

Craig Harris
Commissioner of Crown Lands
Land Information New Zealand.



9 November 2020.

Dear Commissioner,

Dunstan Downs Crown pastoral lease tenure review preliminary proposal

Introduction

Federated Mountain Clubs was founded in 1931 and advocates for New Zealand's backcountry and outdoor recreation on behalf of 22,000 members in over 90 clubs. Accordingly, our organisation has a strong interest in Crown pastoral tenure review as, through the process, land can be redesignated for new purposes including conservation and recreation.

We welcome Dunstan Downs' tenure review. However, examining its documentation has prompted our disquiet on: procedural and substantive matters relating to the commissioning of, update, and dissemination of specialists' reports; and the proposal's consequent development and content. We discuss these issues below. In order to achieve a review that is appropriate and lawful, these matters will require careful navigation, which we give recommendations on.

Purpose of the review

We note the prioritised objects of the statute enabling tenure review, Part 2 of the Crown Pastoral Land Act 1998:

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).*

The primacy of the promotion of the management of reviewable land in a way that is ecologically sustainable and the protection of significant inherent values is affirmed by the former Parliamentary Commissioner for the Environment in her 2009 Change in the high country: Environmental stewardship and tenure review. Barton (Legal Aspects of High Country Pastoral Leases and the Tenure Review Process - A Background Paper, 2006) takes the same position and underlines their equivalence: *section 24(a)(i), which states the object of tenure review to promote the management of reviewable land in a way that is ecologically sustainable, has a primacy of place in the objects of tenure review that is equalled only by the protection of significant inherent values.*

The objects of Part 2 of the Crown Pastoral Land Act must be given effect to; tenure review is not a bargaining process.

Neither fairness nor perception of fairness are considerations to be taken into account in the tenure review process.

The essential role of specialists' reports in Crown pastoral lease tenure review preliminary proposals' preparation

On 21 February 2017, at a Christchurch meeting between Land Information New Zealand, the Department of Conservation, Federated Mountain Clubs, and Ngai Tahu, it was agreed that, among other things, specialists' reports on significant inherent values - that is, for example, landform, landscape, botanical, avian faunal, aquatic faunal, herpetological, invertebrate, historic, and recreational values as relevant - would be actively disseminated, to LINZ as well as to the public, as part of tenure review processes. The necessity was clear: such reports furnish information about the prioritised statutory objects and are therefore essential - in their entirety - to generating an appropriate preliminary proposal. They represent the evidential foundation on which proposals can properly stand.

The statement that: *We don't have or hold any of the CRR scientific reports that may have underpinned the CRR. The scientific reports are internal to DOC, so we have not received or hold this information* indicates that proposed designations have been generated without recourse to individual specialists' reports, and are therefore likely to be unsound, or at least not rigorously related to the statutory objects of tenure review.

Relatedly, Dunstan Downs' avian, aquatic, herpetological, and invertebrate faunal values have been at best only cursorily considered at all stages of the review, from information-gathering to information-dissemination and proposal development. This is a severe flaw in terms of the review's foundational evidence and process.

Further, it appears that where species have been recorded in the review process, updates to their conservation statuses were not considered in development of the preliminary proposal.

These circumstances place the review, as it presently stands, at risk of legal challenge. FMC can only conclude that without filling the present evidential gap underlying the initial proposal - be it through public submissions, to some extent by properly factoring in existing Departmental reports, or by urgently commissioning any additional information necessary - a preliminary proposal cannot properly be put forward.

Dunstan Downs - property overview

Straddling the transition between Canterbury and Otago in terms of local governance and natural values, this 12,351.4 hectare Crown pastoral lease stretches from the Ahuriri River in the north, to near Lindis Pass in the west, and to the 2,088-metre Mt St Bathans in the south. On the Wether, Dunstan, and St Bathans ranges, much of the property covers full ridge-to-valley altitudinal sequences. It presents as conservatively-managed and largely clean. The individual specialists' reports currently available report strong conservation and recreation values.

(We note also that 77% of the lease is proposed for redesignation as public conservation land, and that 77% of the lease is either Class 7 or Class 8 in the Land Use Capability system; however, the boundaries of the proposed public conservation land do not align with the boundaries of the Class 7 and Class 8 land. Even if there were such alignment, it would not appropriately reflect the complexities of the property's values, or, therefore, an optimal preliminary proposal. Possible presentation of the equivalent percentages as justification for the preliminary proposal would be a faulty approach.)

