Such rights are vested in the public and not the roading authority. Over many centuries, such rights have proven to be very robust,

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notwithstanding inadequate and at times unlawful administration by roading authorities. The existence of direct public remedies against anyone whom obstructs passage is the key ingredient to securing access. The remedies available are removal of obstructions, suing the obstructing party, or both. No such remedies exist for obstructed public easements.

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

PANZ submits that secure public access must be provided along all the routes proposed in the Preliminary Proposal. These routes should be designated as land pursuant to CPLA section 35(2)(a)(iii) for the specified Crown purpose of 'public highway'. These roads should be dedicated as public highways for foot and cycle passage, with animus dedicandi being fulfilled by public acceptance and use.

I cite the relevant sections of the CPLA:

Section 35(2)(a)(iii). Designation of land held under reviewable instrument, freehold land, and unused Crown land---

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

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

(i) As conservation area; or

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

(iii) For some specified Crown purpose.

The specified Crown purpose should be "public highway".

In conclusion, the CPLA provides the ability to retain in Crown ownership and control assets which further the objects of the Act. The scope of Crown retention is not confined to conservation areas as this Preliminary Proposal effects. The assets can include roads whether formed, unformed, or usable by vehicle or not. In this case we submit that there is an obligation for the Crown to retain ownership of the currently proposed 'easement areas', but as public roads. This is the only proven means of fulfilling the CPLA's object of "securing public access and enjoyment of reviewable land". The alternative offered is seriously deficient.

### **Rights of user**

There is a discrepancy between the description of the proposal in the Notice of the Preliminary Proposal, and the Summary Description and terms of easement.

The Notice only refers to public foot access whereas the two easements onto the Wether Range are for foot and cycle, with only 'e-f' being access to the Ahuriri River, being confined to foot. The proposal acknowledges that, due to the steepness of the terrain, bike access to the Wether Range will be of limited value, whereas 'e-f', being along an existing 4WD track, is very suitable for bike use.

We submit that all public access provisions provide for foot and 'non-motorised vehicle' passage.

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### **Extra River Access required**

The Ahuriri River is a nationally important river for angling and kayaking in particular. There needs to be regular and convenient access points from the state highway. The existing and proposed conservation areas, plus 'e-f' is sufficient for three-quarters of the river frontage but is inadequate at the upstream end. It appears from official papers supplied to us that a marginal strip down Longslip Creek is assumed to exist or will exist as a result of tenure review on Longslip Station, hence providing a convenient linkage to the Ahuriri River and marginal strip. However current cadastral data does not record a strip down Longslip Creek. It is uncertain that tenure review on Longslip will be concluded, with the result of creating a marginal strip. Therefore there is need for alternative access from the state highway to the river on Killermont.

We submit that public access right is created down the Killermont-Dunstan Downs boundary, on the same terms as the other public accesses resulting from this review.

### **Marginal Strips**

It is a welcome change from current tenure review practice for existing marginal strips to be clearly identified on plans of proposals. It would appear that there are no other qualifying watercourses other than the Ahuriri River.

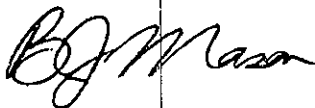
The Ahuriri River bank strips are pre-1990 in origin and therefore fixed in position. Approximately one third of their length will end up being adjoined by conservation area and therefore no practical difficulties for riparian passage and access to the river will arise from any future movement of the riverbank in those reaches. However the balance will be bordered by freehold. If the current bank does not coincide with the fixed position of the marginal strip, or there is future erosion, new movable strips will be created upon disposition of the land. This could leave sections of old fixed strips in a new riverbed creating a messy mix of tenures.

We submit that the whole reach of marginal strip between points 'g' and 'f' on the plan of the preliminary proposals be exchanged under Section 24E Conservation Act 1987 for a movable marginal strip along the present river bank.

### **Conclusion**

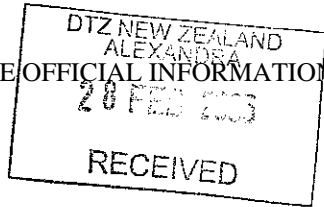
With the changes we recommend PANZ would be pleased to support the proposed tenure review.

Yours faithfully



Bruce Mason  
Spokesman and Researcher

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# Submission on Killermont Tenure Review Proposal

**This submission is made on behalf of Twin Peaks Station Ltd.**

The major concerns that Twin Peaks Station Ltd has are in regard to the proposed easement a-b and b-c (approximately 7kms long), which runs alongside Twin Peaks Station western boundary. The concerns are as follows:

- 1) This easement includes access by non foot including mountain bike. As can be seen from the map the proposed easement runs along Twin Peaks Station western boundary and in close proximity to an existing track owned by Twin Peaks Station. At the end of the proposed easement b-c there is no clear mountain bike access to the proposed DOC area but there is to the Twin Peaks Station track, which is just over the fence.

We therefore feel that in this situation that no attempt has been made to protect the property rights of Twin Peaks Station as many people accessing this easement by mountain bike will no doubt continue their ride along our track.

We consider that no amount of signage will deter these people from moving onto our property.

We would therefore strongly recommend that one of the following options be considered.

- a) That the track be moved to be at least 100 meters from the boundary fence.
- b) That mountain bikes be excluded from this easement

- 2) In regard to foot access we also we have concerns regarding the ability of Twin Peaks Station to stop people from using our property and track. We also believe that as the access is better on our side of the fence, for a significant part of the easement, (due to scrub on the Killermont side) that walkers will be likely to use our property for access. We also feel that as the Manuka creek separates the walkers from Killermont Station, it will encourage them to access our property.

We would therefore strongly recommend that one of the following options be considered:

- a) That the easement b-c be removed in preference to access along the unformed *paper road* that is identified on Killermont Station from Manuka creek to the Wether Range.
- b) That easement a-b and b-c be moved to at least 100 meters from the boundary fence.

- 3) The presence of easement a through to c will cause a number of problems for Twin Peaks Station these include:
- a) Stock disturbance: While the proposed easement will have some impact on Killermont Station, the effect will be much larger on Twin Peaks Station as the proposed easement runs alongside one of the main stock access points for the property. Some of the areas that boundary the easement are used for lambing, calving, stock water, shelter and shade. Public access will have a serious affect on stock welfare and performance in this area if allowed to proceed.
  - b) Public access will reduce both the quiet enjoyment of the property, which was one of the main reasons that it was recently purchased by the present owners, and make it more difficult to manage on a day to day basis.

The easements a to c more seriously impacts on Twin Peak Station than Killermont Station and even with, foot access only, using the paper road for access and reducing the time that the track would be open (especially over lambing and calving) there will be a significant cost to Twin Peaks Station. We therefore feel that any form of easement along our boundary should recognize the cost to our business.

Yours Sincerely



E R Brown, B R and M W Becker  
Owners of Twin Peaks Station



6

Dunstan Peaks Limited  
Private Bag  
Omarama

25.02.05

The manager  
DTZ NZ Ltd  
Land Resources Division  
PO Box 27  
Alexandra

Dear Sir

Subject: Tenure Review - Killermont Pastoral Lease.

Dunstan Peaks Limited wishes to submit that the area CA1 should be freeholded as it only creates an isolated block of Crown land. Upon which it will be nigh on impossible to maintain the SIV's as listed, which are relatively common elsewhere and are in harmony with the seasonal grazing any way.

