

Crown Pastoral Land Tenure Review

Lease name : *CARRICK*

Lease number : PO 357

Substantive Proposal - Part 3

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

May

12

SCHEDULE 3

MANAGEMENT PRESCRIPTION DOCUMENT FOR CARRICK GRAZING CONCESSION – HISTORIC RESERVE

As this concession is for a term exceeding 10 years a management prescription document is required. A management prescription in the concession conditions provides, over the full term:

1. The specific goals of management of the land consistent with the nature of the concession activity
2. A description of how the goals are to be met.
3. A detailed description of the type and condition of conservation resources at the commencement of the concession.
4. A description of the monitoring programme (of activity effects) to be carried out.
5. A specification concerning grazing systems, including identification of vegetation trends and how that will affect the grazing systems.

This management prescription document shall apply until it is reviewed ten years from the date of commencement of the concession and every ten years thereafter.

1. The goal of the concession is to provide for grazing within the historic reserve to a level that keeps vegetation controlled but does not impact in a negative way on the historic sites. The grazing is considered a benefit to the management of the historic reserve as long as no damage occurs.

2. A description of how the goals are to be met.

1. This goal is to be met by formalising ongoing grazing using stock numbers and types that do not have negative impacts. The Concessionaire is required to take care not to overstock the Land and will ensure that grazing is not having an adverse impact on the historic resources within the Land. Keeping rabbits at low levels will reduce impacts from ground disturbance and retain vegetation.

If stock are having adverse impacts then this can be addressed by modifying the stocking or fencing. As a last resort removing stock, or type of stock, could be considered.

3. Description and condition of conservation resources present.

This area is an extension of the Young Australian Historic Reserve. Many of the races, tracks and mine areas were not protected within the original reserve and this extension will remedy this. The history is as follows:

The waterwheel is one of only two still in place in Central Otago – the other is at the Serpentine - permanent reminders of water's importance in mining gold-bearing quartz reefs.

The reefs in the Carrick Range were found after alluvial gold was discovered in Bannockburn in 1862. From there alluvial miners followed gold bearing gravels up the creeks to here. Harvesting this gold though required mining, crushing and extracting it from the quartz.

By 1876 there were five crushing batteries on the Carrick fields. Initially, powering them was difficult and expensive in a firewood-free landscape as coal was carted up from Bannockburn. In 1872, though, the Carrick Range Water Supply Company began work on a 34-kilometre water race.

At the same time the Young Australian Mine Company began working the Young Australian Reef. For nearly three years, their quartz was carted to another battery for crushing. By 1875, based on good returns and the knowledge that water was on its way, the directors installed a crushing battery and waterwheel here.

For two years all went well, then the reef petered out and the battery and mine were sold in 1877. The enterprise changed hands several times before finally closing in 1898.

4. Description of a monitoring programme to be established to assess stock and other impacts on the historic sites.

Photopoint monitoring will be undertaken by the Minister to ensure that any stock damage to the historic features on the Land can be identified and mitigated. Monitoring will be initiated when the reserve is created and monitoring will take place every 5 years, or at some other interval deemed appropriate.

5. Number of stock and duration permitted to be run on the concession area within the current term of the management prescription document.

No specific stock numbers are specified due to the reserve being unfenced from existing farm blocks. Based on current grazing numbers the indicative stock carrying capacity of the concession area is 35 SU.

INSTRUMENT OF TRANSFER OF EASEMENTS IN GROSS FOR IRRIGATION WORKS

1.0 BACKGROUND

- 1.1 The Carrick Irrigation Company Limited at Bannockburn (called "the Irrigation Company") has purchased the Bannockburn Irrigation Scheme pursuant to a Sale and Purchase Agreement between MURRAY THOMAS DENNISON, RICHARD STEVEN CLARK and EDGAR PARCELL all of Bannockburn Farmers as agents for the Irrigation Company then yet to be incorporated and David Francis Caygill, Minister of Finance and James Robert Sutton, Minister of Agriculture on behalf of the Crown, dated 18 December 1989 and 26 October 1990 and subsequently adopted by the Irrigation Company as the Purchaser. The Bannockburn Irrigation Scheme (called "the Irrigation Scheme") is described in the said Sale and Purchase Agreement.

*** 9,250.0534 hectares more or less being Sections 3, 27, 28, 29, 30, 31 and 34 Block III Nevis Survey District, Section 1, Block III and Sections 9, 10, and 11, Block IV Bannockburn Survey District, Run 339E Nevis, Lorn and Lornside Survey Districts and Part Run 330B Nevis and Bannockburn Survey Districts (part of the said land and adjoining Crown land now known as Sections 3, 4, 5 and 6, Block III Bannockburn Survey District and Sections 13, 14 and 15, Block IV Bannockburn Survey District) subject to Pastoral Lease Number P56 comprised in Register Book Volume 338 Folio 81 (Otago Land Registry) (called "the Crown's land").

ISABELLE CLARK his wife (called "the Lessee") is registered as the lessee of the said Pastoral Lease.

- 1.4 The Minister of Agriculture (called "the Minister") had the right immediately before the date of sale of the Irrigation Scheme to the Irrigation Company, pursuant to Section 223 of the Public Works Act 1981 or the corresponding

M. J. Clark
D. W. Clark

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the stipulated course on the Landowner's land shown on the plan attached and for this purpose to have the right to use, occupy, construct, maintain, reconstruct and carry out such works (in this Instrument called "water works") as the Irrigation Company considers necessary or desirable on the Landowner's land along the stipulated course including, but without limitation, structures and works for; intakes, conveying water, water flow control and supply, turnouts, monitoring and discharges.

- (b) To monitor and control its waterflows and the water source flows and to carry out viewing, surveillance and monitoring of its water works on the Landowner's land.
- (c) Generally and without limitation to the stipulated course of access, to enter the Crown's land and to have access across the Crown's land by the most practicable route.
- (d) To erect and maintain such fixtures or markers as may be necessary to indicate the location of any pipeline and associated works provided that such fixtures or markers do not interfere with the reasonable management of the Landowner's land.
- (e) To generally do anything necessary or convenient for the full exercise of the rights under this Instrument and to give full effect to the purposes of this Instrument.

It being acknowledged that the words "convey water" and "conveying water" include "bye-wash water" and "bye-washing water".

3.2 In exercising its rights and powers under this Instrument, the Irrigation Company shall:

[Handwritten signature]
M. J. Clark
D. W. Clark

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- (a) Cause as little disruption and disturbance to the occupation and enjoyment by the Landowner of the Landowner's land, as is reasonably possible.
 - (b) Cause as little damage to the Landowner's land and fixtures on it and the surface of it as is reasonably possible.
 - (c) After exercising its rights and powers, restore the Landowner's land and fixtures on it as nearly as is reasonably possible to its former condition but as shall be reasonable in the circumstances having regard to the economic and amenity values to the Landowner of the land and fixtures affected.
- 3.3 (a) When the Irrigation Company requires entry with machinery on the Landowner's land to carry out maintenance or construction works, it shall take reasonable steps to give to the Landowner or occupier of the land not less than 24 hours notice by direct personal contact, ordinary letter, facsimile transmission, or telephone prior to such entry and works being undertaken, unless there is an emergency and in which case no notice shall be required.
- (b) If the Landowner or occupier has received such notice the Landowner or occupier shall notify the Irrigation Company, prior to the entry and work being undertaken, of the presence of pipes or other underground facilities in the Landowner's land and if the Landowner or occupier fails to notify the Irrigation Company then the Irrigation Company will not be liable for any damage it may cause to such underground pipes or underground facilities.