Potential whole-lease restoration to full Crown ownership and control

Before addressing the preliminary proposal at proposed designation level below, we wish to put forward the concept of whole-property restoration to full Crown ownership and control for conservation and recreation purposes, with exception of the homestead and curtilage areas.

Whole-property purchase would solve multiple evidential problems with the review to date and would, in FMC's view, respond appropriately to the presently-available information on significant inherent values that suggests that greater protection of those values than currently proposed is needed.

As indicated, however, we accept that whole-lease restoration to full Crown ownership and control may not, at this point, be acceptable to the parties and so address the proposal in its segments below.

Proposal evaluation at proposed designation level

Proposed CA1

This roughly 800 hectare land parcel is part of Longslip Valley, identified as an Outstanding Natural Landscape in the Canterbury Regional Landscape Study (Boffa Miskell and Lucas Associates). Its main value is in its 'wholeness'. It has high landscape legibility and coherence.

The area has small populations of the Declining *Carmichaelia vexillata*, the Naturally Uncommon *Raoulia petriensis*, and the Declining *Ranunculus haastii*.

It is Class 7 and Class 8 land.

It provides habitat for karearea, the Nationally Vulnerable banded dotterel, the Declining South Island pied oystercatcher, and the Declining New Zealand pipit.

The proposed area has high potential for tramping, skiing, and hunting, particularly in its connection with the Killermont Conservation Area, newly promulgated Twin Peaks public conservation land, and consequently

the Oteake Conservation Park. While the Wether Range easement provides good public access, further access via a spur between the Wether Range easement and McLays Creek should be considered.

Other significant inherent values are outlined in the preliminary proposal summary. Given the insufficiencies of supporting documentation relating to significant inherent values, it should be assumed that this block contains a range of additional potentially highly significant values.

Recommendations:

*** that proposed CA1 be adopted.**

*** that additional public access to proposed CA1 be considered as per above.**

Proposed CA2

There are small wetlands, bogs, and tarns in this proposed approximately 200 hectare block. There is a complex association of tussocks, shrubs, the Declining *Carmichaelia crassicaulis*, and many others, and mosses and lichens.

It is Class 6 and Class 7 land.

This proposed block provides habitat for the Nationally Critical black-billed gull, the Nationally Endangered black-fronted tern, the Nationally Vulnerable banded dotterel, the Naturally Uncommon black shag, the paradise shelduck, and the welcome swallow.

Recreational opportunities include tramping, skiing, hunting, and trout fishing, particularly when considered in conjunction with proposed CA3 and proposed GC2 and the Oteake Conservation Park.

Its contiguousness with proposed CA3 and proposed GC2, and consequent connection with existing conservation land, amplifies its inherent significance in terms of conservation and recreation.

Other significant inherent values are outlined in the preliminary proposal summary. Given the insufficiencies of supporting documentation relating to significant inherent values, it should be assumed that this block contains a range of additional potentially highly significant values.

The proposed farm management easement is appropriate in itself, but should be altered in accord with any adjustment to proposed GC2.

Recommendations:

*** that proposed CA2 be adopted.**

*** that the proposed farm management access easement “m-n” be adopted; it should, however, be amended accordingly should proposed GC2 be amended.**

Proposed CA3

The primary landscape value of this proposed roughly 5,356 hectare land parcel is its ‘wholeness’ and relatedly its sense of backcountry remoteness. It is extremely natural-looking. It has high landscape legibility, intactness, and coherence. There are excellent views of Central Otago, the Lindis/Ahuriri area, and into the Mackenzie.

The glaciated cirque at the head of Dunstan Creek is impressive in landscape terms.

The land is distantly visible from parts of State Highways 8 and 6 (upper parts of the St Bathans Range), and an impressive backdrop. It is visually distinctive.

Geomorphologically, the whole St Bathans Range is of interest. Specifically, the St Bathans mid-slope shoulder is of interest, as are its skewed knobs.

There are valley-floor-to-summit botanical sequences. The area is dominated by native tussock species.

