



Crown Pastoral Land Tenure Review

Lease name : Peak Hill

Lease number : Pc 058

Public submissions

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

March 03

Attached

Copies of submissions from:

- David Hodder, Vice President NZDA
- Canterbury Aoraki Conservation Board
- Federated Mountain Clubs of New Zealand (Inc)
- Royal Forest and Bird Protection Society
- Public Access New Zealand (25 September 2001)
- Public Access New Zealand (26 October 2001)

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② File - P0055/1

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David Hodder

7 Ramahana Road Christchurch 2 New Zealand
Telephone 03 332 2098 Fax 03 332 2577



13 September 2001

Commissioner of Crown Lands
C/- Knight Frank (NZ) Limited
Land Resources Division
PO Box 142
Christchurch

Re: Summary of Preliminary Proposal for Tenure Review of Peak Station under the Crown Pastoral Land Act 1998.

I had very little to comment on with your proposals in this station Tenure Review.
I have passed these on to David Henson of FMC who will co-ordinated these with Eugenie Sage of F & B

Yours faithfully

David Hodder

Vice President NZDA
Christchurch

Peak Station: review

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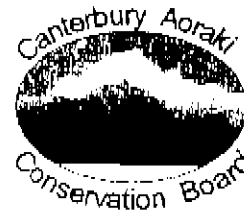
PC 58/1

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| Action by | JL |
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24 September 2001

KNIGHT FRANK (NZ) LTD
CHRISTCHURCH
25 SEP 2001



The Manager
Knight Frank
PO Box 142
Christchurch

Attn: RS Lough

Dear Sir/Madam,

Subject: Peak Hill Tenure Review Preliminary Proposal - Your reference PC058/1 Clayton

The board thanks you for the opportunity to comment on the proposal.

It only has one concern and that is that any easements for access must be real and not paper easements. It has also noted that there is no reference made to marginal strips in the documentation

Other than the above the board has no other comment to make on this proposal.

Yours sincerely

Alan Jolliffe
Convenor of the Planning Committee.

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

Ph & Fax (04) 233-8244

September 24 2001

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| Noted | 11229 |
| Action by | G.H. |
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COMMUNITY PLANNING UNIT LTD
CHRISTCHURCH
27 SEP 2001

Commissioner of Crown Lands,
C/- Knight Frank (N.Z.) Limited,
Land Resources Division,
P.O. Box 142,
CHRISTCHURCH, 8001.

Dear Sir

**PRELIMINARY PROPOSAL FOR TENURE REVIEW OF PEAK HILL
PASTORAL LEASE**

Thank you for your letter of 31 July with a summary of the preliminary proposal for this lease. We comment as follows:

Overview of Proposal

The intended split between freehold land and land to be returned to full crown control is reasonable in view of the geography and land use on this property. However we consider that the proposals for provision of public access fall short of present and future needs.

We propose additional access as follows:

There should a foot access easement from the north-western end of the ridge top easement (your point B) down to the Algidus Road. This should run down the boundary fence dividing Peak Hill from Mt Oakden properties and should be immediately inside Peak Hill's land. The ridge top easement appears to be intended to provide a tramping route along the crest of the freehold land from the public land.

We assume that the aim is to continue this easement further along the ridge as far as possible as and when Mt Oakden's lease comes up for tenure review. While we support this concept, there are inherent problems with provision of a ridge top easement alone. These are:

There is no certainty Mt Oakden will come up for tenure review. In the meantime this route will be a dead end requiring trampers to return the way they came.

If Mt Oakden goes through tenure review and the ridge top easement is extended there will still be a need for at least one side access route to/from the ridge. Otherwise there will be no legal access/exit route for people who do not want to undertake the complete ridge traverse (whatever that may be) or need to leave the ridge for safety reasons such as bad weather.

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It can be argued that side access may still be obtained by permission of the owner of the final freehold. However this negates the purpose of tenure review.

We show this as access C on our attached map

There is a clear need for marked practical access through the freehold from the Algidus Road to the bed of the Rakaitia River. The most obvious and suitable route is an existing legal road which should be marked.

This is shown on our map as access D.

The map supplied shows the freehold and public land stopping short of the lake shore along much of the southern shore of Lake Coleridge. The reason for this is not clear and is not explained in the proposal paper. The 'gap' does not appear to be a marginal strip because it is not identified as such and its width varies significantly.

A search of LINZ data suggests that the legal boundary of the present lease extends under water as a result of the impoundment of the lake many years ago. Consequently if the freehold and public land stop short of the shore. It follows that the gap will remain as part of the original lease. This is illogical.

The Department of Conservation's report on the lease (October 1996) states:

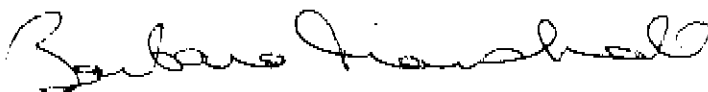
'Access along the shores of the lake within Peak Hill is very difficult, and in some places impossible, because of steep slopes and bluffs.'

We consider this is not correct. The shoreline and slopes at the eastern end of the lease (i.e. for the first kilometre or more from the boundary) are certainly difficult but they become progressively easier moving west. The shoreline along the proposed freehold is not difficult travel at normal lake levels. We therefore submit:

1. that the boundary of the public land should be redrawn to ensure that it goes to the water level. This will give trampers clear legal access along this part of the shore and will allow them to make their own judgments about travel along this section of the lakeshore.
2. A marginal strip should be provided along the full length of the shore of the freehold section. This will allow access for those who want to walk along this section and also make it legally possible for the public to land from boats. This strip should be fenced to prevent pollution of the lake by stock.








