

## **Crown Pastoral Land Tenure Review**

**Lease name : BLUE MOUNTAIN**

**Lease number : PT 031**

### **Preliminary Proposal**

A Preliminary Proposal is advertised for public submissions as per Section 43 of the Crown Pastoral Land Act 1998.

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

**PROPOSAL FOR REVIEW OF CROWN LAND**  
**Under Part 2 of the Crown Pastoral Land Act 1998**

**Date:**

**Parties**

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**Holder:** Blue Mountain Station Limited  
Croys Limited  
161 Burnett Street  
**ASHURTON 7700**

**Commissioner of Crown Lands:** C/- The Manager for Tenure Review

Darroch Limited  
Broadway Building  
62 Riccarton Road  
PO Box 142  
**CHRISTCHURCH 8140**

**The Land**

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**Lease:** Blue Mountain  
**Legal Description:** Run 5  
**Area:** 9,435.2457 hectares  
**Certificate of Title/Unique Identifier:** CB529/35 (Canterbury Registry)

**Summary of Designations**

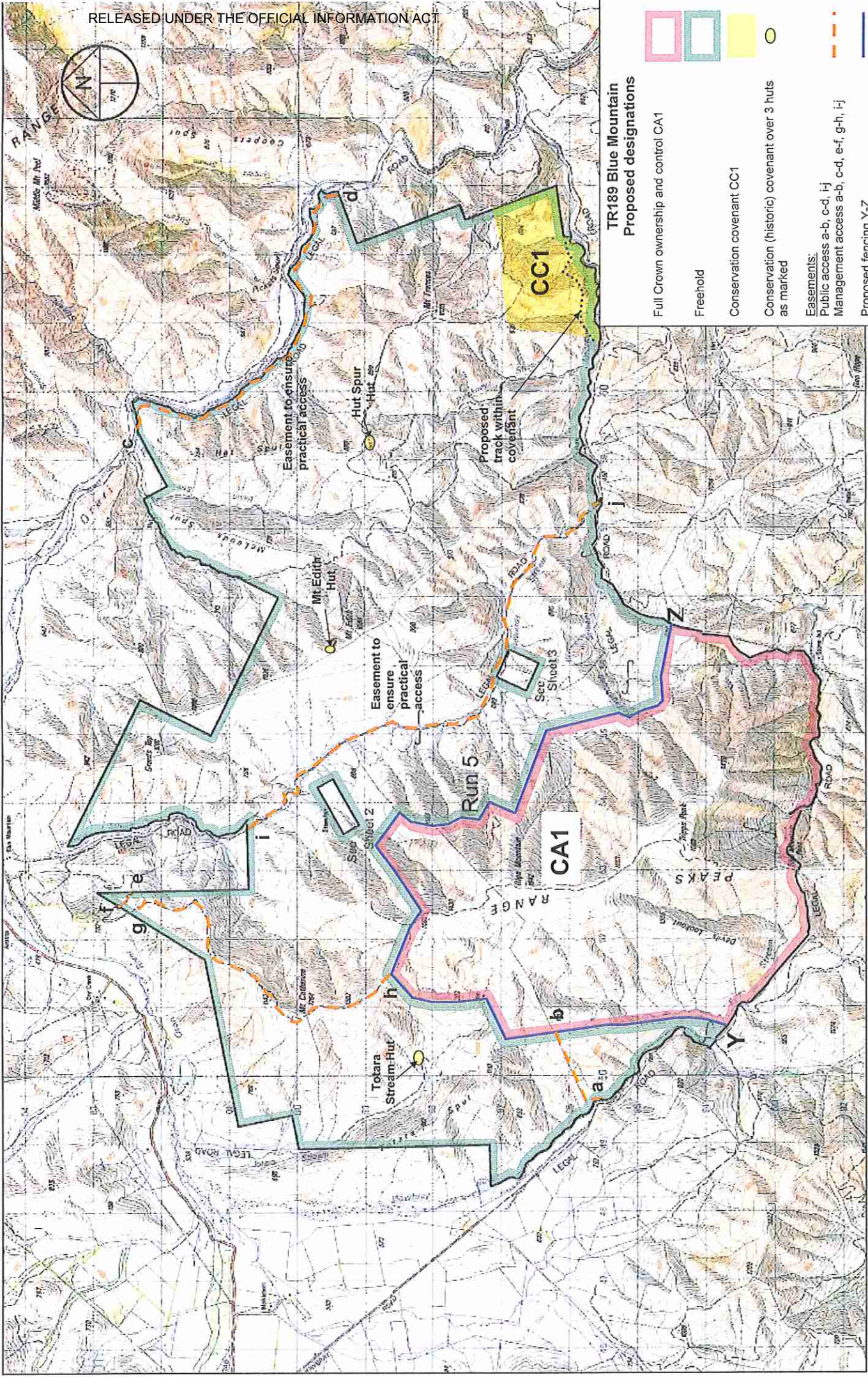
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Under this Proposal, the Land is designated as follows:

- (a) The Crown Land (shown edged in pink on the Plan) is to be restored to, or retained by, the Crown as set out in Schedules One; and
- (b) The Freehold Land (shown edged in green on the Plan) is to be disposed by freehold disposal to the Holder as set out in Schedule Three.

**1      The Plan**

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**TR189 Blue Mountain  
Proposed designations**

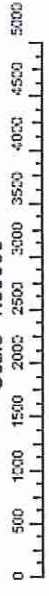
- Full Crown ownership and control CA1
- Freehold
- Conservation covenant CC1
- Conservation (historic) covenant over 3 huts as marked

- Easements:**  
 Public access a-b, c-d, i, j  
 Management access a-b, c-d, e-f, g-h, i, j  
 Proposed fencing Y-Z

The boundaries on this plan are for illustrative purposes in showing the recommended designations.

**Blue Mountain**

Scale 1:50000



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**2 Conditions**

- 2.1 This Proposal, and any agreement arising therefrom, is subject to the conditions contained in Schedule Four (if any).

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**3 Settlement**

- 3.1 Unless otherwise agreed by the parties, the Settlement Date for the disposal of the Freehold Land to the Holder by freehold disposal will be the day that is TEN (10) working days following the day on which Land Information New Zealand notifies the Commissioner that the Final Plan and a copy of this Proposal are registered in accordance with the Act.

- 3.2 The Freehold Land will be disposed of to the Holder under the Land Act 1948.

- 3.3 Notwithstanding anything to the contrary, if, as at the Settlement Date (as determined pursuant to clause 3.1), the rent payable under the Lease is subject to a Rent Review, then the Commissioner may elect to:

(a) settle on the Settlement Date on the basis that the Commissioner may retain from the Commissioner's Payment an amount which the Commissioner, acting reasonably, estimates will be payable by the Holder to the Commissioner following agreement or determination of the Rent Review ("the Retention"). The Retention shall be held by the Crown Law Office in an on-call, interest-bearing trust account in the joint names of the parties for their respective rights and interests. Upon agreement or determination of the Rent Review, the Commissioner shall calculate the rent shortfall payable by the Holder to the Commissioner in respect of the period from the effective date of the Rent Review to the Settlement Date, both dates inclusive ("the Shortfall"). If:

(i) the Shortfall is less than the Retention and the net interest earned thereon, the balance shall be paid by the Commissioner to the Holder within TEN (10) working days; or

(ii) the Shortfall is more than the Retention and the net interest earned thereon, the balance shall be paid by the Holder to the Commissioner within TEN (10) working days;

or

(b) defer the Settlement Date until TEN (10) working days after the rent payable as a consequence of the Rent Review:

(i) has been agreed or determined; and

(ii) is not and will not be subject to any appeal, rehearing or other proceedings.

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**4 Holder's Payment**

- 4.1 By 3.00 p.m. on the Settlement Date, the Holder must pay the Holder's Payment and all other money payable to the Commissioner or the duly appointed agent of the Commissioner by bank cheque without set-off or deduction of any kind in accordance with the settlement requirements of the Commissioner.

- 4.2 If the Holder fails to pay the Holder's Payment or any part of it or any other money to the Commissioner or to the duly appointed agent of the Commissioner on the Settlement Date clause 19 will apply.

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**5 Commissioner's Payment**

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- 5.1 The Commissioner shall pay the Commissioner's Payment to the Holder on the Settlement Date.
- 5.2 No interest shall be payable to the Holder by the Commissioner in respect of the Commissioner's Payment, including (without limitation) for the period from the Vesting Date to the Settlement Date.

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**6 Vesting of Crown Land**

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- 6.1 The Crown Land will vest in the Crown on the Vesting Date.

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**7 Issue of Certificate of Title**

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- 7.1 Notwithstanding any other provision in this Proposal, the Commissioner will not request that the Surveyor-General issue a certificate to the Registrar pursuant to section 116 of the Land Act 1948 (to enable a certificate of title to issue for the Freehold Land) unless and until:
- (a) the Commissioner has received the Holder's Payment from the Holder under clause 4, and all other money payable by the Holder under this Proposal and the Notice;
  - (b) the Holder has provided to the Commissioner duplicate copies of the certificate of title relating to the Lease (if any) and/or the Lease if requested by the Commissioner;
  - (c) the Holder has signed and returned to the Commissioner all documents required by the Commissioner to be signed by the Holder to give effect to this Proposal (including, without limitation, any permit, covenant, easement and/or any other document); and
  - (d) the Holder has procured a registrable discharge of any Mortgage and provided this to the Commissioner together with any new mortgage documents to be registered against the Freehold Land.

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**8 Registration of Documents**

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- 8.1 Subject to clause 7, the Commissioner will lodge all documents necessary to give effect to this Proposal (including, without limitation any easement, covenant, discharge of mortgage, and/or duplicate copy of the Lease) and any new mortgage documents to be registered against the certificate of title to be issued for the Freehold Land so that the certificate of title for the Freehold Land will issue subject to the encumbrances provided in this Proposal. Any new mortgage will be registered after any other encumbrances such as any easements and/or covenants are registered.

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**9 Consents**

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- 9.1 The Holder must obtain the written consent to the Holder's acceptance of this Proposal from all persons having an interest in the Land (other than the Holder), including, but not limited to:
- (a) any Mortgagee(s);
  - (b) any party entitled to the benefit of a land improvement agreement registered against the Lease and/or the Land; and
  - (c) any other person that the Commissioner reasonably believes has an interest in the Land or who the Holder reasonably believes has an interest in the Land, whether registered or not.
- 9.2 The consents required under clause 9.1 must be in a form acceptable to the Commissioner in all respects and be returned to the Commissioner with this Proposal on its acceptance by the Holder. Examples of the form of consents required under clause 9.1 are set out in Appendix 1.
- 9.3 The Holder must also obtain, and provide to the Commissioner if requested, all consents necessary for the Holder to accept this Proposal including (without limitation) any:
- (a) corporate and/or trustee consents; and

- (b) consent required under the Overseas Investment Act 2005 and the Overseas Investment Regulations 2005.

- 9.4 The Holder will procure the Mortgagee to execute a registrable discharge of the Mortgage and, if required by the Mortgagee, the Holder will execute registrable new mortgage documents and forward these to the Commissioner to be registered as set out in clause 8.
- 9.5 If required by the Mortgagee, the Commissioner will provide an undertaking that, subject to the provisions of clause 7 being satisfied, the Commissioner will register the discharge of the Mortgage and register any new mortgage against the certificate of title for Freehold Land at the same time as the certificate of title for the Freehold Land issues.

