

Crown Pastoral Land Tenure Review

Lease name: Mt Potts

Lease number: PC 143

Substantive Proposal - Part 6

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

November 08

Appendix 6: Form of Easement to be Created

In Gross Easement: Public Access and Management Access - Version 6

DOCDM-205559 - Mt Potts - October 2007

TRANSFER GRANT OF EASEMENT IN GROSS

1. Public Access
2. Management Access

Land Transfer Act 1952

This page does not form part of the Transfer.

TRANSFER

Land Transfer Act 1952

If there is not enough space in any of the panels below, cross-reference to and use the approved Annexure Schedule: no other format will be received.

Land Registration District

Canterbury

Certificate of Title No.	All or Part?	Area and legal description – Insert only when part or Stratum, CT

Grantor Surnames must be underlined

COMMISSIONER OF CROWN LANDS, acting pursuant to section 80 of the Crown Pastoral Land Act 1998

Grantee Surnames must be underlined

HER MAJESTY THE QUEEN, acting by and through the Minister of Conservation

Estate or Interest or Easement to be created: *Insert e.g. Fee simple; Leasehold in Lease No:; Right of way etc.*

Public Access and Management Purposes Easement in Gross under section 12 of the Reserves Act 1977 (continued on pages 2, 3 and 4 of Annexure Schedule).

Consideration

The various considerations set out in a substantive proposal accepted under the Crown Pastoral Land Act 1998 on the day of

Operative Clause

For the above consideration (receipt of which is acknowledged) the GRANTOR TRANSFERS to the GRANTEE all the grantor's estate and interest in the land in the above Certificate(s) of Title and if an easement is described above such is granted or created.

Dated this day of

Attestation

Signed by acting under written delegation from the Commissioner of Crown Lands	Signed in my presence by the Grantor Signature of Witness	(continued on page 4 of Annexure Schedule)
	Witness to complete in BLOCK letters (unless typewritten or legibly stamped)	
Signature, or common seal of Grantor	Witness name	
	Occupation	
	Address	

Certified correct for the purposes of the Land Transfer Act 1952

Certified that Part IIA of the Land Settlement Promotion, and Land Acquisition Act 1952 does not apply
Certified that no conveyance duty is payable by virtue of Section 24(1) of the Stamp and Cheque Duties Act 1971.
(DELETE INAPPLICABLE CERTIFICATE)

Solicitor for the Grantee

Approved by Register-General of Land under No. 1995/5003
Annexure Schedule

Insert below
"Mortgage", "Transfer", "Lease", etc

[] Dated [] Page [] of [] Pages

Definitions

1. In this transfer unless the context otherwise requires:
 - 1.1 "Easement Area" means that part of the Servient Land being 10 metres wide which is marked "[]" on Deposited Plan/S.O. Plan No [].
 - 1.2 "Management Purposes" means:
 - the protection of a significant inherent value of the land managed by the Grantee; and/or
 - the ecological sustainable management of the land managed by the Grantee.
 - 1.3 "Servient Land" means the land owned by the Grantor and described on page 1.
 - 1.4 "Grantee" means Her Majesty the Queen acting by and through the Minister of Conservation and includes tenants, agents, invitees, contractors, licensees and employees of the Minister of Conservation and the Director-General of Conservation; and for the purposes of clause 2.1 only, includes any member of the public.
 - 1.5 "Grantor" means the owner of the Servient Land described on page 1 and includes the Grantor's tenants and invitees.

Standard Easement Terms

Access

2. The Grantee has the right in common with the Grantor:
 - 2.1 To pass and re-pass at any time over and along the Easement Area "a-b" on foot or by non-motorised vehicle powered by a person or persons.
 - 2.2 To pass and re-pass at any time over and along the Easement Area "a-b" on foot, or on or accompanied by horses, or by non-motorised vehicle, or by motor vehicle, with or without machinery and implements of any kind, for Management Purposes.
3. The Grantor must keep the Easement Area clear at all times of obstructions whether caused by parked vehicles, deposit of materials or unreasonable impediment to the use and enjoyment of the Easement Area, where such event or outcome is caused by or under the control of the Grantor.

