

## **Crown Pastoral Land Tenure Review**

**Lease name : KAWARAU & MT  
DIFFICULTY**

**Lease number : PO 234 & PO 353**

### **Preliminary Proposal - Part 1**

A Preliminary Proposal is advertised for public submissions as per Section 43 of the Crown Pastoral Land Act 1998.

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

**PROPOSAL FOR REVIEW OF CROWN LAND**

**Relating to Multiple Tenure Review for the Mt Difficulty and Kwararau Station Group of Pastoral Leases**

**Under Part 2 of the Crown Pastoral Land Act 1998**

**Commissioner of Crown Lands acting under  
the Crown Pastoral Land Act 1998**

**and**

- (a) Kwararau Station Limited as lessee under the Mt Difficulty Lease
- (b) Kwararau Station Limited as lessee under the Kwararau Station Lease

being the Holder of the relevant Lease, (each being a Holder and together the Holders).

**PROPOSAL FOR MULTIPLE REVIEW OF CROWN LAND  
MT DIFFICULTY KAWARAU STATION GROUP**

**Date:**

**Parties :**

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**Commissioner of Crown Lands:**

C/- OPUS International Consultants Limited  
197 Rattray Street  
PO Box 1913  
Dunedin 9054  
Attention: Dave Payton

**And**

**Holder:**

**Kawarau Station Limited**  
RD2  
Cromwell 9384  
as lessee under the Kawarau Station Lease

**The Land**

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<b>Lease:</b>	<b>Mt Difficulty Lease Po 353</b>
<b>Legal Description:</b>	Part Section 51 Block II, Cromwell SD and Section 3 SO 23831
<b>Area:</b>	5281.1156
<b>Certificate of Title/Unique Identifier:</b>	13A/632

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**Holder:**

**Kawarau Station Limited**  
RD2  
Cromwell 9384  
as lessee under the Mt Difficulty Lease

**The Land**

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<b>Lease:</b>	<b>Kawarau Station Lease Po 234</b>
<b>Legal Description:</b>	Part Run 330A
<b>Area:</b>	4812.7440
<b>Certificate of Title/Unique Identifier:</b>	A2/1218

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### **Summary of Designations**

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Under this Proposal, the Land in relation to each lease 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 green on the Plan) is to be disposed by freehold disposal to each Holder as set out in Schedule Three.

**1 The Designation Plans for the Kawarau Station Mt Difficulty Group**

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## **2 Conditions**

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- 2.1 This Proposal is put to each Holder and any agreement arising therefrom, is subject to the conditions contained in Schedule Four of the relevant Lease schedule.

## **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 each Holder by freehold disposal as provided in Schedule Three will be the day that is ten (10) working days following the day on which Land Information New Zealand notifies the Commissioner that the Final Plan and a copy of this Proposal are registered in accordance with the Act.

- 3.2 The Freehold Land will be disposed of to each Holder under the Land Act 1948.

- 3.3 Notwithstanding anything to the contrary, if, as at the Settlement Date (as determined pursuant to clause 3.1), the rent payable under any Lease is subject to a Rent Review, then in respect of settlement with the Holder of that Lease the Commissioner may elect to:

(a) settle on the Settlement Date on the basis that the Commissioner may retain from the Commissioner's Payment an amount which the Commissioner, acting reasonably, estimates will be payable by the Holder to the Commissioner following agreement or determination of the Rent Review ("the Retention"). The Retention shall be held by the Crown Law Office in an on-call, interest-bearing trust account in the joint names of the parties for their respective rights and interests. Upon agreement or determination of the Rent Review, the Commissioner shall calculate the rent shortfall payable by the Holder to the Commissioner in respect of the period from the effective date of the Rent Review to the Settlement Date, both dates inclusive ("the Shortfall"). If:

(i) the Shortfall is less than the Retention and the net interest earned thereon, the balance shall be paid by the Commissioner to the Holder within TEN (10) working days; or

(ii) the Shortfall is more than the Retention and the net interest earned thereon, the balance shall be paid by the Holder to the Commissioner within TEN (10) working days;

or

(b) defer the Settlement Date until TEN (10) working days after the rent payable as a consequence of the Rent Review:

(i) has been agreed or determined; and

(ii) is not and will not be subject to any appeal, rehearing or other proceedings.

## **4 Holder's Payment**

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- 4.1 By 3.00 p.m. on the Settlement Date, each Holder must pay its 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 any Holder fails to pay its 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 each Holder of each relevant Lease on the Settlement Date.
- 5.2 No interest shall be payable to any 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.

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## **6 Vesting of Crown Land**

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

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## **7 Issue of Certificate of Title**

- 7.1 Notwithstanding any other provision in this Proposal, the Commissioner will not request that the Surveyor-General issue certificates to the Registrar pursuant to section 116 of the Land Act 1948 (to enable certificates of title to issue for the Freehold Land to each Holder) unless and until:
- (a) the Commissioner has received each Holder's Payment from that Holder under clause 4, and all other money payable by that Holder under this Proposal and the Notice;
  - (b) that 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) that Holder has signed and returned to the Commissioner all documents required by the Commissioner to be signed by that Holder to give effect to this Proposal (including, without limitation, any permit, covenant, easement and/or any other document); and
  - (d) that 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.

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## **8 Registration of Documents**

- 8.1 Subject to clause 7, the Commissioner will lodge all documents necessary to give effect to this Proposal (including, without limitation any easement, covenant, discharge of mortgage, and/or duplicate copy of the relevant Lease) and any new mortgage documents to be registered against the certificates of title to be issued for the Freehold Land so that the certificates of title for the Freehold Land will issue subject to the encumbrances provided in this Proposal. Any new mortgage documents will be registered after any other encumbrances such as any easements and/or covenants are registered.

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## **9 Consents**

- 9.1 Each Holder must obtain the written consent to each Holder's acceptance of this Proposal from all persons having an interest in that Holder's Land (other than that 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 relevant Lease and/or the Holder's Land; and
  - (c) any other person that the Commissioner reasonably believes has an interest in that Holder's Land or who that Holder reasonably believes has an interest in that Holder's 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 each Holder. Examples of the form of consents required under clause 9.1 are set out in Appendix 1.
- 9.3 Each Holder must also obtain, and provide to the Commissioner if requested, all consents necessary for that Holder to accept this Proposal including (without limitation) any:
- (a) corporate and/or trustee consents; and

- (b) consent required under the Overseas Investment Act 2005 and the Overseas Investment Regulations 2005.

- 9.4 Each Holder will procure the Mortgagee to execute a registrable discharge of the Mortgage and, if required by the Mortgagee, that 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 relevant certificates of title for the Freehold Land at the same time as the certificates of title for the relevant Freehold Land issue.

## **10 Continuation of Lease**

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- 10.1 Each relevant Lease will remain in full force and effect until certificates of title issue for the Freehold Land. Notwithstanding when Settlement Date occurs, until certificates of title issue for the Freehold Land each Holder will duly and punctually comply with all obligations on its part under the relevant Lease (other than as set out at clause 12.1 (b)) and that Lease will remain in full force and effect.
- 10.2 From the date that certificates of title issue for the Freehold Land the relevant Lease is deemed to be surrendered and, subject to clause 10.3, the Commissioner releases and discharges each Holder from the performance and observance of all covenants, conditions and obligations under the relevant 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 each Lease (except as varied in accordance with clause 12.1(b)); and
  - (b) will not release or discharge that Holder from any liability under each Lease, arising prior to the date that certificates of title for the Freehold Land issue, under any statute or by any reason where such liability is due to the fault of that Holder.
- 10.4 As from the Vesting Date, each 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). Each Holder will not be entitled to any compensation for any of its improvements, fencing, buildings, structures, fixtures, fittings or chattels which are on the Crown Land as at the Vesting Date.

## **11 Fencing and Construction Works**

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- 11.1 If all of the Holders have accepted this Proposal and that acceptance has taken effect pursuant to the Act, the Commissioner will, subject to clauses 11.2 and 14.4, erect at the Commissioner's cost new fencing:
  - (a) approximately along the line marked "New Fencing Line" on the Plan; and
  - (b) to the specifications in Appendix 3;
 ("the Fencing").
- 11.2 If the Fencing requires a resource consent or any other consent from any local or territorial authority ("the Fencing Consent"), the following provisions shall apply:
  - (a) The Commissioner shall use reasonable endeavours to obtain the Fencing Consent within 6 months of this Proposal taking effect pursuant to the Act.
  - (b) If the Fencing Consent:
    - (i) is not obtained within 6 months of this Proposal taking effect pursuant to the Act; and/or



- (ii) is obtained on terms which are not satisfactory to the Commissioner in all respects; the Commissioner may, acting reasonably, elect to do any one or more of the following:
  - (iii) erect the Fencing in a position different from that shown on the Plan;
  - (iv) erect the Fencing over a shorter distance than that shown on the Plan; or
  - (v) erect the Fencing to specifications different from those in Appendix 3.
- 11.3 If the Commissioner has not completed the Fencing by the Settlement Date, the Holders agree that the Commissioner may register a covenant, on terms entirely satisfactory to the Commissioner (in the Commissioner's sole discretion), over the Freehold Land to enable the Commissioner to complete the Fencing. Each Holder will do all things necessary (including signing any document) to enable the Commissioner to register such a covenant.
- 11.4 The ongoing maintenance of the Fencing referred to in clauses 11.1 and 11.2 will be subject to the terms of the Fencing Act 1978.
- 11.5 If all of the Holders have accepted this Proposal and that acceptance has taken effect pursuant to the Act, the Commissioner will, subject to clause 11.6, undertake the construction works set out in Appendix 3 on the terms and conditions set out in Appendix 3 ("the Construction Works").
- 11.6 If any Construction Works for which the Commissioner is liable, or jointly liable with any Holder, require a resource consent or any other consent from any local or territorial authority ("the Works Consent"), the following provisions shall apply:
  - (a) The Commissioner shall use reasonable endeavours to obtain the Works Consent within 6 months of this Proposal taking effect pursuant to the Act.
  - (b) If the Works Consent:
    - (i) is not obtained within 6 months of this Proposal taking effect pursuant to the Act; and/or
    - (ii) is obtained on terms which are not satisfactory to the Commissioner in all respects;

the Commissioner may, acting reasonably, elect to vary the extent of the Construction Works in question and/or the terms and conditions upon which they are carried out.

## **12 Apportionments**

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- 12.1 Rent payable under each 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 relevant Lease continues in effect until certificates of title issue for the Freehold Land, the Holder shall not be required to pay any rent under its relevant Lease for the Freehold Land from the Settlement Date.
- 12.2 Rent paid or payable under each Lease for the Crown Land will be apportioned (on a pro rata basis in respect of the Land if they cannot be separately assessed) 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 for each Lease.
- 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 in relation to each Lease.

- 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 certificates of title issue for the Freehold Land, the Commissioner will undertake a final apportionment and either the Commissioner will pay to each Holder, or each Holder will pay to the Commissioner, any additional amounts due because of any payments made or received by one of the parties on behalf of the other for the period from the Settlement Date to the date on which new certificates of title issue 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 each Holder. For the avoidance of doubt, each Holder's current risk in respect of matters arising under the relevant Lease, including, without limitation, each Holder's risk in respect of all improvements, buildings, fencing, fixtures, fittings and chattels, will continue to remain with each Holder until the relevant Lease is deemed to be surrendered under clause 10.2.
- 13.2 Each 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 Plans. The measurements of the areas may therefore alter on the Final Plans.
- 14.2 No error, misdescription or amendment of any part of the Land will annul, vary, or derogate from this Proposal, or each Holder's acceptance of this Proposal.
- 14.3 For the avoidance of doubt, none of the Holders will be entitled to cancel or withdraw its acceptance of this Proposal, nor will any Holder, or any successor in title of any 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 each Holder accepts this Proposal and that acceptance takes effect under the Act, each Holder acknowledges that:
- (a) it is obtaining the freehold interest in the land specified in Schedule Three as being freeholded to that Holder:
    - (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) each Holder has carried out all inspections of the land specified in Schedule Three as being freeholded to that Holder which each Holder considers necessary to satisfy itself as to all matters relating to the Freehold Land;
  - (c) each Holder, at its cost, is entirely responsible for all work to ensure that the land specified in Schedule Three as being freeholded to that Holder complies with all applicable laws including (without limitation):
    - (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 2004; and

each 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 each 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 relevant Land; and
- (e) each 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 for the relevant Lease or this Proposal or in any notice, or any correspondence or other information provided to each 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 each Holder's use; or
  - (c) that the Freehold Land complies with all or any statutory, territorial authority or any other legal requirements affecting or relevant to the Freehold Land.

## **17 Acceptance**

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- 17.1 Subject to s60(3) and (4) of the Crown Pastoral Land Act 1998 each Holder's acceptance of this Proposal is irrevocable and constitutes a binding agreement between the Commissioner and each Holder.
- 17.2 If the Commissioner does not receive an acceptance to this Proposal signed by each Holder, including the written consents of all persons referred to in clause 9, within three (3) months of putting it (in its substantive form) to each Holder, each Holder is deemed to have rejected this Proposal.

## **18 Solicitors Certificate**

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- 18.1 Each Holder must instruct its solicitor 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 each Holder's execution of this Proposal and each 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 Each Holder must return the completed solicitor's certificate to the Commissioner with this Proposal on its acceptance by that Holder.

## **19 Default**

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

## **21 Lowest price**

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- 21.1 Each Holder's Consideration does not include any capitalised interest and the parties agree that the "lowest price" for the purposes of valuing the land specified in Schedule Three as being freeholded to that Holder under section EW 32(3) of the Income Tax Act 2004 is equal to that Holder's Consideration.
- 21.2 The Commissioner's Consideration does not include any capitalised interest and the parties agree that the "lowest price" for the purposes of valuing the Crown Land under section EW 32(3) of the Income Tax Act 2004 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 Plans and for certificates of title to issue for the Freehold Land.
- 22.2 Each Holder is responsible for all costs that Holder incurs in respect of and incidental to the Tenure Review. In particular, but without limitation, each 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 each Holder.

## **23 No nomination or assignment**

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- 23.1 Each Holder is currently the lessee under one of the relevant Leases.
- 23.2 Each Holder is not entitled to, and is expressly prohibited from, nominating another person to perform its obligations under this Proposal or assigning to another person that Holder's interest (or any part) under this Proposal.

## **24 Recreation Permit**

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- 24.1 Immediately on the registration of the Final Plan in relation to the relevant Lease and a copy of the Proposal to which it relates over the Land and pursuant to s64 of the Act, any recreation permit granted over the Land shall be determined.

## **25 Consents for Activities**

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- 25.1 If the Holder has been granted a consent by the Commissioner to do an activity on the land under sections 15 or 16 of the Act, and the area over which the consent is exercised is designated in this Proposal as Crown Land, then the Holder agrees to act in good faith whilst exercising such consent and not damage or destroy the Crown Land or anything thereon.

## 26 General

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- 26.1 This Proposal and the Notice:
- (a) constitute the entire understanding and agreement between the Commissioner, the Crown and each Holder in relation to the Tenure Review; and
  - (b) supersede and extinguish all prior agreements and understandings between the Crown, the Commissioner and each Holder relating to the Tenure Review.
- 26.2 Each provision of this Proposal will continue in full force and effect to the extent that it is not fully performed at the Settlement Date.
- 26.3 Each Holder must comply with the Commissioner's requirements for the implementation and settlement of the Tenure Review contemplated by this Proposal.
- 26.4 The Commissioner and each Holder will sign and execute all deeds, agreements, schedules and other documents and do all acts and things as may be reasonably required by the other to effectively carry out and give effect to the terms and intentions of this Proposal.
- 26.5 This Proposal is governed by, and must be construed under, the laws of New Zealand and the Commissioner and each Holder irrevocably submits to the jurisdiction of the New Zealand courts or other New Zealand system of dispute resolution.
- 26.6 The illegality, invalidity or unenforceability of any provision in this Proposal will not affect the legality, validity or enforceability of any other provision.
- 26.7 In relation to notices and other communications under this Proposal:
- (a) each notice or other communication is to be in writing, and sent by facsimile, personal delivery or by post to the addressee at the facsimile number or address, and marked for the attention of the person or office holder (if any), from time to time designated for that purpose by the addressee to the other party. Other than the address to which each Holder is to send its acceptance of this Proposal (which the Commissioner will specifically notify each Holder of) the address, person or office holder (if any) for each party is shown on the front page of this Proposal;
  - (b) no communication is to be effective until received. A communication will be deemed to be received by the addressee:
    - (i) in the case of a facsimile, on the working day on which it is despatched or, if despatched after 5.00 p.m. on a working day or, if despatched on a non-working day, on the next working day after the date of dispatch;
    - (ii) in the case of personal delivery (including, but not limited to, courier by a duly authorised agent of the person sending the communication), on the working day on which it is delivered, or if delivery is not made on a working day, on the next working day after the date of delivery; and
    - (iii) in the case of a letter, on the fifth working day after mailing (postage paid).

## 27 Interpretation

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### 27.1 Definitions

In this Proposal unless the context otherwise requires:

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

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

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

**Crown Land** means collectively the land (including any improvements) set out in Schedule One and collectively 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 each Holder under the Goods and Services Tax Act 1985 or the Tax Administration Act 1994 by reason of either the Commissioner or any Holder failing to pay GST as required by this Proposal. It does not include any sum levied against the Commissioner or any Holder by reason of a default by the Commissioner after payment of GST to the Commissioner by any Holder or by reason of a default by that Holder after payment of GST to that Holder by the Commissioner;

**Default Rate** means the rate of 11 per cent per annum;

**Fencing** means any stock-proof farm fence;

**Fencing Consent** means any and all consents for fencing required under the Resource Management Act 1991

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

**Freehold Land** means the land specified in Schedule Three as being freehold to the Holders individually

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

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

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

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

**Lease** means those leases known as the:

Kawarau Station Lease; and

Mt Difficulty Lease

each of these leases being identified on the front page of this Proposal;

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

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

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

- (a) that Holder's Consideration;
- (b) the Commissioner's Consideration; and
- (c) that 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, covenant areas, easement routes, indicative fence lines as attached and shown on page 2 of this Proposal;

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

**Rent Review** means the process for the determination of the rent payable under any Lease as set out in sections 6 to 8 of the Act;

**Relevant Land** means the land in the relevant Lease described on the front page of this Proposal.

**Relevant Lease** means the Lease described on the front page of the Proposal

**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 each Holder an executed copy of this Proposal signed by each Holder containing the signed consents of all persons having an interest in the Land to each 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;

**Works Consent** means any and all consents required under the Resource Management Act 1991 and the Building Act 2004.

## 27.2 Construction of certain references

In this Proposal, unless inconsistent with the context:

- (a) a reference to a certificate of title includes a reference to a computer register;
- (b) words importing a gender include all genders;
- (c) reference to a statute includes reference to all enactments that amend or are passed in substitution for the relevant statute and to all regulations relating to that statute;
- (d) words in the singular include the plural and vice versa;
- (e) reference to a month means a calendar month;
- (f) reference to a person means an individual, a body corporate, an association of persons (whether corporate or not), a trust or a state or agency of a state (in each case, whether or not having separate legal personality);
- (g) references to sections, clauses, sub-clauses, parts, annexures, attachments, appendices, schedules, paragraphs and sub-paragraphs are references to such as they appear in this Proposal and form part of this Proposal;
- (h) headings are included for ease of reference only and will not affect the construction or interpretation of this Proposal;
- (i) all monetary amounts are expressed in New Zealand currency;

- (j) references to obligations includes reference to covenants, undertakings, warranties and, generally, obligations or liabilities of any nature properly arising whether directly or indirectly, under or in respect of the relevant contract, agreement or arrangement;
- (k) all references to times are references to times in New Zealand;
- (l) if a Holder comprises more than one person, each of those persons' obligations as Holder shall be joint and several.



**Schedule One: Provisions relating to the Schedule One Land**

**1      Details of Designation**

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- 1.1      Under this Proposal the land shown marked in pink and labelled "R1" on the Plan, being 6 hectares (approximately) is designated as land to be restored to or retained in full Crown ownership and control as Historic Reserve.

**2      Schedule One Improvements**

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Not applicable

## **Schedule Two: Provisions relating to the Schedule Two Land**

### **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 987.744 hectares (approximately) is designated as land to be restored to or retained in Crown control as Conservation Area subject to:
- (a) the granting of grazing concession (shown on the Plan in pink, labelled CA1) substantially as set out in Appendix 4;
  - (b) the granting of easement concession (shown on the Plan as a dashed blue line, labelled r-o-v-w) substantially as set out in Appendix 5;
- 1.2 Under this Proposal the land shown marked in pink and labelled "R2" on the Plan, being 160 hectares (approximately) is designated as land to be restored to or retained in Crown control as Historic Reserve subject to:
- (a) the granting of grazing concession (shown on the Plan in pink, labelled R2) substantially as set out in Appendix 7;
  - (b) the continuation in force of an easement in gross in favour of The Carrick Irrigation Company Limited, embodied in Historic Computer Interest Register OT17A/15 (no. 885715), substantially as set out in Appendix 8;
- 1.3 Under this Proposal the land shown marked in pink and labelled "CL" on the Plan, being 765.1156 hectares (approximately) is designated as land to be restored to or retained in Crown control under the Land Act 1948 subject to:
- (a) the granting of the Special Lease (shown on the Plan in pink, labelled CL) substantially as set out in Appendix 11.