## **10 Continuation of Lease**

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- 10.1 The Lease will remain in full force and effect until a certificate of title issues for the Freehold Land. Notwithstanding when Settlement Date occurs, until a certificate of title issues for the Freehold Land the Holder will duly and punctually comply with all obligations on its part under the Lease (other than as set out at clause 12.1 (b)) and the Lease will remain in full force and effect.
- 10.2 From the date that a certificate of title is issued for the Freehold Land the Lease is deemed to be surrendered and, subject to clause 10.3, the Commissioner releases and discharges the Holder from the performance and observance of all covenants, conditions and obligations under the Lease.
- 10.3 The release and discharge in clause 10.2:
  - (a) is without prejudice to the rights, remedies and powers of the Commissioner contained in the Lease (except as varied in accordance with clause 12.1(b)); and
  - (b) will not release or discharge the Holder from any liability under the Lease, arising prior to the date that the certificate of title for the Freehold Land is issued, under any statute or by any reason where such liability is due to the fault of the Holder.
- 10.4 As from the Vesting Date, the Holder will not have any estate, right or claim against any of the land, improvements, fencing, buildings, structures, fixtures, fittings or chattels on the Crown Land (subject to the provisions of any permit, easement, concession, other encumbrance or document provided under this Proposal). The Holder will not be entitled to any compensation for any of its improvements, fencing, buildings, structures, fixtures, fittings or chattels which are on the Crown Land as at the Vesting Date.

## **11 Fencing and Construction Works**

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- 11.1 If the Holder has accepted this Proposal and that acceptance has taken effect pursuant to the Act, the Commissioner will, subject to clauses 11.2 and 14.4, erect at the Commissioner's cost new fencing:
  - (a) approximately along the line marked "New Fencing Line" on the Plan; and
  - (b) to the specifications in Appendix 3;("the Fencing").
- 11.2 If the Fencing requires a resource consent or any other consent from any local or territorial authority ("the Fencing Consent"), the following provisions shall apply:
  - (a) The Commissioner shall use reasonable endeavours to obtain the Fencing Consent within 6 months of this Proposal taking effect pursuant to the Act.
  - (b) If the Fencing Consent:
    - (i) is not obtained within 6 months of this Proposal taking effect pursuant to the Act; and/or

- (ii) is obtained on terms which are not satisfactory to the Commissioner in all respects;  
the Commissioner may, acting reasonably, elect to do any one or more of the following:
  - (iii) erect the Fencing in a position different from that shown on the Plan;
  - (iv) erect the Fencing over a shorter distance than that shown on the Plan; or
  - (v) erect the Fencing to specifications different from those in Appendix 3.
- 11.3 If the Commissioner has not completed the Fencing by the Settlement Date, the Holder agrees that the Commissioner may register a covenant, on terms entirely satisfactory to the Commissioner (in the Commissioner's sole discretion), over the Freehold Land to enable the Commissioner to complete the Fencing. The Holder will do all things necessary (including signing any document) to enable the Commissioner to register such a covenant.
- 11.4 The ongoing maintenance of the Fencing referred to in clauses 11.1 and 11.2 will be subject to the terms of the Fencing Act 1978.
- 11.5 If the Holder has accepted this Proposal and that acceptance has taken effect pursuant to the Act, [the Commissioner] [the Holder] [both parties] will, subject to clause 11.6, undertake the construction works set out in Appendix 3 on the terms and conditions set out in Appendix 3 ("the Construction Works").
- 11.6 If any Construction Works for which the Commissioner is liable, or jointly liable with the Holder, require a resource consent or any other consent from any local or territorial authority ("the Works Consent"), the following provisions shall apply:
- (a) The Commissioner shall use reasonable endeavours to obtain the Works Consent within 6 months of this Proposal taking effect pursuant to the Act.
  - (b) If the Works Consent:
    - (i) is not obtained within 6 months of this Proposal taking effect pursuant to the Act; and/or
    - (ii) is obtained on terms which are not satisfactory to the Commissioner in all respects;the Commissioner may, acting reasonably, elect to vary the extent of the Construction Works in question and/or the terms and conditions upon which they are carried out.

## **12 Apportionments**

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- 12.1 Rent payable under the Lease in respect of the Freehold Land shall be apportioned as follows:
- (a) Rent paid or payable will be apportioned on the Settlement Date as at the Settlement Date and either deducted from or added to (as the case may be) the amount required to settle.
  - (b) Notwithstanding that the Lease continues in effect until a certificate of title issues for the Freehold Land, the Holder shall not be required to pay any rent under the Lease for the Freehold Land from the Settlement Date.
- 12.2 Rent paid or payable under the Lease for the Crown Land will be apportioned on the Settlement Date as at the Vesting Date and either deducted from or added to (as the case may be) the amount required to settle.
- 12.3 All rates, levies, and all other incomings and outgoings and other charges receivable from or charged upon the Freehold Land will, unless otherwise agreed by the parties, be apportioned on the Settlement Date as at the Settlement Date.



- 12.4 All rates, levies and all other incomings and outgoings and other charges receivable from or charged upon the Crown Land will be apportioned on the Settlement Date as at the Vesting Date and either deducted from or added to (as the case may be) the amount required to settle.
- 12.5 Following the date that a certificate of title issues for the Freehold Land, the Commissioner will undertake a final apportionment and either the Commissioner will pay to the Holder, or the Holder will pay to the Commissioner, any additional amounts due because of any payments made or received by one party on behalf of the other for the period from the Settlement Date to the date on which a new certificate of title issues for the Freehold Land.

### **13 Risk**

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- 13.1 On and with effect from the Unconditional Date all risk of any nature in respect of the Freehold Land will pass from the Commissioner to the Holder. For the avoidance of doubt, the Holder's current risk in respect of matters arising under the Lease, including, without limitation, the Holder's risk in respect of all improvements, buildings, fencing, fixtures, fittings and chattels, will continue to remain with the Holder until the Lease is deemed to be surrendered under clause 10.2.
- 13.2 The Holder will be required to comply with its settlement obligations under this Proposal irrespective of any damage to, or destruction of, the Freehold Land prior to the Settlement Date.

### **14 Survey**

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- 14.1 All areas of the Land forming part of this Proposal and delineated on the Plan are approximate and subject to preparation of the Final Plan. The measurements of the areas may therefore alter on the Final Plan.
- 14.2 No error, misdescription or amendment of any part of the Land will annul, vary, or derogate from this Proposal, or the Holder's acceptance of this Proposal.
- 14.3 For the avoidance of doubt, the Holder will not be entitled to cancel or withdraw its acceptance of this Proposal, nor will the Holder, or any successor in title of the Holder or any party with an interest in the Land, be entitled to payment of any compensation, should any area of the Land on the Final Plan have a different measurement to the area specified in this Proposal.
- 14.4 The Commissioner does not warrant that any existing fence is erected on, or that any new fence to be erected will be on, any boundaries of the Land or any part of the Land as outlined on the Plan or the Final Plan.

### **15 Holder's Acknowledgements**

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- 15.1 If the Holder accepts this Proposal and that acceptance takes effect under the Act, the Holder acknowledges that:
- (a) it is obtaining the freehold interest in the Freehold Land:
    - (i) "as is", solely in reliance on its own investigations and judgement; and
    - (ii) not in reliance on any representation or warranty made by the Commissioner, its employees, agents or any other person or persons directly or indirectly associated with the Commissioner;
  - (b) the Holder has carried out all inspections of the Freehold Land which the Holder considers necessary to satisfy itself as to all matters relating to the Freehold Land;
  - (c) the Holder, at its cost, is entirely responsible for all work to ensure that the Freehold Land complies with all applicable laws including (without limitation):
    - (i) the Resource Management Act 1991 and the Resource Management Amendment Act 2005; and
    - (ii) any rule in any plan, resource consent or other requirement issued under the Resource Management Act 1991, and
    - (iii) the Building Act 2004 and the Building Amendment Act 2009; and

the Holder hereby indemnifies and will indemnify the Commissioner against all losses, damages and expenses incurred by the Commissioner and against all claims made against the Commissioner in respect of any work or costs for which the Holder is liable under this clause 15;

- (d) nothing in this Proposal is affected by, and the Commissioner has no liability of any nature in respect of, the existence or terms of any leases, licences or other occupation rights of any nature (if any) granted by the Holder in respect of the Land; and
- (e) the Holder has no claim (and will not have any claim) whatsoever against the Crown and/or Commissioner in relation to the Tenure Review and/or this Proposal, including (without limitation) any claim for any misrepresentation or for any loss or damage suffered whether in contract, tort (including negligence) or otherwise.

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## **16 No Representations or Warranties by the Commissioner**

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- 16.1 The Commissioner gives no representations or warranties of any nature in respect of the Freehold Land. Without limitation, the Commissioner does not warrant:
- (a) the accuracy of any matter in the Notice or this Proposal or in any notice, or any correspondence or other information provided to the Holder by the Commissioner or by any agent, contractor or employee of the Commissioner; or
  - (b) that the Freehold Land is or will remain suitable for the Holder's use; or
  - (c) that the Freehold Land complies with all or any statutory, territorial authority or any other legal requirements affecting or relevant to the Freehold Land.

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## **17 Acceptance**

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- 17.1 The Holder's acceptance of this Proposal is irrevocable and constitutes a binding agreement between the Commissioner and the Holder.
- 17.2 If the Commissioner does not receive an acceptance to this Proposal from the Holder within three (3) months of putting it (in its substantive form) to the Holder, the Holder is deemed to have rejected this Proposal.

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## **18 Solicitors Certificate**

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- 18.1 The Holder must procure the Holder's solicitors to provide the Commissioner with a solicitor's certificate (in a form satisfactory to the Commissioner, in its reasonable opinion) relating to such matters as the Holder's execution of this Proposal and the Holder's execution of any documents required to give effect to this Proposal (including, without limitation any easement, protective mechanism and/or concession). An example of the form of solicitors certificate required is set out at Appendix 2.
- 18.2 The Holder must return the completed solicitor's certificate to the Commissioner with this Proposal on its acceptance by the Holder.

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## **19 Default**

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- 19.1 If from any cause whatever (except the default of the Commissioner) all or any part of the Holder's Payment or any other money payable by the Holder to the Commissioner is not paid on the due date the Holder will pay to the Commissioner interest at the Default Rate on the part of the Holder's Payment or any other money payable by the Holder to the Commissioner so unpaid from the due date until the date of actual payment in full.
- 19.2 The Commissioner's rights under this clause 19 are without prejudice to any other rights or remedies available to the Commissioner at law or in equity.

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## **20 Goods and Services Tax**

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- 20.1 Unless the context otherwise requires, words and phrases used in this clause have the same meaning as in the GST Act.

