



Land Information  
New Zealand  
*Toitū te whenua*

## **Crown Pastoral Land Tenure Review**

**Lease name : OBELISK**

**Lease number : PO 264**

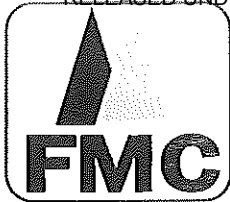
### **Public Submissions Part 3**

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

These submissions are released under the Official Information Act 1982.

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# Federated Mountain Clubs of NZ (Inc)

P.O. Box 1604  
WELLINGTON 6140  
www.fmc.org.nz

28 January 2014

Commissioner of Crown Lands,  
CBRE House, 112 Tuam Street,  
Private Bag 4721,  
CHRISTCHURCH 8140



Dear Sir,

**Re: Preliminary Proposal for Tenure Review Obelisk Pastoral Lease (Po 264)**

I write on behalf of Federated Mountain Clubs of NZ Inc. (FMC) which represents over 15,000 members of tramping, mountaineering, climbing and other outdoor clubs throughout New Zealand. We also indirectly represent the interests and concerns of many thousands of private individuals who may not currently be members of clubs but who enjoy recreation in the back country. On their behalf, FMC aims to enhance recreation opportunities, to protect natural values, especially landscape and vegetation, as well as historic values and to improve public access to the back country through the tenure review process.

FMC fully supports the objectives of tenure review as set out in the Crown Pastoral Land (CPL) Act 1998, and the previous (Labour-led) government's stated objectives for the South Island high country especially the following:-

- *\* to promote the management of the Crown's high country in a way that is ecologically sustainable.*
- *\* to protect significant inherent values of reviewable land by the creation of protective measures; or preferably by restoration of the land concerned to full Crown ownership and control.*
- *\* to secure public access to and enjoyment of high country land.*
- *to ensure that conservation outcomes for the high country are consistent with the NZ Biodiversity Strategy.*

[EDC Min (03) 5/3; CAB Min (03) 11/5 refer]

\* Note that regardless of the changes of government and of governments' policies, these objectives are still the law of the land as enshrined in the Crown Pastoral Land Act, 1998.

We believe that the additional objectives (introduced by the last government), are fundamental to the future well-being of the South Island high country and should be given appropriate weight in the tenure review process.

FMC has previously written an 'Early Warning' report on Obelisk entitled "Preliminary Report on the Recreational, Landscape, Historic, and other Conservation values, and Recommendations for the Outcomes of Tenure Review" (2010) at the 'Early Warning' stage of the tenure review process. That report included our recommendations for the outcomes of tenure review on Obelisk.. For your information a copy of the FMC Report (2010) is attached to this submission as Appendix 1.

**Property Inspection, January 2010.**

An inspection of the Obelisk Pastoral Lease was carried out by FMC in January 2010. We are grateful for the granting of access and permission to inspect the property at that time. It was most valuable in allowing us to form an impression of the natural and historic values and recreational opportunities on Obelisk Station.

**Introduction**

We note that over 1,200ha , (or a little less than half of the leasehold area) is proposed for the protection of significant inherent values by retention in full Crown ownership, which is both the preferred method of protection stated in the CPLAct, 1998 and also the method recommended by FMC in its Report in 2010.. We therefore support these proposals,

We have concerns about the effectiveness of the proposed conditions for the covenant area CC on Flat Top Hill intended to protect the values described in the Deed of Covenant. These will be discussed later in this submission.

We are pleased to note that a solution has been proposed to ensure public access (including vehicles) to the Conservation Area via Symes Road.

We believe that there is room to improve recreational opportunities on Flat Top Hill by including a loop track joining the Roxburgh Gorge Trail (which travels through CA 2), to the existing Flat Top Hill Conservation Area at the northern end of Flat Top Hill. This would require public use of the existing ridge track within FH 2 CC, and could probably be accommodated on existing legal roads

In view of the lack of protection over **DOC Stewardship Land** recently noted in the Parliamentary Commissioner for the Environment's Report, we believe that it will be necessary to provide stronger protection for Conservation Areas created as outcomes of tenure review. It may be more appropriate to protect significant inherent values in such areas by designating them as **Scientific Reserve** or **Scenic Reserve**. There is usually ample justification for such designation.

### **THE PRELIMINARY PROPOSAL FMC SUBMISSIONS**

Our submissions on the Proposal are arranged in the same format as the "Summary of Preliminary Proposal".

**Proposal 2.1** Land to be restored to full Crown ownership and control as conservation areas CA 1 and CA 2 comprising some 1225ha.

FMC recognises that these areas are well described in the Proposal and in the Conservation Resources Report (CRR) on Obelisk as well as in the reports on two Recommended Areas for Protection (RAPs) – RAP 1/7 Obelisk and RAP 2/3 Butchers Creek. These existing documents well describe the significant natural, landscape and historic values of the areas, the detail of which will not be repeated here.

We agree that there are significant inherent natural values within the Area CA1 which deserve the highest protection as a Conservation Area. We believe the following are highlights which amply justify the current proposal which we fully support and endorse.

#### **2.1.1 Old Man Range (Area CA 1)**

- The RAP 1/7 is notable for containing a diverse and outstanding landscape.
- It shows striking altitudinal and longitudinal climatic gradients illustrating the interface between dry Central Otago and moist Southland.
- The RAP 2/3 still contains a particularly well defined altitudinal sequence of the major vegetation communities.
- The proposed CA1 area contains rare ecosystems and is the type locality of five alpine plant species.
- The entire CA1 area also contains important landscape values on the upper slopes and crest of the Old Man Range.
- The area provides important ecosystem services such as water for local irrigation schemes as it forms the upper catchments of Butchers and Obelisk creeks.

#### **2.1.2 Lake Roxburgh Faces (Area CA 2)**

- The upper part the Roxburgh gorge scarp features distinctive and prominent rocky bluffs and buttresses projecting out along the upper slope of the gorge face
- The area contains a number of threatened plant species including the annual herb mouse tail found in a number of ephemeral wetlands along the flat crest of the block.
- The scarp is part of the outstanding landscape of the Roxburgh Gorge.

- The ephemeral wetlands within CC2 area are not currently protected within Flat Top Hill Conservation area.
- A cycle trail has recently been completed from Alexandra to Roxburgh. This designation will provide for an important part of this trail.

Together with our own observations (FMC Report 2010), the features noted above amply justify the current proposal to return areas CA1 and CA2 to full Crown ownership and control.

There is likely to be increasing demand for recreational opportunities due, at least in part to the increasing popularity of cycle trails exemplified by the spectacular growth in popularity of the Otago Central Rail Trail, especially given its luke warm reception when first mooted. This could be provided for both within the proposed Conservation Area, and possibly also over existing legal road within the adjacent proposed freehold along the crest of the ridge. (See Section 2.3).

***FMC Submission on Proposal 2.1 Land to be restored to full Crown ownership and control as conservation areas CA 1 and CA 2 constituting some 1225ha.***

***FMC enthusiastically endorses and supports this proposal with special support for the new recreational opportunities which we trust will be developed***

***Because of the lack of secure protection for significant inherent values in Stewardship Land we recommend that CA 1 and CA 2 should be designated as Scenic Reserves.***

**Proposal 2.2 Land to be restored to Crown control as Historic Reserve (marked HR on the designations plan) and subject to a qualified designation:**

This small, but important area (only 38ha) contains extensive archaeological sites associated with gold mining of White's Reef from 1876 until 1927, is situated on a moderate hill slope between 750-900m altitude in an area that includes two headwater tributaries of Obelisk Creek. Relics include stamper battery sites, reservoirs, dams, water races, hut sites and portable artefacts, which we believe deserve protection as an Historic Reserve.

The area contains White's Hut and a multitude of interconnected elements including machinery and other structures that are still intact. The area has the potential to be developed and interpreted for visitors as there is significant knowledge and information available about the site. The setting of White's Reef and the mine sites give some appreciation of the physical conditions of working and living in that era. It has functional connections to Mitchell's Cottage Historic Reserve located at the beginning of Symes Road.

***FMC Submission on Proposal 2.2 Land to be restored to full Crown control as Historic Reserve (HR)***

***FMC enthusiastically endorses and supports this proposal with special support for the new recreational opportunities and interpretation for the public which we trust will be developed***

***FMC enthusiastically endorses and supports the proposal to protect the historic sites and resources as an Historic Reserve with particular support for the Condition (in Schedule 3) that the public will have unrestricted access to the Land.***

**Qualified designation: Grazing concession pursuant to Section 36(1)(a) CPL Act**

A Grazing Concession is proposed over an area of approximately 25ha that will provide for ongoing sheep grazing including fertiliser and pasture maintenance over the area below the snowline fence.

We note that Schedule 3 of the Grazing Concession specifies that the land is a historic reserve and contains historic sites and resources as described in Schedule 2. We also note that the Schedule specifies the following conditions:-

- The Concessionaire will take care not to overstock the land and will ensure that the grazing is not having an adverse effect on the historic sites within the land.

- The Land may be monitored from time to time by the Grantor to assess the effects of grazing on the historic sites. If in the opinion of the Grantor, grazing is having an adverse effect, the Grantor may impose restrictions on the concession activity which may include reducing the numbers of stock grazed, fencing (whether temporary or otherwise) or other actions as considered appropriate.
- The Concessionaire acknowledges the public will have unrestricted access to the Land.

FMC recognises that the historic sites have stood the test of time for over 100 years, and are unlikely to be adversely affected by grazing. However, we assert that the conditions are too loose unless made more specific in the following ways: (i) Condition 2 should state that monitoring must (not may) take place, and that such monitoring must be undertaken after no more than 10 and preferably only 5 years grazing under this Concession, and (ii) that Condition 2 should also state that the Grantor should (not may) impose restrictions on the concession activity if grazing is deemed to have had an adverse effect.