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

Approved by Register-General of Land under No. 1995/5003
Annexure Schedule

Insert below
"Mortgage", "Transfer", "Lease", etc

Dated Page of Pages

Exclusion of Schedules

4. The rights and powers contained in Schedule 4 of the Land Transfer Regulations 2002 and the Ninth Schedule of the Property Law Act 1952 are expressly negated.

Term

5. The easement created by this transfer is to be in perpetuity.

Temporary Suspension

6. The Grantee may, at any time in exercise of her/his powers, temporarily close all or part of the Easement Area for such period as she/he considers necessary.

Dispute Resolution

- 7.1 If a dispute arises between the Grantor and Grantee concerning the rights, management and operation created by this transfer the parties are to enter into negotiations in good faith to resolve it.
- 7.2 If the dispute is not resolved within 14 days of written notice by one party to the other it is to be referred to mediation.
- 7.3 If the dispute is not resolved within 21 days or such other period as agreed to in writing between the parties after the appointment of the mediator, the parties must submit to the arbitration of an independent arbitrator appointed jointly by the parties or, if one cannot be agreed within 14 days, to an independent arbitrator appointed by the President for the time being of the District Law Society in which the Servient Land is situated.
- 7.4 The arbitration is to be determined in accordance with the Arbitration Act 1996 and its amendments or any enactment passed in substitution.

Notice

- 8.1 A notice to be given under this transfer by one party to the other is to be in writing and must:
- (a) be hand delivered to the receiving party; or
 - (b) be sent by ordinary post to the receiving party;
 - (c) be sent by facsimile to the receiving party.
- 8.2 If clause 8.1(b) applies the notice will be deemed to be received by the receiving party on such date on which the ordinary post would be delivered.
- 8.3 If clause 8.1(c) applies the notice will be deemed to have been received on the day on which it is dispatched or, if dispatched after 5.00pm, on the next day after the date of dispatch.

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

Approved by Register-General of Land under No. 1995/5003
Annexure Schedule

Insert below
"Mortgage", "Transfer", "Lease", etc

Dated

Page of Pages

Special Easement Terms

- 9. The standard easement terms contained above must be read subject to any special easement terms set out below.
- 10. The Grantee has the right:
 - 10.1 To mark the Easement Area as appropriate.
 - 10.2 To erect and maintain stiles and/or gates.
 - 10.3 To erect and maintain signs informing the public:
 - (a) of the location of the land managed by the Crown and available for public access and recreation; and
 - (b) of their rights and responsibilities in relation to the Easement Area.
 - 10.4 From time to time to modify the surface of the easement area so that it becomes and remains fit for the purpose of clauses 2.1 and 2.2
 - 10.5 To use whatever reasonable means of access he/she thinks fit over the Easement Area to carry out the works in clause 10.1 to 10.4.

Continuation of "Attestation"

Signed for and on behalf of _____)
 Her Majesty the Queen by _____)
 under a written delegation in the _____)
 presence of: _____)

Witness (Signature)

Name _____

Address _____

Occupation _____

Footnote: In substitution of the SO Plan (which has yet to be prepared), the proposed easement described in clause 1 is marked on the Plan.

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

Approved by Registrar-General
of Land under No. 1995/1004

TRANSFER GRANT OF EASEMENT IN GROSS

1. Public Access to Conservation Areas
2. Management Access

Land Transfer Act 1952

Law Firm Acting

Conservancy Solicitor
Department of Conservation
133 Victoria Street
Christchurch

Auckland District Law Society
REF:4135

This page is for Land Registry Office use only.
(except for "Law Firm Acting")

Appendix 7: Form of Covenant to be Created

DATED _____

Between

COMMISSIONER OF CROWN LANDS
Pursuant to Section 80 of the Crown Pastoral Land Act 1998

and

MINISTER OF CONSERVATION
("the Minister")

COVENANT UNDER RESERVES ACT 1977
FOR CROWN PASTORAL LAND ACT 1998 PURPOSES



Department of Conservation
Te Papa Atawhai

- "Party" or "Parties" means either the Minister or the Owner or both.
- "Values" means any or all of the Land's natural environment, landscape amenity, wildlife, freshwater life, marine life habitat or historic values as specified in Schedule 1.
- "Working Day" means the period between any one midnight and the next excluding Saturdays, Sundays, and statutory holidays in the place where the Land is located.