We show this on our map as access E

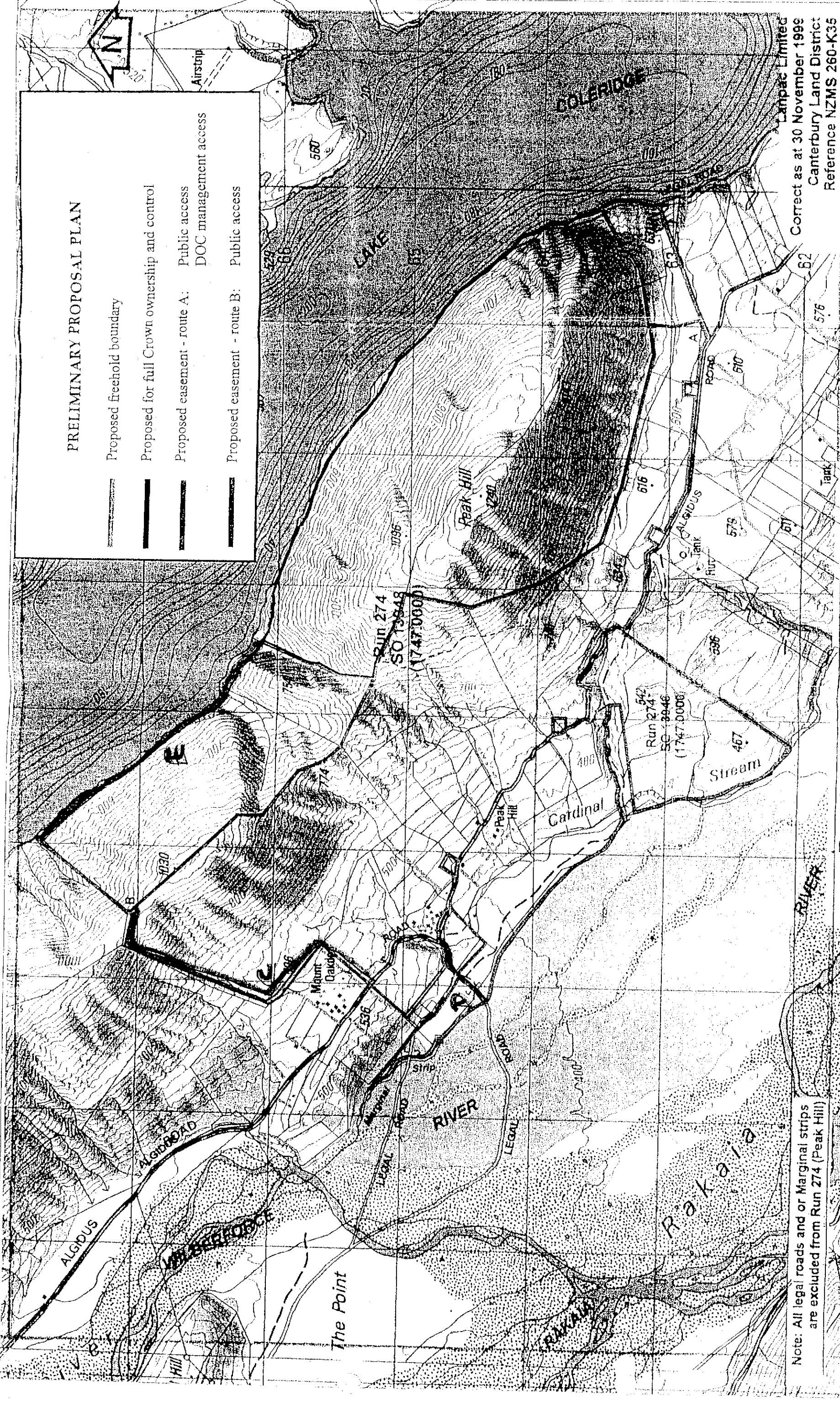
Yours faithfully,



Barbara Marshall
Secretary

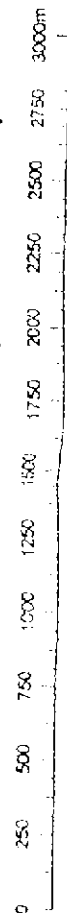
PRELIMINARY PROPOSAL PLAN

-  Proposed freehold boundary
-  Proposed for full Crown ownership and control
-  Proposed easement - route A:
-  Proposed easement - route B:
-  Public access
-  DOC management access
-  Public access



Lanpac Limited
 Correct as at 30 November 1999
 Canterbury Land District
 Reference NZMS 260-K35

Run 274 SO 13948 (Peak Hill)



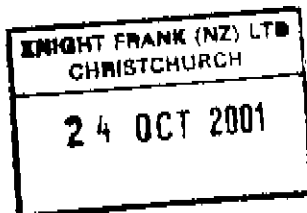
Note: All legal roads and or Marginal strips are excluded from Run 274 (Peak Hill)

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Regional office
Royal Forest and Bird Protection Society
PO Box 2516
Christchurch Mail Centre
Christchurch.

19 October 2001

Commissioner of Crown Lands
C/o Knight Frank Ltd
Land Resource Division
PO Box 142
Christchurch



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| Noted | 12686 |
| Action by | JBL |
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FOREST
& BIRD

ROYAL FOREST AND
BIRD PROTECTION
SOCIETY OF
NEW ZEALAND INC

Dear Sir/ Madam

**RE: SUBMISSION ON PRELIMINARY PROPOSAL FOR TENURE REVIEW ON
PEAK HILL, LAKE COLERIDGE**

1. GENERAL COMMENTS

Thank you for the additional information on Peak Hill, which provided much-needed background on the preliminary proposal. The "standard information" which the Commissioner's agents currently provide on preliminary proposals is too brief to be useful. Forest and Bird will provide advice under separate cover of the information that it seeks as a standard package in future.

The Royal Forest and Bird Protection Society Inc. (Forest and Bird) has campaigned for nearly 80 years for the protection of New Zealand's native species and the habitats on which they depend. Over 38,000 New Zealanders in 56 branches nation wide belong to Forest and Bird, supporting the Society's objectives of secure protection for native species, ecosystems, and landforms. This submission is on behalf of the Society's Central Office.

1.1 Lack of accountability

Forest and Bird is disappointed in the lack of accountability in the report writing. The authors are not mentioned and it is even unclear which the Commissioner's contractors prepared significant reports such as "Recommendations for Draft Preliminary Proposal incorporating Drafting Instructions". It is bad practice for the authors not to be named.

In a letter of 6 November 1996 (attached) Forest and Bird commented on the Department of Conservation draft resource report which provided more detailed comments than those given at an "early warning" meeting. Advice from Fish and Game is mentioned in the report from the Commissioner's agent (Recommendations for Preliminary Proposal 20/12/99 at para 6) but there is no record of consultation with Forest and Bird. This suggests that the Society's concerns are given scant consideration by decision-makers and inspires little confidence in the public consultation process.