So long as these modifications are made to the conditions of the Grazing Concession, FMC has no objection to the granting of the Concession.

**FMC Submission on Proposal 2.2      Qualified Designation**

*We doubt whether grazing will have an adverse effect on the historic sites or resources in view of its having stood the test of time, but as a precaution the monitoring requirements in Condition 2 should be strengthened to ensure that monitoring must be undertaken, and acted upon if deemed appropriate. Suggested changes are indicated above.*

**Proposal 2.3 Land to be disposed of by freehold disposal to Earnsclough Station Lands Limited, and marked FH 1 and FH 2 on the designations plan.**

Issues related to freeholding include ecological objectives to protect significant inherent values in FH 1 and FH 2, and an opportunity to enhance recreational opportunities associated with the newly created Roxburgh Gorge Trail and the existing Flat Top Hill Conservation Area to the north of FH 2. It may be possible to accommodate this by utilising existing legal roads on Flat Top Hill.

**2.3.1 Obelisk Blocks (marked FH 1 on the designations plan)**

This area comprises the main developed part of the property and contains 11 blocks. All of the area has at some time been oversown and topdressed. However, we understand that no fertiliser has been applied in the past ten years with the exception of Bottom Butchers block. Extensive spraying of matagouri has been carried out previously on the lower country north of Syms Road and more recently in the Obelisk Creek catchment.

An important objective of tenure review is "to promote the management of the Crown's high country in a way that is ecologically sustainable". In the FMC Report on Obelisk (2010) the Land Use Capability (LUC) classification of the soils in this area was discussed. It was concluded that:

*"The lower slopes, below about 900m are characterised by Yellow Grey Earth Blackstone Hill and Arrow Steepland soils which are classified LUC Class VI with medium suitability for pastoral production. Most have already been improved by oversowing and topdressing. With regular maintenance fertilizer to replenish nutrients removed in animal products and in burning, these soils should be capable of being managed in a way that promotes ecologically sustainable land use. These areas should therefore be suitable for freeholding".*

Notwithstanding this fundamental suitability for freeholding there are some features of this area which pose problems for farming and/or have conservation value.

Silver tussock is reasonably dense through the mid altitude, while snow tussock is present on shady faces upwards of 800m. Matagouri is dense on the lower parts where spraying and burning has not been carried out and on steeper sunny faces above Butchers and Obelisk creeks. Patches of broom are present throughout the lower slopes, particularly in Obelisk and Butchers creeks.

Furthermore, the area contains a number of diverse indigenous shrublands, the best of which are located on the true right of Butchers and Obelisk Creeks where patches of broom also occur. These shrublands contain two plant species, coral broom and tree daisy, which are recognised as 'at risk'. They also contain a range of typical Central Otago species which are close to their distributional limit while others have their type locality within this area.

These actual or potential conservation values need to be measured against the productive worth of the land. We recognise that recent herbicide spraying has reduced the extent and intactness of the shrublands to a point where formal protection is probably not warranted.

The area has numerous archaeological relics of the gold mining era, the most significant being those associated with Gray's Reef and Gray's Hut site. The features within these areas are water pipelines, water races, dams, hut sites and portable artefacts related to hard rock and alluvial mining. Gray's Hut site, is of particular public interest. Threats to historic values include cattle grazing and trees growing in the vicinity of structures.

We understand that consideration has been given to formal protection of these values. They are currently protected by the Historic Places Act which makes deliberate disturbance of historic sites an offence. We agree that further protection under tenure review is probably not justified.

***FMC Submission on Proposal 2.3.1 Land to be disposed of by freehold disposal to Earnscleugh Station Lands Limited, and marked FH 1 on the designations plan.***

***FMC is satisfied that the intent of the CPL Act to promote ecologically sustainable land use is satisfied by this proposal to freehold lands classified LUC Class VI below about 900m in the Obelisk and Butchers Creek catchments. We accept that consideration has been given to the protection of SIVs in this area, and we are satisfied with the reasons why they are not proposed for formal protection.***

**Qualified Designations:**

(i) The continuation in force of the existing easement right to convey water (Memorandum 885763) in favour of Last Chance Irrigation Company Limited under Section 36(3)(c) Crown Pastoral Land Act 1998

(ii) The continuation in force of the existing easement right to convey water (Memorandum 8395719.1) in favour of Last Chance Irrigation Company Limited under Section 36(3)(c) Crown Pastoral Land Act 1998

**FMC Submission on Qualified Designations (i) and (ii)**

***FMC has no objection to the proposal for the continuation in force of existing easements to convey water in favour of the Last Chance Irrigation Company***

(iii) Right of way easement a-b, c-d and e-f

A right of way easement pursuant to Section 36(3)(b) Crown Pastoral Land Act 1998 for public foot and motorised vehicle access and for DoC management purposes access on the alignment of Symes Road where it diverges from the legal road.

Symes Road runs through the middle of the proposed area FH 1. Its formation is on legal road alignment for two thirds of its distance with one third off the alignment. Guaranteed public access to the Old Man Range, to the proposed Conservation Area CA 1 and the adjacent Kopuwai Conservation Area is therefore not available at the present time. However one of the objectives of the CPL Act is "to secure public access to and enjoyment of high country land". It appears that this problem has been resolved by the proposal to establish right of way easements where Symes Road diverges from the legal road.

The preferred method of securing public access would usually be to formally recognise the actual road formation on the ground as the legal road. We understand however, that this is not possible in this case because the "Telecom Road" (which everyone now uses) is not on either the original "paper" road alignment nor the more recently surveyed (but also pre-Telecom) road which is currently the formal legal road alignment. Because that road is currently recognised as the legal road it is not possible to also (or instead) designate the "Telecom Road" as the legal road. We understand that the next best thing is to establish right of way easements for public foot and vehicle use over the three sections (a – b, c – d, and e – f) where the actual formation deviates from the legal road. We therefore support this proposal as the best short term solution to the lack of guaranteed public access to the conservation area CA 1 and the Kopuwai Conservation Park. In the longer term it is to be hoped that the "Telecom Road" will be formally recognised as the legal road throughout its length.

**FMC Submission on Qualified Designation (iii)**

*Guaranteed legal access to the Old Man Range via Symes Road has long been a problem, which it appears has been resolved by the current proposal. FMC agrees that there is an urgent need to solve the lack of guaranteed public access over parts of the road. We believe that the best short term solution is to establish short right of way easements for public foot and vehicle use over the three sections (a – b, c – d, and e – f) where the actual formation deviates from the legal road. . In the longer term it is to be hoped that the "Telecom Road" will be formally recognised as the legal road throughout its length.*

**Proposal 2.3.2 Flat Top Hill (Marked FH 2 CC on the designations plan)**

**Land to be disposed of by freehold disposal to Earnsclough Station Lands Limited**

We deal first with the recreational opportunities which could be developed in the proposed freehold area FH 2. The track along the ridge is essentially a continuation southwards of the track within the existing Flat Top Hill Conservation Area, leading into the proposed freehold area FH 2. This track appears to be a legal road which would provide public access. Indeed it is one of several legal roads which could present interesting opportunities for public access and round trips. The ridge track runs approximately parallel with the new Roxburgh Gorge Trail running through the gorge within the proposed Conservation Area CA 2. One of the legal roads heads East towards the boundary between FH 2 and CA 2 and could be used to connect to the new trail. This might depend on selecting the most practical route down the steep slopes within CA 2. Another legal road heads down the western slopes to SH 8, and could provide alternatives for round trips from Alexandra. It is recommended that all these opportunities to exploit the use of existing legal roads should be explored as a preferred alternative to the establishment of any new easements.

This area (FH 2) is much drier than area FH1 and generally has a warmer aspect. The cover has been highly modified by a history of grazing by rabbits and sheep. The western slopes are severely depleted being dominated by mouse eared hawkweed with occasional patches of native and exotic herbs and grasses. Rock outcrops act as a refuge for a wide range of native shrub species. The foot slopes have areas of saline soils that contain native grasses and herbs.

Flat Top Hill crest contains a mosaic of hard and silver tussock interspersed with drought tolerant pasture grasses and weeds.. A series of small ephemeral shallow wet depressions are scattered over the plateau. These support a flora of predominantly annual herbaceous plants with community composition varying between depressions. There is a mix of exotic and native species, common native species being mouse tail, small flowered forget-me-not and a species of Crassula

The Department of Conservation CRR identifies a number of significant inherent values within the proposed Covenant area. These values may be protected as a result of the proposed protective instrument, but this will depend upon the terms and conditions of the conservation covenant which covers both Areas A and B.

The area contains five threatened plant species, two of which are classified as "Nationally Critical" and are present in ephemeral wetlands that exist along the summit of Flat Top Hill. In addition the area contains seven 'at risk' plant species. These comprise both herbs and shrubs. Importantly, the area contains ephemeral wetlands which are a rare ecosystem listed as "National Priority 3" in "Protecting our Places".

The classification of these values as rare, or threatened to significant degrees, would suggest that strong conditions will need to be attached to the covenant in order to achieve its stated objective to "protect the values".

In the FMC Report (2010) it was suggested that being adjacent to an existing, and ecologically similar ecosystem which has similar management problems there might be an opportunity to test a variety of management options to achieve optimal ecological outcomes. Such management options might include light grazing by sheep at specific times of the year, but it was certainly not envisaged that grazing by cattle and oversowing and topdressing would be included. Such management tools are incompatible with the stated objective to protect the values

Flat Top Hill is generally recognised as a significant landscape feature being a distinctive local landmark containing rock tors visible from SH 8 and being adjacent to Flat Top Hill Conservation area. We submit that these ecological and landscape values are such that they deserve adequate protection.