Up to 1,200 meters, it is largely mountain tussock with associated species such as *Anistome flexuosa*, *Brachyscome sinclairii*, *Bulbinella angustifolia*, *Rytidosperma pumilum*, and *Celmisia lyallii* for example, and lichens and mosses. Around 1,500 metres, there is mountain tussock with associated species such as *Dracophyllum pronum* and *Agrostis muelleriana*, for example.

There are small populations of the Declining *Carmichaelia vexillata*, the Naturally Uncommon *Raoulia petriensis*, and the Declining *Ranunculus haastii*.

There is a rich wetland just east of Old Man Peak.

It is largely Class 7 and Class 8 land.

The area is habitat for karearea, the Nationally Vulnerable banded dotterel, the Declining South Island pied oystercatcher, and the Declining New Zealand pipit.

Recreational opportunities include tramping, skiing, mountain biking, horse riding, hunting, and trout fishing. These, and the underlying conservation values, are of higher significance when considered along with contiguous land parcels proposed CA1, proposed CA2, and proposed GC2, and the connected Oteake Conservation Park and beyond.

Other significant inherent values are outlined in the preliminary proposal summary. Given the insufficiencies of supporting documentation relating to significant inherent values, it should be assumed that this block contains a range of additional potentially highly significant values.

Recommendation:

*** that proposed CA3 be adopted.**

Proposed GC1

This proposed approximately 850 hectare parcel of public conservation land with grazing concession, largely the upper regions of McLays Creek, has high landscape values. It is part of an Outstanding Natural Landscape as identified in the Canterbury Regional Landscape Study (Boffa Miskell and Lucas Associates). Its mid-high altitude place in Longslip Valley means it has high inherent landscape value. It is highly visible.

Up to around 1,200 metres, there is mountain tussock with associated *Celmisia gracilenta*, *Luzula rufa*, *Gaultheria novae-zelandiae*, and *Celmisia lyallii*, for example, and mosses and lichens.

In places, there are the Vulnerable *Carmichaelia vexillata*, the Declining *Ranunculus haastii*, and the Naturally Uncommon *Raoulia petriensis*.

It is largely Class 7 and Class 8 land.

It is habitat for the Declining banded dotterel, the Declining South Island pied oystercatcher, and the karearea.

There is strong potential for tramping, skiing, and hunting; these, and the conservation values, are amplified when contiguousness with proposed CA1 and proposed CA3, and, therefore connection with the Oteake Conservation Park and other public conservation parcels, are considered.

Other significant inherent values are outlined in the preliminary proposal summary. Given the insufficiencies of supporting documentation relating to significant inherent values, it should be assumed that this block contains a range of additional potentially highly significant values.

FMC accepts the rationale for a grazing concession to support the farming transition. However, we suggest that a conservative approach is needed due to: the high natural values identified; the high likelihood that there are unrecorded other high values present; and proposed redesignation to a land status whose purpose is to support those values' preservation. The grazing concession should be reduced to ten years. Additionally, in recognition of the present inadequacy of information on natural values, FMC suggests that concessionaire-funded monitoring designed and executed by the Department of Conservation be a condition of the concession in order to ensure necessary adjustments can be made in support of natural values' maintenance or enhancement.

Due to strong natural values' presence, the statutory imperative for their protection, and process issues identified elsewhere in this submission, FMC proposes further on in this submission that proposed CC1, proposed CC2, and proposed FH unencumbered south of McLays Creek are redesignated as public conservation land with certain grazing concessions to run in concert with proposed GC1 and proposed GC2. If FMC's proposals are adopted, where fencing upgrades or additions are needed in connection with those grazing concessions, temporary fencing should be used, in order to keep costs - of construction and removal, and to conservation values - down; to be clear, all such fences should be removed on the concessions' expiry. Regardless of whether FMC's proposals are adopted, there should be no vegetation clearance associated with grazing concession fencing.

Proposed continuation of an existing easement in favour of the New Zealand Police is appropriate. We note that the easement relates to land outside proposed GC1; FMC supports its continuation in entirety and will not comment on it further in this submission.