1.2 Inadequate information on freshwater fisheries values

The DoC Conservation Resource Report (October 1996) notes that Cardinal Stream is the biggest stream on the property but "there is no database information available for this stream." The department appears not to have corrected this gap with any field survey work. Many species of indigenous freshwater fish are threatened with extinction. DoC's failure to investigate the indigenous fishery values of Cardinal Stream and other waterways

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are a major shortcoming of the resource report. Claiming that "it is unlikely to be a important fisheries habitat" on the basis of no information is not sound science.

Fisheries are part of "inherent values" as defined by the Crown Pastoral Lands Act (CPLA) and should be reported on with more information than has been provided for Peak Hill.

2. OBJECTIONS TO THE PRELIMINARY PROPOSAL

Forest and Bird objects to the following elements of preliminary proposal:

1. **Lessees advantaged at the expense of conservation and public access**
The bulk of the property (1137 ha) is proposed for freeholding and less than a third (610 ha) is proposed for conservation management. The preliminary proposal provides the maximum benefits to the current lessees at the expense of the landowners (the Crown and the public) because the conservation values of the lakeside areas are ignored and public access is not adequately provided for.

2. **Lakeside shrublands deserve protection**
The proposed freeholding of botanically important lakeside shrublands and vegetation in Lakeside 1 and Lakeside 2 blocks is opposed. The proposal ignores the importance of protecting lake margins for their ecological, landscape, recreation and amenity values.

Through tenure review of properties around Lake Coleridge the Crown should seek to maximise the amount of lakeside land that is transferred to conservation management. This is because of the high recreational, landscape and amenity values of lake margins and the importance of ecotones and protecting a full ecological sequence from the mountaintop to the lake communities. Lakeside areas, especially where there is easy road or foot access, are always popular for recreation. The preliminary proposal's failure to recognise the importance of lakeside areas by freeholding an extensive area is disappointing.

The use of Lake Coleridge for hydro storage has modified the lakeshore. Vegetation communities on the lake margins have been subjected to inundation and stress from variations in lake levels. Where predominantly natural lake edge communities remain, as they do on the Peak Hill lease, their ecological values deserve recognition and protection because of modification, which has occurred elsewhere around the lake edge.

The lakeside margins and their shrublands have "significant inherent values". Species present include kowhai, including prostrate kowhai, cabbage trees, matagouri, hairy leafed bush lawyer (*Rubrus schmidelioides*), *Coprosma propinqua*, *Olearia avicenifolia*, lancewood, scattered broadleaf and threatened species such as mistletoe (*Leostylus micranthus*) which use kowhai and *C. propinqua* as host plants. The Department of Conservation resource report (DoC, October 1996, p4) notes that the largest remnant area of shrublands extends along the lake edge for 500 metres and is on the southeastern extremity of the lease. The Department recommended this area for conservation status. Yet this area is proposed for freeholding rather than conservation management. This is contrary to section 24(b)(ii) of the Crown Pastoral Lands Act because it does not "enable the protection of significant inherent values of reviewable land".

A report on the botanical values of the margins of Lake Coleridge by noted Canterbury botanist, Dr Colin Burrows which confirms the values of lakeside areas is attached.

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Currently, the lakeshore area has no value for grazing and is not capable of economic use so there is no justification for freeholding the shrublands. Freeholding would mean that over time, stock access and grazing would risk damage to and deterioration of the shrublands through browsing, trampling, impeding regeneration, and the spread of weeds and exotic grasses. Stock access to the lakeshore means fouling of the shore with dung, likely browsing of vegetation further along the shore, and contamination of lake water. Burning or tracking through the vegetation would destroy and/or fragment the shrublands.

The shrublands should be fenced. This should assist farm management, particularly during mustering by restricting stock access to a difficult part of the property. The preliminary proposal involves no additional fencing and relies on existing fencing to delineate new boundaries. The cost of additional fencing of around 2 kms to protect the lakeside shrublands from stock should not be unreasonable. The lessees stand to benefit substantially more than the Crown from the preliminary proposal (presumably requiring some financial exchange). A contribution by the lessees to the fencing costs could be part of this exchange.

On the preliminary proposal maps, the boundary of the area proposed for conservation status on the lakeshore is not the same as the boundary of the land. In several places a narrow strip of land extends between the property boundary and the lake. Its status is not mentioned. The Commissioner's agent (Recommendations for Preliminary Proposal 20/12/99 at para 5.1) states that this narrow strip is excluded "because it is not possible to achieve any practical boundary along this line".

Leaving unclear the status of a narrow strip of land along the lakeshore is a recipe for future problems and debate. The operating levels for Lake Coleridge are well known. It should be relatively easy for the lakeside boundary of the proposed conservation land to be extended to include all of the land (including lake bed) which is exposed when Trustpower draws down Lake Coleridge to the lowest operating level (metres above sea level) that it is permitted to under its resource consents.

3. Degraded lands proposed for freeholding

The freeholding of depleted areas where hieracium spread is a problem in the Lakeside 1, 2 and 3 blocks is opposed as not promoting land management that is ecologically sustainable as required by section 24(a)(f) of the CPLA. Vegetation cover on the sunny north facing slopes of the Lakeside 1 Block in particular has been heavily depleted, hieracium spread is a problem and there is extensive bare ground. The country is dry and "droughty." Continued grazing of these steep slopes is not sustainable. Continued loss or degradation of vegetation cover risks increasing the risk of soil erosion. These lands should be retired.

4. Access easements inadequate Easement B - Ridgeline

Peak Hill is likely to be a popular day walk because it is a notable landscape and geological feature which provides spectacular views over Lake Coleridge, the Rakaia River, Wilberforce River, lower Harper River, Craigieburn Range and surrounding country. Walkers seeking a round trip are likely to be frustrated because no access easement is provided from the northern part of the ridge and the Peak Hill/Mt Oakden boundary to the Algidus Road. Having easement B along the ridgeline terminate on the Peak Hill/Mt Oakden boundary with no connection to legal road or any other public land at its northern end undermines the whole reason for such easements (to facilitate public access).

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The natural route for walkers on a day trip over Peak Hill when reaching the Peak Hill/Mt Oaken boundary is to follow the fenceline down to the Algidus Road. Walkers are unlikely to want to retrace their steps back over the summit of Peak Hill. In practice they are likely to drop off the ridge and proceed down to the road, ignoring the lack of legal access. Such "trespassing" is likely to cause conflict with the landholder and may disturb stock.

