

# **Crown Pastoral Land Tenure Review**

**Lease name: GLENFOYLE**

**Lease number: PO 364**

## **Substantive Proposal**

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

**December**

**05**

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

Date: 25<sup>th</sup> November 2004

**Parties:**

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**Holder:** Glenfoyle Limited  
C/-Glenfoyle  
R D 3  
Cromwell 9191

**Commissioner of Crown Lands:**

C/- Manager for Tenure Review  
Quotable Value New Zealand Limited  
P O Box 13-443  
Christchurch

**The Land:**

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**Lease:** Glenfoyle  
**Legal Description:** Run 824  
**Area:** 3,535.0000 hectares  
**Certificate of Title/Unique Identifier:** OT338/41

**Summary of Designations:**

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Under this Proposal, the Land is designated as follows:

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

1 The Plan

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**2 Conditions**

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

**3 Settlement**

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- 3.1 Unless otherwise agreed by the parties, the Settlement Date for the disposal of the Freehold Land to the Holder by freehold disposal will be the day that is ten (10) working days following the day on which the Final Plan and a copy of this Proposal are registered in accordance with the Act.
- 3.2 The Freehold Land will be disposed of to the Holder under the Land Act 1948.

**4 Holder's Payment**

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- 4.1 By 3.00 p.m. on the Settlement Date, the Holder must pay the Holder's Payment and all other money payable to the Commissioner or the duly appointed agent of the Commissioner by bank cheque without set-off or deduction of any kind in accordance with the settlement requirements of the Commissioner.
- 4.2 If the Holder fails to pay the Holder's Payment or any part of it or any other money to the Commissioner or to the duly appointed agent of the Commissioner on the Settlement Date clause 19 will apply.

**5 Commissioner's Payment**

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

**6 Vesting of Crown Land**

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

**7 Issue of Certificate of Title**

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

**8 Registration of Documents**

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- 8.1 Subject to clause 7, the Commissioner will lodge all documents necessary to give effect to this Proposal (including, without limitation any easement, covenant, discharge of mortgage, and/or duplicate copy of the Lease) and any new mortgage documents to be registered against the certificate of title to be issued for the Freehold Land so that the certificate of title for the

Freehold Land will issue subject to the encumbrances provided in this Proposal. Any new mortgage will be registered after any other encumbrances such as any easements and/or covenants are registered.

## 9 Consents

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- 9.1 The Holder must obtain the written consent to the Holder's acceptance of this Proposal from all persons having an interest in the Land (other than the Holder), including, but not limited to:
- (a) any Mortgagee(s);
  - (b) any party entitled to the benefit of a land improvement agreement registered against the Lease and/or the Land; and
  - (c) any other person that the Commissioner reasonably believes has an interest in the Land or who the Holder reasonably believes has an interest in the Land, whether registered or not.
- 9.2 The consents required under clause 9.1 must be in a form acceptable to the Commissioner in all respects and be returned to the Commissioner with this Proposal on its acceptance by the Holder. Examples of the form of consents required under clause 9.1 are set out in Appendix 1.
- 9.3 The Holder must also obtain, and provide to the Commissioner if requested, all consents necessary for the Holder to accept this Proposal including (without limitation) any:
- (a) corporate and/or trustee consents; and
  - (b) consent required under the Overseas Investment Act 1973 and the Overseas Investment Regulations 1995.
- 9.4 The Holder will procure the Mortgagee to execute a registrable discharge of the Mortgage and, if required by the Mortgagee, the Holder will execute registrable new mortgage documents and forward these to the Commissioner to be registered as set out in clause 8.
- 9.5 If required by the Mortgagee, the Commissioner will provide an undertaking that, subject to the provisions of clause 7 being satisfied, the Commissioner will register the discharge of the Mortgage and register any new mortgage against the certificate of title for Freehold Land at the same time as the certificate of title for the Freehold Land issues.

## 10 Continuation of Lease

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

**11 Fencing**

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- 11.1 If the Holder has accepted this Proposal and that acceptance has taken effect pursuant to the Act, the Commissioner will, at its cost, erect new fencing approximately along the line marked as such on the Plan (if any).
- 11.2 The Commissioner will erect the fencing referred to in clause 11.1 according to the specifications in Appendix 3. The ongoing maintenance of the fencing referred to in clause 11.1 will be under the terms of the Fencing Act 1978.
- 11.3 If the Commissioner has not completed any fencing as set out in Appendix 3 by the Settlement Date, the Holder agrees that the Commissioner may register a covenant, on terms entirely satisfactory to the Commissioner (in the Commissioner's sole discretion), over the Freehold Land to enable the Commissioner to complete such fencing. The Holder will do all things necessary (including signing any document) to enable the Commissioner to register such a covenant.

**12 Apportionments**

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- 12.1 Rent payable under the Lease in respect of the Freehold Land shall be apportioned as follows:
- (a) Rent paid or payable will be apportioned on the Settlement Date as at the Settlement Date and either deducted from or added to (as the case may be) the amount required to settle.
  - (b) Notwithstanding that the Lease continues in effect until a certificate of title issues for the Freehold Land, the Holder shall not be required to pay any rent under the Lease for the Freehold Land from the Settlement Date.
- 12.2 Rent paid or payable under the Lease for the Crown Land will be apportioned on the Settlement Date as at the Vesting Date and either deducted from or added to (as the case may be) the amount required to settle.
- 12.3 All rates, levies, and all other incomings and outgoings and other charges receivable from or charged upon the Freehold Land will, unless otherwise agreed by the parties, be apportioned on the Settlement Date as at the Settlement Date.
- 12.4 All rates, levies and all other incomings and outgoings and other charges receivable from or charged upon the Crown Land will be apportioned on the Settlement Date as at the Vesting Date and either deducted from or added to (as the case may be) the amount required to settle.
- 12.5 Following the date that a certificate of title issues for the Freehold Land, the Commissioner will undertake a final apportionment and either the Commissioner will pay to the Holder, or the Holder will pay to the Commissioner, any additional amounts due because of any payments made or received by one party on behalf of the other for the period from the Settlement Date to the date on which a new certificate of title issues for the Freehold Land.

**13 Risk**

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

**14 Survey**

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

**15 Holder's Acknowledgments**

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- 15.1 If the Holder accepts this Proposal and that acceptance takes effect under the Act, the Holder acknowledges that:
  - (a) It is obtaining the freehold interest in the Freehold Land:
    - (i) "as is", solely in reliance on its own investigations and judgement; and
    - (ii) not in reliance on any representation or warranty made by the Commissioner, its employees, agents or any other person or persons directly or indirectly associated with the Commissioner;
  - (b) the Holder has carried out all inspections of the Freehold Land which the Holder considers necessary to satisfy itself as to all matters relating to the Freehold Land;
  - (c) the Holder, at its cost, is entirely responsible for all work to ensure that the Freehold Land complies with:
    - (i) the Resource Management Act 1991; and
    - (ii) any rule in any plan, resource consent or other requirement issued under the Resource Management Act 1991, and
    - (iii) the Building Act 1991; andthe Holder hereby indemnifies and will indemnify the Commissioner against all losses, damages and expenses incurred by the Commissioner and against all claims made against the Commissioner in respect of any work or costs for which the Holder is liable under this clause 15;
  - (d) nothing in this Proposal is affected by, and the Commissioner has no liability of any nature in respect of, the existence or terms of any leases, licences or other occupation rights of any nature (if any) granted by the Holder in respect of the Land; and
  - (e) the Holder has no claim (and will not have any claim) whatsoever against the Crown and/or Commissioner in relation to the Tenure Review and/or this Proposal, including (without limitation) any claim for any misrepresentation or for any loss or damage suffered whether in contract, tort (including negligence) or otherwise.

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

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

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- (c) that the Freehold Land complies with all or any statutory, territorial authority or any other legal requirements affecting or relevant to the Freehold Land.

