



31 May 2017.

Acting Commissioner of Crown Lands  
Land Information New Zealand  
Christchurch.

Dear Mr Harris,

### **Tenure review of Omahau Hill Crown pastoral lease**

Federated Mountain Clubs was founded in 1931 and advocates for New Zealand's backcountry and outdoor recreation on behalf of 20,000 members. This core function gives FMC a strong interest in Crown pastoral tenure review as, through the process, Crown pastoral leasehold land can be redesignated for new purposes including conservation and recreation.

The prioritised objects of the statute enabling tenure review, Part 2 of the Crown Pastoral Land Act 1998, are of particular significance to FMC due to our organisation's interest in biological, landscape, and historic values and recreation access. The objects are:

#### **Section 24**

*(a) to-*

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

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

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

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

and the following object:

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

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

Additional objects, *to enable reviewable land capable of economic use to be freed from the management constraints (direct and indirect) resulting from its tenure under reviewable instrument, and the freehold disposal of reviewable land*, must also be considered, though their priority is not as high as those of (a)(i), (b)(i), and (b)(ii).

FMC notes that the objects of Part 2 of the Crown Pastoral Land Act 1998 must be given effect to and that though information flow is vital to an optimal outcome, tenure review is not a bargaining process; nor are fairness or perception of fairness considerations to be taken into account.

## **Omahau Hill**

The 2,299 hectare property lies at the southern end of the Ben Ohau Range in the Mackenzie Basin 10 kilometres west of Twizel and adjacent to the Ruataniwha Conservation Park and the Ruataniwha Conservation Area. From flats and terraces, it rises to 1,433 metres above sea level. It presents as a relatively clean property, farmed conservatively.

Surveyed small blocks about the southeastern part of the lease and its northern portion is part of the setting for the Flanagan Pass route. There is considerable potential for development of cycle trails, including linkage between the Dusky Trail and public conservation land near Lake Ohau, and an alternative to the local section of the Alps 2 Ocean Cycle Trail. FMC notes also the leaseholders' recent establishment of a small eco-tourism accommodation unit and that construction of further units is likely. It is evident that the property lends itself to uses other than agriculture and that these have potential to develop significantly.

## **Proposed CA1**

This proposed block of 1,089 hectares roughly comprises the western half of the property and adjoins the Ruataniwha Conservation Park and the Ruataniwha Conservation Area. It includes a Recommended Area for Protection.

High landscape visibility and legibility, and medium to high naturalness and aesthetic factors exist in this proposed block. The value of these 'backdrop' factors will likely increase over time as Twizel's and Lake Ohau's permanent and visiting populations increase. The sense of remoteness in the northern part of the block despite close proximity to those settlements is of note.

Botanically, there is much of significance. There are, for example, the Nationally Vulnerable *Kirkinella novae-zealandia*, *Carmichaelia crassicaule* and *Carmichaelia vexillata* (both At Risk). These exist within a larger context of intact and complex altitudinal ecological sequencing. Chronically Threatened, At Risk, Critically Underprotected, and Underprotected Land Environments of New Zealand threat categories are represented within the block. A Recommended Area for

Protection, identified for its healthy narrow-leaved snow tussock, *Dracophyllum pronum*, and mountain fescue tussock, exists in this proposed block.

Several significant fauna species exist here. They include the Eastern falcon (Nationally Vulnerable) and the black-fronted tern (Nationally Endangered), and the Nationally Vulnerable Mackenzie Basin skink. The block is inside foraging distance of an Ohau River black-fronted tern breeding colony. It provides feeding and breeding habitat for At Risk bird species the black shag (Naturally Uncommon), the New Zealand pipit, the pied stilt, and the South Island rifleman (all Declining).

The chronically threatened (Gradual Decline) grasshopper *Sigaus minutus* and the spider *Anoteropsis alpina* (Sparse) are present in proposed CA1.

The native fish, koaro (At Risk - Declining), inhabits the proposed block, which also provides habitat for longfin eel (Declining), bignose galaxias (Nationally Vulnerable), and lowland longjaw galaxias (Nationally Critical), which exist close to the property.

Recreational opportunities offered by proposed CA1 are extensive. With Lake Ohau village and Twizel nearby, and the small landholdings on Omahau Hill's southeastern boundary, this is a considerable factor, magnified by the block's western adjacency to public conservation land. Flanagan Pass and Greta Stream are access routes that will be enhanced with the addition of public roaming space.