DOB
M. J. Clark
D W Clark

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- 3.4 (a) It is acknowledged that the Irrigation Company shall not fence the boundaries of the easements.
- (b) The Landowner shall not do, or permit to be done, anything, including planting trees or constructing works or buildings, which will prevent or interfere with the free passage of water along the stipulated course or prevent or interfere with the Irrigation Company's full rights of access and full use by it of its rights created by this Instrument and shall not interfere, or permit any interference, or allow trees, tree roots or other vegetation growing on or from the landowners land or stock pastured on the landowner's land to interfere with the support, structure or integrity of the Irrigation Company's water works.
- (c) Without limiting the extent of this clause 2.4, the landowner shall not, without the prior written consent of the Company, plant trees or construct works or buildings within 4 metres of the centre line of a pipe or within 3 metres from the edge of a water race or other water works.

3.5 The rights and powers contained in paragraphs 1, 2 and 5 of the Seventh Schedule to the Land Transfer Act 1952 shall apply except insofar as they are varied by this instrument and with the deletion from both paragraphs 2 and 5 of the words "(in common with the grantor, his tenants and any other person lawfully entitled so to do)".

3.6 Any right of action or remedy which shall at any time after the date of this instrument accrue to the Irrigation Company because of any breach or non-observance by or on behalf of the Lessee of any of the covenants expressed or implied in this instrument and to be observed or performed by the Crown, shall be enforced only against the registered proprietor for the time being of the Pastoral Lease in respect of which such breach of

M. J. Clark
DW Clark

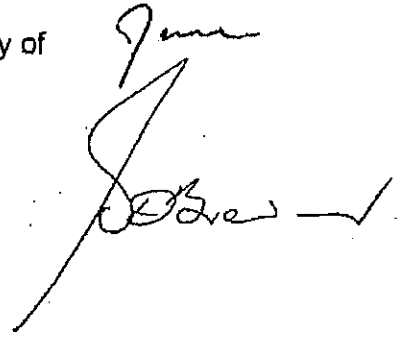
non-observance shall occur or against the lessee of the Pastoral Lease at the time of such occurrence aforesaid but to the intent that any lessee of the Pastoral Lease shall only be liable for acts or defaults occurring while that person is so registered.

3.7 The lessee agrees to the terms of this instrument and is bound by them to the extent that the terms apply to the lessee and the lessee consents, without payment of compensation, to the terms of this instrument.

3.8 A reference to any party to this instrument includes that party and that parties transferees and successors.

Dated the 28th day of June 1995

SIGNED by and on behalf)
of HER MAJESTY THE)
QUEEN by the)
Commissioner of Crown)
Lands as landowner)
in the presence of:)



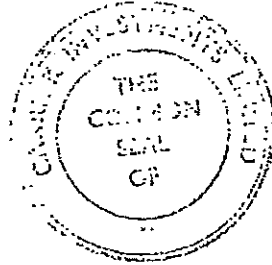
Witness Ken Hancox

Occupation Administration Consultant

Address Wellington

DW Clark
M. J. Clark

SIGNED by the CARRICK)
IRRIGATION COMPANY)
LIMITED by the affixing of its)
~~common seal~~^{Director} in the presence)
of:)



Director... *[Signature]*.....

Director... *[Signature]*.....

[Signature]
[Signature]

SIGNED by DONALD)
WILLIAM CLARK and) *DW Clark*
MARION ISABELLE CLARK) *M I Clark*
as Lessee in the presence of:)

Witness... *[Signature]*.....

Occupation... *[Signature]*.....

Address... *[Signature]*.....

[Signature]

SCHEDULE OF EASEMENTS

Shown	Purpose	Servient Tenement	Grantee	C T	Owner	Plan N ^o
1-b, c-d, e-f	Right to convey water	Run 330 B Bk III & IV	CARRICK IRR Co. Ltd	388/81	DW & MI Clark	22

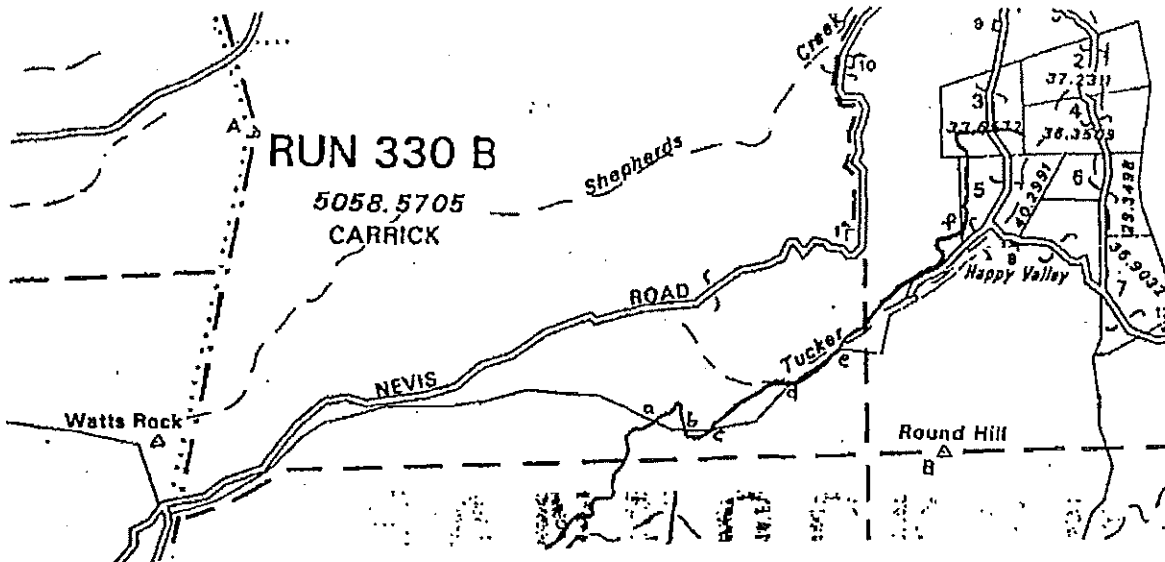


DIAGRAM OF IRRIGATION RIGHT
 PREPARED PURSUANT TO THE
 IRRIGATION SCHEMES ACT 1990

CARRICK IRRIGATION Co, Ltd

M I Clark
D W Clark
OS

PREPARED BY C. HUGHES & ASSOCIATES
 SURVEYING CONSULTANTS
 CROMWELL

Scale 1:50 000
 Date 5/94
 Job N^o 3665

~~In Consideration of the sum of~~

paid to the Transferor by

(herein called "the Transferee") the receipt of which sum is hereby acknowledged ~~Hereby Transfers to the~~
Transferee all the Transferor's estate and interest in the said piece or pieces of land

In witness whereof these presents have been executed this day of 19

Signed by the Transferor

(by the affixing of its common seal)

~~in the presence of:~~

MEMORANDUM OF TRANSFER

MENT IN GROSS FOR IRRIGATION WORKS

Correct for the purposes of the Land Transfer Act 1952

MARRICK IRRIGATION COMPANY LIMITED Transferor

SOLICITOR FOR THE TRANSFEREE

W CLARK Transferee

I hereby certify that this transaction does not contravene the provisions of Part II A of the Land Settlement Promotion and Land Acquisition Act 1952.

