

Crown Pastoral Land Tenure Review

Lease name : *CARRICK*

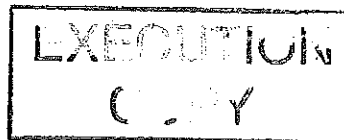
Lease number : PO 357

Substantive Proposal - Part 1

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

May

12



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

Date: 27 January 2012

Parties

Holder: Donald William Clark as to a ½ share
 Marion Isabelle Clark as to a ½ share

Carrick Station
 Bannockburn
 RD 2
 Cromwell 9384

Commissioner of Crown Lands:

C/- OPUS International Consultants Limited
 197 Rattray Street
 Private Bag 1913
 Dunedin 9054
 (Attention: Dave Payton)

The Land

Lease: Po 357 Carrick Station

Legal Description: Sections 3, 27, 28, 29, 31, 34 and Part Section 30 Block III Nevis Survey District, Sections 1, 3, 4, 5, and 6 Block III Bannockburn Survey District, Sections 13, 14 and 15 Block IV Bannockburn Survey District and Run 339E Nevis, Lorn and Lornside Survey Districts.

Area: 9,261.7461 hectares

Certificate of Title/Unique Identifier: OT338/81

Summary of Designations

Under this Proposal, the Land is designated as follows:

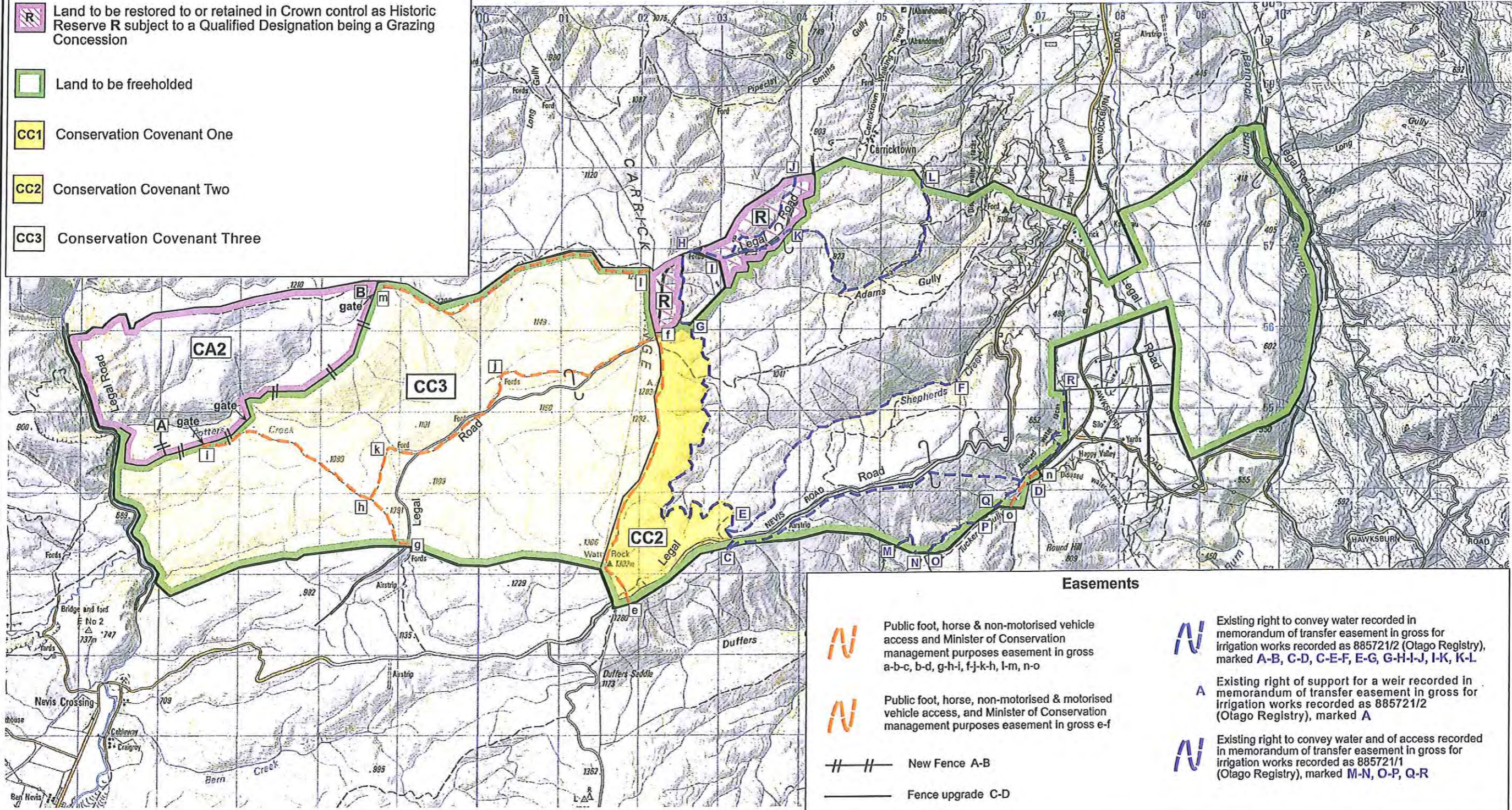
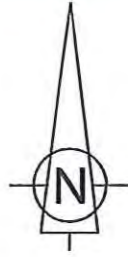
- (a) The Crown Land (shown edged in pink and marked CA1, CA2 and R on the Plans) is to be restored to, or retained by, the Crown as set out in Schedules One and Two; and
- (b) The Freehold Land (shown edged in green on the Plans) is to be disposed by freehold disposal to the Holder as set out in Schedule Three.

1 The Plans

**CARRICK TENURE REVIEW
SUBSTANTIVE PROPOSAL**

- CA1** Land to be restored to or retained in Crown control as Conservation Area CA1 subject to a Qualified Designation being a Grazing Concession
- CA2** Land to be restored to or retained in full Crown ownership and control, as Conservation Area CA2
- R** Land to be restored to or retained in Crown control as Historic Reserve R subject to a Qualified Designation being a Grazing Concession
- Land to be freeholded
- CC1** Conservation Covenant One
- CC2** Conservation Covenant Two
- CC3** Conservation Covenant Three

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



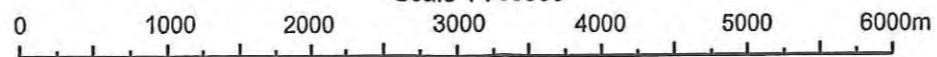
Easements

- N Public foot, horse & non-motorised vehicle access and Minister of Conservation management purposes easement in gross a-b-c, b-d, g-h-i, f-j-k-h, l-m, n-o
- N Public foot, horse, non-motorised & motorised vehicle access, and Minister of Conservation management purposes easement in gross e-f
- N Existing right to convey water recorded in memorandum of transfer easement in gross for irrigation works recorded as 885721/2 (Otago Registry), marked A-B, C-D, C-E-F, E-G, G-H-I-J, I-K, K-L
- A Existing right of support for a weir recorded in memorandum of transfer easement in gross for irrigation works recorded as 885721/2 (Otago Registry), marked A
- N Existing right to convey water and of access recorded in memorandum of transfer easement in gross for irrigation works recorded as 885721/1 (Otago Registry), marked M-N, O-P, Q-R
- || || New Fence A-B
- — Fence upgrade C-D