1.2 For avoidance of doubt:

- 1.2.1 the reference to any statute in this Covenant extends to and includes any amendment to or substitution of that statute;
- 1.2.2 clause and other headings are for ease of reference only and are not to be treated as forming any part of the context or to affect the interpretation of this Covenant;
- 1.2.3 words importing the singular number include the plural and vice versa;
- 1.2.4 expressions defined in clause 1.1 bear the defined meaning in the whole of this Covenant including the Background. Where the parties disagree over the interpretation of anything contained in this Covenant and in determining the issue, the parties must have regard to the matters contained in the Background;
- 1.2.5 any obligation not to do anything must be treated to include an obligation not to suffer, permit or cause the thing to be done;
- 1.2.6 words importing one gender include the other gender;
- 1.2.7 the agreements contained in this Covenant bind and benefit the parties and their administrators and executors, successors and assigns in perpetuity;
- 1.2.8 where clauses in this Covenant require further agreement between the parties such agreement must not be unreasonably withheld.

2. OBJECTIVE OF THE COVENANT

- 2.1 The Land must be managed so as to preserve the Values.

3. THE OWNER'S OBLIGATIONS

- 3.1 Unless agreed in writing by the parties, the Owner must not carry out or allow to be carried out on or in relation to the Land:
- 3.1.1 grazing of the Land by livestock other than cattle, sheep and goats;
- 3.1.2 subject to clauses 3.2.1 and 3.2.3, felling, removal or damage of any tree, shrub or other plant, with the exception of matagouri which can be chemically sprayed;
- 3.1.3 the planting of any species of tree, shrub or other plant;
- 3.1.4 the erection of any fence, building, structure or other improvement for any purpose, with the exception of a one off event for filming purposes where structures are erected on a temporary basis for the course of the event only and are removed completely at the end of the event and all land restored to its natural state;
- 3.1.5 any burning;
- 3.1.6 any cultivation, earth works or other soil disturbances;

- 3.1.7 any archaeological or other scientific research involving disturbance of the soil;
 - 3.1.8 the damming, diverting or taking of Natural Water;
 - 3.1.9 any action which will cause deterioration in the natural flow, supply, quantity, or quality of water of any stream, river, lake, pond, marsh, or any other water resource affecting the Land;
 - 3.1.10 any other activity which might have an adverse effect on the Values.
 - 3.1.11 any prospecting or mining for Minerals, coal or other deposit or moving or removal of rock of any kind on or under the Land;
 - 3.1.12 the erection of utility transmission lines across the Land.
- 3.2 The Owner must:
- 3.2.1 eradicate or control all weeds and pests on the Land to the extent required by any statute; and in particular comply with the provisions of, and any notices given under, the Biosecurity Act 1993;
 - 3.2.2 if it is safe to do so, assist the Fire Authority to extinguish any wildfire upon or threatening the Land;
 - 3.2.3 keep the Land free from exotic tree species;
 - 3.2.4 keep the Land free from rubbish or other unsightly or offensive material arising from the Owner's use of the Land;
 - 3.2.5 subject to consultation between the Owner and the Minister and observance of any reasonable conditions imposed by the Owner, grant to the Minister or authorised agent of the Minister or any employee of the Director-General, a right of access on to the Land, with or without motor vehicles, machinery, and implements of any kind, to examine and record the condition of the Land, or to carry out protection or maintenance work on the Land, or to ascertain whether the provisions of this Covenant are being observed;
 - 3.2.6 keep all Fences on the boundary of the Land in good order and condition and, notwithstanding clause 3.1.4, rebuild or replace all such Fences when reasonably required except as provided in clause 4.2.

