

Crown Pastoral Land Tenure Review

Lease name : OMARAMA

Lease number : PO 369

Due diligence report (including status report) - Pt 3

This report and attachments results from a pre tenure review assessment of the pastoral lease for the purpose of confirming land available for tenure review and any issues, rights or obligations attaching to it. The information is gathered from files and other sources available to the LINZ contractor.

Part of the information relates to research on the status of the land, resulting in a status report that is signed off by a LINZ approving officer. The remainder of the information is not analysed for relevancy or possible action until required, and LINZ does not guarantee its accuracy or completeness as presented.

The report attached is released under the Official Information Act 1982.

November 04



Department of Conservation
Te Papa Atawhai

CORRESPONDENCE NO.	7078
DATE RECEIVED	6/9
FILE REF	

PAS 145

04 September 2000

Mr D Gullen
Commissioner of Crown Lands
Land Information New Zealand
PO Box 5501
WELLINGTON

Dear Dave

OPEN SPACE COVENANT: OMARAMA STATION

Thank you for your fax dated 8 August 2000 and the copy of the QE II Open space covenants.

It is encouraging to see some progress on the 2 RAP's on Omarama Station being put under some form of protective regime, but we have a couple of comments on things that we see are missing or not properly addressed from a Conservation perspective.

1. The objectives are to protect native flora and fauna on land representative of high altitude tussock grassland and shrubland with particular reference to the representative vegetation associations, But according to p.8, no. 11.1 pastoral farming as it is currently carried out will continue under this covenant."

In high altitude tall tussock grasslands it is desirable to have no grazing. In order to maintain or enhance the value of tall tussock communities within areas primarily managed for conservation purposes - the management guideline is " no grazing".

11.2 continues on this theme - "the annual stocking rate shall be determined having regard to the ability of the ecosystems to sustain the grazing regime". It sounds as though the trust and the Station haven't made up their mind what the stocking rate will be yet. So, can they just make this statement, have the covenant agreed to by the Commissioner and then change it at will without consulting the Commissioner?

2. If grazing does go ahead as proposed - the covenant's policy on fencing (12) is that no further fencing is proposed unless monitoring indicates that a change in management is desirable or essential to achieve the objectives of the covenant. Yet all their proposal for monitoring says (see p. 11. No. 17), is there will be one fenced enclosure plot in each of the covenant blocks, and that monitoring using photographs taken from fixed points and descriptive information will be undertaken by the National Trust and the landholder and kept under review".

We don't believe this is sufficient to detect a change. Photo points can usually only detect gross changes in canopy cover - and that is dependent on the angle at which they are taken, plus descriptive information is just someone's subjective judgement of conditions at the time. What happens when someone totally different comes along 5/10/15 years later to assess that area - all they have to rely on are notes, and someone else's judgement can be quite different, let alone the

No. 5/12/61

OPEN SPACE COVENANT

(Pursuant to Section 22 of the Queen Elizabeth the Second National Trust Act 1977)
WHEREAS OMARAMA STATION LIMITED (as to a ¼ share) and **PETER CHARLES LEWIS GIBSON** of DUNEDIN, Solicitor, and **STEPHEN JOHN BROCKLEBANK** of DUNEDIN, Chartered Accountant (as to a ¾ share)

(hereinafter called "**the Covenantor**") is registered as proprietor of an estate as set out in the Schedule of Land hereto (hereinafter called "**the land**")

AND WHEREAS the **QUEEN ELIZABETH THE SECOND NATIONAL TRUST** established by the Queen Elizabeth the Second National Trust Act 1977 (hereinafter called "**the Trust**") is authorised by that Act to obtain open space covenants over any private land or any land under Crown Lease

AND WHEREAS the Covenantor has agreed to enter into an open space covenant with the Trust for the purpose set forth in the First Schedule hereto

NOW THEREFORE in consideration of the covenants and conditions hereinafter contained **THESE PRESENTS WITNESS** that in pursuance of the said agreement and by virtue of Section 22 of the Act the Covenantor and the Trust with the intent and so as to bind the land into whosoever hands the same may come **MUTUALLY COVENANT** at all times to observe and perform the respective duties and obligations imposed by the restrictions, stipulations and agreements contained in the Schedules hereto to the end and intent that the same shall bind the land in perpetuity or for the unexpired term thereof of the Covenantor's lease of the land and any renewal thereof as the case may be.

