

Crown Pastoral Land Tenure Review

Lease name: Ben Avon

Lease number: PO 251

Substantive Proposal - Part 2

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

December

05

RELEASED UNDER THE OFFICIAL INFORMATION ACT

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

11.3.3 the Owner and the Minister further agree that the results of arbitration are to be binding upon them.

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 : _____

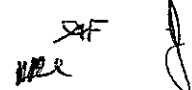
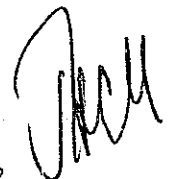
Occupation: _____

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

- i) All that piece of land shown shaded yellow on the Plan attached to the Substantive Proposal and marked as CC1 consisting of the steep east facing slopes of the Puke Makiriri Range consisting of predominantly short and tall tussock grassland, and matagouri shrublands below 1200 metres above sea level. Area CC1 is north of the Ben Avon homestead. Being part..... Sections and being part of the Land comprised and described in Certificate of Title ... Folio (Otago Registry)
- ii) All that piece of land shown shaded yellow on the Plan attached to the Substantive Proposal and marked as CC2 consisting of the Ben Avon flats 3kms south of the Ben Avon homestead consisting of kettleholes, associated turf communities and wetlands. Being part..... Sections and being part of the Land comprised and described in Certificate of Title ... Folio (Otago Registry)

The areas above will be managed by a grazing regime described in schedule 2.

2. Address for Service

- a) Minister of Conservation
C/- Conservator
The Department of Conservation
Private Bag 4715
Christchurch
Fax 03 365 1388
- b) Ben Avon Run Co. Limited
C/- Meredith D Lowe & Associates
145 Tancred Street
Ashburton

3. Values to be protected.

- i) The natural environment and landscape amenity value of the Puke Makariri faces of CC1.
- ii) The natural environment of the turf communities surrounding the kettleholes of CC2.

All the above values being particularly described in the Department of Conservation Resource Report to the Commissioner of Crown Lands dated 2 March 2000.

[Handwritten signatures and initials]

SCHEDULE 2

1. The Owner may graze CC1 with cattle at any time.
2. The Owner may graze sheep only on CC2; the area may be used for the droving of cattle between adjoining areas.
3. The Owner may Topdress, sow seed or chemical spray CC1 and CC2 except a 20metre margin around the kettleholes should be avoided.
4. If the Land adjoining CC 1 is protected with a stock proof fence or with a snow cap down to 1200metres the Owner may graze CC1 with sheep.
5. The Owner may, subject to this clause, permit the public to enter upon the Land
6. The Owner may:
 - i. Decline access to the Land for reasonable farm management reasons;
 - ii. Limit access to specified tracks;
 - iii. Charge for the use of facilities or services provided by the Owner;
 - iv. Prohibit any person from bringing onto the Land any animal, gun, or vehicle.

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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 THE CROWN PASTORAL LAND
ACT 1998 PURPOSES.

COMMISSIONER OF CROWN
LANDS

to

MINISTER OF CONSERVATION

Solicitor
Department of Conservation
CHRISTCHURCH

15 July 2002.

Jack

[Signature]

WF
WRC

[Signature]

Appendix 5: Fencing requirements

New Fencelines A-B, I-J, K-L, R-S and T-U and Existing Fenceline F-G

Length and Location: 586 metres (approximately) along line A-B on the Fencing Plan;
3600 metres (approximately) along line F-G on the Fencing Plan*;
300 metres (approximately) along line I-J on the Fencing Plan;
1800 metres (approximately) along line K-L on the Fencing Plan;
525 metres (approximately) along line R-S on the Fencing Plan; and
1445 metres (approximately) along line T-U on the Fencing Plan.

*Existing fence on fenceline F-G to be reconstructed to specifications below.

Type: Seven wire fence and T Irons or posts.

Specifications:

- Fence to be constructed of
 - (i) five HT (2.5mm) wires;
 - (ii) one barbed wire on top; and
 - (iii) one bottom galvanised medium tensile 4mm (No. 8) wire.
- Wires to be located on the Schedule Two Land side of the fence except in areas where there is a high risk of snow damage in which case the wires are to be located on the leeward side away from the prevailing snow.
- 2.4 metre x 200mm treated timber strainers with treated timber stays to be used for gateways and ends of strains except for fenceline A-B which must have heavy T irons with steel stays, in lieu of strainers.
- 2.4 metre x 125mm treated timber posts or T Irons to be used at 20m gaps or on appropriate high and low points.
- 3.6 metre Cyclone gates to be erected across vehicle tracks.
- Six steel waratah standards to be used for each 20 metres of fenceline. Waratah standards to be mostly 1500mm long with 1350mm standards on rocky ground and 1650mm standards on soft ground.
- Waratahs, back to back, may be used instead of posts on high spots and on corners, with tiebacks on tussock country.