- 20.2 If the supplies evidenced by the Holder's Consideration and the Commissioner's Consideration are taxable supplies under the GST Act, then:
- (a) the Commissioner and the Holder warrant to each other that they are registered for GST purposes as at the Holder's acceptance of this Proposal and that they will be so registered on the Settlement Date;
  - (b) the Commissioner and the Holder confirm that as at the Settlement Date:
    - (i) each is acquiring the goods supplied with the intention of using the goods for making taxable supplies; and
    - (ii) the Commissioner and any associated person in terms of section 2A(1)(c) of the GST Act do not intend to use the Crown Land and the Holder and any associated person in terms of section 2A(1)(c) of the GST Act do not intend to use the Freehold Land as a principal place of residence; and
  - (c) the Commissioner and the Holder agree that the supplies evidenced by the Holder's Consideration and the Commissioner's Consideration are to be zero-rated for GST purposes under section 11(1)(mb) of the GST Act.
- 20.3 If any of the circumstances set out in clause 20.2 change between the date of the Holder's acceptance of this Proposal and the Settlement Date, then the relevant party will notify the other of the changed circumstances as soon as practicable and in any event not later than 2 working days before the Settlement Date and such party shall warrant that the changed circumstances are correct as at the Settlement Date. If the GST treatment of the supplies evidenced by the Holder's Consideration and the Commissioner's Consideration changes as a result of the changed circumstances and a party has already provided the other with a GST invoice, then that party will issue a debit note or credit note, as the case may be, for GST purposes.
- 20.4 On the 10<sup>th</sup> working day following the Unconditional Date, the Commissioner will provide to the Holder a GST invoice in respect of the supply evidenced by the Holder's Consideration. The invoice will specify the Commissioner's GST Date.
- 20.5 The Holder will pay GST (if any) on the Holder's Consideration to the Commissioner by bank cheque on the Commissioner's GST Date, time being of the essence.
- 20.6 On the 10<sup>th</sup> working day following the Unconditional Date, the Holder will provide to the Commissioner a GST invoice in respect of the supply evidenced by the Commissioner's Consideration.
- 20.7 The Commissioner will pay GST (if any) on the Commissioner's Consideration to the Holder on the Commissioner's GST Date, time being of the essence.
- 20.8 Where any GST is not paid to the Commissioner or to the Holder (as the case may be) in accordance with this clause 20, the Holder will pay to the Commissioner, or the Commissioner will pay to the Holder (as the case may be), upon demand and together with the unpaid GST:
- (a) interest, at the Default Rate, on the amount of the unpaid GST and which will accrue from the Commissioner's GST Date until the date of payment of the unpaid GST; and
  - (b) any Default GST.

## **21 Lowest price**

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- 21.1 The Holder's Consideration does not include any capitalised interest and the parties agree that the "lowest price" for the purposes of valuing the Freehold Land under section EW 32(3) of the Income Tax Act 2007 is equal to the Holder's Consideration.
- 21.2 The Commissioner's Consideration does not include any capitalised interest and the parties agree that the "lowest price" for the purposes of valuing the Crown Land under section EW 32(3) of the Income Tax Act 2007 is equal to the Commissioner's Consideration.

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**22 Costs**

- 22.1 The Commissioner will meet the costs of the survey (if any) of the Land, including all designation areas, the Final Plan and for a certificate of title to issue for the Freehold Land.
- 22.2 The Holder is responsible for all costs the Holder incurs in respect of and incidental to the Tenure Review. In particular, but without limitation, the Holder shall bear all its costs in relation to the review of all documentation forming part of the Tenure Review (including this Proposal), and all professional advice provided to or sought by the Holder.

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**23 No nomination or assignment**

- 23.1 The Holder is not entitled to, and is expressly prohibited from, nominating another person to perform the Holder's obligations under this Proposal or assigning to another person the Holder's interest (or any part) under this Proposal.

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**24 Recreation Permit**

- 24.1 Immediately on the registration of the Final Plan and a copy of the proposal to which it relates over the Land and pursuant to s64 of the Act, any recreation permit granted over the Land shall be determined.

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**25 Consents for Activities**

- 25.1 If the Holder has been granted a consent by the Commissioner to do an activity on the land under sections 15 or 16 of the Act, and the area over which the consent is exercised is designated in the proposal as Crown Land then the Holder agrees to act in good faith whilst exercising the terms of consent and not damage or destroy the Crown Land or anything thereon.

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**26 General**

- 26.1 This Proposal and the Notice:
- (a) constitute the entire understanding and agreement between the Commissioner, the Crown and the Holder in relation to the Tenure Review; and
  - (b) supersede and extinguish all prior agreements and understandings between the Crown, the Commissioner and the Holder relating to the Tenure Review.
- 26.2 Each provision of this Proposal will continue in full force and effect to the extent that it is not fully performed at the Settlement Date.
- 26.3 The Holder must comply with the Commissioner's requirements for the implementation and settlement of the Tenure Review contemplated by this Proposal.
- 26.4 The Commissioner and the Holder will sign and execute all deeds, agreements, schedules and other documents and do all acts and things as may be reasonably required by the other to effectively carry out and give effect to the terms and intentions of this Proposal.
- 26.5 This Proposal is governed by, and must be construed under, the laws of New Zealand and the Commissioner and the Holder irrevocably submit to the jurisdiction of the New Zealand courts or other New Zealand system of dispute resolution.
- 26.6 The illegality, invalidity or unenforceability of any provision in this Proposal will not affect the legality, validity or enforceability of any other provision.
- 26.7 In relation to notices and other communications under this Proposal:
- (a) each notice or other communication is to be in writing, and sent by facsimile, personal delivery or by post to the addressee at the facsimile number or address, and marked for the attention of the person or office holder (if any), from time to time designated for that purpose by the addressee to the other party. Other than the address to which the Holder is to send its acceptance of this Proposal (which the Commissioner will

specifically notify the Holder of) the address, person or office holder (if any) for each party is shown on the front page of this Proposal;

- (b) no communication is to be effective until received. A communication will be deemed to be received by the addressee:
- (i) in the case of a facsimile, on the working day on which it is despatched or, if despatched after 5.00 p.m. on a working day or, if despatched on a non-working day, on the next working day after the date of dispatch;
  - (ii) in the case of personal delivery (including, but not limited to, courier by a duly authorised agent of the person sending the communication), on the working day on which it is delivered, or if delivery is not made on a working day, on the next working day after the date of delivery; and
  - (iii) in the case of a letter, on the fifth working day after mailing (postage paid).

## **27 Interpretation**

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### **27.1 Definitions**

In this Proposal unless the context otherwise requires:

**Act** means the Crown Pastoral Land Act 1998;

**Commissioner** means the Commissioner of Crown Lands appointed under section 24AA of the Land Act 1948;

**Commissioner's Consideration** means the amount payable by the Commissioner to the Holder by equality of exchange for the surrender of the leasehold interest in the Lease in relation to the Crown Land, as specified in the Notice;

**Commissioner's GST Date** means the earlier of Settlement Date or the fifth working day before the day on which the Commissioner is due to pay to the Inland Revenue Department all GST payable by the Commissioner in respect of the supply made under this Proposal;

**Commissioner's Payment** means the balance of the Commissioner's Consideration payable by the Commissioner to the Holder by equality of exchange for the Crown Land, as specified in the Notice (if any);

**Crown Land** means the land (including any improvements) set out in Schedule One and the land (including any improvements) set out in Schedule Two (if any);

**Default GST** means any additional GST, penalty or other sum levied against either the Commissioner or the Holder under the Goods and Services Tax Act 1985 or the Tax Administration Act 1994 by reason of either the Commissioner or the Holder failing to pay GST as required by this Proposal. It does not include any sum levied against the Commissioner or the Holder by reason of a default by the Commissioner after payment of GST to the Commissioner by the Holder or by reason of a default by the Holder after payment of GST to the Holder by the Commissioner;

**Default Rate** means the rate of 11 per cent per annum;

**Fencing** means any stock proof farm fence.

**Fencing Consent** means any and all consents required for fencing under the Resource Management Act 1991.

**Final Plan** means the final plan for the Land prepared and submitted by the Commissioner to the Surveyor-General under sections 62(4)(c) and (d) of the Act;

**Freehold Land** means the land set out in Schedule Three;

**GST** means all goods and services tax payable by the Commissioner or the Holder under the Goods and Services Tax Act 1985 in respect of their respective supplies evidenced by this Proposal;

**GST Act** means the Goods and Services Tax Act 1985;

**Holder** means holder shown on the front page of this Proposal (being the lessee under the Lease);

**Holder's Consideration** means the amount payable by the Holder to the Commissioner by equality of exchange for the freehold of the Freehold Land, as specified in the Notice;

**Holder's Payment** means the balance of the Holder's Consideration payable by the Holder to the Commissioner by equality of exchange for the freehold of the Freehold Land, as specified in the Notice (if any);

**Land** means the land subject to the Tenure Review identified on the front page of this Proposal;

**Lease** means the lease described on the front page of this Proposal;

**Mortgage** means any mortgage (registered or unregistered) over the Land;

**Mortgagee** means the holder of any Mortgage;

**Notice** means the notice to the Holder setting out:

- (a) the Holder's Consideration;
- (b) the Commissioner's Consideration; and
- (c) the Holder's Payment or the Commissioner's Payment (as the case may be);

which includes amounts proposed to be paid by way of equality of exchange and accompanies this Proposal, but is not part of this Proposal;

**Plan** means the plan of the Land showing all designations on page 2 of this Proposal;

**Registrar** means the Registrar-General of Lands appointed pursuant to section 4 of the Land Transfer Act 1952;

**Rent Review** means the process for determination of the rent payable under the Lease as set out in sections 6 - 8 of the Act;

**Settlement Date** means the settlement date defined in clause 3.1;

**Surveyor-General** means the Surveyor-General appointed under section 5 of the Cadastral Survey Act 2002;

**Tenure Review** means the tenure review of the Land being undertaken by the Commissioner under the Act;

**Unconditional Date** means the date that the Commissioner receives from the Holder an executed copy of this Proposal signed by the Holder containing the signed consents of all persons having an interest in the Land to the Holder's acceptance of this Proposal which results in the acceptance taking effect under the Act;

**Vesting Date** means the date on which the Crown Land vests in the Crown pursuant to the Act;

**Working day** means a day that is not a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's birthday, Labour Day, or a day during the period commencing on any Christmas Day and ending with the 15<sup>th</sup> day of the following January or a day which is a provincial holiday in the place where the obligation is to be performed.

**Works Consent** means any and all consents required under the Resource Management Act 1991 and the Resource Management Amendment Act 2005; and/or the Building Act 2004.

## 27.2 Construction of certain references

In this Proposal, unless inconsistent with the context:

- (a) a reference to a certificate of title includes a reference to a computer register;

- (b) words importing a gender include all genders;
- (c) reference to a statute includes reference to all enactments that amend or are passed in substitution for the relevant statute and to all regulations relating to that statute;
- (d) words in the singular include the plural and vice versa;
- (e) reference to a month means a calendar month;
- (f) reference to a person means an individual, a body corporate, an association of persons (whether corporate or not), a trust or a state or agency of a state (in each case, whether or not having separate legal personality);
- (g) references to sections, clauses, sub-clauses, parts, annexures, attachments, appendices, schedules, paragraphs and sub-paragraphs are references to such as they appear in this Proposal and form part of this Proposal;
- (h) headings are included for ease of reference only and will not affect the construction or interpretation of this Proposal;
- (i) all monetary amounts are expressed in New Zealand currency;
- (j) references to obligations includes reference to covenants, undertakings, warranties and, generally, obligations or liabilities of any nature properly arising whether directly or indirectly, under or in respect of the relevant contract, agreement or arrangement;
- (k) all references to times are references to times in New Zealand;
- (l) if the Holder comprises more than one person, each of those persons' obligations, as Holder, will be both joint and several.

**Schedule One: Provisions relating to the Schedule One Land**

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**1 Details of Designation**

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- 1.1 Under this Proposal part of the land shown marked in pink on the Plan and labelled "CA1", being **2,500** hectares (approximately) is designated as land to be restored to or retained in full Crown ownership and control as conservation area.