Why is the public road as depicted on SO 1387, which follows manuka creek and then straight up the prominent ridge to the north of manuka creek (to the Dunstan Downs boundary) on the Killermont pastoral lease, not shown on the designation plan accompanying the notice of preliminary proposal. The public and conservation management access should follow the existing public road on to the flat and then directly to SH8, rather than along the Twin Peaks boundary with Killermont. This proposed public access way, will be disruptive to the farming of the Twin Peaks pastoral lease. This proposed public access way, will devalue "the right of peaceful and quiet enjoyment" and detract from the Twin Peaks lessee's ability to meet the conditions of the pastoral lease i.e. "farm in a husband like manner and commit no waste".

Should Twin Peaks enter into tenure review, it will have a public and conservation management access along its boundary with Killermont, but will not receive any compensation for this judging on past tenure review settlement protocols.

The same principles also apply to the Dunstan Downs tenure review.

The notice of preliminary proposal is also deficient, as it provides no formal protection for the Maori oven sites present on the area of the Killermont pastoral lease to be offered to the holder as freehold tenure.

Yours faithfully

PJ Patterson  
Managing Director

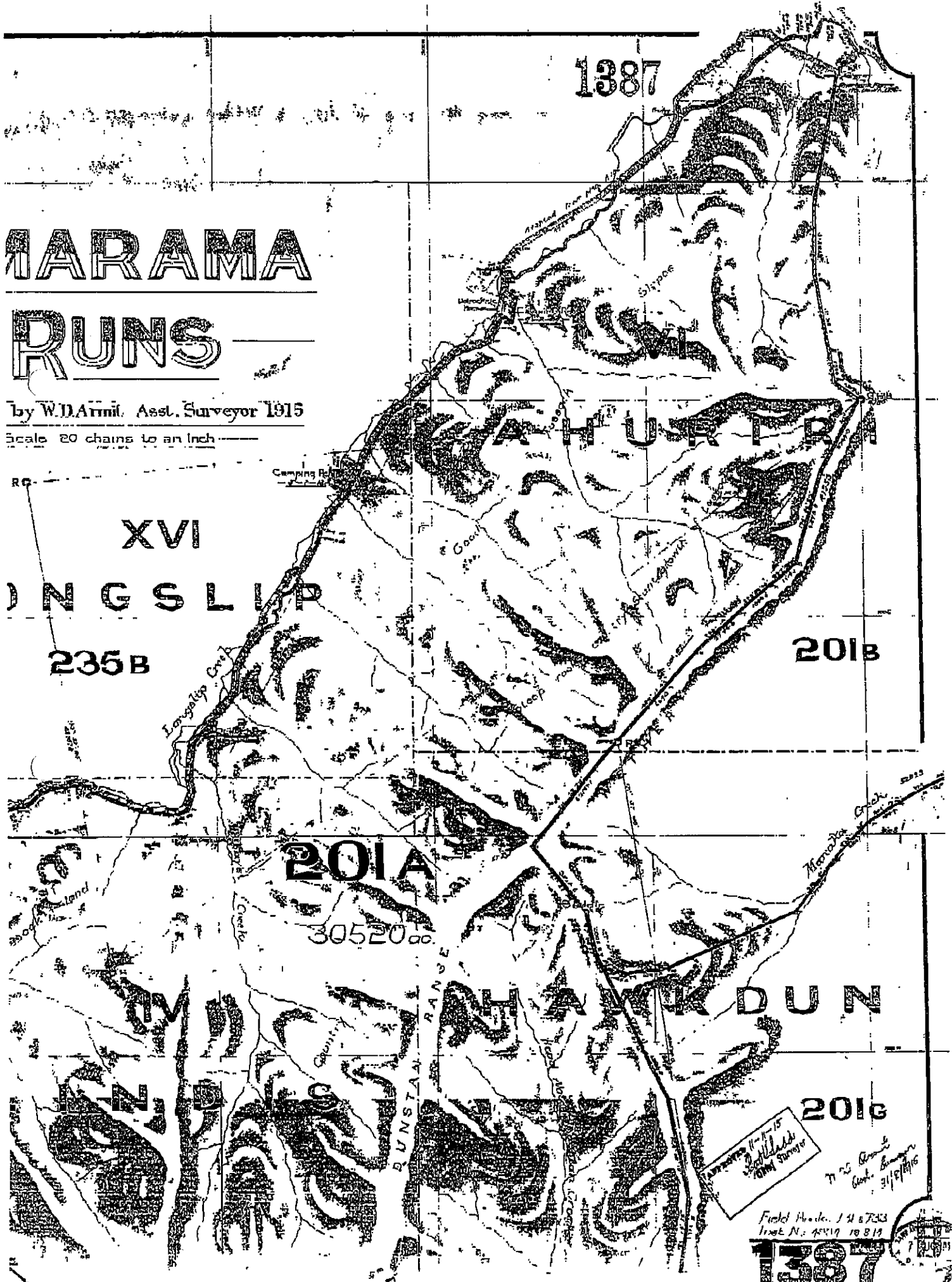


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# MARAMA RUNS

by W.D. Armit, Asst. Surveyor 1915

Scale 20 chains to an inch



XVI

DUNGLIP

235B

201B

201A

30520 cc.

DUN

201c

Surveyed 11-17-15  
W.D. Armit  
Asst. Surveyor

T. H. G. Grant  
Asst. Surveyor  
31/8/1916

Field No. 146733  
Inst. No. 4819 10819

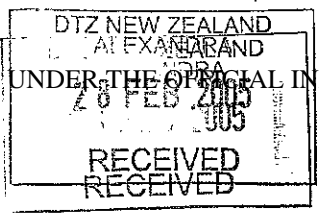
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Dunedin Branch  
Royal Forest and Bird Protection Society  
PO Box 5793  
Dunedin

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23 February 2005

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

Dear Sir,

**Re: Preliminary Proposal for Tenure Review: Killermont Pastoral Lease**

This submission is written on behalf of the Dunedin Branch of the Forest and Bird Protection Society; the Branch has approximately 565 members with strong interests in botany and natural history in general and in the High Country. Many of the members enjoy active recreation in the back country and are very aware of the need to ensure the protection of natural values, vegetation and landscape and to improve public access through the tenure review process.

We note the objectives of tenure review as set out in the Crown Pastoral Land (CPL) Act 1998, and 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.

**The Preliminary Proposal**

**1. Creation of a Conservation Area CA1**

This proposal creates a conservation area of approximately 1125ha , CA1, to be restored to full Crown ownership. CA1, which extends from about 800m up to the crest for the Wether Range takes in the land at the head of Manuka Creek and much of the east draining slopes round to Frosty Gully but does not include two significant patches of totara-celery pine, one on the south facing slopes below the fence (see Figure 1 attached) and on the true left of Frosty Gully (see Figure 2 attached). The areas of Halls totara/ mountain toatoa (included in CA1) and totara/celery pine are also important for sustaining a number of bird species. We would congratulate the lessee for preserving these areas up until now.