### **2 Existing Interests**

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- 2.1 The following interests are held over the land and will continue to be held by the parties indicated after completion of the tenure review in respect to the land outlined under designation 1.1 above (CA1):
- (a) a registered Mineral Exploration Permit, No 40536 in favour of Prophecy Mining Limited, registered as instrument No. 5273979.1, as substantially set out in Appendix 6.
- 2.2 The following interests are held over the land and will continue to be held by the parties indicated after completion of the tenure review in respect to the land outlined under designation 1.2 above (R2):
- (a) a registered Mineral Exploration Permit, No 40536 in favour of Prophecy Mining Limited, registered as instrument No. 5273979.1, as substantially set out in Appendix 6;

- (b) an unregistered Deemed Permit pursuant to Section 413-417 of the Resource Management Act 1991 in favour of R J Anderson, consent Number 97670, substantially as set out in Appendix 9;
  - (c) an unregistered Deemed Permit pursuant to section 413-417 of the Resource Management Act 1991 in favour of Carrick Irrigation Company Ltd, consent Number 2002.448, substantially as set out in Appendix 10.
- 2.3 The following interests are held over the land and will continue to be held by the parties indicated after completion of the tenure review in respect to the land outlined under designation 1.3 above (CL):
- (a) an unregistered Discharge Permit pursuant to Section 105 of the Resource Management Act 1991 in favour of The Department of Conservation under consent Number 97041, substantially as set out in Appendix 12.
  - (b) an unregistered Water Permit pursuant to Section 105 of the Resource Management Act 1991 in favour of The Department of Conservation under consent Number 97042, substantially as set out in Appendix 13.
  - (c) an unregistered Discharge Permit pursuant to Section 105 of the Resource Management Act 1991 in favour of The Department of Conservation under consent Number 97043, substantially as set out in Appendix 14.

### **3 Information Concerning Proposed Concession**

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#### **3.1 Grazing Concession over CA1**

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

1. Description of proposed activity(s) [s.39(a)]:  
Grazing of 1500 wethers from 1 February to 30 April each year. The concession also allows for the use of dogs on the land for mustering purposes.
2. Description of place(s) where proposed activity to be carried out and proposed status [s.39(b)]:  
The area comprises some 988 ha of finely grained tussocklands and is part of a spectacular rugged gorge. Vegetation patterns include such diverse communities as substantial remnants of *Chionochloa rigida* tussocklands, fescue tussocklands including both hard and silver tussock, excellent examples of sub-alpine finger bogs and rock tor and bluff communities. At lower altitudes, dense matagouri-Coprosma-Olearia-Carmichaelia shrublands flank stream channels.  
Proposed status for the area is conservation area for the purpose of protection of the historic and natural resources to be managed by the Department of Conservation.
3. Description of potential effects of proposed activity and any actions proposed to avoid, mitigate or remedy any adverse effect, [s.39(c)] noting the requirements of s.51(3)(a) and s.51(2)(d) CPLA:  
The concession is a continuation of an activity that has been carried out on this land for many years. The grazing is phase out only to allow the proposed concessionaire reasonable time to adjust his farming practice. There is no foreseeable reason why grazing over the proposed term will result in adverse effects.

4. Details of the proposed type of concession:  
Grazing concession under Section 17Q Conservation Act 1987.
  5. Proposed duration of concession and reasons for proposed duration [s.39(e)]:  
Proposed duration: 10 years.  
  
Reasons for proposed duration: The concession essentially caters for a continuation of existing grazing use of the area by the proposed concessionaire.
  6. Relevant information about the proposed grantee including information relevant to the grantee's ability to carry out the proposed activity [s.39(f)]:  
  
Proposed grantee: Kawarau Station Limited  
  
Relevant information: The proposed concessionaire currently grazes the area which is part of Kawarau pastoral lease. DOC currently has a good working relationship with the Andersons over a variety of issues including maintenance of shared boundary fencing and pest control.
- N.B. *The preparation of this information is not intended to imply consent under s.41 CPLA.*

### **3.2 Easement Concession r-o-v-w**

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

1. Description of proposed activity(s) [s.39(a)]:  
The easement (concession) permits stock access, the use of dogs, motor vehicles, machinery and implements associated with farming the land to which it provides access.
2. Description of place(s) where proposed activity to be carried out and proposed status [s.39(b).]  
The proposed easement lies along an existing 4WD track which traverses for approximately 5.5 km through proposed conservation land on the Carrick Range. This track links lands proposed for freeholding in the Nevis and Bannockburn catchments which are bisected by the proposed conservation area.  
  
*Proposed status: The area to be subject to the easement is currently held under pastoral lease. Proposed status is a conservation area.*
3. Description of potential effects of proposed activity and any actions proposed to avoid, mitigate or remedy any adverse effect, [s.39 (c)] noting the requirements of s.51(3) (a) and s.51 (2) (d) CPLA:  
The driving of stock along the easement may lead to some minor grazing of native vegetation on the periphery of the track; however 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, storage of noxious substances and obstruction of the public enjoyment of the area.  
  
*DOC staff will periodically visit the proposed conservation land for a range of activities including surveillance and control of wild animals and weeds and will therefore be aware if the concession activity is having any negative effects.*
4. Details of the proposed type of concession:  
Concession (easement) under Section 17Q Conservation Act 1987.
5. Proposed duration of concession and reasons for proposed duration [s.39 (e)]:

Proposed duration: The easement shall be forever appurtenant to the land of the transferee to which it provides access. A perpetual term is required.

Reasons for proposed duration: The land in the Nevis catchment to which the easement provides access is separated from the balance of proposed freehold land in the Bannockburn catchment, the proposed easement represents the only practical access between these two areas which form part of the one farming operation.

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

Proposed grantee: Kawarau Station Ltd.

Relevant information: The proposed concessionaire currently own and use the track over which the easement is proposed. No negative effects associated with the current use of the track have been noted. DOC currently has a good working relationship with the holder over a variety of issues including fencing on a common boundary and wild animal control (rabbits and goats).

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

### **3.3 Grazing Concession over R2**

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

1. Description of proposed activity(s) [s.39(a)]:  
Grazing of 300 sheep (ewe equivalents) on an annual basis. (in practice more sheep will be run for a lesser period eg. 1200 ewe equivalents for 3 months). The concession also allows for the use of dogs on the land for mustering purposes
2. Description of place(s) where proposed activity to be carried out and proposed status [s.39(b)]:  
The area comprises some 110 ha of rough hill slopes vegetated in exotic grasses and herbs and a mixture of introduced and native shrubs. The area contains the Carrick Quartz mines and associated settlements which are of high historic significance. Proposed status for the area is a reserve for the purpose of protection of historic resources to be managed by the Department of Conservation.
3. Description of potential effects of proposed activity and any actions proposed to avoid, mitigate or remedy any adverse effect, [s.39(c)] noting the requirements of s.51(3)(a) and s.51(2)(d) CPLA:  
Provided that a cattle proof fence is erected around unfenced boundaries, effects are projected to be of a positive nature as sheep grazing will continue to repress growth of vigorous exotic species which can swamp historic sites and in summer months can contribute to a heightened fire risk.
4. Details of the proposed type of concession:  
Grazing concession under Section 59A Reserves Act 1977
5. Proposed duration of concession and reasons for proposed duration [s.39(e)]:  
Proposed duration: 30 years.

Reasons for proposed duration: The concession essentially caters for a continuation of existing grazing use of the area by the proposed concessionaire. There is no foreseeable reason why grazing over the proposed term will result in adverse effects.

In 30 years the appropriateness of the grazing regime will be reassessed. If for some unforeseen reason sheep grazing is having a negative effect on historic values or public enjoyment of the area the concession can be terminated or modified.

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

Proposed grantee: Kawarau Station Limited

Relevant information: The proposed concessionaires currently graze the area which is part of Kawarau pastoral lease. Over the period of their tenure on the property the Andersons have respected the value of historic sites on the property. DOC currently has a good working relationship with the Andersons over a variety of issues including maintenance of shared boundary fencing and pest control.

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

**Schedule Three: Provisions relating to the Schedule Three Land****1 Details of designation**

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- 1.1 Under this Proposal the land shown marked in green on the Plan, being 8175 hectares (approximately) is designated as land to be disposed of by freehold disposal to the Holder subject to:
- (a) Part IVA of the Conservation Act 1987;
  - (b) Section 11 of the Crown Minerals Act 1991;
  - (c) the conservation covenant for the purpose of preserving the natural environment and landscape amenity values in yellow wash and labelled CC1 on the Plan and substantially as set out in Appendix 15;
  - (d) the conservation covenant for the purpose of preserving the outstanding natural landscape and land above 900 metres in yellow wash and labelled CC2 on the Plan and substantially as set out in Appendix 16;
  - (e) the easement for public access and management purposes marked with a dashed orange line and labelled a-b, c-d, e-f-g-h-i, h-j-f, j-k, k-l-m-n-o, k-m-p, q-r, and the easement for management purposes marked with a dashed red line and labelled s-g and t-u on the Plan and substantially as set out in Appendix 17;
  - (f) the creation of an easement in gross in favour of The Department of Conservation, shown with a dashed purple line labelled C-D on the Plan and substantially as set out in Appendix 18;
  - (g) the continuation in force of an easement in gross in favour of the Bannockburn Irrigation Society Incorporated, registered as 6317765.1 and embodied in Computer Interest Register 203040 substantially as set out in Appendix 19;
  - (h) the continuation in force of an easement in gross in favour of the Carrick Irrigation Company Limited, embodied in Historic Computer Interest Register OT17A/15 (no. 885715), substantially as set out in Appendix 8;
  - (i) the continuation in force of an easement in favour of Mt Difficulty Station Ltd, Richard John Anderson and the Trustees Executors and Agency Company of New Zealand, registered as 841092.3, and in favour of Robert Mark Cotton, registered as 841092.4, substantially as set out in Appendix 20;
  - (j) the continuation in force of an easement in gross in favour of Telecom Mobile Communications Limited, registered as 910601.3, substantially as set out in Appendix 21;
  - (k) the continuation in force of an appurtenant right of way in favour of Kawarau Station Limited, created by deed of easement, register as 5808886.1 and embodied in Computer Interest Register 126969, substantially as set out in Appendix 22.

**2 Existing Interests**

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- 2.1 The following interests are held over the land and will continue to be held by the parties indicated after completion of the tenure review:
- (a) a registered Mineral Exploration Permit, No 40536 in favour of Prophecy Mining Limited, registered as instrument No. 5273979.1, as substantially set out in Appendix 6;
  - (b) a registered Certificate pursuant to section 417 of the Resource Management Act 1991 in favour of Kawarau Station, for water race No. BR3330, registered as 5030234.1, substantially as set out in Appendix 23;
  - (c) a registered Certificate pursuant to section 417 of the Resource Management Act 1991 in favour of Maurice Desmond Turner, Shirley Allison Turner, Peter Stewart Preston and Jane Margaret Preston, for water races No. 3000 and 4931, registered as 904235, substantially as set out in Appendix 24;
  - (d) an unregistered Water Permit pursuant to section 105 of the Resource Management Act 1991 in favour of The Department of Conservation, in consents 97039 and 97040, substantially as set out in Appendix 25;
  - (e) an unregistered Water Permit pursuant to section 104(B) of the Resource Management Act 1991 in favour of A M Skinner, in consent 2006.250, substantially as set out in Appendix 26;
  - (f) an unregistered Deemed Permit pursuant to section 413-417 of the Resource Management Act 1991 in favour of N K & J M Barker, N M Kershaw & J R D Leslie, S D M MacLachlan & others as Trustees of the Lora Family Trust, Paradise Vineyard Ltd, W R & S M Macalister, Clyde Orchards (1990) Ltd, Lytefoot Investments Ltd, Felton Road Holdings Ltd, Wanaka Road Wines Ltd, Mt Difficulty Wines Ltd, Trustees of the Olssen Family Trust, R H M Dicey, M L Dicey & A B McKay being trustees of the R H M Dicey & M L Dicey Family Trust, and Legend Terrace Ltd, in consent 2000.173, substantially as set out in Appendix 27;
  - (g) an unregistered Deemed Permit pursuant to section 413-417 of the Resource Management Act 1991 in favour of M J & M J Little being trustees of the Little Orchard Trust, in consent 2002.450, substantially as set out in Appendix 28;
  - (h) an unregistered Water Permit pursuant to section 104(C) of the Resource Management Act 1991 in favour of The Carrick Irrigation Company Ltd, in consent 2004.117, substantially as set out in Appendix 29;
  - (i) an unregistered Water Permit pursuant to section 104(C) of the Resource Management Act 1991 in favour of A G Merrilees A G & S L Parker being trustees of the Rae Family Trust, P S & J M Preston, M D & S A Turner, and G C & D L Hamilton, in consent 2004.283, substantially as set out in Appendix 30;
  - (j) an unregistered Discharge Permit pursuant to section 105 of the Resource Management Act 1991 in favour of The Bannockburn Irrigation Society Incorporated, in consent 96370, substantially as set out in Appendix 31;
  - (k) an unregistered Deemed Water Permit pursuant to section 413-417 of the Resource Management Act 1991 in favour of R J Anderson & Company, in consent 95881, substantially as set out in Appendix 32.
  - (l) An unregistered Deed of Easement in favour of Vodafone New Zealand Limited, substantially as set out in Appendix 33.



#### **Schedule Four: Conditions**

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- 1.1 This Proposal is conditional on the acceptance of all the Holders and its acceptance by a Holder does not take effect unless it is also accepted by all the Holders.
- (a) that for the avoidance of doubt the existing Long Gully Walkway easement under the walkways Act 1990 registered as 864329.2 and 841092.1 will be extinguished and replaced with proposed easement e-f-j-h-i on registration of the new freehold title as shown on the Plan and in Appendix 17.
- 1.2 The Commissioner is under no obligation, and may decide, in its sole discretion, not to proceed further with the Tenure Review unless and until:
- (a) the Commissioner considers that sufficient funds will be obtained in order to complete the Tenure Review;
- (b) the Director General of Conservation has completed all actions required under Part IVA of the Conservation Act 1987;
- (c) the Commissioner has reviewed, and is satisfied, in its sole discretion that the easement referred to in Appendix 17 is in an acceptable form, has been executed, consented by the necessary parties and has been registered against the Lease.
- (d) the Commissioner has reviewed, and is satisfied, in its sole discretion that the easement referred to in Appendix 18 is in an acceptable form, has been executed, consented by the necessary parties and has been registered against the Lease.
- (e) the Commissioner has reviewed, and is satisfied, in its sole discretion that the covenant referred to in Appendix 15 is in an acceptable form, has been executed, consented by the necessary parties and has been registered against the Lease.
- (f) the Commissioner has reviewed, and is satisfied, in its sole discretion that the covenant referred to in Appendix 16 is in an acceptable form, has been executed, consented by the necessary parties and has been registered against the Lease.

**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 that 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

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### Certifications

I [ ] hereby certify as follows:

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

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

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

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

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

Yours faithfully

[signed by principal of law firm]

### **Appendix 3: Indicative Fencing and Construction Requirements**

#### **Fenceline**

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##### **Length and location:**

1. Located along part of the north east boundary of CA1.

Along the line **W-X** (3800m approximately), as shown on the designations plan, and

2. Located along part of the north west boundary of CA1.

Along the line **U-V** (1800m approximately), as shown on the designations plan

3. Located along part of the southern boundary of CL.

Along the line **S-T** (500m approximately) as shown on the designations plan.

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

##### **Specifications:**

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- 1.8 metre x 125mm treated timber posts at 20m maximum spacing and on appropriate high and low points. 1.65 T-irons in lieu of posts and intermediate strainers if necessary.
- 1.5 metre Y-post standards at 3 metre spacing's, minimum weight 1.95kg/m
- 2.4 metre x 175mm treated timber strainers to be used for gateways and ends of strains.
- 2.1 metre x 175mm treated timber strainers on intermediate corners.
- 2.4 metre x 125mm treated timber stays.
- All strainers, to be driven or dug in and rammed and footed with acceptable footing material. No. 8 wire to be used on foots. All dips and hollows to be tied down.
- All strainers and angles to be mortised stayed and blocked. Stays to be one-third of the way up posts.
- Strainers and angle posts to be dug in to such a depth that 117cm (46 inches) remains out of the ground.
- Under no circumstances are any strainers, posts or stays to be shortened either prior to or subsequent to their placement in the ground.
- 1 x 4mm medium tensile bottom wire and 6 x 3.55mm high tensile wires with top wire laced on.
- Strains not to exceed 300 metres, all wires strained with permanent strainers and strained to a tension recommended by the wire manufacture.
- Post staples to be 50 x 4mm galvanized slice pointed barb and be driven well in but allow the wire to run through.
- Tie-backs are permitted on both sides of the fence.
- Lightning droppers may be used where appropriate.
- Fencing to be completed in a professional workmanlike manner using standard fencing practises.

- No mechanical earth works or mechanical vegetation clearance is permitted; some minor line clearing of vegetation by hand, benching by hand and blasting for post holes is permitted when required.

## **Construction**

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Nil

**Appendix 4: Form of Grazing Concession over “CA1” to be Created**

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

**DATED** \_\_\_\_\_

**Between**

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

**and**

**KAWARAU STATION LIMITED**  
**("the Concessionaire")**

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



Department of Conservation  
*Te Papa Atawhai*

**THIS LICENCE** is made this day of

**PARTIES:**

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

**BACKGROUND**

- A. The Grantor manages the Land described in Schedule 1.
- B. Sections 66 and 68 of the Crown Pastoral Land Act 1998 authorise the Grantor to grant, under section 17Q(1) of the Conservation Act 1987 or section 59A of the Reserves Act 1977 (whichever is relevant in the circumstances), a Concession for a Concession Activity to be carried out on the Land.
- C. The Concessionaire wishes to carry out the Concession Activity on the Land subject to the terms and conditions of this Document.

**OPERATIVE PARTS**

**TERMS AND CONDITIONS**

**1.0 DEFINITIONS AND INTERPRETATION**

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

“**Access**” means the right, in common with others, to pass and repass over the Land and any roads of the Grantor for ingress to and egress from the Land as is reasonably necessary for the Concessionaire to exercise its rights under this Licence.

“**Administration Fee**” means the amount specified in Item 6(b) of Schedule 1 and is the annual fee for administering the Concession imposed by the Grantor under section 60D of the Conservation Act 1987. It includes any variation in that amount following a Concession Fee Review.

“**Background**” means the matters referred to under the heading ‘Background’ on page 1 of this Document.

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

“**Concessionaire**” includes the Concessionaire’s successors, assigns, executors, and administrators.

“**Concession Activity**” means the use of the Land for purposes of the activity carried out by the Concessionaire and specified in Item 2 of Schedule 1.

“**Concession Fee**” means the amount specified in Item 6(a) of Schedule 1 and charged by the Grantor for the Concessionaire's right to carry out the Concession Activity on the Land. It includes any variation in that amount following a Concession Fee Review. It also includes, where relevant, the amount which the parties agree to be the new Concession Fee on a renewal of the Document.

“**Concession Fee Payment Date**” means the date specified in Item 7 of Schedule 1 on which the Concession Fee falls due for payment.

“**Concession Fee Review**” means a review of the Concession Fee determined in accordance with clause 6 of this Document.

**“Concession Fee Review Date”** means the date specified in Item 9 of Schedule 1 on which the Concession Fee Review occurs being at 3 year intervals calculated from the date of commencement of the term of this Document; and includes any additional dates inserted into Item 9 of Schedule 1 following a renewal of this Document.

**“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 Licence and any subsequent amendments and all schedules, annexures, and plans attached to it.

**“Final Expiry Date”** means the date specified in Item 5 of Schedule 1.

**“Land”** means a Conservation Area or a Reserve (whichever is relevant in the circumstances) being the area more particularly described in Item 1 of Schedule 1.

**“Licence”** for purposes of this Document is the Licence granted under this Document by the Grantor to the Concessionaire under section 17Q(1) of the Conservation Act 1987 or section 59A of the Reserves Act 1977 (whichever is relevant in the circumstances).

**“Penalty Interest Rate”** means the rate specified in Item 8 of Schedule 1.

**“Renewal Date”** means the date specified in Item 4(a) of Schedule 1.

**“Renewal Period”** means the period specified in Item 4(b) of the Schedule 1.

**“Reserve”** has the same meaning as “reserve” in section 2 of the Reserves Act 1977.

**“Structure”** includes a bridge, a culvert, and a fence.

**“Term”** means the period of time specified in Item 3 of Schedule 1 during which this Document operates. It includes, where relevant, any period of renewal of the Term.