### 17 Acceptance

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

### 18 Solicitors Certificate

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

### 19 Default

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

### 20 Goods and Services Tax

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- 20.1 The Commissioner and the Holder warrant to each other that they are registered for GST purposes.
- 20.2 On the 10th working day following the Unconditional Date the Commissioner will provide to the Holder a GST invoice in respect of the supply evidenced by the Holder's Consideration. The invoice will specify the Commissioner's GST Date.
- 20.3 The Holder will pay GST on the Holder's Consideration to the Commissioner by bank cheque on the Commissioner's GST Date, time being of the essence.
- 20.4 On the 10th working day following the Unconditional Date, the Holder will provide to the Commissioner a GST invoice in respect of the supply evidenced by the Commissioner's Consideration. The invoice will specify the Holder's GST Date.
- 20.5 The Commissioner will pay GST on the Commissioner's Consideration to the Holder on the Holder's GST Date, time being of the essence.
- 20.6 Where any GST is not paid to the Commissioner or to the Holder (as the case may be) in accordance with this clause 20, the Holder will pay to the Commissioner, or the Commissioner will pay to the Holder (as the case may be), upon demand and together with the unpaid GST:
- (a) interest, at the Default Rate, on the amount of the unpaid GST and which will accrue from the Commissioner's GST Date or the Holder's GST Date (as the case may be) until the date of payment of the unpaid GST; and
- (b) any Default GST.



**21 Lowest price**

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- 21.1 The Holder's Consideration does not include any capitalised interest and the parties agree that the "lowest price" for the purposes of valuing the Freehold Land under section EH 48(3)(a) of the Income Tax Act 1994 is equal to the Holder's Consideration.
- 21.2 The Commissioner's Consideration does not include any capitalised interest and the parties agree that the "lowest price" for the purposes of valuing the Crown Land under section EH 48(3)(a) of the Income Tax Act 1994 is equal to the Commissioner's Consideration.

**22 Costs**

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

**23 No nomination or assignment**

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

**24 General**

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- 24.1 This Proposal and the Notice:
- (a) constitute the entire understanding and agreement between the Commissioner, the Crown and the Holder in relation to the Tenure Review; and
  - (b) supersede and extinguish all prior agreements and understandings between the Crown, the Commissioner and the Holder relating to the Tenure Review.
- 24.2 Each provision of this Proposal will continue in full force and effect to the extent that it is not fully performed at the Settlement Date.
- 24.3 The Holder must comply with the Commissioner's requirements for the implementation and settlement of the Tenure Review contemplated by this Proposal.
- 24.4 The Commissioner and the Holder will sign and execute all deeds, agreements, schedules and other documents and do all acts and things as may be reasonably required by the other to effectively carry out and give effect to the terms and intentions of this Proposal.
- 24.5 This Proposal is governed by, and must be construed under, the laws of New Zealand and the Commissioner and the Holder irrevocably submit to the jurisdiction of the New Zealand courts or other New Zealand system of dispute resolution.
- 24.6 The illegality, invalidity or unenforceability of any provision in this Proposal will not affect the legality, validity or enforceability of any other provision.
- 24.7 In relation to notices and other communications under this Proposal:
- (a) each notice or other communication is to be in writing, and sent by facsimile, personal delivery or by post to the addressee at the facsimile number or address, and marked for the attention of the person or office holder (if any), from time to time designated for that purpose by the addressee to the other party. Other than the address to which the Holder is to send its acceptance of this Proposal (which the Commissioner will specifically notify the Holder of) the facsimile number, address, person or office holder (if any) for each party is shown on the front page of this Proposal;
  - (b) no communication is to be effective until received. A communication will be deemed to be received by the addressee:

- (i) in the case of a facsimile, on the working day on which it is despatched or, if despatched after 5.00 p.m. on a working day or, if despatched on a non-working day, on the next working day after the date of dispatch;
- (ii) in the case of personal delivery (including, but not limited to, courier by a duly authorised agent of the person sending the communication), on the working day on which it is delivered, or if delivery is not made on a working day, on the next working day after the date of delivery; and
- (iii) in the case of a letter, on the fifth working day after mailing (postage paid).

## 25 Interpretation

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### 25.1 Definitions

In this Proposal unless the context otherwise requires:

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

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

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

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

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

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

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

**Default Rate** means the floating rate agreement mid-point thirty day bank bill rate as at 10.45 a.m. on Reuters' page BKBM on the date on which the relevant payment becomes due and payable plus 500 basis points and compounded monthly;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## 25.2 Construction of certain references

In this Proposal, unless inconsistent with the context:

- (a) a reference to a certificate of title includes a reference to a computer register;
- (b) words importing a gender include all genders;
- (c) reference to a statute includes reference to all enactments that amend or are passed in substitution for the relevant statute and to all regulations relating to that statute;
- (d) words in the singular include the plural and vice versa;
- (e) reference to a month means a calendar month;
- (f) reference to a person means an individual, a body corporate, an association of persons (whether corporate or not), a trust or a state or agency of a state (in each case, whether or not having separate legal personality);

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- (g) references to sections, clauses, sub-clauses, parts, annexures, attachments, appendices, schedules, paragraphs and sub-paragraphs are references to such as they appear in this Proposal and form part of this Proposal;
- (h) headings are included for ease of reference only and will not affect the construction or interpretation of this Proposal;
- (i) all monetary amounts are expressed in New Zealand currency;
- (j) references to obligations includes reference to covenants, undertakings, warranties and, generally, obligations or liabilities of any nature properly arising whether directly or indirectly, under or in respect of the relevant contract, agreement or arrangement;
- (k) all references to times are references to times in New Zealand;
- (l) if the Holder comprises more than one person, each of those person's obligations, as Holder, will be both joint and several.

Schedule One: Provisions relating to the Schedule One Land

1 Details of Designation

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Nil

Schedule Two: Provisions relating to the Schedule Two Land

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**1 Details of designation**

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- 1.1 Under this Proposal the land shown marked in pink and labelled "CA1" on the Plan, being 447 hectares (approximately) is designated as land to be restored to or retained in Crown control as conservation area subject to:
- (a) the granting of the concession (shown marked in dark green and labelled "f-j" on the Plan) substantially as set out in Appendix 4;

**2 Information Concerning Proposed Concession**

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**2.1 Description of Proposed Activity:**

Farm access easement along the margin of an existing fenceline which bisects the proposed conservation area. The proposed easement concession permits the use of the easement area for access on foot with or without farm implements, farm dogs, guns and stock for management of the lands to which it provides access.

**2.2 Description of area where proposed activity to be carried out and proposed status:**

The easement area follows the western side of an existing fenceline which bisects the proposed conservation area on the southern side of Camp Creek. Proposed status of the area is "existing pastoral lease to become conservation area".

**2.3 Description of potential effects of proposed activity and any actions proposed to avoid, mitigate or remedy any adverse effects:**

The driving of stock along the easement may lead to some minor grazing of native vegetation on the easement line. It is considered that the easement terms contain sufficient controls to avoid, mitigate or remedy any adverse effects. The easement contains clauses dealing with protection of the environment, interference with natural features, deposit of dangerous matter, obstruction of the public and restraint of use during periods when it is vulnerable to damage.

**2.4 Details of the proposed type of concession:**

A Concession easement under section 17Q Conservation Act 1987.

**2.5 Proposed duration of concession and reason for proposed duration:**

*Proposed duration:* The easement shall be forever appurtenant to the land of the transferee to which it provides access.

*Reason for proposed duration:* The route provides the only practical access (proposed freehold lands in the Camp Creek catchment). The term of the concession must therefore be for the longest possible term to give the holder permanent access rights to lands proposed for freeholding.

**2.6 Relevant information about the proposed Concessionaire including information relevant to the Concessionaire's ability to carry out the proposed activity:**

*Proposed Concessionaire:* Glenfoyle Limited

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*Relevant Information:* The proposed Concessionaire currently uses the proposed easement area for the purpose which the easement is intended. No negative effects associated with the current use of the track have been noted.

Schedule Three: Provisions relating to the Schedule Three Land

1 Details of designation

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1.1 Under this Proposal the land shown marked in light green on the Plan, being 3088 hectares (approximately) is designated as land to be disposed of by freehold disposal to the Holder subject to:

- (a) Part IVA of the Conservation Act;
- (b) Section 11 of the Crown Minerals Act 1991;
- (c) the easements substantially as set out in Appendices 6, 7 & 8; and
- (d) the covenant over the area shown marked in yellow and labelled CC1 on the Plan substantially as set out in Appendix 5.