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- All strainers to be driven or dug in and rammed and footed with acceptable footing material. No. 8 wire to be used on foots. All dips and hollows to be tied down.
- Netting to be hung on creek crossings and left to swing.
- All strainers and angles to be mortised, stayed and blocked. Stays to be one-third of the way up posts.
- Tiebacks are permitted on both sides of the fence.
- All wires are to be securely and neatly tied off. Bottom wire to be between 100mm-150mm above the ground. Line to be benched where required. Most of the line will need to be cleared manually as required.
- Post staples to be 50 x 4mm galvanised slice pointed barb and be driven well in but allow the wire to run through.
- Strains not to exceed 300 metres for HT wire and 250 metres for No. 8 wire, and strained to a tension recommended by the wire manufacturer.
- Strainers and angle posts to be dug in to such a depth that 117cm (46") 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.
- Triplex strainers to be used on all strains.
- Lightning droppers may be used where appropriate.

New Fencelines C-D, N-O and P-Q and Existing Fenceline G-H

Length and Location: 990 metres (approximately) along line C-D on the Fencing Plan;
1200 metres (approximately) along line G-H on the Fencing Plan*;
2576 metres (approximately) along line N-O on the Fencing Plan; and
2434 metres (approximately) along line P-Q on the Fencing Plan.

*Existing fence on fenceline G-H to be reconstructed to the specifications below.

Type: Six wire fence and T Irons or posts.

Specifications:

- Fence to be constructed of six HT (2.5mm) wires.
- Wires to be located on the Schedule Two Land side of the fence except in areas where there is a high risk of snow damage in which case the wires are to be located on the leeward side away from the prevailing snow.

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- 2.4 metre x 200mm treated timber strainers with treated timber stay to be used for gateways and ends of strains except for fenceline C-D which must have heavy T irons with steel stays, in lieu of strainers.
- 2.4 metre x 125mm treated timber posts or T Irons to be used at 20 metre gaps or on appropriate high and low points.
- 3.6 metre Cyclone gates to be erected across vehicle tracks.
- Six steel waratah standards to be used for each 20 metres of fenceline. Waratah standards to be mostly 1500mm long with 1350mm standards on rocky ground and 1650mm standards on soft ground.
- Waratahs, back to back, may be used instead of posts on high spots and on corners, with tiebacks on tussock country.
- All strainers to be driven or dug in and rammed and footed with acceptable footing material. No. 8 wire to be used on foots. All dips and hollows to be tied down.
- Netting to be hung on creek crossings and left to swing.
- All strainers and angles to be mortised, stayed and blocked. Stays to be one-third of the way up posts.
- Tiebacks are permitted on both sides of the fence.
- All wires are to be securely and neatly tied off. Bottom wire to be between 100mm-150mm above the ground. Line to be benched where required. Most of the line will need to be cleared manually as required.
- Post staples to be 50 x 4mm galvanised slice pointed barb and be driven well in but allow the wire to run through.
- Strains not to exceed 300 metres for HT wire and 250 metres for No. 8 wire, and strained to a tension recommended by the wire manufacturer.
- Strainers and angle posts to be dug in to such a depth that 117cm (46") 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.
- Triplex strainers to be used on all strains.
- Lightning droppers may be used where appropriate.

New Fencelines B-C, D-E, Z-AA and AC-AD and Existing Fencelines AB-AC and J-K

Length and Location: 850 metres (approximately) along line AB-AC on the Fencing Plan*;
200 metres (approximately) along line B-C on the Fencing Plan;

300 metres (approximately) along line D-E on the Fencing Plan;

500 metres (approximately) along line J-K on the Fencing Plan*;

1363 metres (approximately) along line Z-AA on the Fencing Plan; and

557 metres (approximately) along line AC-AD on the Fencing Plan.

*Existing fences on fencelines AB-AC and J-K to be reconstructed to specifications below.

Type: Seven-wire fence and posts.