Particulars entered in the Register as shown herein on the date and at the time endorsed below.

SOLICITOR FOR THE TRANSFEREE

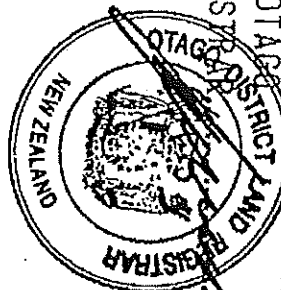
Assistant / District Land Registrar of the

I hereby certify for the purposes of the Stamp and Cheque Duties Act 1971 that no conveyance duty is payable on this instrument by reason of the application of Section 24(1) of the Act and that the provisions of subsection (2) of that section do not apply.

City of

SOLICITOR FOR THE TRANSFEREE

12.11 30 JUN 95 885721//
PARTICULARS ENTERED IN REGISTER
LAND REGISTRY OTAGO
ASST. LAND REGISTRAR
338/81



17C/733

RELEASED UNDER THE OFFICIAL INFORMATION ACT

Appendix 10: Form of Covenant CC1 to be Created

DATED _____

Between

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

and

MINISTER OF CONSERVATION
("the Minister")

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



Department of Conservation
Te Papa Atawhai

THIS DEED of COVENANT is made the day of

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

AND MINISTER OF CONSERVATION

BACKGROUND

- A. The Commissioner of Crown Lands is deemed for the purposes of section 77 of the Reserves Act 1977 to be the owner of the Land under section 80(5) of the Crown Pastoral Land Act 1998.
- B. The Land contains certain Values specified in Schedule 1.
- C. The parties agree that the Land should be managed so as to preserve the particular Values specified in Schedule 1, and that such purpose can be achieved without the Minister acquiring a fee simple or leasehold interest in the Land.
- D. An approved plan designating the Land as land over which a Covenant under section 77 of the Reserves Act 1977 is to be created has been registered under section 64 of the Crown Pastoral Land Act 1998.
- E. The Commissioner of Crown Lands has agreed to grant the Minister a Covenant over the Land to preserve the particular Values specified in Schedule 1.

OPERATIVE PARTS

In accordance with section 77 of the Reserves Act 1977, and with the intent that the Covenant run with the Land and bind all subsequent Owners of the Land, the Commissioner of Crown Lands and Minister agree as follows:

1. INTERPRETATION

1.1 In this Covenant unless the context otherwise requires:

- “Act” means the Reserves Act 1977.
- “Covenant” means this Deed of Covenant made under section 77 of the Act.
- “Director-General” means the Director-General of Conservation.
- “Fence” includes a gate.
- “Fire Authority” means a Fire Authority as defined in the Forest and Rural Fires Act 1977.
- “Land” means the land described in Schedule 1.
- “Minerals” means any mineral that is a Crown owned mineral under section 2 of the Crown Minerals Act 1991.
- “Minister” means the Minister of Conservation.
- “Natural Water” includes water contained in streams the banks of which have, from time to time, been realigned.
- “Owner” means the person or persons who from time to time is or are registered as the proprietor(s) of the Land.

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

1.2 For avoidance of doubt:

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

2. OBJECTIVE OF THE COVENANT

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

3. THE OWNER’S OBLIGATIONS

- 3.1 Unless agreed in writing by the parties, the Owner must not carry out or allow to be carried out on or in relation to the Land:
- 3.1.1 grazing of the Land by livestock;
- 3.1.2 subject to clauses 3.2.1 and 3.2.3, felling, removal or damage of any tree, shrub or other plant;
- 3.1.3 the planting of any species of tree, shrub or other plant;
- 3.1.4 the erection of any Fence, building, structure or other improvement for any purpose;
- 3.1.5 any burning, chemical spraying, top dressing or sowing of seed;
- 3.1.6 any cultivation, earth works or other soil disturbances;
- 3.1.7 any archaeological or other scientific research involving disturbance of the soil;
- 3.1.8 the damming, diverting or taking of Natural Water;

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

4. THE MINISTER'S OBLIGATIONS

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

5. IMPLEMENTATION OF OBJECTIVES

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

6. DURATION OF COVENANT

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

7. OBLIGATIONS ON SALE OF LAND

- 7.1 If the Owner sells, leases, or parts with possession of the Land, the Owner must ensure that the Owner obtains the agreement of the purchaser, lessee, or assignee to comply with the terms of this Covenant, including any agreement by the purchaser, lessee, or assignee to ensure that on any subsequent sale, lease, or assignment, any subsequent purchaser, lessee, or assignee must also comply with the terms of this Covenant including this clause.
- 7.2 A Transferee of the Land will at law be bound by the registered Covenant. Such transfer is deemed to provide the agreement to comply with the terms of this Covenant required by clause 7.1.

8. MISCELLANEOUS MATTERS**8.1 Rights**

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

8.2 Trespass Act:

- 8.2.1 Except as provided in this Covenant, the Covenant does not diminish or affect the rights of the Owner to exercise the Owner's rights under the Trespass Act 1980 or any other statute or generally at law or otherwise;
- 8.2.2 For avoidance of doubt these rights may be exercised by the Owner if the Owner reasonably considers that any person has breached the rights and/or restrictions of access conferred by this Covenant.

8.3 Reserves Act

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

8.4 Titles

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

8.5 Acceptance of Covenant

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

8.6 Fire

- 8.6.1 The Owner must notify, as soon as practicable, the appropriate Fire Authority and the Minister in the event of wild fire threatening the Land;
- 8.6.2 If the Minister is not the appropriate Fire Authority for the Land, the Minister will render assistance to the Fire Authority in suppressing the fire if:
- 8.6.2.1 requested to do so; or
- 8.6.2.2 if there is in place between the Minister and the Fire Authority a formalised fire agreement under section 14 of the Forest and Rural Fires Act 1977.

9. NOTICES

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

10. DEFAULT

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

11. DISPUTE RESOLUTION PROCESSES

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

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

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

12. JOINT OBLIGATIONS

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

13. SPECIAL CONDITIONS

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

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

Executed as a Deed

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

Witness: _____

Address : _____

Occupation: _____

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

Witness: _____

Address : _____

Occupation: _____

SCHEDULE 1

1. Description of Land

Shaded yellow and labelled CCI on the Designations Plan (approx 1775ha).
See plan schedule 4 showing the Middle Block and the Nevis Face Block.