Schedule Four: Conditions

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Nil

Appendix 1: Consents - Example of Mortgagee Consent

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

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

Dated:

SIGNED by [ ] )  
in the presence of: [ ] )

\_\_\_\_\_

Witness Signature:

\_\_\_\_\_

Witness Name:  
Occupation:  
Address:

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

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

Dated:

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

\_\_\_\_\_

Witness Signature:

\_\_\_\_\_

Witness Name:

Occupation:

Address:

Appendix 2: Example of Solicitors Certificate

**Certifications**

I [ ] hereby certify as follows:

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

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

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

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

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

Yours faithfully  
[signed by principal of law firm]

Appendix 3: Fencing Requirements

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Fenceline

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**Length and location:** Fence is to be erected along the line Y-Z (Approximately 300 Metres)

**Type:** Fence is to be constructed according to the specifications below on the lines shown on the Plan.

Specifications

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**1. NATURE OF FENCE CONSTRUCTION**

1.1 Depending upon:

- a. Altitude (extent of soil cover)
- b. Accessibility (tractor to drive posts)
- c. Whether fence line is dozed (ability to drive posts)

The fencing specification calls for the erection of a seven wire fence with treated timber strainer posts but intermediate posts will be steel T Irons . Steel T Irons are to be at 20 metre gaps or on appropriate high and low points with 6 steel Y stakes between. The line is to be benched where required and most of the line will need to be cleared manually as required.

**2. PRELIMINARY AND GENERAL**

2.1 New Materials

All Materials Forming Part Of The Fence Shall Be New And Shall Conform To Any Relevant New Zealand Or International Standard. Where No Applicable Standard Exists Then Materials Shall Be Of Best Quality As Generally Accepted In New Zealand Farming And Fencing Industries.

2.2 Blasting

Any blasting required to loosen or remove rock with be done with electric detonators.

2.3 Drilling

Any rock drilling will be undertaken with a rock drill no larger than 40mm diameter.

2.4 Spiking

Where placement of posts requires spiking, the spike shall be 90mm or more diameter.

**3. MATERIALS**

3.1 Wire

Fence wire will be six 2.5mm galvanized high tensile wires and one bottom 4 mm galvanized mild steel. Tie-downs and tie-backs will be 4mm galvanized mild steel.

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### 3.2 Infill Posts

Infill posts will be steel Y stakes of either "Waratah" brand or manufactured to a similar quality and standard. Standards will be mostly of 1500mm (5') and 1700 mm (5'6") to be used on soft ground.

### 3.3 T.Irons

T.Irons will be 1.65m in length with a width of 50mm on each t-section and manufactured from 6mm steel.

### 3.4 Posts

All posts used will be round and galvanized and with a guaranteed life of 50 years. Dimensions of posts will be as follows:

Strainers - 2.1m x 200mm SED posts or steel T Irons  
Stay posts - 1.8m x 150mm SED  
Intermediate posts - to be steel T Irons  
Bracing rails - 2.7m x 125mm SED

### 3.5 Stay Block

12 x 2 x 24 ground treated.

### 3.6 Staples

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

### 3.7 Permanent Wire Strainers

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

### 3.8 Crossing Netting

Netting on creek crossings will be Tightlock 7 wire galvanized sheep netting.

### 3.9 Gates

Will be 3.66m "Taranaki" gates (one).

## 4.0 METHODOLOGY

### 4.1 Strains

1. Strains not to exceed 300 metres for high tensile (2.5 mm wires) and 250 metres for medium tensile (4 mm) wire.
2. Wire to be strained to manufacturers specifications.
3. Strain to account for weather conditions at time of strain.

### 4.2 Conventional Stay

Strainer post 2.1m x 200mm - half in and out of ground with minimum of 117mm (46 ") out of the ground. Strainer posts are to be used at ends of strains and if applicable for gateways. Under no circumstances are any strainers or stays to be shortened either prior to or subsequent to their placement in the ground.

All strainers are to be dug in or driven and rammed and footed. No.8 (4 mm) galvanized wire is to be used on foots.

Stays to be 1/3 of the way up posts.

Cut small end of stay to 75mm square allowing for the angle of descent.

Mark strainer between second and third bottom wires to outline mortice.

Mortice to a depth of 50 – 60mm.

Mark off the length of the diagonal stay post at ground level.

Come 150mm inside the mark and dig a hole 350mm deep at the same angle as to stay meets the post.

Fit stay block against angled face of hole.

Fit stay post into mortice and mark length to stay block allowing for a tight fit and cut to length.

Re-fit stay post to mortice and ram against stay block.

Note: the above section will not apply if steel T Irons are used instead of wooden posts.

4.3 Intermediate posts

Steel T Irons are to be used for intermediate posts and to such a depth that 117 mm (4 5/8") remains out of the ground. Under no circumstances are these to be shortened either prior to or subsequent to their placement in the ground.

4.4 Placement of wires

Wires are to be located on the grazing side of the boundary.

Bottom wire is to be 100 mm above the ground. Line is to be benched where required and the line will need to be cleared manually where required.

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

4.5 Spacing of posts

Steel T Irons posts are to be used at 20 metre gaps and in soft spots.

4.6 Spacing of Y stakes

Six steel Y stakes per 20 metres to be used.

4.7 Netting at creek crossings

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

4.8 Tie Downs

Tie downs are to consist of half or full steel Y stakes according to conditions and the tie down is to be with 4mm galvanized soft wire (which is to remain above ground).

If a post is a tie down, it is to be fixed to the Y stake by a 150mm x 6mm galvanized nail.

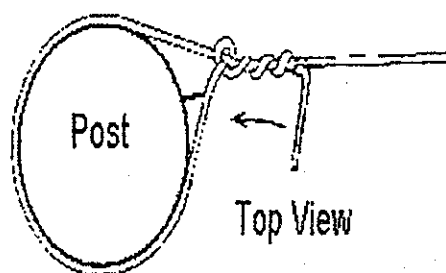
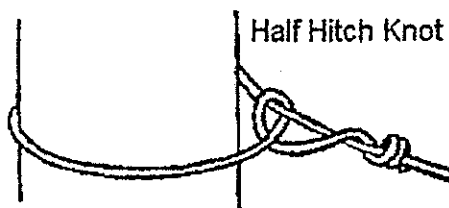
4.9 T.Irons

T.Irons are to be used with crossbar instead of timber posts, with tie backs. T Irons are to be mused on all corners and on the end of all trains with tie-backs on them except on the gateways where conventional block and stay or box stays are to be used.

4.10 Tying Off

The break strength of a half hitch knot is over 60% of the break strength of the wire. To tie a halve hitch knot:

- Pull about 3 feet of wire around the post.
- Bring the end of the wire underneath and back over the line wire.
- Bring the end down between the post and the wire that you just wrapped around the post.
- Bring the tail under the wrap and over the line wire.
- Make two tight wraps with the tail around the line wire.
- Break or cut off the tail. Cutting leaves a rough surface. Breaking wire will leave a smooth surface. To break off excess wire:
  - Put a 90 bend in the wire about 6" beyond the knot.
  - Grasp the wire just beyond the bend and crank it parallel to the fence line (back towards the post or splice). The wire will snap right off.



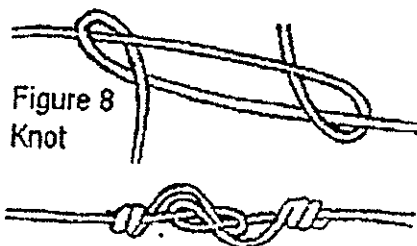
4.11 Splicing

Wire can be spliced using a figure "8" knot, nicorpress sleeves or a "wire link".

**FIGURE "8" KNOT**

The figure "8" knot is the most efficient knot for splicing high tensile wire (figure 7). It will maintain up to 76% of the strength of the wire. To tie a figure "8":

- Overlap the wires to be spliced by about 4 feet.
- In each piece make a small loop around the other wire. Leave yourself an 18" tail on each wire. The tails should be pointing in opposite directions.
- Tension up the figure "8" so that the tails are touching.
- Hold the figure "8" secure in the claws of a hammer, wrap the tail back onto the line wire with at least two wraps.
- Break off the excess wire.