FIRST SCHEDULE

The Purpose of the within written open space covenant is to achieve the following open space objectives of the Covenantor and the Trust:

- a) To protect and maintain open space values of the land.
- b) To protect native flora and fauna on the land representative of high altitude tussock grassland and shrubland communities with particular reference to the representative vegetation associations.
- c) To protect and maintain landscape values of the land with particular regard to the distinctive mix of landforms, tussock grasslands and shrublands.
- d) To use the land for pastoral farming, in conformity with objectives (a) to (c) above, while requiring change in management when monitoring proves it necessary.

SECOND SCHEDULE

Interpretations, restrictions, stipulations and agreements

1. In the Deed unless the context otherwise requires:-
"Act" means the Queen Elizabeth the Second National Trust Act 1977.

"Board" means the Board of Directors of the Queen Elizabeth the Second National Trust.

"Covenantor" means either

- (a) the Lessee (Omarama Station Limited and Peter Charles Lewis Gibson and Stephen John Brocklebank) who entered into this covenant with the Trust with the consent of the Lessor (the Commissioner of Crown Lands) or any subsequent lessee, or
- (b) the Owner being the person or persons who from time to time are registered as the proprietor(s) of "the land" having acquired the fee simple interest in "the land".

"Trust Manager" means the person appointed under Section 18(1)(a) of the Act.

"the land" means the property or part thereof defined as subject to this covenant and as shown on the plan annexed to this Deed.

2. No act or thing shall be done or placed or permitted to be done or remain upon the land which in the opinion of the Board materially alters the actual appearance or condition of the land or is prejudicial to the land as an area of open space as defined in the Act. In particular, on and in respect of the land, except with the prior written consent of the Board, or as outlined in the Third Schedule and the approved management statement, the Owner shall not:
 - (a) Fell, remove, burn or take any native trees, shrubs or plants of any kind.
 - (b) Plant, sow or scatter any trees, shrubs or plants or the seed of any trees, shrubs or plants other than local native flora, or introduce any substance injurious to plant life except in the control of noxious plants.
 - (c) Mark, paint, deface, blast, move or remove any rock or stone or in any way disturb the ground.
 - (d) Construct, erect or allow to be erected, any new buildings or make exterior alterations to existing buildings.
 - (e) Erect, display or permit to be erected or displayed, any sign, notice, hoarding or advertising matter of any kind.
 - (f) Carry out any prospecting or exploration for, or mining or quarrying of any minerals, petroleum, or other substance or deposit.
 - (g) Dump, pile or otherwise store any rubbish or other materials, except in the course of maintenance or approved construction, provided however that after the completion of any such work all rubbish and materials not wanted for the time being are removed and the land left in a clean and tidy condition.
 - (h) Effect a subdivision as defined in the Resource Management Act 1991.
 - (i) Allow cattle, sheep, horses, or other livestock to enter, graze, feed or otherwise be present provided, however, that they may graze up to any approved fenceline on the perimeter of the land.
3. In considering any request by the Owner for an approval in terms of Clause 2 hereof, the Board will not unreasonably withhold its consent if it is satisfied that the proposed work is in accordance with the aim and purpose of the covenant as contained in the First Schedule.
4. Except with the prior written consent of the Board, no action shall be taken or thing done, either on the land or elsewhere, which will in any way cause deterioration in the natural flow, supply, quantity, or quality of any river, stream, lake, pond, marsh, or any other water resource affecting the land.