2. Address for Service¹

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

C/- Box 5244
DUNEDIN

Fax (03) 477 8626

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

Donald W. Clark, Bannockburn Road, RD2, Cromwell 9384 Fax (03) 445 0917

3. Values of Land to be Preserved

This covenants objective is to protect the values which are described as follows:

The area consists of two distinct blocks, the lower called the "Nevis Face" is divided by a fenceline at around 1000 metres from the "Middle Block". The values to be preserved are vegetation, landscape, historic and aquatic fauna.

Middle Block:

Vegetation values

The Conservation Resources Report for Carrick (DOC 2004) identifies that at higher altitudes slim snow tussock and various mosses and lichens are present along with species such as *Brachyglottis haastii*, *Craspedia lanata*, *C. uniflora*, *Raoulia grandiflora*, *Lycopodium fastigiatum*, *Scleranthus uniflorus*, *Festuca matthewsii*, *Pimelea oreophila*, cottonwood and *Raoulia parkii*.

Narrow-leaved snow tussockland is present throughout most of the Nevis Block between 1100 m and 1400 m altitude. Other important species are golden speargrass, fescue tussock and blue tussock. Narrow-leaved snow tussock is generally below 90 cm tall and between 35% and 60% cover, and is moderately modified below c. 1250 m altitude in this block. Patches of mouse-ear hawkweed are common below 1300 m altitude along with introduced pasture species.

Landscape Values

The Carrick middle block makes a contribution to the wider Nevis Valley landscape which is visually impressive. The middle block has values attributed to the vegetation pattern which is a transition between tall tussock and the more exotic oversown areas.

This unit has high visual resource values as an integral part of the Nevis Valley. The side slopes that comprise most of this unit are visible for approximately 17 km along the increasingly popular Nevis Road, particularly when viewed from Schoolhouse Flat.

Nevis Face:

Vegetation:

- Shrublands (now largely removed)
- Extensive short tussock grasslands

¹ State street address not Post Office Box number.

- Communities associated with rocky tors
- River terrace communities

The Nevis Face Block is mainly highly modified fescue tussockland, silver tussockland with pasture at lower altitudes. The over-sown and top-dressed lower slopes have now largely been sprayed to promote pastoral use of the block. The band of mostly low-diversity matagouri-mingimingi shrubland present between 800 m and 900 m altitude has all but gone.

A herbfield on schist rock outcrop vegetation community was observed at one site on the hillslope above the Nevis terraces. A mostly bare rock face has small ledges with the rare cress *Pachycladon cheesemani* along with blue tussock (*Poa colensoi*), wood rush (*Luzula banksiana*), and golden speargrass (*Aciphylla aurea*).

Footslope seeps are localised and best expressed at the southern end of the block. While dominated by bryophytes there is a small range of native and exotic herbs typical of this habitat. Of note are the presence of the localised sedge *Carex kaloides* and native dock *Rumex flexuosus*.

Frequently disturbed gravel terraces immediately adjoining the river have a distinctive sparse flora that includes *Epilobium melanocaulon*, *Raoulia australis*, *R. tenuicaulis*, *R. parkii*, *Geranium sessiliflorum*, and many lichens.

Mounds of river gravels, deposited as tailings from earlier gold mining, are colonised by a range of herbs and grasses. Common native species include *Raoulia australis*, *Muehlenbeckia axillaris*, *Stellaria gracilentia*, *Colobanthus strictus*, mosses and lichens. Common exotic species include mouse-ear hawkweed (*Hieracium pilosella*), whitlow grass (*Erophila verna*), white clover (*Trifolium repens*), and browntop (*Agrostis capillaris*). Tailings at the north-east end of the block support several populations of the rare forget-me-nots *Myosotis pygmaea* var. *glauca* (Nationally Endangered) and *M. pygmaea* var. *minutiflora* (Nationally Vulnerable).

The environmental distinctiveness of the lower terraces has been assessed through the Land Environments of New Zealand (LENZ). This is a classification of New Zealand landscapes using a comprehensive set of climate, landform and soil variables chosen for their roles in driving geographic variation in biological patterns (Leathwick et al 2003). LENZ units K3.2a, K3.3b N3.1d, N3.2a, N4.1b, N4.1d and N6.2a occupy a substantial portion of the narrow terrace adjoining the Nevis River. These are classified as either acutely or chronically threatened LENZ units because nationally they have less than 20% of their original vegetation remaining. Here the soils are uncultivated and characteristic elements of the indigenous flora are present which makes them significant.

Landscape Values

This landscape unit has moderately high landscape values which convey a distinctive vegetation pattern and diversity that correlates closely with farming activity. The unit provides a slightly disjointed impression due to the 'patchy' nature of the vegetation. The unit forms the natural backdrop to the cultural landscape of the Nevis Valley, especially the earlier gold dredging era.

This unit has high visual resource values as an integral part of the Nevis Valley. The side slopes that comprise most of this unit are visible for approximately 17 km along the increasingly popular Nevis Road.

The long colluvial slopes that form a large part of the Landscape Unit are a major physical element of the lower Nevis Valley. They are visually conspicuous, especially from Schoolhouse Flat. The striking juxtaposition between the slopes that still contain a high component of native vegetation and the foreground areas that are modified by gold dredging, combine to form a distinctive and memorable landscape. The intertwining of the natural and historical elements gives the Nevis Valley qualities of a significant heritage landscape.

Historic values

These are represented by the hand stacked stone tailings from ground sluicing, tailings and ponds from dredging and associated hut sites.

On the Nevis Block there is an area of dredge tailings adjacent to the musterers' hut at the northwest corner of the block. These were probably created by one of the small dredges that operated in the

- 10 -

valley around the turn of the century. The tailings are probably the second most extensive area of dredge workings left in Otago after the Earnsclough tailings.

The main areas of ground sluicing are located on river terraces at the southwest corner of the block. These are typical areas of ground sluicing with hand stacked tailings. The northern area of tailings is the most extensive.

Two small coal mines were located opposite the Lower Nevis township. Both were worked by sluicing, using water from small water races coming from adjacent streams. The sluicing removed the overburden and exposed the coal seam. There is some evidence that the southern mine may have also been worked underground. Little remains at the sites beyond the evidence of the sluicing.

The flattish ground opposite the township (at the western edge of the property) was cultivated during the heyday of the settlement. An old photograph on the interpretation panels at the township shows men making hay. The remains of an old reaper and binder were found next to a hut foundation and an elder tree at this location. These remains along with remnant fence lines and legal boundary lines on the cadastral map are the last reminders of the former agricultural history of this area.

Aquatic Values:

Native fish: Smeagol galaxiids (*Galaxias* aff. *gollumoides* "Nevis") inhabit several small waterways on the Land. It has only recently been ascertained that this fish is genetically distinct from other Gollum galaxias (*G. gollumoides*) populations in Otago and Southland. The Nevis Valley population is considered a unique lineage, geologically isolated by the mid-Pleistocene river capture event which created the Nevis River from the upper part of the Nokomai River (Waters *et al.* 2001). The Nevis Valley population also occupies an altitudinal range that is significantly higher than all other Gollum galaxias sites (Allibone 2008).