The Proposal Summary states that *"Exotic weed invasion by broom and wilding conifers are significant threats to the values. Sheep grazing is not considered a threat however cattle may pose a threat to values associated with ephemeral wetlands. Intensive development involving cultivation is also considered a threat to botanical values while large structures such as buildings or pylons that are poorly located are threats to landscape values".*

It should be noted that this quote from the Proposal Summary includes the very activities (threats) which are proposed to be permitted under the conditions for the management of Area B (see below). FMC asserts that cattle grazing and intensive pasture development are incompatible with the objective to "preserve the values" and should not be permitted within the proposed covenant area.

***FMC Submission on Proposal 2.3.2 Land to be disposed of by freehold disposal to Earnsclough Station Lands Limited, and marked FH 2 on the designations plan.***

***It is strongly recommended that consideration should be given during tenure review to the possibility of using existing legal roads within FH 2 to enable public recreational use of a number of possible round trips, including a link between the Flat Top Hill Conservation Area and the new Roxburgh Gorge Trail through the proposed conservation area CA 2.***

***The descriptions in the CRR and in the Summary of the Proposal identify and describe a number of important and significant inherent natural and landscape values. It is our understanding that most of these features are included within the proposed Conservation Covenant area CC.***

***FMC is puzzled by the apparent mismatch between the recognition of significant inherent values and the apparent failure to provide for their protection within the area CC. This may be an anomaly which has been overlooked, but we strongly recommend that cattle grazing and intensive pasture development should not be permitted within the covenanted area.***

***This issue is further discussed below in relation to the proposed Protective Mechanisms.***

### **Proposal 2.3.2 Protective Mechanisms**

#### **Conservation Covenant CC (Area A and Area B)**

The Proposal Summary states that: *"The purpose of the proposed Covenant is to protect the Values which arise in the form of threatened plant species present and the outstanding landscape values"*.

As mentioned in the introduction we have concerns about the effectiveness of the proposed conditions for the Covenant area CC on Flat Top Hill intended to protect the Values described in the Deed. of Covenant.

Because of those concerns we sought legal advice and obtained a Legal Opinion from a Solicitor with Forest and Bird. That Opinion is attached in full at Appendix 2. We quote here from paragraph 3 of that Opinion:-





**Appendix 1. Preliminary Report on the Recreational, Landscape, Historic and other Conservation values of, and recommendations for the Outcomes of Tenure Review – Obelisk Station (FMC Report, 2010)**



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

**PASTORAL LEASE TENURE REVIEW**

**Preliminary Report on the Recreational, Landscape, Historic  
and other Conservation Values of, and Recommendations  
for the Outcomes of Tenure Review**

**OBELISK STATION**

**March 2010**

**Compiled for Federated Mountain Clubs (FMC) of NZ (Inc.)  
by Dr Michael J S Floate, High Country Consultancy**

**PRELIMINARY REPORT ON THE RECREATIONAL, LANDSCAPE, HISTORIC  
AND OTHER CONSERVATION VALUES, AND RECOMMENDATIONS  
FOR THE OUTCOMES OF TENURE REVIEW ON OBELISK STATION**

**A Report for FMC based on Field Inspections and other research  
to assist in the Crown Pastoral Lease Tenure Review Process**

**March 2010**

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Fig. 1 Looking west from about 500m above sea level on the Flat Top Hill block of Obelisk Station, across Fruitlands, to the freehold properties below Mitchells Cottage. Above about 600m can be seen the lower and mid slopes of the Old Man block of Obelisk. The top blocks are obscured by cloud above about 1,200m. Earnsclough Station lies to the north (right) and Obelisk Creek to the south (left), in this view.

Fig. 2 The west face of Flat Top Hill is prominent when viewed from Fruitlands and SH 8 between Roxburgh and Alexandra. Above the lower boundary fence at about 400m, the steep slope includes a mix of pasture grass, thyme, other shrublands and many schist rock tors on the upper slopes and skyline. This landscape should be protected from the adverse effects of subdivision and inappropriate developments.

Fig. 3 The gold mining around Fruitlands, and Mitchells Cottage on Symes Road are well known, but less well known is another cottage built by the Mitchell brothers in the gold mining days. This is situated at about 1,000m, a little to the south of the Obelisk access road. This hut should be protected as it has historic significance and recreational importance, having been restored for use as a ski hut by the Vincent Ski Club in the 1950s.

Fig. 4 The lower slopes are characterised by Yellow Grey Earth soils classified LUC Class VI, with medium suitability for pastoral use. The view here, at about 800m, shows short tussock grassland which has been oversown and topdressed. With continuing maintenance fertiliser to replace nutrients removed in animal products and lost through burning, the land should be capable of supporting ecologically sustainable pasture production.

Fig. 5 The higher country, seen here at 1,400m is characterised by High Country Yellow Brown Earth soils classified LUC Class VIIe and VIIc with severe limitations to pastoral production due to erosion risk and climatic limitations. Such land cannot support ecologically sustainable pastoral production. Instead the significant inherent landscape and natural values should be protected by return to Crown control.

Fig. 6 The main access to the Kopuwai Conservation Area, including the Fraser Basin, Hyde Rock and the Obelisk itself, is up the road built in the 1970s for the construction of the TV transmission tower at 1,695m above sea level. This road runs up the prominent spur between Obelisk Creek and Butchers Creek and provides good access to Obelisk pastoral lease as well as the public conservation land beyond.

Fig. 7 Flat Top Hill is well named as it is a gently undulating plateau studded with horizontally bedded schist tors and exposed bedrock. It drops away steeply to the Clutha Gorge (now occupied by the sinuous Lake Roxburgh) in the middle distance. Beyond the gorge to the east, can be seen the skyline of the Knobby Range.

Fig. 8 The steep eastern face of Flat Top Hill is best seen from Lake Roxburgh or, as in this view, from the Doctors Point Track. The highest point is at 570m and the face drops steeply over a distance of less than 1,000m to only about 150m above sea level at the lake. This makes for spectacular scenery but very low productive value on a gradient of about 40% with shallow rocky soils. It is better to be protected for its high conservation values.

Fig. 9 The Flat Top Hill block of Obelisk Station is bounded to the north by the Flat Top Hill Conservation Area managed by DOC, which is seen beyond the fence, with its eastern face running down to Lake Roxburgh. The basic landscapes and ecosystems of both blocks are similar and could provide the resources to test a number of differential management strategies designed to achieve different conservation goals.

Fig. 10 Studies of the ecology and sustainable management of tussock grasslands have been carried out on the Old Man Range by Otago University since trial plots like this were established in 1960. These



plots have great scientific value and are also of interest to recreational visitors to the area. On-site signage explains the objectives and findings of the studies. These plots should be included within a new conservation area designated on Obelisk Station.

Fig. 11 An experimental snowfence was built in 1959 by the Otago Catchment Board to test the capture of snow which, after melting, could augment the water yield of the Fraser Basin, rather than blowing over the crest of the Old Man Range. The fence has stood the test of time and recent signage explains the purpose of the structure to interested visitors to the Kopuwait Conservation Park.

Fig. 12 The varied and biologically diverse top of the Flat Top Hill block provides a low altitude destination for people to explore and enjoy the tor studded landscape with all its interesting features including – a mix of tussock grassland, short turf grassland, shrublands, horizontally bedded schist tors, flat schist outcrops and shallow ephemeral tarns. Flat Top Hill could provide a round trip when combined with the existing DOC Flat Top Hill Conservation Area.

Fig. 13 Deeply incised gullies run down the eastern side of the plateau to Lake Roxburgh in the Clutha Gorge, inviting exploration by those not daunted by the prospect of climbing back to the flat top. One of the problems of this block are woody weeds, including briar, broom and wilding pine, control of which should be a condition of the proposed Conservation Covenant.

Fig. 14 Visitors to the summit plateau of Flat Top Hill will be intrigued by a large, wooden stable building which appears to have historic significance. It is certainly a prominent feature in the landscape but it is not genuine. Its history is recent, in that it was constructed towards the end of the last century as part of a film set for a western movie. Some would argue that it should be removed but it still is a curiosity for those with enquiring minds.

Fig. 15 The transition from tussock grassland to herbfield is abrupt at about 1,400m. The vegetation here consists of a herbfield dominated by several species of *Celmisia*, together with dwarfed mats, cushions and turfs with many families of alpine plants, mosses and lichens represented. At the highest levels these are associated with patterned ground, but such phenomena are mainly confined within the Kopuwait Conservation Park, above the top boundary of Obelisk Station.

Fig. 16 In the upper catchments of Obelisk Creek and Butchers Creek there are good examples of tussock grasslands which warrant protection within the area between about 1,000 and 1,400m, and which should be returned to Crown control. The tussock grassland in this view includes a wetland flush and evidence of past burning.

Fig. 17 Snowbank communities sometimes survive late into the year at 1,450m in the headwaters of Obelisk Creek and Coal Creek. Even at this high altitude the land is still within the pastoral lease but should certainly become conservation land with the full protection of Crown ownership and control. Here botanists are oblivious of mist and cold driving rain as they examine the most recent plants to emerge from the snow cover.

Fig. 18 Searching snowbank communities in adverse weather conditions is often rewarded with fascinating finds. Here, intrepid botanists have discovered a rare specimen (the only one in the whole area) of *Nertera balfouriana* at 1,450m beside a dwindling snowbank in the head of Coal Creek.

