

Crown Pastoral Land Tenure Review

Lease name: CASTLE DENT

Lease number: TR 167

Substantive Proposal - Part 13

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

July

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- (d) Take all reasonable precautions for guarding against danger (including, but without limitation, fire, physical damage or disease), and in particular shall (but without limiting the general obligation to take full and proper precautions pursuant to this clause 5.1(d)) comply with all the conditions that may be imposed from time to time by any lawful authority.
 - (e) Consult with the Grantor prior to carrying out any earthworks or physical construction of access tracks on the Grantor's Land.
 - (f) Ensure that as little damage or disturbance as possible is caused to the surface of the Grantor's Land and that the surface is restored as nearly as possible to its former condition and any other damage done by reason of the activities permitted on the Access Roads by this Deed is similarly restored.
 - (g) At the conclusion of any works, the Grantee will carry out restoration works to prevent erosion on the Grantor's Land which might arise as a result of the Grantee's activities. The restoration works shall be carried out with the objective of restoring the area disturbed to a standard comparable with the surrounding area. Any dispute as to the adequacy of any restoration works shall be settled by arbitration in accordance with the terms contained in Schedule 4.
 - (h) The Grantee may enter onto the Grantor's Land pursuant to this Deed at all times for routine inspections **PROVIDED HOWEVER THAT** the Grantee shall notify the Grantor and the Pastoral Lessee should the Grantee wish to bring machinery on to the Grantor's Land to undertake works on the Access Roads or any Easement Facilities constructed pursuant to the terms of the Easement to Convey Water **EXCEPT** in an emergency where the Grantee may enter without notice if necessary provided that subsequent notice is given to the Grantor and the Pastoral Lessee as soon as practicable.
 - (i) The Grantee shall, at its cost, repair to the satisfaction of the Grantor any part of the Grantor's Land, including the Access Roads, fences, gates, drains, buildings or other structures, which is damaged directly by the Grantee. It is noted that the Access Roads may often be damaged by third party access by four wheel drive vehicles. The Grantee shall be liable only to undertake such repairs as are necessary to enable the Grantee to have access.
- 5.2 The Grantee shall compensate the Grantor for any loss suffered by the Grantor resulting directly from the actions of the Grantee.
- 5.3 The Grantee shall at all times in the exercise of the rights set out in this Deed not obstruct or hamper the Grantor, or any agents, employees and contractors of the Grantor or the Pastoral Lessee, in their respective normal or reasonable use of the Grantor's Land.
- 5.4 The Grantee shall not at any time except with the prior written approval of the Grantor carry out any activity which is not included within clause 2 of this Deed on the Grantor's Land, or do any other thing which would affect the ability of the Grantor to use the Grantor's Land.
- 5.5 The Grantee shall comply at all times with all statutes and regulations and obtain all approvals, consents and authorisations as are necessary for the Grantee to conduct the activities permitted by this Deed.
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6. **Costs**

6.1 The Grantee shall bear all reasonable costs and expenses (including the Grantor's legal costs) in relation to the preparation and enforcement of any provisions in this Deed.

7. **Indemnity**

7.1 The Grantee hereby indemnifies the Grantor against any loss, claim, damage, costs, expense, liability or proceeding suffered or incurred at any time by the Grantor in connection with this Deed or as a direct result of any breach by the Grantee of its obligations, undertakings or warranties contained or implied in this Deed.

8. **Grantor not to interfere with Grantee's Rights and Limitation of Grantor's Liability**

8.1 The Grantor shall not at any time do, permit or suffer to be done any act whereby the rights, powers, licences and liberties granted to the Grantee may be interfered with or affected in any way.

8.2 Subject to clause 8.1, the Grantor will not be liable in contract, tort, or otherwise to the Grantee for any expense, costs, loss, injury, or damage whether consequential or otherwise, that may be suffered or incurred by or resulting to the Grantee, other than as a result of the Grantor's breach of the terms of this Deed or any deliberate or negligent act or omission on the Grantor's part or any activity undertaken by the Grantor on the Grantor's Land in derogation of the grant of the rights under this Deed.