**2 Schedule One Improvements**

---

Nil



**Schedule Two: Provisions relating to the Schedule Two Land**

---

**1 Details of designation**

---

Nil

### **Schedule Three: Provisions relating to the Schedule Three Land**

---

#### **1 Details of designation**

---

- 1.1 Under this Proposal the land shown marked in green on the Plan, being **6,935 hectares** (approximately) is designated as land to be disposed of by freehold disposal to the Holder subject to:
- (a) Part IVA of the Conservation Act 1987;
  - (b) Section 11 of the Crown Minerals Act 1991;
  - (c) the easement marked as "a-b", "c-d", "e-f", "g-h" and "i-j" on the Plan and substantially as set out in Appendix 4; and
  - (d) the covenant (shown on the Plan in yellow) and labelled "CC1" substantially as set out in Appendix 5; and
  - (e) the covenant (over the historic huts shown on the Plan) and labelled "Totara Stream Hut", "Mt Edith Hut" and "Hat Spur Hut" substantially as set out in Appendix 6

**Schedule Four: Conditions**

---

- 1 The Commissioner is under no obligation, and may decide, in its sole discretion, not to proceed further with the Tenure Review unless and until:
  - (a) the Commissioner considers that sufficient funds will be obtained in order to complete the Tenure Review;
  - (b) the Director General of Conservation has completed all actions required under Part IVA of the Conservation Act 1987;
  - (c) the Commissioner has reviewed, and is satisfied, in its sole discretion that the easement referred to in Appendix 4 is in an acceptable form, has been executed, consented by the necessary parties and has been registered against the Lease.
  - (d) the Commissioner has reviewed and is satisfied, in its sole discretion that the covenant referred to in Appendix 5 is in an acceptable form, has been executed, consented by the necessary parties and has been registered against the lease.
  - (e) the Commissioner has reviewed and is satisfied, in its sole discretion that the covenant referred to in Appendix 6 is in an acceptable form, has been executed, consented by the necessary parties and has been registered against the lease.

**Appendix 1: Consents – Example of Mortgagee Consent**

---

[ ] as Mortgagee under Mortgage [ ] ("the Mortgage"), hereby:

- (a) consents to acceptance of the Proposal dated [ ] ("the Proposal") by [the Holder] ("the Holder") pursuant to the Crown Pastoral Land Act 1998 and agrees and consents to the registration of the documents affecting the Freehold Land referenced in the Proposal prior to the registration of any new mortgage to be granted in its favour over the Freehold Land ; and
- (b) agrees to sign and execute all deeds, agreements, schedules and other documents and do all acts and things as may be reasonably required by the Holder or the Commissioner to register a discharge of the Mortgage and any new mortgage over the Freehold Land.

Dated:

**SIGNED** by [ ] ) \_\_\_\_\_  
in the presence of: [ ] )

Witness Signature: \_\_\_\_\_

Witness Name:  
Occupation:  
Address:

**Appendix 1: Consents (continued) - Example of "Other" Consent**

---

[ ], being the party entitled to the benefit of [ ] registered against Lease [ ], hereby consents to the acceptance of the Proposal dated [ ] by [the Holder] pursuant to the Crown Pastoral Land Act 1998.

Dated:

**SIGNED** for and on behalf of )  
[ ] )  
in the presence of: )

\_\_\_\_\_

Witness Signature:

\_\_\_\_\_

Witness Name:

Occupation:

Address:

## Appendix 2: Example of Solicitors Certificate

---

### Certifications

I [ ] hereby certify as follows:

1. [[insert name of Holder] ("the Holder") is a duly incorporated company under the Companies Act 1993. The Holder's entry into and performance of its obligations under the Proposal dated [ ] ("the Proposal") have been duly authorised by the directors and, if required, by the shareholders of the Holder. The Holder has executed the Proposal in accordance with its constitution.] **OR**

The entry into the Proposal dated [ ] ("the Proposal") by [insert name of Holder] ("the Holder") and performance of the Holder's obligations under the Proposal have been duly authorised by the trustees of the [insert name of trust] in accordance with its trust deed **OR**

[[insert name of Holder] ("the Holder") has delegated responsibility for signing the Proposal on its behalf to an attorney in accordance with its constitution. The attorney of the Holder has properly executed the Proposal in accordance with this power of attorney and in accordance with the Holder's constitution and a certificate of non-revocation is enclosed.]

2. The consent of each person that has an interest (registered or unregistered) in the Land (as that term is defined in the Proposal), to the Holder's acceptance of the Proposal has been obtained and included in the copy of the Proposal, signed by the Holder, that has been provided to the Commissioner.
3. [No consent, licence, approval or authorisation by any court, regulatory authority or governmental agency is required to enable the Holder to accept the Proposal, perform the Holder's obligations under the Proposal and to acquire the freehold interest in the Land (as defined in the Proposal).] **OR**

[All necessary consents, licences, approvals and authorisations required to enable the Holder to accept the Proposal, perform its obligations under it and to acquire the freehold interest in the Land (as defined in the Proposal) have been obtained. Evidence of the consents, licences, approvals and authorisations are attached to this letter.]

Yours faithfully

[signed by principal of law firm]

### **Appendix 3: Indicative Fencing and Construction Requirements**

---

#### **Fenceline**

**Length and location:** 13,650 metres (approximately) and located along the line marked "Y-Z" on the Plan.

**Type:** Conventional fencing - Seven-wire sheep/cattle fence with T irons or posts

#### **Specifications:**

#### **Construction**

---

##### **1. New fences:**

For the purposes of this fencing and construction specification and attachments, the terms "Waypoint" and "GPS point" and abbreviations "WP" and "WPT" have the same meaning; that being a latitude and longitude reference point on the earth's surface as identified by a global positioning system (GPS) unit.

##### **Background:**

The agreement between the Commissioner of Crown Lands (Commissioner) and Blue Mountain Station Limited (the Holder) requires the erection of conventional fences fence on the boundary of the conservation area set out hereunder.

The Commissioner will, at its cost, erect a new conventional fence on the line "Y-Z" marked on the plan.

The fencing specification calls for the erection of a wooden post and seven wire fence with steel Y stakes between posts to the indicative requirements set out in 3.

##### **2. Length and location:**

2.1 A New fence is to be erected along the line marked as follows on the plan:

Approximately 13,650 metres of new conventional perimeter fencing in the Conservation Area "CA1" as a perimeter fence shown marked "Y-Z" .

##### **3. Specifications**

- Fence to be constructed of five HT (2.5mm) wires, one barbed on top and one bottom galvanised medium tensile 4mm (No.8) wire, with wires located on the proposed freehold side of the boundary, except where there is a high risk of snow damage where they shall be placed on the leeward side away from the prevailing snow
- 2.4 metre x 200mm treated timber strainers with 2.4m x 125mm treated timber stays to be used for gateways and ends of strains.
- 4.2 metre heavy duty galvanised pipe (e.g. Cyclone Heavy Duty) gates to be erected across vehicle tracks or at appropriate locations in each span indicated above.
- 1.8m x 125mm treated timber posts or T irons to be used, with the maximum spacing between post being a 20 m interval. Posts are to be located on higher points, not low points.
- Six steel Y standards (e.g. Waratah brand or equivalent quality) per 20 metres to be used. Y standards to be mostly 1500mm long with 1350 standards on rocky ground and 1650mm standards on soft ground.
- T irons may be used instead of posts on high spots and on corners, with tie-backs on tussock country; however this is to be determined prior to construction.
- All strainers to be driven or dug in and rammed and footed with acceptable footing material. No.8 wire to be used on foots. All dips and hollows to be tied down.
- Netting to be hung on creek crossings and left to swing.

- All strainers and angles to be mortised stayed and blocked. Stays to be one-third of the way up posts.
- Tie-backs are permitted on both sides of the fence and should have at least 2 anchor points and a minimum of 2 wires on each.
- All wires to be securely and neatly tied off. Bottom wire to be between 100mm – 150mm above the ground. Line to be benched by hand where required. Most of the line will need to be cleared manually as required.
- Post staples to be 50mm x 40m galvanised slice pointed barb and be driven well in, while still allowing the wire to run through.
- Strains not to exceed 250 metres and strained to a tension recommended by the wire manufacturer.
- Strainers and angle posts to be dug in to such a depth that 1170mm remains out of the ground.
- Under no circumstances are any strainers, posts or stays to be shortened either prior to or subsequent to their placement in the ground.
- Ratchet strainers (e.g. Triplex) to be used on all strains.
- Droppers to be used near gateways where appropriate.

#### **Fence line Clearance**

- No major earthworks are required to be undertaken for the clearance of fence lines
- Vegetation clearance is to be limited to hand clearance of vegetation of up to 2 metres in width for the purposes of clearing the fence line.

#### **4. Preliminary and General Matters**

##### **4.1 New Materials**

All materials forming a permanent part of the fence shall be new and shall conform to any relevant New Zealand or international standard.

##### **4.2 Standards**

New materials forming a permanent part of the specified fence shall conform to the applicable standard. Such materials shall either identify the applicable standard on the label or certificate from the supplier or manufacturer shall be supplied stating the materials have been manufactured in a process that has been tested and which conforms to that standard.

Current standards that apply to fencing materials include but may not be limited to:

- 3471:1974 (NZS) Specifications for galvanized steel fencing wire plain and barbed.
- 3607:1989 (NZS) Specifications for round and part round timber fence posts.
- 3640:1992 (NZMP) Specifications of the minimum requirements of the NZ Timber Preservation Council Inc.
- D360:1986 (NZS/ASTM) Creosote Treatment
- 4534:1998 (AS/NZS) Zinc and zinc/aluminium alloy coating on steel wire.
- 4680:1999 (AS/NZS) Hot dip galvanized (zinc) coating on fabricated ferrous articles.

Where no applicable standard exists then materials shall be of best quality as generally accepted in the New Zealand farming and fencing industries.



## **5. Materials General**

To be used except where these have been specifically modified by the provisions of Clause 7 which shall take precedence.

### **5.1 Wire**

Fence wire will be 2.5mm galvanized high tensile steel wires, 4 mm galvanized mild steel wire and 1.6 mm galvanized high tensile reverse twist barbed wire all of which are to be of good quality. Tie-downs and tie-backs will be 4mm galvanized mild steel kept clear of any ground contact.

### **5.2 Infill Posts**

Infill posts will be steel Y stakes of best quality available or galvanized T irons for use on high spots.

### **5.3 Strainer, Intermediate and Angle Posts**

All timber posts used will be round and ground treated.

### **5.4 Stay Block**

12 x 2 x 24 ground treated.

### **5.5 Staples**

Staples will be 50mm x 4mm barbed galvanized steel.

### **5.6 Permanent Wire Strainers**

Permanent wire strainers are to be of the yoke and reel type with a sprung loaded locking bar.

### **5.7 Crossing Netting**

Netting on creek crossings will be 7 wire galvanized sheep.

### **5.8 Gates**

The swung gates shall be manufactured of 32 mm 2.6wt galvanized steel pipe frame, suitable braced to withstand normal pressure by beef cattle and fully covered with 50mm chain mesh manufactured from 3.15 mm gauge wire and attached with 2.24 mm galvanized lacing wire.

### **5.9 Gate Chains**

Gate chains will be galvanized steel chain and staple type.

### **5.10 Gate gudgeons**

Gudgeons are to be of galvanized steel. Top gudgeon is to be lock through type and the bottom gudgeon a bolt through type.

## **6. Best Practice**

6.1 Best fencing practice must be adhered to on all occasions.

### **6.2 Strains**

Strains not to exceed 250 metres and strained to a tension recommended by the wire manufacturer. Wire tension to account for weather conditions at time of strain and have regard to effect of winter conditions.

6.3 Placement of timber strainers, posts and stays

Under no circumstances are any strainers, stays or posts to be shortened either prior to or subsequent to their placement in the ground.