**“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 LICENCE**

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 a **LICENCE** 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 Land subject to the terms and conditions contained in this Document.

## **3.0 TERM**

3.1 The Licence is for the Term specified in Item 3 of Schedule 1.

3.2 Unless otherwise specified in Items 4 and 5 of Schedule 1, if the Concessionaire has not been in breach of this Document and has given to the Grantor written notice to renew the Document at least three months before the end of the Term, the Grantor will, at the cost of the Concessionaire, renew the Document from the Renewal Date for the next Renewal Period on the following terms:

- (a) the new Concession Fee is to be agreed upon before the end of the Term or, failing agreement, is to be determined as though it were a Concession Fee Review under clause 6;
- (b) the Concession Fee is to be subject to review during the Renewal Period on each Concession Fee Review Date;
- (c) the renewed Document is otherwise to be in accordance with and subject to the covenants and agreements expressed and implied in this Document except that the Term of the Document and all renewals, if any, end on the Final Expiry Date;
- (d) pending the determination of the new Concession Fee, the Concessionaire is to pay the new Concession Fee proposed by the Grantor. Upon determination an appropriate adjustment is to be made to the Concession Fee.

## **4.0 CONCESSION FEE AND ADMINISTRATION FEE**

4.1 The Concessionaire must pay to the Grantor in the manner directed by the Grantor on or before the Concession Fee Payment Date specified in Item 7 of Schedule 1:

- (a) the Concession Fee plus GST specified in Item 6(a) of Schedule 1; and
- (b) the Administration Fee plus GST specified in Item 6(b) of Schedule 1.

4.2 If the Concessionaire defaults in payment of the Concession Fee and Administration Fee for 14 days after a Concession Fee Payment Date the Concessionaire is to pay interest on the unpaid Concession Fee and Administration Fee from the Concession Fee Payment Date until the date of payment at the Penalty Interest Rate specified in Item 8 of Schedule 1.

4.3 For purposes of clause 6.0, a reference to Concession Fee includes a reference to the Administration Fee.

## **5.0 OTHER CHARGES**

5.1 In addition to the Concession Fee and Administration Fee the Concessionaire must pay all rates, levies, taxes, duties, assessments, charges, and other outgoings which may be charged, levied, or reasonably assessed, or which become payable in relation to the Land as a result of the grant of this Licence.

## **6.0 CONCESSION FEE AND ADMINISTRATION FEE REVIEW**

- 6.1 The Grantor will review the Concession Fee and the Administration Fee on the Concession Fee Review Dates.
- 6.2 The Grantor will commence the review not earlier than 3 months before a Concession Fee Review Date and no later than 9 months following the Concession Fee Review Date by giving written notice to the Concessionaire.
- 6.3 The notice must specify the Concession Fee which the Grantor considers to be the market value for the Concession Activity as at the Concession Fee Review Date having regard to the matters specified in section 17Y(2) of the Conservation Act 1987. The notice must also specify the Administration Fee which the Grantor intends to impose until the next Concession Fee Review Date.
- 6.4 If, within 28 days of receipt of the Grantor's notice, the Concessionaire gives written notice to the Grantor that the Concessionaire disputes the proposed new Concession Fee the new Concession Fee is to be determined in accordance with clause 18.
- 6.5 Until determination of the new Concession Fee, the Concession Fee payable by the Concessionaire from the Concession Fee Review Date is to be the Concession Fee payable immediately before the Concession Fee Review Date. On determination of the new Concession Fee an adjustment is to be made and paid, either by the Grantor or by the Concessionaire, whichever is applicable notwithstanding anything in this clause, the new Administration Fee will be payable by the Grantor upon receipt of the notice referred to in clause 6.3.
- 6.6 If the Concessionaire does not give notice to the Grantor under clause 6.4 the Concessionaire will be deemed to have accepted the Concession Fee specified in the Grantor's notice.

## **7.0 CONCESSION ACTIVITY**

- 7.1 The Concessionaire is not to use the Land for any purpose other than the Concession Activity.

## **8.0 COMPLIANCE**

- 8.1 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 the 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 Health and Safety in Employment Act 1992, the Resource Management Act 1991, and any other statute, ordinance, regulation, bylaw, or other enactment affecting or relating to the Land, or affecting or relating to the Concession Activity.

## **9.0 CONCESSIONAIRE'S STRUCTURES, FACILITIES AND LAND ALTERATIONS**

- 9.1 The Concessionaire must not erect or bring on to the Land any Structure, install any facility, or alter the Land in any way without the prior written consent of the Grantor.
- 9.2 The Concessionaire must keep and maintain at the Concessionaire's cost any Structures, facilities and alterations to the Land in good repair.
- 9.3 On expiry or early termination of this Document either as to the whole or any part of the Land, the Concessionaire will not be entitled to compensation for any improvements (including pasture) and any Structures or facilities remaining on the Land are to become the property of the Grantor.
- 9.4 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 Land in a clean and tidy condition to the satisfaction of the Grantor.

## **10.0 PROTECTION OF THE ENVIRONMENT**

10.1 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 Land; or
- (b) bring any plants, or animals (other than farm stock described in Item 2 of Schedule 1, farm dogs and horses for purposes of the Concession Activity) on to the Land; or
- (c) deposit on the Land debris, rubbish or other dangerous or unsightly matter, or contaminate any water body on the Land; or
- (d) pile or store materials in any place on the Land where they may obstruct the public or create a nuisance; or
- (e) conduct any noxious, noisome, dangerous or offensive activity on the Land; or
- (f) top-dress, burn, sow seed, or carry out earthworks (including tracking, drainage or ditching) on the Land; or
- (g) disturb or allow stock to disturb any stream or watercourse on the Land; or
- (h) light any fire on the Land.

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

- (a) if required by the Grantor:
  - (i) take all steps necessary to control any pest, insect, or rodent infestation occurring on or emanating from the Land or any Structure or facility on the Land;
  - (ii) engage a pest exterminator approved by the Grantor; and
- (b) comply strictly with the provisions of the Biosecurity Act 1993.

10.3 The Concessionaire must ensure that the Concessionaire's employees, agents, contractors, licensees and invitees comply with the obligations imposed on the Concessionaire under clause 10.

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

10.5 The Concessionaire for purposes of the Concession Activity may take onto or use farm vehicles on the Land on existing formed access tracks only.

## **11.0 HEALTH AND SAFETY**

11.1 The Concessionaire is to carry out the Concession Activity on the Land in a safe and reliable manner and must comply with the Health and Safety in Employment Act 1992 and its regulations.

11.2 The Concessionaire must notify the Grantor of any natural events or activities on the Land or the surrounding area which may endanger the public or the environment.

## **12.0 TEMPORARY SUSPENSION**

12.1 The Grantor may suspend this Document:

- (a) if, in the opinion of the Grantor the activities of the Concessionaire, its employees, agents, contractors, licensees or invitees are having or may have an adverse effect on the environment and the Grantor considers that the effect can not be avoided, remedied or mitigated to an extent satisfactory to the Grantor;
- (b) while the Grantor investigates any of the circumstances contemplated by this clause and also while the Grantor investigates any potential breach or possible offence by the Concessionaire related to the Concession Activity under the Conservation Act 1987 or any of the Acts mentioned in the First Schedule of that Act of which the Grantor has become aware.

12.2 The Grantor is not liable to the Concessionaire for any loss sustained by the Concessionaire by reason of a suspension under clause 12.1 including loss of profits.

12.3 During any period of temporary suspension the Concession Fee payable by the Concessionaire is to abate in fair proportion to the loss of use by the Concessionaire of the Land.

### **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 TERMINATION**

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

- (a) the Concession Fee or the Administration Fee or any other money payable to the Grantor under this Document is in arrears and unpaid for 14 days after any of the days appointed for payment whether it has been lawfully demanded or not; or
- (b) the Concessionaire breaches any terms of this Document; and
  - (i) the Grantor has notified the Concessionaire in writing of the breach; and
  - (ii) the Concessionaire does not rectify the breach within 28 days of receiving notification; or
- (c) the Concessionaire ceases to conduct the Concession Activity; or
- (d) the Concessionaire is convicted of an offence, related to the Concession Activity, under the Conservation Act 1987 or any of the Acts listed in the First Schedule to that Act; or the Resource Management Act 1991; or the Biosecurity Act 1993; or the Health and Safety in Employment Act 1992; or
- (e) the Concessionaire is dissolved; or enters into any composition with or assignment for the benefit of its creditors; or is adjudged bankrupt; or being a company has a receiver appointed; or is put into liquidation; or is placed under statutory management; or has a petition for winding up presented against it; or is otherwise unable to pay its debts as they fall due; or the estate or interest

of the Concessionaire is made subject to a writ of sale or charging order; or the Concessionaire cease to function or operate.

14.2 If the Grantor terminates the Document under this clause 14 all rights of the Concessionaire are to cease absolutely; but the Concessionaire is not to be released from any liability to pay the Concession Fee or Administration Fee or other monies up to the date of termination or for any breach of any term up to the date of termination.

14.3 The Grantor may exercise the Grantor's right under this clause to terminate the Concession notwithstanding any prior waiver or failure to take action by the Grantor or any indulgence granted by the Grantor for any matter or default.

## **15.0 INDEMNITIES AND INSURANCE**

15.1 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, contractors, or invitees or otherwise caused as a result of its use of the Land or the Concessionaire's carrying out of the Concession Activity on the Land.

15.2 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.

15.3 Without prejudice to or in any way limiting its liability under clause 15.1 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 Land and covering:
  - (i) general indemnity for a sum not less than the amount specified in Item 10 of Schedule 1; and
  - (ii) Forest and Rural Fires Act 1977 extension for a sum not less than the amount specified in Item 11 of Schedule 1; and
- (b) statutory liability insurance for the amount specified in Item 12 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 13 of Schedule 1.

15.4 With respect to clause 15.3 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.

## **16.0 ENVIRONMENTAL MONITORING**

16.1 The Concessionaire must, during the Term, if required in writing by the Grantor, pay to the Grantor the annual environmental monitoring contribution specified in Item 14 of Schedule 1 to enable the Grantor to design and undertake a programme to monitor the environmental effects of the Concessionaire's conduct of the Concession Activity on the Land.



## **17.0 FORCE MAJEURE**

17.1 Neither party will be liable to the other party for any delay in performance of, or failure to perform, its obligations (other than a payment of money) under this Document as a result of any cause beyond its reasonable control.

## **18.0 DISPUTE RESOLUTION AND ARBITRATION**

18.1 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.

18.2 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 mediation with a mediator agreed between the parties.

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

18.4 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.

18.5 Notwithstanding anything 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 branch of the New Zealand Law Society in the region in which the Land is situated is to appoint the arbitrator. In either case the arbitrator must not be a person who has participated in an informal dispute resolution procedure in respect of the dispute.

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

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

## **19.0 NOTICES**

19.1 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 15 of Schedule 1.

19.2 A notice given in accordance with clause 19.1 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.

## **20.0 RELATIONSHIP OF PARTIES**

20.1 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 Land;
- (b) derogating from the rights of the Grantor and the public to have access across the Land;
- (c) preventing the Grantor from granting other concessions (except a grazing licence) to other persons.

20.2 The Concessionaire acknowledges that the Land is open to the public for access and that the Grantor may close public access during periods of high fire hazard.

**21.0 COSTS**

21.1 The Concessionaire must pay the Grantor's legal costs and expenses associated with preparing and signing this Document or any extension or variation to it.

21.2 The Concessionaire must pay in full immediately and on demand all costs and fees (including solicitor's costs and the fees of debt collecting agencies engaged by the Grantor) arising out of and associated with steps taken by the Grantor to enforce or attempt to enforce the Grantor's rights and powers under this Concession including the right to recover outstanding money owed to the Grantor.

**22.0 OFFENCES**

22.1 Where any breach of this Concession by the Concessionaire also constitutes an offence under the Conservation Act 1987 or any of the Acts listed in the First Schedule to that Act:

- (a) no waiver or failure to act by the Grantor under this Document is to preclude the Grantor from prosecuting the Concessionaire; and
- (b) no failure by the Grantor to prosecute the Concessionaire is to preclude the Grantor from exercising the Grantor's remedies under this Document; and
- (c) any action of the Grantor in prosecuting the Concessionaire is not to preclude the Grantor from exercising the Grantor's remedies under this Document.

**23.0 SPECIAL CONDITIONS**

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

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

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 by :

\_\_\_\_\_

as Concessionaire  
in the presence of :

Witness \_\_\_\_\_

Occupation \_\_\_\_\_

Address \_\_\_\_\_

## SCHEDULE 1

1. **Land:** shown outlined in pink and labeled CA1 on the designations plan (*see definition of Land in clause 1.1*)
2. **Concession Activity:** grazing of up to 1500 wethers from 1 February to 30 April each year.  
(*see definition of Concession Activity in clause 1.1*)
3. **Term:** 10 years commencing on \_ \_\_\_\_\_ (*see clause 3*)
4. (a) **Renewal Date:** N/A (*see clause 3.2*)  
(b) **Renewal Period:** N/A (*see clause 3.2*)
5. **Final Expiry Date:** (*see clause 3.2*)
6. (a) **Concession Fee:** The Concession Fee is to be calculated on the basis of \$6/SU/annum + GST (one wether being 0.7SU), for the stock run on the Land for that year. In order that the concession fee may be calculated, a return of stock will be made by 30 of June of each year showing the stock carried on the land over the preceding year. If a return is not made by this date, a fee of \$1575 + GST will be charged assuming the maximum stock numbers had been run.  
(*see clause 4*)  
(b) **Administration Fee:** \$200 per annum + GST. The Administration Fee will not increase by more than the total aggregated increase in the annual rate of inflation which has occurred since the most recent Concession Fee Review.  
(*see clause 4*)
7. **Concession Fee Payment Date:** (*see clause 4*)  
On or before the date specified on the invoice generated by the Grantor
8. **Penalty Interest Rate:** (*see clause 4.2*)  
Double the Grantor's bank's current highest 90 day bank bill buy rate
9. **Concession Fee Review Date:** On the date 3 years after the commencement date set out in item 3 above, and the corresponding date every 3 years thereafter until the expiry of the term. (*see clause 6*)
10. **Public Liability General Indemnity Cover:** (*see clause 15.3*)  
for \$1,000,000
11. **Public Liability Forest & Rural Fire Extension:** (*see clause 15.3*)  
for \$500,000
12. **Statutory Liability Insurance:** (*see clause 15.3*)  
Amount N/A
13. **Other Types of Insurance:** N/A (*see clause 15.3*)  
**Amounts Insured for Other Types of Insurances:** (*see clause 15.3*)  
Amount N/A
14. **Environmental Monitoring Contribution:** \$\_N/A (*see clause 16*)
15. **Address for Notices (including facsimile number):** (*see clause 19*)

(a) Grantor C/-Box 5244  
77 Stuart Street  
DUNEDIN  
(03) 477 8626

(b) Concessionaire the address of the registered office of the Concessionaire

## SCHEDULE 2

### *Special Conditions*

1. Clause 21.1 is deleted and replaced with the following;
  - 21.1 The Concessionaire and the Grantor are responsible for their own costs associated with preparing and signing this Document. However, the Concessionaire must pay the Grantor's legal costs and expenses associated with preparing and signing any extension or variation to this Document.

**Appendix 5: Form of Easement Concession “r-o-v-w” to be Created**

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

DATED \_\_\_\_\_

**Between**

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

**and**

**KAWARAU STATION 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.     **KAWARAU STATION LIMITED** ("the Concessionaire")

**BACKGROUND**

- A.**     The land described in Item 1 of Schedule 1 as the Servient Land is a Conservation Area or a Reserve 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 2 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.

#### **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 local branch of the New Zealand Law Society in the region in which the Easement Area is situated 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 local branch of the New Zealand 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.

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 by :

---

as Concessionaire  
in the presence of :

---

Witness :

Occupation :

Address :

**SCHEDULE 1**

1. **Servient Land:** shown outlined in pink and labelled CA1 on the designations plan(*see definition of Servient Land in clause 1.1*)
2. **Dominant Land:** shown outlined in green on the designations plan  
(*see definition of Dominant Land in clause 1.1*)
3. **Easement Area:** marked r-o-v-w on the designations plan  
(*see definition of Easement Area in clause 1.1*)
4. **Concession Activity:** access for motor vehicles, machinery, implements, farm dogs, guns and farm stock for farm management purposes  
(*see definition of Concession Activity in clause 1.1*)
5. **Term:** in perpetuity (*see clause 3.1*)
6. **Compensation:** A one-off fee has (in effect) been accounted for on behalf of the Grantor as part of the substantive proposal put the Commissioner of Crown Lands and accepted by the Concessionaire n [date] and for which an approved plan has been registered pursuant to section 70 of the Crown Pastoral Land Act 1998.  
  
(payable on date of execution of this Document) (*see clause 4.1*)
7. **Public Liability General Indemnity Cover:** (*see clause 12.3*)  
for \$1,000,000
8. **Public Liability Forest & Rural Fire Act Extension:** (*see clause 12.3*)  
for \$500,000
9. **Statutory Liability Insurance** (*see clause 12.3*)  
for \$N/A
10. **Other Types of Insurance:** (*see clauses 12.3*)  
for \$N/A
11. **Address for Notices (including facsimile number):** (*see clause 15*)
  - (a) Grantor C/-Box 5244  
77 Stuart Street  
DUNEDIN  
(03) 477 8626
  - (b) Concessionaire the address of the registered office of the Concessionaire



**SCHEDULE 2**

*Special Conditions*

1. That in exercising the right liberty and privilege the Transferee shall take all reasonable care to avoid damage to the soil and vegetation of the Easement Area and in particular will avoid passing over the Easement Area when conditions such as softening during frost thaw render the Easement Area particularly vulnerable to damage.

**Appendix 6: Copy of registered Mineral Exploration Permit, No 40536 in favour of Prophecy Mining Ltd, registered No. 5273979.1**

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**DUNEDIN  
LAND REGISTRY OFFICE**

**EXPLORATION PERMIT 40 536  
CROWN MINERALS ACT 1991**

MIP 5273979.1 MINING/PROSPECTING  
CPY-01/01.PGS-005.04/07/02.16:17



DocID: 110348240

**PERMIT HOLDER:** Prophecy Mining Limited  
541 Parnell Road  
Parnell  
AUCKLAND

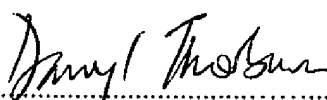
**NOW THEREFORE:** I, DARRYL FOSTER THORBURN, Group Manager Crown Minerals, acting under delegated authorities of 4 November 1997 and 3 April 2002, do

**HEREBY GRANT** to the Permit Holder an exploration permit for the duration of 5 years commencing on the date hereof

**WHICH HEREBY** gives the exclusive rights to explore for gold in the land described in the First Schedule and delineated on the plan attached hereto

**UPON THE CONDITIONS** specified in the Second Schedule hereto and subject to the Crown Minerals Act 1991 and any regulations made thereunder.