Smeagol galaxiids are classified as a 'Threatened Species' ranked as "Nationally Vulnerable".

SCHEDULE 2

Special Conditions

1. Clause 3.1.1 is deleted and replaced with:
 - (i) Sheep and no more than 80 cattle may be grazed on the Nevis Face Block.
 - (ii) Sheep only may be grazed on the Middle Block at a stocking rate that does not, in the opinion of the Minister, compromise the Values.
2. Clause 3.1.2 is deleted for the Nevis Face Block only.
3. Clause 3.1.5 is deleted for the Nevis Face Block only. Mine tailings and river gravel areas along the Nevis River will not be sprayed without the consent of the Minister. Native woody vegetation will not be sprayed within 10m of any waterway.
4. Monitoring
 - 4.1 Monitoring will be used to record the condition and trends of the vegetation, the general landscape appearance, historic features and aquatic fauna.
 - 4.2 The monitoring programme will be established at the commencement of the covenant term by the Minister and will define the thresholds for determining when objectives and goals are being/not being met. Subsequent re-monitoring will occur every 5 years (or at some other agreed period) and is to be organised by the Owner with the assistance of the Minister. The Owner will be responsible for producing a report summarising the results of the re-monitoring to a sound scientific standard. Re-monitoring reports will conform to the structure and to the standard of the establishment report and be acceptable to the Minister.
 - 4.3 The Minister will be party to the re-monitoring by providing one staff member to assist with the physical monitoring. The Minister will be given a copy of the monitoring report.
 - 4.4 The Minister is responsible for the cost of establishing the monitoring. The Owner will be responsible for the cost of re-monitoring. The Minister will cover his own staff cost for re-monitoring.
 - 4.5 An aquatic faunal monitoring programme for Smeagol galaxias populations and habitats may also be established by the Minister at the Ministers expense (for both setting up and re-monitoring).
5. Following the production of monitoring reports (noted in 4.1 above), results will be discussed between the Owner and the Minister. Should monitoring show that the purpose of the covenant and/or goals outlined in the Management Prescription Document (Schedule 3) are not being met, the probable causes will be identified. If any negative change is related to livestock or land management practices, the Owner will take all necessary steps to avoid, remedy or mitigate the situation (which may include fencing or reduction in stock numbers or types). If deterioration is related to other causes, the Minister may take steps to avoid future damage.
6. The Owner and the Minister will comply with the provisions of the Management Prescription Document, contained in Schedule 3.

SCHEDULE 3

MANAGEMENT PRESCRIPTION DOCUMENT FOR CARRICK CONSERVATION COVENANT
MIDDLE AND NEVIS BLOCKS

This covenant is in perpetuity and provides for grazing and land use compatible with the values to be preserved. A management prescription allows for future management changes in the conservation covenant and provides:

1. *The specific goals of management of the land consistent with the objects of the covenant.*
2. *A description of how the goals are to be met.*
3. *A description of the monitoring programme to be carried out.*
4. *A specification concerning grazing and land management, including identification of vegetation, landscape, historic and aquatic trends and how that will affect the management systems.*
5. *The revision of the management prescription document ten years from the date of creation of the Covenant and ten years thereafter.*

The covenant conditions between the "Middle Block" and the "Nevis Block" are different so the goals are described in different parts of this document.

*Middle Block (approx 722ha):***(1) Goal:**

The specified goals for the management of the Land are to achieve the protection, maintenance and enhancement of existing vegetative cover, minimising the risk of invasion by exotic weeds and trees and to preserve landscape values, whilst providing for ongoing sustainable grazing.

(2) These goals will be met by:

- removing disturbance practices such as burning
- controlling the level of sheep grazing
- maintaining a tall tussock canopy and preventing depletion and loss of tall tussock
- weed control including restricting weed invasion and removing wilding trees
- minimising earth disturbance and the erection of structures
- monitoring to ensure that the goals are being met

(3) Description of a monitoring programme to be established for vegetation condition.

Monitoring will comprise a set of permanently marked transects and photo points positioned to provide visual reference areas.

Transects (6) will measure changes in vegetation (including live, dead, litter, rock and rubble) at representative and more grazing sensitive sites.

Photopoints will be positioned to provide visual reference areas in all key vegetation environments and landscape characteristics. They will target highest value areas and those most vulnerable to change as a result of grazing.

(4) A specification concerning grazing systems.

Number of stock and duration permitted to be run on the Middle Block within the current term:

The owner must only use the land for grazing sheep. Not more than 361 stock units (ie: 3000 dry sheep for 55 days) may be grazed on an annual basis. Sheep numbers will be reassessed following the results of monitoring if deterioration is noted or objectives are not being met. For the purpose of this covenant: 1 ewe = 1 stock unit; 1 hogget = 0.6 of a stock unit; 1 ram, dry ewe or wether = 0.8 of a stock unit.

Nevis Face Block (approx 1053ha):

(1) Goal:

The specified goals for the management of the Land are to preserve native vegetation, landscape, historic and aquatic faunal values, whilst providing for a level of ongoing sustainable grazing.

The regenerating shrublands on lower slopes are thought to be partly induced by fertilizer application and are incompatible with long term pastoral use; for these reasons they will not be protected apart from riparian woody vegetation that helps sustain aquatic habitat.

(2) These goals will be met by:

- controlling earth disturbance and the erection of structures
- protecting the landscape from hard visual edges being formed, especially between grazing blocks
- preventing depletion and loss of remaining tussock
- preventing modification or destruction of the historic sites
- minimizing stock impacts on galaxiid habitats including damage to stream-banks, stream-beds spawning sites and defecation into water.
- monitoring to ensure that the goals are being met

(3) Description of the monitoring programme to be established:

Monitoring will comprise a comprehensive set of permanently marked, repeatable photo points positioned to provide visual reference points.

Key vegetation environments, particularly those vulnerable to overgrazing or stock damage will be monitored.

Landscape will be monitored from photos taken on the Nevis Road, but other photopoints may also be considered.

Native fish: Smeagol galaxias habitats and populations may be monitored by sampling selected habitats pursuant to the standard DOC Non-migratory Galaxiid Monitoring methods for streams and small rivers.

Historic sites will be monitored to ensure they are not disturbed and to detect whether stock are having a detrimental impact.

GRANT of

Correct for the purposes of the
Land Transfer Act 1952

Solicitor for the Minister

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

COMMISSIONER OF CROWN
LANDS

to

MINISTER OF CONSERVATION

Solicitor
Department of Conservation
DUNEDIN/CHRISTCHURCH

Appendix 11: Form of Covenant CC2 to be Created

DATED _____

Between

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

and

MINISTER OF CONSERVATION
("the Minister")

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



Department of Conservation
Te Papa Atawhai

THIS DEED of COVENANT is made the _____ day of

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

AND **MINISTER OF CONSERVATION**

BACKGROUND

- A. The Commissioner of Crown Lands is deemed for the purposes of section 77 of the Reserves Act 1977 to be the owner of the Land under section 80(5) of the Crown Pastoral Land Act 1998.
- B. The Land contains certain Values specified in Schedule 1.
- C. The parties agree that the Land should be managed so as to preserve the particular Values specified in Schedule 1, and that such purpose can be achieved without the Minister acquiring a fee simple or leasehold interest in the Land.
- D. An approved plan designating the Land as land over which a Covenant under section 77 of the Reserves Act 1977 is to be created has been registered under section 64 of the Crown Pastoral Land Act 1998.
- E. The Commissioner of Crown Lands has agreed to grant the Minister a Covenant over the Land to preserve the particular Values specified in Schedule 1.

