

Crown Pastoral Land Tenure Review

Lease name: CLOUDY PEAK

Lease number: PO 104

Public Submissions - Part 2

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

November

08

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August 19, 2008.
Manager,
DTZ New Zealand Ltd.,
PO Box 27,
ALEXANDRA.

**SUBMISSION ON PROPOSED TENURE REVIEW: CLOUDY PEAK
PASTORAL LEASE**

Dear Sir

This submission is presented on behalf of the Royal Forest and Bird Protection Society.

Proposed conservation Area CA 1

The Society supports restoration of CA1 to crown control as conservation area for the reasons outlined in the Conservation Resources report and the proposal document.

Grazing Concession

In this case the Society accepts a 5 year only grazing concession to enable farm management transitions. However to ensure that the siv's of the conservation area are protected the Concession Document needs to be clear about the stocking allowance. The definition of concession activity is ambiguous. It appears to allow grazing of 4,000 sheep plus no limit on the number of wethers.

Recommendation

The Society seeks rewording of item 2 in Schedule 1 to remove the ambiguity relating to stock numbers and wethers.

Proposed Conservation Area CA2

The Society is pleased that this area of shrublands on chronically threatened and critically under protected environments is to be restored to crown control and has not been proposed as a covenant.

Proposed Freehold Area

The society is opposed to the freeholding of the area between CA1 and CA2 to the south west of the proposed easement j-k., and submits that this area be fenced and restored to crown control. Freeholding this area is contrary to the first and third objects of Section 24 CPLA.

This area has been identified in the Conservation Resources Report as having significant inherent values. This is perhaps the last opportunity on the western slopes of the Dunstan Mountains to create a fully protected contiguous altitudinal sequence of predominantly native vegetation, from lowland silver tussock and shrublands, montane shrublands, through tussock grasslands herb fields and fell field on the top of Cloudy Peak. Contrary to suggestions in the proposal document, this tenure review does not protect substantial altitudinal sequences and will instead create protected islands, and increase habitat fragmentation.

The Threatened Environments Map below shows that the area between proposed CA1 and CA2 is predominantly chronically threatened, and critically under-protected.

It is a National Priority to protect indigenous vegetation associated with land environments that have 20% or less remaining in indigenous cover. Such areas should by definition be assessed as being a 'significant inherent value' (SIV), and should preferably be retained in Crown ownership and control under s36 (1) (a) Crown Pastoral Lands Act 1998, (CPLA).

The SIV Guidelines state that the highest significance will be accorded to examples of Level IV 'much reduced' environments, where the examples soils are uncultivated and it has characteristic indigenous species present.

These Guidelines also note "*Degraded ecosystems may still have significance if they are one of few remaining examples ...*"

'Progressing Goal 3 of NZBDS implies that degraded but representative examples should also be considered for protection to secure the opportunity to restore them. Restoration potential on its own is not enough to attain significance must be something more such as representative importance, distinctiveness or rarity.'