Specifications:

- Fence to be constructed of
 - (i) four HT (2.5mm) wires,
 - (ii) two barbed wires on top; and
 - (iii) one bottom galvanised medium tensile 4mm (No. 8) wire.
- Wires to be located on the Schedule Two Land side of the fence except in areas where there is a high risk of snow damage in which case the wires are to be located on the leeward side away from the prevailing snow.
- 2.4 metre x 200mm treated timber strainers with treated timber stays to be used for gateways and ends of strains.
- 2.4 metre x 125mm treated timber posts to be used at 15 metre gaps or on appropriate high and low points.
- 3.6 metre Cyclone gates to be erected across vehicle tracks.
- Three steel waratah standards to be used for each 15 metres of fenceline. Waratah standards to be mostly 1500mm long with 1350mm standards on rocky ground and 1650mm standards on soft ground.
- All strainers to be driven or dug in and rammed and footed with acceptable footing material. No. 8 wire to be used on foots. All dips and hollows to be tied down.
- Netting to be hung on creek crossings and left to swing.
- All strainers and angles to be mortised, stayed and blocked. Stays to be one-third of the way up posts.
- Tiebacks are permitted on both sides of the fence.
- All wires are to be securely and neatly tied off. Bottom wire to be between 100mm-150mm above the ground. Line to be benched where required. Most of the line will need to be cleared manually as required.

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- Post staples to be 50 x 4mm galvanised slice pointed barb and to be driven well in but allow the wire to run through.
- Strains not to exceed 300 metres for HT wire and 250 metres for No. 8 wire, and strained to a tension recommended by the wire manufacturer.
- Strainers and angle posts to be dug in to such a depth that 117cm (46") 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.
- Triplex strainers to be used on all strains.
- Lightning droppers may be used where appropriate.

Fenceline X-Y

Length and Location: 200 metres (approximately) along line X-Y on the Fencing Plan

Type: Two barbed wire and post fence

Specifications:

- Fence to be constructed of two barbed wires at heights of 1000mm and 800mm.
- Wires to be located on the Schedule Two Land side of the fence except in areas where there is a high risk of snow damage in which case the wires are to be located on the leeward side away from the prevailing snow.
- 2.4 metre x 200mm treated timber strainers with treated timber stays to be used for gateways and ends of strains.
- 2.4 metre x 125mm treated timber posts to be erected every 12 metres.
- 3.6 metre Cyclone gates to be erected across vehicle tracks.
- All strainers to be driven or dug in and rammed and footed with acceptable footing material. No. 8 wire to be used on foots. All dips and hollows to be tied down.
- Netting to be hung on creek crossings and left to swing.
- All strainers and angles to be mortised, stayed and blocked. Stays to be one-third of the way up posts.
- Tiebacks are permitted on both sides of the fence.
- All wires are to be securely and neatly tied off.
- Post staples to be 50 x 4mm galvanised slice pointed barb and be driven well in but allow the wire to run through.

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- Strains not to exceed 300 metres for HT wire and 250 metres for No. 8 wire, and strained to a tension recommended by the wire manufacturer.
- Strainers and angle posts to be dug in to such a depth that 117cm (46") 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.
- Triplex strainers to be used on all strains.