4. THE MINISTER'S OBLIGATIONS

- 4.1 The Minister must have regard to the objective specified in clause 2.1 when considering any requests for approval under this Covenant.
- 4.2 The Minister must repair and replace to its former condition any Fence or other improvement on the Land or on its boundary which may have been damaged in the course of the Minister or any person referred to in clause 3.2.5 exercising any of the rights conferred by this Covenant.

5. IMPLEMENTATION OF OBJECTIVES

- 5.1 The Minister may;
 - 5.1.1 provide to the Owner technical advice or assistance as may be necessary or desirable to assist in meeting the objectives specified in clause 2.1;
 - 5.1.2 prepare, in consultation with the Owner, a joint plan for the management of the Land to implement the objective specified in clause 2.1.

6. DURATION OF COVENANT

- 6.1 This Covenant binds the Minister and Owner in perpetuity to the rights and obligations contained in it.

7. OBLIGATIONS ON SALE OF LAND

- 7.1 If the Owner sells, leases, or parts with possession of the Land, the Owner must ensure that the Owner obtains the agreement of the purchaser, lessee, or assignee to comply with the terms of this Covenant, including any agreement by the purchaser, lessee, or assignee to ensure that on any subsequent sale, lease, or assignment, any subsequent purchaser, lessee, or assignee must also comply with the terms of this Covenant including this clause.

8. MISCELLANEOUS MATTERS

8.1 Rights

- 8.1.1 The rights granted by this Covenant are expressly declared to be in the nature of a covenant.

8.2 Trespass Act:

- 8.2.1 Except as provided in this Covenant, the Covenant does not diminish or affect the rights of the Owner to exercise the Owner's rights under the Trespass Act 1980 or any other statute or generally at law or otherwise;

- 8.2.2 For avoidance of doubt these rights may be exercised by the Owner if the Owner reasonably considers that any person has breached the rights and/or restrictions of access conferred by this Covenant.

8.3 Reserves Act:

- 8.3.1 Subject to the terms and conditions set out in this Covenant, sections 93 to 105 of the Reserves Act 1977, as far as they are applicable and with the necessary modifications, apply to the Land as if the Land were a reserve.

8.4 Titles

- 8.4.1 This Covenant must be signed by the Commissioner of Crown Lands and the Minister and registered against the Certificate of Title to the Land.

8.5 Acceptance of Covenant

- 8.5.1 The parties agree to be bound by the provisions of this Covenant including during the period prior to the Covenant's registration.

8.6 Fire

- 8.6.1 The Owner must notify, as soon as practicable, the appropriate Fire Authority and the Minister in the event of wild fire threatening the Land;

- 8.6.2 If the Minister is not the appropriate Fire Authority for the Land, the Minister will render assistance to the Fire Authority in suppressing the fire if:

8.6.2.1 requested to do so; or

8.6.2.2 if there is in place between the Minister and the Fire Authority a formalised fire agreement under section 14 of the Forest and Rural Fires Act 1977.

9. NOTICES

- 9.1 A notice to be given under this Covenant by one party to the other is to be in writing and made by personal delivery, by pre-paid post, or by facsimile addressed to the receiving party at the address or facsimile number set out in Schedule 1.
- 9.2 A notice given in accordance with clause 9.1 will be deemed to have been received:
- (a) in the case of personal delivery, on the date of delivery;
 - (b) in the case of pre-paid post, on the third Working Day after posting;
 - (c) in the case of facsimile, on the day on which it is dispatched or, if dispatched after 5.00pm, on the next day after the date of dispatch.
- 9.3 The Owner must notify the Minister of any change of ownership or control of all or part of the Land and must supply the Minister with the name and address of the new owner or person in control.