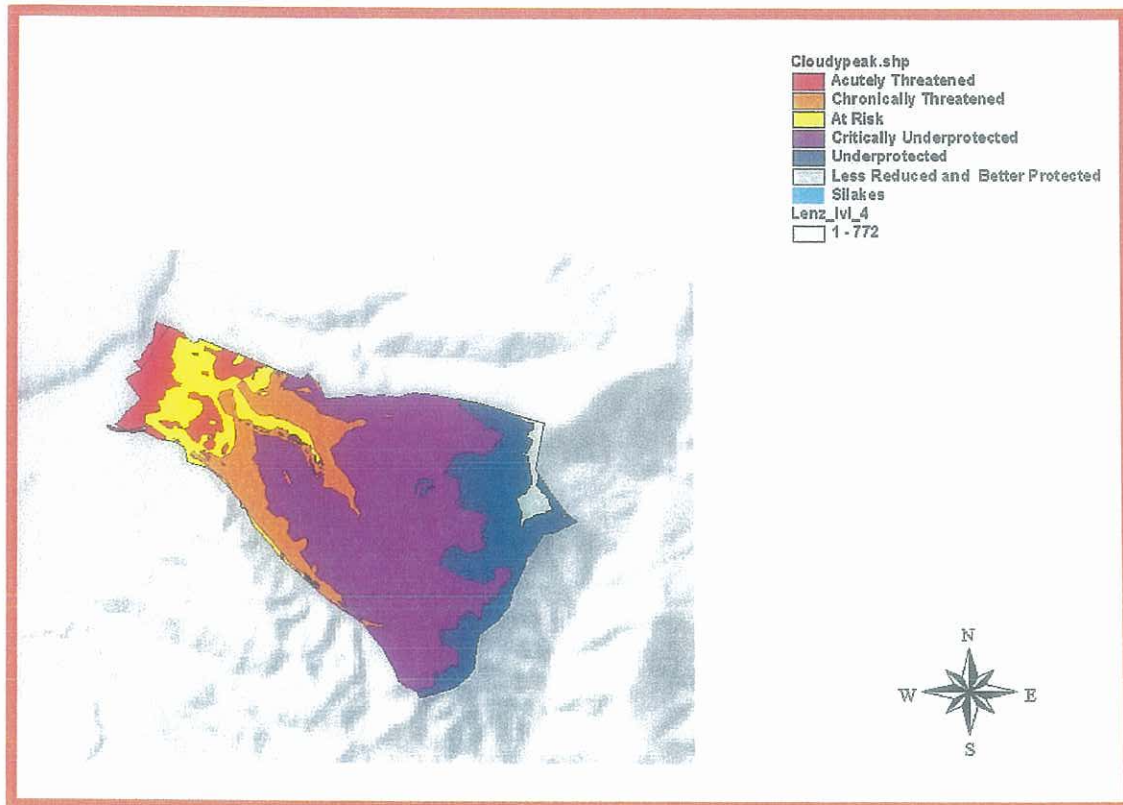
It is clear that this area is degraded, particularly on the sunny spurs, where between 50-80% of the soil surface is bare. However as the photograph below shows, native shrubs dominate the landscape. These shrublands, despite being comparatively recent in extent represent vegetation that was characteristic and indicate that degraded areas within Central Otago's kanuka-kowhai woodland woody biome (240-440m), given suitable conditions can revert to valuable native shrublands.

The Society understands that this area is rabbit prone, and that the Department of Conservation has indicated that formal protection does not justify the management costs involved. Our scientific advice is that rabbits in this landscape are not necessarily a significant and long term conservation threat. Shrublands are expanding and are likely to continue to do so in the absence of burning and spraying, despite the presence of rabbits. Protection of lowland biodiversity will almost always require more management, as it occurs on degraded and/or significantly modified lands. This is not a reason to freehold under the CPLA.

It is clear that this area meets the CPLA definition of significant inherent values and given that it is a national priority to protect areas with indigenous vegetation remaining

on chronically threatened environments, the Society seeks that this area be restored to crown control.