OPERATIVE PARTS

In accordance with section 77 of the Reserves Act 1977, and with the intent that the Covenant run with the Land and bind all subsequent Owners of the Land, the Commissioner of Crown Lands and Minister agree as follows:

1. INTERPRETATION

1.1 In this Covenant unless the context otherwise requires:

- “Act” means the Reserves Act 1977.
- “Covenant” means this Deed of Covenant made under section 77 of the Act.
- “Director-General” means the Director-General of Conservation.
- “Fence” includes a gate.
- “Fire Authority” means a Fire Authority as defined in the Forest and Rural Fires Act 1977.
- “Land” means the land described in Schedule 1.
- “Minerals” means any mineral that is a Crown owned mineral under section 2 of the Crown Minerals Act 1991.
- “Minister” means the Minister of Conservation.
- “Natural Water” includes water contained in streams the banks of which have, from time to time, been realigned.
- “Owner” means the person or persons who from time to time is or are registered as the proprietor(s) of the Land.

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

1.2 For avoidance of doubt:

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

2. OBJECTIVE OF THE COVENANT

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

3. THE OWNER’S OBLIGATIONS

- 3.1 Unless agreed in writing by the parties, the Owner must not carry out or allow to be carried out on or in relation to the Land:
- 3.1.1 grazing of the Land by livestock;
- 3.1.2 subject to clauses 3.2.1 and 3.2.3, felling, removal or damage of any tree, shrub or other plant;
- 3.1.3 the planting of any species of tree, shrub or other plant;
- 3.1.4 the erection of any Fence, building, structure or other improvement for any purpose;
- 3.1.5 any burning, chemical spraying, top dressing or sowing of seed;
- 3.1.6 any cultivation, earth works or other soil disturbances;
- 3.1.7 any archaeological or other scientific research involving disturbance of the soil;
- 3.1.8 the damming, diverting or taking of Natural Water;

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

4. THE MINISTER'S OBLIGATIONS

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

5. IMPLEMENTATION OF OBJECTIVES

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

6. DURATION OF COVENANT

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

7. OBLIGATIONS ON SALE OF LAND

- 7.1 If the Owner sells, leases, or parts with possession of the Land, the Owner must ensure that the Owner obtains the agreement of the purchaser, lessee, or assignee to comply with the terms of this Covenant, including any agreement by the purchaser, lessee, or assignee to ensure that on any subsequent sale, lease, or assignment, any subsequent purchaser, lessee, or assignee must also comply with the terms of this Covenant including this clause.
- 7.2 A Transferee of the Land will at law be bound by the registered Covenant. Such transfer is deemed to provide the agreement to comply with the terms of this Covenant required by clause 7.1.

8. MISCELLANEOUS MATTERS**8.1 Rights**

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

8.2 Trespass Act:

- 8.2.1 Except as provided in this Covenant, the Covenant does not diminish or affect the rights of the Owner to exercise the Owner's rights under the Trespass Act 1980 or any other statute or generally at law or otherwise;
- 8.2.2 For avoidance of doubt these rights may be exercised by the Owner if the Owner reasonably considers that any person has breached the rights and/or restrictions of access conferred by this Covenant.

8.3 Reserves Act

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

8.4 Titles

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

8.5 Acceptance of Covenant

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

8.6 Fire

- 8.6.1 The Owner must notify, as soon as practicable, the appropriate Fire Authority and the Minister in the event of wild fire threatening the Land;
- 8.6.2 If the Minister is not the appropriate Fire Authority for the Land, the Minister will render assistance to the Fire Authority in suppressing the fire if:
- 8.6.2.1 requested to do so; or
- 8.6.2.2 if there is in place between the Minister and the Fire Authority a formalised fire agreement under section 14 of the Forest and Rural Fires Act 1977.

9. NOTICES

9.1 A notice to be given under this Covenant by one party to the other is to be in writing and made by personal delivery, by pre-paid post, or by facsimile addressed to the receiving party at the address or facsimile number set out in Schedule 1.

9.2 A notice given in accordance with clause 9.1 will be deemed to have been received:

- (a) in the case of personal delivery, on the date of delivery;
- (b) in the case of pre-paid post, on the third Working Day after posting;
- (c) in the case of facsimile, on the day on which it is dispatched or, if dispatched after 5.00pm, on the next day after the date of dispatch.

9.3 The Owner must notify the Minister of any change of ownership or control of all or part of the Land and must supply the Minister with the name and address of the new owner or person in control.

10. DEFAULT

10.1 Where either the Minister or the Owner breaches any of the terms and conditions contained in this Covenant the other party:

10.1.1 may take such action as may be necessary to remedy the breach or prevent any further damage occurring as a result of the breach; and

10.1.2 will also be entitled to recover from the party responsible for the breach as a debt due all reasonable costs (including solicitor/client costs) incurred by the other party as a result of remedying the breach or preventing the damage.

10.2 Should either the Minister or the Owner become of the reasonable view that the other party (the defaulting party) has defaulted in performance of or observance of its obligations under this Covenant then that party (notifying party) may, by written notice:

10.2.1 advise the defaulting party of the default.

10.2.2 state the action reasonably required of the defaulting party to perform or observe in accordance with this Covenant; and

10.2.3 state a reasonable period within which the defaulting party must take action to remedy the default.

11. DISPUTE RESOLUTION PROCESSES

11.1 If any dispute arises between the Minister and the Owner in connection with this Covenant, the parties must, without prejudice to any other rights they may have under this Covenant, attempt to resolve the dispute by negotiation or other informal dispute resolution technique agreed between the parties.

11.2 Mediation

11.2.1 if the dispute is not capable of resolution by agreement within 14 days of written notice by one party to the other (or such further period as the parties may agree to in writing) either party may refer the dispute to mediation with a mediator agreed between the parties;

11.2.2 if the parties do not agree on a mediator, the President of the local branch of the New Zealand Law Society in the region in which the Land is situated is to appoint the mediator.

11.3 Failure of Mediation

11.3.1 in the event that the dispute is not resolved by mediation within 2 months of the date of referral to mediation the parties agree that the provisions in the Arbitration Act 1996 will apply;

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

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

12. JOINT OBLIGATIONS

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

13. SPECIAL CONDITIONS

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

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

Executed as a Deed

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

Witness: _____

Address : _____

Occupation: _____

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

Witness: _____

Address : _____

Occupation: _____

SCHEDULE 1

1. Description of Land

Shaded yellow and labelled CC2 (approximately 240 ha) on the Designations Plan.