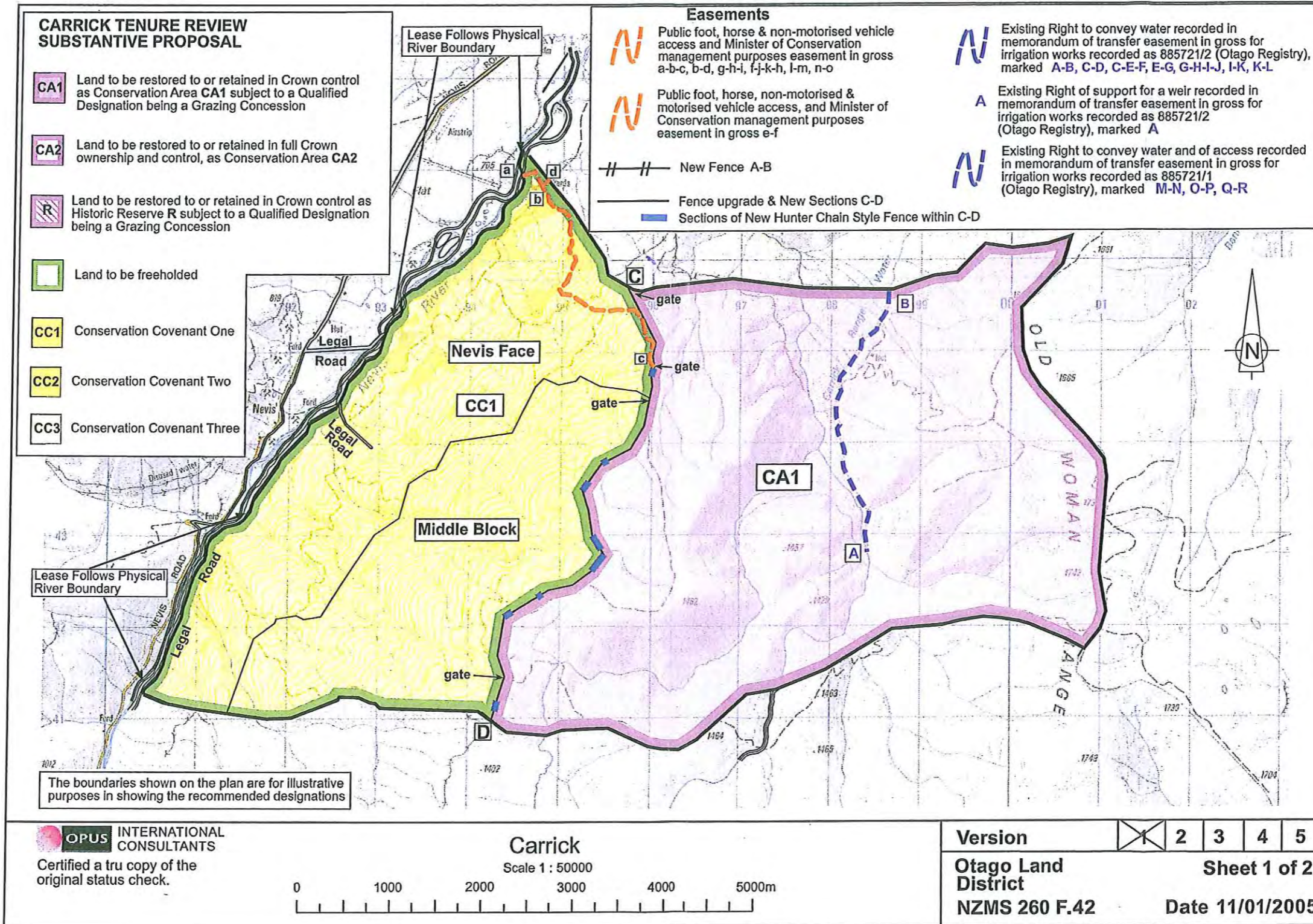
OPUS INTERNATIONAL CONSULTANTS
Certified a true copy of the original status check plan.

Carrick

Scale 1 : 50000



Version	2	3	4	5
Otago Land District	Sheet 2 of 2			
NZMS 260 F.42, G.42	Date 11/01/2005			



2 Conditions

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

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.

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.

5 Commissioner's Payment

- 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.

6 Vesting of Crown Land

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

7 Issue of Certificate of Title

- 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.

8 Registration of Documents

- 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.

9 Consents

- 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

- 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

- 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 lines marked "New Fence A-B and Fence Upgrade & New Sections C-D" 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

- 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

- 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

- 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

- 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 judgment; 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.

16 No Representations or Warranties by the Commissioner

- 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.

17 Acceptance

- 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.

18 Solicitor's Certificate

- 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 solicitor's 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.

19 Default

- 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.

20 Goods and Services Tax

- 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 10th 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 10th 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

- 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.

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.

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.

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.

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.

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

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 15th 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

1 Details of Designation

- 1.1 Under this Proposal the land shown marked in pink and labelled "CA2" on the Plan, being 445 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

Not applicable

Schedule Two: Provisions relating to the Schedule Two Land

1 Details of designation

- 1.1 Under this Proposal the land shown marked in pink and labelled "CA1" on the Plan, being 2446 hectares (approximately) is designated as land to be restored to or retained in Crown control as conservation area subject to:
- (a) the granting of Grazing Concession Two to the Holder as set out in Appendix 5;
 - (b) the continuation in force of an easement in gross in favour of Carrick Irrigation Company Limited, registered as Transfer 885721.2 (and embodied in Register OT17C/734), shown with a dashed blue line labelled A-B, on the Plan and substantially as set out in Appendix 6.
- 1.2 Under this Proposal the land shown marked in pink hatched lines and labelled "R" on the Plan, being 109 hectares (approximately) is designated as land to be restored to or retained in Crown control as historic reserve subject to:
- (a) the granting of Grazing Concession One to the Holder as set out in Appendix 8;
 - (b) the continuation in force of an easement in gross in favour of The Carrick Irrigation Company Limited, registered as Transfer 885721.2 (and embodied in Registry OT17C/734), shown with a dashed blue line labelled G-H-I-J and I-K, on the Plan and substantially as set out in Appendix 6.

2 Information Concerning Proposed Concessions]

2.1 Grazing Concession Two (over "CA1")

Information on proposed concession provided by Director-General of Conservation (section 39 CPL Act)

Explanatory note: This information is required in the event that the CCL accepts the recommendation of the Director-General to designate land as land to be restored to or retained in Crown control subject to the granting of a concession or over which a concession is to be granted. This information must be provided for each concession if more than one is proposed.]

1. Description of proposed activity(s) [s.39(a)]: Grazing of the Top Nevis Block as a phase out to allow changes in stock systems to take place.
2. Description of place(s) where proposed activity to be carried out and proposed status [s.39(b)]: The Top Nevis Block is proposed for retention in Crown control. It is shown as "CA1" on the Proposed Designations Plan.
3. Description of potential effects of proposed activity and any actions proposed to avoid, mitigate or remedy any adverse effect, [s.39(c)] noting the requirements of s.51(3)(a) and s.51(2)(d) CPLA: The concession is a continuation of an activity that has been carried out on this land for more than 100 years. The continuation of grazing will be for a short period only, with the maximum number of stock fixed. An incentive to reduce stock numbers is provided where only the numbers grazed are paid for in the concession.
4. Details of the proposed type of concession: Grazing concession under section 36 (1) (a) CPLA. The total carrying capacity has been approximated as 600SUs/annum.

5. Proposed duration of concession and reasons for proposed duration [s.39(e)]:
Proposed duration: The term of the grazing starts on the signing of the Substantive proposal. Therefore the concession will run for a lesser period, to finish 5 years after the SP is signed.

Reasons for proposed duration: This is to allow for the farming system to change. The wether flock will not be replaced and therefore numbers grazed will reduce over the period of the concession.

6. Relevant information about the proposed grantee including information relevant to the grantee's ability to carry out the proposed activity [s.39(f)]: Has been grazing area for many years.

Proposed grantee: Donald W. Clark and Marion I. Clark.

Relevant information: The grantee is currently engaged in farming and is currently using the area for grazing.

N.B. The preparation of this information is not intended to imply consent under s.41 CPLA.