**DATED AT** Wellington this 28 day of June 2002

  
.....  
Group Manager Crown Minerals

**EXPLORATION PERMIT 40 536****PROPHECY MINING LIMITED**

**AREA:** 2545 ha approx

**LAND DISTRICT:** Otago

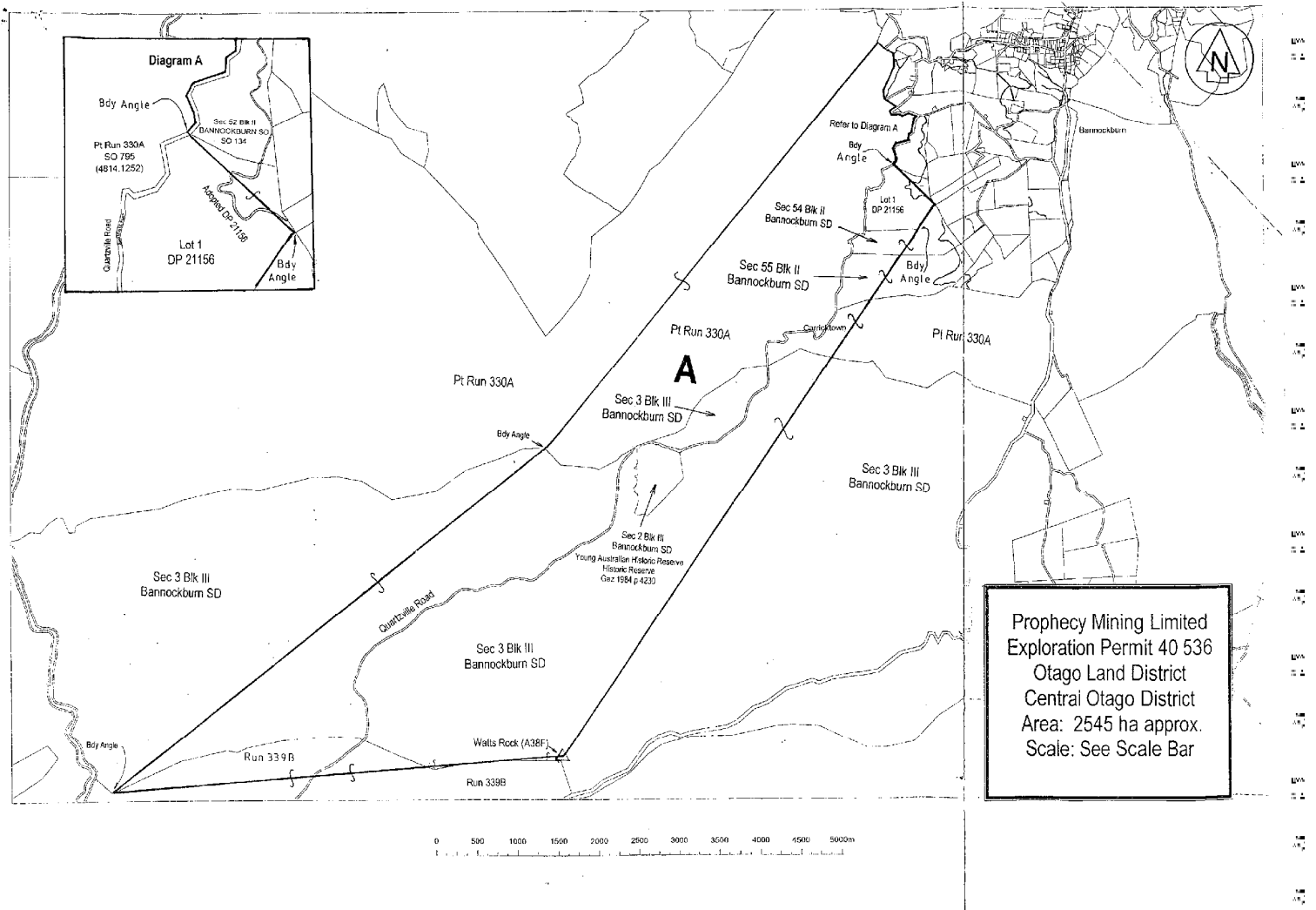
**LOCAL AUTHORITY:** Central Otago District

**LEGAL DESCRIPTION OF PERMIT AREA:**

All that area of land containing 2545 hectares approximately being located in Otago Land District, the Central Otago District and situated in Blocks II and III Bannockburn Survey District, Blocks I and IV Nevis Survey District and Block II Cromwell Survey District as shown marked A on the attached plan.

**INSTRUMENT OF TITLE REFERENCES:**

	<b>LEGAL DESCRIPTION</b>	<b>INSTRUMENT OF TITLE</b>	<b>MINERAL OWNERSHIP FOR NON STATUTE MINERALS</b>
1	Part Run 330 A	RB A2/1218 [Lease] (Part)	N/A
2	Part Sec 3 Blk III Bannockburn SD	RB 338/81 [Lease] (Part)	N/A
3	Part Run 339B	RB 386/130 [Lease] (Part)	N/A
4	Section 2 Block III Bannockburn Survey District	NZ Gazette 1984 p4230 Young Australian Historic Reserve	N/A
5	Part Lot 1 DP 21156	CT 18A/430 (Part)	N/A
6	Part Section 54 Block II Bannockburn SD	CT 12A/1101 (Part)	N/A
7	Part Section 55 Block II Bannockburn SD	CT 13C/784 (Part)	N/A
8	Legal Roads	Crown Grant	N/A



**SECOND SCHEDULE  
CONDITIONS OF EXPLORATION PERMIT 40 536**

Work Programme

1. The permit holder shall make all reasonable efforts, to the satisfaction of the Chief Executive of the Ministry of Economic Development, to explore the permit area in accordance with good exploration practice, so as to clearly define the potential of the mineral resource to which this permit applies.
2. The permit holder make all reasonable efforts, to the satisfaction of the Chief Executive of the Ministry of Economic Development, to carry out the following minimum work programme;
  - (a) Within 2 years of the commencement date of the permit:
    - i Complete a programme of geological mapping;
    - ii Carry out additional exploration work, including geochemical sampling, to locate new drill targets;
    - iii Commence a programme of diamond drilling and/or RC drilling to test existing and any new targets; and
    - iv Make a commitment by notice in writing to the Chief Executive of the Ministry of Economic Development to complete the work detailed in condition 2(b) below.
  - (b) Within 5 years of the commencement date of the permit:
    - i Complete a programme of diamond and/or RC percussion drilling; and
    - ii Calculate a resource estimate based on drilling undertaken.
3. In accordance with Section 38 of the Crown Minerals Act 1991, clauses 2(a)ii and 2(b)i must be completed to the satisfaction of the Chief Executive for substantial compliance with the work programme to have been achieved.

Reports

4. The permit holder shall report in accordance with the prescribed regulations.

Fees

5. The permit holder shall pay any prescribed fees that apply to this permit.

**THE CROWN MINERALS ACT 1991**

EXPLORATION PERMIT No. 40 536

Group Manager Crown Minerals

TO

Prophecy Mining Limited

Area: 2,545 hectares

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**MEMORIALS**

Particulars entered in the Register shown in  
the First Schedule herein on the date and at the  
time stamped below.

.....  
District/Asst Land Registrar

Registry Office Use Only

**Appendix 7: Form of Grazing Concession over “R2” to be Created**

---





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

**DATED** \_\_\_\_\_

**Between**

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

**and**

**KAWARAU STATION LIMITED  
("the Concessionaire")**

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



Department of Conservation  
*Te Papa Atawhai*

**THIS LICENCE** is made this day of

**PARTIES:**

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

**BACKGROUND**

- A. The Grantor manages the Land described in Schedule 1.
- B. Sections 66 and 68 of the Crown Pastoral Land Act 1998 authorise the Grantor to grant, under section 17Q(1) of the Conservation Act 1987 or section 59A of the Reserves Act 1977 (whichever is relevant in the circumstances), a Concession for a Concession Activity to be carried out on the Land.
- C. The Concessionaire wishes to carry out the Concession Activity on the Land subject to the terms and conditions of this Document.

**OPERATIVE PARTS**

**TERMS AND CONDITIONS**

**1.0 DEFINITIONS AND INTERPRETATION**

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

“**Access**” means the right, in common with others, to pass and repass over the Land and any roads of the Grantor for ingress to and egress from the Land as is reasonably necessary for the Concessionaire to exercise its rights under this Licence.

“**Administration Fee**” means the amount specified in Item 6(b) of Schedule 1 and is the annual fee for administering the Concession imposed by the Grantor under section 60D of the Conservation Act 1987. It includes any variation in that amount following a Concession Fee Review.

“**Background**” means the matters referred to under the heading ‘Background’ on page 1 of this Document.

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

“**Concessionaire**” includes the Concessionaire’s successors, assigns, executors, and administrators.

“**Concession Activity**” means the use of the Land for purposes of the activity carried out by the Concessionaire and specified in Item 2 of Schedule 1.

“**Concession Fee**” means the amount specified in Item 6(a) of Schedule 1 and charged by the Grantor for the Concessionaire's right to carry out the Concession Activity on the Land. It includes any variation in that amount following a Concession Fee Review. It also includes, where relevant, the amount which the parties agree to be the new Concession Fee on a renewal of the Document.

“**Concession Fee Payment Date**” means the date specified in Item 7 of Schedule 1 on which the Concession Fee falls due for payment.

“**Concession Fee Review**” means a review of the Concession Fee determined in accordance with clause 6 of this Document.

**“Concession Fee Review Date”** means the date specified in Item 9 of Schedule 1 on which the Concession Fee Review occurs being at 3 year intervals calculated from the date of commencement of the term of this Document; and includes any additional dates inserted into Item 9 of Schedule 1 following a renewal of this Document.

**“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 Licence and any subsequent amendments and all schedules, annexures, and plans attached to it.

**“Final Expiry Date”** means the date specified in Item 5 of Schedule 1.

**“Land”** means a Conservation Area or a Reserve (whichever is relevant in the circumstances) being the area more particularly described in Item 1 of Schedule 1.

**“Licence”** for purposes of this Document is the Licence granted under this Document by the Grantor to the Concessionaire under section 17Q(1) of the Conservation Act 1987 or section 59A of the Reserves Act 1977 (whichever is relevant in the circumstances).

**“Penalty Interest Rate”** means the rate specified in Item 8 of Schedule 1.

**“Renewal Date”** means the date specified in Item 4(a) of Schedule 1.

**“Renewal Period”** means the period specified in Item 4(b) of the Schedule 1.

**“Reserve”** has the same meaning as “reserve” in section 2 of the Reserves Act 1977.

**“Structure”** includes a bridge, a culvert, and a fence.

**“Term”** means the period of time specified in Item 3 of Schedule 1 during which this Document operates. It includes, where relevant, any period of renewal of the Term.

**“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 LICENCE**

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 a **LICENCE** 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 Land subject to the terms and conditions contained in this Document.

## **3.0 TERM**

3.1 The Licence is for the Term specified in Item 3 of Schedule 1.

3.2 Unless otherwise specified in Items 4 and 5 of Schedule 1, if the Concessionaire has not been in breach of this Document and has given to the Grantor written notice to renew the Document at least three months before the end of the Term, the Grantor will, at the cost of the Concessionaire, renew the Document from the Renewal Date for the next Renewal Period on the following terms:

- (a) the new Concession Fee is to be agreed upon before the end of the Term or, failing agreement, is to be determined as though it were a Concession Fee Review under clause 6;
- (b) the Concession Fee is to be subject to review during the Renewal Period on each Concession Fee Review Date;
- (c) the renewed Document is otherwise to be in accordance with and subject to the covenants and agreements expressed and implied in this Document except that the Term of the Document and all renewals, if any, end on the Final Expiry Date;
- (d) pending the determination of the new Concession Fee, the Concessionaire is to pay the new Concession Fee proposed by the Grantor. Upon determination an appropriate adjustment is to be made to the Concession Fee.

## **4.0 CONCESSION FEE AND ADMINISTRATION FEE**

4.1 The Concessionaire must pay to the Grantor in the manner directed by the Grantor on or before the Concession Fee Payment Date specified in Item 7 of Schedule 1:

- (a) the Concession Fee plus GST specified in Item 6(a) of Schedule 1; and
- (b) the Administration Fee plus GST specified in Item 6(b) of Schedule 1.

4.2 If the Concessionaire defaults in payment of the Concession Fee and Administration Fee for 14 days after a Concession Fee Payment Date the Concessionaire is to pay interest on the unpaid Concession Fee and Administration Fee from the Concession Fee Payment Date until the date of payment at the Penalty Interest Rate specified in Item 8 of Schedule 1.

4.3 For purposes of clause 6.0, a reference to Concession Fee includes a reference to the Administration Fee.

## **5.0 OTHER CHARGES**

5.1 In addition to the Concession Fee and Administration Fee the Concessionaire must pay all rates, levies, taxes, duties, assessments, charges, and other outgoings which may be charged, levied, or reasonably assessed, or which become payable in relation to the Land as a result of the grant of this Licence.

## **6.0 CONCESSION FEE AND ADMINISTRATION FEE REVIEW**

- 6.1 The Grantor will review the Concession Fee and the Administration Fee on the Concession Fee Review Dates.
- 6.2 The Grantor will commence the review not earlier than 3 months before a Concession Fee Review Date and no later than 9 months following the Concession Fee Review Date by giving written notice to the Concessionaire.
- 6.3 The notice must specify the Concession Fee which the Grantor considers to be the market value for the Concession Activity as at the Concession Fee Review Date having regard to the matters specified in section 17Y(2) of the Conservation Act 1987. The notice must also specify the Administration Fee which the Grantor intends to impose until the next Concession Fee Review Date.
- 6.4 If, within 28 days of receipt of the Grantor's notice, the Concessionaire gives written notice to the Grantor that the Concessionaire disputes the proposed new Concession Fee the new Concession Fee is to be determined in accordance with clause 18.
- 6.5 Until determination of the new Concession Fee, the Concession Fee payable by the Concessionaire from the Concession Fee Review Date is to be the Concession Fee payable immediately before the Concession Fee Review Date. On determination of the new Concession Fee an adjustment is to be made and paid, either by the Grantor or by the Concessionaire, whichever is applicable notwithstanding anything in this clause, the new Administration Fee will be payable by the Grantor upon receipt of the notice referred to in clause 6.3.
- 6.6 If the Concessionaire does not give notice to the Grantor under clause 6.4 the Concessionaire will be deemed to have accepted the Concession Fee specified in the Grantor's notice.

## **7.0 CONCESSION ACTIVITY**

- 7.1 The Concessionaire is not to use the Land for any purpose other than the Concession Activity.

## **8.0 COMPLIANCE**

- 8.1 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 the 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 Health and Safety in Employment Act 1992, the Resource Management Act 1991, and any other statute, ordinance, regulation, bylaw, or other enactment affecting or relating to the Land, or affecting or relating to the Concession Activity.

## **9.0 CONCESSIONAIRE'S STRUCTURES, FACILITIES AND LAND ALTERATIONS**

- 9.1 The Concessionaire must not erect or bring on to the Land any Structure, install any facility, or alter the Land in any way without the prior written consent of the Grantor.
- 9.2 The Concessionaire must keep and maintain at the Concessionaire's cost any Structures, facilities and alterations to the Land in good repair.
- 9.3 On expiry or early termination of this Document either as to the whole or any part of the Land, the Concessionaire will not be entitled to compensation for any improvements (including pasture) and any Structures or facilities remaining on the Land are to become the property of the Grantor.
- 9.4 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 Land in a clean and tidy condition to the satisfaction of the Grantor.

## **10.0 PROTECTION OF THE ENVIRONMENT**

10.1 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 Land; or
- (b) bring any plants, or animals (other than farm stock described in Item 2 of Schedule 1, farm dogs and horses for purposes of the Concession Activity) on to the Land; or
- (c) deposit on the Land debris, rubbish or other dangerous or unsightly matter, or contaminate any water body on the Land; or
- (d) pile or store materials in any place on the Land where they may obstruct the public or create a nuisance; or
- (e) conduct any noxious, noisome, dangerous or offensive activity on the Land; or
- (f) top-dress, burn, sow seed, or carry out earthworks (including tracking, drainage or ditching) on the Land; or
- (g) disturb or allow stock to disturb any stream or watercourse on the Land; or
- (h) light any fire on the Land.

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

- (a) if required by the Grantor:
  - (i) take all steps necessary to control any pest, insect, or rodent infestation occurring on or emanating from the Land or any Structure or facility on the Land;
  - (ii) engage a pest exterminator approved by the Grantor; and
- (b) comply strictly with the provisions of the Biosecurity Act 1993.

10.3 The Concessionaire must ensure that the Concessionaire's employees, agents, contractors, licensees and invitees comply with the obligations imposed on the Concessionaire under clause 10.

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

10.5 The Concessionaire for purposes of the Concession Activity may take onto or use farm vehicles on the Land on existing formed access tracks only.

## **11.0 HEALTH AND SAFETY**

11.1 The Concessionaire is to carry out the Concession Activity on the Land in a safe and reliable manner and must comply with the Health and Safety in Employment Act 1992 and its regulations.

11.2 The Concessionaire must notify the Grantor of any natural events or activities on the Land or the surrounding area which may endanger the public or the environment.

## **12.0 TEMPORARY SUSPENSION**

12.1 The Grantor may suspend this Document:

- (a) if, in the opinion of the Grantor the activities of the Concessionaire, its employees, agents, contractors, licensees or invitees are having or may have an adverse effect on the environment and the Grantor considers that the effect can not be avoided, remedied or mitigated to an extent satisfactory to the Grantor;
- (b) while the Grantor investigates any of the circumstances contemplated by this clause and also while the Grantor investigates any potential breach or possible offence by the Concessionaire related to the Concession Activity under the Conservation Act 1987 or any of the Acts mentioned in the First Schedule of that Act of which the Grantor has become aware.

12.2 The Grantor is not liable to the Concessionaire for any loss sustained by the Concessionaire by reason of a suspension under clause 12.1 including loss of profits.

12.3 During any period of temporary suspension the Concession Fee payable by the Concessionaire is to abate in fair proportion to the loss of use by the Concessionaire of the Land.

### **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 TERMINATION**

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

- (a) the Concession Fee or the Administration Fee or any other money payable to the Grantor under this Document is in arrears and unpaid for 14 days after any of the days appointed for payment whether it has been lawfully demanded or not; or
- (b) the Concessionaire breaches any terms of this Document; and
  - (i) the Grantor has notified the Concessionaire in writing of the breach; and
  - (ii) the Concessionaire does not rectify the breach within 28 days of receiving notification; or
- (c) the Concessionaire ceases to conduct the Concession Activity; or
- (d) the Concessionaire is convicted of an offence, related to the Concession Activity, under the Conservation Act 1987 or any of the Acts listed in the First Schedule to that Act; or the Resource Management Act 1991; or the Biosecurity Act 1993; or the Health and Safety in Employment Act 1992; or
- (e) the Concessionaire is dissolved; or enters into any composition with or assignment for the benefit of its creditors; or is adjudged bankrupt; or being a company has a receiver appointed; or is put into liquidation; or is placed under statutory management; or has a petition for winding up presented against it; or is otherwise unable to pay its debts as they fall due; or the estate or interest



of the Concessionaire is made subject to a writ of sale or charging order; or the Concessionaire cease to function or operate.

14.2 If the Grantor terminates the Document under this clause 14 all rights of the Concessionaire are to cease absolutely; but the Concessionaire is not to be released from any liability to pay the Concession Fee or Administration Fee or other monies up to the date of termination or for any breach of any term up to the date of termination.

14.3 The Grantor may exercise the Grantor's right under this clause to terminate the Concession notwithstanding any prior waiver or failure to take action by the Grantor or any indulgence granted by the Grantor for any matter or default.

## **15.0 INDEMNITIES AND INSURANCE**

15.1 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, contractors, or invitees or otherwise caused as a result of its use of the Land or the Concessionaire's carrying out of the Concession Activity on the Land.

15.2 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.

15.3 Without prejudice to or in any way limiting its liability under clause 15.1 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 Land and covering:
  - (i) general indemnity for a sum not less than the amount specified in Item 10 of Schedule 1; and
  - (ii) Forest and Rural Fires Act 1977 extension for a sum not less than the amount specified in Item 11 of Schedule 1; and
- (b) statutory liability insurance for the amount specified in Item 12 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 13 of Schedule 1.

15.4 With respect to clause 15.3 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.

## **16.0 ENVIRONMENTAL MONITORING**

16.1 The Concessionaire must, during the Term, if required in writing by the Grantor, pay to the Grantor the annual environmental monitoring contribution specified in Item 14 of Schedule 1 to enable the Grantor to design and undertake a programme to monitor the environmental effects of the Concessionaire's conduct of the Concession Activity on the Land.

## **17.0 FORCE MAJEURE**

17.1 Neither party will be liable to the other party for any delay in performance of, or failure to perform, its obligations (other than a payment of money) under this Document as a result of any cause beyond its reasonable control.

## **18.0 DISPUTE RESOLUTION AND ARBITRATION**

18.1 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.

18.2 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 mediation with a mediator agreed between the parties.

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

18.4 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.

18.5 Notwithstanding anything 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 local branch of the New Zealand Law Society in the region in which the Land is situated is to appoint the arbitrator. In either case the arbitrator must not be a person who has participated in an informal dispute resolution procedure in respect of the dispute.

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

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

## **19.0 NOTICES**

19.1 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 15 of Schedule 1.

19.2 A notice given in accordance with clause 19.1 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.

## **20.0 RELATIONSHIP OF PARTIES**

20.1 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 Land;
- (b) derogating from the rights of the Grantor and the public to have access across the Land;
- (c) preventing the Grantor from granting other concessions (except a grazing licence) to other persons.

20.2 The Concessionaire acknowledges that the Land is open to the public for access and that the Grantor may close public access during periods of high fire hazard.

**21.0 COSTS**

21.1 The Concessionaire must pay the Grantor’s legal costs and expenses associated with preparing and signing this Document or any extension or variation to it.

21.2 The Concessionaire must pay in full immediately and on demand all costs and fees (including solicitor’s costs and the fees of debt collecting agencies engaged by the Grantor) arising out of and associated with steps taken by the Grantor to enforce or attempt to enforce the Grantor’s rights and powers under this Concession including the right to recover outstanding money owed to the Grantor.

**22.0 OFFENCES**

22.1 Where any breach of this Concession by the Concessionaire also constitutes an offence under the Conservation Act 1987 or any of the Acts listed in the First Schedule to that Act:

- (a) no waiver or failure to act by the Grantor under this Document is to preclude the Grantor from prosecuting the Concessionaire; and
- (b) no failure by the Grantor to prosecute the Concessionaire is to preclude the Grantor from exercising the Grantor’s remedies under this Document; and
- (c) any action of the Grantor in prosecuting the Concessionaire is not to preclude the Grantor from exercising the Grantor’s remedies under this Document.