FMC supports continuation of an existing easement to convey water over proposed CA1.

It is FMC's view that protection of proposed CA1 by full Crown ownership and control is in accordance with the Act.

**Recommendations:**

***\* that proposed designation CA1 be adopted.***

***\* that the existing easement be continued.***

**Proposed freehold with CC1**

High visibility and legibility, and medium to high naturalness are significant aspects of the landscape in this 335 hectare block. It is part of the backdrop to Twizel and the Mackenzie Basin generally.

Botanically, there is much of significance in this land parcel. There are significant intact sequences and species that are national priorities for protection such as the Nationally Vulnerable *Kirkinella novae-zealandia*, and *Carmichaelia crassicaule* and *Carmichaelia vexillata* (both At Risk); much of

the block is in either the Critically Underprotected or the At Risk Land Environments of New Zealand threat category.

Black-fronted terns (Nationally Endangered), the Eastern falcon (Nationally Vulnerable), and the Nationally Vulnerable Mackenzie Basin skink exist in this proposed block. These must be protected. The block is within foraging distance of an Ohau River black-fronted tern colony. There is good feeding and breeding habitat for At Risk bird species the black shag (Naturally Uncommon), the New Zealand pipit, the pied stilt, and the South Island rifleman (all Declining).

Invertebrates of significance found within the proposed designation include the chronically threatened (Gradual Decline) grasshopper *Sigaus minutus* and the *Anoteropsis alpina* (Sparse).

FMC sees value in creation of a recreational multi-use trail on the existing farm track, part of which runs through this proposed designation; this will be discussed further on pages 9-10.

Highly significant inherent natural values - systems and individual species - exist in this part of Omahau Hill. In FMC's view, the proposed designation is insufficient for their protection. Grazing by unspecified numbers of sheep and up to 20 cattle, unrestricted topdressing, and no strict obligation to control pest plants and animals, could actually lead to significant degradation of the values.

In order to give effect to the statute, this proposed block should either be returned to full Crown ownership and control, as preferred by the Act, or freeholded with a covenant designed by multidisciplinary specialists with a view to the natural values' restoration, and in which fencing would likely be necessary.

If the block is returned to full Crown ownership and control, public roaming and the recreational trail FMC proposes will be enabled; if not, then an easement should be created, aligning with the present farm track at the bottom of the proposed block or thereabouts.

**Recommendations:**

***\* that proposed freehold with CC1 not be adopted as proposed and that the land either be returned to full Crown ownership and control or be protected by a stronger covenant designed by specialists and including fencing.***

***\* that if the land is not returned to full Crown ownership and control, then an easement for recreational access be created over the present farm track or thereabouts.***

**\*\* Note: track through proposed freehold discussed on pages 9-10.**

**Proposed freehold with CC2**

This 84 hectare block, with a notably undeveloped character, has high visibility as the Twizel area's immediate backdrop.

Strong shrublands, including healthy areas of manuka-based mosaics, and healthy narrow-leaved snow tussock-based diverse communities occur here. Part of a proposed Recommended Area for Protection, focussed on protection of these values, lies within the block. The Nationally Critical mountain myrrh, which must have protection, exists here. The area's Land Environments of New Zealand threat category is At Risk.

Fauna of high significance occur here. The Nationally Endangered black-fronted tern has a strong record of using this area. Also recorded are the Naturally Uncommon black shag and the Nationally Vulnerable Mackenzie Basin skink.

The block contains significant invertebrate habitat that has been largely undisturbed since its formation at the end of the last glacial maximum. The significant grasshopper *Sigaus minutus* (Sparse) exists here.

As well as offering scope for free roaming, this proposed block has high potential for development of a recreational multi-use trail. As mentioned above, the existing farm track, part of which runs through this proposed block, could be part of a wider trail network. This will be discussed further on pages 9-10.

The identified highly significant natural values existing in this block deserve much higher protection than proposed. Grazing by an unspecified number of sheep and no strict obligation to control pest plants and animals are unlikely to protect the values and could well lead to their actual degradation.

In order to give effect to the Act, this proposed block should be returned to full Crown ownership and control.