5. CRITICAL INFORMATION

5.1 Waratah Weights

<u>Item Description</u>	<u>Weight (kg)</u>
Waratah Standard 1350mm – 7 hole	2.7
Waratah Standard 1500mm – 7 hole	3.0
Waratah Standard 1500mm – 8 hole	3.0
Waratah Standard 1650mm – 7 hole	3.3
Waratah Standard 1650mm – 8 hole	3.3
Waratah Standard 1800mm – 8 hole	3.6

5.2 Wire Specifications

<u>Diameter</u>	<u>Metres per kg</u>		<u>Metres per 25 kg</u>	
2.5	25.9511		648	
3.15	16.3463		408	

<u>Wire</u>	<u>Length/</u>	<u>Yield</u>	<u>Breaking</u>	<u>Maximum</u>
<u>Gauge</u>	<u>25 kg coil</u>	<u>Point</u>	<u>Load</u>	<u>Tension</u>
<u>(mm)</u>	<u>(metres)</u>	<u>(Approx.</u>	<u>(kg)</u>	<u>(kg)</u>
		<u>kg)</u>		
2.5 HT	648	480	600	150
3.15 HT	408	640	800	200
4.00 Mild	253	450	600	250

Appendix 4: Form of Easement Concession over "f-j" to be Created

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Concession number: \_\_\_\_\_

DATED \_\_\_\_\_

Between

**MINISTER OF CONSERVATION**  
**("the Grantor")**

and

**GLENFOYLE LIMITED**  
**("the Concessionaire")**

**EASEMENT CONCESSION**  
**UNDER CROWN PASTORAL LAND ACT 1998**



Department of Conservation  
*Te Papa Atawhai*

THIS DOCUMENT is made this            day of

**PARTIES:**

1.     **MINISTER OF CONSERVATION**, ("the Grantor")
2.     **GLENFOYLE LIMITED** ("the Concessionaire")

**BACKGROUND**

- A.     The land described in Item 1 of Schedule 1 as the Servient Land is a Conservation Area under the management of the Grantor.
- B.     The land described in Item 2 of Schedule 1 as the Dominant Land is freehold land of the Concessionaire.
- C.     Sections 66 and 68 of the Crown Pastoral Land Act 1998 authorise the Grantor to grant a Concession for a Concession Activity in a Conservation Area and a Reserve under section 17Q(1) of the Conservation Act 1987 or section 59A of the Reserves Act 1977 (whichever is relevant in the circumstances).
- D.     The Concessionaire wishes to carry out the Concession Activity on the Easement Area subject to the terms and conditions of this Document.
- E.     The Grantor has agreed to grant the Concessionaire an Easement appurtenant to the Dominant Land over that part of the Servient Land specified as the Easement Area.

**OPERATIVE PARTS**

**TERMS AND CONDITIONS**

**1.0     DEFINITIONS AND INTERPRETATION**

- 1.1     In this Document, unless the context otherwise requires:

"**Background**" means the matters referred to under the heading 'Background' on page 1 of this Document.

"**Compensation**" means the amount specified in Item 6 of Schedule 1 and required by the Grantor under section 53 of the Crown Pastoral Land Act 1988 and section 17X of the Conservation Act 1987 for the adverse effects of the Concession Activity on the Crown's or public's interest in the Easement Area.

"**Concession**" means a concession as defined in section 2 of the Conservation Act 1987.

"**Concessionaire**" means the registered proprietor for the time being of the Dominant Land and includes the Concessionaire's successors, assigns, executors, and administrators.

"**Concession Activity**" means the use of the Easement Area by the Concessionaire for purposes specified in Item 4 of Schedule 1.

"**Conservation Area**" has the same meaning as "Conservation area" in section 2 of the Conservation Act 1987.

"**Director-General**" means the Director-General of Conservation.

"**Document**" means this document and any subsequent amendments and all schedules, annexures, and plans attached to it.

"**Dominant Land**" means the land specified in Item 2 of Schedule 1.

"**Easement**" means the Appurtenant Easement granted under this Document by the Grantor to the Concessionaire under section 17Q of the Conservation Act 1987 or section 59A of the Reserves Act 1977 (whichever is relevant in the circumstances).

"**Easement Area**" means that part of the Servient Land specified in Item 3 of Schedule 1.

"**Reserve**" has the same meaning as "reserve" in section 59A of the Reserves Act 1977.

"**Servient Land**" means a Conservation Area being the area more particularly described in Item 1 of Schedule 1.

"**Structure**" includes a bridge, a culvert, and a fence.

"**Term**" means the period of time specified in Item 5 of Schedule 1 during which this Document operates.

"**Working Day**" means the period between any one midnight and the next excluding Saturdays, Sundays and Statutory holidays in the place where the Concession Activity is being carried out.

1.2 In this Document unless the context otherwise requires:

- (a) a reference to a party is a reference to a party to this Document;
- (b) schedules and annexures form part of this Document and have effect accordingly;
- (c) words appearing in this Document which also appear in Schedule 1 mean and include the details appearing after them in that Schedule;
- (d) a provision of this Document to be performed by two or more persons binds those persons jointly and severally;
- (e) words in a singular number include the plural and vice versa;
- (f) words importing a gender include other genders;
- (g) references to a statute or statutory provision, or order or regulation made under it, include that statute, provision, or regulation as amended, modified, re-enacted or replaced from time to time whether before or after the date of this Document;
- (h) where the Grantor's consent or approval is expressly required under a provision of this Document, the Concessionaire must seek the consent or approval of the Grantor for each separate occasion it is required notwithstanding that the Grantor has granted consent or approval for a like purpose on a prior occasion.

1.3 Words used in the Background to this Document have the same meaning given to them in clause 1.1.

## 2.0 GRANT OF APPURTENANT EASEMENT

2.1 In exercise of the Grantor's powers under either section 66 or section 68 of the Crown Pastoral Land Act 1998 (whichever is relevant in the circumstances) the Grantor **GRANTS** to the Concessionaire an **EASEMENT APPURTENANT** to the Dominant Land under either section 17Q(1) of the Conservation Act 1987 or section 59A of the Reserves Act 1977 (whichever is relevant in the circumstances) to carry out the Concession Activity on the Easement Area subject to the terms and conditions contained in this Document.

## 3.0 TERM

3.1 The Easement is for the Term specified in Item 5 of Schedule 1.

**4.0 COMPENSATION**

- 4.1 The Concessionaire must pay to the Grantor in the manner specified by the Grantor the Compensation specified in Item 6 of Schedule 1.
- 4.2 Under section 53 of the Crown Pastoral Land Act 1998 the Grantor waives any requirement for rent on the basis that the costs of setting and collecting the rent would exceed any rent which may be collected.

**5.0 OTHER CHARGES**

- 5.1 In addition to Compensation, the Concessionaire must pay all rates, levies, taxes, duties, assessments, charges, and other outgoings which may be charged, levied, or reasonably assessed, or which may become payable in relation to the Easement Area and which are attributable to the Concessionaire's use of or activity on the Easement Area.

**6.0 CONCESSION ACTIVITY**

- 6.1 The Concessionaire is not to use the Easement Area for any purpose other than the Concession Activity.

**7.0 COMPLIANCE**

- 7.1 The Concessionaire will comply where relevant:
- (a) with the provisions of any conservation management strategy or conservation management plan under Part IIIA of the Conservation Act 1987 together with any amendment or review of any strategy or plan whether approved before, on, or after the date on which this Document takes effect; and
  - (b) with the Conservation Act 1987, the Reserves Act 1977, the Resource Management Act 1991 and the Health and Safety in Employment Act 1992 and any other statute, ordinance, regulation, bylaw, or other enactment (collectively the "Legislation") affecting or relating to the Easement Area or affecting or relating to the Concession Activity.

**8.0 CONCESSIONAIRE'S STRUCTURES, FACILITIES AND LAND ALTERATIONS**

- 8.1 The Concessionaire must not erect or bring on to the Easement Area any Structure, install any facility, or alter the Land in any way without the prior written consent of the Grantor.
- 8.2 The Concessionaire must keep and maintain any Structures, and facilities on and alterations to the Easement Area in good repair.
- 8.3 On expiry or early termination of this Document either as to the whole or any part of the Easement Area, the Concessionaire will not be entitled to compensation for any improvements and any Structure or facilities remaining on the Easement Area are to become the property of the Grantor.
- 8.4 If requested by the Grantor, the Concessionaire must, within such time as the Grantor determines, remove all Structures, facilities or other improvements erected or installed by the Concessionaire and make good at the Concessionaire's own expense all damage done by the removal and must leave the Easement Area in a clean and tidy condition to the satisfaction of the Grantor.

**9.0 PROTECTION OF THE ENVIRONMENT**

- 9.1 Except as approved in writing by the Grantor the Concessionaire will not, whether by act or omission:
- (a) interfere with, remove, damage, or endanger the natural features, indigenous animals and plants, or historic resources on the Easement Area; or

- (b) bring any plants, or animals (except those stipulated in Item 4 of Schedule 1) on to the Easement Area; or
- (c) deposit on the Easement Area debris, rubbish or other dangerous or unsightly matter, or contaminate any water body on the Easement Area; or
- (d) pile or store materials in any place on the Easement Area where they may obstruct the public or create a nuisance; or
- (e) conduct any noxious, noisome, dangerous or offensive activity on the Easement Area; or
- (f) top-dress, burn, sow seed, or carry out earthworks (including tracking, drainage or ditching) on the Easement Area; or
- (g) disturb or allow stock to disturb any stream or watercourse on the Easement Area; or
- (h) light any fire on the Easement Area.