**23.0 SPECIAL CONDITIONS**

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

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

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 by :

\_\_\_\_\_

as Concessionaire  
in the presence of :

Witness \_\_\_\_\_

Occupation \_\_\_\_\_

Address \_\_\_\_\_

**SCHEDULE 1**

1. **Land:** Shown pink and labelled R2 on the designations plan (see definition of Land in clause 1.1)
2. **Concession Activity:** Grazing 300 sheep (ewe equivalents) on an annual basis  
(see definition of Concession Activity in clause 1.1)
3. **Term:** 30 years commencing on \_ \_\_\_\_\_ (see clause 3)
4. (a) **Renewal Date:** (see clause 3.2)  
(b) **Renewal Period:** (see clause 3.2)
5. **Final Expiry Date:** (see clause 3.2)
6. (a) **Concession Fee:** \$5 per ewe per annum + GST (see clause 4)  
(b) **Administration Fee:** \$200 per annum + GST. The Administration Fee will not increase by more than the total aggregated increase in the annual rate of inflation which has occurred since the most recent Concession Fee Review. (see clause 4)
7. **Concession Fee Payment Date:** (see clause 4)  
On or before the date specified on the invoice generated by the Grantor
8. **Penalty Interest Rate:** (see clause 4.2)  
Double the Grantor's bank's current highest 90 day bank bill buy rate
9. **Concession Fee Review Date:** On the date 3 years after the commencement date set out in item 3 above, and the corresponding date every 3 years thereafter until the expiry of the term.  
(see clause 6)
10. **Public Liability General Indemnity Cover:** (see clause 15.3)  
for \$1,000,000
11. **Public Liability Forest & Rural Fire Extension:** (see clause 15.3)  
for \$500,000
12. **Statutory Liability Insurance:** (see clause 15.3)  
Amount N/A
13. **Other Types of Insurance:** (see clause 15.3)  
**Amounts Insured for Other Types of Insurances:** (see clause 15.3)  
Amount N/A
14. **Environmental Monitoring Contribution:** N/A (see clause 16)
15. **Address for Notices (including facsimile number):** (see clause 19)
  - (a) Grantor C/-Box 5244  
77 Stuart Street  
DUNEDIN 9058  
(03) 477 8626
  - (b) Concessionaire the address of the registered office of the Concessionaire

## SCHEDULE 2

### *Special Conditions*

#### **Land Management**

1. (a) The Concessionaire must not break up or crop any part of the Land or burn any woody vegetation on it without the prior written consent of the Grantor.
- (b) The Concessionaire shall not oversow or topdress the land without the Grantor's consent.

#### **Fencing**

2. The Grantor is not to be called upon at any time to contribute to the costs of "work on a fence" as that term is defined in the Fencing Act 1978 between the Land and any adjoining land, except the Grantor will, on a one-off basis following the commencement of the Concession, contribute a quarter share of the cost of erecting a replacement fence between the Land and any adjoining land which is owned by neither the Grantor nor the Concessionaire.
3. Other than for the one-off replacement fence referred to in special condition 2 above, the Concessionaire must keep and maintain at the Concessionaire's costs any fences or gates in good repair.

#### **Hunting**

4. The Grantor reserves the right to authorise hunters who hold a valid hunting permit issued by the Director General of Conservation to hunt on the Land. Authorised hunters are required to give prior notification to the Concessionaire prior to entering the Land.

#### **Inspection**

5. The Grantor reserves the right for the Grantor's employees or agents to enter on the Land at any time for the purpose of inspecting the Land.

#### **Management Prescription**

6. The parties will comply with the management prescription document attached as schedule 3.

#### **Restriction of Public Access**

7. The Grantor may at any time prohibit or restrict public access to the Land during what he considers to be major pest poison operations on the Land.

#### **Termination**

8. In addition to the powers to terminate this Document contained in clause 14.0 and following above, the Grantor may terminate this Document by notice in writing to the Concessionaire if the Concessionaire is convicted of an offence related to the Land under the Historic Places Act 1993, and clause 14.0 shall apply to any such termination as if it had been made pursuant to that clause.

#### **Costs**

9. Clause 21.1 is deleted and replaced with the following;
  - 21.1 The Concessionaire and the Grantor are responsible for their own costs associated with preparing and signing this Document. However, the Concessionaire must pay the Grantor's legal costs and expenses associated with preparing and signing any extension or variation to this Document.

### SCHEDULE 3

#### MANAGEMENT PRESCRIPTION DOCUMENT FOR CARRICKTOWN HISTORIC RESERVE SHEEP GRAZING CONCESSION

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

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

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

1. **The goal of the concession is to achieve the protection of historic sites, landscape values, vegetation, soil and water values and recreational opportunities whilst allowing for limited sheep grazing.**

**(a) Vegetation**

To manage the vegetation within the reserve (concession area) to maintain or enhance the cover of exotic and introduced grass and herb species whilst minimising the risk of invasion by exotic woody weeds and trees.

**(b) Landscape**

To manage the reserve (concession area) in a manner which retains and enhances the open landscape character and maintains and enhances the physical presence of visible historic features which include water-races, outlines of stone cottages, sluiced faces, and vertical shafts.

**(c) Recreation**

To facilitate public foot access within the reserve whilst recognising that there is a formed legal track which traverses the entire northern boundary which is a popular four wheel drive, mountain biking and horse trekking route. Appropriate interpretative information and sign posting will be erected where required.

**(d) Soil and Water**

To manage the concession in a manner which prevents soil loss and maintains high water quality.

**2. These goals are to be met through regular monitoring (including general inspections), liaison with the Concessionaire and revision of grazing limits prior to the preparation of management prescription documents.**

- (a) Grazing levels and management will be adjusted should that be necessary following analysis of photo point monitoring and field observations by the Grantor or Concessionaire.
- (b) Boundary sign posting indicating the status of the land and conditions pertaining to public use will be erected.
- (c) The concession document requires the Concessionaire to comply with the legal obligations of the Biosecurity Act. The Concessionaire may also wish to carry out a programme of woody weed and tree control beyond any obligations under this act. In order to prevent adverse effects to conservation features present, some accepted methods of control suitable for agricultural purposes may need to be restricted.

Methods of woody weed control practices are to be limited to:

- (i) hand cutting and poison treatment of stumps; or
- (ii) hand-held spraying, eg. from a vehicle mounted operation, with hand cutting of dead branches; or
- (iii) prill treatment with hand cutting of dead branches; or
- (iv) targeted aerial spot spraying.

A weed control programme will be jointly agreed to by the Concessionaire and the Area Manager Department of Conservation, Alexandra which will determine what method(s) are to be used and where.

Given that these method(s) are likely to be more expensive than those practised for normal agricultural purposes, the cost of weed control will be apportioned on the basis that the Concessionaire meets those costs to meet his/her legal obligations and the Grantor will meet the difference in costs of the above accepted methods (if any) in order to safeguard the conservation features.

Under the terms of the concession the Concessionaire has the responsibility for pest control. The Concessionaire shall maintain the eastern boundary fence in a rabbit proof condition.

**3. Description and condition of historic resources present.**

The boundaries of the historic reserve (concession area) cover the core of the Carrick quartz mining field. At the southern end of the reserve are the remains of a large water reservoir (GR 042 – 581).

Further north where the Carrick road crosses Battery Creek (around grid reference 048 583) is the heart of the proposed reserve. In this location are the remains of the Elizabeth, Heart of Oak and Star of the East mines and the associated stamping battery. It is also the location of the settlement of Carricktown. The sites of about 16 buildings are still visible – many as stone ruins.

Towards the northern end of the reserve are the remains of the Day Dawn battery (GR 051 594). Also in this area are the mine workings associated with the New Find, Caledonia and New Caledonia reefs.

**4. Description of a monitoring programme to be established for historic sites, vegetation condition and soil and water values**

Up to 10 photo points are to be established and located at selected historic sites which are considered vulnerable to stock damage, woody weed invasion or other factors such as slope instability. Of primary concern are stacked stone structures which can be vulnerable to physical damage.

Additional photo points will be established which will provide a general record of vegetation cover, composition and condition.

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

300 sheep (ewe equivalents) on an annual basis (in practice more sheep will be run for a lesser period (e.g. 1200 ewe equivalents for 3 months).



**Appendix 8: Copy of easement in CIR OT17A/15 in favour of The Carrick Irrigation Company**



## COMPUTER INTEREST REGISTER UNDER LAND TRANSFER ACT 1952



### Historical Search Copy

  
R. W. Muir  
Registrar-General  
of Land

**Identifier** OT17A/15  
**Land Registration District** Otago  
**Date Registered** 30 June 1995 12:05 pm

#### Prior References

OTA2/1218

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**Type** Deed of easement under s60 Land Act  
1948

**Area** 4813.5197 hectares more or less

**Legal Description** Part Run 330A

#### Original Proprietors

Her Majesty the Queen

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#### Interests

# Memorandum of Transfer

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17A/15.

~~(herein called "the Transferor") being registered as proprietor of an estate~~

subject however to such encumbrances, liens and interests as are notified by memoranda underwritten or endorsed hereon in the piece or pieces of land situated in the Land District of ~~containing~~ ~~more or less being~~



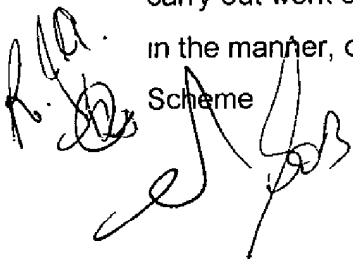
**1.0 BACKGROUND**

1.1 The Carrick Irrigation Company Limited at Bannockburn (called "the Irrigation Company") has purchased the Bannockburn Irrigation Scheme pursuant to a Sale and Purchase Agreement between MURRAY THOMAS DENNISON, RICHARD STEVEN CLARK and EDGAR PARCELL all of Bannockburn Farmers as agents for the Irrigation Company then yet to be incorporated and DAVID FRANCIS CAYGILL, Minister of Finance and COLIN JAMES MOYLE, Minister of Agriculture on behalf of the Crown, dated 18 December 1989 and subsequently adopted by the Irrigation Company as the Purchaser. The Bannockburn Irrigation Scheme (called "the Irrigation Scheme") is more particularly described in the said Sale and Purchase Agreement

1.2 HER MAJESTY THE QUEEN acting by and through the Commissioner of Crown Lands (called "the Crown") is the proprietor of that land containing 4813 5197 hectares more or less being Part Run 330A Bannockburn, Cromwell and Nevis Survey Districts subject to Pastoral Lease Number P 234 comprised in Register Book Volume A2 Folio 1218 (Otago Land Registry) (called "the Crown's land").

1.3 RICHARD JOHN ANDERSON of Bannockburn Farmer as to a  $\frac{1}{2}$  share and THE TRUSTEES EXECUTORS AND AGENCY COMPANY OF NEW ZEALAND LIMITED and the said RICHARD JOHN ANDERSON (jointly inter se) as to a  $\frac{1}{2}$  share as tenants in common in the said shares (called "the Lessee") are registered as the lessee of the said Pastoral Lease.

1.4 The Minister of Agriculture (called "the Minister") had the right immediately before the date of sale of the Irrigation Scheme to the Irrigation Company, pursuant to Section 223 of the Public Works Act 1981 or the corresponding provisions of any former enactment relating to irrigation, to enter, use, occupy, carry out work on, store water on, or convey water over the Crown's land and in the manner, detailed in this Instrument, for the purposes of the Irrigation

R.A.A.  
  
 Scheme

-2-

1 5 Section 4 of the Irrigation Schemes Act 1990 provides the statutory mechanism to transfer from the Landowners to the Irrigation Company, the same easement rights as the Crown previously had over the Crown's land, and the Crown, lessee and the Irrigation Company have agreed to the transfer of these easement rights to the Irrigation Company

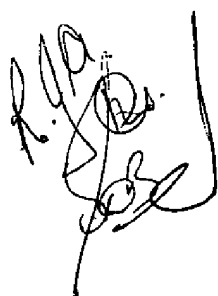
## **2.0 GRANT OF EASEMENT**

2 1 The Crown pursuant to section 60 of the Land Act 1948 and section 4 of the Irrigation Schemes Act 1990 TRANSFERS AND GRANTS to the Irrigation Company as an easement in gross forever, the right to convey water over the said Crown's land as marked "A-B-C", "B-D", "E-F-G", "F-H-I", "H-J" and "K-L" and the right of support for a weir as marked "B" on the plan No 6 annexed which rights to convey water and right of support shall have attached to them the rights, powers and obligations detailed in the following clause 3 0

## **3.0 RIGHTS AND POWERS RELATING TO THE GRANT OF EASEMENT**

3 1 The Irrigation Company together with any person (as defined in Section 4 of the Acts Interpretation Act 1924) acting with the authority, or on the instructions, of the Irrigation Company and together with all tools, implements, machinery, vehicles, equipment and materials of whatsoever nature shall have the uninterrupted and unrestricted rights

(a) To situate and maintain water works including the weir at the stipulated position on the Crown's land and convey water unimpeded along the stipulated course on the Crown's land, shown on the plan attached and for this purpose to have the right to use, occupy, construct, maintain,

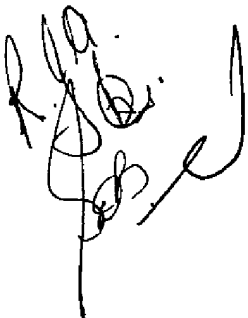
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reconstruct and carry out such works (in this Instrument called "water works") as the Irrigation Company considers necessary or desirable on the Crown's land along the stipulated course including, but without limitation, structures and works for, the weir, intakes, conveying water, water flow control and supply, turnouts, monitoring and discharges.

- (b) To monitor and control its waterflows and the water source flows and to carry out viewing, surveillance and monitoring of its water works on the Crown's land
- (c) To enter the Crown's land and to have access across the Crown's land by the most practicable route
- (d) To erect and maintain such fixtures or markers as may be necessary to indicate the location of any pipeline and associated works provided that such fixtures or markers do not interfere with the reasonable management of the Crown's land
- (e) To generally do anything necessary or convenient for the full exercise of the rights under this Instrument and to give full effect to the purposes of this Instrument

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

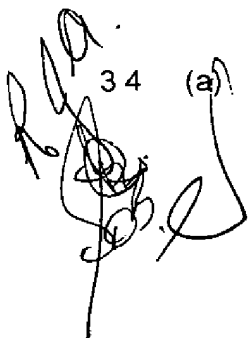
3.2 In exercising its rights and powers under this Instrument, the Irrigation Company shall

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- (a) Cause as little disruption and disturbance to the occupation and enjoyment by the Crown and the lessee of the Crown's land, as is reasonably possible
- (b) Cause as little damage to the Crown's land and the fixtures on it and the surface of it as is reasonably possible
- (c) After exercising its rights and powers, restore the Crown's land and the fixtures on it as nearly as is reasonably possible to its former condition but as shall be reasonable in the circumstances having regard to the economic and amenity values to the Crown and the lessee of the land and the fixtures affected

3 3 (a) When the Irrigation Company requires entry with machinery on the Crown's land to carry out maintenance or construction works, it shall take reasonable steps to give to the lessee or occupier of the land not less than 24 hours notice by direct personal contact, ordinary letter, facsimile transmission, or telephone prior to such entry and works being undertaken, unless there is an emergency and in which case no notice shall be required.

(b) If the lessee or occupier has received such notice the lessee or occupier shall notify the Irrigation Company, prior to the entry and work being undertaken, of the presence of pipes or other underground facilities in the Crown's land and if the lessee or occupier fails to notify the Irrigation Company then the Irrigation Company will not be liable for any damage it may cause to such underground pipes or underground facilities.

Handwritten signature and initials, possibly 'R.A.A.' and 'J.S.', written in black ink.

3 4

(a) It is acknowledged that the Irrigation Company shall not fence the boundaries of the easements

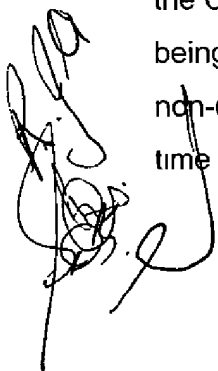


(b) The Crown and lessee shall not do, or permit to be done, anything, including planting trees or constructing works or buildings, which will prevent or interfere with the free passage of water along the stipulated course or prevent or interfere with the Irrigation Company's full rights of access and full use by it of its rights created by this Instrument and shall not interfere, or permit any interference, or allow trees, tree roots or other vegetation growing on or from the landowners land or stock pastured on the crown's land to interfere with the support, structure or integrity of the Irrigation Company's water works

(c) Without limiting the extent of this clause 3.4, the Crown and lessee shall not, without the prior written consent of the Company, plant or permit to be planted trees or construct or permit to be constructed works or buildings within 4 metres of the centre line of a pipe or within 3 metres from the edge of a water race or other water works

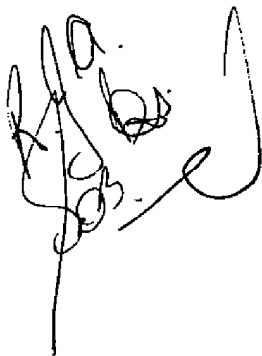
3 5 The rights and powers contained in paragraphs 2 and 5 of the Seventh Schedule to the Land Transfer Act 1952 shall apply except insofar as they are varied by this instrument and with the deletion from both paragraphs 2 and 5 of the words "(in common with the grantor, his tenants and any other person lawfully entitled so to do)".

3 6 Any right of action or remedy which shall at any time after the date of this instrument accrue to the irrigation company because of any breach or non-observance by or on behalf of the Lessee of any of the covenants expressed or implied in this instrument and to be observed or performed by the Crown, shall be enforced only against the registered proprietor for the time being of the Pastoral Lease in respect of which such breach or non-observance shall occur or against the lessee of the Pastoral Lease at the time of such occurrence aforesaid but to the intent that any lessee of the



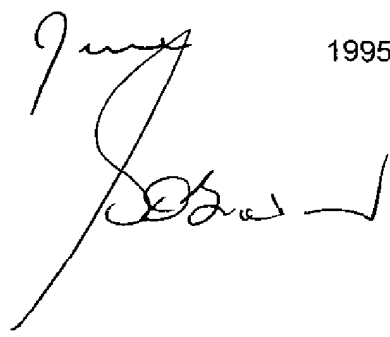
Pastoral Lease shall only be liable for acts or defaults occurring while that person is so registered

- 3.7 The lessee agrees to the terms of this instrument and is bound by them to the extent that the terms apply to the lessee and the lessee consents, without payment of compensation, to the terms of this instrument
- 3.8 A reference to any party to this instrument includes that party and that parties transferees and successors

A handwritten signature in black ink, appearing to be 'R. A. B.', located in the bottom left corner of the page.

Dated the 28<sup>th</sup> day of July 1995

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



Witness *H. H. H. H.*

Occupation *Administration Consultant*

Address *Wellington*

SIGNED by the CARRICK ) *M. J. De...*  
IRRIGATION COMPANY ) Director  
LIMITED )

*R. S. Clark*  
Director/Secretary

Witness . . . . .

Occupation . . . . .

Address . . . . .

