

Crown Pastoral Land Tenure Review

Lease name: MARYBURN

Lease number: PT 041

Preliminary Proposal

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.

December

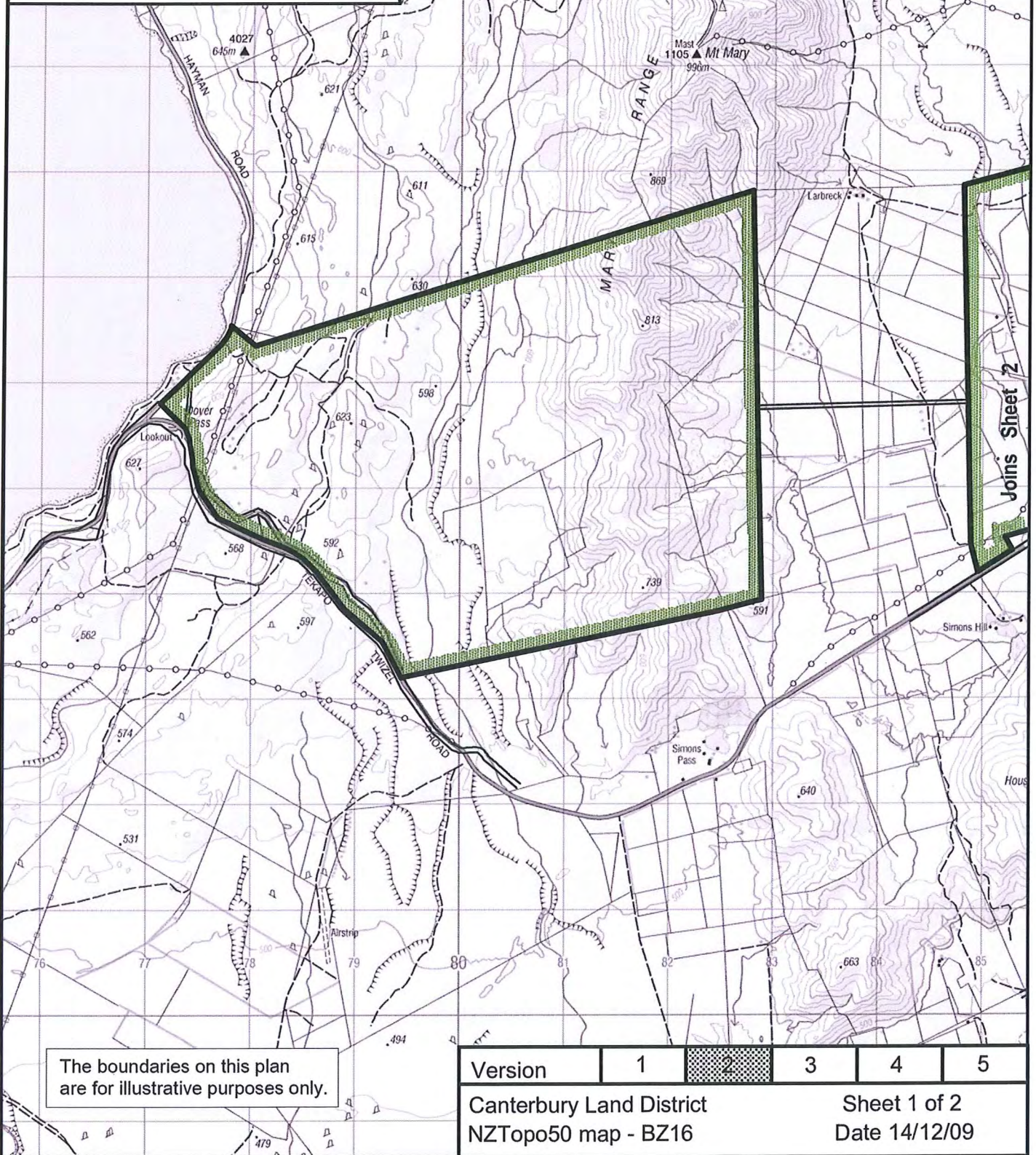
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1 The Plan

**Pt 041 MARYBURN TENURE REVIEW
PROPOSED DESIGNATIONS**



Pastoral lease land to be disposed of by freehold disposal to Classic Properties Limited.



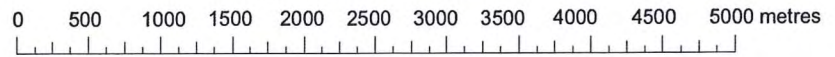
The boundaries on this plan are for illustrative purposes only.