Recommendations:

- * that proposed GC1 be adopted.
- * that the concession be limited to ten years as per above.
- * that concessionaire-funded monitoring by the Department of Conservation as per above be a condition.
- * that temporary fencing be used if adjacent proposed redesignations are altered as above, and that, regardless of adjacent land redesignations and consequent type of fencing, there be no associated vegetation clearance.
- * that, as above, any superfluous fencing be removed on concessions' expiry.
- * that the existing easement in favour of the New Zealand Police be continued as per above.

Proposed GC2

The lower half of the eastern side of the St Bathans Range on Dunstan Downs, it is proposed that this roughly 2,330 hectare block become public conservation land with a ten-year grazing concession.

Geomorphologically, the whole St Bathans range is of interest.

Its main landscape value is its 'wholeness', and therefore its sense of backcountry remoteness. It is extremely natural-looking. It has high landscape legibility, intactness, and coherence. It provides excellent views into the Mackenzie, toward Hawea, and southward into Otago.

Of botanical interest, snow totara, *Coprosma ciliata*, *Olearia cymbifolia*, and dwarfed mountain toatoa exist here. Short tussockland includes hard and blue tussock; *Rytidosperma pumilum* and silver tussock; and associated species such as *Coprosma petriei*, *Pimelea oreophila*, *Anistome flexuosa*, the Declining *Geranium sessiliflorum*, and lichens and mosses.

Here and there, there are the Vulnerable *Carmichaelia vexillata*, the Declining *Ranunculus haastii*, and the Naturally Uncommon *Raoulia petriensis*.

Up to 1,200 metres, there is mountain tussock with associated species such as *Raoulia subsericea*, *Blechnum penna marina*, *Coprosma petriei*, *Celmisia lyallii*, and mosses and lichens.

Lower down, there are complex associations of tussocks, shrubs, and many others, including the Nationally Vulnerable *Carex capillacea*, the Declining *Carmichaelia crassicaulis*, and lichens and mosses.

The land provides habitat for the Nationally Critical black-billed gull, the Nationally Endangered black-fronted tern, the Nationally Vulnerable banded dotterel, the Naturally Uncommon black shag, the Declining New Zealand pipit, the welcome swallow, and the paradise shelduck.

It is Class 6 and Class 7 land.

The area contains high recreation values in its potential for tramping, mountain biking, horse riding, skiing, hunting, and trout fishing. These, and its conservation values are amplified when contiguousness with proposed CA2, proposed CA3, and therefore the Oteake Conservation Park and beyond, are taken into account.

Other significant inherent values are outlined in the preliminary proposal summary. Given the insufficiencies of supporting documentation relating to significant inherent values, it should be assumed that this block contains a range of additional, potentially highly significant inherent values.

FMC accepts the rationale for a grazing concession - and associated easement - to support the farming transition. However, we suggest that a conservative approach is needed due to: the high natural values identified; the likelihood that there will be unrecorded other high values present; and proposed redesignation to a land status whose purpose is to support those values' preservation. In recognition of the present inadequacy of information on natural values, FMC suggests that concessionaire-funded monitoring designed and executed by the Department of Conservation be a condition of the concession in order to ensure necessary adjustments can be made in a timely way in support of natural values' maintenance or enhancement.

The concession should make clear that the concessionaire will have the same rights and responsibilities as the public with respect to use of the huts and woolshed.

Recommendations:

- * that proposed GC2 be adopted.
- * that concessionaire-funded monitoring by the Department of Conservation as per above be a condition.
- * that the concession clarify that the concessionaire have the same rights and responsibilities as the public with respect to use of the huts and woolshed.

Proposed freehold with CC1

The relict totara forest in this proposed 30 hectare covenanted area is a significant natural landscape feature. It is clearly visible and of visual interest.

Botanical values are especially important. The *Olearias* include *Olearia bullata*, *Olearia odorata*, and the Nationally Vulnerable *Olearia fimbriata*. Notably, the proposed block is host to Halls totara, mountain toatoa, and the Declining *Coprosma intertexta*.

This is largely Class 7 land.

The *Olearia* species present almost certainly mean that strong, diverse invertebrate and bird communities are present. Geckos and skinks are likely common.

Other significant inherent values are outlined in the preliminary proposal summary. Given the insufficiencies of supporting documentation relating to significant inherent values, it should be assumed that this block contains a range of additional, potentially highly significant, inherent values.