## INTRODUCTION

This report has been prepared following the Early Warning Meeting in September 2009 at which the properties entering the tenure review process in 2009 were introduced. Inspections of the two parts of the property were carried out by the author in January 2010, with the kind permission and co-operation of the runholder, Allistair Campbell. This report is based on those inspections and other material listed below. The report is offered as a contribution to the statutory consultation process undertaken by the Department of Conservation.

The purpose of the report is to identify those features, resources and characteristics of this pastoral lease property which are relevant to tenure review and are important from a recreation and conservation perspective. The report will include an examination of the key issues and why they are considered important. The rationale underlying decisions related to the Crown Pastoral Land Act, future land tenure, protection of natural and historic values, and public access will be discussed. The final section of the report will deal with these issues and the recommended outcomes for the tenure review of Obelisk Station from a recreation and conservation perspective.

This pastoral lease is unusual in that it consists of two separate blocks which are entirely different in their natural values and recreational opportunities. This is why they have been dealt with separately except for the common features which are covered in the introduction.

Obelisk pastoral lease is a relatively small property at Fruitlands which consists of two blocks (Fig. 1): one is situated on the eastern slopes of the Old Man Range, while the other straddles Flat Top Hill adjacent to the DOC Flat Top Hill Conservation Area near Butchers Dam. The entire lease occupies about 2,800ha and is run in association with the neighbouring Earnsclough Station. Both the neighbouring properties have completed the tenure review process so new land allocations between new freehold and conservation land have been agreed and implemented.

This is important because it means that the boundaries to the north and south of Obelisk Station between new freehold and conservation land have already been established. Those boundaries are important because they have implications for the potential (or real) adverse effects on landscape values of stock camps along the upper boundary of the new freehold land.

Two issues arise here: the first is where should the boundary between freehold and conservation land be drawn on Obelisk, and the second is how to harmonise the landscape effects of this boundary on Obelisk with those already established on neighbouring properties. These are issues which need to be resolved in the tenure review of Obelisk Station.

This report focuses on those features of the property which are important for public recreational interests. It should be noted that while some of this interest focuses on access (mainly across the property to the crest of the range, and along Flat Top Hill), the natural and historic values and landscapes greatly influence the quality of recreational experience enjoyed. It is for this reason that reference is made to these values in this report.

The landscape of the eastern face of the Old Man Range (Fig. 1) is prominent for all travellers on State Highway 8 from Roxburgh to Alexandra, most of whom will not fail to notice the prominent tor (called The Obelisk or Kopuwai) and the adjacent communications structure which dominate the skyline on the Old Man Range. Both are located above the Obelisk boundary and are sited within the Kopuwai Conservation Area.

The landscape on the western face of Flat Top Hill (Fig. 2) is also prominent when viewed from SH 8 so some landscape protection may be required to guard against potential adverse effects of inappropriate subdivision, land use and development.

Symes Road runs through the middle of that part of Obelisk on the Old Man Range, and Mitchells Cottage, just above the Fruitlands community is a well known historic feature of the area. Although the gold mining associations on the Fruitlands area are quite well known, another cottage built by the other Mitchell brother, and dating back to goldmining days, is less well known (Fig. 3). This is an important feature of Obelisk Station, both because of its historic significance, and because of its recreational use having been restored for use as a ski hut by the Vincent Ski Club in the 1950s.

Issues related to soil type and Land Use Capability (LUC) classification and the ecological sustainability of land use on Obelisk will be discussed in a later section of this report.

## **METHODS OF SURVEY AND ASSESSMENT**

This report is based on the author's January 2010 field inspections and, in part on information gathered from other sources. These include studies of topographical and Land Use Capability (LUC) maps, consultation with recreational user groups and a knowledge of the landscapes seen from State Highway 8 and also from elsewhere along the Old Man Range.

A study of "Outdoor Recreation in Otago" was undertaken by Mason (1988) and published by FMC. Reference is made to this Recreation Plan for Otago below. The Conservation Management Strategy for Otago has also been used as sources of reference.

## **GENERAL DESCRIPTION OF OBELISK**

Obelisk pastoral lease (Po 264) covers almost 2,800ha in two blocks in the Fruitlands district (Figs 1 and 2). The larger block is situated on the eastern face of the Old Man Range and stretches from just above Mitchells Cottage on Symes Road to the crest of the Old Man Range at about 1,600m above sea level. The other, smaller block (Fig. 2) is situated on Flat Top Hill adjacent to and south of, the DOC Conservation Area of the same name.

Mason (1988) has described the landforms of the Old Man Range as follows:- "*The Old Man Range forms the south-westerly boundary of Central Otago's block mountains. Its easterly escarpment rises moderately steeply from the Clutha Valley to a gentle, convex summit crest at 1,440-1690m. Western back-slopes are drained by two high altitude basins, both parallel to the summit plateau.*

*The summit plateau of the Old Man Range is well known for mountain tors. Clusters of schist tors stand as stark sentinels above smooth, easy rolling surfaces. There are a variety of forms, the most spectacular being vertical shafts with one of the highest examples to occur in Otago being the Obelisk. Others are overhanging pedestals or of irregular block form. On the eastern foothills fretted tors provide a dominant craggy landscape which extends down to the environs of Alexandra.*

*Around what must have been a Pleistocene snow cap, patterned ground has developed, providing the greatest variety and most well formed periglacial features to be found in New Zealand. On north-eastern slopes below the range crest, solifluction terraces and lobes developed from slow creeping action. Some of these are up to a metre high at the face and appear to still be active. They occur as broad, gentle steps several metres apart. Further downslope, solifluction and slumping processes have rippled the whole surface topography. On colder, gentle surfaces around the summit crest, earth hummocks have been heaved up by frost action. These merge into parallel stripes on sloping surfaces. These can cover hundreds of hectares, but are largely absent from the wind-eroded summit where the underlying schist is uncovered."*



**(a) General Description of the Old Man Block**

The Old Man Block (about 2,000ha) extends from about 600m, just above Mitchells Cottage on Symes Road to 1,600m at the crest of the Old Man Range. The top boundary is the eastern edge of the Kopuwai Conservation Area.

The lower slopes, below about 900m are characterised by Yellow Grey Earth Blackstone Hill and Arrow Steepland soils which are classified Land Use Capability Class VI with medium suitability for pastoral production (Fig. 4). Most have already been improved by oversowing and topdressing. With regular maintenance fertilizer to replenish nutrients removed in animal products and in burning, these soils should be capable of being managed in a way that promotes ecologically sustainable land use. These areas should therefore be suitable for freeholding.

The higher country, or approximately half of the property lies above about 1,000m and is characterised by High Country Yellow Brown Earth Tawhiti, Carrick Hill and Dunstan Steepland soils (Fig. 5). These soils have been classified LUC Class VIIc and VIIe due to climatic limitations and erosion problems. Such soils have severe limitations for pastoral production and it is unlikely that they can be managed in a way that promotes ecological sustainability (as required by the CPL Act) without replenishment of nutrients removed in animal products and in burning. Application of fertilizer to replenish nutrient reserves is generally uneconomic above about 1,000m because pasture production is limited by the cold climate. On the other hand, this high country has high conservation and recreation values which suggest that it should be considered as a potential new Conservation Area, eventually to be added to the emerging Kopuwai Conservation Park.

The Old Man Range forms the dominant skyline when viewed from the highway so it is important that landscape issues are properly considered during this tenure review. It is important to note that on both neighbouring properties, conservation values are not confined to the new conservation land near the skyline but that these values extend downhill through areas now protected under Conservation Covenants. It is therefore important to consider whether there are similar conservation values on Obelisk which relate to the values on the neighbouring properties, and to consider appropriate mechanisms for their protection on Obelisk.

There is an existing fence at about 900m, just below the old stone hut (Fig. 3), which could serve as the lower boundary of the recommended new conservation area. The hut itself is of significant historic interest having been built by one of the Mitchell brothers and restored for use as a ski hut in the 1950s. This recommended area would contain the tussock grasslands in the catchment of Obelisk Creek and Butchers Creek as well as the herbfields and important ecological communities associated with snow banks which often persist late into the year. Establishing the freehold/conservation boundary at this level would also be appropriate in relation to the areas protected under covenant on the neighbouring properties to the north and south of Obelisk.

The main access to the Kopuwai Conservation Area is via the Obelisk Road which was built in the 1970s to enable the construction of the Obelisk TV transmitter tower (Fig. 6). The road now serves to provide excellent public access to the Kopuwai Conservation Area including the entire Fraser Basin and notable features along the range including the Obelisk itself (1,695m) and spectacular features such as Hyde Rock (1,673m) above a major cirque basin at the head of Gorge Creek. The road also gives good access to the Obelisk pastoral lease as it climbs pretty much up the centre of the property on the spur between Butchers Creek and Obelisk Creek (Fig. 6).

**(b) General Description of the Flat Top Hill Block**

The Flat Top Hill Block extends from about 400m above sea level on the steep western face above Fruitlands (Fig. 2), over the top of the hill at an average of about 500m (Fig. 7) before falling away



steeply to the shoreline of Lake Roxburgh at less than 200m above sea level. The steep face is best seen from Lake Roxburgh or the Doctors Point Track (Fig. 8) which is a spectacular feature of what was formerly the Clutha Gorge.

Flat Top Hill is a well named feature which can be seen from considerable distances away to the south. To the north the Obelisk block adjoins the DOC Flat Top Hill Conservation Area (Fig. 9). This Conservation Area is important as the site of rare saline soils near Butchers Dam, and as the home of rare and endangered dwarf spring annual plants. Some of these also exist within the Obelisk block on Flat Top Hill which could become an extension of the existing DOC Conservation area.