Map 1. Land Environments on Cloudy Peak

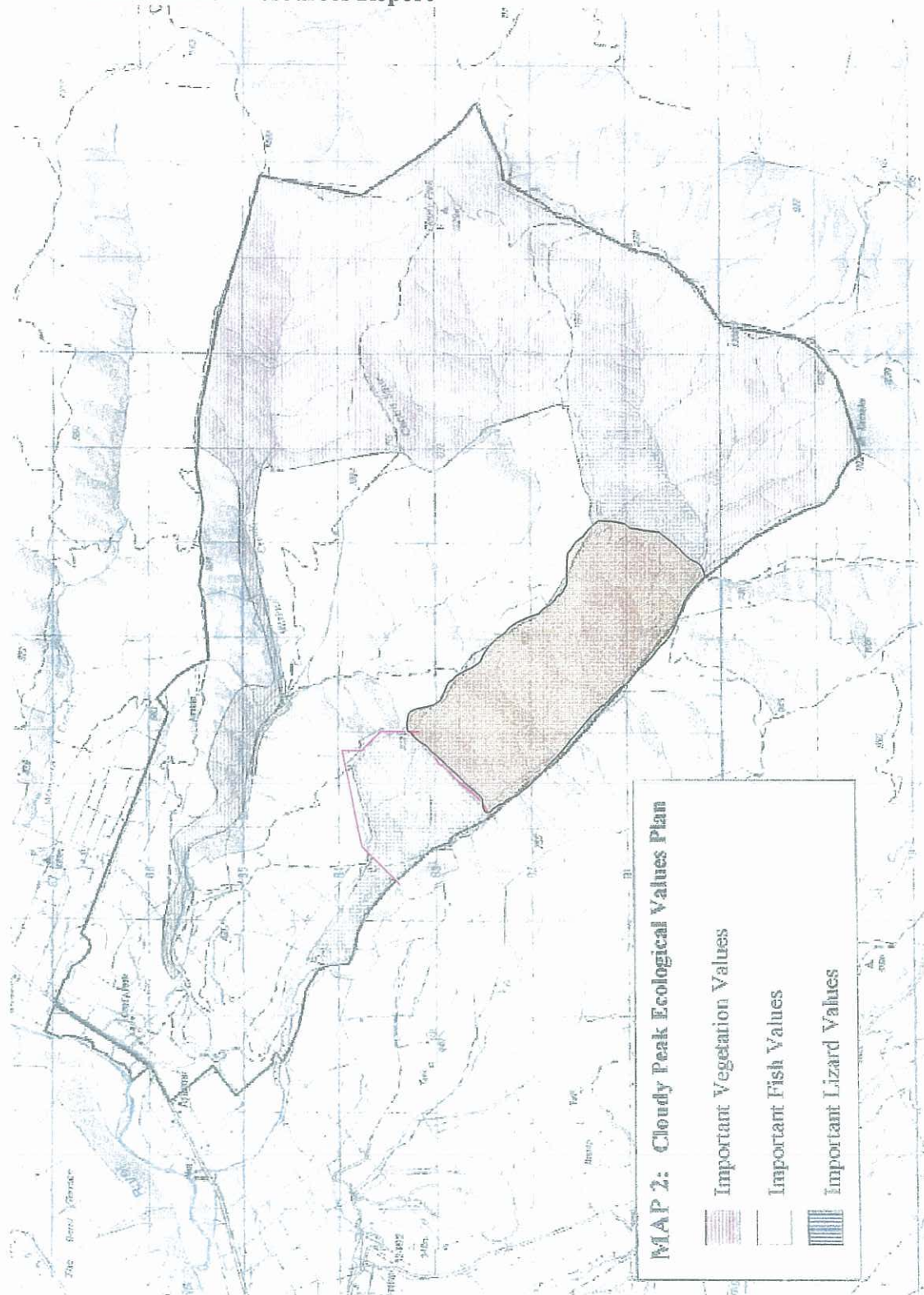


Photograph showing vegetation on Chronically Threatened Land Environment



Area between proposed CA1 and CA2 – native shrublands dominate

Map 2 Cloudy peaks Ecological Values Plan showing area of native vegetation on chronically threatened environment in light gold between proposed CA 2 outlined in pink and proposed CA1 above. (Adapted from Conservation Resources Report



Freeholding contrary to Section 24 CPLA

The Society submits that this proposal does not meet the first object of section 24 CPLA. The lower sunny faces below 1000m are degraded and as the Conservation Resource Report states (p11) 50-80% of the soil surface is bare. Indigenous shrublands are expanding from the shady faces. These shrublands occur on chronically threatened environments which are a priority to protect. It is clear that they will not be maintained should free holding occur.