2.2 Grazing Concession One (over "R")

Information on proposed concession provided by Director-General of Conservation (section 39 CPL Act)

[Explanatory note: This information is required in the event that the CCL accepts the recommendation of the Director-General to designate land as land to be restored to or retained in Crown control subject to the granting of a concession or over which a concession is to be granted. This information must be provided for each concession if more than one is proposed.]

1. Description of proposed activity(s) [s.39(a)]: Reserve areas adjoining and unfenced from the blocks known as "Water Wheel" and "Forks" can be grazed at a level that does not adversely impact the vegetation.
2. Description of place(s) where proposed activity to be carried out and proposed status [s.39(b)]:
 The grazing concession will be over approximately 109 ha shown as "R" in the Proposed Designations Plan to be restored to Crown Control. The proposed reserve land will be subject to Section 36 (1)(a) and Sec 66, CPLA.
3. Description of potential effects of proposed activity and any actions proposed to avoid, mitigate or remedy any adverse effect, [s.39(c)] noting the requirements of s.51(3)(a) and s.51(2)(d) CPLA: The concession is a continuation of an activity that has been carried out on this land for more than 100 years. The continuation of grazing will have the beneficial effect of keeping the historic sites open and not overgrown with vegetation. Stock impacts on the sites, particularly the old stone huts will be monitored so that any effects can be mitigated. Given the grazing history, impacts are considered unlikely.
4. Details of the proposed type of concession: Grazing concession under section 36 (1) (a) CPLA. The area will be stocked under the historic management regime of semi rotational grazing of the adjoining larger "Waterwheel" and "Forks" blocks. The total carrying capacity has been approximated as 35 SU.
5. Proposed duration of concession and reasons for proposed duration [s.39(e)]:
Proposed duration: Thirty Years.

Reasons for proposed duration: We are satisfied that current grazing use of these areas has had little impact on the values. Within the term consideration can be given to the amalgamation of the proposed concession areas with the existing Young Australian Waterwheel Reserve into one concession. Both can be managed into the future as one, as they are not separately fenced.

6. Relevant information about the proposed grantee including information relevant to the grantee's ability to carry out the proposed activity [s.39(f):

Proposed grantee: Donald W. Clark and Marion I Clark.

Relevant information: The grantee is currently engaged in farming and is using the area for grazing.

N.B. *The preparation of this information is not intended to imply consent under s.41 CPLA.*

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 6262 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 continuation in force of an easement in gross in favour of Carrick Irrigation Company Limited, registered as Transfer 885721.2 (and embodied in Register OT17C/734), shown with a dashed blue line labelled C-D, C-E-F, E-G and K-L on the Plan and substantially as set out in Appendix 6;
 - (d) the continuation in force of an easement in gross in favour of Carrick Irrigation Company Limited, registered as Transfer 885721.1 (and embodied in Register OT17C/733), shown with a dashed blue line labelled M-N, O-P and Q-R on the Plan and substantially as set out in Appendix 9;
 - (e) Conservation Covenant One shown as CC1 and marked in yellow on the Plan, and substantially as set out in Appendix 10;
 - (f) Conservation Covenant Two shown as CC2 and marked in yellow on the Plan and substantially as set out in Appendix 11;
 - (g) Conservation Covenant Three shown as CC3 and marked in yellow on the Plan and substantially as set out in Appendix 12;
 - (h) an easement for public access and access for management purposes marked with a dashed orange line and labelled a-b-c, b-d, g-h-i, f-j-k-h and l-m on the Plan and substantially as set out in Appendix 13;
 - (i) an easement for public access and access for management purposes marked with a dashed orange line and labelled n-o on the Plan and substantially as set out in Appendix 14;
 - (j) an easement for public access and access for management purposes marked with a dashed orange line and labelled e-f on the Plan and substantially as set out in Appendix 15.

Schedule Four: Conditions

The land described in Schedule 1, Schedule 2 and Schedule 3 will continue to be subject to certain existing interests which are not designations under section 36 of the Crown Pastoral Land Act 1998.

This proposal is conditional upon the following existing interests continuing with the land:

Schedule One

- MC DC*
 (a) An ~~un~~registered Mining Access Agreement pursuant to section 61 of the Crown Minerals Act 1991 in favour of Prophecy Mining Limited, substantially as set out in Appendix 4.

Schedule Two

- MC DC*
 (a) An ~~un~~registered Mining Access Agreement pursuant to section 61 of the Crown Minerals Act 1991 in favour of Prophecy Mining Limited, substantially as set out in Appendix 4;
 (b) An existing unregistered Deemed Permit pursuant to sections 413-417 of the Resource Management Act 1991 in favour of Carrick Irrigation Company Ltd under consent Number 2002.448, substantially as set out in Appendix 7.
 (c) An unregistered Minerals Exploration Permit Number 50019 pursuant to section 25 of the Crown Minerals Act 1991 in favour of Prophecy Mining Limited, as substantially set out in Appendix 16.
 (d) A registered Minerals Exploration Permit, No 40536 in favour of Prophecy Mining Limited, registered as instrument No. 5273979, as substantially set out in Appendix 17.

Schedule Three

- MC DC*
 (a) An ~~un~~registered Mining Access Agreement pursuant to section 61 of the Crown Minerals Act 1991 in favour of Prophecy Mining Limited, substantially as set out in Appendix 4.
 (b) An unregistered Minerals Exploration Permit Number 50019 pursuant to section 25 of the Crown Minerals Act 1991 in favour of Prophecy Mining Limited, as substantially set out in Appendix 16.
 (c) A registered Minerals Exploration Permit, No 40536 in favour of Prophecy Mining Limited, registered as instrument No. 5273979, as substantially set out in Appendix 17.
 (d) A registered Certificate pursuant to section 417(2) of the Resource Management Act 1991 in favour of Edgar Parcell and Ann Christine Parcell, registered as No. 920179, substantially as set out in Appendix 18.
 (e) A registered Certificate pursuant to section 417(2) of the Resource Management Act 1991 in favour of Kawarau Station, registered as No. 5030234.1, substantially as set out in Appendix 19.
 (f) An unregistered Deemed Permit pursuant to sections 413-417 of the Resource Management Act 1991 in favour of Carrick Irrigation Company Limited, in Consent 2002.448, substantially as set out in Appendix 7.
 (g) An unregistered Deemed Permit pursuant to sections 413-417 of the Resource Management Act 1991 in favour of Carrick Irrigation Company Limited, in Consent 2002.449, substantially as set out in Appendix 20.

- (h) An unregistered Deemed Permit pursuant to sections 413-417 of the Resource Management Act 1991 in favour of D W and M I Clark, in Consent 99405, substantially as set out in Appendix 21.

General

Pursuant to Clause 9:1(c) of this proposal, the consent of the holders of the above interests must be obtained.

RELEASED UNDER THE OFFICIAL INFORMATION ACT

Appendix 1: Consents – Example of Mortgage 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 Solicitor's 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

New Fenceline

Length and location: Located along the south eastern boundary of CA2.

Along the line A-B (3,970m approximately), as shown on the Plan.

Type: New seven wire fence with posts and Y-posts

Three new 4.2 metre gates are required at the locations shown on sheet 2 of the Plan and described below.