The Conservation report shows the whole of Killermont Hill as an area with significant landscape values, **'The north end of the Dunstan Range and the Wether Range as a whole are a significant part of of the high skyline ranges enclosing the Mackenzie Basin. The north end of the Dunstan Range, called Killermont Hill in this report, is particularly significant. It is the closest part of the ranges to the highway and increasingly dominates the view from SH8 travelling south, as the highway runs straight towards it and around its base.'**

We strongly support the creation of the Area CA1 but would like to see it extended. We submit that either the fence be lowered to include the above mentioned areas of vegetation in the Conservation Area or that, at the very least, that they be protected under some binding landscape covenant which would include the whole of Killermont Hill and guard against inappropriate developments such as erection of any buildings, subdivision and forest planting. In these circumstances the full return to Crown ownership and control is the preferred option stated in the Crown Pastoral Lease Act.

### **Manuka Creek**

In addition, the lower part of Manuka Creek Gully has significant important vegetation adjacent to the Creek for quite some distance and this surely warrants at least the creation of a marginal strip to afford some protection (see Figure 2 attached).

## **2. The creation of a Conservation Area CA2**

The proposed Conservation Area CA2 covers an area of Ahuriri River Terrace . The proposal states that **'This area is of significance as a key breeding or feeding site of fully protected wildlife and other sites that are part of of the lifecycle of indigenous or migratory species'** and includes the black stilt, wrybill, banded dotterel and black-fronted tern among those species. However the area covered is a very small part of the total river terrace extending back towards Omarama which only has a marginal strip included with all the terrace to be freeholded. The freehold area also includes that part immediately opposite the Clay Cliffs which is outstanding natural landscape as viewed from SH8 and warrants protection from any changes to the landscape which would affect these views in any way (see Figure 3 attached). It also seems to us that stock should not have access to the river along the proposed freehold area since they would be likely to adversely affect both water quality and impinge upon the bird species inhabiting the river bed.

We therefore suggest some extension of CA2 to protect the river and ensure the visual impact of the Clay Cliffs be preserved either by fencing off part of the proposed freeholds area or by some binding covenant agreement.

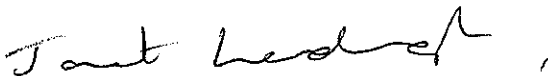
Access provision for the CA1 area appear to be satisfactory and will provide opportunities to enjoy tramping and botanising on the Wether Range and lower down in CA1

### **The Areas Proposed for Freeholding**

We have no other objections to the area proposed for freeholding and agree that further irrigation provisions would be necessary to make the property viable.

We would like to thank DTZ and the lessee for arranging and allowing access to Killermont and permission to inspect the property.

Yours faithfully,



Janet Ledingham

For the Management Committee of the Otago Branch of the Forest and Bird Protection Society

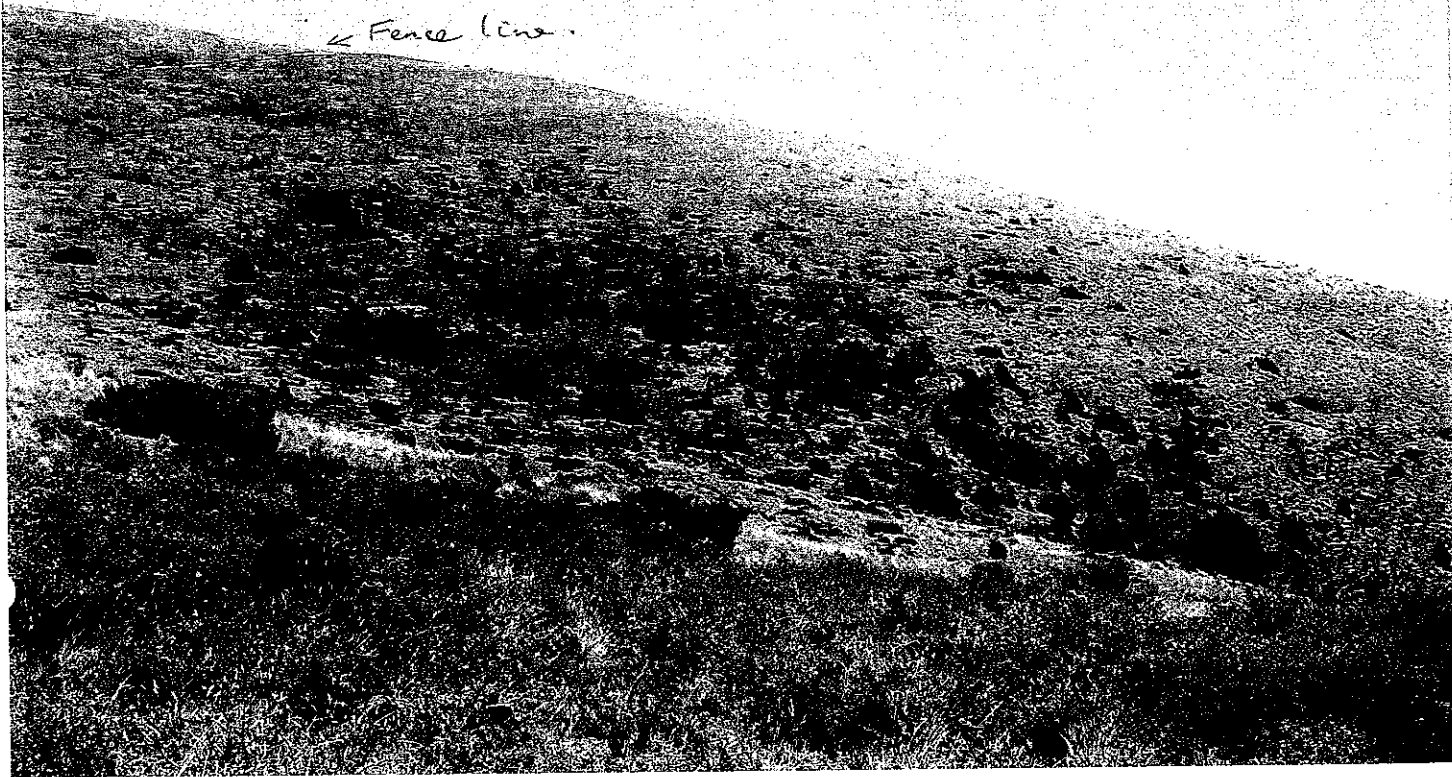


Figure 1. One of the areas of totara not included in CA1. Note the fence-line upper left which is the lower boundary of CA1 as defined in the proposal.