Appendix 6: Fencing Plan

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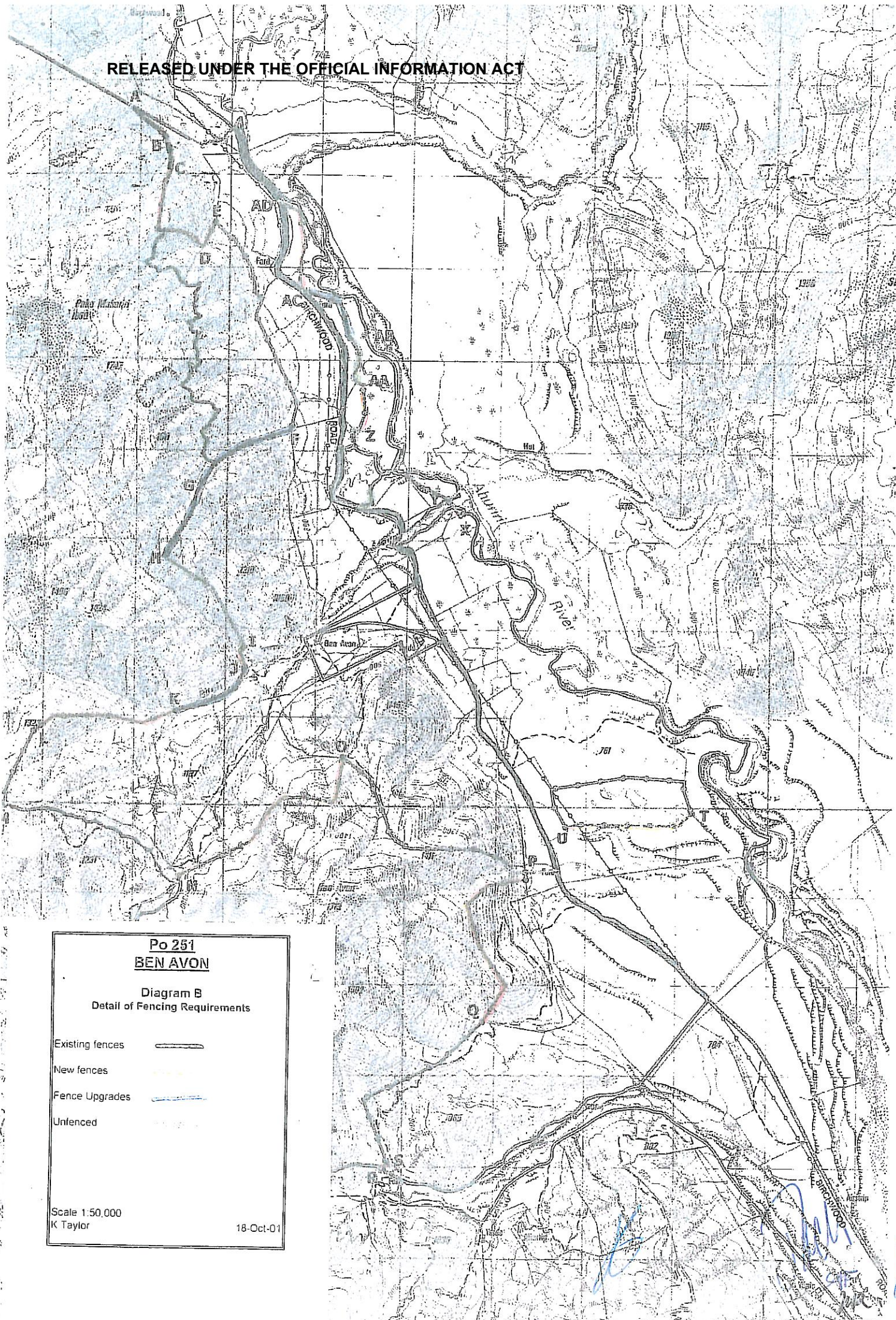
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RC
AF 33 *J*

Po 251
BEN AVON

Diagram B
Detail of Fencing Requirements

Existing fences ————
New fences ————
Fence Upgrades ————
Unfenced ————

Scale 1:50,000
K Taylor
18-Oct-01

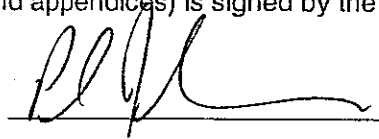


Execution Section

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

SIGNED by Paul Jackson in the presence of:

*pursuant to
delegation*



Witness Signature:



Witness Name:

Michael Clarence Buchter

Occupation:

Solicitor

Address:

Wellington

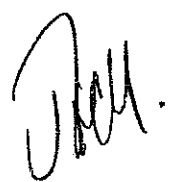
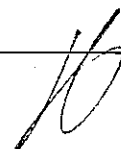
In signing this Substantive Proposal (including the schedules and appendices), the Holder:

1. accepts and agrees that:

- (a) the Holder accepts this Substantive Proposal under section 60 of the Act and that, subject to subsections (3) and (4) of section 60 of the Act, the Holder's acceptance of this Substantive Proposal is irrevocable, and has effect as an irrevocable authority to and obligation on the Commissioner to take the appropriate actions required by the Act;
- (b) the Holder is bound by the provisions of this Substantive Proposal;
- (c) the Holder is also bound by the provisions of the Notice and must pay all money payable by the Holder in accordance with the provisions of the Notice and this Substantive Proposal; and
- (d) when the Final Plan is registered under section 64 of the Act, the Notice has effect as a binding contract between the Crown and the Holder according to its tenor under section 46(4) of the Act; and

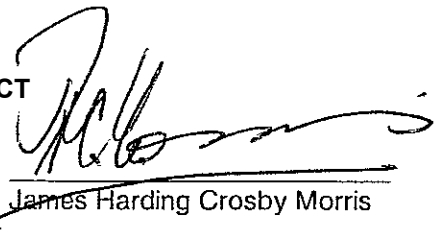
2. acknowledges that:

- (a) the Holder has obtained the written consent of the Mortgagee (Westpac Banking Corporation) and has also obtained the written consent of any other person having an interest in the Lease Land, to the Holder's acceptance of this Substantive Proposal; and
- (b) the relevant consent is or consents are endorsed on or attached to the completed Execution Copy of this Substantive Proposal.