The proposal document glibly suggests that alternative land uses are likely to further enhance the ecological sustainability of the proposed free hold. No evidence is cited. Walker et.al¹ have shown the reverse to be true. Freeholding can lead to land intensification which is a key driver of biodiversity loss.

The proposal document on page 8 states that the remaining issues relating to ecological sustainability are adequately dealt with through other legislative and non legislative frame works e.g. the Resource Management Act 1991. This is not true for land in the Central Otago District, as land that has been through tenure review is specifically exempted from any rules relating to protection of indigenous biodiversity and landscapes.

Proposed Covenant CC1

The definition of values of this covenant should include a description of the habitat values that make it suitable for *Galaxias sp D*, e.g. water quality, stream bed composition. Reference to riparian vegetation should also include reference to natural regeneration of the shrub canopy.

Public Access

The easement d-e-f is to be closed for lambing. As the arguments for the ecological sustainability of this tenure review say it is likely there will need to be alternative land uses, it may be that lamb production will not continue. Should land use change so that lambing is no longer an issue ability to close the access should cease. This needs to be explicitly provided for in the easement document by stating that should the land no longer be used for lambing there will be no closures.

Burma Track e-k

This access excludes public walking access. Forest and Bird recommends this be renegotiated as it is the most practical route up to Cloudy Peak, and would considerably enhance the public's ability to enjoy proposed CA1.

Dry Creek Track or g-k

We note that the proposal suggests that the easy terrain of the summit area is suited to a range of activities including 4 wheel drives. However there is no 4 wheel drive access, provided for in any of the easements. This is misleading as people will not read the detail of the easement document and will have relied on the description on page 4. We submit that 4 wheel drive access should be provided for from a – to f up Dry Creek. This is

¹ Walker Susan, Price Robbie, Stephens R.T. Theo 2008. An Index of Risk as a Measure of Biodiversity Conservation Achieved through Land Reform. Conservation Biology, Vol 22, No1, 48-59

necessary to enable people to enjoy the proposed conservation area CA1 and provide attractive recreational opportunities.

Conclusions

The Society submits that this proposal does not meet the objects of section 24 CPLA and needs to be reconsidered, because it:

- Freeholds extensive areas of landscape and conservation sivs, on land environments that are a national priority to protect.
- Freeholds land that is unlikely to be ecologically sustainable under other alternative land uses as the biodiversity values, i.e. the shrublands are likely to be cleared, and there are no rules within the Central Otago District Plan that will protect the remaining biodiversity values on the land proposed for freeholding. This land is all classified as and chronically threatened and critically under-protected.
- Provides insufficient public access to enable enjoyment of the proposed conservation lands.

Contrary to DTZ agents comments we do not agree that it is a balanced outcome.

Yours sincerely

Sue Maturin
Otago Southland Field Officer
Royal Forest and Bird Protection Society



OTAGO CONSERVATION BOARD



Our ref: SBC-08-34

18 August 2008

Commissioner of Crown Lands
c/- DTZ New Zealand Ltd
Land Resources Division
Box 27
ALEXANDRA 9340

Dear Sir

SUBMISSION ON TENURE REVIEW OF CLOUDY PEAK

Thank you for the opportunity to comment on the Preliminary Proposal for the tenure review of Cloudy Peak.

Generally, the Otago Conservation Board supports this proposal and the proposed tenure designations, as they will produce tangible conservation benefits and improve the ecological sustainability of the landscape.

Cloudy Peak is a striking mountain that dominates the skyline of much of Central Otago. Its cultural significance is matched by the importance of its high basins containing tall-tussock grassland. Equally outstanding are the large areas of tree daisy shrublands on the lower slopes within the Cloudy Peak pastoral lease.

The proposed creation of conservation areas and the provision of public access as an outcome of this review will ensure enjoyment of the area, open up recreational opportunities, and protect significant representative samples of the natural communities of the North Dunstan Mountains. This is in direct accord with the stated objective for the North Dunstan Mountains Special Place in the Otago Conservation Management Strategy (page 305, section 10.21.7):

"To extend protection in the area to cover the remaining higher altitude areas of nature conservation importance, and to secure appropriate public access."