10. DEFAULT

- 10.1 Where either the Minister or the Owner breaches any of the terms and conditions contained in this Covenant the other party:
- 10.1.1 may take such action as may be necessary to remedy the breach or prevent any further damage occurring as a result of the breach; and
 - 10.1.2 will also be entitled to recover from the party responsible for the breach as a debt due all reasonable costs (including solicitor/client costs) incurred by the other party as a result of remedying the breach or preventing the damage.
- 10.2 Should either the Minister or the Owner become of the reasonable view that the other party (the defaulting party) has defaulted in performance of or observance of its obligations under this Covenant then that party (notifying party) may, by written notice:
- 10.2.1 advise the defaulting party of the default.
 - 10.2.2 state the action reasonably required of the defaulting party to perform or observe in accordance with this Covenant; and
 - 10.2.3 state a reasonable period within which the defaulting party must take action to remedy the default.

11. DISPUTE RESOLUTION PROCESSES

- 11.1 If any dispute arises between the Minister and the Owner in connection with this Covenant, the parties must, without prejudice to any other rights they may have under this Covenant, attempt to resolve the dispute by negotiation or other informal dispute resolution technique agreed between the parties.
- 11.2 Mediation
- 11.2.1 if the dispute is not capable of resolution by agreement within 14 days of written notice by one party to the other (or such further period as the parties may agree to in writing) either party may refer the dispute to mediation with a mediator agreed between the parties;
 - 11.2.2 if the parties do not agree on a mediator, the President of the District Law Society in the region in which the Land is situated is to appoint the mediator.
- 11.3 Failure of Mediation
- 11.3.1 in the event that the dispute is not resolved by mediation within 2 months of the date of referral to mediation the parties agree that the provisions in the Arbitration Act 1996 will apply;

11.3.2 notwithstanding anything to the contrary in the Arbitration Act 1996, if the parties do not agree on the person to be appointed as arbitrator, the appointment is to be made by the President of the District Law Society in the region in which the Land is situated;

11.3.3 the parties further agree that the results of arbitration are to be binding upon the parties.

12. JOINT OBLIGATIONS

12.1 The Owner or the Minister may, by mutual agreement, carry out any work or activity or improvements or take any action either jointly or individually to better preserve the Values.

13. SPECIAL CONDITIONS

13.1 Special conditions relating to this Covenant are set out in Schedule 2.

13.2 The standard conditions contained in this Document must be read subject to any special conditions.

Executed as a Deed

Signed by Michael J Cuddihy acting under a delegation from the Commissioner of Crown Lands deemed pursuant to section 80(5) of the Crown Pastoral Land Act 1998 to be the Owner of the Land for the purposes of section 77 of the Reserves Act 1977 in the presence of :

Witness: _____

Address : _____

Occupation: _____

Signed by _____ exercising his/her powers under section 117 of the Reserves Act 1977 as designated Commissioner and acting for and on behalf of the Minister of Conservation in the presence of :

Witness: _____

Address : _____

Occupation: _____

SCHEDULE 1

1. Description of Land

Part of section 6 on S.O. Plan 18222 having an area of approximately 129 hectares labelled CC1 and shown outlined in yellow on the plan attached to the Substantive Proposal and herein referred to as "The Land"

2. Address for Service¹

The address for service (including facsimile number) of the Minister is:

Conservator
Department of Conservation
133 Victoria Street
Private Bag 4715
Christchurch
Ph: (03) 379 9758
Fax: (03) 365 1388

The address for service (including facsimile number) of the Owner is:

Mt Potts Station Limited
Hakaterere Potts Road
PO Box 12
Mt Somers
Ph (03) 303 9738
Fax:

2. Values of Land to be Protected

- Mt Sunday provides visual contrast and relief in the open floodplain, and itself contributes to the integrity of the Canterbury high country landscape.
- The visually-prominent Mt Sunday has high scenic and aesthetic values; values that have achieved international prominence as a location for filming of "Lord of the Rings".
- Parts of the area contain plant communities representative of the original vegetation of the area: wetland and shrubland.
- The area contains part of an area recommended for protection by the PNA Programme: Hakaterere PNA 21, Rangitata River.
- The area contains a moderately diverse range of plant communities, and high diversity within plant community types, especially wetland communities.
- The area has moderate naturalness values, with local areas of high naturalness.
- The area is part of the Upper Rangitata SSWI: ranked "outstanding" for wildlife.
- Rock outcrops in the area provide important habitat for common gecko "Southern Alps".