The single access track climbs steeply up the western face the splits into two as it approaches the top of the hill. Branches head north and south to the lease boundaries. One track peters out at the head of a gully marking the southern boundary. The other track wanders along the gently rolling plateau surface for some 2.5km to the boundary of the Conservation Area which could be entered by a gate. If public access becomes available through the tenure review of Obelisk this track could become part of a round trip including the existing Conservation Area. The plateau surface is an interesting mix of tussock grassland, short turf grassland, shrublands, horizontally bedded schist tors, bedrock outcrops and shallow ephemeral tarns. The eastern edge of the plateau is cut by deeply incised gullies which run down to the Clutha Gorge now occupied by the sinuous Lake Roxburgh.

As a visitor to Flat Top Hill, and particularly for the photographer, the difficulty in finding vantage points from which to view the gorge is somewhat frustrating, but does stimulate one to explore further.

The western face, from about 400m up to 500m (Fig. 2) is characterised by Yellow Grey Earth Roxburgh and Cairnhill soils with frequent bedrock outcrops. The same soils occur on the plateau surface and down the steep face of the Clutha gorge (Fig. 7). The steep parts of the landscape (Fig. 8) have been classified LUC Class VIIe with erosion problems and risk, while the plateau surface is classified LUC Class VIIc due to the shallow soils and drought limitations on pasture production (Fig. 7). It is because of all these soil, topographical and climatic limitations that it is unlikely that this area could be managed in a way that promotes ecological sustainability, as required by the CPL Act. Mainly because of drought limitations and consequently, low pasture production, fertilizer application is likely to be uneconomic. The removals of essential nutrients in animal products have probably not been balanced by the replenishment of soil nutrient reserves: Instead these are being gradually depleted over time. Under these circumstances it is difficult to imagine how pastoral production can be ecologically sustainable.

On the other hand, this rocky plateau and its steep rocky faces (Fig. 8) have high landscape, conservation and recreation values which suggest that it might be considered for addition to the existing Conservation Area adjoining the property to the north. There are other interesting tenure and management options which will be considered later.

## **RECREATIONAL ACTIVITIES AND POTENTIAL**

### **(a) The Old Man Range**

Mason (1988) has described the history and current recreational use of the Old Man Range as follows:-

*"The Old Man Range has long been an attraction for winter recreation. This has been due to ease of access to the snowline and proximity to centres of population. In 1953 the Vincent Ski Club was formed in Alexandra with the intention of developing ski grounds on the slopes near the Obelisk above Fruitlands. By modern standards (variety of gradient, vertical height, reliability of operation) there is no potential for skifield development on these ranges. The limited extent of steeper snow slopes can, however, be utilised by more proficient cross country skiers."*

Mason goes on to inform readers that:- *"The primary winter recreational potential of the area is for cross country skiing. Ease of access has resulted in the Old Man and Old Woman ranges being among the most frequently used areas in Otago. Road access to the snowline on the Old Man Range provides one of the few opportunities for day trips from Dunedin or Invercargill. The major natural limitation to utilising the vast extent of easy rolling terrain is the severity of weather conditions. A few disused mustering and miners' huts provide some overnight shelter, however due to rapid changes in the weather no reliance can be placed on locating them. Experience in alpine travel and survival are essential prerequisites for safe use during winter. There have been several close-calls, even for experienced parties, in one instance involving survival conditions in a snow trench for several days"*.

*"A 40 km traverse the length of the Old Woman and Old Man ranges is possible, with an overnight camp. However, no quick escape to low country is available in the event of being overtaken by storm conditions."*

Mason adds that:- *"Summer recreation is largely dominated by the use of off-road vehicles and numerically, this activity probably exceeds all other activities. The traverse of the County road between Waikaia and Shingle Creek and along the range crest by trail bike being the major activities on the Old Man Range. Even during summer, riders regularly suffer from hypothermia on these exposed tops."*

There are historic features and scientific trial sites on the Obelisk which add considerable interest and value for recreational visitors (Figs. 10 and 11). These are mainly situated not far from the Obelisk Road and are accompanied by signage which explains the objectives and findings of the research. Two of the sites deal with the ecology and management of snow tussock grasslands (Fig. 10), while the third site is that of an experimental snow fence built in 1959 (Fig. 11). The aim of the fence was to trap snow which, after melting, would augment the water yield of the Fraser catchment.

The recreational use of Obelisk should be considered in the wider context of public recreation on the Old Man Range, and the development of the Kopuwait Conservation Park. Any assessment of recreational value should include not only present usage, but also future potential usage by trampers, mountain bike and horse riders, and skiers. It is likely that with increasing pressure for new recreational areas and increasing knowledge of this area, together with improved access, usage will increase following the completion of this and other tenure reviews along the range.

Access to and along the crest of the range is the main recreational use at present. Good access is available via the Waikaia Bush Road and via Symes Road to the Obelisk (Fig. 6). These gateways to the emerging Kopuwait Conservation Park provide access to widespread and important recreational resources and opportunities in the Fraser basin and along the Range to link with the Old Woman Range, and in winter to the "Polar Plateau" and the Garvies.

### **(b) Flat Top Hill**

The existing Flat Top Hill Conservation Area and associated Butchers Dam has become a popular recreation area, mainly for day visitors. Most interest is focused in the area of the dam and the relatively short, easy track around the lower slopes of Flat Top Hill on the eastern side of the dam. However, some more energetic visitors and those with interests in photography and botany certainly make use of the hill itself (Fig. 9), and make their way over to the slopes above the Clutha River Gorge, occupied by the sinuous Lake Roxburgh created by the Roxburgh Dam.

If the tenure review of the Obelisk block does result in the plateau coming under DOC control it also opens up recreational opportunities for walking and mountain bike round trips which would include most of the entire Flat Top Hill massif.



The varied and biologically diverse plateau top provides a low altitude destination for people to explore and enjoy the tor studded landscape with all its interesting features including – a mix of tussock grassland, short turf grassland, shrublands, horizontally bedded schist tors and small, flat schist outcrops and shallow ephemeral tarns (Fig. 12). The flat top topography is probably controlled by the horizontal stratification of the underlying schist bedrock (Fig. 7). Deeply incised gullies run down the eastern side of the plateau to the Clutha Gorge (Fig. 13), inviting exploration by those not daunted by the prospect of climbing back to the flat top, some 400m above the level of the Lake.

Visitors to the summit plateau of Flat Top Hill will be intrigued by a large, wooden stable building which appears to have historic significance (Fig. 14). It is certainly a prominent feature in the landscape but it is not genuine. Its history is recent, in that it was constructed towards the end of the last century as part of a film set for a western movie. Some would argue that it should be removed but it still is a curiosity for those with enquiring minds.

## **SIGNIFICANT INHERENT VALUES AND THEIR IMPORTANCE FOR RECREATION**

### **(a) Old Man Block**

This report focuses on those features of Obelisk Station which are important for public recreational interests. It should be noted that while some of this interest focuses on access, the natural and historic values, as well as the landscape of the area greatly influence the quality of recreational experience enjoyed. It is for this reason that significant inherent natural values, landscape and historical values, access and recreational use are all considered together in this section of the Report.

The vegetation and environment of the Old Man Range has been the subject of intensive scientific study by the University of Otago for over 40 years. Much of this work has been undertaken and published by Prof. Alan Mark and his colleagues. A very useful summary was revised by Meurk and Mark (1995). This summary described the vegetation in distinct zones referred to as *“well defined vegetation belts [which] reflect the steep moisture and temperature gradients between the semi-arid basins and semi-saturated, exposed, plateau summits.”* The zones are as follows:-

**Montane Zone (150 – 750m)** including (I) Exotic Vegetation and Scrub, (II) Semi-Desert Scabweed and (III) Fescue Short Tussock Grassland

**Subalpine Zone (750 – 1,000m)** including (IV) Mixed Snow/Fescue Tussock Grassland

**Low Alpine Zone (1,000 – c. 1,500m)** including (V) Tall Snow Tussock Grassland, (VI) Fescue/Blue Short Tussock Grassland, (VII) Blue Short Tussock Grassland and Herbfield

**High Alpine Zone (>1,500m)** including (VIII) Rock, Fellfield, Cushion- and Herbfield

All these zones are represented with increasing altitude on Obelisk, with the possible exception of the most extreme examples of rock tors, fellfield and cushionfield which are better represented within the Kopuwai Conservation Park which forms the top boundary of the pastoral lease, running along the eastern edge of the summit plateau at about 1,600m.

The transition from tussock grassland to herbfield is abrupt at about 1,400m (Fig. 15) and it is recommended that all land and vegetation types above this level should without doubt be included in land to be returned to full Crown ownership and control on the basis of its very high significant inherent values. This level approximates the level at which the boundary between conservation and freehold land has already been agreed on both neighbouring properties.

Below this level, in the Low Alpine Zone and upper part of the Subalpine Zone there are good examples of tall tussock grasslands in the upper parts of the catchments of both Obelisk Creek and Butchers Creek (Fig. 16). It is noteworthy that at about 900m in both catchments many tributaries converge to form a main stem, as the tributaries flow out of the higher basin area. These basin areas contain the best of the

tussock grasslands and are the areas most deserving protection. Fortunately, the lower boundary of this area is close to the existing fenceline just below the old stone hut. This fenceline would make a good boundary between new freehold and conservation land as has been briefly mentioned above.

In the general description above it was indicated that most of the Montane Zone has been developed for pastoral use (Fig. 4). The soil types and LUC classification also suggest that with adequate regular maintenance it should be possible to manage these lands in a way that promotes ecologically sustainable land use, as required by the CPL Act. They therefore appear suitable for freeholding.