Comments on particular aspects:

2.1.1 Proposed Conservation Area CA1 (1620 ha at high altitude along eastern boundary of the property).

The board enthusiastically supports this aspect of the proposal. The only additional suggestion is that provision of a **public access easement on the existing farm track from e to k** would greatly enhance public access to the area.

2.1.2 Proposed Conservation Area CA2 (160 ha in lower Dry Creek catchment)

The extensive *Olearia odorata* shrubland along this face is an outstanding feature of the property. Elsewhere in the Upper Clutha, this plant is usually found as scattered individuals or relict patches that have survived fire.

The board also supports this proposal, with the recommendation that the exact boundary should be marked to facilitate the placement of rabbit fences in the best locations. This area is currently overrun with rabbits, to the extent that ground cover is down to approximately 1-2% vegetation and 98% bare soil. There is zero regeneration of any shrub/tree species, and unless intensive rabbit control is implemented, the scrub will eventually disappear as a community through lack of replacement. Rabbits are even ringbarking the sole surviving kowhai.

2.1.3, 2.1.4 Easements for farm management

The easements for farm management purposes appear to be reasonable.

2.1.5 Grazing Concession

The granting of a 5 year grazing concession on CA1 is acceptable as long as there is no deterioration of the tussockland. The board wonders how the grazing will be monitored, since there does not appear to be a condition that addresses monitoring.

2.2.1 Protective Mechanism – Proposed Conservation Covenant.

The proposed covenant to protect an area of high ecological value in Wainui Creek (as home to a population of *Galaxias* sp D) must be viewed as the minimum protection that could be given to a significant natural area.

The proposal is somewhat brief regarding the reasoning which favours the establishment of a Conservation Covenant on this area rather than a full Conservation Area. Is this because of fencing logistics, or the importance of the creek for stock watering, or because its values do not merit full protection?

The board is concerned that a Conservation Covenant may not provide adequate protection for the riparian strip of Wainui Creek. We advocate further consultation between LINZ and DOC to ensure that the viability of the *Galaxias* population would not be compromised under a covenant arrangement, and that a suitably robust management plan could be produced to guarantee a healthy riparian strip. Regardless of the actual ownership of this area, the highest priority is the exclusion of grazing, both by sheep and rabbits.

2.2.2, 2.2.3 Access and water easements

These appear to be appropriate to meet public access and DOC management requirements, with the proviso that some form of access easement from either e-k or s-k would greatly enhance public walking access.

Summary

The board believes that this proposal offers a good outcome for all parties, by producing some valuable conservation gains involving the protection of important plant communities and the provision of public access to some stunning back country.

We have reservations about the suitability of a Conservation Covenant to provide protection of the Wainui Creek area and seek reassurances about its planned management.

With regard to the requirements for ecological sustainability of the reviewable land, the board suggests that this is primarily a matter of reducing the enormous numbers of rabbits. Both conservation managers and farm managers must focus on rabbit control if sustainability is to be achieved.

Yours faithfully

A handwritten signature in black ink, appearing to read 'H. Langsbury', with a large, sweeping underline that loops back under the first part of the name.

Hoani Langsbury
Chairperson



Ken Taylor

From: Tim Southern Land CKL [tim@southernlandckl.co.nz]
Sent: Tuesday, 19 August 2008 6:36 p.m.
To: Alexandra
Cc: ratastreet@ihug.co.nz
Subject: Cloudy Peaks Tenure Review: Submission

Dear Manager

I have just received notification of the Cloudy Peaks tenure review. I see the closing date was yesterday. Is it possible to make a submission?

IF it is can I make just two comment.

The public access to CA2 from Ardgour Rd is OK. But the access to Cloudy Peak is unacceptable. The route shown j-k-l is not of much use if people cannot easily get to "j". It appears from your plan that people will need to walk cross country through CA2 to reach the ridge line in order to follow j-k-l.