These problems could be avoided by continuing Easement B and providing a sign posted access easement down the fenceline. If the landholder anticipates unreasonable stock disturbance the easement could be double fenced off to provide a fenced 20 metre public corridor as many parts of the unformed Summit "Road" are on the Port Hills. An unfenced well sign-posted easement with stiles or gates through fences would be an acceptable alternative.

The options in the "Submission on Draft Preliminary Proposal" from the Christchurch Agent (20/12/99) are both strongly opposed as failing to provide for public access. The fact that they are being proposed is disturbing and suggests a serious lack of commitment to safeguarding public access rights. The options are to establish:

- (i) *"an easement, for public access, with a clause that prevents public use until the route can be linked to access through Mt Oakden"* (para 4.3) or;
- (ii) to make *"an agreement with the proposed freehold owner of Peak Hill to provide an easement if and when access is arranged through Mt Oakden"* (para 4.3).

Neither of these options provide any certainty that public access will be provided. There is no guarantee that Mt Oakden will enter or complete tenure review. Nor is there that the Mt Oakden lessee would accept a similar easement through Mt Oakden to connect with the Algidus Road and proposed easement B. Both options have the risk of public access never being implemented if Mt Oakden fails to complete tenure review.

There is also the significant risk that officials will forget to follow up any such agreement and 10 years hence, no right to access will have been established. Such official neglect has already almost resulted in a section 58 strip along the banks of all rivers and streams on Peak Hill not being excluded from the lease, because these strips were not surveyed off and defined in the Chief Surveyor's records but only identified in a plan to define erosion (See Land Status report 26 April 1999).

5. Wilding control needed prior to property transfer

An area of larches and sycamore on the lower southeastern slopes of Peak Hill was a potential and obvious source of wilding spread during a March 1995 inspection. The larches were spreading to the north-east with dense seedlings. Broom was also present and in need of control. Forest and Bird advised the Commissioner of Crown Lands of the "urgent need" for action against the larches and broom in November 1996. (See Attachment 2).

None of the departmental or agent's reports mentions whether these larches, sycamore and broom have been controlled or eradicated. The infestation occurred when the land was pastoral lease land. Funding should be provided now for this weed and wilding problem to be controlled rather than the land being passing to DoC with a weed problem which should have been actioned some time ago.

6. Weed control (particularly broom)

The Assistant Commissioner of Crown Lands recommended to the Land Settlement Board that "concern be expressed at the lack of action to control and eradicate broom" in February 1987. (Case no 87/5C, File HO CL 14/11/34; D.O P 58). Broom infestations on and close to the summit of Peak Hill were obvious in a March 1995 field inspection by Forest and Bird. Given that control of weeds and pests is a good husbandry condition of the lease, land should not be passed over to the Department of Conservation without the lessee having undertaken weed control or being charged for the costs of such work. It is unreasonable to expect the department to do "catch up" work which the lessees should have done as part of their obligations under the lease. The Commissioner should be insisting on the performance of lease obligations, particularly given the low, below market rentals for pastoral lease land.

7. Conservation land should become scenic reserve

No status is suggested for the land to become conservation land. The 1996 Department of Conservation Resource Report noted that, "*The Mt Oakden/Peak Hill Range is a very distinctive, isolated, hardrock greywacke "sugarloaf" mountain range... trending NW-SE. It is a dominant and very impressive landform significantly contributing to the special, dramatic glaciated character of the Rakata/Coleridge landscape.*" The preliminary proposal fails to mention the proposed reserve or conservation land status. Given the area's spectacular landscape values, scenic reserve status is appropriate.

8. No apparent provision for sign-posting and stiles

The proposal fails to mention sign posting. It would be sensible if easement A and extended easement B were both sign-posted on the Algidus Road as providing legal access for walkers. A large part of the property is proposed to be freeholded. Casual walkers will have great difficulty in identifying the correct access routes without sign posting.

Deer fences are difficult or impossible to negotiate. Stiles or gates must be provided on the extended easement B.

The existing legal road access to the Rakaia river bed from the Algidus Road to the north east of the Peak Hill homestead is not well sign-posted. It would be desirable if it was so the public knows their access rights.

3. DECISIONS SOUGHT

1. Request the Department of Conservation to include experts in wildlife and freshwater fisheries in its survey teams and to include information on indigenous freshwater fisheries and wildlife in its conservation resource reports.
2. Amend the preliminary proposal in the following ways:
 - a) Include all of lakeside shrublands and the cross hatched area on Map 1 (attached) as land to be returned to full Crown ownership and control as conservation land.
 - b) Extend proposed easement B to provide an easement for public walking access from the ridgeline and from the Peak Saddle/Mt Oakden boundary, down the existing fence line to the Algidus Road to provide for a thorough walk.
 - c) Provide for signposting on the Algidus Road to identify that easements A and B are available for public foot access.
 - d) Improve access to the Rakaia River bed by signposting the existing legal road access on the Algidus Road.

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Forest and Bird requests a copy of the final proposal or similar report, which shows the decisions, which the Commissioner has made on public submissions.