SIGNED by RICHARD JOHN )  
ANDERSON as lessee )  
in the presence of )

*R. J. Anderson*

X

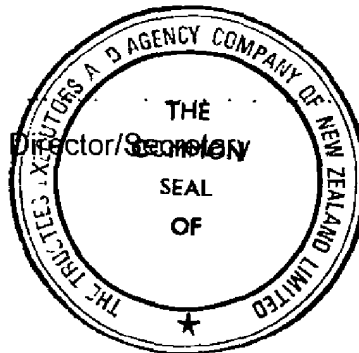
Witness *[Signature]*

Occupation *Advisor*

Address *Albany*

SIGNED by THE TRUSTEES )  
EXECUTORS AND AGENCY )  
COMPANY OF NEW )  
ZEALAND LIMITED as )  
lessee in the presence of )

Director



~~EXECUTED by THE TRUSTEES EXECUTORS AND AGENCY COMPANY OF NEW ZEALAND LIMITED under its common seal~~

Witness .....  
Occupation .....  
Address .....  
Secretary  
Authorized Signatory

Witness: *[Signature]*  
Occupation: *[Signature]*

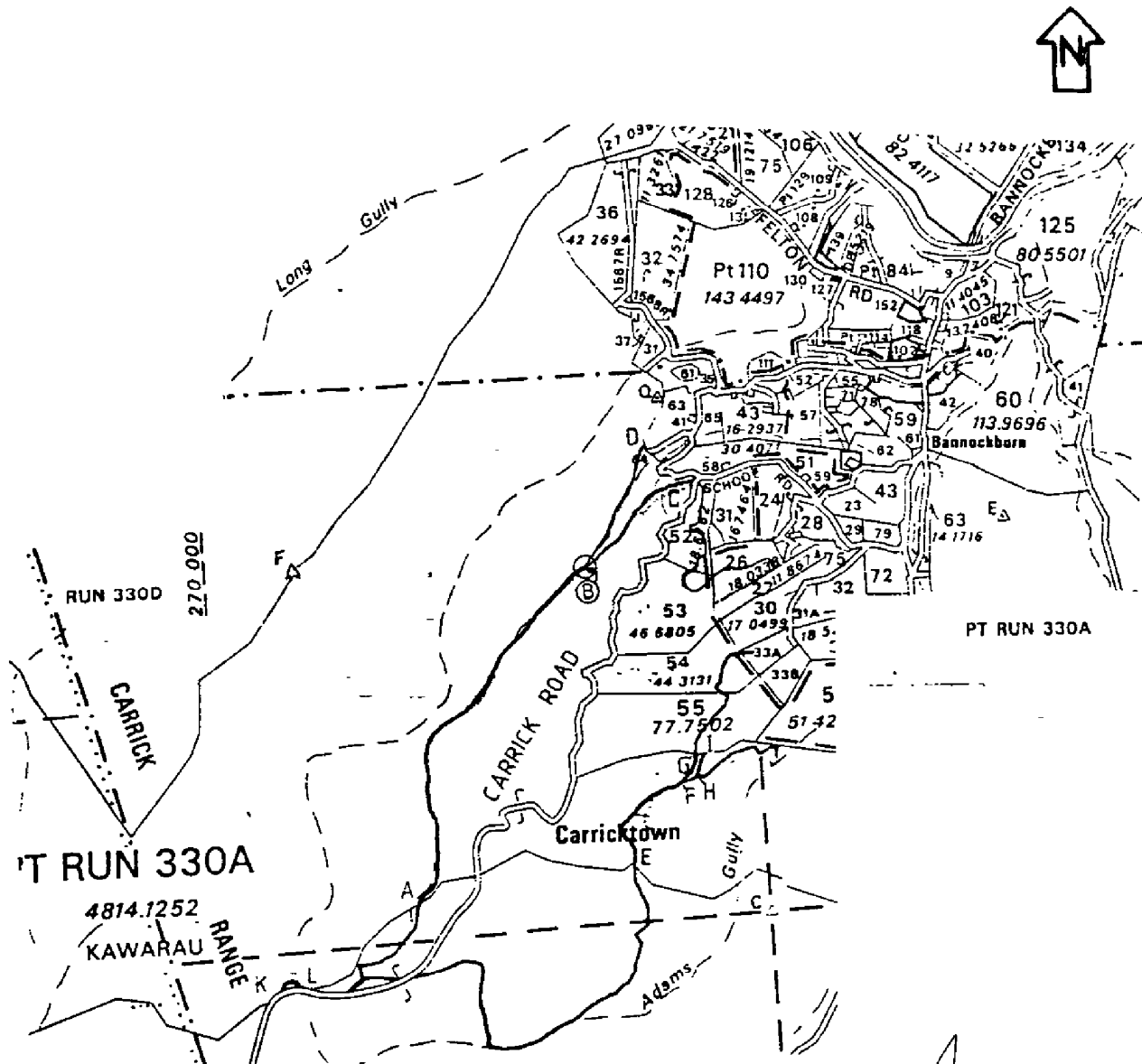
Witness: *[Signature]*  
Occupation: PA  
Address: Wellington

(Note: Witness is required if Company executes by a Director and Secretary but not if two Directors sign )

*[Signature]*

# SCHEDULE OF EASEMENTS

Shown	Purpose	Servient Tenement	Grantee	C T	Owner	Plan No
A, B, C, D, E-F-G, F-H-I, H-J, K-L	RIGHT TO CONVEY WATER	PT RUN 330A BLK II BANNOCKBURN S.D	CARRICK IRR Co. Ltd	A2/1218	R. J ANDERSON	6
(B)	RIGHT OF SUPPORT	" " "	" "	" "	" "	" "



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

CARRICK IRRIGATION Co. Ltd

*[Handwritten signature]*

*[Handwritten signature]*

PREPARED BY **C. HUGHES & ASSOCIATES**  
SURVEYING CONSULTANTS  
CROMWELL

Scale 1:50 000  
Date 5/94  
Job No 3665

**In Consideration of the sum of**

paid to the Transferor by

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

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

**Signed** by the Transferor

(by the affixing of its common seal)

in the presence of.

17A/15

# MEMORANDUM OF TRANSFER

EASEMENT IN GROSS FOR IRRIGATION WORKS

CARRICK IRRIGATION COMPANY LIMITED **Transferor**

HER MAJESTY THE QUEEN

R J ANDERSON & THE TRUSTEES EXECUTORS **Transferee**  
AND AGENCY COMPANY OF NEW ZEALAND LIMITED

Correct for the purposes of the Land Transfer Act 1952

SOLICITOR FOR THE TRANSFEROR

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

17A/15

SOLICITOR FOR THE TRANSFEREE

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

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

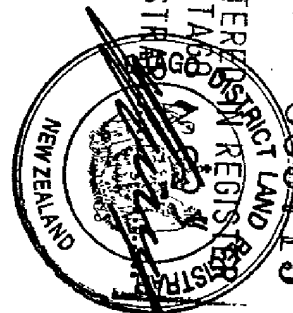
Assistant / District Land Registrar of the

District of

SOLICITOR FOR THE TRANSFEREE

17A/15

12.05 30 JUN 95  
PARTICULARS ENTERED IN  
LAND REGISTRY OTAS  
ASST. LAND REGISTRAR



885715

17A/15

**Appendix 9: Copy of an unregistered Deemed Permit pursuant to Section 413-417 of the Resource Management Act 1991 in favour of R J Anderson, consent No. 97670**

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Otago  
Regional  
Council

COUNTERPART

Consent No: 97670

DEEMED PERMIT

This is a Deemed Permit issued pursuant to Sections 413-417 of the Resource Management Act 1991.

Name: Richard John Anderson

Address: C/o Macalister Todd Phillips Bodkins, P O Box 268, Alexandra

to take 50,000 litres per hour from Smiths Gully

for the purpose of irrigation  
for a term expiring on 1 October 2021.

Location: Smiths Gully approximately 500 metres from the top end of Quartzville Road, Bannockburn.

Legal description of land adjacent to consent location: Pt Run 330 A Block II Bannockburn Survey District.

Map reference: NZMS 260: F41: 052 603

This document is a deemed permit within the meaning of Section 413-417 of the Resource Management Act 1991. It is a renewal of permit 3293 which was granted February 1988 which in turn was granted in substitution of water race licence WR3460 Cr originally granted in the Wardens Court at Cromwell on 30 September 1914.

**Conditions**

1. Priorities:

Permits which can exercise priority over this permit:

WR7831/97Cr, Smiths Gully, 1 head, Priority date 24.11.1864, Crown

Permits over which this permit can exercise priority:

Nil

2. Appended is a schedule of provisions from the former Water and Soil Conservation Amendment Act 1971 that may apply to this deemed permit.

Issued at Dunedin this 18<sup>th</sup> day of March 1998

Marian Weaver

Manager Resource Administration

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**Appendix 10: Copy of an unregistered Deemed Permit pursuant to Section 413-417 of the Resource Management Act 1991 in favour of Carrick Irrigation Company Ltd, consent No. 2002.448**

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Consent No: 2002.448

**DEEMED PERMIT**

This is a Deemed Permit pursuant to Sections 413-417 of the Resource Management Act 1991.

Name: Carrick Irrigation Company Limited

Address: 283 Bannockburn Road, Cromwell

to take and use up to 1,247,011 cubic metres per month at a maximum rate of 1,732 cubic metres per hour of water from Coal Creek and five tributaries of Coal Creek in the Nevis Valley and Shepherds Creek and Smiths Gully in the Bannockburn Valley and to retake 204 cubic metres per hour from Smiths Gully.

for the purpose of irrigation and stockwater supply.

for a term expiring 1 October 2021

Location, Map Reference and Legal description of Land at Point of Take:

Location	Present amount of water taken (heads )	Present amount of water taken (litres per second	Map Grid Ref: NZMS 260 series	Legal Description	Previous Authorisation by Mining Privilege No.
Coal Ck	8	226	F42:984-428	Run 339E Lornside SD	WR3937Cr
Snow Ck	1	28.3	F42:985-432	Run 339E Block V Nevis SD	WR3937Cr
Good Ck	1	28.3	F42: 986-453	Run 339E Block V Nevis SD	WR3937Cr
Xmas Ck	2	56.6	F42: 991-468	Run 339E Block V Nevis SD	WR1731Cr
Long Gully	1	28.3	F42: 005-485	Run 339E Block V Nevis SD	WR1731Cr
Long Gully	0.5	14	F42: 005-486	Run 339E Block V Nevis SD	WR1731Cr
Long Gully	0.5	14	F42: 005-489	Run 339E Block V Nevis SD	WR1731Cr
Barn Creek	0.5	14	F42: 005-505	Run 339B Block IV Nevis SD	WR1731Cr
Barn Creek	0.5	14	F42: 004-509	Run 339B Block IV Nevis SD	WR1731Cr
Shepherds Creek	0.33	9.3	F42: 023-538	Section 3 Block III Bannockburn SD	WR1731Cr
Shepherds Creek	0.33	9.3	F42: 028-550	Section 3 Block III Bannockburn SD	WR1731Cr
Shepherds Creek	0.33	9.3	F42: 028-554	Section 3 Block III Bannockburn SD	WR1731Cr
Smiths Gully retakes (west side)	1	28.3	F41: 053-603	Part Run 330A Block II Bannockburn SD	WR1731Cr
Smiths Gully (Eastside )	1	28.3	F41: 054-603		Easement to use water race registered on WR3460Cr
Smiths Gully (westside take)	0.5	14	F41: 053-603	Part Run 330A Block II Bannockburn SD	WR7831/97
Smiths Gully (Eastside take)	0.5	14	F41: 054-603		Easement to use water race registered on WR3460Cr

This document is a deemed permit within the meaning of Sections 413 - 417 of the Resource Management Act 1991. It is a replacement permit for the following water race licences:

- (a) WR3937Cr which was granted in the Cromwell Wardens Court on the 15 of September 1920;
- (b) WR1731Cr which was granted in the Cromwell Wardens Court in exchange for licence No. 7832 having a priority date of 9 July 1883;
- (c) WR7831Cr which was granted in the Cromwell Wardens Court in exchange for Licence No.7391 having a priority date of 11 July 1866;

**Conditions**

- 1. That the abstraction authorised by this permit shall not exceed the volumes of the individual takes of water as listed in the table above.
- 2. That the combined take in the East side and West side races from Smiths Gully is no more than 28.3 litres per second of the natural flow in the Gully plus the amount that is discharged from the main race into the top of the Gully and no more than a total of 85 litres per second.
- 3. Appended is a schedule of provisions from the former Water and Soil Conservation Amendment Act 1971 that may apply to this deemed permit.

**Note:**

- 1. Priorities:

Deemed Permits which can exercise priority over WR3937Cr: Nil

Deemed Permits over which WR3937Cr can exercise priority: Nil

- 2. Deemed Permits which can exercise priority over WR1731Cr takes in Xmas Creek, Long Gully and Barn Creek : Nil

Deemed Permits which WR1731Cr can exercise priority over in Xmas Creek, Long Gully and Barn Creek : Nil

- 3. Deemed Permits which can exercise priority over WR1731Cr in Shepherds Creek;

<b>Water Race Licence No.</b>	<b>Priority Date</b>	<b>Volume (litres/hour)</b>	<b>Location</b>	<b>Registered Holders</b>
Part WR1914Cr	10.07.1883	75,000	Shepherds Creek	D W & M I Clark

Deemed Permits over which WR1731Cr can exercise priority in Shepherds Creek:

<b>Water Race Licence No.</b>	<b>Priority Date</b>	<b>Volume (litres/hour)</b>	<b>Location</b>	<b>Registered Holders</b>
Part WR1914Cr	10.07.1883	325,000	Shepherds Creek	D W & M I Clark
WR4932Cr	15.02.1928	100,000	Shepherds Ck	Anderson R J & Co.

4. Deemed Permits which can exercise priority over WR7831Cr in Smiths Gully:  
Nil

Deemed Permits over which WR1731Cr can exercise priority in Smiths Gully:

<b>Water Race No.</b>	<b>Priority Date</b>	<b>Location</b>	<b>Volume (litres/hour)</b>	<b>Registered Shareholder</b>
WR3460Cr	30.09.1914	Smiths Creek	50,000	R J Anderson

2. Also appended is a diagram of the relative locations of the permits.
3. That all single domestic and stock water users have a right to water before any other user, including mining privilege holders.

Issued at Dunedin this 20<sup>th</sup> day of September 2002

Marian Weaver  
**Manager Consents**  
 j. e. g:\s11\j\carrickirrigation1.doc

**Appendix 11: Form of Special Lease over “CL” to be Created under the Land Act 1948**

Concession Number: \_\_\_\_\_

**Concession Document for (Grazing Lease)**

**THIS CONCESSION** is made this      day of

**PARTIES:**

- 1. Her Majesty the Queen acting by and through  
The Commissioner of Crown Lands (the Grantor)
- 2. Kawarau Station Limited (the Concessionaire)

**BACKGROUND**

A The Grantor has agreed to grant and the Concessionaire has agreed to accept a lease of the Land pursuant to section 67(2) of the Land Act 1948 ("the Act").

B The Grantor and the Concessionaire acknowledge that the purposes of this lease include to:

- a. **promote the management of the Land in a way that is ecologically sustainable; and**
- b. **recognise that the Land contains significant inherent values, as that term is defined in section 2 of the Crown Pastoral Land Act 1998, and is also capable of economic use subject to some restrictions.**

**OPERATIVE PARTS**

1.1 In exercise of the Grantor's powers under section 67(2) of the Land Act 1948 the Grantor **GRANTS** to the Concessionaire a **lease** to carry out the Concession Activity on the Land subject to the terms and conditions contained in this Document and its Schedules.

SIGNED on behalf of the Commissioner of Crown lands by  
*[insert name and title of delegate]*  
acting under delegated authority:

\_\_\_\_\_  
Signature

in the presence of:

Witness Signature: \_\_\_\_\_  
Witness Name: \_\_\_\_\_  
Witness Occupation: \_\_\_\_\_  
Witness Address: \_\_\_\_\_

SIGNED by Kawarau Station Limited by:

\_\_\_\_\_ Director

\_\_\_\_\_ Director

**SCHEDULE 1**

1.	<b>Land</b>	As marked on the attached plan or map in Schedule 4 being: Physical Description/Common Name: The Meg Faces Block Area: 765 hectares more or less Legal Description: [to be inserted upon issue of computer freehold register] Map Reference:
2.	<b>Concession Activity</b> ( <i>clause 1</i> )	Grazing wethers and purposes ancillary thereto. The stock numbers, duration of grazing and times of year when stock may be grazed are set out in Schedule 3, special condition 2.
3.	<b>Term</b> ( <i>clause 2</i> )	30 years from the Commencement Date.
4.	<b>Commencement Date</b>	The date a certificate of title is issued for the freehold land arising from the tenure review under the Crown Pastoral Land Act 1998 applicable to the Land.
5.	<b>Renewal(s)</b> ( <i>clauses 3 and 4</i> )	One renewal for a final term of 30 years.
6.	<b>Final Expiry Date</b> ( <i>clause 4</i> )	60 years from the Commencement date.
7.	<b>Concession Fee</b> ( <i>clause 5</i> )	The Concession Fee is to be calculated on the basis of 7.5 cents (plus GST) per wether per week of grazing for the stock run on the Land for that year. In order that the grazing fee may be calculated, a return of stock will be made by 31 of January of each year showing the stock carried on the land over the preceding year. If a return is not made by this date, a fee will be charged assuming the maximum stock numbers had been run.  And  \$250 per annum plus GST (Concession Management Fee)
8.	<b>Concession Fee Instalment(s)</b> ( <i>clause 5</i> )	N/A
9.	<b>Concession Fee Payment Date(s)</b> ( <i>clause 5</i> )	Annually on or before the date specified on the invoice generated by the Grantor
10.	<b>Penalty Interest Rate</b> ( <i>clause 5</i> )	15%.
11.	<b>Concession Fee Review Date(s)</b> ( <i>clause 6</i> )	The initial concession fee review shall be undertaken on the fourth anniversary of the Commencement Date. Subsequent concession fee reviews shall be undertaken on the anniversary of the Commencement Date at the conclusion of every succeeding five year period, in order to correspond with the vegetation monitoring regime (see Schedule 5).



12.	<b>Health and Safety/Notification of Hazards</b> <i>(clauses 20 and 21)</i>	<p>(i) Safety Plan: not required</p> <p>(ii) Known hazards on the Land - Nil</p> <p>(iii) Details of any staff of the Department or other people in the vicinity of the Land where there is potential for some contact between the Concessionaire and such people: - Nil</p> <p>(iv) Details of any other services being carried out by such people, which might affect the Concessionaire or the Activity: : - Nil</p>
13.	<b>Insurance (to be obtained by Concessionaire)</b> <i>(clauses 18 and 19)</i>	<p>A. <u>Types and amounts:</u></p> <p>(i) Public Liability Insurance for:</p> <p>(a) general indemnity for an amount no less than \$1,000,000; and</p> <p>(b) Forest and Rural Fires Act extension for an amount no less than \$1,000,000; and</p> <p>(ii) third party vehicle liability is not required.</p> <p>B. <u>Other Policies and amounts:</u> Not required.</p> <p>C. <u>Details of all policies:</u></p> <p>(i) Insurance Company:</p> <p>(ii) Policy number(s):</p> <p>(iii) Date insurance effected:</p> <p>(iv) Date insurance expires:</p> <p>Certificates of Insurance Received: yes/no</p> <p>The levels of insurance required are subject to review pursuant to clause 19 in Schedule 2.</p>
14.	<b>Addresses for Notices</b> <i>(clause 25)</i>	<p>The Grantor's address is:</p> <p>C/- 77 Stuart Street</p> <p>DUNEDIN_9016</p> <p>Phone: 03 477 0677</p> <p>Fax: 03 477 8626</p>
		<p>The Concessionaire's address in New Zealand is:</p> <p>Kawarau Station_____</p> <p>Bannockburn Road_____</p> <p>Bannockburn_____</p> <p>Phone / Fax: 03 445 0089</p>
15.	<b>Special Conditions</b> <i>(clause 34)</i>	<p>See Schedule 3</p>

Note: The clause references are to the Standard Terms and Conditions set out in Schedule 2

## SCHEDULE 2

### STANDARD CONDITIONS

#### Concession Activity

1. The Concessionaire is not to use the Land for any purpose other than the Concession Activity. The Concessionaire must, as a condition of this document:
  - (a) take out and maintain and pay all fees for all Concessions, permits, authorisations, consents (including resource consents under the provisions of the Resource Management Act 1991), and renewals ("the Permissions") as may be necessary for the proper conduct of the Concession Activity;
  - (b) not do or suffer to be done any act whereby these Permissions may be forfeited or suspended or refused.

#### Term and Renewal

2. The Concession is for the term specified in Item 3 of Schedule 1.
3. If there is a right of renewal, and the Concessionaire gives written notice of the Concessionaire's intention to renew this Concession at least three months before the end of the Term (which notice is to be irrevocable) then the Grantor at the Concessionaire's expense will renew the Term for such further period as is specified in Item 5 of Schedule 1 provided that, in the sole opinion of the Grantor, the programme of soil and vegetation monitoring to be undertaken pursuant to clause 12 of Schedule 2 shows that the grazing of the Land during the first term has not been detrimental to the ecological health of the vegetation on the Land and the Concessionaire has otherwise observed the terms and conditions contained in this Concession.
4. Any such renewal of this Concession shall be on the same terms and conditions expressed or implied in this Concession except that there shall be no further right of renewal and the Term of this Concession shall expire on or before the Final Expiry Date.

#### Concession Fee

5. The Concessionaire must pay to the Grantor in the manner directed by the Grantor the Concession Fee plus GST in the instalments and on the Concession Fee Payment Dates specified in Items 7, 8 and 9 of Schedule 1. If payment is not made within 14 days of the Concession Fee Payment Date then the Concessionaire is to pay interest on the unpaid Concession Fee from the Concession Fee Payment Date until the date of payment at the Penalty Interest Rate specified in Item 10 of Schedule 1.