All strainers are to be dug in or driven and rammed and footed. No.8 (4 mm) galvanized wire is to be used on foots. Strainer, angle and intermediate posts are to have a minimum of 1170 mm (46") out of the ground. Stays are to be 1/3 of the way up posts.

6.4 Placement of footer at strainers and angles

Strainers and angles will be footed using a wooden H4 treated cut off post with a minimum length of 350 mm rammed in beside the strainer or angle so that the foot is lying 200 mm up from the bottom of the hole at a 90 degree angle to the strainer or angle, and will be attached with 4 mm galvanised steel wire and stapled to both the foot and the strainer or angle using 3 or more staples on both ends

6.5 Placement of wires

Wires are to be located on the grazing side of the boundary, except where there is a high risk of snow damage where they shall be placed on the leeward side away from the prevailing snow. The bottom wire is to be 100 -150 mm above the ground.

Post staples are to be driven well in but allow the wire to run through.

All wires are to be securely and neatly tied off and strained evenly. Figure 8 knots are to be used in all joins.

6.6 Gates

Gates must close against a post and be able to fully open back against the fence.

6.7 Netting at creek crossing

Netting to be hung at creek and river crossings and left to swing.

6.8 Tie Downs

Tie downs are to consist of half or full steel Y stakes according to conditions and the tie down is to be with 4mm galvanized soft wire (which is to remain above ground). If a post is a tie down, it is to be fixed to the Y stake by a 150mm x 6mm galvanized nail.

Anywhere that there is a 100 mm or more upward pull on the wires is to have a tie down placed.

6.9 Tie backs

Tie backs can be used on angle posts or T irons and are permitted on both sides of the fence.

**7. Resource Management Consents**

- 7.1 The construction of fencing is subject to the Commissioner obtaining any and all consents required pursuant to the Resource Management Act 1991.

Attachments to fencing specification:

Plan from Appendix 2 of the Preliminary Proposal.

**Appendix 4: Form of Easement to be created over proposed freehold marked "a-b", "c-d", "e-f", "g-h" and "i-j" on the Plan.**

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

DOCDM-76382 – Blue Mountain – May 2011

## **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     Signature, or common seal of Grantor	Signed in my presence by the Grantor Signature of Witness  _____ (continued on page 4 of Annexure Schedule) <b>Witness to complete in BLOCK letters</b> ( <i>unless typewritten or legibly stamped</i> )  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 20 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", "c-d" and "i-j" on foot, or on or accompanied by horses, or by non-motorised vehicle powered by a person or persons also, subject to Special Easement Term 12.
  - 2.2 To pass and re-pass at any time over and along the Easement Area "a-b", "c-d", "e-f", "g-h" and "i-j" 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 Fifth Schedule of the Property Law Act 2007 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 of the New Zealand Law Society.
- 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 and develop 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.
- 11. Where fences cross the Easement Area the Grantee will install stiles or gates to suit the purpose of the easement.
- 12. No dogs are permitted on the Easement Area.

**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  
195 Hereford Street  
Christchurch

Auckland District Law Society  
REF:4135

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

**Appendix 5: Form of Conservation Covenant to be created and marked as "CC1" on the Plan.**

**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, biodiversity including botanical and zoological, 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;
- 3.1.2 subject to clauses 3.2.1 and 3.2.3, felling, removal or damage of any tree, shrub or other plant;
- 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;
- 3.1.5 any burning, chemical spraying, top dressing or sowing of seed;
- 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.
- 7.2 If for any reason this Covenant remains unregistered and the Owner fails to obtain the agreement of a purchaser, lessee, or assignee to comply with the terms of this Covenant, the Owner will continue to be liable in damages to the Minister for any breach of the Covenant committed after the Owner has parted with all interest in the Land in respect of which a breach occurs.

**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 New Zealand Law Society 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 new Zealand Law Society;

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 \_\_\_\_\_ 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

#### **CC1 – Andrews Stream Faces.**

All that piece of land containing 250 hectares approximately labelled CC1 and shown shaded yellow on the plan attached to the Proposal.

### 2. Address for Service<sup>1</sup>

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

Minister of Conservation  
C/- Conservator  
Department of Conservation  
195 Hereford Street  
Private Bag 4715  
**CHRISTCHURCH 8140**  
Ph: 03 371-3700  
Fax: 03 365-1388

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

Blue Mountain Station Limited

#### Registered Address and Address for Service;

Croys Limited  
Level 2  
161 Burnett Street  
**ASHBURTON 7700**

#### Directors;

Allan Roddy Brown and Joanne Bronwyn Brown  
Blue Mountain Station  
Lochabar Road  
RD 17  
**FAIRLIE 7987**  
Ph: 03 685-4845  
Fax: 03

### 3. Values of Land to be Preserved

#### CC1 – Andrews Stream Faces.

- The area supports lowland forest remnants, shrubland and scrub communities which contain elements of the original woody vegetation at these sites.
- The area is a mosaic of forest/shrubland along with patches of short tussock grassland and exotic species. The naturalness of the area is medium. Typical plant species are broadleaf, Mt Ribbonwood, fuchsia, wineberry, and coprosma species.
- The hillslopes adjacent to Andrews Stream make an important contribution to the natural character of the waterway. Parts of the area are visible from Andrews Stream and Orari Gorge and are contiguous with and form an integral part of the wider Upper Orari River landscape, an area with high scenic and aesthetic value.

The above values are particularly described in the Department of Conservation's Conservation Resource Report dated November 2005.

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<sup>1</sup> State street address not Post Office Box number.

## SCHEDULE 2

### Special Conditions

Notwithstanding the provisions of clause 3.1 the following shall apply;

#### CCI – Andrews Stream Faces.

- 1 The covenant area is to remain unfenced.
- 2 The covenant area may be grazed at any time by sheep and/or cattle only, in association with the adjoining land.
- 3 The covenant area may have routine maintenance of existing fences, structures and maintenance within the alignment of all existing tracks done. Any maintenance undertaken outside the existing alignment or further upgrading of tracks requires the prior written consent of the Minister.
- 4 The Owner is permitted to construct a new vehicle track through the covenant area on the line indicated by a blue dotted line on the plan attached to the proposal, subject to local resource consent requirements.
- 5 The Minister may design and undertake a monitoring programme:
  - to ensure that the ecological integrity of the area and associated vegetation and fauna is maintained.
  - To enable the monitoring of any effects on the vegetation cover and conditions, faunal values and any other conservation values in the covenant area.

The monitoring programme will be reviewed at regular intervals and if in the opinion of the Minister there are any issues identified with the status of any of the species in the covenant area or deterioration in the condition and extent of the ecological condition the Minister reserves the right to take any necessary steps to further protect any species including fencing areas of the covenant area and adjusting stock access. The Minister will liaise with the Owner in implementing these measures and the Owner will cooperate in the giving effect to any measures considered necessary by the Minister.
- 6 The Owner will permit Department of Conservation staff and their contractors entry upon the covenant area at all times, for purposes associated with management of the covenant. In accessing the land, Department of Conservation staff and their contractors will take all practical steps to advise the Owner in advance. During lambing such requests may be denied but not unreasonably so.

GRANT of

Correct for the purposes of the  
Land Transfer Act 1952

Solicitor for the Minister

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

COMMISSIONER OF CROWN  
LANDS

to

MINISTER OF CONSERVATION

---

Solicitor  
Department of Conservation  
DUNEDIN/CHRISTCHURCH

**Appendix 6: Form of Historic Conservation Covenant to be created and marked as on the Plan and labelled "Totara Stream Hut", "Mt Edith Hut" and "Hat Spur Hut"**

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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*



**“Values”** means any or all of the Land’s cultural or amenity 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 any earth works or other soil disturbances;

3.1.2 any archaeological or other scientific research involving disturbance of the soil or buildings;

3.1.3 deliberately damage or demolish or permit the deliberate damage or demolition of any building or associated structure or undertake any action which in the option of the Minister may be detrimental to the Values or their preservation.

3.1.4 permit anything to be done, or undertake or permit any activity to be carried out on the Land that in the opinion of the Minister may be detrimental to the Values associated with the three huts within the context of their setting.

3.1.5 effect a subdivision within the meaning of the Resource Management Act 1991 of the Land, irrespective of whether or not such a subdivision fully complies with relevant provisions of that Act.

3.1.6 any prospecting or mining for Minerals, coal or other deposit or moving or removal of rock of any kind on or under the Land or allow other persons access to the Land for these purposes;



- 3.1.7 the erection of utility transmission lines across the Land.
- 3.1.8 any other activity which might have an adverse effect on the Values.

3.2 The Owner must:

- 3.2.1 if it is safe to do so, assist the Fire Authority to extinguish any wildfire upon or threatening the Land;
- 3.2.2 keep the Land free from rubbish or other unsightly or offensive material arising from the Owner's use of the Land;
- 3.2.3 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 and 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 ascertain whether the provisions of this Covenant are being observed;

**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.

**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.
- 7.2 If for any reason this Covenant remains unregistered and the Owner fails to obtain the agreement of a purchaser, lessee, or assignee to comply with the terms of this Covenant, the Owner will continue to be liable in damages to the Minister for any breach of the Covenant committed after the Owner has parted with all interest in the Land in respect of which a breach occurs.

**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 fire threatening the Land;

**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 New Zealand Law Society 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 New Zealand Law Society;

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 \_\_\_\_\_ 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

The building footprints of the following historic buildings on Blue Mountain Station and identified on the plan attached to the proposal, being the Totara Stream Hut, the Mt Edith Hut and the Hat Spur Hut and the curtilage associated with each of these buildings to a distance of 5 metres from and surrounding the exterior of each building.

### 2. Address for Service<sup>1</sup>

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

Minister of Conservation  
C/- Conservator  
Department of Conservation  
195 Hereford Street  
Private Bag 4715  
CHRISTCHURCH 8140  
Ph: 03 371-3700  
Fax: 03 365-1388

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

Blue Mountain Station Limited

Registered Address and Address for Service;

Croys Limited  
Level 2  
161 Burnett Street  
ASHBURTON 7700

Directors:

Allan Roddy Brown and Joanne Bronwyn Brown  
Blue Mountain Station  
Lochabar Road  
RD 17  
FAIRLIE 7987  
Ph: 03 685-4845  
Fax: 03

### 3. Values of Land to be Protected

The Totara Stream Hut, the Mt Edith Hut and the Hat Spur Hut are considered to have historical and cultural heritage value.

Historic Context.

Charles George Tripp, who had arrived in Lyttelton with John Barton Acland in January 1855, was granted a run in the Orari area in July 1855. A year later after exploration of the area a new lease of Orari Gorge was granted to Tripp and Acland, but in Acland's name. The Tripp, Acland partnership was dissolved in 1862 with Tripp retaining Orari Gorge. After returning to England he sold Orari Gorge to John Enys of Castle Hill, only to buy it back after his return to New Zealand.

Before the sale of a large portion of Orari to the Government for closer settlement in 1910, Orari Gorge Station consisted of 20,000 acres (8094 ha) of freehold and 50,000 acres (20235 ha) of leasehold and took in all the country between the Orari and Hae Hae te Moana Rivers from Woodbury Road up to Mickleburn and included the Blue Mountains and Mount Fourpeaks.

<sup>1</sup> State street address not Post Office Box number.

The frontispiece and endpaper map of Orari Gorge Station in "The Kettle on the Fuchsia" has 19 station huts, presumably all built during the Tripp era. These huts were predominately mustering huts; however, as some were also located near the boundary they may have also been used for boundary keeping.