Yours sincerely

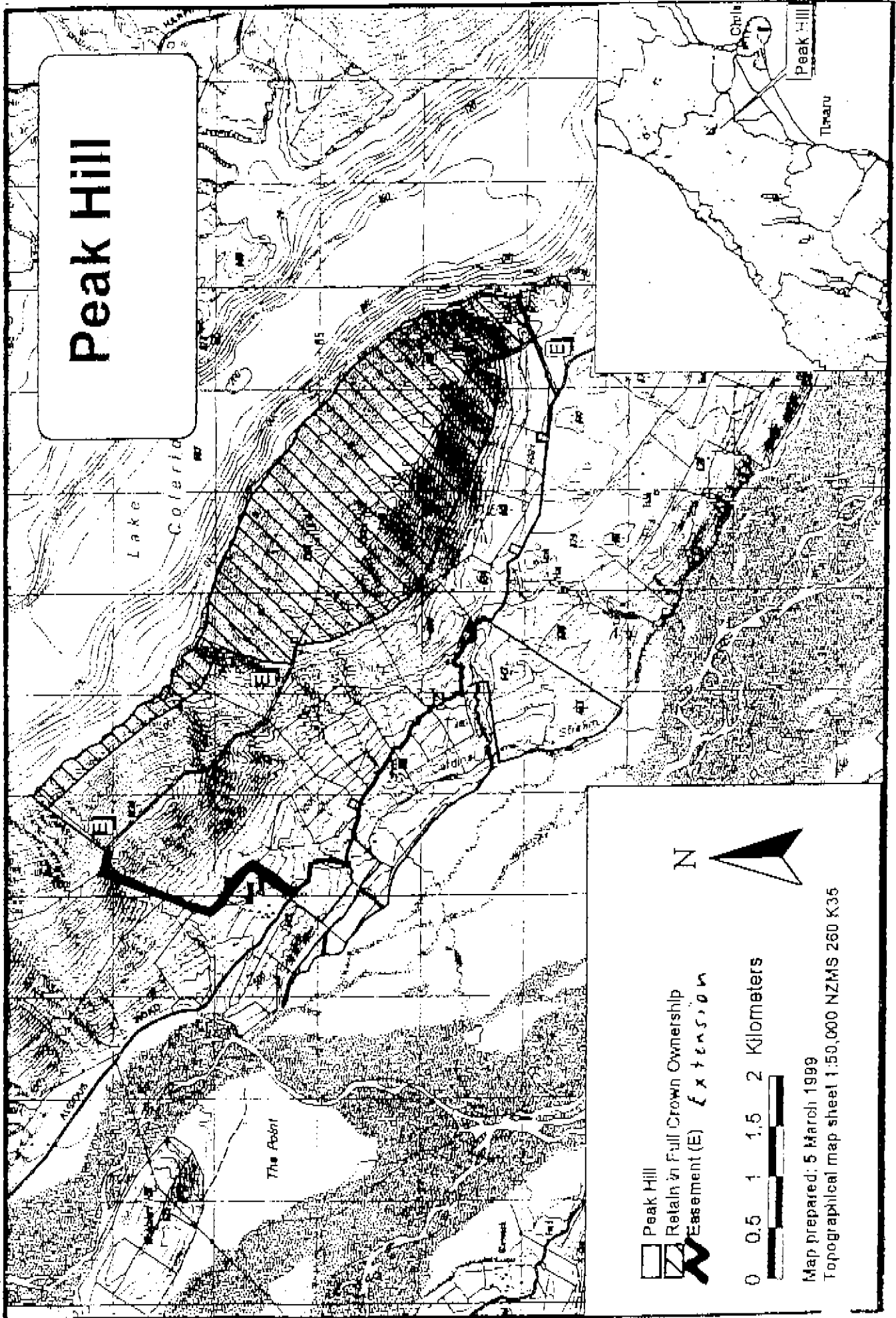
E M Sage

Eugenie Sage
Regional field officer

Cc Department of Conservation
Federated Mountain Clubs

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Peak Hill



- Peak Hill
- Retain in Full Crown Ownership
- Easement (E) Extension



0 0.5 1 1.5 2 Kilometers

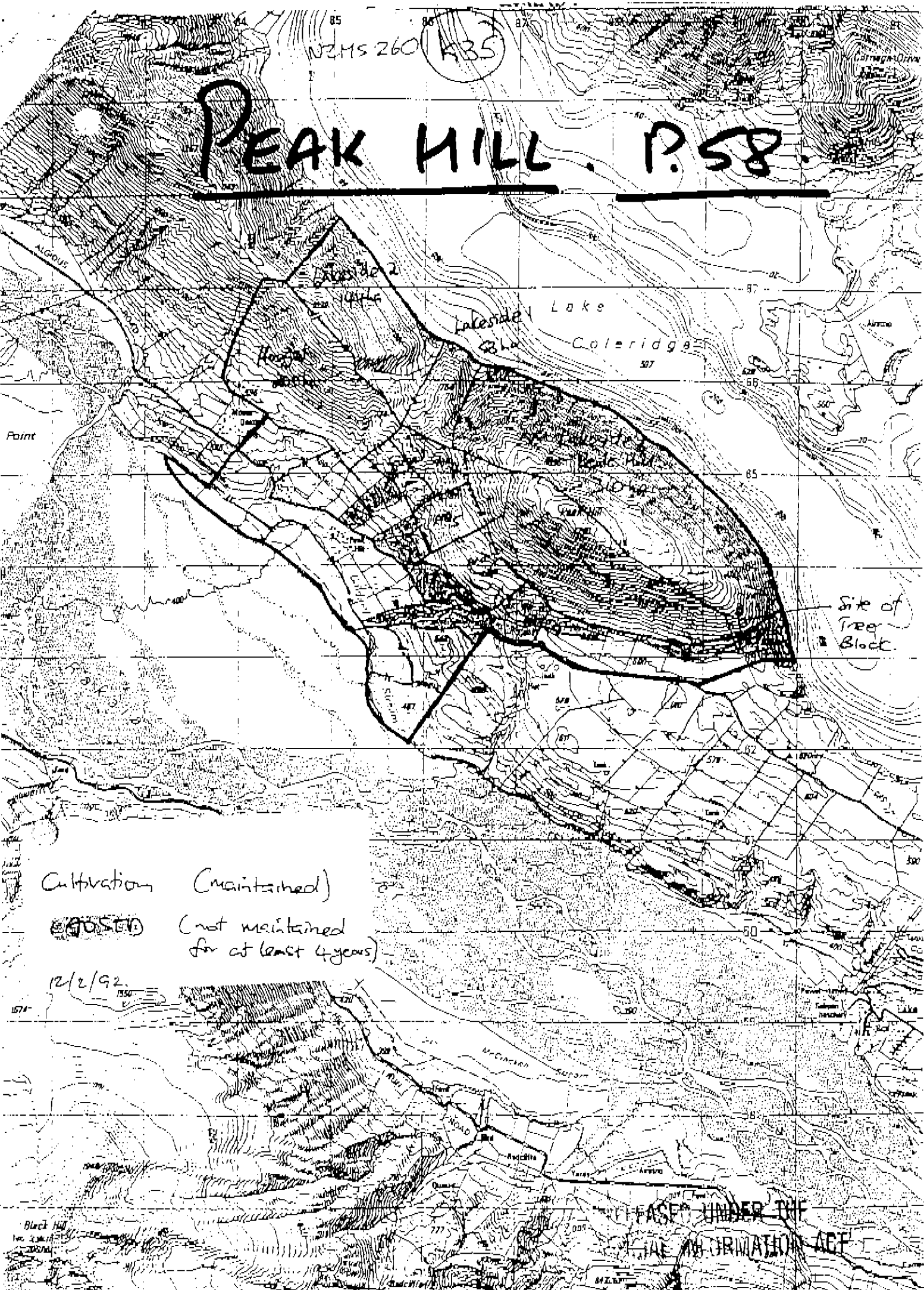


Map prepared: 5 March 1999
Topographical map sheet 1:50,000 NZMS 260 K35

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NZMS 260 (ABS)

PEAK HILL. P. 58.