8.3 The Grantee acknowledges that the Grantor's Land is subject to the Pastoral Lease in favour of the Pastoral Lessee and that, for the avoidance of doubt, the Grantor shall have no liability in accordance with clause 8.1 in relation to any act or omission of the Pastoral Lessee or any activity undertaken on any part of the Grantor's Land by the Pastoral Lessee.

9. **Termination**

9.1 The Grantor may terminate the Access Right if the Grantee breaches any of the terms of this Deed and the breach remains unrectified following written notice to the Grantee specifying the breach and seeking rectification within 90 days or such other time as may be agreed by the parties acting reasonably (having regard to circumstances beyond the Grantee's reasonable control, such as inclement weather).

9.2 If the breach remains unrectified (or is unable to be rectified) then termination must be by 90 days' written notice from the Grantor.

9.3 Upon termination (for whatever reason) of the grant of the Access Right all rights of the Grantee shall immediately cease but the Grantee shall not be released from any liability to pay consideration or other moneys up to the date of termination.

10. **Delegation**

10.1 All rights, benefits and obligations of the Grantor arising under this Deed may be exercised by any person duly appointed by the Grantor **PROVIDED THAT** the exercise of any such rights, benefits or obligations by that person shall not limit the liability of the Grantor in the performance of observance of the provisions of this Deed.

11. Disputes

11.1 If any dispute arises between the Grantor and the Grantee concerning the rights created by this Deed the parties shall enter into negotiations in good faith to resolve their dispute. If the dispute is not resolved within one month of the date on which the parties begin their negotiations the parties shall submit to the arbitration of an independent arbitrator appointed jointly by the parties, and if one cannot be agreed upon within 14 days, to an independent arbitrator appointed by the President for the time being of the District Law Society in which the Grantor's Land is situated. Such arbitration shall in accordance with the Arbitration Act 1996 PROVIDED THAT this clause shall be subject in all respects to the provisions of section 17 of the Land Act 1948.

12. Notices

12.1 Any notice to be given by one party under this Deed to the other shall be in writing and shall be forwarded by either delivering or posting it to the addressee at the appropriate address set out below or to such address notified by the address in writing to the other party.

- (a) The Grantor's Address as set out in Clause 3 of the Schedule.
- (b) The Grantee's Address as set out in Clause 4 of the Schedule.
- (c) Any notice posted shall be deemed to be served three (3) working days after the date of posting.

13. Severability

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

IN WITNESS WHEREOF these presents have been executed the day and year hereinbefore written.

SIGNED by THE COMMISSIONER OF CROWN LANDS in the presence of:

Signature of witness

Name of witness

Occupation of witness

City/town of residence

TRUSTPOWER LIMITED by:

Signature of director

Name of director

Signature of director

Name of director

SCHEDULE

1. **GRANTOR'S LAND:**

The land contained in Identifier OT386/102 (Otago Land Registry)

2. **GRANTEE'S LAND:**

The land contained in Identifier OT2C/1162 (Otago Land Registry)

3. **GRANTOR'S ADDRESS:** c/- Land Information New Zealand, Private Bag 4721, Christchurch (Attention: Crown Property Management)

4. **GRANTEE'S ADDRESS:** TrustPower Limited, Private Bag 12023, Tauranga (Attention: Ian Lees)