9.2 The Concessionaire, must at the Concessionaire's expense:

- (a) if required by the Grantor take all steps necessary to control any pest, insect, or rodent infestation occurring on or emanating from the Easement Area or any Structure or facility on the Easement Area;
- (b) comply strictly with the provisions of the Biosecurity Act 1993.

9.3 The Concessionaire must ensure that the Concessionaire's employees, agents, contractors, licensees and invitees comply with the obligations imposed on the Concessionaire under clause 9

9.4 The Concessionaire may bring firearms on to the Easement Area for use in connection with the Concession Activity and pest control operations.

9.5 The Concessionaire may for purposes of the Concession Activity take onto or use vehicles on the Easement Area on existing formed access tracks only.

## 10. TEMPORARY SUSPENSION

10.1 The Grantor may, at any time in exercise of the Grantor's powers, close all or part of the Easement Area for such period as she/he considers necessary.

## 11.0 TERMINATION

11.1 The Grantor may terminate this Document by notice in writing to the Concessionaire if:

- (a) the Concessionaire breaches any terms of this Document; and
- (b) the Grantor has notified the Concessionaire in writing of the breach; and
- (c) the Concessionaire does not rectify the breach within 28 days of receiving notification.

11.2 Immediately on termination the Concessionaire must execute a surrender of this Document if the Grantor so requires it.

## 12.0 INDEMNITIES AND INSURANCE

12.1 The Concessionaire will indemnify and keep indemnified the Grantor against all claims made by any person in respect of any injury, loss, or damage, including fire, caused or suffered as a result of or arising out of

any acts or omissions of the Concessionaire, its employees, agents, contractors, licensees or invitees or otherwise caused as a result of its use of the Easement Area or the Concessionaire's carrying out of the Concession Activity on the Easement Area.

- 12.2 This indemnity is to continue after the expiry or other determination of this Document in respect of those acts or omissions occurring or arising before its expiry or determination.
- 12.3 Without prejudice to or in any way limiting its liability under clause 12.1 the Concessionaire must take out and keep in force during the Term if required by the Grantor:
- (a) a policy of public liability insurance against liability for loss, damage or injury from any one single accident or event arising out of its conduct of the Concession Activity on the Easement Area and covering:
    - (i) general indemnity for a sum not less than the amount specified in Item 7 of Schedule 1; and
    - (ii) Forest and Rural Fires Act 1977 extension for a sum not less than the amount specified in Item 8 of Schedule 1; and
  - (b) statutory liability insurance for the amount specified in Item 9 of Schedule 1; and
  - (c) such other policy or policies of insurance against any other liability and for such other sums which the Grantor specifies in Item 10 of Schedule 1.
- 12.4 With respect to clause 12.3 the Concessionaire must before commencing the Concession Activity and on each renewal of insurance, provide the Grantor with certificates of insurance issued by the Concessionaire's insurer confirming the nature, amount and duration of cover.

### 13.0 ASSIGNMENT

- 13.1 The Concessionaire is not to transfer, sublicense, assign, mortgage or otherwise dispose of the Concessionaire's interest under this Document or any part of it without the prior written consent of the Grantor. The Grantor may, in the Grantor's discretion, decline to grant consent under this clause.
- 13.2 If the Grantor gives consent under this clause the Concessionaire is to remain liable to observe and perform the terms and conditions of this Document throughout the Term and is to procure from the transferee, sublicensee, or assignee a covenant to be bound by the terms and conditions of this Document unless the Grantor otherwise provides in writing.
- 13.3 The Concessionaire must pay the costs reasonably incurred by the Grantor incidental to any application for consent, whether or not such consent is granted.
- 13.4 Any change in the shareholding of the Concessionaire altering the effective control of the Concessionaire will be deemed to be an assignment and will require the consent of the Grantor.

### 14.0 DISPUTE RESOLUTION AND ARBITRATION

- 14.1 If any dispute arises between the parties in connection with this Document, the parties must, without prejudice to any other rights they have under this Document, attempt to resolve the dispute by negotiation or other informal dispute resolution techniques agreed by the parties.
- 14.2 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 the Disputes Tribunal, where relevant, or to mediation with a mediator agreed between the parties.



14.3 If the parties do not agree on a mediator, the President of the District Law Society in the region in which the Easement Area is located is to appoint the mediator.

14.4 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 of the Arbitration Act 1996 will apply.

14.5 Notwithstanding any provision to the contrary in the Arbitration Act 1996, if the parties do not agree on an arbitrator within 10 working days of a party giving written notice of the requirement to appoint an arbitrator the President of the District Law Society in the region in which the Easement Area is located is to appoint the arbitrator. The arbitrator must not be a person who has participated in an informal dispute resolution procedure in respect of the dispute.

14.6 All arbitration proceedings are to take place in New Zealand and to be governed by New Zealand law.

14.7 The parties agree that the results of any arbitration are to be binding on the parties.

#### 15.0 NOTICES

15.1 Any notice to be given under this Document 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 Item 11 of Schedule 1.

15.2 A notice given in accordance with clause 15.1 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 Working Day on which it is dispatched or, if dispatched after 5.00pm on a Working Day, or if dispatched on a non-working day, on the next Working Day after the date of dispatch.

#### 16.0 RELATIONSHIP OF PARTIES

16.1 Nothing expressed or implied in this Document shall be construed as:

- (a) conferring on the Concessionaire any right of exclusive occupation or use of the Easement Area;
- (b) preventing the Grantor from granting similar concessions to other persons;
- (c) derogating from the rights of the Grantor and the public to have access across the Easement Area.

#### 17.0 SPECIAL CONDITIONS

17.1 Special conditions relating to this Document are set out in Schedule 2.

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

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- 7 -

Signed by :

---

for and on behalf of  
the Minister of Conservation  
pursuant to a written delegation (or designation as the case may be)  
in the presence of :

---

Witness:  
Occupation:  
Address:

Signed on Behalf of Glenfoyle Limited by:

Director

Director

---

as Concessionaire

SCHEDULE 1

1. **Servient Land:**  
Proposed Conservation Land – Camp Creek *(see definition of Servient Land in clause 1.1)*
2. **Dominant Land:**  
Proposed Freehold Land *(see definition of Dominant Land in clause 1.1)*
3. **Easement Area:**  
Being 50 metres wide marked “f-j” on the Designations Plan *(see definition of Easement Area in clause 1.1)*
4. **Concession Activity:**  
Access to adjoining land for farm management purposes on foot with or without implements, farm dogs, guns and stock. *(see definition of Concession Activity in clause 1.1.)*
5. **Term:** In perpetuity *(see clause 3.1)*
6. **Compensation:** [REDACTED]  
(payable on date of execution of this Document) *(see clause 4.1)*
7. **Public Liability General Indemnity Cover:** [REDACTED] *(see clause 12.3)*
8. **Public Liability Forest & Rural Fire Act Extension:** [REDACTED] *(see clause 12.3)*
9. **Statutory Liability Insurance** [REDACTED] *(see clause 12.3)*
10. **Other Types of Insurance:** [REDACTED] *(see clauses 12.3)*
11. **Address for Notices (including facsimile number):** *(see clause 15)*
  - (a) **Grantor:** Conservation House, 77 Lower Stuart Street, Dunedin  
Facsimile (03) 477-8626
  - (b) **Concessionaire:** Glenfoyle Limited . RD3 Cromwell

SCHEDULE 2

*Special Conditions*

**Access**

- I. In carrying out the Concession Activity the Concessionaire must take all reasonable care to avoid damage to the soil and vegetation of the Easement Area and, in particular, avoid using the Easement Area when conditions such as softening during frost thaw render the Easement Area vulnerable to damage.

Appendix 5: Form of Covenant to be Created

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DATED \_\_\_\_\_

Between

COMMISSIONER OF CROWN LANDS ("the owner")

and

MINISTER OF CONSERVATION  
("the Minister")

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



Department of Conservation  
*Te Papa Atawhai*

RELEASED UNDER THE OFFICIAL INFORMATION ACT

THIS DEED of COVENANT is made the                      day of

BETWEEN                                      GLENFOYLE LIMITED by the COMMISSIONER OF CROWN LANDS, the deemed owner pursuant to Section 80 Crown Pastoral Land Act 1998

AND    MINISTER OF CONSERVATION

**BACKGROUND**

- A.        The Commissioner of Crown Lands is deemed to be the owner of the Land under section 80(5) of the Crown Pastoral Land Act 1998.
- B.        The Land contains certain Values.
- 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 not 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.