#### Concession Fee Review

6. The Concession Fee may be reviewed by the Grantor on the Concession Fee Review Date specified in Item 11 of Schedule 1 as follows:
  - (a) the Concession Management Fee portion of the Concession Fee will not increase by more than the total aggregated increase in the annual rate of inflation which has occurred since the most recent Concession Fee Review; and

- (b) the remaining portion of the Concession Fee will be the market value of the grazing activity carried out on the Land having regard to the stock limit allowed at the time of such review plus 50% of the anticipated annual cost of the soil and vegetation monitoring required to be undertaken by the Concessionaire as specified within item 12 of Schedule 2 and otherwise on the same terms and conditions of this Concession.
- (c) Both parties are to agree on the total new Concession Fee within 30 working days of the Grantor giving the Concessionaire written notice of the fee review. If the parties cannot so agree then each party is to appoint a Registered Valuer who must meet and agree on the new fee. If the Registered Valuers fail to reach agreement the new fee is to be determined by an umpire appointed by the two Registered Valuers. Each party is to bear that party's own costs and half the costs of the umpire (if any).

#### Other Charges

- 7. The Concessionaire will pay all levies rates and other charges, including utility charges payable in respect of the Land or the services provided to the Land. Where the Grantor has paid such levies, rates or other charges the Concessionaire will on receipt of an invoice from the Grantor pay such sum to the Grantor within 14 days of receiving the invoice. If payment is not made within the 14 days then the Concessionaire is to pay interest on the unpaid sum from the date payment was due until the date of payment at the Penalty Interest Rate specified in Item 10 of Schedule 1.

#### Assignment

- 8. (a) The Concessionaire shall not transfer, sub licence, assign, mortgage or otherwise dispose of the Concessionaire's interest under this Document or any part of it (which includes the Concessionaire entering into a contract whereby the Concession Activity would be carried out by a person other than the Concessionaire) without the prior written consent of the Grantor, which consent shall not be unreasonably withheld.
- (b) Sections 17P, 17S, 17T, 17U, 17W, 17X, 17ZB and 17ZC of the Conservation Act 1987 apply to applications for consent under this clause unless the Grantor, in the Grantor's discretion, decides otherwise.
- (c) 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, sub licensee, or assignee a covenant to be bound by the terms and conditions of this Document.
- (d) The Concessionaire must pay the costs reasonably incurred by the Grantor incidental to any application for consent, whether or not such consent is granted.
- (e) Any change in the shareholding of the Concessionaire altering the effective control of the Concessionaire, other than transfers of shares to immediate family members or to trusts established to benefit family members of then current shareholders, will be deemed to be an assignment and will require the consent of the Grantor.
- (f) If the Concessionaire should sell, transfer or otherwise assign its interest under this lease, the Concessionaire shall first obtain from the purchaser, transferee or assignee an acknowledgement, by deed or otherwise to the satisfaction of the

Grantor, to comply with and perform the Monitoring Agreement as further described in Schedule 5.

#### Protection of Environment

9. The Concessionaire will use and manage the Land in a good and husband like manner, and not impoverish or waste its soil
10. The Concessionaire will keep the Land free from plant and animal pests and will comply with the Biosecurity Act 1993 and relevant pest management strategies.
11. The Concessionaire will not cut down or damage any indigenous native tree or shrub; or damage any natural feature or historic resource on the Land; or light any fire on the Land without the prior written consent of the Grantor.
12. The Grantor and Concessionaire have agreed upon a programme of soil and vegetation monitoring set out in an agreement attached to this Concession as Schedule 5, to be undertaken jointly by the parties during the Term (“ the Monitoring Agreement”). The Grantor shall review the results of such programme of soil and vegetation monitoring at the end of the 4th year of the initial term and subsequently at the end of every following 5th year for the purposes of determining whether to renew this concession lease pursuant to clause 2 above and for the purpose of determining whether any adjustment in grazing rates is appropriate, pursuant to special conditions 2.2 and 2.3 of Schedule 3. Notwithstanding that such monitoring programme shall be undertaken jointly, the final decision to adjust grazing rates in any case shall rest solely with the Grantor.

#### Structures

13. The Concessionaire will not erect any structures on the Land nor alter the Land without the prior consent of the Grantor.
14. The Concessionaire will keep all buildings, fences, gates, drains and other improvements now or hereafter upon the Land, in good order, condition and repair and will keep the Land in a clean and tidy condition and will not store hazardous materials on the Land, or store other materials on the Land where they may obstruct the public or create a nuisance

#### Surrender

15. If the Concessionaire wishes to surrender this Concession during the currency of the Term, then the Grantor may accept that surrender on such conditions as the Grantor considers appropriate, including a condition that the Concessionaire will be required to bear and pay any rates or levies payable under the Concession, from the date of acceptance of the surrender, until the date at which the Concession would have expired had surrender not been accepted or the end of the rating year, whichever is the sooner.

#### Indemnities and Insurance

16. The Concessionaire agrees to occupy and use the Land at the Concessionaire’s own risk and releases to the full extent permitted by law the Grantor and the Grantor’s employees and agents from all claims and demands of any kind and from all liability which may arise in respect of any accident, damage or injury occurring to any person or property in or about the Land.

17. The Concessionaire will keep the Grantor indemnified against all claims, actions, losses and expenses of any nature which the Grantor may suffer or incur or for which the Grantor may become liable in respect of:-
- (a) the neglect or careless use or misuse by the Concessionaire or persons under the control of the Concessionaire of the Land or arising out of any faulty fixture or fitting of the Concessionaire;
  - (b) any accident or damage to property or any person arising from any occurrence in or near the Land wholly or in part by reason of any act or omission by the Concessionaire or persons under the control of the Concessionaire.
18. Without prejudice to or in any way limiting its liability under clause 17 the Concessionaire at the Concessionaire's expense must effect and keep current in respect of the Land and the Concessionaire's use of the Land a policy of public risk insurance; and a public liability forest and rural fire insurance; and any other insurance specified in Item 13 of Schedule 1 with a substantial and reputable insurer.
19. The Concessionaire shall initially hold the required insurances at the levels specified in Item 13 of Schedule 1. On the Concession Fee review date, such levels may be reviewed by the Grantor, and the Grantor may require the Concessionaire to increase its level of insurance for the succeeding five year period, provided that any such increase in the required levels of insurance shall be no more than 10% of the levels of insurance at the time of the Concession Fee Review or the total aggregated increase in the annual rate of inflation (Consumer Price Index) which has occurred since the most recent Concession Fee Review, whichever is the lesser.

#### Health and Safety

20. The Concessionaire will exercise the rights granted by this Concession in a safe and reliable manner and must comply with the Health and Safety in Employment Act 1992 and its regulations and all other provisions or requirements of any competent authority relating to the exercise of this Concession.
21. Before commencing the Concession Activity the Concessionaire must, if required by Item 12 of Schedule 1 prepare a safety plan and supply the Grantor with a copy of the safety plan. If the concessionaire amends or replaces the safety plan then within 5 working days of the amendment or replacement plan taking effect the Concessionaire must supply the Grantor with a copy of any amendment to the safety plan or any replacement safety plan. Receipt of the safety plan by the Grantor does not in any way limit the obligations of the Concessionaire under Clause 20 and is not to be construed as implying any responsibility or liability on the part of the Grantor. The Concessionaire must comply with the safety plan and any authorised amendments to it.

#### Termination

22. If the Concessionaire breaches any of the terms and conditions of this Concession, or if the whole or any portion of the Land is required for use by the Grantor, the Grantor may terminate this Concession at any time in respect of the whole or any portion of the Land upon the Grantor giving to the Concessionaire one calendar month's notice in writing or such other time period as the sole opinion of the Grantor appears reasonable and necessary of the Grantor's intention so to terminate this Concession. If this Concession is terminated then the Grantor may adjust the Concession Fee payable or refund any Concession fee paid in advance at the Grantor's sole discretion.

23. The Grantor may choose to remedy at any time without notice any default by the Concessionaire under this Concession. Where that occurs, the Concessionaire must pay forthwith on demand all reasonable costs incurred by the Grantor in remedying such default.
- (a) Upon the expiry or sooner termination of this Concession, either as to the whole or any part of the Land, the Concessionaire is not entitled to compensation for any structure, facility or land alteration of the Concessionaire, all of which, subject to clause 23(c) are to remain the property of the Concessionaire and will be deemed not to have become fixtures on the Site.
  - (b) Subject to any conditions set out in Schedule 3, at the expiry, or sooner termination of this Concession the Concessionaire must remove all the Concessionaire's structures and facilities on the Site unless the Grantor approves otherwise in writing making good at the Concessionaire's expense any damage caused by such removal and leaving the Land in a clean and tidy condition.
  - (c) If the Concessionaire does not remove the structures and facilities as required by clause 23(b), or as otherwise approved by the Grantor, the structures and facilities remaining on the Site will be deemed to have become fixtures and ownership in them will vest absolutely in the Grantor.
  - (d) In that case the Grantor will not be liable to pay any compensation to the Concessionaire for the structures and facilities and may, at the Grantor's option, remove or destroy or otherwise dispose of them and recover the costs and expenses of the removal or destruction from the Concessionaire as a debt due to the Grantor.

#### Dispute Resolution

24. (a) If a dispute arises between the parties in connection with this Concession the parties will, without prejudice to any other rights or entitlements they may have, attempt to resolve the dispute by agreement using informal dispute resolution techniques such as negotiation, mediation, independent expert appraisal or any other alternative dispute resolution technique. The rules governing any such technique adopted are to be agreed between the parties.
- (b) 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 arbitration which arbitration is to be carried out in accordance with the provisions of the Arbitration Act 1996.
- (c) 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 New Zealand Law Society is to appoint the arbitrator. In either case the arbitrator must not be a person who has participated in an informal dispute resolution procedure in respect of the dispute.
- (d) The arbitrator must include in the arbitration award reasons for the determination.

### Notices

25. Any notice to be given under this document is to be in writing and made by personal delivery, fax or by pre paid post to the receiving party at the address or fax number specified in Item 13 of Schedule 1. Any such notice will be deemed to have been received:
- (a) in the case of personal delivery, on the date of delivery;
  - (b) in the case of fax, on the date of dispatch;
  - (c) in the case of post, on the 3rd working day after posting.

### Costs

26. Each party will be responsible for bearing its own legal costs and expenses incidental to preparing and signing any extension or variation of this Concession.
27. The Concessionaire must pay in full immediately and on demand all costs and fees (including solicitor's costs and fees of debt collecting agencies engaged by the Grantor) arising out of and associated with steps taken by the Grantor to enforce or attempt to enforce the Grantor's rights and powers under this Concession including the right to recover outstanding money owed to the Grantor.

### Consent

28. Where the Grantor's consent or approval is expressly required under this Concession then the Concessionaire must seek that approval or consent each separate time it is required even though the Grantor may have given approval or consent for a like purpose on a prior occasion. Any such consent or approval may be made on such conditions as the Grantor considers appropriate.

### Public Access and Closure

29. The Concessionaire acknowledges that the Land is open to the public for access and that the Grantor may close public access during periods of high fire hazard or for reasons of public safety or emergency.

### Compliance

30. The Concessionaire will comply where relevant:
- (a) with the provisions of any conservation management strategy or conservation management plan under the Conservation Act 1987 or Part 2A of the Reserves Act 1997, or any general policy statement made under the Conservation Act 1987, or any general policy statement made under the Conservation Act 1987; Reserves Act 1977, National Parks Act 1980, or Wildlife Act 1953, or management plan under section 45 of the National Parks Act 1980, whichever is appropriate to the Land, together with any amendment or review of any policy, strategy or plan whether approved before, on, or after the Commencement Date; and
  - (b) with the Conservation Act 1987, the Reserves Act 1977, the National Parks Act 1980 and any other statute, ordinance, regulation, bylaw, or other enactment (collectively the "Legislation") affecting or relating to the Land or affecting or relating to the Concession Activity, including any regulations made under the Conservation Act 1987 or bylaws made under the Reserves Act 1977 or the National Parks Act 1980; and

- (c) with all notices and requisitions of any competent authority affecting or relating to the land or affecting or relating to the conduct of the Concession Activity.
31. The Concessionaire must comply with all conditions imposed by the Grantor in granting this Concession.
  32. A breach or contravention by the Concessionaire of a relevant conservation management strategy, conservation management plan, management plan or any statement of general policy referred to in clause 30(a) will be deemed to be a breach of this Concession.
  33. A breach or contravention by the Concessionaire of any Legislation affecting or relating to the land or affecting or relating to the Concession Activity will be deemed to be a breach of this Concession.

Special Conditions

34. Special Conditions, if any, are specified in Schedule 3.

The Law

35. This Concession shall be governed by New Zealand law.



**SCHEDULE 3**

- A. Notwithstanding anything to the contrary, for so long as the Land is administered by the Commissioner of Crown Lands pursuant to the Land Act 1948, the occupation of the Land by the Concessionaire and the terms and conditions of this document shall be governed by the provisions of the Land Act 1948 and the Crown Pastoral Land Act 1998 and not the Conservation Act 1987 and if there is any conflict or inconsistency between the terms and conditions of this Concession and the Land Act 1948 or the Crown Pastoral Land Act 1998, then the provisions of the Land Act 1948 and the Crown Pastoral Land Act 1998 shall prevail.
  
- B. The Concessionaire acknowledges that it is the intention of the Commissioner of Crown Lands to transfer the administration of the Land to the Department of Conservation and the Concessionaire agrees that thereupon the occupation of the Land by the Concessionaire and the terms and conditions of this Concession shall immediately become governed by the Conservation Act 1987 and the provisions of this Concession referring to that Act shall have thereupon full force and effect and all references to the Grantor or the Commissioner of Crown Lands shall thereupon be read as if they are and always have been references to the Minister of Conservation.

1.	Type of stock	The Concessionaire may graze the following types of stock:  Merino wethers.
2.	Stock Limitations	<p>2.1 The Concessionaire may graze a maximum of up to 1200 wethers on the Land during the period between 1 May to 31 December inclusive in any year, provided that stock numbers and the duration of grazing may be adjusted so the level of grazing is no more than 0.4 stock units per hectare per annum each year and only between 1 May and 31 December inclusive.</p> <p>2.2 Notwithstanding special condition 2.1 above, the Concessionaire may, with the prior written consent of the Grantor having regard to the programme of soil and vegetation monitoring to be undertaken pursuant to clause 12 of Schedule 2, carry such additional number of stock on the Land on such terms and conditions as may be specified in the Grantor's consent and subject to the Grantor's right to revoke or vary such consent at any time.</p> <p>2.3 Notwithstanding special conditions 2.1 or 2.2 above, the Grantor may, having regard to the programme of soil and vegetation monitoring to be undertaken pursuant to clause 12 of Schedule 2, by notice in writing reduce the number of stock allowed on the Land on such terms and conditions as may be specified in the Grantor's notice and subject to the Grantor's right to revoke or vary such notice at any time. In exercising the Grantor's rights under this special condition it is agreed that the following trends in vegetation as determined by the programme of soil and vegetation monitoring constitute adverse effects and will result in reductions in stocking as outlined below. Adjustments in stocking rate will be effective from the start of each successive 5 yearly monitoring period.</p> <p>The maximum stocking rate may be reduced by 8% in light of the following trends:</p>

		<p>(a) If estimated mean bare ground (including rock and rubble) of all monitoring sites increases by more than 5 percentage points from initial monitoring results.</p> <p>(b) If tussock ground cover decreases by more than 5 percentage points from initial monitoring results.</p>
3.	Farm vehicles	The Concessionaire may use farm vehicles for the purposes of the Concession Activity and for pest management.
4.	Firearms	<p>The Concessionaire may use firearms for the purposes of the Concession Activity and for pest management.</p> <p>Members of the public who hold a hunting permit issued by the Director-General of Conservation shall be entitled to enter the Land with firearms in the period between 1 January and 30 April. For the avoidance of doubt there will be no public hunting on the Land from 1 May to 31 December.</p>
5.	Dogs and horses	The Concessionaire may use dogs and horses for the purposes of the Concession Activity and for pest management.
6.	Crops	<p>The Concessionaire may grow the following types of crops</p> <p>Nil</p>
7.	Fencing	The Concessionaire must maintain all fences, gates, stiles, bridges, culverts and drains in good condition.
8.	Wild Animal Control	<p>The Department of Conservation has full responsibility for exterminating or controlling wild goats on the Land.</p> <p>Pursuant to the provisions of the Wild Animal Control Act 1977 warranted officers and employees of the Department of Conservation or other authorised persons shall at all times have a right to enter upon the Land for the purposes of determining whether the Land or any adjoining land is infested with deer, wild goats, wild pigs, opossums, or other animals which the Department of Conservation is charged with the duty of exterminating or controlling, or for the purpose of destroying any such animals, provided that during the period 1 May to 31 December such officers and employees provide at least 24 hours advance notice to the Concessionaire of the requirement for access and in the performance of the said duties shall at all times avoid undue disturbance of the Concessionaire's stock.</p>

**SCHEDULE 4**

*Insert map or plan*

## SCHEDULE 5

### Monitoring Agreement

A programme of soil and vegetation monitoring will be carried out as follows:

- (a) The Grantor shall engage a suitably qualified ecologist who is acceptable to the Concessionaire to establish the transects and photo points described under clause (c) below, and to carry out the initial measurements. This shall be at the Grantor's cost.
- (b) The Concessionaire shall engage a suitably qualified ecologist who is acceptable to the Grantor to carry out the system of vegetation monitoring established by the Grantor, in the fourth year after the Commencement Date, and at five yearly intervals thereafter, using the methods described in clause "(c) Methodology" below. The cost of this remonitoring shall be shared equally between the Grantor and the Concessionaire.
- (c) Methodology:  
The monitoring programme is to be undertaken as follows:
  - (i) Four photo points are to be established by the Grantor or his ecologist to establish a baseline. Repeat photographs are to be taken at the intervals described in clause (b) above by the Concessionaire or his ecologist. The location of the photopoints should be selected to provide a representation of the special lease area.  
  
Photopoint locations should be marked with a 1 metre steel or fibreglass stake, labelled to identify the photopoint. The location should be recorded with a brief description, GPS location, and orientation.  
  
Photographs should be taken with a digital camera using a range of view approximately equivalent to a 55mm lens. The camera should be mounted on a tripod 1 metre above the ground.  
  
The photopoint should include permanent landscape features or permanent markers, to provide visual confirmation of relocation. Persons should not obstruct the image.  
  
A 1 metre stake graduated in 10cm black and white sections should be placed 20m from the photopoint to provide a reference for changes in vegetation height.  
  
Repeat photographs should replicate the orientation and range of view of the original image.
  - (ii) Five 50 metre transects are to be established by the Grantor's ecologist to establish a baseline suitable for assessing the ecological condition of the land and these are to be re-measured at the intervals described in clause (b) above by the Concessionaire's ecologist, the cost of re-measuring shall be met by the Concessionaire.
  - (iii) The following information is to be recorded from the transects:

A 50cm by 50cm quadrat will be placed every two metres along each transect and the following information recorded:

**Ground Cover** (expressed as a percentage to the nearest 5%, to total 100%), using the following classes:

- Rock and Rubble
- Bare Ground
- Litter
- Dead Vegetation
- Live Vegetation

**Species Present:**

All species found in each quadrat will be recorded as present. The frequency of occurrence is the % of quadrats in which the species is present.

**Cover Classes:**

Each Species present in each quadrat is given a cover class between 1-6 where:

- 1 = <1%
- 2 = 1-5%
- 3 = 6-25%
- 4 = 26-50%
- 5 = 51-75%
- 6 = 76-100%

**Photos:**

On each transect, photos will be taken looking up and down the line. These photos are in addition to the photopoints mentioned in (c)(i)

Photographs should be taken with a digital camera using a range of view approximately equivalent to a 55mm lens. The camera should be mounted on a tripod 1 metre above the ground. Repeat photographs should replicate the orientation and range of view of the original image.

The tape should be visible in the centre of the photo, and persons should not obstruct the image.

**Location:**

Transects should run directly upslope/downslope, with 0 metres being at the bottom of the transect.

The bottom and top of each transect should be permanently marked with 1 metre steel or fibreglass stakes, with a permanent label attached to the bottom stake.

The transect should also be pegged at 5 metre intervals with short aluminium rods, protruding approximately 5cm above ground, to aid relocation.

The location of the bottom and top poles should be recorded by GPS, and with a brief written location description.

- (iv) The Concessionaire is to keep updated records of the stock type, numbers, and duration of grazing in the special lease.
- (d) The Concessionaire shall within a reasonable period following monitoring provide the Grantor or his agent a report including the results from the monitoring, photos of the photo points, records of the stock type and numbers and time and duration of stocking for each block, and an analysis of the information gathered which leads to an assessment of the ecological health of the Land, as appropriate to the consideration of any stock adjustments as described in clauses 2.2 and 2.3 of Schedule 3 of the Lease document, or lease renewal as described in clause 2 of Schedule 2, the cost of which shall be met by the Concessionaire

Subsequent to each re-measurement the assessment of the ecological health of the Land should include an analysis of trends in vegetation composition and cover, compared to previous measurements.

The report should include appendices detailing the methodology, and recording all photopoint and transect site location details.