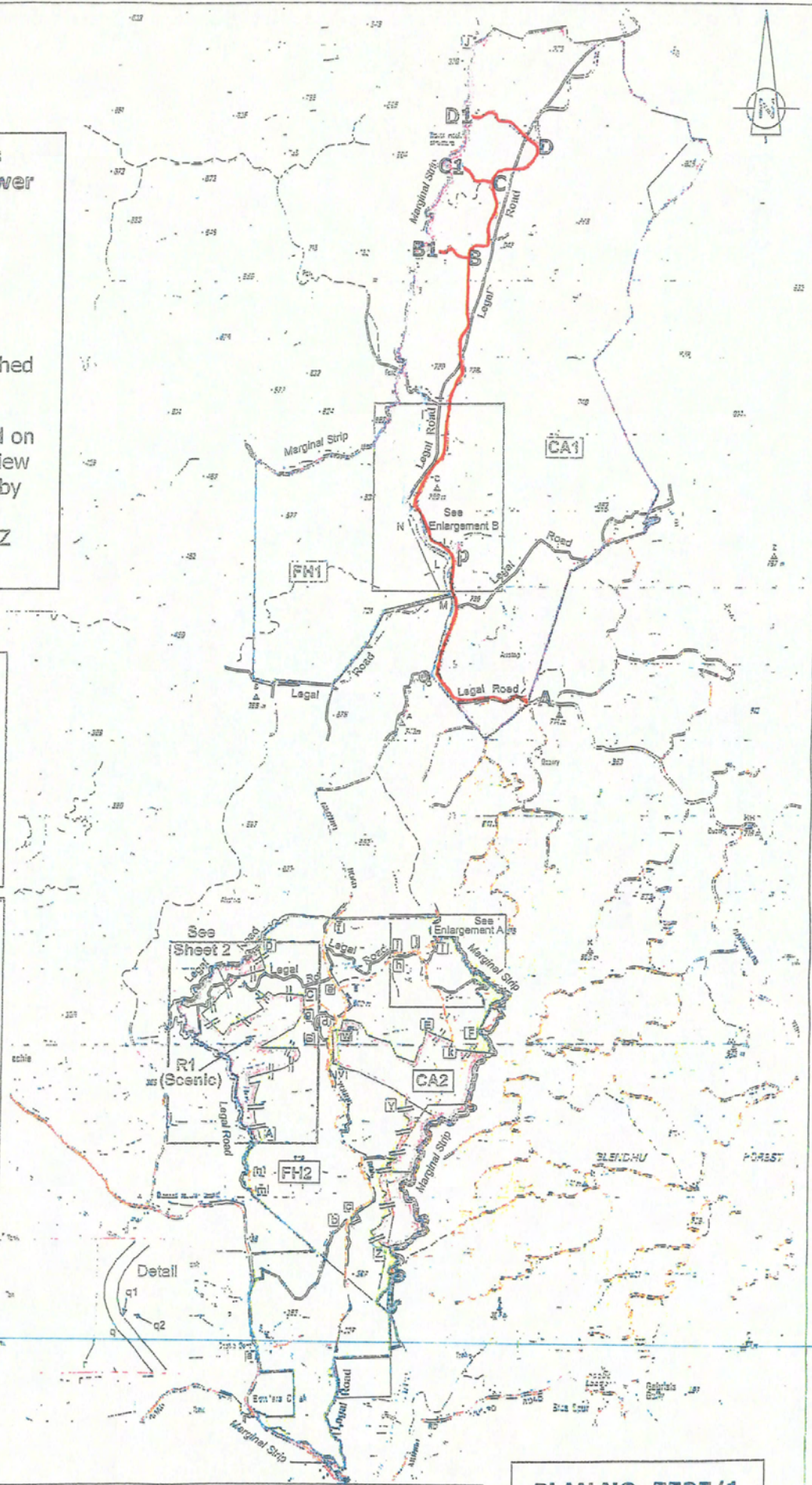
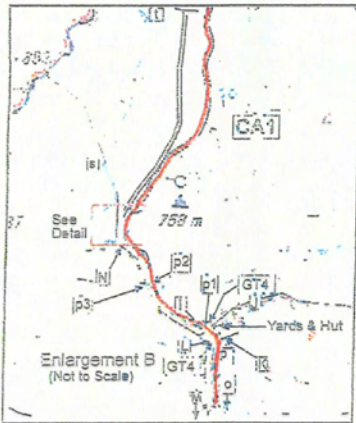
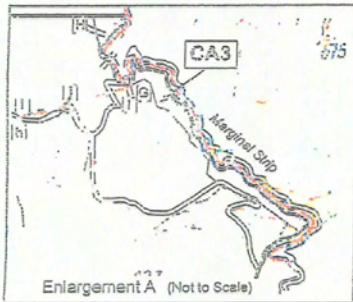
PLAN NO. 5535/1

**Access Easements
Required by TrustPower
over CA1**

- A - o - p - B - C - D and
- B - B1
- C - C1
- D - D1

marked red on plan attached
numbered 5535/1.

Annotation superimposed on
T L Survey's Tenure Review
Map dated 04/04/2006 by
Don Hatfield
Dip.Surv. FNZIS MPINZ
Surveying Consultant



Castle Dent Station

PLAN NO. 5535/1