Snowbank communities sometimes survive late into the year at 1,450m in the headwaters of Obelisk Creek and Coal Creek. These provide another dimension for botanists and photographers to explore and enjoy (Figs 17 and 18). Even at this high altitude the land is still within the pastoral lease but should certainly become conservation land with the full protection of Crown ownership and control

### **(b) Flat Top Hill**

The small spring annuals which are present on Flat Top Hill are probably the most significant inherent component of the indigenous vegetation at this site. There are a number of other significant inherent values which also warrant protection. These include shrublands, with characteristic *Olearia lineata*, often associated with rocky refuges, small, shallow, ephemeral tarns with concentric rings of vegetation related to differential moisture regimes (Fig. 12), and a fascinating landscape (Fig. 13). All these features provide interesting subjects for recreational visitors, especially those with interests in landscape, botany and photography.

The landscape has both visual and ecological interest in its small scale variations which include horizontally bedded tor rocks and sections of bed-rock pavement (in places providing habitat for the above-mentioned tarns, Fig. 12), associated shrublands in rocky refuges, and short, steep gullies running down to the Clutha River.

A conservation issue has arisen because the small spring annual plants in the DOC Reserve on Flat Top Hill are getting swamped by rank grass growth and litter accumulation (Fig. 9). There is an argument for controlled grazing to improve conditions for the spring annuals. This is an issue which was raised in the CMS for Otago where one of the objectives on Flat Top Hill is to protect ephemeral spring annuals "using appropriate differential management as required". The acquisition of the Obelisk block adjacent to the existing Conservation Area would permit the employment of differential management techniques to determine the best management strategy for the survival of spring annuals.

However, there is another conservation argument which is to encourage shrubland regeneration by discontinuing grazing. To date the latter has been the management objective in the existing Conservation Area. This strategy is not without its undesired effects. Weed problems are increasing as briar is uncontrolled by animal browsing, and there are a large number of other weed species including broom and wilding pines, present (Fig. 13).

The tenure review of the Flat Top Hill block of Obelisk Station presents a new opportunity to pursue both conservation objectives if the plateau comes under DOC control. Having two adjacent, and otherwise similar ecosystems on Flat Top Hill, would permit the testing of differential management strategies to pursue apparently conflicting objectives. Strictly controlled grazing, accompanied by regular monitoring might be possible under a Conservation Covenant on the Obelisk Block.

**AREAS TO BE PROTECTED****(a) Old Man Block**

The discussion above suggests that there is a significant area of land above about 900m on the flanks of the Old Man Range with significant natural, landscape and historic values which deserve protection in terms of the CPL Act 1998 (Figs. 3, 5, 10, 15, 16 and 17). The nature of those significant inherent and historic values has been discussed in the previous section and the fact that the front faces and skyline are important features of the Old Man Range seen from SH 8 and the Clutha Valley was referred to in the introduction.

The siting of the possible boundary between potential freehold and new conservation land was also discussed and it was concluded that there are logical reasons why this should be considered along the line of an existing fence just below the Old Stone hut at about 900m.

One of the objectives of tenure review is "*to promote the management of reviewable land in a way that is ecologically sustainable*". Two of the factors which influence whether this is likely to be achieved are the nature of the land resource, and the extent to which, if at all, nutrients removed in animal products are replenished through fertiliser use. It was noted above that all the land above about 900m is classified LUC Class VIIc or VIIe which means that it has limitations related to climatic factors or erosion hazards. Class VII land has severe limitations for pastoral production and climatic limitations on pasture growth are generally accepted as the reason why fertiliser use is not economically justified at this altitude. These factors all combine to suggest that continued pastoral use will not promote ecological sustainability.

It is concluded that for reasons related to the significant inherent values of the land above the existing fence just below the Old Stone hut at about 900m (Fig 3), and because it is unlikely that this land could be managed in a way that would promote ecological sustainability, it is recommended that this area should be returned to full Crown ownership and control to be managed for conservation purposes.

**(b) Flat Top Hill**

From the discussion above it is concluded that there are significant inherent values which should be protected. There may however, be differential management strategies which are appropriate for the achievement of different conservation objectives. Some of these require continued, but controlled grazing, especially to encourage the suppression of weeds (like briar), and to suppress rank grass growth. The existing Conservation Area under DOC control enables a study of discontinued grazing by farm animals.

Acquisition of the Obelisk block could provide an opportunity to study the effects of controlled grazing under covenant. This would require strict observance of grazing protocols, strictly imposed stock limitations and regular monitoring to record the effects of differential grazing management.

A serious disadvantage to the recreational public, of the use of covenants to protect natural values, is the lack of secure public access which would otherwise be provided by the return of the same land to Crown control. This disadvantage could be overcome by the establishment of an easement to provide foot and mountain bike access to and along the Flat Top Hill summit plateau track.

It is therefore, considered that in this case, protection under covenant may be appropriate instead of the more conventional recommendation for return to Crown control. This would only be acceptable if accompanied by the establishment of an appropriate easement to provide secure public access.



**ACCESS REQUIREMENTS****(a) Old Man Range**

The CPL Act 1998 requires "*the securing of public access to and enjoyment of reviewable land*", and this is required both to and across Obelisk land.

The existing public road up the face of the Old Man Range (Symes Road/Obelisk Road) already serves this function, and provides access to the proposed new Conservation Area.

**(b) Flat Top Hill**

There is an existing farm track on the Flat Top Hill Block of Obelisk Station which runs up the hill from a gate about 1km east of State Highway 8. Access to this gate from the highway may run across neighbouring freehold land, so public access to the gate needs to be investigated during the tenure review process.

In order to provide public access to the conservation and recreation values of Flat Top Hill itself, an easement for public foot and mountain bike access will be required. This access should run up the hill from the gate and extend along the track on top of the hill to the boundary with the existing Conservation Area. This would then provide an excellent round trip for public use and enjoyment.

**OTAGO CONSERVATION MANAGEMENT STRATEGY****(a) Old Man Range**

In the Conservation Management Strategy for Otago (CMS) the Old Man - Garvie area is recognised as a Special Place. The objective for this Special Place is:

*"To protect the entire high altitude range crests for their landscape, nature conservation, cultural, and recreational importance, to improve legal access to them, and to ensure that recreational and commercial uses are managed to sustain resources and ensure quality recreational experiences....."*

It should be further noted that the CMS states that "*Protected areas boundaries will be rationalised by disposals, acquisitions, swaps and other means (including tenure review) to link as far as practicable the existing inland protected areas and areas of indigenous vegetation between them.*" [underlining our addition].

It is also noted that the CMS includes the following statements: (a) "*Pastoral lease tenure review on adjacent properties will provide opportunities to negotiate to protect the entire range crest.*" And (b) "*Continued identification of key natural and historic resources to enable well informed decision making in the pastoral lease tenure review process.*"

Finally, it should be noted that the CMS priority for the Old Man area states that "*Completion of protection negotiations, including tenure reviews, will be a priority in this Special Place.*"

From statements in the CMS, it is clear that DOC is committed to achieving its objectives for the Old Man - Garvie Special Place and that significant progress would be made towards achieving those objectives if this tenure review can be successfully negotiated.

**(b) Flat Top Hill**

Flat Top Hill is recognised as part of "The Drylands" Special Place identified in the CMS for Otago. The objective for this Special Place is *"To protect a full range of Central Otago lowland semi-arid indigenous landscapes, ecosystems and species along with significant historic resources associated with them, and to provide and manage appropriate recreational opportunities in those settings"*.

It was intended that these objectives would be achieved through a number of implementation statements which included the following which are pertinent to the tenure review of Obelisk Station:-

*(d) "Monitoring and protection of the ephemeral spring annuals and other significant indigenous vegetation on Flat Top Hill will be a priority, using appropriate differential management as required."*

*(f) "Attempt to negotiate the protection of other carefully selected complementary examples of saltpans, other important native ecosystems and key historic sites in the area as they become available, particularly in the context of pastoral lease tenure reviews"*.

*(k) "Identify appropriate mountain biking areas and routes in the area, on land administered by the department"*.

Finally, it is important to note that the priority for "The Drylands" Special Place is:- *"Facilitating public enjoyment of Flat Top Hill is the immediate [1998] priority. Other priorities are plant pest control to protect priority low stature indigenous communities"*.

It is clear that the tenure review of Obelisk Station presents an excellent opportunity to advance the objectives and priorities stated in the CMS for Flat Top Hill.

**ISSUES AND RECOMMENDATIONS**

In this section, the resources described above, and the issues and options for their future management and allocation between freehold disposal and public interests are discussed in relation to the Crown Pastoral Land Act, 1998. The issues and recommendations are presented in sections related to Sections 24 of the Act as follows:-

*S24 (a) (i) To promote the management of reviewable land in a way that is ecologically sustainable*

*S24 (b) (i) To enable the protection of significant inherent values of reviewable land by the creation of protective mechanisms*

*S24 (b) (ii) To enable the protection of significant inherent values of reviewable land (preferably) by the restoration of the land concerned to full Crown ownership and control*

*S24 (c) (i) The securing of public access to and enjoyment of reviewable land [including recreation] and*

*S24 (c) (ii) The freehold disposal of reviewable land*

**S24 (a) (i) To promote the management of reviewable land in a way that is ecologically sustainable**

The soils and their Land Use Capability (LUC) Classification of both the Old Man and Flat Top Hill blocks of Obelisk Station have been considered carefully. Arguments have been presented as to why Class VIIe and Class VIIc land cannot be managed in a way that is ecologically sustainable without the replenishment of nutrient reserves depleted by pastoral production and tussock burning. Similarly, arguments have been presented as to why land areas classified LUC Class VIIc on Obelisk cannot be managed sustainably because of natural soil and climatic limitations on pasture production.