Specifications:

- 1.8 metre x 125mm treated timber posts at 20m maximum spacing and on appropriate high and low points. 1.65 T-irons in lieu of posts and intermediate strainers if necessary.
- 1.5 metre Y-post standards at 3 metre spacing's, minimum weight 1.95kg/m
- 2.4 metre x 175mm treated timber strainers to be used for gateways and ends of strains.
- 2.1 metre x 175mm treated timber strainers on intermediate corners.
- 2.4 metre x 125mm treated timber stays.
- 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.
- All strainers and angles to be mortised stayed and blocked. Stays to be one-third of the way up posts.
- Strainers and angle posts to be dug in to such a depth that 117cm (46 inches) 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.
- 1 x 4mm medium tensile bottom wire and 6 x 3.55mm high tensile wires with top wire laced on.
- Strains not to exceed 300 metres, all wires strained with permanent strainers and strained to a tension recommended by the wire manufacture.
- Post staples to be 50 x 4mm galvanized slice pointed barb and be driven well in but allow the wire to run through.
- Tie-backs are permitted on both sides of the fence.
- Lightning droppers may be used where appropriate.
- Floodgate across Potters Creek constructed of netting and vertical wooden battens. Built independent to fence, left to swing independent to fence and able to swing freely clear of the mean water level.
- The fence end made stock proof against larger boulder at point "A".
- Three 4.2m steel gates heavy duty, at end of easement point "m", at corner half way up existing fence on south side of Potters Creek, and at end of easement point "i". Gates swung to open back fully and close firmly against strainer post.
- Fencing to be completed in a professional workmanlike manner using standard fencing practises.
- No mechanical earth works or mechanical vegetation clearance is permitted; some minor line clearing of vegetation by hand and benching by hand held tools is permitted when required.

Fenceline Upgrade and New Sections

Length and location: Located along the western boundary of CA1.

Along the line C-D (5,800m approximately), as shown on the Plan.

Type: Upgrade existing fence line defined by type 1 specifications, and new sections of Hunter Chain style fence defined by type 2 specifications. The sections of Hunter Chain style fence are shown on the Plan.

Two new 4.2 metre gates and two new 3.6 metre gates are required at the locations shown on sheet 1 of the Plan and described below.

Type 1 Specifications (standard fence upgrade, approximately 4750 m):

(along the line C-D excluding the new sections of Hunter Chain style fence)

- 1.5 metre Y-post standards driven down the back of every 6th existing standard (approximately every 15 metres) and firmly attached using 3.55mm wire.
- 2.4 metre x 175mm treated timber strainer posts at gateways. Replace as necessary.
- 2.1 metre x 175mm treated timber strainer posts to replace all existing corner posts. Firmly tied back. (Approx 10-12).
- All tie backs to have at least 2 anchor points.
- Strainer posts at gateways and ends of strains stayed with 2.4 metre x 125mm treated timber stays, footed or firmly tied down.
- Wires to be re-tensioned sufficiently to hold stock, but not necessary to manufacturers recommendation.
- Bottom wire lifted to be clear of ground.
- Broken wires replaced where necessary with 4mm soft wire.
- Fence tied down where necessary and flood gates replaced.
- Two 4.2m steel gates heavy duty, in the two locations where the existing farm track crosses the fence line, and two 3.6m steel gates heavy duty, (one beside the northern boundary fence at point "C", the other on the southern side of where the internal fence of the Middle Block meets the fence line).
- All gates swung to open back fully and close firmly against strainer post.
- Fencing to be completed in a professional workmanlike manner using standard fencing practises.
- No mechanical earth works or mechanical vegetation clearance is permitted; some minor line clearing of vegetation by hand and benching by hand held tools is permitted when required.

Type 2 Specifications (sections of new Hunter Chain style fence, approximately 1050 m):

(along the line C-D excluding the sections of fence upgrade)

- 1.8 metre x 125mm treated timber posts at 6 metre spacing's.
- Chain to be clipped to the top of each post and chain droppers to be installed at 2 metre spacing's. This is to allow the fence to release in the event of a snowfall.

- 6 x 4mm wires strained adequately to hold stock.
- Fencing to be completed in a professional workmanlike manner using standard fencing practises.
- No mechanical earth works or mechanical vegetation clearance is permitted; some minor line clearing of vegetation by hand and benching by hand held tools is permitted when required.

These new sections of hunter chain style fence will require the existing fence to be terminated and restarted after each section, with a 2.1 metre strainer tied back. To enable the correct alignment of the sections of new fence, the damaged fence may also need to be removed, or alternatively the new sections of hunter chain fence can run immediately alongside the sections of old fence.

Construction

No other works are included in this proposal

**Appendix 4: Copy of Mining Access Agreement pursuant to Section 61 CMA 1991 in favour of
Prophecy Mining Limited**

Dated this 24th day of January

2011
~~2010~~

Access Arrangement for Crown Pastoral Land pursuant to

Section 61 of Crown Minerals Act 1991

Exploration

Prophecy Mining Limited

and

**Her Majesty the Queen in right of New Zealand
acting by and through
the Chief Executive of Land Information New Zealand**

THIS AGREEMENT for an Access Arrangement pursuant to section 61 of the Crown Minerals Act 1991 is made this *24th* day of *January* *2011* 2010 between Her Majesty the Queen in right of New Zealand acting by and through the Chief Executive of Land Information New Zealand ("LINZ") and Prophecy Mining ("the Permit Holder").

WHEREAS:

- A. The Land described in the First Schedule is owned by the Crown. LINZ administers the Land pursuant to the provisions of the Land Act 1948 and the Crown Pastoral Land Act 1998.
- B. LINZ has granted a lease of that part of the Land known as the Carrick pastoral lease (as more particularly described in CIROT338/81) under s66 of the Land Act 1948 to Donald William Clark and Marion Isabelle Clark ("the Occupier").
- C. Access to Crown land for mineral Exploration is provided for in the Crown Minerals Act 1991.
- D. The Permit Holder has pursuant to section 59 of the Crown Minerals Act 1991 served on LINZ notice of the Permit Holder's intention to obtain an Access Arrangement in respect of the Land to conduct a mineral Exploration operation.
- E. The Permit Holder has been granted an Exploration Permit by the Minister of Energy pursuant to section 25 of the Crown Minerals Act 1991 to explore for minerals on the Land. The lessee of the Carrick pastoral lease has, as Occupier, granted an access arrangement to its leasehold estate to the Permit Holder for Exploration purposes ("the Occupier's Agreement").
- F. LINZ agrees to grant a Right of Access to the Permit Holder for the purposes of carrying out Exploration in accordance with the Exploration Permit.

NOW THE PARTIES AGREE as follows:

1 DEFINITIONS AND INTERPRETATION

1.1 In this Access Agreement, unless the context otherwise requires:

"Access Arrangement" means this agreement for an Access Arrangement and the Schedules to it.

"Act" means the Crown Minerals Act 1991.

"Exploration" means any activity undertaken for the purpose of identifying mineral deposits or occurrences and evaluating the feasibility of mining particular deposits or occurrences of one or more minerals; and includes any drilling, dredging, or excavations (whether surface or sub-surface) that are reasonably necessary to determine the nature and size of a mineral deposit or occurrence; and to explore has a corresponding meaning.

"Exploration Permit" means Exploration permit 40-536, a copy of which is attached to this Access Agreement as the Second Schedule.

"Land" means the land described in the First Schedule but does not include the area of land described as the Historic Carrick Water Race.

"Legislation" includes statutes, regulations, by-laws, district plans, regional plans, codes of conduct, and guidelines.

"LINZ" includes any officer of LINZ to whom the relevant Minister has delegated any or all of that Minister's powers under the Act.

"Permit Holder" includes the Permit Holder and his servants, agents, contractors, employees and invitees.

"Protected" means declared to be absolutely or partially protected or otherwise given similar conservation status, whether permanently or temporarily, under any Legislation.

"Resource Consent" means a resource consent, a certificate of compliance, and/or an existing use certificate as those terms are described in sections 87, 139, and 139A of the Resource Management Act 1991.

"Restore" means to reinstate to as near to pre-Exploration condition as possible and includes, as required and without limitation, reseeding and fertilising, refencing, replanting, and rubbish removal, and "Restoration" has a corresponding meaning.

"Work Programme" means the general work programme forming part of the Exploration Permit attached to this access agreement as schedule 2.1.2 Unless otherwise defined in this Access Arrangement, all defined terms shall have the meanings given to them in the Act.