Having lived next to this property I am well aware that there is a good track that leads to the ridge (shown m-h-i) that would make a splendid walk and is **currently rideable** by mountain bike, which is rare in this area. However this will require access across the freehold land which you are not proposing (only shown for conservation management purposes). This I believe is very short sighted and a serious disservice to the community. Without this access, j-k-l is not very useful (as there is no link to it from "b") and since e-k is only for management purposes also, reaching Cloudy Peak will be very difficult indeed. This is not acceptable for the public. Cloudy Peak provides a great vista and is attainable for most recreational walkers and mountain bikers. This cannot be said for many tenure review routes currently secured. Surely it is time to provide something of real benefit to the public at large.

I would request that usable public access (eg. The formed farm track) be provided to this ridge (shown m-h-i) as the trip to Cloudy Peak via j-k-l is of a high value, and without useful access will be of little public benefit. I request that m-h-l be provided for public access (foot/bicycle) to allow this to occur.

Regards

Tim Dennis
Trustee, Upper Clutha Tracks Trust
Access Advocate for Lake Wanaka cycling
40 Rata Street
Wanaka
03 443 5577



CENTRAL OTAGO RECREATIONAL USERS FORUM

21 August 2008 (late submission, with permission)

The Commissioner of Crown Lands,
c/o DTZ New Zealand Ltd,
Land Resources Division,
P. O. Box 27,
Alexandra.

Submission to Preliminary Proposal, Cloudy Peaks Pastoral Lease Tenure Review.

Dear Sir,

I am writing on behalf of the Central Otago Recreational Users Forum which is an organisation created to deal between the private persons, clubs and groups (non-commercial) who use the public lands of Central Otago for outdoor recreation; and the managers of that land, being the Department of Conservation, the Central Otago District Council, and Land Information New Zealand.

We have 60 member groups comprising many hundreds of individuals and covering most types of outdoor recreation.

We appreciate the opportunity given to submit to the Review of the Cloudy Peaks Pastoral Lease.

SUBMISSION

THE PROPOSAL IN SUMMARY

- 1. The creation of a 1620 hectare conservation area along the North Dunstan summit flank of the property, subject to a 5 year grazing concession.*
- 2. The creation of a 160 hectare conservation area within shrublands of the lower Dry Creek catchment (known as Edwards Flat). It seems a "pastoral" historic site also occurs here...probably the remains of an old homestead or hut.*
- 3. A conservation covenant along the riparian zone of the middle portion of Wainui Creek. This covenant protects riparian vegetation which provides some protection for a population of Galaxias species D found in Wainui creek.*
- 4. The establishment of an easement for public access on foot, mountain bike or horse, extending from the Ardgour road, through the freehold portion of the property and connecting both Conservation Areas.*

GENERAL SUMMARY

1. We appreciate that this review is of Cloudy Peaks Pastoral lease, and can be dealt with in those terms only. However we also see that the Dunstan Mountains as a whole are a highly significant area, and offer opportunities for integrated recreational uses, and access routes, that could be among the most treasured in Central Otago.
2. The report recognizes that the upper Conservation Area (CA1) has *“significant inherent values associated with recreational resources. As noted in the conservation resources report, the easy terrain of the summit area is suited to a range of backcountry activities including walking, mountain biking, horse riding, ski touring and 4WD activities. Limited hunting opportunity will also be provided by the proposed conservation area.”*
3. In Section 2.2, the Proposal provides the detail that *“The easy terrain of the Dunstan Mountain summit area is suited to a range of back country activities. The proposed access will expand the opportunities in this regard.”* We do not believe that the intent of this statement has been carried through into the detail of the Easements named, which are limiting, not enabling.
4. Given that the proposed access easement does not provide for the public use of 4WD vehicles, CORUF considers that the access arrangements are generally impractical, achievable only by those with a high level of fitness and with time to spare. The lack of provision for public vehicle access is in conflict with the areas **stated** suitability *“to a range of backcountry activities including walking, mountain biking, horse riding, ski touring and 4WD activities”*.
5. If it is impractical to provide a public vehicle access route connecting to the proposed upper conservation area (CA1), then provision for public vehicle access should be provided as far up the property as would prove practical, at least as far as the top end of the proposed conservation area (CA2), terminating in a public car park.
6. We also believe that in conservation terms, the area of land between CA2 and CA1, (being the area between the access track markers on the Cloudy Peak map, Q-S, and J-K) should be incorporated into the Conservation lands. We can see no reason, from reading through this Proposal, why that area should be excluded from the proposed Conservation area. It would give a continuity to the conserved land, and protect an area of high country vegetation and habitat that is capable of good regeneration, providing a more complete altitudinal range of ecological values.