#### Totara Stream Hut



Totara Stream Hut is located in Totara Stream which is a tributary of the Orari River. It is situated in open tussock country with some small pockets of shrub nearby. There is a four wheel drive access track almost to the hut. It cannot be determined if this hut was built by Jim Radford, who built the Hat Spur hut, on the information available. The hut appears on SO3235 dated 1898 and it is said that Radford departed Orari Gorge in January 1868.

The stone hut is a gable corrugated iron roof building 4.9 metres x 3.4 metres. Like the other two huts it has a lean-to of 2.3 metres x 3.4 metres at the west end which only has one sheet of its corrugated iron roof remaining. The rest of the iron is scattered around the building. There is only one window which is in the gable at the west end above the lean-to. This window has no glass, but the opening is covered with chicken netting which keeps the birds out. There is a stone chimney at the east end which has a brick arch fireplace on a metal strap. This brick work is quite different from the brick work in the Hat Spur hut fireplace. The hut has a concrete floor and there are two sacking bunks across the end of the hut opposite the fire.

The random rubble stone work is much more uniform than that of the Hat Spur hut which suggests that the stonemason that built this hut may not have been Jim Radford. The walls are 600 mm thick and have hoop iron straps across the top and down, and into the wall to tie it together. All the stone is held together with clay pug and the interior and exterior has been lime washed.

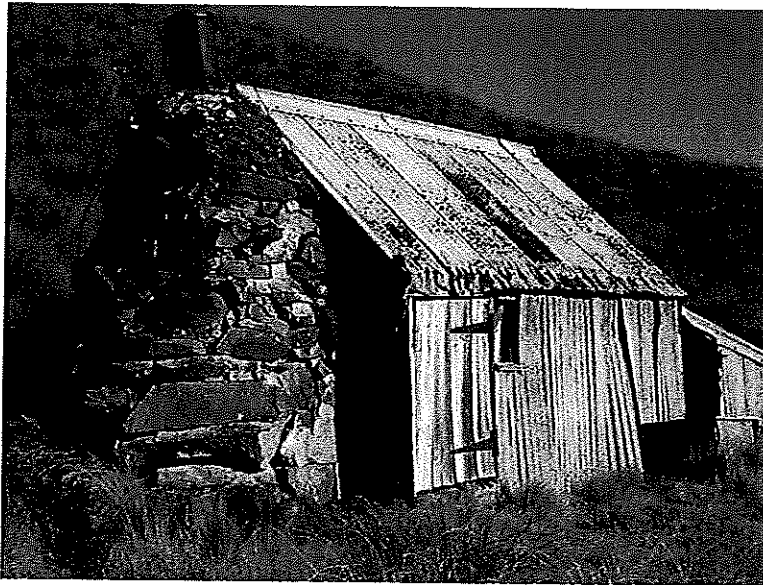
The roof framing is similar to that of the Mt Edith Hut. There is heavy felt building paper between the purlins and the roofing iron and the rafters have been packed out to the same width as the purlins to accommodate the felt. In an extract from the Totara Stream hut book it says that Radford and Hunt used the materials of the landscape and tussock for thatch for the roof. It also says "the graffiti on the rafters only dates back to the turn of the century" (1900), all the framing must have been replaced about then and corrugated iron used to replace the thatching". A closer inspection of the roof construction may determine if this is the original framing or a replacement as suggested in the hut book

The hut has been maintained and is in reasonable condition.

The hut has considerable historic significance even though the lean-to has lost most of its roof and the hut roof may not be original as described in the Hat hut text.

As the hut was built prior to 1900 it is an archaeological site under the provisions of the Historic Places Act.

### Mt Edith Hut



The Mt Edith Hut, as the name suggests, is on the slope of Mt Edith at about the 1,040 metre contour and set among open tussock hill country. There is no substantial shrub or tree vegetation necessitating firewood and coal to be packed in for the fire for cooking and heating. There is no spouting on the hut or a tank to hold water.

The hut does not appear on SO3235 dated 1898 and was possibly constructed early in the 20<sup>th</sup> century. The earliest date found was 1906. It is interesting that Mt Edith hut is not shown on the frontispiece and endpaper map of Orari Gorge Station in "The Kettle on the Fuchsia".

Unlike the other two huts the Mt Edith hut is clad completely in "Lysaght Orb Galvanised Tinned" corrugated iron which has never been painted. Lysaght Orb Galvanised Tinned was an imported English iron which was manufactured from the c1870's to the early 1920's.

The hut, which is at altitude, is a single room conventional 100 x 50 timber framed, gable roofed building, 3.7 metres x 2.5 metres with a stone chimney at the end. It is 2.4 metres from ground to ridge and the height to the eaves is 1.35 metres. The door is only 1150 mm high and 800 mm wide and positioned at the chimney end of the hut. It has a wooden floor of 200 mm x 25 mm boards

A 2.1 metre x 2.5 metre lean-to wood/coal shed is attached to the hut at the opposite end to the chimney. Where the lean-to is attached to the hut it is 1.3 metres high and 1.05 metres at the end. It has one entry from the outside adjacent which has no door. The lean-to has roofing iron missing and vegetation is growing up through the opening. As there is no available firewood in the vicinity of the hut storage for wood and coal packed in would have been essential along with storage for other stores.

The rough stone chimney is half round in shape approximately 1400 deep and 1500 wide near the base with a drum with ends cut out for at least part of the flue and the chimney pot. The fire place is a combination of stone and brick.

There is a storage box between the door and the lean-to door opening which has been constructed from timber and "Vacuum Oil Co" kerosene tins.

The interior is clad in horizontal corrugated iron to the height of the top plate and the space between stuffed with heavy felt building paper for insulation. There is also heavy felt building paper between the purlins and the roofing iron. The rafters have been packed out to the same width as the purlins to accommodate the felt.

There are two stretchers covered in sacking in the hut, one along the south wall and the other across the end. These do not appear to be original. The latter has a top hinged casement window above it in the

cable end above the lean-to. There is also a small window beside the door. There is no glass in either window.

The hut is in reasonable condition, although not entirely weatherproof, with the majority of the fabric being original.

The Mt Edith Hut has considerable historic significance due to the amount of original fabric and aspects in its construction, even though the construction date is unknown.

#### Hat Spur Hut



Jim Radford a young Devon man and a stone mason arrived at Orari Gorge towards the end of 1865. After working around the homestead area with a station hand named Hunt, he and Hunt went out on to the run to commence construction of a stone hut at the back of Blue Mountain. They both returned to the homestead area to complete more work there before spending four weeks in constructing a stone hut at the Hat completing the work in January 1868. This hut is situated on the Hat Spur northwest of Mt Frances in open tussock hill country at about 860 metres. Like Mt Edith, there is no scrubland in the vicinity of the hut and firewood and coal was packed in. The hut appears on SO3235 dated 1898.

The ten bunk Hat Spur Hut itself is approximately 7.3 metres x 4.3 metres and there are the remains of a 2.1 metre woodshed that abutted the west end. The hut has been constructed of locally sourced stone and some dressing residue can be seen near the hut. It is a single roomed hut constructed in random and polygonal rubble with some stones brought to course and held together with clay pug. In most instances the corner stones are squared rubble and the walls are approx 610 mm thick. A stone chimney stands at the south end and the fireplace has a brick arch supported by a metal strap. The wall height from ground to eave at the chimney end is 1.5 metres. There are two windows and central T&G braced and ledged door (1230 mm x 400 mm) in the east elevation. The door has broken hinges. Flooring is generally 200 mm x 25 mm timber.

The hut has hip at the north end with a corrugated iron roof. The roof framing is rough sawn 100 mm x 50 mm and 75mm x 50mm timber.

Information on the roof structure is sketchy; in an extract from the Totara Stream Hut book it says that Radford and Hunt used the materials of the landscape and tussock for thatch for the roof. It also says "the graffiti on the rafters only dates back to the turn of the century" (1900), all the framing must have been replaced about then and corrugated iron used to replace the thatching". A closer inspection of the roof framing would reveal if it was original or had been replaced.

The interior which has been lime washed has areas open to the elements and the birds and there is a considerable build up of dry vegetation throughout.

Like Mt Edith Hut there is no evidence of a water tank and no spouting on the hut to collect water. It is possible that there is a spring nearby otherwise water would have to have been transported in.



The hut is well constructed but in recent years it has been neglected, presumably as it was no longer required for mustering and the stone work is starting to decay and in some areas fall out. Elderberry trees are growing against the stone walls by the chimney and in front of one of the windows.

The hut has considerable historic significance even though the lean-to has collapsed and the roof may not be original.

As the hut was built prior to 1900 it is an archaeological site under the provisions of the Historic Places Act.

## SCHEDULE 2

### Special Conditions

1. The Owners will seek consent from the Minister if they wish to undertake repairs or stabilisation to any of the sites. Consent will be granted provided the Owners have regard to and, as far as is practical given financial constraints, comply with the ICOMOS' New Zealand Charter for the Conservation of Places of Cultural and Heritage Value attached as Schedule 3 (International Council on Monuments and Sites).
2. The Owner agrees to manage the Values on the basis that they constitute an Archaeological Site under the Historic Places Act 1993 and consequently that the provisions of that Act and in particular section 10 of that Act apply. Section 10 provides:

*“Archaeological sites may not be destroyed, damaged or modified;*

  - (1) *Except pursuant to an authority granted under Section 14 of this Act, it shall not be lawful for any person to destroy, damage or modify, or cause to be destroyed, damaged or modified the whole or any part of an archaeological site, knowing or having reasonable cause to suspect that it is an archaeological site.*
  - (2) *Except as provided in Section 15 or in Section 18 of this Act, it shall not be lawful for any person to carry out any archaeological investigation that may destroy damage or modify any archaeological site.*
3. In the event that the Owners wish to substantially renovate (including any structural alterations) any of the buildings on the Land for any purpose, the Owner will enter into a heritage covenant in similar terms in perpetuity with the New Zealand Historic Places Trust pursuant to section 6 of the Historic Places Act 1993. Upon registration of a New Zealand Historic Places Trust heritage covenant the Minister will vary item 1, Schedule 1 of this document to exclude the area of the registered New Zealand Historic Places Trust heritage covenant from this covenant.
4. The Owner agrees to erect and maintain at their own expense a stock proof fence or other effective barrier about any or all of the buildings if it is apparent that stock access to the area is causing damage of any kind to any of the buildings.
5. The Owners recognise and agree, that;

As well as the buildings, there may be other pre 1900 sub surface archaeological material on the Land, and that in the event of discovery of such material, works that may disturb that material shall cease. The Minister shall be advised of the discovery and consulted before any further modification of the site shall occur. Any further work shall be subject to the outcome of such consultation.

## SCHEDULE 3

# ICOMOS New Zealand Charter

## for the Conservation of Places of Cultural Heritage Value

### Revised 2010

#### Preamble

New Zealand retains a unique assemblage of **places of cultural heritage value** relating to its indigenous and more recent peoples. These areas, **cultural landscapes** and features, buildings and **structures**, gardens, archaeological sites, traditional sites, monuments, and sacred **places** are treasures of distinctive value that have accrued meanings over time. New Zealand shares a general responsibility with the rest of humanity to safeguard its cultural heritage **places** for present and future generations. More specifically, the people of New Zealand have particular ways of perceiving, relating to, and conserving their cultural heritage **places**.

Following the spirit of the International Charter for the Conservation and Restoration of Monuments and Sites (the Venice Charter - 1964), this charter sets out principles to guide the **conservation of places of cultural heritage value** in New Zealand. It is a statement of professional principles for members of ICOMOS New Zealand.