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JP 34

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SIGNED by Ben Avon Run Co.
Limited by it's sole director in the
presence of:


James Harding Crosby Morris

Witness Signature:

Witness Name:


Mark Buchanan

Occupation:

Solicitor

Address:

Chridchurch.

Consents

Westpac Banking Corporation as Mortgagee under the Mortgage 723682.8, hereby:

- (a) consents to the Holder's acceptance of this Substantive Proposal dated 19 May 2003 pursuant to section 60 of the Crown Pastoral Land Act 1998 and agrees and consents to the registration of the Easements and the Covenant prior to the registration of any new mortgage to be granted in its favour over the Schedule Two Land as contemplated by clause 5.16; 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 Schedule Two Land.

Dated: 20 June 2003.

SIGNED by Westpac Banking Corporation in the presence of:)

Witness Signature:

Witness Name:

Occupation:

Address:

Signed by
Westpac Banking Corporation
By its Attorney/s:

Jason Paul Sheat

Dallas Shirley Dagg

In the presence of:

Chris David Amos

BANK OFFICE
WESTPAC
CHRISTCHURCH

CERTIFICATE OF NON-REVOCATION OF POWER OF ATTORNEY

WE, Jason Paul Sheat
AND, Dallas Shirley Dagg

of Christchurch in New Zealand, Bank Officer
of Christchurch in New Zealand, Bank Officer

HEREBY CERTIFY -

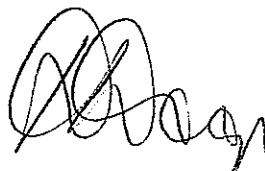
1. **THAT** by Deed dated the 10th of July 1996 copies of which are deposited in the Land Registry Offices at -

AUCKLAND(North Auckland Registry)and there numbered D.043055.1
BLENHEIM(Marlborough Registry)and there numbered 187102
CHRISTCHURCH(Canterbury Registry)and there numbered A.257595/1
DUNEDIN(Otago Registry)and there numbered 915888
GISBORNE(Poverty Bay Registry)and there numbered G.212187.1
HAMILTON(South Auckland Registry)and there numbered B.367046
HOKITIKA(Westland Registry)and there numbered 105721
INVERCARGILL(Southland Registry)and there numbered 244294.1
NAPIER(Hawke's Bay Registry)and there numbered 646199.1
NELSON(Nelson Registry)and there numbered 361557.1
NEW PLYMOUTH(Taranaki Registry)and there numbered 435551
WELLINGTON(Wellington Registry)and there numbered 533510.1

WESTPAC BANKING CORPORATION ARBN 007 457 141 incorporated in New South Wales Australia ("Westpac") appointed us its Attorneys on the terms and subject to the conditions set out in that Deed and the attached document is executed by us under the powers conferred by that Deed.

2. **THAT**, at the date of this certificate, we are a Team Leader and a Branch Service Officer for Westpac.
3. **THAT**, at the date of this certificate, we have not received any notice or information of the revocation of that appointment by the winding up of dissolution of Westpac or otherwise.

SIGNED at Christchurch
on 20 June 2003




AKZ

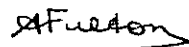
Consents

Environment Canterbury, being the party entitled to the benefit of land improvement agreement 629969 registered against the Lease, hereby consents to the Holder's acceptance of this Substantive Proposal dated 19 May 2003 pursuant to section 60 of the Crown Pastoral Land Act 1998.

Dated: 10th June 2003

SIGNED for and on behalf of
Environment Canterbury
in the presence of:

)
)
)

Acting Chief Executive

Witness Signature: 

Witness Name: A Fulton

Occupation: Secretary

Address: 58 Kilmore Street
Christchurch

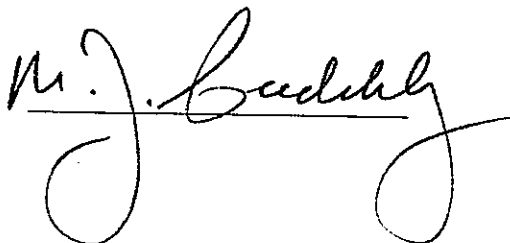
Consents

Her Majesty the Queen acting by and through the Minister of Conservation, being the party entitled to the benefit of conservation covenant 976089.1 registered against the Lease, hereby consents to the Holder's acceptance of this Substantive Proposal dated 19 May 2003 pursuant to section 60 of the Crown Pastoral Land Act 1998.

Dated: 30th June 2003

SIGNED for and on behalf of
Her Majesty the Queen by

under a written delegation in the
presence of:



Witness Signature:



Witness Name:

Mike Clare

Occupation:

Manager Department of Conservation

Address:

133 Victoria Street
Christchurch