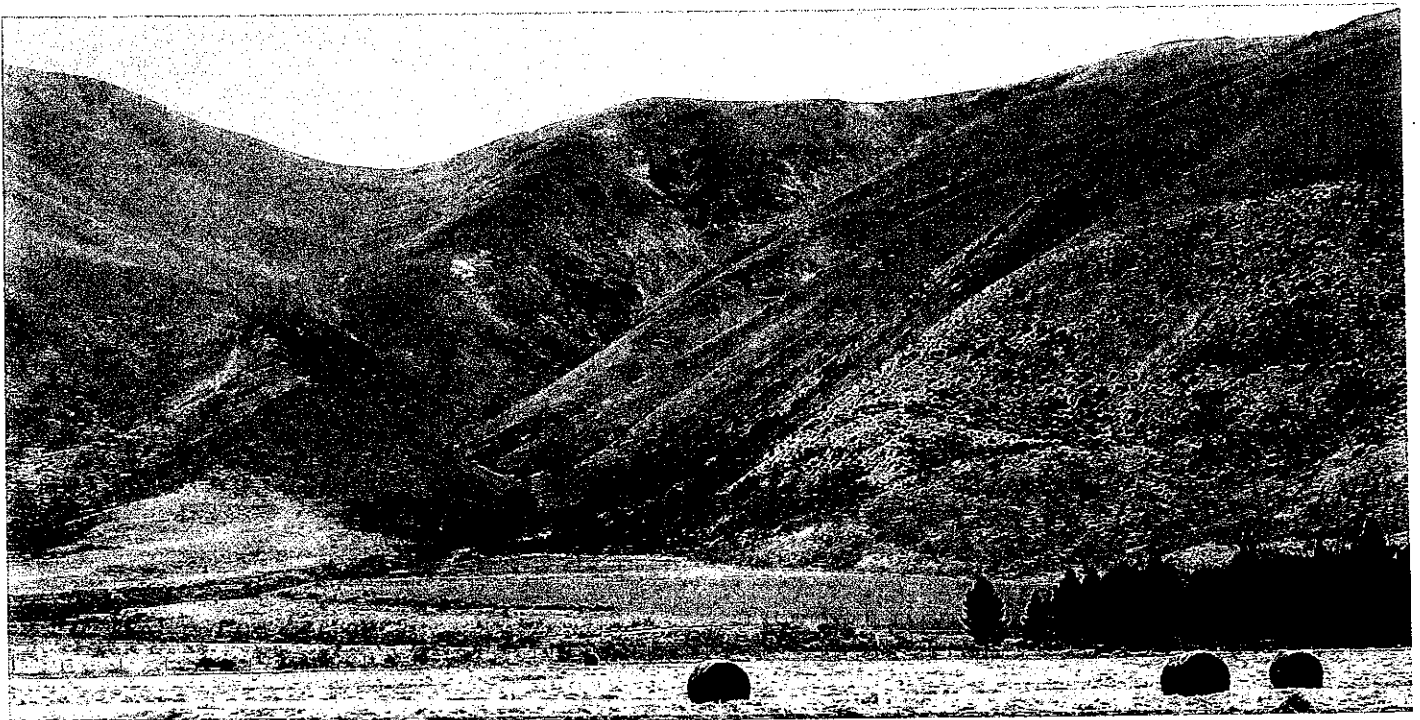


Figure 2. Looking into Frosty Gully and an area not at present included in CA1



Figure 3. A view of the Clay Cliffs taken from the area proposed for freeholding between the Ahuriri River and SH8

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ALEXANDRA  
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25 February, 2005

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The Commissioner of Crown Lands  
C/- DTZ New Zealand Limited  
P O Box 27  
**ALEXANDRA**



**Attention: Joan Gallagher**

Dear Joan

**Po 207 KILLERMONT PASTORAL LEASE  
SUBMISSION ON PRELIMINARY PROPOSAL FOR TENURE REVIEW**

Thank you for advising Environment Canterbury of the release of the Preliminary Proposal for tenure review of Killermont Pastoral Lease. We appreciate the opportunity to review the proposal and make a submission in relation to the future management of this land.

Environment Canterbury has statutory responsibilities under the Resource Management Act 1991 (RMA) for the sustainable management of natural and physical resources of the region, including soil conservation, water quality and quantity and ecosystems, and for maintenance of biodiversity. In addition, Environment Canterbury also has statutory responsibilities under the Biosecurity Act 1993 for the management or eradication of animal and plant pests in accordance with regional pest management strategies. These responsibilities are entirely compatible with achievement of the objectives of Tenure Review, specifically to "promote the ecologically sustainable management of High Country land" and protecting land with "significant inherent values" by retaining it in Crown ownership.

The Canterbury Regional Policy Statement 1998 (CRPS) provides an overview of the resource management issues of the region, and sets out how natural and physical resources are to be managed in an integrated way to promote sustainable management. Key to the management of soils is the maintenance or restoration of a vegetative cover over non-arable land that is sufficient to prevent land degradation or the onset of erosion (Ch7 Objective 1). Sustainable management of water resources requires safeguarding the life-supporting capacity of water, including associated aquatic ecosystems and significant habitats of indigenous fauna and vegetation (Ch9 Objective 3). Policy 11 in Chapter 9 promotes land use practices which maintain or enhance water quality.

Environment Canterbury has recently notified its Proposed Natural Resources Regional Plan (NRRP) to address the resource management issues identified in the CRPS and to provide more specific standards and methods, including rules, to achieve the objectives. The NRRP promotes the integrated management of soil and water resources with provisions that emphasise the links between land use practices and the management of water quality.

The Soil Conservation chapter (Ch8), Objective SCN1 seeks to:

*"...maintain soil quality and an intact and resilient vegetation cover sufficient to minimise the risk of induced erosion, safeguard the life-supporting capacity of the soil, and prevent, as far as practicable, the movement of soil into water bodies."* The objective contains specific guidelines for intact and resilient vegetation cover. Policy SCN1 provides options to restore such a cover where it has become depleted.

**Our Ref:** PL5C-103; AG5T-60  
**Your Ref:**  
**Contact:** Cathie Brumley

Policy WQL5 of the Water Quality chapter includes a range of regulatory and non-regulatory methods to manage the riparian margins of rivers to maintain or improve water quality.

The Canterbury Regional Pest Management Strategy (1998) and Canterbury Regional Pest Management Strategy Biodiversity Pests (2002) identify a number of species of plants and animals for control or management as pest species.

The Ahuriri River which runs along the northern boundary of the Killermont lease is subject to a National Water Conservation Order to protect the quality of the waters and their instream environment.

In line with these statutory responsibilities and documents, and Section 24 of the Crown Pastoral Lands Act (1998), technical and planning staff have reviewed the Preliminary Proposal for Killermont Pastoral Lease to assess the impacts, if any, of this proposal on the sustainable management of the land, including pest management, indigenous biodiversity protection, soil conservation and the integrity of the water bodies. Our comments and recommendations are listed below.

### **General comments**

The Killermont pastoral lease combines spectacular landscape, natural and cultural values associated with its location within the Mackenzie Basin and alongside the braided mainstem of the Ahuriri River. A range of habitats are present on the lease, extending from low altitude floodplain and river terraces to alpine cushionfield and fellfield.

A National Water Conservation (Ahuriri River) Order 1990, (referred to as the NWCO), for the Ahuriri River covers both the main stem of the Ahuriri and the lower reaches of Omarama Stream. Clauses 3 and 4 of the NWCO outline the nature of the Order, which is (summarised) to include and provide for outstanding wildlife habitat, outstanding fisheries and angling features, and to retain the protected waters in their natural state. Clause 2 (Interpretation) includes, in (c)(ii), a narrative description of "Protected Waters", and describes this part of the Ahuriri River as extending 400 metres landward from the true right bank "...along the former Birchwood Road to its junction with State Highway 8 then along State Highway 8 to map reference NZMS 1 S 116 558361; then along a line drawn 400 metres from the true right bank and continuing to Lake Benmore." The northern boundary of the Killermont lease lies, for most of its length, within this 400-metre corridor. Most of this land has been identified for freeholding, with only a small part recommended to be restored to full Crown ownership.