This charter is also intended to guide all those involved in the various aspects of **conservation** work, including owners, guardians, managers, developers, planners, architects, engineers, craftspeople and those in the construction trades, heritage practitioners and advisors, and local and central government authorities. It offers guidance for communities, organisations, and individuals involved with the **conservation** and management of cultural heritage **places**.

This charter should be made an integral part of statutory or regulatory heritage management policies or plans, and should provide support for decision makers in statutory or regulatory processes.

Each article of this charter must be read in the light of all the others. Words in bold in the text are defined in the definitions section of this charter.

This revised charter was adopted by the New Zealand National Committee of the International Council on Monuments and Sites at its meeting on 4 September 2010.

#### Purpose of conservation

##### 1. The purpose of conservation

The purpose of **conservation** is to care for **places of cultural heritage value**.

In general, such **places**:

- (i) have lasting values and can be appreciated in their own right;
- (ii) inform us about the past and the cultures of those who came before us;
- (iii) provide tangible evidence of the continuity between past, present, and future;
- (iv) underpin and reinforce community identity and relationships to ancestors and the land; and
- (v) provide a measure against which the achievements of the present can be compared.

It is the purpose of **conservation** to retain and reveal such values, and to support the ongoing meanings and functions of **places of cultural heritage value**, in the interests of present and future generations.

#### Conservation principles

##### 2. Understanding cultural heritage value

**Conservation of a place** should be based on an understanding and appreciation of all aspects of its **cultural heritage value**, both **tangible** and **intangible**. All available forms of knowledge and evidence provide the means of understanding a **place** and its **cultural heritage value** and **cultural heritage significance**. **Cultural heritage value** should be understood through consultation with **connected people**, systematic documentary and oral research, physical investigation and **recording** of the **place**, and other relevant methods.

All relevant **cultural heritage values** should be recognised, respected, and, where appropriate, revealed, including values which differ, conflict, or compete.

The policy for managing all aspects of a **place**, including its **conservation** and its **use**, and the implementation of the policy, must be based on an understanding of its **cultural heritage value**.

##### 3. Indigenous cultural heritage

The indigenous cultural heritage of **tangata whenua** relates to **whanau**, **hapu**, and **iwi** groups. It shapes identity and enhances well-being, and it has particular cultural meanings and values for the present, and associations with those

who have gone before. Indigenous cultural heritage brings with it responsibilities of guardianship and the practical application and passing on of associated knowledge, traditional skills, and practices. The Treaty of Waitangi is the founding document of our nation. Article 2 of the Treaty recognises and guarantees the protection of **tino rangatiratanga**, and so empowers **kaitiakitanga** as customary trusteeship to be exercised by **tangata whenua**. This customary trusteeship is exercised over their **taonga**, such as sacred and traditional **places**, built heritage, traditional practices, and other cultural heritage resources. This obligation extends beyond current legal ownership wherever such cultural heritage exists. Particular **matauranga**, or knowledge of cultural heritage meaning, value, and practice, is associated with **places**. **Matauranga** is sustained and transmitted through oral, written, and physical forms determined by **tangata whenua**. The **conservation** of such **places** is therefore conditional on decisions made in associated **tangata whenua** communities, and should proceed only in this context. In particular, protocols of access, authority, ritual, and practice are determined at a local level and should be respected.

#### 4. Planning for conservation

**Conservation** should be subject to prior documented assessment and planning. All **conservation** work should be based on a **conservation plan** which identifies the **cultural heritage value** and **cultural heritage significance** of the **place**, the **conservation** policies, and the extent of the recommended works. The **conservation plan** should give the highest priority to the **authenticity** and **integrity** of the **place**. Other guiding documents such as, but not limited to, management plans, cyclical **maintenance** plans, specifications for **conservation** work, interpretation plans, risk mitigation plans, or emergency plans should be guided by a **conservation plan**.

#### 5. Respect for surviving evidence and knowledge

**Conservation** maintains and reveals the **authenticity** and **integrity** of a **place**, and involves the least possible loss of **fabric** or evidence of **cultural heritage value**. Respect for all forms of knowledge and existing evidence, of both **tangible** and **intangible values**, is essential to the **authenticity** and **integrity** of the **place**. **Conservation** recognises the evidence of time and the contributions of all periods. The **conservation** of a **place** should identify and respect all aspects of its **cultural heritage value** without unwarranted emphasis on any one value at the expense of others. The removal or obscuring of any physical evidence of any period or activity should be minimised, and should be explicitly justified where it does occur. The **fabric** of a particular period or activity may be obscured or removed if assessment shows that its removal would not diminish the **cultural heritage value** of the **place**. In **conservation**, evidence of the functions and intangible meanings of **places** of **cultural heritage value** should be respected.

#### 6. Minimum intervention

Work undertaken at a **place** of **cultural heritage value** should involve the least degree of **intervention** consistent with **conservation** and the principles of this charter. **Intervention** should be the minimum necessary to ensure the retention of **tangible** and **intangible values** and the continuation of **uses** integral to those values. The removal of **fabric** or the alteration of features and spaces that have **cultural heritage value** should be avoided.

#### 7. Physical investigation

Physical investigation of a **place** provides primary evidence that cannot be gained from any other source. Physical investigation should be carried out according to currently accepted professional standards, and should be documented through systematic **recording**. Invasive investigation of **fabric** of any period should be carried out only where knowledge may be significantly extended, or where it is necessary to establish the existence of **fabric** of **cultural heritage value**, or where it is necessary for **conservation** work, or where such **fabric** is about to be damaged or destroyed or made inaccessible. The extent of invasive investigation should minimise the disturbance of significant **fabric**.

#### 8. Use

The **conservation** of a **place** of **cultural heritage value** is usually facilitated by the **place** serving a useful purpose. Where the **use** of a **place** is integral to its **cultural heritage value**, that **use** should be retained. Where a change of **use** is proposed, the new **use** should be compatible with the **cultural heritage value** of the **place**, and should have little or no adverse effect on the **cultural heritage value**.

#### 9. Setting

Where the **setting** of a **place** is integral to its **cultural heritage value**, that **setting** should be conserved with the **place** itself. If the **setting** no longer contributes to the **cultural heritage value** of the **place**, and if **reconstruction** of the **setting** can be justified, any **reconstruction** of the **setting** should be based on an understanding of all aspects of the **cultural heritage value** of the **place**.

#### 10. Relocation

The on-going association of a **structure** or feature of **cultural heritage value** with its location, site, curtilage, and **setting** is essential to its **authenticity** and **integrity**. Therefore, a **structure** or feature of **cultural heritage value** should remain on its original site.

Relocation of a **structure** or feature of **cultural heritage value**, where its removal is required in order to clear its site for a different purpose or construction, or where its removal is required to enable its **use** on a different site, is not a desirable outcome and is not a **conservation** process.

In exceptional circumstances, a **structure** of **cultural heritage value** may be relocated if its current site is in imminent danger, and if all other means of retaining the **structure** in its current location have been exhausted. In this event, the new location should provide a **setting** compatible with the **cultural heritage value** of the **structure**.

## 11. Documentation and archiving

The **cultural heritage value** and **cultural heritage significance** of a **place**, and all aspects of its **conservation**, should be fully documented to ensure that this information is available to present and future generations.

**Documentation** includes information about all changes to the **place** and any decisions made during the **conservation** process.

**Documentation** should be carried out to archival standards to maximise the longevity of the record, and should be placed in an appropriate archival repository.

**Documentation** should be made available to **connected people** and other interested parties. Where reasons for confidentiality exist, such as security, privacy, or cultural appropriateness, some information may not always be publicly accessible.

## 12. Recording

Evidence provided by the **fabric** of a **place** should be identified and understood through systematic research, **recording**, and analysis.

**Recording** is an essential part of the physical investigation of a **place**. It informs and guides the **conservation** process and its planning. Systematic **recording** should occur prior to, during, and following any **intervention**. It should include the **recording** of new evidence revealed, and any **fabric** obscured or removed.

**Recording** of the changes to a **place** should continue throughout its life.

## 13. Fixtures, fittings, and contents

Fixtures, fittings, and **contents** that are integral to the **cultural heritage value** of a **place** should be retained and conserved with the **place**. Such fixtures, fittings, and **contents** may include carving, painting, weaving, stained glass, wallpaper, surface decoration, works of art, equipment and machinery, furniture, and personal belongings.

**Conservation** of any such material should involve specialist **conservation** expertise appropriate to the material. Where it is necessary to remove any such material, it should be recorded, retained, and protected, until such time as it can be reinstated.

# Conservation processes and practice

## 14. Conservation plans

A **conservation plan**, based on the principles of this charter, should:

- (i) be based on a comprehensive understanding of the **cultural heritage value** of the **place** and assessment of its **cultural heritage significance**;
- (ii) include an assessment of the **fabric** of the **place**, and its condition;
- (iii) give the highest priority to the **authenticity** and **integrity** of the **place**;
- (iv) include the entirety of the **place**, including the **setting**;
- (v) be prepared by objective professionals in appropriate disciplines;
- (vi) consider the needs, abilities, and resources of **connected people**;
- (vii) not be influenced by prior expectations of change or development;
- (viii) specify **conservation** policies to guide decision making and to guide any work to be undertaken;
- (ix) make recommendations for the **conservation** of the **place**; and
- (x) be regularly revised and kept up to date.

## 15. Conservation projects

**Conservation** projects should include the following:

- (i) consultation with interested parties and **connected people**, continuing throughout the project;
- (ii) opportunities for interested parties and **connected people** to contribute to and participate in the project;
- (iii) research into documentary and oral history, using all relevant sources and repositories of knowledge;

- (iv) physical investigation of the **place** as appropriate;
- (v) use of all appropriate methods of **recording**, such as written, drawn, and photographic;
- (vi) the preparation of a **conservation plan** which meets the principles of this charter;
- (vii) guidance on appropriate **use** of the **place**;
- (viii) the implementation of any planned **conservation** work;
- (ix) the **documentation** of the **conservation** work as it proceeds; and
- (x) where appropriate, the deposit of all records in an archival repository.

A **conservation** project must not be commenced until any required statutory authorisation has been granted.

## 16. Professional, trade, and craft skills

All aspects of **conservation** work should be planned, directed, supervised, and undertaken by people with appropriate **conservation** training and experience directly relevant to the project.

All **conservation** disciplines, arts, crafts, trades, and traditional skills and practices that are relevant to the project should be applied and promoted.

## 17. Degrees of intervention for conservation purposes

Following research, **recording**, assessment, and planning, **intervention** for **conservation** purposes may include, in increasing degrees of **intervention**:

- (i) **preservation**, through **stabilisation**, **maintenance**, or **repair**;
- (ii) **restoration**, through **reassembly**, **reinstatement**, or removal;
- (iii) **reconstruction**; and
- (iv) **adaptation**.

In many **conservation** projects a range of processes may be utilised. Where appropriate, **conservation** processes may be applied to individual parts or components of a **place** of **cultural heritage value**.

The extent of any **intervention** for **conservation** purposes should be guided by the **cultural heritage value** of a **place** and the policies for its management as identified in a **conservation plan**. Any **intervention** which would reduce or compromise **cultural heritage value** is undesirable and should not occur.

Preference should be given to the least degree of **intervention**, consistent with this charter.

Re-creation, meaning the conjectural **reconstruction** of a **structure** or **place**; replication, meaning to make a copy of an existing or former **structure** or **place**; or the construction of generalised representations of typical features or **structures**, are not **conservation** processes and are outside the scope of this charter.

## 18. Preservation

**Preservation** of a **place** involves as little **intervention** as possible, to ensure its long-term survival and the continuation of its **cultural heritage value**.