The consequence of these arguments is that land above about 900m, classified LUC Class VIIe and VIIc



in the Old Man block should be considered for its high conservation values rather than be disposed as freehold. Similarly that land classified LUC Class VIIc on the Obelisk block should be considered first for its conservation values.

It is recommended that land below the 900m fenceline on the Old Man Block should be capable of being managed "*in a way that is ecologically sustainable*", and that it is therefore suitable for freehold disposal. The future tenure of the Obelisk Block is considered below.

**S24 (b) (i) To enable the protection of significant inherent values of reviewable land by the creation of protective mechanisms**

Environmental NGOs generally agree with the preference expressed in the CPL Act for "*protection of significant inherent values reviewable land (preferably) by the restoration of the land concerned to full Crown ownership and control.*" However, the Flat Top Hill situation is unusual in that controlled grazing under the protection of a covenant ("*protective mechanism*") may be appropriate.

The most significant ecological issue on Flat Top Hill is the survival of small spring annual plants. Withdrawal of browsing to encourage shrubland regeneration without allowing the proliferation of woody weeds is another issue. Differential grazing management strategies to address different conservation objectives may be an appropriate way to deal with these issues. This might be achievable under a Conservation Covenant with strict stock limitations and regular monitoring.

There is a major problem for recreation when protection of natural values under Covenant is proposed: the problem is that there is no secure public access to be able to enjoy the natural values as required under Section 24 (c) (i) of the CPL Act. In the case of Flat Top Hill this problem might be overcome by the establishment of an easement for public foot and mountain bike access to and along the summit ridge track as far as the existing Conservation Area boundary. Control of woody weeds would also need to be a condition of a successful Covenant proposal.

It is recommended that Flat Top Hill (approximately 500ha) should be designated Conservation Covenant covenant, with the conditions imposed on stock limitations, regular monitoring, control of woody weeds to guarantee protection of biodiversity and weed control. Provision of an easement for secure public foot and mountain bike access will also be required.

**S24 (b) (ii) To enable the protection of significant inherent values of reviewable land (preferably) by the restoration of the land concerned to full Crown ownership and control**

The significant inherent values on Obelisk Station differ as between the Old Man Block and the Flat Top Hill Block. The latter has been discussed above. On the Old Man Block the values are mainly alpine and sub-alpine vegetation, tussock grasslands and a historic stone hut on the Old Man block.

It has been argued in earlier sections of this report that the high altitude values – snow bank communities, herbfields, cushionfields and tussock grasslands on the Old Man Block, together with the historic stone hut at about 1000m deserve protection by return to Crown control. A boundary between new Conservation Areas and possible freehold disposal was proposed along an existing fenceline at about 900m. That line could be extended across the full width of the property at about the same altitude.

It has also been argued above that LUC Class VII land on Obelisk cannot be managed "*in a way that is ecologically sustainable*".

It is therefore recommended that "*protection of significant inherent values of the reviewable land*" namely, approximately 1,000ha of land immediately above the 900m fence at on the Old Man Block should be "*enabled by the restoration of the land concerned to full Crown ownership and control*" and

classified as Conservation Area. This Conservation Area should subsequently be added to the Kopuwai Conservation Park.

**S24 (c) (i) The securing of public access to and enjoyment of reviewable land** [including recreation]

Access issues have been discussed in the "Access Requirements" section of this report. On the Old Man Range public access is already available via the public road which leads to the TV transmitter tower at the Obelisk. Public foot access and enjoyment of the proposed Conservation Area will be freely available if the recommendations above are implemented. No further action will be required on the Old Man Block.

It has been recommended that the natural values on Flat Top Hill should be protected under a covenant. In order to "*secure public access to and enjoyment of reviewable land*" on Flat Top Hill public foot and mountain bike access will be required.

It is recommended that the Covenant on Flat Top Hill should be accompanied by the establishment of an easement for public foot and mountain bike access over the existing farm track to and along the summit ridge of Flat Top Hill, as far as the boundary with the existing Flat Top Hill Conservation Area.

**S24 (c) (ii) The freehold disposal of reviewable land**

Freehold disposal of reviewable land follows as a logical consequence of the identification of those parts of Obelisk which have been assessed to be capable of being managed "*in a way that is ecologically sustainable*".

Accordingly, it is recommended that land below the existing fence at about 900m on the Old Man Block is suitable for disposal as freehold.

**Finally it is noted that the Conservation Management Strategy for Otago set out important objectives** and priorities for the Special Place "The Drylands" which includes Flat Top Hill. If the recommendations made in this report are adopted and implemented significant progress will be made towards the achievements of those objectives.

**ACKNOWLEDGEMENTS**

FMC is grateful for assistance from the Crown Agent in making the assessment possible. The site inspection was carried out on two separate occasions in January 2010 and FMC is grateful to the runholder, Allistair Campbell of Earnsclough Station for co-operation and granting permission for access.

**REFERENCES**

Crown Pastoral Land Act (1998)

Mason Bruce (1988) Outdoor Recreation in Otago – A Conservation Plan. Volume One: Central Otago Block Mountains. Federated Mountain Clubs of NZ (Inc.) Wellington NZ.

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**Appendix 2. Legal Opinion: Obelisk Tenure Review Preliminary Proposal – Review of Covenant**  
**Sally Gepp, Royal Forest and Bird Protection Society Inc. 24 January 2014**





**Forest & Bird**  
GIVING NATURE A VOICE

## LEGAL OPINION

**To: Sue Maturin**

**From: Sally Gepp**

**Date: 24 January 2014**

**Re: Obelisk Tenure Review Preliminary Proposal – review of covenant**

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## SUMMARY OF ADVICE

1. You have asked me to comment on the terms of the covenant proposed as part of the Obelisk tenure review preliminary proposal.
2. In summary, I consider that the provisions of the main body of the Covenant are generally appropriate and are consistent with the CPLA objectives (subject to your view that in this case the CPLA preference for return to full Crown ownership and control should be followed).
3. However, the Schedule 2 Special conditions, Schedule 3 Management Prescription Document and Schedule 4 Monitoring Programme description contain a number of provisions which are not in accordance with the Objects of the CPLA, and are inconsistent with the main body of the Covenant. In summary:
  - a. Schedules 2 and 3 should be rewritten to remove provisions which allow practices that are inconsistent with the protection of the Values.
  - b. Sheep grazing should only be permitted in order to maintain the Values, and the Minister should be able to unilaterally impose conditions on grazing or require grazing to cease if it is shown by monitoring to be adverse to the Values.
  - c. Both Area A and Area B should be accorded the same level of protection. It is not appropriate to trial land practices that have highly destructive and in some cases irreversible effects in an area of extremely vulnerable SIVs.
  - d. The Schedule 4 monitoring provisions should be rewritten to support protection of SIVs on Area A and B, rather than envisaging and permitting damage or destruction of the SIVs through land management practices.



## DISCUSSION

### **Crown Pastoral Land Act 1998 (CPLA)**

4. The primary objects of tenure review, as set out in the CPLA are to promote the management of reviewable land in a way that is ecologically sustainable, and to enable the protection of the significant inherent values of reviewable land by the creation of protective mechanisms; or (preferably) by restoration of the land to full Crown ownership and control. Additional objects are subject to those ecological requirements. Where the statutory preference for restoration to full Crown ownership and control is not followed, and instead protective mechanisms are proposed as here, the purpose of the protective mechanism is to enable the protection of the significant inherent values of reviewable land.

### **The Covenant**

5. The land that the proposed Obelisk Covenant covers includes an Area A of 62 hectares, and an Area B of 425 hectares. The Values specified in Schedule 1 include ephemeral wetland vegetation, including Nationally Critical and At Risk species, found on both Area A and Area B – there is no suggestion that the Values on Area B are less important than the Values on Area A. The Schedule 3 Management Prescription Document says that some plant values survive with and probably require a high disturbance environment that could be provided by sheep grazing.
6. The Covenant records that it is to be granted “to preserve the particular Values specified in Schedule 1” (Clause E, Deed of Covenant), and the sole Objective of the Covenant is that “the land must be managed so as to preserve the Values”. Those provisions are consistent with the CPLA objectives (subject to your view that in this case the CPLA preference for return to full Crown ownership and control should be followed). The rest of the pro forma conditions in the main body of the Covenant are also appropriate.
7. However, the Schedule 2 Special conditions, Schedule 3 Management Prescription Document and Schedule 4 Monitoring Programme description contain a number of provisions which are not in accordance with the Objects of the CPLA, and are inconsistent with the main body of the Covenant. As a general comment, the Covenant appears to be attempting to provide for the current leaseholder to continue current practices and even develop the Land, even though these areas have been specifically identified as containing SIVs. The CPLA has a clear policy direction for protection of such areas. I make specific comment on the provisions of Schedules 2, 3 and 4 below.

### ***Schedule 2 Special conditions***

8. Special condition 1 proposes to delete Clause 3.1.1 and replace it with the words “Sheep may graze the land”. Existing Clause 3.1.1. accords with the objects of the CPLA, in that it provides that grazing may be carried out only where the Minister agrees. In considering whether to agree, the Minister is required to consider the Objective of the Covenant (that the land must be managed so as to preserve the Values”). The Covenant recognises that in this case, sheep grazing may be beneficial to the particular fauna found on the land by reducing competition from exotic grasses. However this is not known with certainty, and

could be affected by matters such as stocking rates. In order to achieve the objects of the CPLA, the Minister should retain the ability to approve or decline sheep grazing and to impose conditions. Sheep grazing should be permitted only in order to protect the significant inherent values.