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- “Owner” means the person or persons who from time to time is or are registered as the proprietor(s) of the Land. Except for purposes of clauses 3, 5, 7, 8.5, 9 and 10 it also includes the Commissioner of Crown Lands.
- “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 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;



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

## 4. THE MINISTER'S OBLIGATIONS

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

## 5. IMPLEMENTATION OF OBJECTIVES

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

## 6. DURATION OF COVENANT

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

## RELEASED UNDER THE OFFICIAL INFORMATION ACT<sup>4</sup>

### 7. OBLIGATIONS ON SALE OF LAND

- 7.1 If the Owner sells, leases, or parts with possession of the Land, the Owner must ensure that the Owner obtains the agreement of the purchaser, lessee, or assignee to comply with the terms of this Covenant, including any agreement by the purchaser, lessee, or assignee to ensure that on any subsequent sale, lease, or assignment, any subsequent purchaser, lessee, or assignee must also comply with the terms of this Covenant including this clause.
- 7.2 If for any reason this Covenant remains unregistered and the Owner fails to obtain the agreement of a purchaser, lessee, or assignee to comply with the terms of this Covenant, the Owner will continue to be liable in damages to the Minister for any breach of the Covenant committed after the Owner has parted with all interest in the Land in respect of which a breach occurs.

### 8. MISCELLANEOUS MATTERS

#### 8.1 Rights

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

#### 8.2 Trespass Act:

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

#### 8.3 Reserves Act

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

#### 8.4 Titles

- 8.4.1 This Covenant must be signed by both parties 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.

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**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 District 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;

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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 District 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 )  
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: \_\_\_\_\_

RELEASED UNDER THE OFFICIAL INFORMATION ACT

SCHEDULE 1

1. Description of Land

*To be defined following survey.*

2. Address for Service

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

C/- Box 5244 DUNEDIN

03 477 8626

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

Glenfoyle Limited RD3 Cromwell

03 443 1543

The term "Owner" does not include the Commissioner of Crown Lands.

3. Values to be Protected.

Area comprises a shrubland dominated by kanuka with a minor element of manuka. This vegetation cover is representative of mid and lower altitude country in the Lindis Ecological District which have not been subject to burning and pastoral development.

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SCHEDULE 2

Special Conditions

1. The Minister will pay to the Owner a proportionate share of the following:
  - 1.1 the cost of any work or activity under clause 3.2 if the Minister has first approved the work or activity.
2. The proportionate share payable by the Minister is to be calculated having regard to the purpose of the expenditure with the intent that:
  - 2.1 the Minister will bear the cost of work essential for preserving the Values;
  - 2.2 the Owner will bear the cost of work essential for all other purposes;
  - 2.3 when the expenditure is partly for preserving the Values and partly for other purposes, the parties will bear the costs equally or in such other proportion as they may agree, and failing agreement, as may be determined under clause 11.
3. The word "deliberate" is inserted at the commencement of clause 3.1.1.
4. Clause 5.1.2 will only be invoked if the Owner and the Minister agree that there is an issue which can best be resolved through the preparation of a management plan.

RELEASED UNDER THE OFFICIAL INFORMATION ACT

GRANT of

Correct for the purposes of the  
Land Transfer Act 1952

Solicitor for the Minister

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

COMMISSIONER OF CROWN  
LANDS

to

MINISTER OF CONSERVATION

---

Solicitor  
Department of Conservation  
DUNEDIN/CHRISTCHURCH

Appendix 6: Form of Easement to be Created

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Transfer Instrument

Section 90, Land Transfer Act 1952  
RELEASED UNDER THE OFFICIAL INFORMATION ACT

If there is not enough space in any of the panels below, cross-reference to and use the approved Annexure Schedule: no other format will be received.

Land Registration District

[Empty box for Land Registration District]

[Empty box for Land Registration District]

Unique Identifier(s)      All/Part      Area/description of part or stratum or C/T(s)

[Empty table for Unique Identifier(s), All/Part, Area/description of part or stratum or C/T(s)]

Transferor

Surname(s) must be underlined

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

Transferee

Surname(s) must be underlined

HER MAJESTY THE QUEEN, acting by and through the Minister of Conservation

Estate or Interest to be transferred, or easement(s) or profit(s) à prendre to be created  
State of fencing covenant imposed.

Public Access Easement in Gross under section 7(2) of the Conservation Act 1987 (continued on pages 2, 3 and 4 of Annexure Schedule).

Operative Clause

The Transferor transfers to the Transferee the above estate or interest in the land in the above certificate(s) of title or computer register(s) and, if an easement or profit à prendre is described above, that easement or profit à prendre is granted or created.

Dated this      day of

Attestation

If the transferee or grantee is to execute this transfer, include the attestation in an Annexure Schedule.

Signature [common seal] of Transferor	<p>Signed in my presence by the Transferor</p> <p>_____ Signature of witness</p> <p>Witness to complete in BLOCK letters (unless legibly printed)</p> <p>Witness name</p> <p>Occupation</p> <p>Address</p>
---------------------------------------	--

Certified correct for the purposes of the Land Transfer Act 1952

[Empty box for Certified correct for the purposes of the Land Transfer Act 1952]

Annexure Schedule

Transfer Instrument      Dated      Page      of      Pages

**Definitions**

1. In this transfer unless the context otherwise requires:
  - 1.1 "Easement Area" means that part of the Servient Land being [20] metres wide which is marked "[e-f-g-g<sup>1</sup>, e-m & n-j]" on Deposited Plan/S.O. Plan No [ ].
  - 1.2 "Servient Land" means the land owned by the Transferor and described on page 1.
  - 1.3 "Transferee" means Her Majesty the Queen acting by and through the Minister of Conservation and includes the Transferee's tenants, agents, contractors, and licensees; and any employee or contractor of the Director-General of Conservation; and any member of the public.
  - 1.4 "Transferor" means the owner of the Servient Land described on page 1 and includes the Transferor's tenants and invitees.

**Standard Easement Terms**

Access

- 2.1 The Transferee has the right in common with the Transferor to pass and re-pass at any time over and along the Easement Area on foot, or on or accompanied by horses, or by non-motorised vehicle powered by a person or persons.
- 2.2 The Transferor must keep the Easement Area clear at all times of obstructions whether caused by parked vehicles, deposit of materials or unreasonable impediment to the use and enjoyment of the Easement Area.

Exclusion of Implied Rights and Powers

3. The rights and powers contained in Schedule 4 of the Land Transfer Regulations 2002 and the Ninth Schedule of the Property Law Act 1952 are expressly negated.

Term

4. The easement created by this transfer is to be in perpetuity.

All signing parties and either their witnesses or solicitors must sign or initial in this box.

RELEASED UNDER THE OFFICIAL INFORMATION ACT  
Annexure Schedule

Transfer Instrument                      Dated    Page                      of                      Pages

Temporary Suspension

5. The Transferee may, at any time in exercise of her/his powers, temporarily close all or part of the Easement Area for such period as she/he considers necessary.

Dispute Resolution

- 6.1 If a dispute arises between the Transferor and Transferee concerning the rights created by this transfer the parties are to enter into negotiations in good faith to resolve it.
- 6.2 If the dispute is not resolved within 14 days of written notice by one party to the other it is to be referred to mediation.
- 6.3 If the dispute is not resolved within 21 days or such other period as agreed to in writing between the parties after the appointment of the mediator, the parties must submit to the arbitration of an independent arbitrator appointed jointly by the parties or, if one cannot be agreed within 14 days, to an independent arbitrator appointed by the President for the time being of the District Law Society in which the Servient Land is situated.
- 6.4 The arbitration is to be determined in accordance with the Arbitration Act 1996 and its amendments or any enactment passed in substitution.

Notice

- 7.1 A notice to be given under this transfer by one party to the other is to be in writing and must:
- (a) be hand delivered to the receiving party; or
  - (b) be sent by ordinary post to the receiving party; or
  - (c) be sent by facsimile to the receiving party.
- 7.2 If clause 7.1(b) applies the notice will be deemed to be received by the receiving party on such date on which the ordinary post would be delivered.

All signing parties and either their witnesses or solicitors must sign or initial in this box.