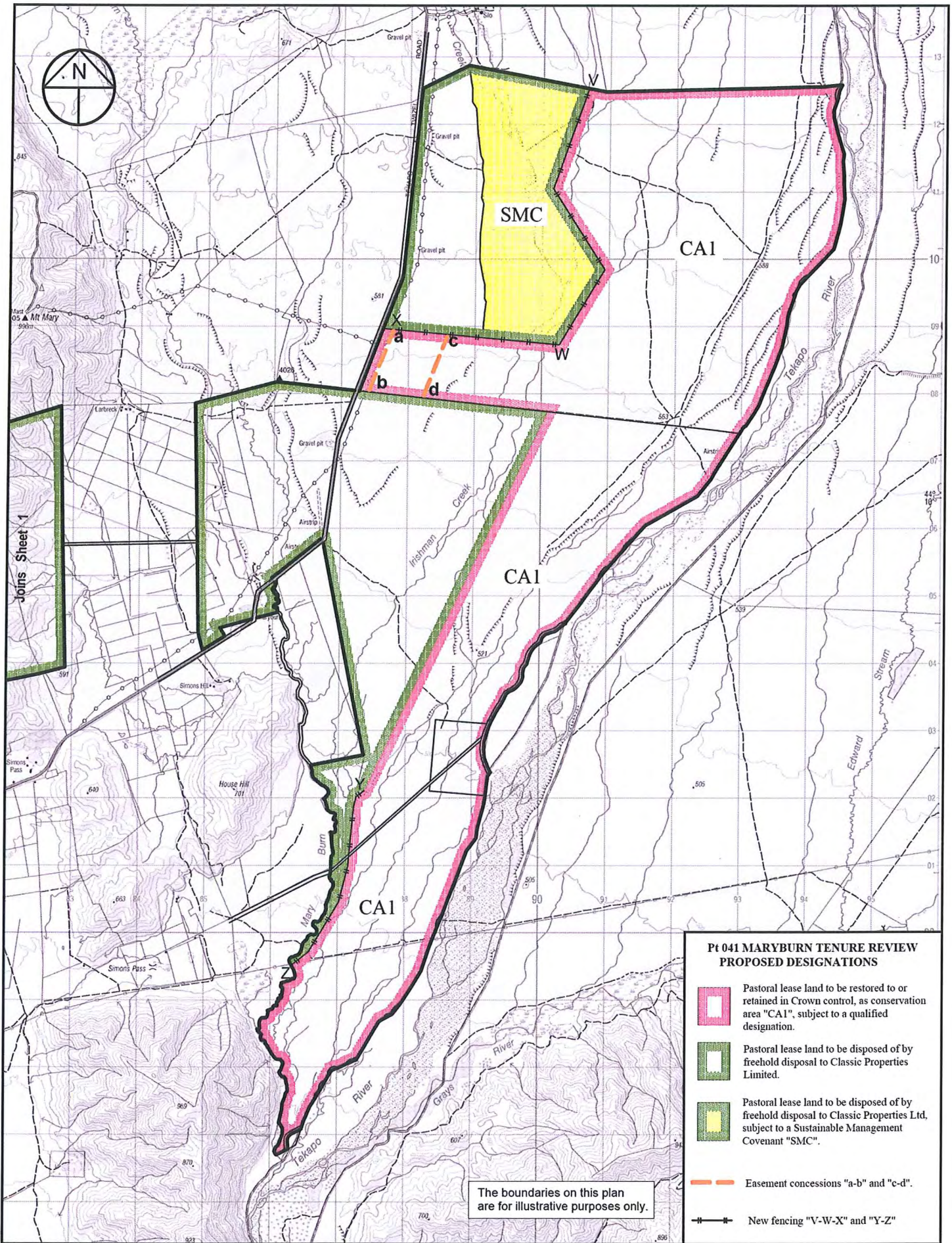
Version	1	2	3	4	5
Canterbury Land District NZTopo50 map - BZ16			Sheet 1 of 2 Date 14/12/09		








Maryburn

Scale 1:50000 (@ A4)





**Pt 041 MARYBURN TENURE REVIEW
PROPOSED DESIGNATIONS**

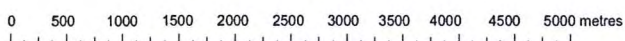
-  Pastoral lease land to be restored to or retained in Crown control, as conservation area "CA1", subject to a qualified designation.
-  Pastoral lease land to be disposed of by freehold disposal to Classic Properties Limited.
-  Pastoral lease land to be disposed of by freehold disposal to Classic Properties Ltd, subject to a Sustainable Management Covenant "SMC".
-  Easement concessions "a-b" and "c-d".
-  New fencing "V-W-X" and "Y-Z"

The boundaries on this plan are for illustrative purposes only.



Maryburn

Scale 1:50000 (@ A3)



Version	1	2	3	4	5
Canterbury Land District				Sheet 2 of 2	
NZTopo50 map - BZ16				Date 14/12/09	

2 Conditions

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

3 Settlement

- 3.1 Unless otherwise agreed by the parties, the Settlement Date for the disposal of the Freehold Land to the Holder by freehold disposal will be the day that is TEN (10) working days following the day on which 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 the 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 the Lease is subject to a Rent Review, then 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

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

- 4.2 If the Holder fails to pay the Holder's Payment or any part of it or any other money to the Commissioner or to the duly appointed agent of the Commissioner on the Settlement Date clause 19 will apply.