2. Address for Service¹

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

C/- Box 5244
DUNEDIN

Fax (03) 477 8626

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

Donald W. Clark, Bannockburn Road, RD2, Cromwell

Fax (03) 445 0917

3. Values of the Land

Existing Landscape description and values:

The slopes are clad in depleted narrow-leaved snow tussockland with an abundance of blue tussock and the ubiquitous golden speargrass. Large patches of bare ground are a common feature along exposed ridgelines.

This unit contains moderate landscape values and represents part of a broader landscape continuum extending from the more natural high country to the more modified valley-floor country. It is a transitional area between the Carrick Range and the upper Bannockburn Valley. Watts Rock is a local landmark that has significant landscape value, due to its visual prominence and its natural setting.

This land has moderately high visual resource values, as it helps form the visual edge of the upper Bannockburn Valley. Significant vistas of the Nevis Valley and panoramic views of the Hector Mountains and The Remarkables can be experienced from Watts Rock. In favorable conditions Aoraki/Mt Cook can be seen from the Nevis Road.

Land-use changes and activities have the potential to affect this landscape the land particularly further subdivision or other activities that would fragment the existing coherent tall tussocklands or the spread of wilding pines.

This area makes an important contribution to the upper Bannockburn Valley, helping to form the visual enclosure of the valley and providing visitors on the Nevis Road with an introduction to the high country. The natural tall tussockland setting of Watts Rock, a local landmark, and the historic Carrick Range Water Race, are significant.

Recreation values:

The mid-altitude slopes of the Carrick Block are readily accessible from the Nevis Road and from the Duffers Saddle - Carricktown Road. The latter is a rough four-wheel drive track above the Carrick Water Race. A notable feature of this part of the property is the number of historic sites, especially those associated with early gold mining in nearby Potters Creek and the Young Australian Historic Reserve.

The most popular recreational activities on higher-altitude parts of the property are cross-country skiing in winter and walking, mountain-biking and four-wheel-drive vehicle use in summer. This is a strategic area that will provide for public appreciation of the recreational values within the covenant area.

Historic Values:

¹ State street address not Post Office Box number.

The Carrick Range Water Race was constructed in the 1870s to provide additional water to the Bannockburn diggings. When mining declined in the early 20th century, water from the race was used for irrigation. The race is still maintained for irrigation purposes.

4. Management Goals

Landscape values:

- Maintain the appearance of the broad landscape continuum.
- Protect against land-use changes and activities that have the potential to affect this landscape; particularly further subdivision or other activities that would fragment the existing seemingly coherent tall tussocklands.
- Preserve and/or enhance narrow-leaved snow tussockland and reduce patches of bare ground.

Recreation values:

- Maintain the opportunity for public access and the recreational experience on the Land.

Historic Values:

- Maintain as far as possible the integrity of the Carrick Water Race.

• SCHEDULE 2

Special Conditions

1. Clause 3.1.1 is deleted. Sheep only may be grazed at a stock limit of not more than 0.26 SU/ha/annum.
2. The public have the right of foot access over the Land including cross country skiing, but this right does not include traversing the Carrick Water Race.
3. Notwithstanding clause 3.1.6, ongoing maintenance of the Carrick Water Race is expected as the line of the race is not changed. The race users hold an easement to use and maintain this race.
4. Monitoring

A landscape monitoring programme will be established at the commencement of the covenant term by the Minister. Subsequent re-monitoring will occur every 5 years (or at some other agreed period) and is to be organised by the Owner with the assistance of the Minister. The Owner will be responsible for producing a report of the re-monitoring results in a professional manner.

The Minister will be party to the re-monitoring by providing one staff member to assist with the physical monitoring. The Minister will be given a copy to the monitoring report.

- 4.1 Photopoint monitoring will be used to record the condition and trends of the vegetation, historic features and the general landscape character.
- 4.2 The Minister is responsible for the cost of establishing the monitoring. The Owner will be responsible for the cost of re-monitoring. The Minister will cover his own staff cost for re-monitoring.

Following the production of a monitoring report, results will be discussed between the Owner and the Minister. Should monitoring show that the landscape values are not being maintained or enhanced, the probable causes will be identified. If deterioration is related land management practices, the Owner will take all necessary steps to mitigate the problem. If deterioration is related to other causes, the Minister may take steps to avoid future damage.

GRANT of

Correct for the purposes of the
Land Transfer Act 1952

Solicitor for the Minister

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

COMMISSIONER OF CROWN
LANDS

to

MINISTER OF CONSERVATION

Solicitor
Department of Conservation
DUNEDIN/CHRISTCHURCH

Appendix 12: Form of Covenant CC3 to be Created

DATED _____

Between

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

and

MINISTER OF CONSERVATION
("the Minister")

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

- 1 -

THIS DEED of COVENANT is made the day of

BETWEEN

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

AND

MINISTER OF CONSERVATION

BACKGROUND

- A. The Commissioner of Crown Lands is deemed for the purposes of section 77 of the Reserves Act 1977 to be the owner of the Land under section 80(5) of the Crown Pastoral Land Act 1998.
- B. The Land contains certain Values specified in Schedule 1.
- C. The parties agree that the Land should be managed so as to preserve the particular Values specified in Schedule 1, and that such purpose can be achieved without the Minister acquiring a fee simple or leasehold interest in the Land.
- D. An approved plan designating the Land as land over which a Covenant under section 77 of the Reserves Act 1977 is to be created has been registered under section 64 of the Crown Pastoral Land Act 1998.
- E. The Commissioner of Crown Lands has agreed to grant the Minister a Covenant over the Land to preserve the particular Values specified in Schedule 1.

OPERATIVE PARTS

In accordance with section 77 of the Reserves Act 1977, and with the intent that the Covenant run with the Land and bind all subsequent Owners of the Land, the Commissioner of Crown Lands and Minister agree as follows:

1. INTERPRETATION

1.1 In this Covenant unless the context otherwise requires:

- “Act” means the Reserves Act 1977.
- “Covenant” means this Deed of Covenant made under section 77 of the Act.
- “Director-General” means the Director-General of Conservation.
- “Fence” includes a gate.
- “Fire Authority” means a Fire Authority as defined in the Forest and Rural Fires Act 1977.
- “Land” means the land described in Schedule 1.
- “Minerals” means any mineral that is a Crown owned mineral under section 2 of the Crown Minerals Act 1991.
- “Minister” means the Minister of Conservation.
- “Natural Water” includes water contained in streams the banks of which have, from time to time, been realigned.
- “Owner” means the person or persons who from time to time is or are registered as the proprietor(s) of the Land.

9. NOTICES

9.1 A notice to be given under this Covenant by one party to the other is to be in writing and made by personal delivery, by pre-paid post, or by facsimile addressed to the receiving party at the address or facsimile number set out in Schedule 1.

9.2 A notice given in accordance with clause 9.1 will be deemed to have been received:

- (a) in the case of personal delivery, on the date of delivery;
- (b) in the case of pre-paid post, on the third Working Day after posting;
- (c) in the case of facsimile, on the day on which it is dispatched or, if dispatched after 5.00pm, on the next day after the date of dispatch.