**Recommendation:**

***\* that proposed freehold with CC2 not be adopted and that the land concerned be returned to full Crown ownership and control.***

**\*\* Note: track through proposed freehold discussed on pages 9-10.**

**Proposed freehold with CC3**

There is significant visual value in this 96 hectare proposed block's contribution to the whole Ben Ohau Range landscape.

Land Environments of New Zealand threat categories are Chronically Threatened and At Risk. There are strong natural communities present in the block: numerous and diverse wetlands; robust riparian shrublands; healthy short tussocklands; and a remnant of mountain beech forest that, with cessation of grazing, will recover. These are strong significant inherent values and deserve meaningful protection.

Significant avian fauna exist in the block. Black-fronted terns (Nationally Endangered) inhabit the block, and a large breeding colony exists outside the lease but within easy foraging distance. There are also Eastern falcon (Nationally Vulnerable), black shag (Nationally Uncommon), and pied stilt and South Island rifleman (both Declining).

The low altitude outwash surfaces have been little disturbed since formation at the end of the last glacial maximum and are invertebrate habitat of significance.

Koaro and longfin eel (both Declining), exist close to the property and can readily access the habitat in this proposed block.

Recreationally, this proposed block has high value. It has high natural health and is the setting for much of the Flanagan Pass route.

Highly significant inherent natural values - systems and individual species - exist in this part of the lease. In FMC's view, the proposed designation is inadequate for their protection. Grazing by unspecified numbers of sheep, unrestricted top-dressing, and no strict obligation to properly control pest plants and animals could cause the high values within the proposed designation to degrade significantly. Furthermore, the absence of detail on the location, size, and design of the tourism accommodation proposed is unacceptable.

To fulfil the demands of the Act, this proposed block should be returned to full Crown ownership and control. Fencing "U-V" will not be necessary.

***Recommendations:***

***\* that proposed freehold with CC3 not be adopted and that the land concerned be returned to full Crown ownership and control.***

***\* that, subject to the above recommendation, fencing "U-V" not be adopted.***

**Proposed freehold with CC4**

This four hectare area, proposed as a matter of expedience to allow commercial tourism operations to continue but provide higher protection than that proposed for CC1, is, in most respects, an extension of CC1.

FMC agrees that stronger protection than that described for proposed CC1 would be needed for this sensitive area.

However, FMC believes that proposed freehold with CC1 may not pass the test of the Act's requirements and that the area in question may need to be returned to full Crown ownership and control; if this is the case, then CC4 will be unnecessary and should not be adopted.

FMC has also suggested that CC1 may be appropriate with more stringent covenant conditions. If this suggestion is adopted, then proposed freehold with CC4 will be viable.

***Recommendations:***

***\* that if proposed freehold with CC1 is returned to full Crown ownership and control, proposed freehold with CC4 not be adopted.***

***\* that if proposed freehold with CC1 is adopted in some form, proposed freehold with CC4 be adopted.***

**Proposed unencumbered freehold**

The part of Omahau Hill proposed for unencumbered freehold designation contains some land where significant inherent values have been lost, and other areas that retain high natural values.

The southeastern part of the proposed block has high landscape visibility as it is the foreground of the southern part of the Ben Ohau Range. As backdrop to the growing town of Twizel, this will be of increasing importance.

Much of the land proposed for unencumbered freehold is in either the Critically Underprotected or the At Risk Land Environments of New Zealand threat category; some is Underprotected. There is high botanical significance in the mosaics of narrow-leaved snow tussock and extensive shrublands - often dominated by manuka - that occur to low levels in much of the southeastern part of the block. The Nationally Critical *Oreomyrrhis colensoi* var. *deliculata*, which must have protection, occurs in some strength in bogs here. Other species, such as *Juncus pusillus* are At Risk and deserve protection.

Fauna species of high significance are found in the southeastern part of the proposed area, for example, the Nationally Endangered black-fronted tern, the Naturally Uncommon black shag, and the Nationally Vulnerable Mackenzie Basin skink.

Invertebrate habitat of significance exists in the southeastern part of this proposed area; much of this land has been relatively undisturbed since formation at the end of the last glacial maximum. The significant grasshopper *Sigaus minutus* (Sparse) is found here.

Koaro and longfin eel (both Declining), are close to the southeastern part of the property and able to access the habitat here with ease.