1.3 The headings set out in this Access Arrangement have been inserted for convenience and shall not in any way limit or govern the construction of this Access Arrangement

1.4 References to Legislation shall be deemed to be references to the Legislation as from time to time amended and includes substitution provisions that substantially correspond to those referred to.

1.8 The singular includes the plural and vice versa and words incorporating any gender shall include every gender.

2 GRANT OF RIGHT OF ACCESS

2.1 LINZ grants the Permit Holder Right of Access to the Land for the purposes of carrying out lawful activity under the Exploration Permit in accordance with the Act and subject to the terms and conditions set out in this Access Arrangement.

3 TERM

3.1 Unless terminated earlier in accordance with clauses 16 and 17 or 18 of this Access Arrangement the Access Arrangement shall expire on 27 June 2012, being the expiration of the term of the Exploration Permit.

4 ASSIGNMENT

4.1 The Permit Holder shall not assign, transfer or sublet this Access Arrangement or any part thereof without the written consent of LINZ, which consent may be withheld for any reason or given with conditions, which conditions may include a requirement that any assignee, transferee, or sublessee covenants with LINZ to accept, observe, and perform all of the terms and conditions of this Access

RL

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Arrangement.

5 COMPENSATION

- 5.1 Pursuant to section 76 of the Act, the Permit Holder shall pay to LINZ the sum of \$3,000 (plus GST) being reimbursement of all reasonable costs and expenses incurred by LINZ in respect of negotiating with the Permit Holder and all reasonable legal and valuation fees incurred by LINZ in respect of this Access Arrangement, on or before the signing of this Access Arrangement by LINZ.
- 5.1 The Permit Holder shall reimburse all reasonable costs incurred by LINZ in ensuring compliance with and monitoring of this Access Arrangement, which cost shall be invoiced to the Permit Holder by LINZ on each anniversary date of this Access Arrangement and shall be payable one month thereafter.

6 INDEMNITY AND EXCLUSION OF LIABILITY

- 6.1 The Permit Holder shall indemnify and keep indemnified the Crown and LINZ against all claims by any person in respect of any injury, loss or damage (including fire damage and contamination) caused or suffered as a result of or arising out of any act or omission of the Permit Holder or otherwise caused as a result of the Permit Holder's Exploration on the Land.
- 6.2 The Permit Holder shall indemnify and keep indemnified the Crown and LINZ against any Injury loss or damage (including fire damage and contamination) caused or suffered by the Crown or LINZ as a result or arising out of any act or omission of the Permit Holder or otherwise caused as a result of the Permit Holder's Exploration on the Land.
- 6.3 Under no circumstances will LINZ be liable in contract, tort, or otherwise to the Permit Holder for any expense, costs, loss, injury, or damage whether consequential or otherwise, arising directly or indirectly from this Access Arrangement or any activity undertaken by the Permit Holder on the Land, whether the expense, cost, loss, injury or damage is the direct or indirect result of negligence or otherwise.
- 6.4 This clause 6 shall survive the expiry or earlier termination of this Access Arrangement.

7 INSURANCE AND BOND

- 7.1 The Permit holder shall, prior to entering on the Land, effect and maintain during the term of this Access Arrangement public liability insurance for an amount not less than \$1,000,000. This insurance shall without limitation cover any costs arising out of any necessary actions to put out or contain any fire caused by the Exploration whether negligently or otherwise and which may extend beyond the Land to the adjoining land whether held by LINZ or otherwise. LINZ may from time to time require the cover of the public liability insurance to be increased to such an amount as LINZ reasonably thinks fit after consultation with the Permit Holder.
- 7.2 The Permit holder shall, prior to entering on the Land, execute a bond in a form to be approved by LINZ with an insurance company, bond guarantor, or bank to be

approved by LINZ for the sum of \$5,000 to ensure compliance with the terms and conditions of this Access Arrangement. The bond shall remain effective until such time as the terms and conditions of this Access Arrangement have been complied with to the satisfaction of LINZ. In the event that the Permit Holder breaches or fails to carry out any term or condition of this Access Arrangement then LINZ may have access to the bond or any portion of it to cover the costs of remedying any such breach or failure.

8 WORK PROGRAMME

- 8.1 The Permit Holder shall undertake the Work Programme set out in the exploration permit and shall forward to LINZ a map showing any drill sites proposed prior to commencing drilling.

The Permit Holder shall not modify the Work Programme set out in the exploration permit, so as to include any additional sites or land. However the Permit holder may modify the work programme with LINZ's prior agreement.

9 USE

- 9.1. The Permit Holder shall have non-exclusive access over the Land via all existing road and tracks PROVIDED THAT the Permit Holder shall obtain keys for all gates through which access is required from the relevant Occupier or, if there is no Occupier, LINZ and that all gates shall be left as found at all times.

- 9.2 The Permit Holder shall not construct any new access roads or tracks on the Land.

- 9.3 Unless the Occupier or, if there is no Occupier, LINZ agrees otherwise in writing, no Exploration shall take place:

9.3.1 on any part of the Land being used or likely to be used for lambing, calving, or fawning;

9.3.2 in any hay paddock or land under crop; and

9.3.3 outside the hours of 7.00am to 7.00pm.

- 9.4 The Permit Holder shall, unless otherwise agreed in writing by LINZ:

9.4.1 give LINZ not less than seven days' written notice prior to entering the Land at the commencement of each stage of Exploration, which notice shall advise LINZ of the specific activities from the Work Programme to be carried out during that stage;

9.4.2 update LINZ on Exploration activities regularly; and in any case not less than once every 6 months; and

9.4.3 give LINZ not less than seven days' written notice of:

9.4.3.1 its intention to bring earth moving machinery, drilling rigs, or other plant and machinery on to the Land;

9.4.3.2 the expected locations in which the earth moving machinery,

drilling rigs, or other plant and machinery will be operated and shall consult with LINZ as to the siting of any proposed drill holes/well sites; and

9.4.3.3 the specific activities from the Work Programme to be carried out with the earth moving machinery, drilling rigs or other plant and machinery.

9.5 The Permit Holder shall not use the Land for any purpose other than those authorised by this Access Arrangement including, without limitation, for Mining Operations and shall not erect or install any structure or operate any machinery on the Land other than that authorised by this Access Arrangement.

9.6 Immediately following completion of the Exploration (subject to ground and weather conditions) the Permit Holder shall remove all structures, plant, equipment, and other materials from the Land in an orderly and reasonable manner and shall Restore the Land to LINZ's reasonable satisfaction and leave it in a safe and secure condition including, without limitation, by sealing all drill holes/wells,

10 FIRE PRECAUTIONS

10.1 The Permit Holder shall:

10.1.1 take full and proper precautions to ensure no fire hazard arises from the Exploration including, without limitation, not using any vehicle or machinery unless it is provided with a safe and sufficient means of preventing the escape of sparks or flames;

10.1.2 ensure that no fires are lit on the Land and that no firearms or dogs are brought on to the Land;

10.1.3 not store or permit to be stored fuel or other combustible materials on the Land without the written permission of the Occupier or, if there is no Occupier, of LINZ; and

10.1.4 comply with the Occupier's or, if there is no Occupier, LINZ's requirements for fire safety equipment and for fire fighting equipment to be kept on the Land during the period of the Exploration activity.