As with most of the Preliminary Proposals released to date, the emphasis for this proposal has been primarily on management of the terrestrial ecosystems and landscape features of the land area in the pastoral lease. There has been little focus on the long-term management and protection of soil conservation values and the water quality and instream aquatic environment of rivers flowing through or alongside the lease. These aspects need to be seen as fundamentally important to the "ecologically sustainable management" of the lease. Manuka Creek and the Ahuriri River are both noted for their important instream values and high water quality. Management of the land adjacent to these rivers will have important consequences for the ongoing quality of the water both in this part of the catchment and downstream from this lease.

An ongoing issue for evaluating the Preliminary Proposals has been the lack of clear identification of areas of significant habitats described in the Conservation Resources Report (CRR). For example in the section headed "Basin Floor Flats" (p6), Carex-Schoenus wetland are noted in the Ahuriri River margins. The question is: where are these areas in relation to CA2 or the freeholded parts of the Ahuriri river flats? A related issue is whether other examples of each of the habitats listed for a lease have been protected elsewhere. This would provide a useful basis to decide how important it is to retain those parts of the lease containing indigenous habitats in full Crown ownership.



In a recent Environment Court decision (A128/2004 RFB & ors v Otago District) on the proposed Central Otago District Plan, Judge Bollard concluded that "the (tenure review) process should be accepted as the most appropriate method for achieving protection of s.6(c) (of the RMA) areas within pastoral leasehold lands that are voluntarily submitted to the process...". However, as the following discussion identifies, the Preliminary Proposal for the Killermont pastoral lease, and the Conservation Resources Report, both fall far short of identifying or protecting the range of significant indigenous vegetation and significant habitats of indigenous fauna found within this lease. Of particular concern is the continued lack of protection given to montane and lowland habitats, and the critically threatened status of some of the habitats identified on this lease.

## **Soil Conservation**

The following discussion of issues relating to the management of soil conservation values has been based on soil and vegetation information sourced from satellite imagery, Land Use Capability (LUC) mapping and the former Waitaki Catchment Commission property maps prepared for the consecutive Soil and Water Conservation Plan programmes undertaken as part of the Land Improvement Agreements (LIAs). Achieving the objective for the ecologically sustainable management of high country land will rely on the protection of the quality and quantity of soils on this lease. The quality of soils will determine their ability to support a healthy vegetation cover and to prevent the onset of erosion which could lead to a permanent loss of soil fertility, together with the risk of sedimentation of water bodies.

Environment Canterbury has a legal interest in the Killermont lease through two Land Improvement Agreements (LIAs) entered into with the former Waitaki Catchment Commission. These agreements were established to improve the management and vegetation cover of soils at risk of erosion. Although not registered on the lease title, these agreements were both signed and sealed and, pursuant to Section 30A of the Soil Conservation and Rivers Control Act 1941, the lessee is bound to perform and observe the terms and conditions of these agreements. Neither agreement specified a fixed term, so the conditions will continue to apply to all future lessees or owners of this land

Soil conservation works required as part of the LIAs were undertaken between 1952 and 1983. These works included windbreak planting, fencing for grazing control, erosion control and land retirement, oversowing and top dressing, and irrigation installation. Retirement of severely eroded land in the upper reaches of Manuka Creek catchment (known as the Wether Block or the Back Block) was an initial requirement of the LIA, but although the fencing was put in place, and the lessee fully compensated for the loss of grazing, the LIA was subsequently revised in the early 1980's to allow for continued limited grazing in this area. These stock limitations continue to apply.

All land above the retirement fence in the Back Block and above the erosion control fence in the Willow Block is included in the proposed area CA1 as land to be restored to full Crown ownership and control. This designation is supported. The area CA1 has practical fence boundaries and includes most of the at-risk Capability Class 7 and 8 land. By removing all grazing from these blocks, the soil and water conservation objectives in the LIAs should be significantly enhanced over time.

Outside the CA1 area, some further severely eroding and depleted Class 7 and 8 land does remain on the upper slopes and lower sunny faces of the Front block, however it may not be practical to fence through this very steep block. These soils have a very limited ability to support a vegetation cover and therefore little potential for grazing. A large proportion of these slopes have less than 60% vegetation cover which does not meet the thresholds for an intact vegetation cover in the NRRP. From a land sustainability standpoint, these slopes will face a significant risk of soil erosion if they are not carefully managed. On this basis it is recommended that these areas of land are either added to the CA1 area, or that the land is retained in Crown control under s35(2)(b) of the CPLA subject to specific conditions for future management, consistent with policies in the NRRP to restore an intact vegetation cover over all areas that naturally would have been vegetated. This would include investigating the options of destocking or reducing grazing pressure to levels that allow for a cumulative improvement in cover (see NRRP Ch8 Policy SCN1(b)).

The Class VI and better land on the property can safely be used for pastoral use with careful management and will respond to the use of fertiliser and water inputs. Any future development, however, should be subject to minimising any impacts of these inputs on the low-nutrient status of the Ahuriri River.



The attached Map 2 shows satellite imagery (LCDB2) of the vegetation cover. Areas shown as red or orange have the most depleted cover.

Recommendations:

- That future owners or lessees of land within the Killermont pastoral lease are made aware that the terms of each Land Improvement Agreement for the Killermont lease will be binding through any proposal for the freeholding of land through Tenure Review.
- That any decision to freehold the upper slopes of the Front Block, shown as hatched on the accompanying Map 1, should be based on further examination of the condition of soils and vegetation cover, and that specific conditions are placed on the management of this land to allow for the restoration of an intact and resilient vegetation cover consistent with the NRRP Chapter 8, Policies SCN1 and SCN2.

### Indigenous vegetation, habitat and wetlands values

Tenure review provides a valuable opportunity to help achieve two key objectives of the Reserves Act 1977 and the New Zealand Biodiversity Strategy (2001). These are, respectively, "preservation of representative samples of all classes of natural ecosystems and landscapes" and to "maintain and restore a full range of remaining natural habitats and ecosystems to a healthy functioning state." A complimentary objective of the tenure review process is to ensure that conservation outcomes are consistent with the New Zealand Biodiversity Strategy.

The Land Environments of New Zealand landscape classification system (Leathwick et al. 2003) provides a framework for securing protection and/or restoration of examples of the full range of terrestrial vegetation and habitats. Land environments, and potential natural vegetation cover (in the absence of human modification) are classified at four different national scales: Level I (20 land environments nationally), Level II (100 land environments nationally), Level III (200 nationally) and Level IV (500 nationally). Each is nested within higher levels. The 500 Level IV environments provide the most detailed information on the diversity of New Zealand's terrestrial environments and is the best nationally comprehensive estimate of the 'full range' of ecosystems, habitats and biodiversity.

Analysis of Land Environments in conjunction with spatial data depicting indigenous vegetation cover (from Land Cover Data Base) and current legal protection has recently been carried out by Landcare Research (Walker et al. in prep.), for the Department of Conservation. This analysis offers a useful method of identifying the most threatened environments, and therefore determining what should be priorities for protection of indigenous biodiversity, as part of tenure review. In reporting this work, the authors recommended that threat classification analysis be carried out using Level IV Land Environments, as these provide a more accurate, efficient and plausible assessment at regional and local scales.