High recreational values are present in this proposed block. Close proximity to Twizel and Lake Ohau and the ability of the existing farm track to carry multi-use recreationists magnify those values. FMC would like to see easement(s) created over the existing farm track or thereabouts, within this proposed block, to join other parts of the track on Omahau Hill and meet proposed CA1,

and (though outside the scope of this process) for the eventual connection of the wider trail network. This will be discussed further on pages 9-10.

Although public access will be enabled by routes proposed (“a-b-c-d” and “c-e”), FMC believes there is more reliable access available in that proposed for conservation management access (“a-b-c-d”, “c-e”, “n-o”, and “p-b”); all these access ways should be open for both recreation and conservation management access.

Large parts of this proposed block have species and natural systems of high significance that the Act signals should be protected. Most of the southeastern section contains values that are national priorities for protection; the exception, which is appropriate for unencumbered freehold designation, is a developed portion at the southeastern edge of proposed freehold with CC2. To the east, a larger part of the proposed block, mostly lower than 600 metres, has been developed and is appropriate for unencumbered freehold designation; above that elevation, there are values of national priority for protection. To the north, parts of the block above proposed CC3 up to approximately 800 metres are national priorities for protection; from 800 metres to the ridge, there is high significance requiring some form of appropriate protection.

Much of the block proposed fails to fulfil the statute’s requirement of protection for significant natural values. FMC believes that, to be in accordance with the Act, the block’s northern part up to around 800 metres, the eastern part above around 600 metres, and all the southeastern part of the block with the exception of the developed portion below CC2, should be returned to full Crown ownership and control. Land between around 800 metres and the ridgeline in the northern part should either be returned to full Crown ownership and control or be protected by a covenant designed by multidisciplinary specialists. The southeastern and eastern parts mentioned above should be given unencumbered freehold designation.

Fences should be constructed around unencumbered freehold land.

FMC supports the continuation of appurtenant easement 6396540.11 for electricity’s conveyance.

**Recommendations:**

- \* that of the area proposed as unencumbered freehold, the developed portion of the lease below proposed CC2, and the developed land at the east of the lease below approximately 600 metres, be adopted.***
- \* that all other land in the proposed block’s southeastern and eastern parts, and the land between proposed CC3 and approximately 800 metres in the lease’s north, be returned to full Crown ownership and control.***
- \* that land between approximately 800 metres and the ridgeline in the northern part of the lease be either returned to full Crown ownership and control or be redesignated as freehold with a covenant to be designed by appropriate multidisciplinary specialists.***

*\* that where, irrespective of the above recommendations, part of the lease may be redesignated as freehold, an easement over the existing farm track or thereabouts be created to enable a multi-use recreational trail that meets proposed CA1.*

*\* that easements “a-b-c-d”, “c-e”, “n-o”, and “p-b” be established for recreation and conservation management access.*

*\* that fencing “S-T” and “V-W” not be adopted as proposed, but that unencumbered freehold designations created be fenced.*

*\* that appurtenant easement 6396540.11 be continued.*

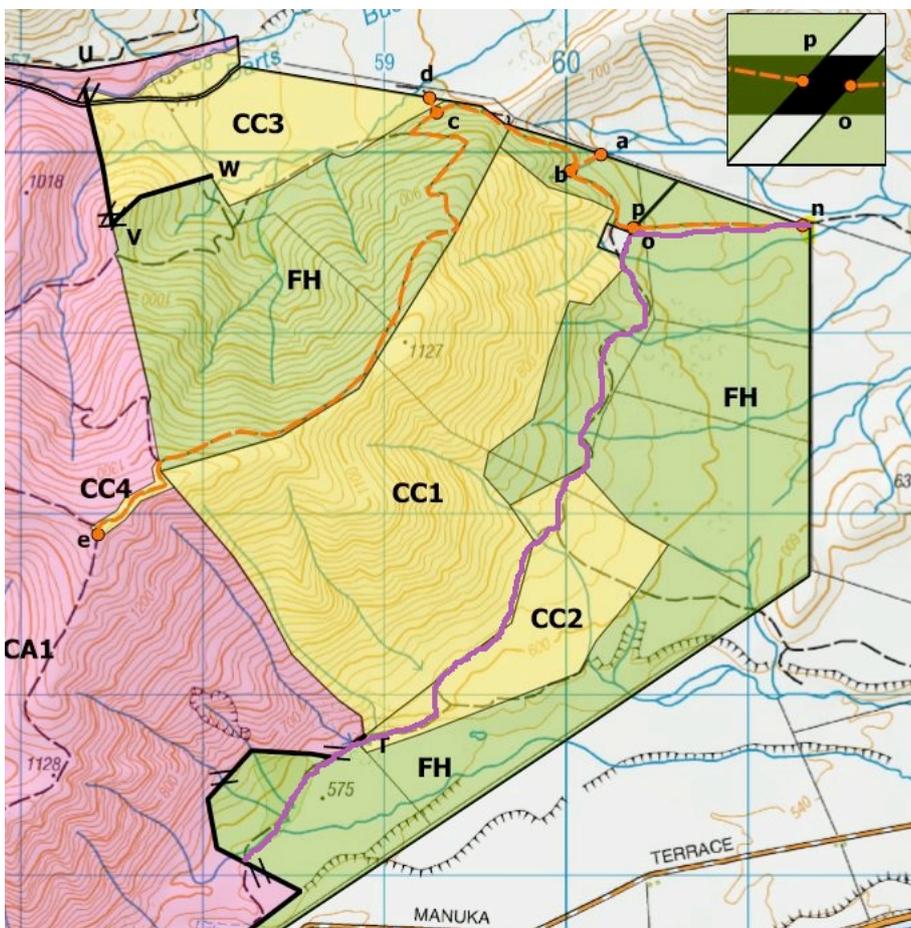
**\*\* Note: track through the proposed block discussed further below.**