ACCESS:

7. **CORUF proposes that the lowest public parking area for vehicles be at the top end of CA2, at point Q, and that the highest be either at point S on the access route A-L, or at points K or L on the access route A to L.**
8. Vehicle access is not provided for in this proposal, except as a statement of principle. This is a significant omission in an area where it could easily be provided for.

9. The fourth paragraph on page 4 of the Preliminary Proposal, section 2.1, states, "*the easy terrain of the summit area is suited to a range of backcountry activities including walking, mountain biking, horse riding, ski touring and 4WD activities*"
10. But in 2.2.2, public access is to be by "*foot, mountain bike or horse*". This is inconsistent with the statement of principle in 2.1
11. In Section 3, The Fourth Object (p8) widens the possible activities to *walking, mountain biking, horse riding, ski touring and hunting*. This too is inconsistent with the statement of principle in 2.1.
12. Is it anticipated by the Crown that hunters and ski tourers should walk up from Ardgour Road, to access the CA1 Conservation land, and either walk down again at night after a day of winter activity, or if hunting, carry animals down on their backs?
13. Having to leave vehicles at Ardgour Road is not acceptable to us, nor is it a good idea in terms of the fitness and safety of the recreating public. Having to walk the whole way makes access into an the exclusive property of those recreationists who are young, and fit, and who have the time to spend.
14. Alternatively it requires that recreationists own a bike. Not all of those who love the outdoors are able or fit enough to ride a mountain bike: and very few have horses.
15. The securing of public access to reviewable land is a significant part of the Act, as in *General, 24. 2, The object of this part ... to make easier (i) the securing of public access to and enjoyment of reviewable land.*
16. We believe that the restriction of access to a privileged minority is undemocratic, and is contrary to the intent of the Act; particularly to the principle that public land should be **accessible to the public, and able to be enjoyed by the public**. The solutions in this Proposal actually limit public enjoyment, rather than enabling it.
17. There is also the very significant element of safety. One might be able to walk the Scout Troop, or one's own children, up the whole way, given enough time, but if bad weather comes in, getting them down again safely could be a serious issue, the distance and general altitude are too great. There is also, thus, a limitation placed on what they can achieve on top, in CA1, as one has to expend most of the available energy just getting there, and reserve enough to get back down again.
18. It seems contrary to good sense, as well as to good practice, to deliberately set up such a situation, in an area where the nature of the landform makes it unnecessary to do so. The statement of intent in 2.2.2, "**The easy terrain of the Dunstan Mountain summit area is suited to a range of back country activities**" fully acknowledges that this is so.
19. CORUF has always contended that recreationists come in a wide variety of types, interests and abilities, and that public access means just that in the Act, access for the public – not just for a small, particular minority. Where access can be provided, it should be.

20. A good opportunity is presented here to responsibly and effectively make Public Land accessible to the Public, as intended by the Act, and we would recommend that the Cloudy Peaks proposal be adjusted to carry that into effect.

Yours faithfully,
Jan Kelly

Secretary
Central Otago Recreational Users Forum
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ejkelly@clear.net.nz