- (e) Except as otherwise stated, the cost of the vegetation monitoring programme and field observations is to be met by the Concessionaire.
- (f) The Grantor grants to the Commissioner, and any duly authorised agent of the Commissioner, a right of access onto the Land for the purposes of monitoring the Grantor's compliance with the covenants contained in this deed.

**Appendix 12: Copy of an unregistered Discharge Permit pursuant to Section 105 of the Resource Management Act 1991 in favour of The Department of Conservation, consent No. 97041**

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COUNTERPART

Consent No. 97041

**DISCHARGE PERMIT**

Pursuant to Section 105 of the Resource Management Act 1991, the Otago Regional Council grants consent to:

Name: Department of Conservation

Address: PO Box 5244, Dunedin

to discharge 200,000 litres per hour of water into Gees Creek

for a term expiring on 1 February 2022

for the purpose of operating a mining display centre

Location: Kawarau Gorge

Legal description of consent location: Run 330D, Cromwell Survey District

Map reference: NZMS 200 : F41:034660

Issued at Dunedin this 23<sup>rd</sup> day of April 1997.

A handwritten signature in cursive script that reads "Marian Weaver".

Marian Weaver

**Manager Resource Administration**

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**Appendix 13: Copy of an unregistered Water Permit pursuant to Section 105 of the Resource Management Act 1991 in favour of The Department of Conservation, consent No. 97042**



COUNTERPART

Consent No. 97042

**WATER PERMIT**

Pursuant to Section 105 of the Resource Management Act 1991, the Otago Regional Council grants consent to:

Name: Department of Conservation

Address: PO Box 5244, Dunedin

to take 200,000 litres per hour from Gees Creek

for a term expiring on 1 February 2022

for the purpose of operating a mining display centre

Location: Kawarau Gorge

Legal description of consent location: Run 330D, Cromwell Survey District

Map reference: NZMS 260 : F41:041668

Issued at Dunedin this 23<sup>rd</sup> day of April 1997.

A handwritten signature in cursive script that reads "Marian Weaver".

Marian Weaver

**Manager Resource Administration**

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**Appendix 14: Copy of an unregistered Discharge Permit pursuant to Section 105 of the Resource Management Act 1991 in favour of The Department of Conservation, consent No. 97043**

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COUNTERPART

Consent No. 97043

**DISCHARGE PERMIT**

Pursuant to Section 105 of the Resource Management Act 1991, the Otago Regional Council grants consent to:

Name: Department of Conservation

Address: PO Box 5244, Dunedin

to discharge 30,000 litres per day from a stamping battery operation into Gees Creek

for a term expiring on 1 February 2022

for the purpose of operating a mining display centre

Location: Kawarau Gorge

Legal description of consent location: Run 330D, Cromwell Survey District

Map reference: NZMS 260 : F41:043669

Issued at Dunedin this 23<sup>rd</sup> day of April 1997.

A handwritten signature in cursive script that reads "Marian Weaver".

Marian Weaver

**Manager Resource Administration**

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**Appendix 15: Form of Conservation Covenant CC1 to be Created**

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**DATED** \_\_\_\_\_

**Between**

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

**and**

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

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



Department of Conservation  
*Te Papa Atawhai*





<b>“Natural Water”</b>	includes water contained in streams the banks of which have, from time to time, been realigned.
<b>“Owner”</b>	means the person or persons who from time to time is or are registered as the proprietor(s) of the Land.
<b>“Party” or “Parties”</b>	means either the Minister or the Owner or both.
<b>“Values”</b>	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.
<b>“Working Day”</b>	means the period between any one midnight and the next excluding Saturdays, Sundays, and statutory holidays in the place where the Land is located.

1.2 For avoidance of doubt:

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

**2. OBJECTIVE OF THE COVENANT**

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

**3. THE OWNER’S OBLIGATIONS**

- 3.1 Unless agreed in writing by the parties, the Owner must not carry out or allow to be carried out on or in relation to the Land:
  - 3.1.1 grazing of the Land by livestock;
  - 3.1.2 subject to clauses 3.2.1 and 3.2.3, felling, removal or damage of any tree, shrub or other plant;

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

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

#### **4. THE MINISTER'S OBLIGATIONS**

- 4.1 The Minister must have regard to the objective specified in clause 2.1 when considering any requests for approval under this Covenant.

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

- 4.2 The Minister must repair and replace to its former condition any Fence or other improvement on the Land or on its boundary which may have been damaged in the course of the Minister or any person referred to in clause 3.2.5 exercising any of the rights conferred by this Covenant.

## **5. IMPLEMENTATION OF OBJECTIVES**

- 5.1 The Minister may;

5.1.1 provide to the Owner technical advice or assistance as may be necessary or desirable to assist in meeting the objectives specified in clause 2.1;

5.1.2 prepare, in consultation with the Owner, a joint plan for the management of the Land to implement the objective specified in clause 2.1.

## **6. DURATION OF COVENANT**

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

## **7. OBLIGATIONS ON SALE OF LAND**

- 7.1 If the Owner sells, leases, or parts with possession of the Land, the Owner must ensure that the Owner obtains the agreement of the purchaser, lessee, or assignee to comply with the terms of this Covenant, including any agreement by the purchaser, lessee, or assignee to ensure that on any subsequent sale, lease, or assignment, any subsequent purchaser, lessee, or assignee must also comply with the terms of this Covenant including this clause.

- 7.2 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.

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

**8.4 Titles**

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

**8.5 Acceptance of Covenant**

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

**8.6 Fire**

8.6.1 The Owner must notify, as soon as practicable, the appropriate Fire Authority and the Minister in the event of wild fire threatening the Land;

8.6.2 If the Minister is not the appropriate Fire Authority for the Land, the Minister will render assistance to the Fire Authority in suppressing the fire if:

8.6.2.1 requested to do so; or

8.6.2.2 if there is in place between the Minister and the Fire Authority a formalised fire agreement under section 14 of the Forest and Rural Fires Act 1977.

**9. NOTICES**

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

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

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

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

**10. DEFAULT**

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

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

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

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

10.2.1 advise the defaulting party of the default.

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

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

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

**11. DISPUTE RESOLUTION PROCESSES**

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

**11.2 Mediation**

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

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

**11.3 Failure of Mediation**

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

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

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

**12. JOINT OBLIGATIONS**

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

**13. SPECIAL CONDITIONS**

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

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

Executed as a Deed

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

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

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: \_\_\_\_\_

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

## SCHEDULE 1

### 1. Description of Land

*Shaded yellow and labelled "CC1 (Landscape and natural environment)*

(See attached plan)

### 2. Address for Service<sup>1</sup>

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

C/- Box 5244  
DUNEDIN

Fax (03) 477 8626

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

Kawarau Station Limited  
2 RD  
CROMWELL

Fax (03)

### 3. Values of Land to be Protected

Landscape amenity and natural environment values have been identified as;

#### **CC1 (Landscape and natural environment):**

##### Kawarau

The Nevis Valley is recognised in the Central Otago District Plan as an outstanding landscape of national importance. The area contains an impressive combination of natural features, including diverse indigenous vegetation, and subtle historic and cultural elements. It is flanked to the west by the glaciated Remarkables and Hector Range that contrast with rounded Central Otago block mountain range to the east. The Land contains diversity in physical features which include a rounded ridgeline studded with craggy tors. The mid section features surface slumping and outcrops of parent rock and fractured surface rock. At about the 750m contour there is a relatively well defined drop off into the Nevis River Gorge. At this point the river takes on wild and scenic qualities with in-stream elements such as white water rapids. The Lands lack of "built" elements and minimal sub-divisional fencing strengthens its overall sense of remoteness. Vegetation communities include riparian shrublands, short tussocklands and remnant tall tussocklands. Native vegetation patterns are typical of much of the Carrick land system, with relic *Chionochloa rigida* tussocklands, e.g., the upper faces and head of the Slapjack Creek tributary. Dense matagouri-Coprosma-*Olearia*-*Carmichaelia* shrublands flank lower slopes and stream channels. The Land also includes the upper part of the true left catchment of Slapjack Creek with its mid-altitude mixed shrublands and short tussocklands.

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<sup>1</sup> State street address not Post Office Box number.

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

## SCHEDULE 2

### Special Conditions

1. The Minister acknowledges that it is intended that the land be used for hydro electricity development, including the erection of transmission lines. Accordingly, it is agreed by the parties that a plan be prepared for submission to the Minister, which identifies the hydro electric development proposed, its location, extent, groundwork's, associated services and facilities, for the Minister's consent (such consent not to be unreasonably withheld). In considering the plan the Minister will read the provisions of the Covenant, including in particular the provisions of clause 3.1, so as not to prohibit the hydro electric development but with the ability to impose such conditions as may be deemed reasonable to avoid, remedy or mitigate adverse effects upon the values identified in this Covenant.
2. Clause 3.1.1 is deleted and replaced with the following;
  - 3.1.1 grazing of the Land by livestock, other than sheep;
3. Clause 3.1.2 is deleted. The Central Otago District Plan Rules relating to the clearance of native trees, shrubs, or other plants shall apply. Further, the Owner is to meet as required with the Department of Conservation Central Otago Area Manager or relevant staff to discuss and reach agreement on briar control areas within the Land, to be treated and methods to be used on the Land.
4. Clause 3.1.4 is modified to allow the Owner to;
  - 4.1 upgrade and maintain the existing Holly and Stone huts located on the Nevis Face.
  - 4.2 The siting and design of any buildings will require the prior written agreement of the Minister of Conservation to mitigate any adverse landscape effects, before any work on the ground commences.
5. Clause 3.1.5 is deleted and replaced with the following;
  - 3.1.5 any burning, chemical spraying, top dressing or sowing of seed, other than weed control operations and methods agreed to in special condition 3 for the control of briar.
6. Clause 3.1.6 is deleted and replaced with the following;
  - 3.1.6 any cultivation, earth works or other soil disturbances, other than for the maintenance of existing tracks;
7. Notwithstanding clause 3.2.6, that portion of the boundary fence between the Conservation Area and the Land subject to this Covenant will be maintained and in the future replaced as required on the basis of 50/50 sharing of costs between the Minister and the Owner.
8. Clause 3.2.4 is amended to read;
  - 3.2.4 keep the Land free from rubbish or other unsightly material arising from the Owner's use of the Land. The Owner is not responsible for wind blown rubbish from the local landfill;
9. The Minister will pay to the Owner a proportionate share of the following;
  - 9.1 the cost of any work under clause 3.2 if the Minister has first approved the work.

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.



10. The proportionate share payable by the Minister is to be calculated having regard to the purpose of the expenditure with the intent that:

- 10.1 the Minister will bear the cost of work essential for purposes of landscape protection;
- 10.2 the Owner will bear the cost of work essential for farming purposes;
- 10.3 when the expenditure is partly for landscape protection and partly for farming 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.

11. Clause 7.2 is deleted.

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

**GRANT** of

Correct for the purposes of the  
Land Transfer Act 1952

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

Solicitor for the Minister

**COMMISSIONER OF CROWN  
LANDS**

to

**MINISTER OF CONSERVATION**

---

**Solicitor  
Department of Conservation  
DUNEDIN/CHRISTCHURCH**

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

**Appendix 16: Form of Conservation Covenant CC2 to be Created**

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**DATED** \_\_\_\_\_

**Between**

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

**and**

**MINISTER OF CONSERVATION**  
**(“the Minister”)**

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



Department of Conservation  
*Te Papa Atawhai*

**THIS DEED of COVENANT** is made the                      day of

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

**AND**    **MINISTER OF CONSERVATION**

**BACKGROUND**

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

**OPERATIVE PARTS**

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

**1. INTERPRETATION**

1.1 In this Covenant unless the context otherwise requires:

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

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

1.2 For avoidance of doubt:

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

**2. OBJECTIVE OF THE COVENANT**

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

**3. THE OWNER’S OBLIGATIONS**

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

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

#### **4. THE MINISTER'S OBLIGATIONS**

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

#### **5. IMPLEMENTATION OF OBJECTIVES**

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

#### **6. DURATION OF COVENANT**

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



**7. OBLIGATIONS ON SALE, ASSIGNMENT OR OTHER DEPOSAL OF LAND**

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

**8. MISCELLANEOUS MATTERS****8.1 Rights**

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

**8.2 Trespass Act:**

- 8.2.1 Except as provided in this Covenant, the Covenant does not diminish or affect the rights of the Owner to exercise the Owner's rights under the Trespass Act 1980 or any other statute or generally at law or otherwise;

- 8.2.2 For avoidance of doubt these rights may be exercised by the Owner if the Owner reasonably considers that any person has breached the rights and/or restrictions of access conferred by this Covenant.

**8.3 Reserves Act**

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

**8.4 Titles**

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

**8.5 Acceptance of Covenant**

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

**8.6 Fire**

- 8.6.1 The Owner must notify, as soon as practicable, the appropriate Fire Authority and the Minister in the event of wild fire threatening the Land;

- 8.6.2 If the Minister is not the appropriate Fire Authority for the Land, the Minister will render assistance to the Fire Authority in suppressing the fire if:

8.6.2.1 requested to do so; or

8.6.2.2 if there is in place between the Minister and the Fire Authority a formalised fire agreement under section 14 of the Forest and Rural Fires Act 1977.

## 9. NOTICES

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

## 10. DEFAULT

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

## 11. DISPUTE RESOLUTION PROCESSES

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

### 11.2 Mediation

- 11.2.1 if the dispute is not capable of resolution by agreement within 14 days of written notice by one party to the other (or such further period as the parties may agree to in writing) either party may refer the dispute to mediation with a mediator agreed between the parties;
- 11.2.2 if the parties do not agree on a mediator, the President of the local branch of the New Zealand Law Society in the region in which the Land is situated is to appoint the mediator.

### 11.3 Failure of Mediation

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

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

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

**12. JOINT OBLIGATIONS**

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

**13. SPECIAL CONDITIONS**

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

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

Executed as a Deed

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

Witness: \_\_\_\_\_

Address : \_\_\_\_\_

Occupation: \_\_\_\_\_

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

Witness: \_\_\_\_\_

Address : \_\_\_\_\_

Occupation: \_\_\_\_\_

**SCHEDULE 1****1. Description of Land**

(See attached plan)

*Shaded yellow and labelled "CC2 (Outstanding natural landscape/ land above 900m)" on the Designations Plan.*

**2. Address for Service<sup>1</sup>**

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

C/- Box 5244  
DUNEDIN

Fax (03) 477 8626

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

Kawarau Station Limited  
2 RD  
CROMWELL

Fax (03)

**3. Values of Land to be Protected**

**CC2 (Outstanding natural landscape and land above 900m) values have been identified as:**

**Mt Difficulty**

The Land includes the northern and western facing slopes of Mt Difficulty from the start of Kawarau Gorge to the Nevis River confluence. The Kawarau Gorge is the last remaining spectacular semi-arid rocky river gorge in Otago. The wild and scenic characteristics of the Kawarau have been recognised by the Water Conservation (Kawarau) Order 1997. Recognition of the high scenic value of the gorge complements the Order and recognises the values of the gorge as a scenic corridor on State Highway 6. The Kawarau Gorge is recognised in the Central Otago District Plan as an outstanding landscape of national significance.

The Kawarau Faces form part of the north and west flanks of the Carrick Range and a major part of the distinctive landscape of the Kawarau Gorge. A rocky terrace of varying width extends above the river along most of the gorge. Mt Difficulty rises steeply above the terrace. The slopes are typically colluvial of impressive bluffs, buttresses and steep unstable slopes. A distinctive feature is the contrasting smooth colluvial slopes and rugged rocky bluffs.

Rock cut linear watercourses occur at intervals. Landslide topography is characteristic of the western flank.

The Kawarau Faces are characteristically barren, dry and in many areas degraded. Erosion, both natural and accelerated by human influence, is a dominant feature. The impact of rabbits is very evident.

The terrace country is predominantly briar intermixed with matagouri, bracken fern, mixed grassland and introduced herbs. The appearance of the briar covered terraces changes with the seasons from a bright green in spring and summer to yellow/red in autumn to predominantly red in winter. Some broom and lupin have established opposite Gentle Annie.

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<sup>1</sup> State street address not Post Office Box number.

The landcover on the western flank of Mt Difficulty is primarily bracken, matagouri, briar, patches of grass and herbaceous species. Higher up is fescue tussockland with large areas sheet eroded.

Thyme is the dominant cover in places, e.g. the steep face below the Nevis-Kawarau confluence. Also below the confluence are small clumps of remnant flax confined to damp sites.

The north flank below Roaring Meg has less briar with thyme dominant on the lower slopes. On upper slopes there is much bare ground with sparse native broom and localised scrub confined mainly to gullies.

Isolated wilding pines occur opposite Waitiri homestead. Douglas fir is spreading on the terraces across from Roaring Meg.

Located near the summit of Mt Difficulty are several telecommunication towers grouped together within a fenced area.

Historic/cultural features are an essential part of the Kawarau Gorge landscape (particularly the section from Roaring Meg downstream to the end of the Gorge). Gold mining tailings, huts, earth dams and plantings are dotted along the river terrace. The latter include a group of poplars above Whata to Rere (the Natural Bridge) downstream to the start of the Gorge.

#### Kawarau

The Land encompasses the whole of the rolling uplands which tilt gently towards the south-west corner of the property. The drainage pattern is confined to two main streams. The landform has a very subdued topography. Slight changes in relief create a subtle landscape where the differences between rounded ridgelines are determined by individuality of the rocky outcrops which protrude above the skyline. Groundcover across these uplands is also subtle with irregular patterns formed when tussockland communities merge in to create a cohesive landscape. The distribution of tussock communities is dictated by aspect, altitude, and possibly burning history.

Remnants of taller *Chionochloa rigida* grasslands occur in the upper reaches of Pipeclay Gully and Smiths Gully. Bare ground resulting from sheet erosion is prevalent in the headwaters of Long Gully. Shrublands are scattered throughout and form locally dense "ribbons" along streams and associated steeper slopes. These are dominated by briar and to a lesser degree matagouri, with occasional *Olearia odorata* and *O. bullata*. At higher altitudes matagouri dominates and *Aciphylla aurea* become more common.

In visual terms this area conveys a strong impression of uniformity with the simplicity of the various grassland communities being overlaid on a subdued landform, which combines to form a distinctive high country landscape that has muted visual qualities. Furthermore the overall intactness of the landscape patterns and ecological processes combine to make this area a significant natural landscape.

**SCHEDULE 2****Special Conditions**

1. Clause 3.1.1 is deleted.
2. Clause 3.1.2 is deleted. The Central Otago District Plan Rules relating to the clearance of native trees, shrubs, or other plants shall apply.
3. Clause 3.1.3 is deleted. The Owner must not plant any species of tree or shrub plant, but may plant local native plants. The Owner may replace existing exotic shelter belts or woodlots.
4. Clause 3.1.4 is modified to allow the Owner to;
  - 4.1 construct a hut for trampers' accommodation on land adjacent to the proposed public access easement opposite Gentle Annie.
  - 4.2 construct a new hut or upgrade and maintain the existing hut at the gum trees below the Roaring Meg
  - 4.3 The siting and design of any buildings will require the prior written agreement of the Minister of Conservation to mitigate any adverse landscape effects, before any work on the ground commences.
  - 4.4 erect any sheep/cattle fence.
5. Notwithstanding clause 3.1.4, several telecommunication towers exist within a fenced enclosure near the summit of Mt Difficulty. Requests for co-siting of additional towers or structures will be considered on a case by case basis on their merits by the Minister.
6. Clause 3.1.5 is modified to allow the Owner to continue to topdress and sow seed of pasture species, on those areas of the Land previously oversown and top dressed.
7. Clause 3.1.6 is modified to allow for the maintenance of existing tracks, and any new cultivation, earth works or other soil disturbances that, in the sole opinion of the Minister, is of an insignificant scale.
8. Clause 3.1.9 is amended to read;
  - 3.1.9 any action which will cause deterioration in the natural flow, supply, quantity, or quality of water of any stream, river, lake, pond, marsh, water race or any other water resource affecting the Land or downstream aquatic ecosystem;
9. Notwithstanding clause 3.1.9 (as amended), the Owner may allow permit holders of water rights for the Carrick water race which runs through the Land to undertake all necessary works to maintain the Carrick water race.
10. Clause 3.2.4 is amended to read;
  - 3.2.4 keep the Land free from rubbish or other unsightly material arising from the Owner's use of the Land. The Owner is not responsible for wind blown rubbish from the local landfill;
11. The Minister will pay to the Owner a proportionate share of the following;
  - 11.1 the cost of any work under clause 3.2 if the Minister has first approved the work.
12. The proportionate share payable by the Minister is to be calculated having regard to the purpose of the expenditure with the intent that:

- 12.1 the Minister will bear the cost of work essential for purposes of landscape protection;
- 12.2 the Owner will bear the cost of work essential for farming purposes;
- 12.3 when the expenditure is partly for landscape protection and partly for farming 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.

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Department of Conservation  
DUNEDIN/CHRISTCHURCH**