11 PROTECTION OF THE ENVIRONMENT AND PUBLIC ACCESS

11.1 The Permit Holder shall ensure that in respect of all Exploration and all activities of every person entering the Land under this Access Arrangement:

11.1.1 water drained from any Exploration is via open drains or buried piping after consultation with the Occupier or, if there is no Occupier, LINZ and that all local authority requirements in respect of such drainage have been complied with;

11.1.2 No protected wildlife (including stock), plants (including crops and pastures), soil, waterway, wetland, or other natural resource (as that term is defined in the Crown Pastoral Land Act 1998) is disturbed or damaged;

11.1.3 the consent of LINZ is obtained before commencing any works on the land

that are likely to cause earth disturbance including digging, dumping and clearing vegetation. In order for LINZ to adequately consider such a proposal, the Permit Holder must provide LINZ with a report identifying the relevant site, outlining the nature of the proposed work to be undertaken and specifying exactly what measures will be taken to avoid or mitigate any adverse effects

- 11.1.4 subject to clauses 11.1.2 and 11.1.3, where disturbance of or damage to wildlife (including stock), plants (including crops and pastures), soil, improvements, or land is authorised under this Access Arrangement, that disturbance or damage is minimised and that any such disturbance or damage is restored to LINZ's reasonable satisfaction as soon as practicable at the Permit Holder's cost PROVIDED THAT the Permit Holder shall ensure the Exploration does not in any way adversely affect the existing water supply on the Land;
- 11.1.5 all land affected by Exploration is kept stable and free from erosion and in a state that blends into the surrounding landscape;
- 11.1.6 all exposed batters and cleared sites are revegetated with appropriate mixes to aid revegetation and all trenches are infilled and reinstated with soil and vegetation as soon as work is complete.
- 11.1.7 no debris, rubbish or other dangerous or unsightly matter is deposited in or on the Land and there is no pollution of any water body, except as permitted in accordance with a current Resource Consent;
- 11.1.8 that prior to undertaking any works on the land, an independent expert will be used to identify Historic Places, Waahi Tapu, or Archaeological Site (as those terms are defined in the Historic Places Act 1993), and the Permit Holder will ensure that there is no damage or modification to any Historic Place, Wahi Tapu, or Archaeological Site on or near the Land without the prior consent in writing of the New Zealand Historic Places Trust (Pouhere Taonga) and Te Runanga o Ngai Tahu. Any such consent must be signed off by the Department of Conservation and presented to LINZ upon request;
- 11.1.9 That prior to undertaking any works on the land that may result in soil disturbance, the Permit Holder must make application to LINZ to obtain its consent in accordance with 11.1.3. Prior to making application to LINZ, the Permit holder will commission a suitably qualified specialist to report on the effects of the activity (including but not limited to landscape and botanical effects), and specify what measures will be taken by the Permit Holder to avoid or mitigate any adverse effects. This report must be presented to LINZ as part of the Permit Holder's proposal for consent in accordance with 11.1.3 and must be signed off by DOC before being presented.
- 11.1.10 any Antiquity or Grave or Artifact (as those terms are defined in the Antiquities Act 1975) found in the area is left in situ and LINZ and the Secretary of Internal Affairs and any other relevant authority under any other Act notified as soon as reasonably practicable;
- 11.1.11 where the Land is in the Takiwa of Te Runanga o Ngai Tahu, any pounamu (greenstone) in its natural state found in the area is left in situ and LINZ and Te Runanga o Ngai Tahu are notified as soon as reasonably practicable;

11.1.12. the Permit Holder shall at its own cost maintain public access to the Land and to any adjacent Crown land and, in addition to clause 18, shall protect the safety of persons present on the Land during Exploration and between work periods and shall erect adequate protective fencing and/or signposts warning the public of any dangers that may be encountered as a result of the Exploration; and

11.1.13 all Exploration is carried out at all times strictly in accordance with this Access Arrangement, the Exploration Permit, the conditions of any Resource Consents, relevant Legislation, and to the highest industry standards.

11.2 The Permit Holder is responsible for controlling all weeds resulting from any of its activities at any of its exploration sites on the Land for the duration of this Access Arrangement and ensuring compliance with the Biosecurity Act 1993.

12 SUPPLY OF INFORMATION

12.1 The Permit Holder shall lodge copies of the renewal of or substitution for any insurance policies including receipts for payment of premiums with LINZ within one month of receiving them.

12.2 The Permit Holder shall provide to LINZ all information required from time to time by LINZ in respect of the Right of Access to the Land and any buildings or equipment thereon including any details concerning the Exploration and details concerning the numbers of people employed by the Permit Holder or permitted or suffered by the Permit Holder to come onto the Land.

12.3 The Permit Holder shall lodge with LINZ any variations or extensions to the Exploration Permit within one month of the date of the variation or extension PROVIDED THAT the terms of this Access Arrangement shall only be varied in accordance with clause 24 hereof.

12.4 On completion of the Exploration the Permit Holder shall provide LINZ with a copy of the results of all drilling and other testing carried out on the Land.

13 MONITORING

13.1 The Permit Holder shall allow LINZ to visit and inspect any sites on the Land at any time to monitor compliance with the conditions of this Access Arrangement.

13.2 The Permit Holder shall comply at all times with the Act and with all other Legislation including, without limitation, by ensuring that any necessary Resource Consents remain current.

14 PERMIT HOLDER CERTIFICATION

14.1 The Permit Holder or its Directors if the Permit Holder is a company shall on or before signing of this Access Arrangement by LINZ and thereafter on or before each anniversary of the date of this Access Arrangement supply certification to LINZ in the form attached as Schedule Three that:

14.1.1 the Permit Holder has been granted all necessary Resource Consents for the Exploration and that those Resource Consents are current or, as appropriate, that no Resource Consents are required;

- 14.1.2 the Permit Holder maintains current public liability insurance as required by this Access Arrangement;
 - 14.1.3 the Permit Holder holds a certificate of currency from the appropriate bondholder in respect of the bond to be maintained by the Permit Holder under clause 7 of this Access Arrangement and that all sums required to maintain the bond have been paid;
 - 14.1.4 the Minister of Energy has approved the current Work Programme or, if appropriate, that the Minister of Energy's approval is not required;
 - 14.1.5 the Permit Holder has otherwise at all times from the date of this Access Arrangement complied in all respects with its obligations under the Access Arrangement;
 - 14.1.6 where physical access to the Land is required other than over legal road or marginal strip, the prior consent of the Owner and Occupier of that land has been acquired; and
 - 14.1.7 where physical access to the Land is required over marginal strip pursuant to section 24 Conservation Act 1987 the prior consent of the Minister of Conservation has been acquired.
- 14.2 The parties agree that failure by the Permit Holder to provide the above certification by the dates specified shall constitute a material breach of this Access Arrangement.

15 TRANSFER OF OWNERSHIP

- 15.1 LINZ reserves the right to dispose of or transfer ownership of the Land or any part of it to a third party during the term of this Access Arrangement.

16 BANKRUPTCY OR INSOLVENCY

- 16.1 If:
- 16.1.1 the Permit Holder becomes insolvent or unable to pay its debts including contingent debts in the ordinary course of business;
 - 16.1.2 an order is made or a resolution passed for the winding up of the Permit Holder;
 - 16.1.3 a creditor, debenture holder and/or holder of a Security Interest (as defined in the Personal Property Securities Act 1999), of the Permit Holder takes possession or a receiver or statutory liquidator is appointed in respect of, the whole or any part of the assets or undertakings of the Permit Holder; or
 - 16.1.4 a creditor of the Permit Holder and/or the holder of a Security Interest (as defined in the Personal Property Securities Act 1999) takes steps to enforce their rights in respect of the agreement giving rise to the creditor's Security Interest,

LINZ may either;