¹ State street address not Post Office Box number.

SCHEDULE 2

Special Conditions

1. Fencing

1.1. The Minister may, in consultation with the Owner, erect any new fences required to ensure the protection of the values of the land and adjoining Conservation Areas. The Minister will pay to the Owner a proportionate share of the following:

1.1.1. the cost of new Fences or the repair and maintenance of existing Fences on the Land if the Minister has first approved the work or activity;

1.1.2. the cost of any work or activity under clause 3.2 if the Minister has first approved the work .

1.2. The proportionate share payable by the Minister is to be calculated having regard to the purpose of the expenditure with the intent that:

1.2.1. the Minister will bear the cost of work essential for Conservation Purposes

1.2.2. the Owner will bear the cost of work essential for all other purposes.

1.2.3. when the expenditure is partly for Conservation Purposes and partly for other purposes, the parties will bear the costs equally or in such other proportion as they may agree, and failing agreement, as may be determined under clause 12.

1.3 The Tarns area of CC1 is to be subject to a monitoring Programme. The Minister shall design and undertake a monitoring programme:

(a) to ensure that the ecological integrity of the surrounding vegetation and the Tarns wetland area is maintained .

(b) to enable the monitoring of any grazing on the vegetation cover and conditions, faunal values and any other conservation values around the Tarns area of CC1.

The monitoring programme will be reviewed at 3 yearly intervals and if in the opinion of the Minister there is a deterioration in the condition and extent of the ecological condition the Minister reserves the right to fence around the Tarns wetland areas on CC1.

2. The Owner may graze 1080 stock units, being cattle, sheep or goats at any time of the year.

3. The Owner may topdress and sow seed except a 20metre margin around the tarns and Deep Creek.

4. The Owner must, subject to this clause, permit the public to enter upon the Land at all times

4.1. The Owner may:

4.1.1. Decline access to the Land for farm management purposes provided the matter has been the subject of prior discussion with, and agreement of, the area manager at Raukapuka Area Office.

4.1.2. Limit access to specified tracks;

4.1.3. Prohibit any person from bringing onto the Land any animal, gun, or vehicle.

5. The covenant is to allow for a stock water race to be established along the northern boundary of CC1. All earthworks and soil disturbance relating to the establishment of the water race, associated vehicle crossing and erection of a bridge across Deep Creek are allowed within the covenant area provided that all disturbances are kept to a minimum.

GRANT of

Correct for the purposes of the
Land Transfer Act 1952

CONSERVATION COVENANT UNDER
SECTION 77 OF THE
RESERVES ACT 1977 FOR
CROWN PASTORAL LAND ACT 1998 PURPOSES

Solicitor for the Minister

COMMISSIONER OF CROWN
LANDS

to

MINISTER OF CONSERVATION

Solicitor
Department of Conservation
DUNEDIN/CHRISTCHURCH

Execution Section.

This Proposal (including the schedules and appendices) is signed by the Commissioner and the Holder as a binding agreement.

SIGNED by the Commissioner of
Crown Lands pursuant to the
Crown Pastoral Land Act 1998 in
the presence of:

Witness

Occupation

Address

SIGNED for and on behalf of Mt
Potts Station Limited by two
of its directors:

[name of director]

[name of director]

Execution Section

This Proposal (including the schedules and appendices) is signed by the Commissioner and the Holder as a binding agreement.

SIGNED by the **Commissioner of Crown Lands** pursuant to the Crown Pastoral Land Act 1998 in the presence of:



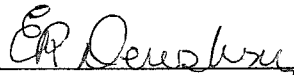
Witness

Simon Mark Espie
Solicitor
Wellington

Occupation

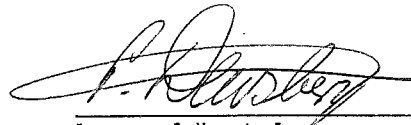
Address

SIGNED for and on behalf of Mt Potts Station Limited by two of its directors:



[name of director]

Elizabeth Alice Dewchery



[name of director]

Paul Frederic Gordon Dewchery