**Preservation** processes should not obscure or remove the patina of age, particularly where it contributes to the **authenticity** and **integrity** of the **place**, or where it contributes to the structural stability of materials.

### i. Stabilisation

Processes of decay should be slowed by providing treatment or support.

### ii. Maintenance

A **place** of **cultural heritage value** should be maintained regularly. **Maintenance** should be carried out according to a plan or work programme.

### iii. Repair

**Repair** of a **place** of **cultural heritage value** should utilise matching or similar materials. Where it is necessary to employ new materials, they should be distinguishable by experts, and should be documented.

Traditional methods and materials should be given preference in **conservation** work.

**Repair** of a technically higher standard than that achieved with the existing materials or construction practices may be justified only where the stability or life expectancy of the site or material is increased, where the new material is compatible with the old, and where the **cultural heritage value** is not diminished.

## 19. Restoration

The process of **restoration** typically involves **reassembly** and **reinstatement**, and may involve the removal of accretions that detract from the **cultural heritage value** of a **place**.

**Restoration** is based on respect for existing **fabric**, and on the identification and analysis of all available evidence, so that the **cultural heritage value** of a **place** is recovered or revealed. **Restoration** should be carried out only if the **cultural heritage value** of the **place** is recovered or revealed by the process.

**Restoration** does not involve conjecture.

### i. Reassembly and reinstatement

**Reassembly** uses existing material and, through the process of **reinstatement**, returns it to its former position.

**Reassembly** is more likely to involve work on part of a **place** rather than the whole **place**.

#### ii. Removal

Occasionally, existing **fabric** may need to be permanently removed from a **place**. This may be for reasons of advanced decay, or loss of structural **integrity**, or because particular **fabric** has been identified in a **conservation plan** as detracting from the **cultural heritage value** of the **place**.

The **fabric** removed should be systematically **recorded** before and during its removal. In some cases it may be appropriate to store, on a long-term basis, material of evidential value that has been removed.

## 20. Reconstruction

**Reconstruction** is distinguished from **restoration** by the introduction of new material to replace material that has been lost.

**Reconstruction** is appropriate if it is essential to the function, **integrity**, **intangible value**, or understanding of a **place**, if sufficient physical and documentary evidence exists to minimise conjecture, and if surviving **cultural heritage value** is preserved.

Reconstructed elements should not usually constitute the majority of a **place** or **structure**.

## 21. Adaptation

The **conservation** of a **place** of **cultural heritage value** is usually facilitated by the **place** serving a useful purpose. Proposals for **adaptation** of a **place** may arise from maintaining its continuing **use**, or from a proposed change of **use**.

Alterations and additions may be acceptable where they are necessary for a **compatible use** of the **place**. Any change should be the minimum necessary, should be substantially reversible, and should have little or no adverse effect on the **cultural heritage value** of the **place**.

Any alterations or additions should be compatible with the original form and **fabric** of the **place**, and should avoid inappropriate or incompatible contrasts of form, scale, mass, colour, and material. **Adaptation** should not dominate or substantially obscure the original form and **fabric**, and should not adversely affect the **setting** of a **place** of **cultural heritage value**. New work should complement the original form and **fabric**.

## 22. Non-intervention

In some circumstances, assessment of the **cultural heritage value** of a **place** may show that it is not desirable to undertake any **conservation intervention** at that time. This approach may be appropriate where undisturbed constancy of **intangible values**, such as the spiritual associations of a sacred **place**, may be more important than its physical attributes.

## 23. Interpretation

Interpretation actively enhances public understanding of all aspects of **places** of **cultural heritage value** and their **conservation**. Relevant cultural protocols are integral to that understanding, and should be identified and observed. Where appropriate, interpretation should assist the understanding of **tangible** and **intangible values** of a **place** which may not be readily perceived, such as the sequence of construction and change, and the meanings and associations of the **place** for **connected people**.

Any interpretation should respect the **cultural heritage value** of a **place**. Interpretation methods should be appropriate to the **place**. Physical **interventions** for interpretation purposes should not detract from the experience of the **place**, and should not have an adverse effect on its **tangible** or **intangible values**.

## 24. Risk mitigation

**Places** of **cultural heritage value** may be vulnerable to natural disasters such as flood, storm, or earthquake; or to humanly induced threats and risks such as those arising from earthworks, subdivision and development, buildings works, or wilful damage or neglect. In order to safeguard **cultural heritage value**, planning for risk mitigation and emergency management is necessary.

Potential risks to any **place** of **cultural heritage value** should be assessed. Where appropriate, a risk mitigation plan, an emergency plan, and/or a protection plan should be prepared, and implemented as far as possible, with reference to a conservation plan.

## Definitions

For the purposes of this charter:

**Adaptation** means the process(es) of modifying a **place** for a **compatible use** while retaining its **cultural heritage value**. **Adaptation** processes include alteration and addition.

**Authenticity** means the credibility or truthfulness of the surviving evidence and knowledge of the **cultural heritage value** of a **place**. Relevant evidence includes form and design, substance and **fabric**, technology and craftsmanship, location and surroundings, context and **setting**, **use** and function, traditions, spiritual essence, and sense of place, and includes **tangible** and **intangible values**. Assessment of **authenticity** is based on identification and analysis of relevant evidence and knowledge, and respect for its cultural context.

**Compatible use** means a **use** which is consistent with the **cultural heritage value** of a **place**, and which has little or no adverse impact on its **authenticity** and **integrity**.

**Connected people** means any groups, organisations, or individuals having a sense of association with or responsibility for a **place** of **cultural heritage value**.

**Conservation** means all the processes of understanding and caring for a **place** so as to safeguard its **cultural heritage value**. **Conservation** is based on respect for the existing **fabric**, associations, meanings, and **use** of the

**place.** It requires a cautious approach of doing as much work as necessary but as little as possible, and retaining **authenticity** and **integrity**, to ensure that the **place** and its values are passed on to future generations.

**Conservation plan** means an objective report which documents the history, **fabric**, and **cultural heritage value** of a **place**, assesses its **cultural heritage significance**, describes the condition of the **place**, outlines **conservation** policies for managing the **place**, and makes recommendations for the **conservation** of the **place**.

**Contents** means moveable objects, collections, chattels, documents, works of art, and ephemera that are not fixed or fitted to a **place**, and which have been assessed as being integral to its **cultural heritage value**.

**Cultural heritage significance** means the **cultural heritage value** of a **place** relative to other similar or comparable **places**, recognising the particular cultural context of the **place**.

**Cultural heritage value/s** means possessing aesthetic, archaeological, architectural, commemorative, functional, historical, landscape, monumental, scientific, social, spiritual, symbolic, technological, traditional, or other **tangible** or **intangible values**, associated with human activity.

**Cultural landscapes** means an area possessing **cultural heritage value** arising from the relationships between people and the environment. **Cultural landscapes** may have been designed, such as gardens, or may have evolved from human settlement and land use over time, resulting in a diversity of distinctive landscapes in different areas. Associative **cultural landscapes**, such as sacred mountains, may lack **tangible** cultural elements but may have strong **intangible** cultural or spiritual associations.

**Documentation** means collecting, **recording**, keeping, and managing information about a **place** and its **cultural heritage value**, including information about its history, **fabric**, and meaning; information about decisions taken; and information about physical changes and **interventions** made to the **place**.

**Fabric** means all the physical material of a **place**, including subsurface material, **structures**, and interior and exterior surfaces including the patina of age; and including fixtures and fittings, and gardens and plantings.

**Hapu** means a section of a large tribe of the **tangata whenua**.

**Intangible value** means the abstract **cultural heritage value** of the meanings or associations of a **place**, including commemorative, historical, social, spiritual, symbolic, or traditional values.

**Integrity** means the wholeness or intactness of a **place**, including its meaning and sense of **place**, and all the **tangible** and **intangible** attributes and elements necessary to express its **cultural heritage value**.

**Intervention** means any activity that causes disturbance of or alteration to a **place** or its **fabric**. **Intervention** includes archaeological excavation, invasive investigation of built **structures**, and any **intervention** for **conservation** purposes.

**Iwi** means a tribe of the **tangata whenua**.

**Kaitiakitanga** means the duty of customary trusteeship, stewardship, guardianship, and protection of land, resources, or **taonga**.

**Maintenance** means regular and on-going protective care of a **place** to prevent deterioration and to retain its **cultural heritage value**.

**Matauranga** means traditional or cultural knowledge of the **tangata whenua**.

**Non-intervention** means to choose not to undertake any activity that causes disturbance of or alteration to a **place** or its **fabric**.

**Place** means any land having **cultural heritage value** in New Zealand, including areas; **cultural landscapes**; buildings, **structures**, and monuments; groups of buildings, **structures**, or monuments; gardens and plantings; archaeological sites and features; traditional sites; sacred **places**; townscapes and streetscapes; and settlements. **Place** may also include land covered by water, and any body of water. **Place** includes the **setting** of any such **place**.

**Preservation** means to maintain a **place** with as little change as possible.

**Reassembly** means to put existing but disarticulated parts of a **structure** back together.

**Reconstruction** means to build again as closely as possible to a documented earlier form, using new materials.

**Recording** means the process of capturing information and creating an archival record of the **fabric** and **setting** of a **place**, including its configuration, condition, **use**, and change over time.

**Reinstatement** means to put material components of a **place**, including the products of **reassembly**, back in position.

**Repair** means to make good decayed or damaged **fabric** using identical, closely similar, or otherwise appropriate material.

**Restoration** means to return a **place** to a known earlier form, by **reassembly** and **reinstatement**, and/or by removal of elements that detract from its **cultural heritage value**.

**Setting** means the area around and/or adjacent to a **place** of **cultural heritage value** that is integral to its function, meaning, and relationships. **Setting** includes the **structures**, outbuildings, features, gardens, curtilage, airspace, and accessways forming the spatial context of the **place** or used in association with the **place**. **Setting** also includes **cultural landscapes**, townscapes, and streetscapes; perspectives, views, and viewshafis to and from a **place**; and relationships with other **places** which contribute to the **cultural heritage value** of the **place**. **Setting** may extend beyond the area defined by legal title, and may include a buffer zone necessary for the long-term protection of the **cultural heritage value** of the **place**.

**Stabilisation** means the arrest or slowing of the processes of decay.

**Structure** means any building, standing remains, equipment, device, or other facility made by people and which is fixed to the land.

**Tangata whenua** means generally the original indigenous inhabitants of the land; and means specifically the people exercising **kaitiakitanga** over particular land, resources, or **taonga**.

**Tangible value** means the physically observable **cultural heritage value** of a **place**, including archaeological, architectural, landscape, monumental, scientific, or technological values.

**Taonga** means anything highly prized for its cultural, economic, historical, spiritual, or traditional value, including land and natural and cultural resources.

**Tino rangatiratanga** means the exercise of full chieftainship, authority, and responsibility.

**Use** means the functions of a **place**, and the activities and practices that may occur at the **place**. The functions, activities, and practices may in themselves be of **cultural heritage value**.

**Whanau** means an extended family which is part of a **hapu** or **iwi**.



GRANT of

Correct for the purposes of the  
Land Transfer Act 1952

Solicitor for the Minister

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

COMMISSIONER OF CROWN  
LANDS

to

MINISTER OF CONSERVATION

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Solicitor  
Department of Conservation  
CHRISTCHURCH

**Execution Section**

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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:

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Witness

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Occupation

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Address

**SIGNED** for and on behalf of **Blue Mountain Station Limited** by two of its directors:

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Allan Roddy Brown

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Joanne Bronwyn Brown