Given the very high significant inherent values which are prioritised for protection, as the Act says, (*preferably*) by the restoration of the land concerned to full Crown ownership and control; that the land would not be fenced; and that cases made for freeholding relating to practicalities of subdividing and landscape implications (point 2.6, preliminary proposal summary) are unsupported and would likely withstand little examination, FMC cannot support this proposed redesignation.

This block should be redesignated as public conservation land for conservation and recreation purposes. It should be merged with proposed CA1.

FMC is recommending greater levels of protection for Dunstan Downs than proposed by the preliminary proposal. These include redesignation of proposed freehold with CC1, proposed FH unencumbered south of McLays Creek, and proposed freehold with CC2 as public conservation land, including ten-year grazing concessions for the proposed FH land and proposed CC2; if a concurrent ten-year concession to move through proposed CC1 would be supportive to the lessee through that period, then it should be considered.

In the event of proposed CC1 being enacted, it should be fenced against wild grazing animals; the Longslip Creek Marginal Strip that runs along McLays Creek should remain in place to support public recreational access and enjoyment; and monitoring should include foot-based relevant multidisciplinary (relating at least to invertebrate and lizard values as well as botanical) monitoring at a frequency to be determined by the Department of Conservation, to allow any damage to the values to be remedied in a timely way.

Recommendations:

- * that proposed freehold with CC1 not be adopted.
- * that it be merged with proposed CA1.
- * that consideration should be given to a ten-year concession to access the block, as per above.
- * that if proposed CC1 is enacted, amendments relating to fencing, the Longslip Creek Marginal Strip, and monitoring, as per above, be made.

Proposed freehold with CC2

The Lindis face is a highly significant landscape of national reputation and value, visually fascinating, visually impressive, and memorable. The entire Longslip Valley has been identified as an Outstanding Natural Landscape in the Canterbury Regional Landscape Study (Boffa Miskell and Lucas Associates) and in the Central Otago District Plan. The Boffa Miskell study identified the Lindis Pass area as a *heritage* landscape. Within Longslip Valley, the Lindis Pass area has long been recognised as an area of outstanding scenic value. It is highly visible. Unified management of the whole Lindis Pass area is needed to maintain the highly significant landscape values.

Geomorphologically, the Quaternary fault traces are of interest.

Native plant communities dominate. Up to 1,200 metres, there is mountain tussock with associated plants such as *Scleranthus uniflora*, *Coprosma petriei*, *Gaultheria novae-zelandiae*, *Blechnum penna-marina*, and mosses and lichens.

Around 1,500 metres, there are blue- and slim-leaved tussock with plants such as *Celmisia viscosa*, *Carex wakatipu*, *Agrostis muelleriana*, *Pimelea prostrata*, and *Lycopodium fastigiatum*.

The Declining *Coprosma intertexta*, the Naturally Uncommon *Leptinella serrulata*, and strong red tussock, riparian, and wetland communities have been found in this proposed block recently.

It is Class 6, Class 7, and Class 8 land.

It is habitat for the Nationally Vulnerable banded dotterel, the Declining South Island Pied Oystercatcher, the Declining New Zealand pipit, and the karearea.

It is home to the gecko *Hoplodactylus* aff. *maculatus*.

Old Man Peak is highly attractive for tramping and skiing from Lindis Pass. There are much broader opportunities, also including mountain biking and horse riding, associated with linkage with: proposed CA2, proposed CA3, proposed GC1, adjacent land in proposed FH that we propose here for redesignation as public conservation land, and the adjacent Lindis Pass Scenic Reserve and public conservation land beyond. Conservation values are likewise amplified when contiguousness with adjacent proposed and existing public conservation land is considered.

Other significant inherent values are outlined in the preliminary proposal summary. Given the insufficiencies of supporting documentation relating to significant inherent values, it should be assumed that this block contains a range of additional, potentially highly significant, inherent values, such as those recently identified, and more.

Freehold disposal of this land parcel is not in accord with the statute, due to the significant inherent values it contains; of particular importance is its high landscape significance, which includes its national-level reputation and value. It is clear to FMC that proposed CC2 should be redesignated as public conservation land. FMC suggests that it be incorporated in the Lindis Pass Scenic Reserve.