Cultivation (maintained)

~~ROSEN~~ (not maintained for at least 4 years)

12/2/92

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Regional Office (Northern South Island)
PO Box 2516 Christchurch
ph (03) 3666 317
fax (03)3660 655



FOREST
& BIRD

ROYAL FOREST AND
BIRD PROTECTION
SOCIETY OF
NEW ZEALAND INC

6 November 1996

Roger Lough
Knight Frank
PO Box 142
Christchurch

Dear Roger Lough

Peak Hill - Tenure review

Thank you for the copy of the draft Department of Conservation report for Peak Hill. Forest and Bird would appreciate the following issues/ points being added to Part Three - Consultation. Several of these issues were raised at the meeting of 22 June (according to my memory) while most are additional points.

Forest and Bird seeks:

- * no grazing of cattle where they can gain access to Lake Coleridge because of impacts on water quality and lake side vegetation.
- * no further burning of any of the north (lake facing) slopes, (not just the lakeside vegetation) because of the soil erosion risk, the extent of bare ground, the risk of burns getting out of control and the already depleted state of indigenous vegetation in grazed areas.
- * protection of much of the Lakeside 3 block (310 ha) on the northern slopes of Peak Hill from the lake shore to the summit of Peak Hill because of the steep slopes, lakeside shrublands, poor grazing value, and vulnerability to further vegetation and soil loss with continued grazing.
- * the 800 metre contour and/or fenceline and farm track on the southern slopes of Peak Hill as the minimum upper limit for a boundary between new conservation land and freeholded land on these slopes because of the predominantly indigenous vegetation above the fenceline, unsustainability of further grazing, and the potential for vegetation recovery with stock removed.
- * the need to exclude stock from the higher slopes of Peak Hill because of the vulnerability of these Class VII lands to erosion. (Note that new fencing under a 1983 Soil and Water Conservation Run Plan by the North Canterbury Catchment Board was intended to prevent summer grazing on the top of the Peak Hill block. Sheep were present when members inspected the property in March.

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Public Access New Zealand

INCORPORATED

R D 1 Omakau 9182 Central Otago New Zealand

Phone & Fax: 64 - 3 - 447 3554

www.PublicAccessNewzealand.org

panz@es.co.nz

25 September 2001

Knight Frank NZ Ltd
Christchurch

Fax (03) 379 8440

Attn: Roger Lough

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| Noted | 11/20/01 |
| Action by | GFF/LL |
| Recorded | |
| Print date | |
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Peak Hill Tenure Review

PANZ has only just received official information requested from LINZ concerning the conduct of this review. There is insufficient time before the closing date for submissions for us to assess this information, make necessary consultations with member bodies, draft and obtain our Board of Trustees' approval for our submission.

A quick perusal of the supplied information reveals that it is not possible to make an informed contribution to the review just on the basis of the summary of the proposal released at the time of public notification.

The purpose of this letter is to advise that a substantive submission will be made as soon as possible after 28 September.

We request that the content of this letter and the substantive submission to follow is taken into account by the Commissioner of Crown Lands in determining the outcome of the review.

B. J. Mason Rose

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12/10/01

Public Access New Zealand

INCORPORATED

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

Phone & Fax 64 3 412 1111
panz@panz.co.nz

KNIGHT FRANK (NZ) LTD
CHRISTCHURCH
29 OCT 2001

October 26, 2001

Commissioner of Crown Lands
c/- Knight Frank NZ Limited
P O Box 142
Christchurch
Fax (03) 379 8440

FAXED

10.30 am 26/10/01

| | |
|-----------|-------|
| Name | 12693 |
| Action by | R.L. |
| Received | |
| B/up d. | |
| File No. | |

Submission on Peak Hill Review Preliminary Proposal

On 25 September 2001 I advised that I had only just received requested official information on this proposal, and consequently PANZ had insufficient time to make informed commentary within the due time. I subsequently requested and obtained the Commissioner's approval for extension of time for submission until Friday 26 October. This is our substantive submission.

Without our access to a large body of official information, it would have been very difficult to make informed commentary on the proposals. The summary of the proposals released at the time of public notification is short on detail. Reliance on this alone would not allow critical evaluation of the proposals.

Summary

The main recreational characteristics of the Peak Hill pastoral lease are the hill itself and the spectacular views it affords; potential for walking opportunities on the hill and beyond; the steep Lake Coleridge faces as the dominant backdrop for uses of the lake; and the lake margins and the Wilberforce River as settings for a variety of recreational activities. This is a very prominent, dramatic and dominating feature of the upper Rakaia/Coleridge landscape. It therefore provides a natural focus for recreational interest.

The importance of the above characteristics is well recorded in the official papers supplied to us, however the Preliminary Proposal only partly provides for their protection and/or public recreation.

- PANZ supports the boundaries proposed for Crown ownership with the exception of the SE corner. The conservation area will provide most welcome opportunities for public recreation.
- We support access easement 'A' to the conservation area but with express terms to prevent revocation or amendment without public process.
- We strongly support the objective of enabling future access along the Mt Oakden Range by providing ridgeline access to the boundary of Mt Oakden PL via easement 'B'. We make recommendations for its implementation.

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We seek the following amendments to the Proposals-

1. The shrubland backdrop to Salmon Bay included in the area for retention in Crown ownership.
2. The Lake Coleridge faces proposed to the freeholded, made subject to a landscape protective mechanism that prevents vehicle tracking or other earth disturbance, forestry development, and the erection of buildings.
3. The creation of a 'return' public foot easement along an existing vehicle track, from the ridge crest near the proposed western boundary of the conservation area, to the Mt Algidus Road.
4. That easement 'B' not be established until connecting easements and/or conservation areas on Mt Oakden are provided, however this future easement alignment should be protected from obstruction.
5. That a vehicle, foot and cycle access easement is provided from the Mt Algidus Road to Salmon Bay.
6. Vehicle access is secured from the Mt Algidus Road to the Wilberforce River along an existing legal road alignment.