RELEASED UNDER THE OFFICIAL INFORMATION ACT  
Annexure Schedule

Transfer Instrument                      Dated                                      Page                      of                      Pages

7.3 If clause 7.1(c) applies the notice will be deemed to have been received on the day on which it is dispatched or, if dispatched after 5.00pm, on the next day after the date of dispatch.

**Special Easement Terms**

8.1 The standard easement terms contained above must be read subject to any special easement terms set out below.

8.1.1 The words "or on or accompanied by horses, or by non-motorised vehicle powered by a person or persons" are deleted from clause 2.1.

8.1.2 The Transferee has the right:

(a) To mark the Easement Area as appropriate.

(b) To erect and maintain stiles.

(c) To erect and maintain signs informing the public

(i) of the location of land managed by the Crown and available for public access and recreation; and

(ii) of their rights and responsibilities in relation to the Easement Area.

(d) To use whatever reasonable means of access she thinks fit over the Easement Area to carry out the works in clause 8.1.2.

8.1.3 The Transferor must install gates no less than 1 metre in width and keep the gates unlocked at all times unless otherwise agreed with the Transferee (specify where the gates are to be located).

8.1.4 Persons with guns or dogs are not permitted on the Easement Area.

All signing parties and either their witnesses or solicitors must sign or initial in this box.

Annexure Schedule

Transfer Instrument          Dated                                  Page          of          Pages

<b>Continuation of "Attestation"</b>	
Signed for and on behalf of	)
Her Majesty the Queen by	)
under a written delegation in the	)
presence of:	)
_____	
Witness (Signature)	
Name	_____
Address	_____
Occupation	_____

All signing parties and either their witnesses or solicitors must sign or initial in this box.

Appendix 7: Form of Easement to be Created

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Transfer Instrument

RELEASED UNDER THE OFFICIAL INFORMATION ACT Section 90, Land Transfer Act 1952

If there is not enough space in any of the panels below, cross-reference to and use the approved Annexure Schedule: no other format will be received.

Land Registration District

[Empty box for Land Registration District]

[Empty box for Land Registration District]

Unique Identifier(s) All/Part Area/description of part or stratum or C/T(s)

[Empty table for Unique Identifier(s) details]

Transferor Surname(s) must be underlined

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

Transferee Surname(s) must be underlined

HER MAJESTY THE QUEEN, acting by and through the Minister of Conservation

Es or Interest to be transferred, or easement(s) or profit(s) à prendre to be created State if fencing covenant imposed.

Public Access Easement in Gross under section 7(2) of the Conservation Act 1987 (continued on pages 2, 3 and 4 of Annexure Schedule).

Operative Clause

The Transferor transfers to the Transferee the above estate or interest in the land in the above certificate(s) of title or computer register(s) and, if an easement or profit à prendre is described above, that easement or profit à prendre is granted or created.

Dated this [ ] day of [ ]

Attestation If the transferee or grantee is to execute this transfer, include the attestation in an Annexure Schedule.

Witness section containing: Signed in my presence by the Transferor, Signature of witness, Witness to complete in BLOCK letters (unless legibly printed), Witness name, Occupation, Address, and Signature [common seal] of Transferor.

Certified correct for the purposes of the Land Transfer Act 1952

[Empty box for certification]

Annexure Schedule

Transfer Instrument          Dated                                  Page          of          Pages

**Definitions**

1. In this transfer unless the context otherwise requires:
  - 1.1 "Easement Area" means that part of the Servient Land being [10] metres wide which is marked "[ c-e-k-l-d]" on Deposited Plan/S.O. Plan No [          ].
  - 1.2 "Servient Land" means the land owned by the Transferor and described on page 1.
  - 1.3 "Transferee" means Her Majesty the Queen acting by and through the Minister of Conservation and includes the Transferee's tenants, agents, contractors, and licensees; and any employee or contractor of the Director-General of Conservation; and any member of the public.
  - 1.4 "Transferor" means the owner of the Servient Land described on page 1 and includes the Transferor's tenants and invitees.

**Standard Easement Terms**

Access

- 2.1 The Transferee has the right in common with the Transferor to pass and re-pass at any time over and along the Easement Area on foot, or on or accompanied by horses, or by non-motorised vehicle powered by a person or persons.
- 2.2 The Transferor must keep the Easement Area clear at all times of obstructions whether caused by parked vehicles, deposit of materials or unreasonable impediment to the use and enjoyment of the Easement Area.

Exclusion of Implied Rights and Powers

3. The rights and powers contained in Schedule 4 of the Land Transfer Regulations 2002 and the Ninth Schedule of the Property Law Act 1952 are expressly negated.

Term

4. The easement created by this transfer is to be in perpetuity.

All signing parties and either their witnesses or solicitors must sign or initial in this box.



Annexure Schedule

Transfer Instrument                      Dated    Page                      of                      Pages

Temporary Suspension

5. The Transferee may, at any time in exercise of her/his powers, temporarily close all or part of the Easement Area for such period as she/he considers necessary.

Dispute Resolution

- 6.1 If a dispute arises between the Transferor and Transferee concerning the rights created by this transfer the parties are to enter into negotiations in good faith to resolve it.
- 6.2 If the dispute is not resolved within 14 days of written notice by one party to the other it is to be referred to mediation.
- 6.3 If the dispute is not resolved within 21 days or such other period as agreed to in writing between the parties after the appointment of the mediator, the parties must submit to the arbitration of an independent arbitrator appointed jointly by the parties or, if one cannot be agreed within 14 days, to an independent arbitrator appointed by the President for the time being of the District Law Society in which the Servient Land is situated.
- 6.4 The arbitration is to be determined in accordance with the Arbitration Act 1996 and its amendments or any enactment passed in substitution.

Notice

- 7.1 A notice to be given under this transfer by one party to the other is to be in writing and must:
- (a) be hand delivered to the receiving party; or
  - (b) be sent by ordinary post to the receiving party; or
  - (c) be sent by facsimile to the receiving party.
- 7.2 If clause 7.1(b) applies the notice will be deemed to be received by the receiving party on such date on which the ordinary post would be delivered.

All signing parties and either their witnesses or solicitors must sign or initial in this box.

Annexure Schedule

Transfer Instrument          Dated                                  Page          of          Pages

7.3      If clause 7.1(c) applies the notice will be deemed to have been received on the day on which it is dispatched or, if dispatched after 5.00pm, on the next day after the date of dispatch.

**Special Easement Terms**

8.1      The standard easement terms contained above must be read subject to any special easement terms set out below.

8.1.1    The Transferee has the right:

- (a)      To mark the Easement Area as appropriate.
- (b)      To erect and maintain stiles.
- (c)      To erect and maintain signs informing the public

(i)      of the location of land managed by the Crown and available for public access and recreation; and

(ii)     of their rights and responsibilities in relation to the Easement Area.

(d)      To use whatever reasonable means of access she thinks fit over the Easement Area to carry out the works in clause 8.1.1.

8.1.2    The Transferor must install gates no less than 1 metre in width. The Transferor may lock those gates located on the property boundary provided that a key is provided to the Transferee so that members of the public can obtain a key to exercise their right to ride horses on the Easement Area.

8.1.3    Persons with guns or dogs are not permitted on the Easement Area.

8.1.4    The Transferee agrees that if there is a persistent problem with members of the public trespassing off the Easement Area she, acting through the Minister of Conservation, will in consultation with the Transferor develop a strategy to ameliorate and if possible eliminate the problem. Possible remedies include erection of additional signage, strategic placement of fencing, erection of gates and stiles and publicity (including brochures and visitor centre information). The Transferee will meet capital costs associated with the strategy.

All signing parties and either their witnesses or solicitors must sign or initial in this box.

RELEASED UNDER THE OFFICIAL INFORMATION ACT  
Annexure Schedule

Transfer Instrument                      Dated    Page                      of                      Pages

**Continuation of "Attestation"**

Signed for and on behalf of    )  
Her Majesty the Queen by    )

under a written delegation in the    )  
presence of:    )

\_\_\_\_\_  
Witness (Signature)

Name \_\_\_\_\_

Address \_\_\_\_\_

Occupation \_\_\_\_\_

All signing parties and either their witnesses or solicitors must sign or initial in this box.

Appendix 8: Form of Easement to be Created

---

Transfer Instrument

RELEASED UNDER THE OFFICIAL INFORMATION ACT Section 80 of the Land Transfer Act 1952

If there is not enough space in any of the panels below, cross-reference to and use the approved Annexure Schedule; no other format will be received.