- 16.2 terminate this Access Arrangement with immediate effect by written notice to the Permit Holder; or
- 16.3 give any assignee, receiver, liquidator or other person the option of carrying out the Access Arrangement subject to the provision of a guarantee for the due and faithful performance of the Access Arrangement up to an amount to be agreed and of a covenant by the assignee, receiver, liquidator, or other person to accept, observe, and perform all of the terms and conditions of this Access Arrangement.
- 16.4 The Permit Holder must, on having knowledge of any event happening under clauses 16.1.1 to 16.1.4 immediately advise LINZ of such event.
- 17 TERMINATION
- 17.1 LINZ may terminate this Access Arrangement with immediate effect but subject to 17.1.4 by giving notice in writing to the Permit Holder if:
- 17.1.1 any Resource Consent required to carry out any of the Permit Holder's operations on the Land is revoked;
 - 17.1.2 the Permit Holder commits or allows to be committed any material breach of the terms of this Access Agreement;
 - 17.1.3 the Permit Holder commits or allows to be committed any breach of the terms of this Access Arrangement and the breach is not capable of remedy;
 - 17.1.4 the Permit Holder commits or allows to be committed any breach of the terms of this Access Arrangement and the breach is capable of remedy, and the Permit Holder has not remedied the breach within 30 days of notice in writing from LINZ requiring the breach to be remedied; or
 - 17.1.5 the Permit Holder ceases business or materially changes the nature of its business operations.
- 17.2 The Permit Holder may terminate this Access Arrangement by giving not less than one month's notice in writing to LINZ.
- 17.3 Termination under clauses 16, 17 and 18 of this Access Arrangement is without prejudice to the rights and obligations of either party arising prior to the date of termination and does not relieve a party from any obligations that must be carried out after termination.
- 17.4 Upon termination or expiry of this Access Arrangement:
- 17.4.1 The Permit Holder shall restore the Land to LINZ's reasonable satisfaction;
 - 17.4.2 LINZ shall not be liable to pay any compensation whatsoever for any buildings, structures, or Improvements on the Land effected by the Permit Holder and the Permit Holder may remove, and if requested by LINZ shall remove, all such buildings, structures, and improvements and shall repair and make good at the Permit Holder's own expense all damage done by such removal to LINZ's reasonable satisfaction; and

17.4.3 If the Permit Holder falls to remove any buildings, structures, or improvements in accordance with clause 17.4.2 within a reasonable period of LINZ's request LINZ may, in its sole discretion, undertake the same and recover the costs from the Permit Holder.

18 HEALTH AND SAFETY

18.1 For the purposes of this clause 18:

18.1.1 a person involved in carrying out Exploration includes:

18.1.1.1 any employee of the Permit Holder;

18.1.1.2 any contractor, sub-contractor and/or agent of the Permit Holder, and any employee of any contractor, sub-contractor or agent;

18.1.1.3 any Land Information New Zealand (LINZ) employee; and

18.1.1.4 any person carrying out only a part of the Exploration or any service related to the Exploration;

18.1.2 unless otherwise defined in this Access Arrangement, all defined terms in this clause 18 (identified by title case) shall have the meanings given to them in the Health and Safety in Employment Act 1992; and

18.1.3 In taking all Practicable Steps, the Permit Holder acknowledges that it may be necessary for it to physically visit and inspect the Land.

18.2 The Permit Holder shall comply with, and shall ensure that all its contractors and sub-contractors comply with, the Health and Safety in Employment Act 1992. For the avoidance of doubt, the Permit Holder's obligations under this clause 18 shall not limit its other obligations under this Access Arrangement and otherwise at law.

18.3 The Permit Holder shall, before undertaking any part of the Exploration, and for the term of this Access Arrangement, take all Practicable Steps to:

18.3.1 ensure the safety of all persons involved in carrying out the Exploration, while they are carrying out the Exploration;

18.3.2 provide and maintain a Safe working environment for all persons involved in carrying out the Exploration while they are involved in carrying out the Exploration;

18.3.3 provide and maintain Facilities (including, without limitation, those required by all Regulations made under the Health and Safety in Employment Act 1992) for the safety and health of all persons involved in carrying out the Exploration while they are involved in carrying out the Exploration;

18.3.4 ensure that any Plant used by any person involved in carrying out the Exploration is Safe for that person to use;

18.3.5 ensure that all persons involved in carrying out the Exploration are not exposed to any Hazards arising out of the arrangement, disposal, manipulation, organisation, processing, storage, transport, working, or use of any thing; and

- 18.3.6 develop a Health and Safety Management Plan to be complied with at all times in order to ensure the health and safety of any employee, contractor, sub-contractor, agent or any other person in the vicinity of the working environment (such plan to include procedures for dealing with any emergencies that may arise while a person is involved in carrying out the Exploration).
- 18.4 The Permit Holder shall, before undertaking any part of the Exploration, and for the term of this Access Arrangement, ensure that it has effective methods for:
 - 18.4.1 systematically identifying all existing Hazards to any person involved in carrying out the Exploration;
 - 18.4.2 systematically identifying (if possible before, and otherwise as they arise) new Hazards to any person involved in carrying out the Exploration; and
 - 18.4.3 regularly assessing each identified Hazard and determining whether or not that Hazard is a Significant Hazard.
- 18.5 Where a Significant Hazard has been identified before undertaking any part of the Exploration, or at any other time during the term of this Access Arrangement, the Permit Holder shall:
 - 18.5.1 immediately notify LINZ of the Hazard; and
 - 18.5.2 take all Practicable Steps to either:
 - 18.5.2.1 eliminate the Hazard, including (without limitation) taking all action required by LINZ; or (at LINZ's sole and absolute discretion)
 - 18.5.2.2 assist LINZ in ensuring that the Hazard is eliminated.
- 18.6 Where a Significant Hazard cannot be eliminated the Permit Holder shall take all Practicable Steps to either:
 - 18.6.1 isolate the Hazard from those persons involved in carrying out the Exploration, including (without limitation) taking all action required by LINZ; or (at LINZ's sole and absolute discretion)
 - 18.6.2 assist LINZ in ensuring that the Hazard is isolated from those persons involved in carrying out the Exploration.
- 18.7 Where a Significant Hazard cannot be eliminated or isolated the Permit Holder shall take all Practicable Steps to:
 - 18.7.1 minimise the likelihood of the Hazard causing Harm;
 - 18.7.2 provide, make assessable and ensure the use of suitable clothing and equipment to provide protection from possible Harm;
 - 18.7.3 monitor any person's exposure to the Hazard;
 - 18.7.4 take all Practicable Steps to obtain the consent of persons exposed (or who may be exposed) to the Hazard to monitor their health in respect of the

Hazard; and

- 18.7.5 where a person's consent has been obtained, monitor the health of that person in respect of their exposure to the Hazard.
- 18.8 The Permit Holder shall ensure that all persons involved in carrying out the Exploration have been given, and are provided with ready access to, information about:
- 18.8.1 the Permit Holder's Health and Safety Management Plan as it relates to the carrying out of that Exploration;
- 18.8.2 what to do in an emergency;
- 18.8.3 all identified Hazards to which that person is, or may be, exposed to and the steps to be taken to minimise the likelihood that the Hazard will be a cause or source of Harm to that person;
- 18.8.4 all identified Hazards that person will or may create while undertaking the Exploration and the steps to be taken to minimise the likelihood that the Hazard will be a cause of Harm to other people; and
- 18.8.5 where all necessary safety clothing, devices, equipment and materials are kept.
- 18.9 The Permit Holder shall take all Practicable Steps to ensure that every person involved in carrying out the Exploration:
- 18.9.1 either has, or is supervised by a person who has, sufficient knowledge and experience of the health and safety requirements relating to the Exploration and the place in which that person will undertake the Exploration; and
- 18.9.2 is adequately trained in the safe use of all Plant, protective clothing and equipment to be used in carrying out the Exploration.
- 18.10 The Permit Holder shall take all Practicable Steps to ensure that no person involved in carrying out the Exploration harms any other person.
- 18.11 Where the Permit Holder controls a place of work in carrying out the Exploration it shall take all Practicable Steps to ensure that no Hazard that exists or arises harms people within the vicinity of that place of work.
- 18.12 The Permit Holder shall maintain (in the form prescribed by the Health and Safety in Employment Act 1992) a register of Accidents and Serious Harm recording the details required by the Health and Safety in Employment Act 1992.
- 18.13 The Permit Holder shall immediately notify LINZ of all material Accidents and take any action required by LINZ to ensure both the Permit Holder's and LINZ's obligations under the Health and Safety in Employment Act 1992 are met in full.
- 18.14 The Permit Holder shall take all Practicable Steps to investigate all Accidents and/or any Harm caused to any person involved in carrying out the Exploration to determine whether the Accident or Harm was caused by or arose from a Significant Hazard (in which case, for the avoidance of doubt, clause 18.4 shall apply).