## **A multi-use recreational trail**

The potential for recreational trail use on Omahau Hill is high due to its situation close to Twizel and Lake Ohau, growing areas where interest in outdoor recreation is strong.

Recreational development of the farm track running from the northeast of Omahau Hill to the property’s southern reaches will have significance beyond its circumscribed value. It will provide the large part of the trail needed to connect the Dusky Track and Lake Ohau (establishment of the final southern stretch near the lake is outside the ambit of this process). At the same time, it will set up an alternative to the canal-side local section of the Alps to Ocean Cycle Trail and significantly enrich the wider trail network in this fast-developing area.

Below is a map showing trail linkage possible through the addition of the Omahau Hill farm track:



FMC has recommended significant change to the preliminary proposal; regardless of the outcome of this tenure review process, however, we understand the Omahau Hill farm track will likely traverse several designations. Where the designation is freehold, encumbered or unencumbered, we propose easement creation to allow the recreational track to follow the line of the present farm track or thereabouts.

Access in the northern part of the property should be created along “a-b-c-d”, “c-e”, “n-o”, and “p-b”.

**Recommendations:**

***\* that any easements necessary for establishment of the recreational trail proposed above be created.***

***\* that access to the farm track be created along “a-b-c-d”, “c-e”, “n-o”, and “p-b”.***

**Land classification**

This review of Crown pastoral lease tenure should ‘enable the protection of the significant inherent values’. As part of the review, all property to become public conservation land should have its final classification - based on the expert data that have informed the review - prepared so as to become active as soon as possible.

The stewardship classification that proposed CA1 and any other public conservation land created will initially receive does not ensure protection through appropriate management and does not provide protection from exchange. Section 16A(1) of the Conservation Act 1987 says: *Subject to subsections (2) and (3), the Minister may, by notice in the Gazette, authorise the exchange of any stewardship area or any part of any stewardship area for any other land*); the expedition of precise classification will help address the Act’s requirement that the review ‘enable the protection’.

**Conclusion**

In order for Omahau Hill’s tenure review to meet the Act’s demands of promoting sustainable management and enabling protection of significant inherent values, much greater protection for identified natural values is necessary.

Though the area for freehold designation needs to be considerably smaller than proposed, it is likely that the property’s future will be far less linked to pastoral farming and land area, and more connected with conservation and recreation values, than it has been. The recently-opened tourist accommodation unit is an indication that this shift is underway.

As stated at the outset, the objects of the statute must be given effect to; negotiation is not a part of this process except in the final details, and nor are fairness or the perception of fairness

considerations in it. If the Act's objects are unable to be met, the tenure review may be discontinued (Section 33 of the Crown Pastoral Land Act 1998 says: *The Commissioner may discontinue a review at any time; and must discontinue a review if asked in writing by the holder, or one of the holders, concerned.*).

Yours sincerely,

Jan Finlayson,  
FMC vice-president.

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