Land Registration District

[Empty box for Land Registration District]

[Empty box for Land Registration District]

Unique Identifier(s) All/Part Area/description of part or stratum or C/T(s)

[Empty table for Unique Identifier(s) with 3 columns]

Transferor

Surname(s) must be underlined

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

Transferee

Surname(s) must be underlined

HER MAJESTY THE QUEEN, acting by and through the Minister of Conservation

Estate or Interest to be transferred, or easement(s) or profit(s) à prendre to be created State if fencing covenant imposed.

easement of right of way in gross pursuant to section 7(2) Conservation Act 1987 for management purposes (continued on pages 2 3 and 4 annexure schedule)

Operative Clause

The Transferor transfers to the Transferee the above estate or interest in the land in the above certificate(s) of title or computer register(s) and, if an easement or profit à prendre is described above, that easement or profit à prendre is granted or created.

Dated this day of

Attestation If the transferee or grantee is to execute this transfer, include the attestation in an Annexure Schedule.

Signed in my presence by the Transferor

Signature of witness

Witness to complete in BLOCK letters (unless legibly printed)

Witness name

Occupation

Address

Signature [common seal] of Transferor

Certified correct for the purposes of the Land Transfer Act 1952

[Empty box for certification]

Annexure Schedule

Transfer Instrument                      Dated    Page                      of                      Pages

**Definitions**

1. In this transfer unless the context otherwise requires:

- 1.1 "Easement Area" means that part of the Servient Land being [5 metres either side of the centre line of the track marked "a"- "b", "c"- "e"- "k"- "b"- "l"- "d", "h"- "h1", "h2"- "i" & "m"- "n" and 10 metres either side of the centre line of the track marked "e"- "m", "n"- "j", "e"- "f"- "g"- "g<sup>1</sup>"- "h" and between points marked "h1"- "h2" means all that land lying between the north side of the formed track and the southern property boundary marked [ ] on Deposited Plan/S.O. Plan No [ ].
- 1.2 "Management Purposes" means:
- the protection of a significant inherent value on land administered by the Department of Conservation in the vicinity of the Easement Area.
- 1.3 "Servient Land" means the land owned by the Transferor and described on page 1.
- 1.4 "Transferee" means Her Majesty the Queen acting by and through the Minister of Conservation and includes the Transferee's tenants, agents, contractors and invitees; or any employee or contractor of the Director-General of Conservation.
- 1.5 "Transferor" means the owner of the Servient Land described on page 1 and includes the Transferor's tenants and invitees.

**Standard Easement Terms**

Access

- 2.1 The Transferee has the right in common with the Transferor at any time to pass and re-pass over and along the Easement Area on foot, or on or accompanied by horses, or by motor vehicles, with or without machinery and implements of any kind, and with or without guns and dogs for Management Purposes.
- 2.2 The Transferor must keep the Easement Area clear at all times of obstructions whether caused by parked vehicles, deposit of materials or unreasonable impediment to the use and enjoyment of the Easement Area.

Exclusion of Implied Rights and Powers

3. The rights and powers contained in Schedule 4 of the Land Transfer Regulations 2002 and the Ninth Schedule of the Property Law Act 1952 are expressly negated.

All signing parties and either their witnesses or solicitors must sign or initial in this box.

Annexure Schedule

Transfer Instrument                      Dated    Page                      of                      Pages

Term

4. The easement created by this transfer is to be in perpetuity.

Dispute Resolution

5.1 If a dispute arises between the Transferor and Transferee concerning the rights created by this transfer the parties are to enter into negotiations in good faith to resolve it.

5.2 If the dispute is not resolved within 14 days of written notice by one party to the other it is to be referred to mediation.

5.3 If the dispute is not resolved within 21 days or such other period as agreed to in writing between the parties after the appointment of the mediator, the parties must submit to the arbitration of an independent arbitrator appointed jointly by the parties or, if one cannot be agreed within 14 days, to an independent arbitrator appointed by the President for the time being of the District Law Society in which the Servient Land is situated.

5.4 The arbitration is to be determined in accordance with the Arbitration Act 1996 and its amendments or any enactment passed in substitution.

Notices

6.1 A notice to be given under this transfer by one party to the other is to be in writing and must:

- (a) be hand delivered to the receiving party; or
- (b) be sent by ordinary post to the receiving party; or
- (c) be sent by facsimile to the receiving party.

6.2 If clause 6.1(b) applies the notice will be deemed to be received by the receiving party on such date on which the ordinary post would be delivered.

6.3 If clause 6.1(c) applies the notice will be deemed to have been received on the day on which it is dispatched or, if dispatched after 5.00pm, on the next day after the date of dispatch.

All signing parties and either their witnesses or solicitors must sign or initial in this box.

Annexure Schedule

Transfer Instrument                      Dated    Page                      of                      Pages

**Special Easement Terms**

- 7.1 The standard easement terms contained above must be read subject to any special easement terms set out below.
- 7.1.1 The Transferee must take all reasonable care to avoid damage to the soil and vegetation of the Easement Area and in particular will avoid using the easement when conditions such as softening during frost thaw render the Easement Area particularly vulnerable to damage.
- 7.1.2 In doing any of the matters specified in clause 2.1, the Transferee must take reasonable and proper care not to damage any property of the Transferor and must properly repair any such damage.
- 7.1.3 If the Transferee instigates a project, other than necessary management activities, which requires frequent use of the Easement Areas she will contribute to the cost of maintaining the Easement Area or reach other agreed recompense with the Transferor. This clause does not apply to necessary management activities on the Dominant Land. For the purposes of this clause necessary management activities include fence maintenance, weed control, pest control, recreational management, fire, concession management and ecological monitoring.
- 7.1.4 The Transferor is under no obligation to maintain the Easement Area to any standard other than that which is necessary for his own purposes.
- 7.1.5 Prior to using the Easement Area the Transferee shall give 24 hours notice by telephone to the Transferor and shall have regard to reasonable requests by the Transferor relating to farm management issues. This clause does not apply in an emergency or if the Transferor is unable to be contacted by telephone.
- 7.1.6 Where gates are installed by the Transferor such gates must be no less than 3.6 metres in width and be kept unlocked at all times except that the Transferor may lock a gate at the point marked [ ] *[marked "b" on the designations Plan]*.
- 7.1.7 The Transferee may install her own lock on the gate referred to in clause 7.1.6.
- 7.1.8 For the avoidance of doubt the definition of "invitees" in clause 1.4 may include members of Te Runanga O Ngai Tahu.

All signing parties and either their witnesses or solicitors must sign or initial in this box.



Annexure Schedule

Transfer Instrument          Dated                                  Page          of          Pages

**Continuation of "Attestation"**

Signed for and on behalf of                                  )  
Her Majesty the Queen by    )  
  
under a written delegation in the                                  )  
presence of:    )

\_\_\_\_\_  
Witness (Signature)

Name \_\_\_\_\_

Address \_\_\_\_\_

Occupation \_\_\_\_\_

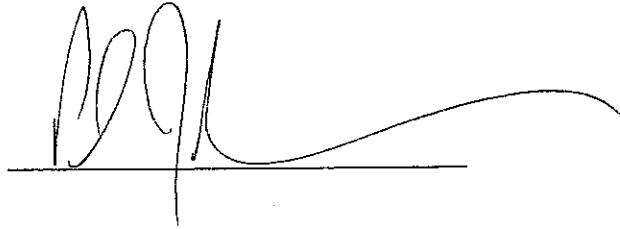
**All signing parties and either their witnesses or solicitors must sign or initial in this box.**

Execution Section

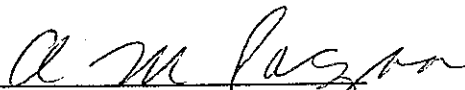
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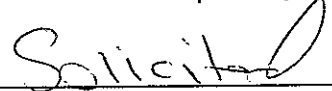
This Proposal (including the schedules and appendices) is signed by the Commissioner and the Holder as a binding agreement.


**SIGNED** for and on behalf of  
**Commissioner of Crown Lands**  
by Paul Alexander Jackson acting  
pursuant to a delegated authority in  
the presence of:



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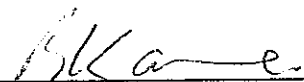
  
Witness

  
Occupation

  
Address

**SIGNED** for and on behalf of  
**GLENFOYLE LIMITED** by two of  
its directors:

  
Allan Kane - Director

  
Barbara Miriel Kane - Director