5. The Owner shall notify the Trust of any advice received from any power authority, mining company, or other body or person of the intention to erect utility transmission lines or carry out any prospecting, exploration, mining or quarrying on the land and shall not signify any concurrence in relation to the proposed work without the written permission of the Board.
- 6.(i) The Owner shall continue to comply with the provisions of the Agricultural Pests Destruction Act 1967 and the Biosecurity Act 1993 and all amendments thereto provided, however, that the Owner may request assistance from the Trust in carrying out the aforementioned responsibility.
- 6.(ii) That in keeping with the aims and purposes of this covenant the Owner shall continue to comply with the Wild Animal Control Act 1977 and shall take reasonable measures for the control of wild animals as defined in the Act.
7. The Owner shall keep all fences and gates on the boundary of the land in good order and condition and will accept responsibility for all repairs. Except as provided for in Clause 8 herein rebuilding or replacement of all such fences and gates will be the responsibility of the Owner.
8. The Trust shall repair and replace to its former condition any fence, gate or other improvement on the land which may have been damaged in the course of the Trust exercising any of the rights conferred by the covenant.
9. Subject to any conditions mutually agreed between the Trust and the Owner, members of the public shall have freedom of entry and access to the land with the prior permission of the Owner.
10. The Owner may approve the use of firearms and traps by any person or persons for the eradication of noxious animals on the land.
11. The Trust, through its officers, agents or servants, may at all times enter upon the land for the purpose of viewing the state and condition thereof. In exercising this right, any officer, agent or servant of the Trust will notify the Owner in advance.
12. Any consent, approval, authorisation or notice to be given by the Trust shall be sufficient if given in writing signed by the Trust Manager and delivered or sent by ordinary post to the last known residential or official address of the Owner or to the solicitor acting on behalf of the Owner.
13. The Owner or the Trust may at any time during the term of this covenant, by mutual agreement, carry out any works, improvements or take any action either jointly or individually or vary the terms of this covenant to ensure the more appropriate preservation of the land as an open space in terms of the Act provided, however, such agreement is not contrary to the aim and purpose of this covenant.
14. The Trust may revoke this covenant if all the members of the Board are satisfied that by reason of any change in the character of the land or of any other circumstances which the Board may deem sufficiently material, this covenant ought to be deemed obsolete, or that the continued existence thereof would impede the reasonable use of the land without securing any practical benefit consistent with the purpose of the Act.
15. Nothing in these presents hereinbefore contained shall be deemed to render the Covenantor personally liable for any breach of these covenants and conditions committed after the Covenantor shall have ceased to be the Owner.
16. The Owner shall notify the Trust of any change of ownership or control of all or any part of the land, and shall supply the Trust with the name and address of the new owner or lessee.
17. If at any time prior to registration hereof by the District Land Registrar the Owner desires to sell or otherwise dispose of all or any part of the land such sale or disposition shall be made expressly subject to the restrictions, stipulations and agreements contained in the Second Schedule hereto.

THIRD SCHEDULE

- a) To assist in achieving the aims and objectives of the covenant, a management statement will be prepared by the Covenantor and the Trust and reviewed from time to time with a copy of the management statement being held at the offices of the Trust.
- b) The Trust may and wherever practical provide the Covenantor from time to time, and at any time upon request by the Covenantor, such technical advice or assistance as may be necessary or desirable to assist in meeting the objectives set out in this Deed.
- c) If any question arises in the management of the land that is not clearly covered in the objectives or conditions of this Deed, then that question shall be resolved by the Trust after consultation with the Covenantor and if necessary the Commissioner of Crown Lands.

SCHEDULE OF LAND

Land Registry: Otago
Estate: Pastoral Lease of pastoral land under the Land Act 1948.

Area:

Lot & D.P. No.
(other legal description)

Certificate(s) of Title: 338/23

IN WITNESS WHEREOF this memorandum has been executed
this day of 19

The Common Seal of
OMARAMA STATION LIMITED
was hereto affixed
in the presence of

Richardell DIRECTOR

Signed by **PETER CHARLES LEWIS GIBSON**
in the presence of:

[Signature]

Witness: *[Signature]*

Occupation: _____

Address: LINDA VAN TURNHOUT
LEGAL EXECUTIVE
COOK ALLAN GIBSON
SOLICITORS
DUNEDIN

Signed by **STEPHEN JOHN BROCKLEBANK**
in the presence of:

[Signature]

Witness: *[Signature]*

Occupation: _____

Address: LINDA VAN TURNHOUT
LEGAL EXECUTIVE
COOK ALLAN GIBSON
SOLICITORS
DUNEDIN

THE COMMON SEAL of the QUEEN
ELIZABETH THE SECOND NATIONAL
TRUST was hereto affixed in the
presence of:

Chairman *[Signature]*

Director *[Signature]*

Trust Manager *[Signature]*



The COMMISSIONER of CROWN LANDS
hereby consent to the execution of the
within Open Space Covenant pursuant to
Section 22(3) of the Queen Elizabeth the
Second National Trust Act 1977.

Witness

Commissioner of Crown Lands

Occupation

Address

OPEN SPACE COVENANT

Pursuant to Section 22 of
the Queen Elizabeth the
Second National Trust
Act 1977.

Correct for the
purposes of the Land
Transfer Act.

OMARAMA STATION LIMITED
P C L GIBSON
S J BROCKLEBANK
Covenantor



Trust Manager
being a person authorised
by the Trust to certify on
its behalf.

AND

THE QUEEN ELIZABETH THE
SECOND NATIONAL TRUST