A ten-year grazing concession, to align with proposed GC1 and proposed GC2, with conditions to be determined by the Department of Conservation, should be considered. The high natural values identified, and the likelihood that there will be unrecorded other high values present, should be taken into account in design of the concession.

A longer-term tourism concession for horse trekking, and possibly additional tourism ventures, would be appropriate.

If proposed CC2 should be enacted, it would be worth considering its amendment to prohibit pastoral grazing, oversowing, top-dressing, and vegetation clearance in order to preserve the nationally-significant landscape values. If any of these activities were to continue, however, appropriate fencing would need to be in place (in the case of grazing), and monitoring would necessarily include foot-based relevant multidisciplinary (relating at least to invertebrate and lizard values as well as botanical) monitoring, at a frequency to be determined by the Department of Conservation, to allow any damage to the values to be remedied in a timely way.

Recommendations:

- * that proposed CC2 not be adopted.
- * that the land be redesignated as public conservation land, possibly as an addition to the Lindis Pass Scenic Reserve.
- * that a ten-year grazing concession be considered as per above.
- * that, if desired, longer-term appropriate tourism concessions be granted.
- * that, if proposed CC2 is enacted, amendments relating to protection of the values, fencing, and monitoring should be considered.

Proposed FH unencumbered

Longslip Valley has been identified as an Outstanding Natural Landscape in the Canterbury Regional Landscape Study (Boffa Miskell and Lucas Associates). Mid-high altitude areas have high inherent landscape values. The rectilinear lower slopes north of McLays Creek are notable for their distinctive form; they also allow full views of the west side of the Dunstan Range.

In lower parts of this block, there are red tussockland patches. There is also short tussockland including hard and blue tussock, *Rytidosperma pumilum*, and silver tussock, and an associated large number of grasses, herbs, and small shrubs, for example: *Raoulia subsericea*, *Celmisia gracilentia*, *Blechnum penna marina* and patotara (*Leucopogon fraseri*). There are also mosses and lichens. There are wetland and bog communities.

Up to around 1,200 metres, there is mountain tussock with associated plants including, for example, *Celmisia gracilentia*, *Luzula rufa*, *Gaultheria novae-zelandiae*, *Celmisia lyallii*, and lichens and mosses.

There are shrublands, and patches of Halls totara.

It is largely Class 6 and Class 7 land.

To the north of State Highway 8, the block includes a small area adjoined by the Ahuriri River to the northeast and adjoined by a marginal strip to the northwest.

The land is habitat for the Nationally Critical black-billed gull, the Nationally Endangered black-fronted tern, the Nationally Vulnerable banded dotterel, the Naturally Uncommon black shag, the Declining South Island pied oystercatcher, the Declining New Zealand pipit, the paradise shelduck, the welcome swallow, and the karearea.

The Ahuriri riverside land north of State Highway 8 offers passive recreational - fishing, photography, bird-watching, and riparian restoration, for example - opportunities. The land south of McLays Creek offers tramping, skiing, and hunting opportunities, which, along with the conservation values, are amplified when contiguousness with other proposed public conservation land, and public conservation land beyond, is considered.

Other significant inherent values are outlined in the preliminary proposal summary. Given the insufficiencies of supporting documentation relating to significant inherent values, it should be assumed that this block contains a range of additional, potentially highly significant, inherent values.

Generally, land above about 900 meters in proposed FH has strong conservation values in that it has dominant native cover. It is largely unsuitable for pastoral use. The proposed designation's altitudinal reach should be reduced to approximately 900 metres, with higher land redesignated as part of proposed CA1.

Unencumbered freehold redesignation of the Ahuriri riverside land would be inappropriate due to its high conservation restoration and passive recreational potential, including riparian restoration. This part of the land parcel should be redesignated as public conservation land.

Proposed FH unencumbered land south of McLays Creek should be redesignated as public conservation land due to its high significant inherent values, particularly with respect to landscape. A ten-year grazing concession should be considered, with conditions to be determined by the Department of Conservation; the high natural values identified, and the likelihood that there will be unrecorded other high values present should be taken into account in the conditions' design.

FMC supports freehold redesignation of proposed FH land: below 900 metres altitude to the east; to McLays Creek to the south; and to State Highway 8 to the north. Its values should be protected with a Reserves Act 1977 covenant with conditions to be determined by relevant multidisciplinary Department of Conservation experts. Again, the high natural values identified and the likelihood that there will be unrecorded other high values present will need to be taken into account in the covenant's design.