Examples of seven Level IV Land Environments are present on the Killermont pastoral lease (Leathwick et al. 2003):

- Q1.1a, Q1.1c, Q2.1b – Southeastern Hill country and Mountains
- E4.1b – Central Dry Foothills (central South Island east of the Southern Alps)
- N4.1c, N6.1b, N6.2a – Lower hillslopes and outwash plains of the upper Waitaki valley.

These seven Land Environments are listed, in altitudinal sequence (highest to lowest) as they occur on Killermont pastoral lease, in the table below. The table also shows the percentage of indigenous vegetation remaining in each land environment nationally, and the proportion of each environment that is already protected in existing reserves or conservation covenants. Threat categories are assigned on the basis of these figures (from Walker et al. in prep.)

Lvl IV Land Environment	% Indigenous Cover Remaining	% Protected	Threat category
Q1.1a	98.37	24.81	No threat category
Q1.1c	91.23	17.86	Underprotected
Q2.1b	66.39	4.27	Critically underprotected
N4.1c	48.58	1.24	Critically underprotected
E4.1b	27	3.82	Critically underprotected
N6.1b	66.44	3.78	Critically underprotected
N6.2a	17.59	6.48	Chronically threatened

The highest altitude land environment present on the Killermont lease has, at a national and regional level, retained most of its indigenous cover, is already fairly well represented in the existing network of protected areas, and is therefore not considered to be threatened. The next highest environment (Q1.1c) also retains most of its indigenous cover but is somewhat less well represented in existing protected areas and is assigned the threat category ‘Underprotected’. The mid-slope environment Q2.1b has, throughout its overall range, lost more indigenous cover and is less well represented in protected areas. Its threat category was assessed as ‘Critically Underprotected’. Loss of indigenous cover has also been greater in the lower hill slopes, dry foothill and valley floor environments. Again, these environments are underprotected in existing reserves and therefore have a threat category of ‘Critically Underprotected’. The most highly threatened environment present on Killermont pastoral lease is that of the recent soils on terraces adjoining the Ahuriri River (6.2a). At a national and regional level, this land environment was assessed to be ‘Chronically Threatened’.

The proposed CA1 contains substantial, and relatively unmodified, examples of Level IV Southeastern Hill Country and Mountain Land Environments on the upper and mid-slopes of the Wether Range (Q1.1a, Q1.1c, Q2.1b), and small examples of the under-represented lower hillslope and dry foothill land environments (N4.1c, E4.1b). As described in the preliminary proposal, these contain an altitudinal sequence of indigenous vegetation including alpine cushionfield and fellfield, tall and short tussock grasslands, diverse subalpine and valley shrublands and remnant examples of Halls totara forest.

The proposed CA2 protects an example of the chronically threatened N6.2a river margins land environment. Although not identified as a significant habitat in the Vegetation Section of the Conservation Resources Report (CRR), this area is a key part of the NWCO river margin to be protected in its natural state! The Landscape Section described the Ahuriri river margins, of which CA2 is a part, as containing a mosaic of short tussock grassland, exotic grassland, Hieracium and mat/cushion vegetation, matagouri and grey shrubland, brier, willows and lupins. The CRR and Preliminary Proposal describe the terraces adjoining the Ahuriri River as habitat for threatened bird species including black stilt, wrybill, banded dotterel and black fronted tern.

Surrender of both CA1 and CA2 should greatly benefit conservation of indigenous biodiversity and is supported. However both conservation areas need to be extended to provide protection for the full range of significant natural habitats and ecosystems present on the pastoral lease. It is very encouraging to see that the preliminary proposal recognises the conservation value of low-altitude valley floor habitats, but the area CA2 provides only token protection to this range of critically under protected habitats.

While CA1 in particular probably does include the most natural examples of indigenous vegetation and habitat on Killermont, it is an overstatement to claim, on page 5 of the Preliminary Proposal, that ‘the significant inherent values identified in relation to Killermont are all proposed for restoration to full Crown ownership and control as an outcome of this review.’ For example, areas of ecological value on the north-facing slopes of the Wether Range, shown on the plans attaching to the CRR, are excluded from CA1 in the Preliminary Proposal and proposed for freeholding. Of greater concern is that several sites of Halls totara described (page 9, paragraph 7) in the CRR and included in the CRR mapped

area of ecological values, also appear to have been excluded from CA1 in the Preliminary Proposal. These areas of Halls totara are also the focus of a Recommended Area for Protection (RAP) identified as part of the Protected Natural Areas Programme for the Mackenzie Ecological Region. All totara forest remnants are highly significant as examples of a low conifer scrub-forest community that was once widespread before human settlement. In addition, the totara forest remnants and shrublands are important bird and invertebrate habitats. The map of ecological values accompanying the Conservation Resources Report (CRR) includes the lower faces of Manuka Creek and Frosty Gully with the remaining totara remnants, but these have not been incorporated into the Preliminary Proposal.

In addition, the floodplain of Manuka Creek on the southern boundary of the property, described on page 6 of the CRR as supporting indigenous grey shrubland and *Carex-Schoenus* wetland vegetation is proposed for freeholding. The CRR describes Manuka Creek as containing some of the best and most diverse shrubland communities in the district, from the lower alluvial floodplain wetlands and river terraces to snow totara shrubland on the upper faces. None of the lower plains and terraces however has been included in the Preliminary Proposal.

It is of concern that only tiny examples of dry lower slopes and foothills environments N4.1c and E4.1b, and no examples of the extensive outwash plains environment N6.1b are proposed for protection, given their threat status. Again, this large part of Killermont pastoral lease appears to have been overlooked in the Vegetation Section of the CRR. However the Landscape Section in its description of the 'undeveloped basin floor flats' (page 5 of the CRR) briefly describes this area as predominantly low grassland and herb vegetation, dominated by Hieracium, with patches of native porcupine scrub and exotic brier.

Finally, the opportunity should be taken to secure protection of all the recent alluvial terraces and floodplains bordering the Ahuriri River, given the 'Chronically Threatened' status of this Land Environment and its value, acknowledged in the CRR and Preliminary Proposal, as habitat for rare and endangered bird species. This would also be consistent with protection of the values identified in the NWCO.

It is accepted that there has been considerable modification of the vegetation over much of the proposed freehold area. Nevertheless, the Conservation Resources Report described a range of natural and semi-natural indigenous vegetation and habitats persisting within the proposed freehold area, often associated with riparian zones, including short tussock grassland, shrubland, mat/herbfield and wetland communities. These montane and lowland communities, although modified by a history of burning and grazing and the presence of exotic plant species, have high representative significance and remain important habitats for indigenous fauna. Priority must be given to securing opportunities for the protection and restoration of these most threatened environments, if the tenure review process is to deliver conservation outcomes consistent with its own objectives, and with the New Zealand Biodiversity Strategy.