9. Special condition 2 provides that the owner will not stock the Land in such a way as to cause damage to the values (for example by creating a feed pad). If grazing is permitted it should be in order to protect the inherent values, and should not only be required to avoid causing damage to the values. In addition, it is arguable whether creating a feed pad is a manner of stocking the land. This provision would be clearer and more consistent with the objects of the CPLA if it were amended to read "The Owner will use management practices which protect the Values, and shall not stock the land or use practices which risk causing damage to the values (such as creating a feed pad)".
10. Special condition 5 provides that management of the Land may be adapted over time by agreement between the Owner and the Minister to better protect the Values, in accordance with the Management Prescription Document. To accord with the ecological sustainability and SIV protection objects of the CPLA, the Minister ought to have the ability to vary the management of the Land, without requiring the Owner's consent. This is particularly important in circumstances where activities with unknown outcomes are proposed to be allowed.
11. Special condition 7 provides that the Owner will not feed out hay or other feed supplements on Area A only. Clearly both Areas A and B contain SIVs, which are equally vulnerable to damage by stock. The higher stocking rates that can be achieved using feed supplements increase the risk of damage. There is no valid basis for distinguishing between Area A and Area B. This is discussed further below in relation to the Management Prescription Document. Allowing feed supplements, and consequently higher stocking rates, on Area B is inconsistent with the objects of the CPLA and the Objective of the Covenant. The restriction on feeding out hay and feed supplements ought to apply to both Area A and Area B.
12. Special conditions 8 to 12 apply to Area B only. As set out above, Area B is a 425 hectare area containing a number of Nationally Critical and At Risk plants associated with ephemeral wetlands.
13. Special condition 8 states that if the Owner wishes to graze cattle on this part of the Land, the Owner must first consult the Minister, who may impose reasonable conditions as part of any authorisation for this use. This provision does not appear to give the Minister the ability to prohibit cattle grazing, but only to impose conditions (the Owner is only required to "consult" the Minister, rather than seek the Minister's approval). If the intention was to provide for the minister to approve or decline requests to graze cattle then the condition should be amended to make that clear.
14. However cattle grazing should not be permitted on Area B, with or without a consenting regime. The Management Prescription Document recognises that cattle are known to cause pugging of wet areas and may destroy values being protected. Destruction or damage to vulnerable SIVs in ephemeral wetlands is unlikely to be able to be addressed through

conditions on cattle grazing. There may also be a challenge to whether conditions that the Minister wishes to impose are "reasonable", for example if the Minister considers fencing of ephemeral wetlands is required. This provision provides insufficient certainty that cattle grazing will not cause destruction or damage to SIVs, and is contrary to the objects of the CPLA and the Objective of the Covenant.

15. Clause 9 provides that the Owner may construct a fertilizer bin on area B in an area authorised by the Minister and that in the Minister's opinion will minimise impact on landscape values.
16. Construction of a fertilizer bin is only required if fertilisation of Area B is permitted. Fertilisation will result in increased growth of exotic grasses which outcompete the native species associated with ephemeral wetlands. This is inconsistent with the objects of the CPLA and the Objective of the Covenant.
17. If construction of a fertilizer bin is to be permitted subject to the Minister determining the location, the Minister should not be limited to considering the impact on landscape values. The location should avoid areas where there would be adverse impacts on ecological SIVs.
18. Special condition 10 modifies Clause 3.1.5 by removing reference to chemical spraying, topdressing and sowing of seed. As Clause 3.1.5 currently prohibits those activities without the Minister's consent, the effect of Special condition 10 is to permit chemical spraying, topdressing and sowing of seed as of right. In addition, Special condition 11 provides for direct drilling as of right. All of those activities will damage or destroy the ecological SIVs in Area B if they occur where those SIVs are found or nearby. Chemical spraying will kill the ecological SIVs directly, where-as direct drilling and/or topdressing and sowing seed will introduce new exotic species or enhance populations of existing exotic species, which then outcompete vulnerable native flora. Although the SIVs may persist where sheep grazing occurs, there is no evidence that chemical spraying, direct drilling, topdressing and sowing seed will protect or maintain the types of native plant species found on Area B (with the limited exception of spot spraying invasive weed species). There is comprehensive research and observational data showing that dryland and ephemeral wetland species do not persist under these types of management techniques. Permitting those activities as of right is entirely inconsistent with the protection of these SIVs and with ecologically sustainable management of the Land.
19. Special condition 12 authorises the construction of a dam for stock water on Area B. The Minister is able to authorise the location of the dam but does not have any control over matters such as the dam size or type. In order to protect the SIVs, the Minister should have the power to impose conditions over those matters.

### ***Schedule 3 Management Prescription Document***

20. Schedule 3 states that the covenant has two goals: (i) to protect, maintain and enhance the landscape amenity attributes and indigenous plant communities of the Land whilst providing for ongoing sustainable grazing; and (ii) Maintain Area A of the Land in an undeveloped state



while providing for ongoing grazing to maintain the plant community of spring annuals in ephemeral tarns. in my view those goals are not appropriate and in some aspects unlawful:

- a. The Covenant's sole objective is that the land must be managed so as to preserve the values. The goals do not prioritise preservation of the values but provide that protecting indigenous plants and "providing for ongoing sustainable grazing" are of equal importance. This undermines the objective of the covenant as it is not clear that grazing will occur only if the Values are being protected.
- b. By implication, Area B is not to be maintained in an undeveloped state. As set out above, development through direct drilling, oversowing and topdressing will not protect the Values on Area B. The lack of protection of Area B is inconsistent with the objective of the covenant and the objects of the CPLA.

21. I recommend that in accordance with the objects of the CPLA and the objective of the Covenant, the goals of the Covenant should be to:

- a. Protect, maintain and enhance the landscape amenity attributes and indigenous plant communities of the Land.
- b. Subject to (a) above, to provide for ongoing grazing where it is shown to maintain the indigenous plant communities (in particular spring annuals in ephemeral tarns).

22. Under clause 2.2 it is stated that:

Cattle are known to cause pugging of wet areas and may destroy values being protected, so that conditions imposed as part of an agreement to cattle grazing would need careful consideration.

As set out above, cattle grazing is not appropriate at all as it is inconsistent with the objective of the Covenant and the objects of the CPLA.

23. Clause 2.2 then says:

The Owner wishes to sow seed and fertilise Area B of the Land. This will have unknown outcomes for the threatened herbs, most of which are in ephemeral wet tarns on the Land.

It goes on to say that developed and undeveloped areas will be monitored, that Area A will not be seeded, fertilised or otherwise developed and that the plant communities will be monitored over time to ensure the populations continue to thrive at least in area A.

24. This provision recognises that the outcome of the management practices proposed for Area B may well be destruction of the values, and this is apparently an acceptable outcome. This is completely inappropriate for any SIV, but particularly where vulnerable Threatened and At Risk species are concerned. There is no basis for allowing development of Area B. This provision is inconsistent with the objective of the Covenant, the objects of the CPLA, and even with the goals of the covenant. The goal applicable to Area B is protection of indigenous plant communities whilst providing for ongoing sustainable grazing (not

- development). This provision envisages development of Area B with the potential for the loss of the values.
25. Monitoring should be for the purpose of ensuring that the plant communities in both Area A and Area B continue to thrive with sheep grazing. Development activities that are recognised as having “unknown outcomes” should not be permitted, particularly where these are not existing activities.
  26. Clause 2.2 states that adaptive management can be applied to better meet the objects of the covenant. This suggests that adaptive management is proposed, where it is not. The owner is entitled, as of right, to carry out land use practices that are known to be adverse to the vulnerable plant communities and which are often irreversible (such as sowing exotic pasture seed). No staged development is proposed. The Minister can only amend the Management Prescription Document with the Owner’s agreement. Those factors mean that what is proposed cannot be described as adaptive management.
  27. Clause 5 states that sheep will be grazed on the land. This should be amended to provide that sheep will be grazed where the Minister permits it, and where monitoring demonstrates that grazing is shown to be maintaining the indigenous plant species present.
  28. Clause 6 provides for review of the Management Prescription Document and for changes to be made to better achieve the objective to preserve the values. Changes may only be by mutual agreement. That is insufficient to achieve the objective of the Covenant and the objects of the CPLA. For areas of identified SIVS, the statutory preference is return to full Crown ownership and control. If that route is not taken, the Minister should as a minimum be entitled to make changes to the Management Prescription Document without requiring the Owner’s agreement.

***Schedule 4 – Monitoring Programme description***

29. Clause 2.2 describes the monitoring proposal for vegetation. Monitoring is designed to ensure the management of Area A is appropriate, and detect changes in the vegetation communities in areas A and B over time. This reinforces the view that Area B is to be used as a trial site, which is not appropriate for an area subject to a protective covenant. This provision is inconsistent with the objective of the Covenant and the objects of the CPLA. The monitoring should be designed to ensure the management of both areas A and B is appropriate.
30. Similarly, the provisions of part 5 which describe the proposal to monitor and compare undeveloped Area A with developed Area B should be deleted and replaced with provisions which support the objective of the Covenant and the objects of the CPLA, that is, the protection of SIVs and the ecologically sustainable management of reviewable land.
31. Part 6 (monitoring results) says that the results will be used to inform agreed changes in management of the Land. It then provides that the Minister may decide on appropriate changes to the management of Area A. If it is intended that the Minister is able to make changes to Area A management without requiring the Owner’s consent, this is not clear. This should be made clear by a new Special Condition in Schedule 2, rather than in Schedule

4. Other provisions referring to changes being made by agreement should be made subject to the new provision.
  
32. The acknowledgement that the Owner's use of area B "may in time lead to greater invasion of exotic plants into ephemeral tarn habitat", and the terms of the Covenant which both envisage and permit that outcome, are inconsistent with the objective of the Covenant and the objects of the CPLA.