Associated with this proposed redesignation are proposed easements "a-b" and "e-f". As articulated above, based on the statutory provisions and the particulars of Dunstan Downs' inherent values and this process, proposed FH from proposed "e-f" and McLays Creek southward will be clearly most appropriately redesignated as public conservation land. Therefore, the proposed easements should not be necessary. However, should the easements be enacted, Special Easement Term 11 should be removed to ensure members of the public may take dogs with them on "a-b", and Special Easement Term 14 concerning temporary closure should, for the avoidance of doubt, be clear about what public safety or emergency circumstances may trigger such closure.

As mentioned in relation to proposed CA1, to better enable public recreation, additional access via a spur between the Wether Range easement and McLays Creek should be considered.

Recommendations:

- * that proposed FH unencumbered be adopted with amendments.
- * that the boundary with proposed CA1 be around 900 metres as per above.
- * that the Ahuriri riverside land north of State Highway 8 be redesignated as public conservation land.
- * that the land south of McLays Creek be redesignated as public conservation land as per above.
- * that a ten-year grazing concession for the land south of McLays Creek be considered, with conditions to be determined by the Department of Conservation as above.
- * that values of remaining proposed freehold land be protected with a Reserves Act 1977 covenant with conditions to be determined by the Department of Conservation as above.
- * that should proposed easements “a-b” and “e-f” be enacted, Special Easement Terms 11 and 14 be amended as above.
- * that additional public access be considered as above.

Potential additional surveys and potential updates

As stated earlier in this submission, the absence of detailed avian, aquatic, herpetological, and invertebrate faunal specialists’ reports hangs over Dunstan Downs’ tenure review. Such information is necessary in order to develop well-justified - and justifiable - proposals for redesignations.

If neither whole-lease (homestead and curtilage excepted) restoration to full Crown ownership and control for conservation and recreation purposes, nor the designation-level recommendations above, are considered acceptable outcomes, FMC believes a positive way ahead would be to gain conservation status updates for existing specialists’ reports, and commission thorough reports in the absent disciplines, to enable informed reconsideration of the work done to date. These actions would need to be initiated with some urgency given that an end to tenure review as provided by the Crown Pastoral Land Act 1998 is likely.

Recommendation:

- * that if neither whole-lease restoration to full Crown ownership and control for conservation and recreation purposes nor FMC’s designation-level recommendations are acceptable, conservation status updates for existing reports and necessary further reports be commissioned with a view to reconsideration of the review, as above.

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 stewardship land should have its final classification - based on expert data that have informed the review - prepared so as to become active as soon as possible.

The stewardship classification that much or all of the proposed public conservation land created will 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’.

Recommendation:

- * **that final classification of land to be redesignated as stewardship land be prepared so as to become effective as soon as possible after disposal.**

Conclusion

Dunstan Downs' preliminary proposal, as it currently stands, is at risk of legal challenge because it is discordant with the Crown Pastoral Land Act 1998's demands of promoting ecologically sustainable management and enabling the protection of significant inherent values.

Reasons are that: supporting information on those values is far from complete, missing several relevant disciplines entirely; what information exists has, it appears, been supplied in aggregate form only for the proposal's development; and conservation status updates have not been accounted for in the proposal's generation. Producing a lawful tenure review preliminary proposal for Dunstan Downs was always going to be very difficult given these background circumstances. Existing data strongly suggest that greater protection is needed for parts of the property.

FMC believes the following are appropriate possible paths to completion of the tenure review:

- * whole-lease restoration to full Crown ownership and control as public conservation land, excepting the homestead and curtilage; or
- * the above proposed designation-level scenario which can be characterised as increasing redesignation as public conservation land along with increased use of medium- and long-term concessions and covenanting; or
- * that further necessary reports and updates be commissioned with a view to urgent reconsideration of the review.

As stated at the outset, the objects of the Act must be given effect to. In Dunstan Downs' case, a significant but not insurmountable shift in approach to the lease's tenure review is needed. If the Act's objects are unable to be met, the tenure review should be discontinued (s33 of the Crown Pastoral Land Act 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,
Federated Mountain Clubs president and tenure review convenor.