- 18.15 The Permit Holder confirms and warrants that prior to undertaking any Exploration it will:
- 18.15.1 undertake an assessment of all Hazards for the purposes of creating, or implementing its Health and Safety Management Plan; and
 - 18.15.2 implement a Health and Safety Management Plan (as it relates to the carrying out of the Exploration); and
 - 18.15.3 create a list of all identified Hazards in respect of the carrying out of the Exploration; and
 - 18.15.4 undertake all specific or necessary health and safety training for the carrying out of the Exploration.
- 18.16 As part of its annual certification under clause 14 of the Access Agreement the Permit Holder shall provide LINZ with:
- 18.16.1 written confirmation of its monitoring and adequacy of its then current Health and Safety Management Plan (as it relates to the carrying out of the Exploration);
 - 18.16.2 a list of all identified Hazards in respect of the carrying out of the Exploration;
 - 18.16.3 a report on:
 - 18.16.3.1 all Accidents and Harm resulting from the carrying out of the Exploration;
 - 18.16.3.2 the Permit Holder's investigations into all Accidents and Harm and the action taken as a result of those investigations;
 - 18.16.3.3 any action required by LINZ to be taken by the Permit Holder in respect of any health and safety matters and the action actually taken by the Permit Holder in that regard;
 - 18.16.3.4 the health and safety training in respect of the carrying out of the Exploration;
 - 18.16.3.5 confirmation that all necessary health and safety certifications, consents, approvals and permits are up to date; and
 - 18.16.3.6 confirmation that the Health and Safety in Employment Act 1992 has been complied with in all respects or, if such confirmation cannot be given, detailed advice as to why compliance was not possible and the steps taken to ensure future compliance.
- 18.17 If LINZ (in its sole and absolute discretion), considers that:
- 18.17.1 any part of the Permit Holder's confirmation with respect to its Health and Safety obligations (as reported under this clause 18) is inadequate; or
 - 18.17.2 any report to be provided under this clause 18 is inadequate; or

- 18.17.3 any potential or existing Hazard has been identified, it may require the Permit Holder to take any reasonable action LINZ considers necessary (including, without limitation, any action under clause 18.4).
- 18.18 The Permit Holder agrees to undertake all action required by LINZ under clause 18.17 within the timeframes stipulated by LINZ. If the Permit Holder is unable or unwilling to comply with any of LINZ's requirements, LINZ shall be entitled to immediately terminate this Access Arrangement by notice in writing to the Permit Holder.
- 18.19 The Permit Holder shall prepare and maintain a current Health and Safety Management Plan in respect of the Exploration for the term of this Access Arrangement.
- 18.20 The Permit Holder shall continually review its Health and Safety plan in order to make any necessary amendments as a result of the identification, isolation, or monitoring of any Hazards or Harm.
- 18.21 The Permit Holder shall ensure that all contractors, subcontractors and/or agents engaged in carrying out the Exploration have acceptable Health and Safety Management Plans and practices in place prior to carrying out any Exploration.
- 18.22 For the avoidance of doubt, the Permit Holder's obligation under the Health and Safety Provisions shall not limit any of its other obligations under this Access Arrangement.

19 SERVICE OF NOTICES

- 19.1 Any notice required to be addressed by either party shall be sent by ordinary post or by facsimile during normal business hours and shall be deemed to have been delivered, if posted, three Working Days following deposit in the mail with postage prepaid, or if sent by facsimile, when a completed transmission report is received by the sender unless a verifiable query as to material legibility is promptly raised by the recipient.

LINZ's address for service is;

The Manager Pastoral
Crown Property and investment
Land Information New Zealand
112 Tuam Street
Private Box 4721
CHRISTCHURCH
Attention: Murray Mackenzie

Facsimile: 03 365-9715

The Permit Holder's address for service is;

Prophecy Mining Limited
Nathan House
541 Parnell Road
Parnell
AUCKLAND

Attention: Peter Atkinson

Telephone; 09 303 1893
Facsimile: 09 303 1612

20 DISPUTES

20.1 If any dispute arises between the Permit Holder and LINZ concerning the rights and obligations created by this Access Arrangement, the parties will enter into negotiations in good faith to resolve their dispute. If the dispute is not resolved within 20 Working Days of the date on which the dispute was notified, the parties will submit to arbitration of an independent arbitrator appointed jointly by the parties. If the parties cannot agree on the arbitrator within a further 5 Working Days the President or his nominee for the time being of the New Zealand Law Society will appoint an independent arbitrator in the area. In the event that the President of the New Zealand Law Society fails or refuses to appoint an arbitrator, either party may request the High Court to make an appointment. The appointment decision of the High Court may not be appealed. The arbitration proceedings will be conducted in accordance with the Arbitration Act 1996, excluding the Second Schedule thereof, and the parties' execution of this Access Arrangement shall be deemed to be a submission to arbitration.

21 NO PARTNERSHIP

21.1 Nothing in this Access Arrangement creates, gives rise to, or has the effect of forming any partnership between the Permit Holder and LINZ.

22 SEVERABILITY

22.1 If any part of this Access Arrangement is held by any court or administration body of competent jurisdiction to be illegal, void, or unenforceable, such determination shall not impair the enforceability of the remaining parts of this Access Arrangement which shall remain in full force.

23 NO WAIVER

23.1 A waiver of any provision of this Access Arrangement shall not be effective unless given in writing, and then it shall be effective only to the extent that it is expressly stated to be given.

23.2 A failure, delay or indulgence by one party in exercising any power or right shall not operate as a waiver of that power or right. A single exercise or partial exercise of any power or right shall not preclude further exercises of that power or right or the exercise of any other power or right.

24 VARIATION

24.1 No variation, amendment, or substitution of this Access Arrangement shall be binding on the parties unless and until both parties have signed an agreed written variation, amendment or substitute access arrangement.

25 REGISTRATION

25.1 Where the term of this Access Arrangement is of more than 6 months duration the Permit Holder shall lodge notice of the Access Arrangement in the prescribed form together with the prescribed fee with the District Land Registrar in accordance with

s83 of the Act.

26 FORCE MAJEURE

26.1 Neither party shall be liable for any failure by it to perform its obligations (including the obligation to pay money) if the failure results from an act of God, fire, explosion, act of terrorism or terror or act of government (such as change of legislation, regulation, or order made under legislative authority or change of government policy, government appropriations).

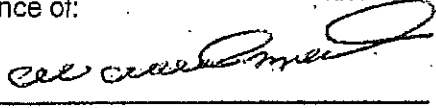
IN WITNESS WHEREOF this Access Arrangement has been duly executed on the date first written above.

SIGNED for and on behalf of HER MAJESTY THE QUEEN IN RIGHT OF NEW ZEALAND acting by) and through the Chief Executive of Land) Information New Zealand by



Mathew Clark
Manager Pastoral
Crown Property & Investment
Land Information New Zealand

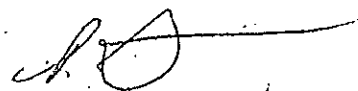
in the presence of:

Witness 

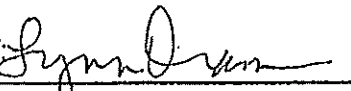
Name M. Mackenzie

Occupation Technical lead - Land Information NZ

Address Christchurch.

SIGNED by 
PETER ATKINSON
(Director)

for and on behalf of Prophecy Mining Limited

in the presence of 

Witness Lynn Dрам
Name

Occupation Teacher

Address 56 Comins Cres.
Mission Bay
Auckland 1071