#### Recommendations:

That before any final recommendation for freeholding is completed, provision is made for the sustainable, long-term protection of the range of significant inherent values present on the Killermont pastoral lease. In addition to the areas identified in the Preliminary Proposal, the following extensions to CA1 and CA2 would incorporate the diversity of habitats found within the lease area, with particular emphasis of those habitats currently under protected in the reserve system:

- Extend CA1 to include: mouth of Frost Gully (larger example of Land Environment E4.1b supporting short tussock grassland and native shrubland); additional Halls totara remnants described in CRR (Land Environment Q2.1b and N4.1c); valley floor shrublands and wetlands in the vicinity of Manuka Stream (Land Environment N4.1c and N6.1b).
- Extend CA2 to include: all areas of the pastoral lease situated north of SH8 and the area of alluvial terraces opposite CA2 on the southern side of SH8. This would protect the major part of the Ahuriri River alluvial terraces and floodplain environment (Land Environment N6.2a) supporting rare bird species associated with the riverbed environment, and an adjoining example of dry outwash plains environment (Land Environment N6.1b).

## Surface water and ground water resources

As mentioned in the General Comments, the Preliminary Proposal and the Conservation Resources Report contain little information on the type of streams within the pastoral lease, and on the relationships between land management and the long-term ecological sustainability of the aquatic ecosystems. Management of the land surrounding rivers and wetlands will play a key role in the long-term protection of water quality and instream values, as well as influencing the quality of rivers downstream from the pastoral lease.

The principal water body on the Killermont lease - Manuka Creek - is a relatively deep and swift rock and gravel bed stream of particularly high quality, as are often found in the inland basins of Canterbury. Manuka stream is a tributary of Omarama Stream which flows into the Ahuriri River. Surveys by Environment Canterbury have shown that gravel bed streams in the Waitaki Basin generally have very high water quality and "clean bedrock or gravels" - very low concentrations of nutrients (nitrogen and phosphorus) and little evidence of sedimentation of the bed by fine sediments. As such these streams frequently support either high endemic biodiversity, or high quality salmonid fisheries, or both.

The NWCO for the Ahuriri River includes the lower reaches of Omarama Stream. Being a tributary of the Omarama Stream and the Ahuriri River, Manuka Creek is likely to have ready access to, and high numbers of, brown trout. Therefore up to a point it may be important as a trout nursery stream. Further upstream, beyond the access capabilities of trout, it might be expected to support resident native galaxiid fish species. Furthermore, as a significant tributary of the Omarama Stream it is important to maintain its present high water quality and low probable fine sediment yield.

A change in land status or intensification of land adjacent to Manuka Creek could potentially lead to an increase in sedimentation and nutrient concentrations. The impact of intensive agricultural land use activities on water quality and ecosystems is well documented, most recently in the report "Growing for Good" by the Parliamentary Commissioner for the Environment. Tributary streams because of their size and limited assimilative capacity are particularly susceptible to degradation. Grazing of riparian margins, for example, reduces vegetation stature and trampling of soils and banks results in an increase in sedimentation. One of the most effective ways of maintaining water quality is to restrict stock access to water ways and to maintain well vegetated riparian margins to trap pollutants in runoff from adjacent land.

The exclusion of livestock by fencing and establishment or maintenance of vegetated buffer strips along the margins of Manuka Creek to remove any sediment or nutrients from surrounding land, appears warranted as it offers the only effective long-term sustainable method of protecting the current high quality status of this water way and its instream values. This will be important in the event of any further intensification of land use on the lower hillslopes of Frosty Gully and Manuka Creek.

Section 24C of the Conservation Act 1987 provides for the management of riparian margins. It states that marginal strips can be established to protect water courses, maintain water quality and aquatic life, and to enable public access. Marginal strips and a cover of riparian vegetation will contribute to the protection of the water quality and aquatic ecosystems as well as acting as a buffer for land use activities.

Chapter 4 of the Proposed Canterbury Natural Resources Regional Plan seeks to maintain waterbodies, including the upper Waitaki catchment, in a natural state, where rivers and their tributaries are largely unaffected by human activities. The plan also promotes the retention, maintenance and planting of riparian vegetation to minimise bank erosion and to reduce runoff of sediment, nutrients and animal faecal matter. (Policy WQL 5)

The Ahuriri River NWCO states that the river is to be managed for its outstanding wildlife and fisheries values and the waters are to be retained in a natural state. Therefore, tributaries of the Ahuriri River need to be maintained in a high quality state to prevent any downstream effects on the water quality or the values of the Ahuriri River.

As much of the pastoral lease land north of State Highway 8 is at or only slightly above the level of the riverbed, and is on the outside radius of a bend in the river, it is likely that this area will continue to be subject to episodic erosion events, and that the river may gradually extend further into this area over time. The priority for management of this area should be for wildlife habitat and river protection.

The change in title from pastoral leasehold land to full Crown ownership or freehold land offers a “one off” opportunity to put in place measures to safeguard in the long-term the health of aquatic ecosystems and to protect water quality. Environment Canterbury is devoting considerable resources through its “Living Streams” programme to restoring water ways, mostly groundwater fed streams, which have already been degraded as a result of land use activities. It is generally more cost effective to protect a waterway by preventing a decline in water quality and habitat values, rather than trying to restore a degraded water body.

Recommendation:

1. Ahuriri River:

To protect the values identified under the NWCO and the CRR, restore all land north of State Highway 8, shown as g - d, d - O, and, east of this point, between O and f, all land extending 400 metres from the true right bank of the Ahuriri River to full Crown ownership and control as a Conservation Area, with an easement/licence for the existing water race.

Such an approach would also be consistent with Part 2 of the RMA (sections 5 - 7), with Chapter 10 of the Canterbury Regional Policy Statement (e.g. Objective 1, Policy 1), and with the Objectives and Policies of the Proposed Natural Resources Regional Plan (Chapter 6: Beds and Margins of Lakes and Rivers). It is also consistent with the Proposed Waitaki District Plan (for example, 3.3 Issue 2, 3.3.2 Objective 2, and 3.3.3 Policies).

2. Manuka Creek:

Exclude livestock from the margins of Manuka Creek to maintain the high quality of the water and the aquatic ecosystems. This will best be achieved through the use of fencing and/or vegetated buffer strips along the margins.

**Geological features**

There appear to be no geological sites of scientific or education value in the Killermont pastoral lease area that would require special protection.

**Management of Pest species**

There are no significant pest issues associated with the management of the Killermont pastoral lease. Most of the country is fairly clear of any pest species identified in the two Regional Pest Management Strategies for Canterbury. Rabbits are currently not an issue in the Omarama area, and very few wildings are present on the pastoral lease land.

**Public Access**

The road access and the proposed easements for public access provide opportunities for public access to the Ahuriri River and the upper slopes of the Wether Range. Extending the margin along the true right of the Ahuriri River to 400 metres, or to SH8 where this runs alongside the river, would increase the opportunities for recreation and appreciation of the outstanding open space landscapes of the area.

**Recommendations**

Environment Canterbury acknowledges and supports the areas proposed to be restored to full Crown ownership and control as contributing to soil conservation management and the protection of examples of some of the indigenous habitats of the area. However these areas, on their own, fall short of achieving the objectives of the CPLA as they fail to include the range of lower altitude habitats or identify conditions required to protect the important values of the Ahuriri River and its tributaries. The Preliminary Proposal also fails to provide for the integrated management of soil and water resources as identified in the NRRP, particularly with regard to the management of river margins and the prevention of any adverse effects of future land intensification on water quality.