Salmon Bay shrublands

The DOC Conservation Resources Report states that "the biggest remaining patch (of native shrublands) is on the south eastern extremity of the lease. It extends along the lake edge for approximately 500m". This area was also described as "a mixed angiosperm forest" which is "rich in forest and scrub dwelling birds".

This clearly has 'significant inherent values' which DOC recommended for public reservation in 1999. However the reservation of this area has been dropped from the Preliminary Proposal. The only official explanation we have found for this is that the holders "expressed their wish to obtain freehold title to lakeside land at the south-eastern end of the lease" (Report on Consultation, pg. 2). We believe this not to be a relevant consideration under the Crown Pastoral Lands Act and expressly contrary to section 24(b)(ii) because it freeholding does not "enable the protection of significant inherent values of reviewable land".

There is also recreational interest in Salmon Bay and access to this bay. Lakeside areas, especially where there is ready public access, are always popular for recreation. Public reservation of this area would therefore be consistent with Section 24 (b)(i), the "securing of public...enjoyment of reviewable land".

Lake Coleridge faces

From a landscape perspective, the steep lake faces on both Peak Hill and Mt Oaken pastoral leases are of almost uniform gradient and vegetative character. The only distinguishing feature, of those faces proposed for freeholding on Peak Hill, is that the ridge crest is lower than elsewhere. The Rakaia side of the range is more varied in topography and has had extensive pasture and shelter belt development on the lower slopes. None of this has occurred on the Lake Coleridge side. The retention of a uniform landscape character, given its great prominence from the Coleridge basin, should be a high priority. As DOC has observed it "is a very prominent, dramatic and dominating feature of the ... landscape" (Conservation Resources Report, pg. 1).

Independent of the question of the sustainability of continued primary production on the proposed freehold lake faces, we believe that the landscape character of this face is an inherent natural value that requires protection by a protective mechanism under the CPLA. In October 1996 DOC recommended a QEII Covenant over these faces with prohibitions on earthworks, building and tree planting. For unexplained reasons this proposal has been dropped. We have little confidence in the QEII Trust protecting such important landforms, however we strongly recommend covenanting either under the Reserves or Conservation Acts.

Public access provisions

We fully endorse the intention to provide walking access from the proposed conservation area along the ridge crest towards Mt Oakden. While Mt Oakden is not in the tenure review programme, and there is no guarantee that it will join or that a connecting easement would be agreed if it were in the programme, the Crown should take a long-term view of these opportunities. The tenure review programme is almost certainly the last major reallocation/subdivision of high country land to occur in New Zealand. If the opportunity to establish a ridge-crest public access route is foregone, it is most improbable that any future public authority would instigate such in the future. This is due to a lack of voluntary negotiating power and a reluctance to confiscate private property rights, no matter what Government holds office.

There are however practical considerations arising from establishment of easement 'B' when it would be confined to Peak Hill, with nowhere for the public to go 'legally' once at the western end. After descending 1500 feet from the summit of Peak Hill and then climbing 800 feet to the easement termination point near Trig U, most people would be reluctant to return by the same route and would either continue along the ridge or descend to the road near the boundary fence between the properties. This would not be a very direct route and would take walkers close to the Oakden homestead block, with the likelihood of stock disturbance. On reaching the Mt Algidus Road, walkers would then face the difficulty of returning to their starting point at easement 'A' some 6 km away. We do not think that this is an attractive option as a round trip.

We are firmly of the opinion that there is need for a round trip walking route on Peak Hill irrespective of the potential for extended ridge walking. The creation of a 'return' public foot easement along an existing vehicle track, from the ridge-crest near the proposed western boundary of the conservation area to the Mt Algidus Road, would achieve this. The upper section would be on freehold, however the rest could be inside the lower conservation area boundary at the base of the hill, away from heavily utilised pasture land. Another option to achieve a return route would be to extend the conservation area downslope to incorporate all the track, however we believe that an easement on the same terms as easement 'A' would be satisfactory.

PANZ has considered what long-term access may result if Mt Oakden is subject to tenure review and how the current Peak Hill proposals would fit in. The ridge steadily rises from Trig U to Trig V, then drops to a relatively low saddle before a major climb to Mt Oakden. This saddle provides the first practical and most obvious opportunity to descend either to the Mt Algidus Road or to a large fan on the shores of Lake Coleridge. The climb onto Mt Oakden is a far more serious proposition than the comparable amble along the ridge from Peak Hill. Any future access to this mountain would most probably be from the 'low saddle' already described.

The distance between the 'low saddle' and the proposed Peak Hill conservation area is not great. It is only about 5-6 km or 1.5 hours walking time. Therefore if such access were available in future there would not be much point in an easement down the station boundaries.

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If there is a return access from Peak Hill, we believe that until such time as further access is negotiated on Mt Oakden, there is no point in establishing easement 'B'. However provision must be made now for future establishment of this easement.

We recommend that easement 'B' is not established until connecting easements and/or conservation areas on Mt Oakden are provided. However a non-revocable memorandum of agreement must protect this future easement alignment with the holder and successors in title committed to register an easement, on the terms currently proposed, when and if a connection is established. This should include an enforceable condition that the holder will not undertake developments along or across the proposed alignment that cannot be remedied by gates or stiles.

If access arrangements are not made on Mt Oakden, our proposal for a return route on Peak Hill would still satisfy public needs while avoiding inevitable trespass onto freehold land.

Access to Salmon Bay

DOC has identified three locations with 'recreation value' in their Conservation Resources Report. One was the summit of Peak Hill, the others Salmon Bay and the Rakaia River. However only Peak Hill has been incorporated into the Preliminary Proposal.

In October 1996 DOC recommended "key access easements" including--

"An easement from the Algidus Road along the southern boundary [which] would provide access to Lake Coleridge (Salmon Bay). This access route would cater for anglers, picnickers and walkers. Access to Lake Coleridge is restricted elsewhere outside the property and there is already an existing demand for this route. This route would also provide access to the marginal strip around Lake Coleridge. Although this marginal strip is steep there are some opportunities for anglers to spread out".