9.3 The Owner must notify the Minister of any change of ownership or control of all or part of the Land and must supply the Minister with the name and address of the new owner or person in control.

10. DEFAULT

10.1 Where either the Minister or the Owner breaches any of the terms and conditions contained in this Covenant the other party:

10.1.1 may take such action as may be necessary to remedy the breach or prevent any further damage occurring as a result of the breach; and

10.1.2 will also be entitled to recover from the party responsible for the breach as a debt due all reasonable costs (including solicitor/client costs) incurred by the other party as a result of remedying the breach or preventing the damage.

10.2 Should either the Minister or the Owner become of the reasonable view that the other party (the defaulting party) has defaulted in performance of or observance of its obligations under this Covenant then that party (notifying party) may, by written notice:

10.2.1 advise the defaulting party of the default.

10.2.2 state the action reasonably required of the defaulting party to perform or observe in accordance with this Covenant; and

10.2.3 state a reasonable period within which the defaulting party must take action to remedy the default.

11. DISPUTE RESOLUTION PROCESSES

11.1 If any dispute arises between the Minister and the Owner in connection with this Covenant, the parties must, without prejudice to any other rights they may have under this Covenant, attempt to resolve the dispute by negotiation or other informal dispute resolution technique agreed between the parties.

11.2 Mediation

11.2.1 if the dispute is not capable of resolution by agreement within 14 days of written notice by one party to the other (or such further period as the parties may agree to in writing) either party may refer the dispute to mediation with a mediator agreed between the parties;

11.2.2 if the parties do not agree on a mediator, the President of the local branch of the New Zealand Law Society in the region in which the Land is situated is to appoint the mediator.

11.3 Failure of Mediation

11.3.1 in the event that the dispute is not resolved by mediation within 2 months of the date of referral to mediation the parties agree that the provisions in the Arbitration Act 1996 will apply;

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

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

12. JOINT OBLIGATIONS

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

13. SPECIAL CONDITIONS

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

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

Executed as a Deed

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

Witness: _____

Address : _____

Occupation: _____

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

Witness: _____

Address : _____

Occupation: _____

The valley of Potters Creek is an historic landscape of very high significance. Within a relatively confined area is one of the best preserved examples of small scale gold mining. The miners working here used relatively simple technology which required little financial outlay. This was typical of the first decade of the gold rushes. In many other areas the physical evidence of this period has been damaged or destroyed by subsequent mining using hydraulic sluicing, elevating and dredging. In addition it was a significant area of Chinese mining activity especially during and after the 1870s.

Unfortunately in recent years the area has been targeted by illegal artefact collectors. Some floors of the hut sites have been dug over. One of the huts in the historic photographs mentioned above has been destroyed to provide building stone for a modern hut.

3.2 Preserving the landscape values of the area.

Landscape values:

The topography of the upper Potters Creek catchment is relatively subdued and consists of a series of basins separated by rounded ridgelines. In the mid section of the catchment the concave basins converge to form a deep V-shaped valley, with substantial rock outcrops. Rocky bluffs and earth slumping characterize the steeper slopes of the lower section of the catchment. To the south of the Potters Creek catchment there are three smaller streams that drain directly into the Nevis River. A feature of the mid and upper sections of Potters Creek is the physical evidence of extensive gold workings, including mounds of gravel tailings, prospecting sites, sluiced faces and diverted channels.

The dominant vegetation in the mid and upper sections of the catchment is mixed fescue-snow tussockland, with snow tussock more prevalent on the upper slopes. Interspersed among the tussock are golden speargrass and Maori onion, the latter species favouring the damper sites. The boggy margins of upper Potters Creek support sedgeland. Below about 900 m altitude the composition of the vegetation rapidly changes from tussockland to a tussock-shrubland.

This area has moderately high landscape values. The area has previously been recognized as significant due to the uninterrupted altitudinal sequence of native plant communities (Brunley *et al*, 1986). The coherent landscape values of this unit should be viewed along with similar areas on the neighbouring Kawarau Pastoral Lease, which together provide a natural setting for the lower Nevis River. A notable feature is the extent of early gold workings. Although these mining activities have compromised the inherent natural values of parts of the landscape, they provide tangible evidence of the district's cultural heritage.

Land-use changes and activities, including those listed below, have the potential to affect this landscape:

- Periodic burning to remove woody species.
- Further subdivision that would fragment the existing coherent tall tussocklands.
- Spread of wilding pines.
- Any "built" elements that would compromise the wild and scenic characteristics of the Nevis River gorge.

This landscape makes an important contribution to both the Carrick Range and the Nevis River gorge. From below approximately 800 m there is an abrupt change in the gradient of the slope that helps reinforce the gorge's wild and scenic values. It is important that these coherent tussocklands and shrublands are managed as an entity.

3.3 Provide public access to the historic sites:

There is a need to provide for public appreciation of the historic heritage within Potters Creek.

SCHEDULE 2

Special Conditions

1. Clause 3.1.1 is deleted and replaced with the following: Sheep only may be grazed on the Land at a stocking rate not exceeding 0.6 SU/Ha.
2. Clause 3.1.5 is modified to allow for topdressing and sowing of seed.
3. The historic stonework in the covenant area shall not be removed or disturbed by either the Owner, his representatives, contractors or agents or any other person so authorised by the owner. The Owner must report any unauthorised disturbance of the historic stonework to the Minister.
4. An historic and landscape monitoring programme will be established at the commencement of the covenant term by the Minister. Subsequent re-monitoring will occur every 5 years (or at some other agreed period) and is to be organised by the Owner with the assistance of the Minister. The Owner will be responsible for producing a report of the re-monitoring results in a professional manner.

The Minister will be party to the re-monitoring by providing one staff member to assist with the physical monitoring. The Minister will be given a copy to the monitoring report.

- 4.1 Photopoint monitoring will be used to record the condition and trends of the historic features and the general landscape appearance.
- 4.2 The Minister is responsible for the cost of establishing the monitoring. The Owner will be responsible for the cost of re-monitoring. The Minister will cover his own staff cost for re-monitoring.

Following the production of a monitoring report, results will be discussed between the Owner and the Minister. Should monitoring show that the historic or landscape values are not being maintained the probable causes will be identified. If deterioration is related to livestock or land management practices, the Owner will take all necessary steps to mitigate the problem. If deterioration is related to other causes, the Minister may take steps to avoid future damage.

5. Notwithstanding clauses within 3.1, the Minister will not unreasonably withhold consent for hydro electricity development activities within the lower covenant area.
6. Should a member of the public request consent from the Owner to enter onto the Land and look at historic sites on the Land, such consent will not be unreasonably withheld.

GRANT of

Correct for the purposes of the
Land Transfer Act 1952

Solicitor for the Minister

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

COMMISSIONER OF CROWN
LANDS

to

MINISTER OF CONSERVATION

Solicitor
Department of Conservation
DUNEDIN/CHRISTCHURCH

RELEASED UNDER THE OFFICIAL INFORMATION ACT