The following recommendations for alterations and additions to the areas for protection have been identified to provide for the ecologically sustainable management of the soil and water resources and the range of associated habitats of the Killermont lease:

1. That the terms of the S&WCP agreement for the Killermont lease that contribute to the ongoing restoration of the vegetation cover should be retained through any proposal for the freeholding of land through Tenure review.
2. That any decision to freehold the upper slopes of the Front Block, shown as hatched on the accompanying Map 1, should be based on further examination of the condition of soils and vegetation cover, and that specific conditions are placed on the management of this land to allow for the restoration of an intact and resilient vegetation cover consistent with the NRRP Chapter 8, Policies SCN1 and SCN2.
3. That CA1 is extended, or some other protective mechanism put in place to protect the lower hillslopes and river terraces of Manuka Creek, including the mouth of Frost Gully (larger example of Land Environment E4.1b supporting short tussock grassland and native shrubland); additional Halls totara remnants described in CRR (Land Environment Q2.1b and N4.1c); valley floor shrublands and wetlands in the vicinity of Manuka Stream (Land Environment N4.1c and N6.1b).
4. That livestock are excluded from the margins of Manuka Creek to maintain the high quality of the water and the aquatic ecosystems. This will best be achieved through the use of fencing and/or vegetated buffer strips along the margins
5. That CA2 is extended to include the entire Ahuriri River margin along the northern boundary to the lease, as identified in the NWCO, together with the main alluvial terraces and floodplain environment supporting rare and endangered wildlife associated with the Ahuriri riverbed (Land Environment N6.2a); and an adjoining example of the dry outwash plains environment (Land Environment N6.1b). This will include:
  - all land north of State Highway 8, shown as g - d, d - O, and
  - the area of land marked o - f - e between the Ahuriri River and SH8 with an easement/licence for the existing water race; and
  - the area of alluvial terraces adjoining CA2 on the southern side of SH8

Thank you for the opportunity to comment on this Preliminary Proposal.

Yours sincerely



John Talbot  
DIRECTOR OF POLICY AND PLANNING

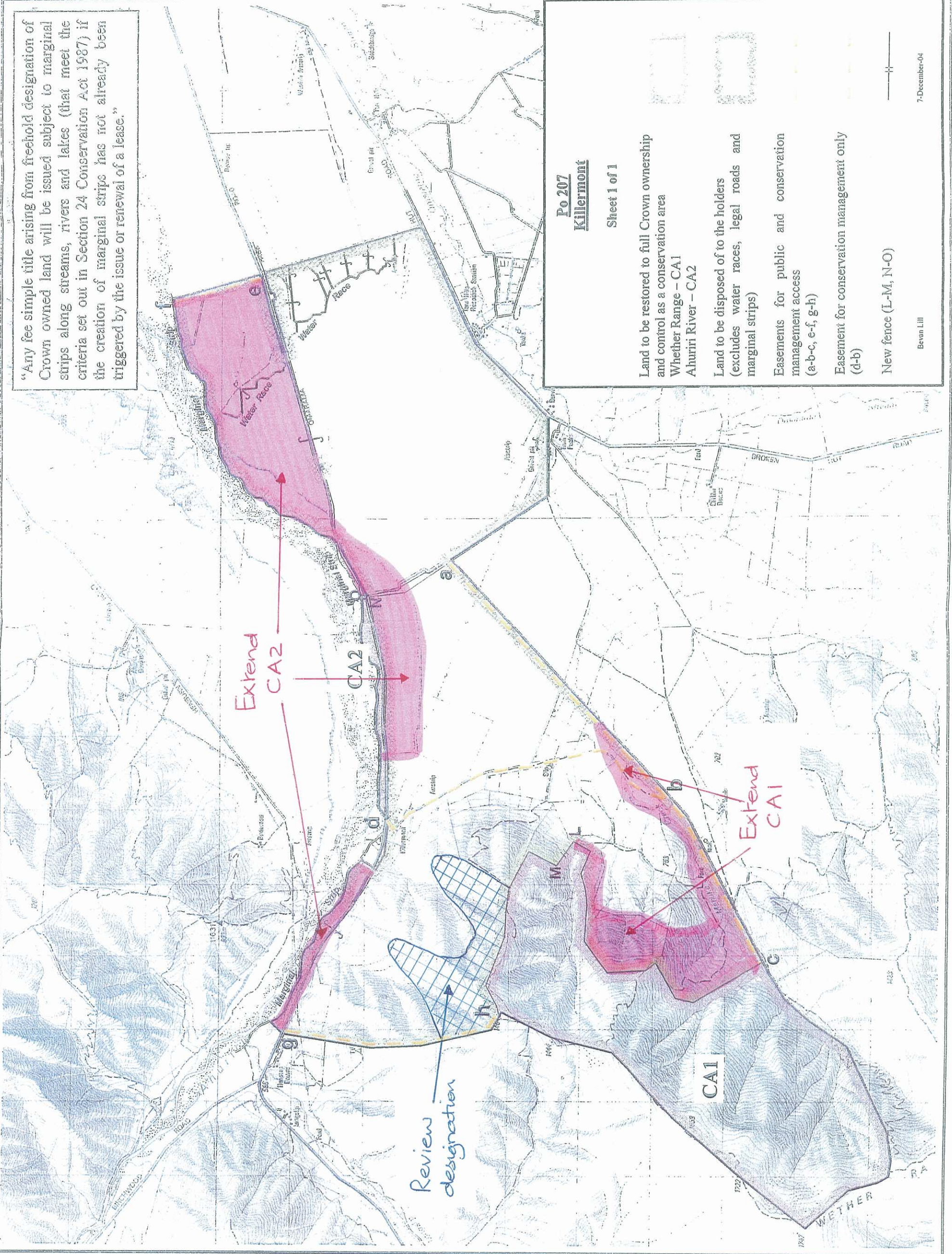
Attachments:

Map 1 – showing recommendations for further areas to be restored to full Crown ownership, or to be managed for the protection of soil and water conservation.

Map 2 – identifying areas where soils are at risk of erosion through the loss of intact vegetation cover.



“Any fee simple title arising from freehold designation of Crown owned land will be issued subject to marginal strips along streams, rivers and lakes (that meet the criteria set out in Section 24 Conservation Act 1987) if the creation of marginal strips has not already been triggered by the issue or renewal of a lease.”



**Po 207  
Killermont**

Sheet 1 of 1

Land to be restored to full Crown ownership and control as a conservation area  
Whether Range - CA1  
Ahuriri River - CA2

Land to be disposed of to the holders  
(excludes water races, legal roads and marginal strips)

Easements for public and conservation management access  
(a-b-c, e-f, g-h)

Easement for conservation management only  
(d-b)

New fence (L-M, N-O)

Bevan Lill

7-December-04

DTZ  
John McMeeking  
DTZ Mapping, Dunedin  
03 474 0571  
25.11.2004

The boundaries shown on this plan are indicative and are for illustrative and discussion purposes only. No guarantee of accuracy can be given until the survey data supporting the boundary positions is researched thoroughly when the survey prescription is prepared.

Marginal Strip Subject to Sec 24(S)  
Conservation Act

**Killermont**  
Scale - 1:50,000



This plan accurately portrays the boundary of Killermont Pastoral Lease and the land status is unchanged from that certified by the Chief Surveyor on 23/03/01  
Murray Bradley, Crown Accredited Supplier.

Version	1	2	3	4	5	6
Chicago Land District	Sheet 1 of 1					
Topographical Map	260 -H39					
Date	25.11.2004					