We can only endorse the above comments and do not see why this "key" access should be omitted at this stage. However we see no necessity to exclude vehicle access, as there is a pressing need for such on the western shore of the lake. We note that the nearest legal access is at the hydro scheme intake, over 3 km away. The access that DOC previously recommended provides the only new opportunity for practical access along the entire western shore. Without additional access the existing legal road on the shoreline, and marginal strips yet to be created, will remain inaccessible. As marginal strips are created from 'reviewable land', there is a duty under section 24 CPLA to "secure public access to and enjoyment of such reviewable land".

Access to Wilberforce and Rakaia Rivers

Another "key" access was for "access off the Algidus Road near the southern boundary along an existing farm track." "This access easement would be free year round access for walkers and vehicle access would be with permission of the landowner. A demand already exists for salmon and trout fishing and this route would formalise this. The Rakaia River's braided system is also an attraction for ornithologists and this route would allow access into an area of considerable conservation value".

This has also been dropped from the Preliminary Proposal.

We strongly endorse the need for access to the river and its margins, however we question whether this is the best route. Half the length of this proposed access is through Rural Section 8043 which is not within the pastoral lease and no status check were done on it. Therefore it is unknown if this is part of the Peak Hill holding and potentially available for negotiated access. In any event we believe that there is need for 'as of right' vehicle access to the river.

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The obvious alternative is an existing legal road from the Mt Algidus Road between the Mt Oakden and Peak Hill homesteads, just west of Cardinal Stream. This road forks after a few hundred metres, with the left fork leading directly to the riverbed. The Due Diligence Report states that this is formed and "of variable standard", however "it tends to deviate from the legal position". We believe that this latter advice is unreliable for two reasons—

1. The advice portrays alignment as the determinate of legal status. This is based on an invalid assumption that definition by survey is the prerequisite to 'legality'. However 'dedication', by a variety of means, is the key factor in determining legality of roads (see Mason 1991, 'Public Roads: a guide to rights of access to the countryside'). Usually definition by 'right-lining' survey action is an indicator of legality, but as a subsequent action after dedication (consider most State Highway realignments — these can be surveyed years after formation and being 'thrown open' to the public at large. No one questions the legality of these once in use).

2. In this particular case, the first part of the road has been defined by survey (SO 8381), and the formation appears to be on this alignment. However the balance of the road is an unsurveyed 'Crown Grant Road 100 links wide', the alignment of which is adopted from Topo 32P, an 1881 plan that merely shows a sketched single pecked line. The double solid line 'legal road' now shown on the most recent definition plan (SO 13948), and that on the Preliminary Proposal Plan, approximates what was already an approximation of an existing track or route. The alleged 'deviation' of the current road formation may not be a deviation at all. The key monument or evidence of alignment is the original alignment, irrespective of what the currently applicable survey records depict. Therefore, with clarification from evidence on the ground, and signposting, this road may be readily available for as-of-right public use by vehicle or other means. This would satisfy a key need for public access to the river and the Crown's duty to secure public access to newly created marginal strips out of 'reviewable land'. We recommend that active steps be taken to clarify the legality of the existing alignment, and redefine by survey if necessary, so that this become the primary public access to the river in this locality.

Marginal Strips

PANZ is extremely disappointed with the way marginal strips have been dealt with on this property.

A memorial on the certificate of title reads —

"Pursuant to Section 58 of the Land Act 1948, a strip of land one chain in width along the banks of all streams and rivers is excluded [present tense] from the within lease". This is in accord with the provisions of the Land Act at the time the lease was issued, and currently. Whereas official advice, with one exception where a strip is "laid off" on a survey office plan, is that strips do not exist and now require action under the Conservation Act to create them.

We take particular exception to a variation of the terms of the pastoral lease, registered in 1988, which "extended" the term of the lease by 33 years, rather than renew the lease. There are express provisions in the Land Act for lease renewal which we believe preclude the 'extension' of the terms of existing leases. The Land Act only permits 33 year term pastoral leases, not for 66 years which the Peak Hill lease now purports to be. This raises an issue over the current legality or existence of this lease, and all others that have been similarly treated.

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It is well established in law that the granting or renewal of a lease is a 'disposition'. Such dispositions of lands of the Crown require the establishment of what are now known as marginal strips.

We believe that the decision made to 'extend' the term of the existing pastoral lease was a willful move to avoid the laying off of marginal strips, so subverting the intent of Parliament and the interests of the public of New Zealand. If so this would be a scandalous abuse of power, one that we understand has been applied throughout Canterbury.

Average width verses 'over' 3 metres

There is the universal view held by DOC, surveyors, LINZ and contractors that it is only where streams and rivers are 3 metres or more in width that marginal strips are required.

The Due Diligence Report, in relation to marginal strips and riparian rights, twice misquotes statutes by stating that strips are required along rivers and streams "of 3 metres width or greater". SO 13948 has an incorrect notation that "Run 274 is subject to Sec. 58 of the Land Act 1948 along lake edge rivers and streams over 3 metres wide".

Section 24 (3) Conservation Act and Section 58 Land Act require strips to be reserved along streams and rivers with "a bed that has an average width of 3 metres or more"(s24) or with "an average width of not less than 3 metres" (s58).

For the banks of the Wilberforce and Lake Coleridge this erroneous interpretation would have no effect on the extent of strips reserved, however for small streams it could result in strips ceasing at the point where the bed width first narrows to 3 metres. An average is a mean, not a minimum. Therefore strips should extend further upstream to the point where the bed is an average of 3 metres along the full reach of the bank subject to disposition.

In view of entrenched misapplication of law, we have little confidence that the provisions of Part IVA of the Conservation Act will be properly applied as a result of this tenure review.

We therefore submit that-

- An indicative plan is prepared showing the location and width of existing marginal strips, and of all additional strips required by the Conservation Act including bank to bank distances of rivers and streams and the position of such field measurements. This plan to be accompanied by statements of any intention to waive, reduce or increase the width, or appoint managers over marginal strips.
- This plan is made available for public submission prior to the CCL adopting any Substantive Proposal for Peak Hill.
- The Standard Operating Procedures for both LINZ and DOC be amended to require on all future tenure reviews the release of the indicative plans and any statements of an intention to waive etc., for public submission at the same time as Preliminary Proposals are advertised.

Yours faithfully



Bruce Mason
Researcher and Co-Spokesman

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