5 Commissioner's Payment

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

6 Vesting of Crown Land

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

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 a certificate to the Registrar pursuant to section 116 of the Land Act 1948 (to enable a certificate of title to issue for the Freehold Land) unless and until:
- (a) the Commissioner has received the Holder's Payment from the Holder under clause 4, and all other money payable by the Holder under this Proposal and the Notice;
 - (b) the Holder has provided to the Commissioner duplicate copies of the certificate of title relating to the Lease (if any) and/or the Lease if requested by the Commissioner;
 - (c) the Holder has signed and returned to the Commissioner all documents required by the Commissioner to be signed by the Holder to give effect to this Proposal (including, without limitation, any permit, covenant, easement and/or any other document); and
 - (d) the Holder has procured a registrable discharge of any Mortgage and provided this to the Commissioner together with any new mortgage documents to be registered against the Freehold Land.

8 Registration of Documents

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

9 Consents

- 9.1 The Holder must obtain the written consent to the Holder's acceptance of this Proposal from all persons having an interest in the Land (other than the Holder), including, but not limited to:
- (a) any Mortgagee(s);
 - (b) any party entitled to the benefit of a land improvement agreement registered against the Lease and/or the Land; and
 - (c) any other person that the Commissioner reasonably believes has an interest in the Land or who the Holder reasonably believes has an interest in the Land, whether registered or not.
- 9.2 The consents required under clause 9.1 must be in a form acceptable to the Commissioner in all respects and be returned to the Commissioner with this Proposal on its acceptance by the Holder. Examples of the form of consents required under clause 9.1 are set out in Appendix 1.
- 9.3 The Holder must also obtain, and provide to the Commissioner if requested, all consents necessary for the Holder to accept this Proposal including (without limitation) any:
- (a) corporate and/or trustee consents; and

- (b) consent required under the Overseas Investment Act 2005 and the Overseas Investment Regulations 2005.
- 9.4 The Holder will procure the Mortgagee to execute a registrable discharge of the Mortgage and, if required by the Mortgagee, the Holder will execute registrable new mortgage documents and forward these to the Commissioner to be registered as set out in clause 8.
- 9.5 If required by the Mortgagee, the Commissioner will provide an undertaking that, subject to the provisions of clause 7 being satisfied, the Commissioner will register the discharge of the Mortgage and register any new mortgage against the certificate of title for Freehold Land at the same time as the certificate of title for the Freehold Land issues.

10 Continuation of Lease

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

11 Fencing and Construction Works

- 11.1 If the Holder has 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 Holder agrees that the Commissioner may register a covenant, on terms entirely satisfactory to the Commissioner (in the Commissioner's sole discretion), over the Freehold Land to enable the Commissioner to complete the Fencing. The 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 the Holder has accepted this Proposal and that acceptance has taken effect pursuant to the Act, [the Commissioner] [the Holder] [both parties] 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 the 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

- 12.1 Rent payable under the Lease in respect of the Freehold Land shall be apportioned as follows:
- (a) Rent paid or payable will be apportioned on the Settlement Date as at the Settlement Date and either deducted from or added to (as the case may be) the amount required to settle.
 - (b) Notwithstanding that the Lease continues in effect until a certificate of title issues for the Freehold Land, the Holder shall not be required to pay any rent under the Lease for the Freehold Land from the Settlement Date.
- 12.2 Rent paid or payable under the Lease for the Crown Land will be apportioned on the Settlement Date as at the Vesting Date and either deducted from or added to (as the case may be) the amount required to settle.
- 12.3 All rates, levies, and all other incomings and outgoings and other charges receivable from or charged upon the Freehold Land will, unless otherwise agreed by the parties, be apportioned on the Settlement Date as at the Settlement Date.

- 12.4 All rates, levies and all other incomings and outgoings and other charges receivable from or charged upon the Crown Land will be apportioned on the Settlement Date as at the Vesting Date and either deducted from or added to (as the case may be) the amount required to settle.
- 12.5 Following the date that a certificate of title issues for the Freehold Land, the Commissioner will undertake a final apportionment and either the Commissioner will pay to the Holder, or the Holder will pay to the Commissioner, any additional amounts due because of any payments made or received by one party on behalf of the other for the period from the Settlement Date to the date on which a new certificate of title issues for the Freehold Land.

13 Risk

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

14 Survey

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

15 Holder's Acknowledgements

- 15.1 If the Holder accepts this Proposal and that acceptance takes effect under the Act, the Holder acknowledges that:
- (a) it is obtaining the freehold interest in the Freehold Land:
 - (i) "as is", solely in reliance on its own investigations and judgement; and
 - (ii) not in reliance on any representation or warranty made by the Commissioner, its employees, agents or any other person or persons directly or indirectly associated with the Commissioner;
 - (b) the Holder has carried out all inspections of the Freehold Land which the Holder considers necessary to satisfy itself as to all matters relating to the Freehold Land;
 - (c) the Holder, at its cost, is entirely responsible for all work to ensure that the Freehold Land complies with all applicable laws including (without limitation):
 - (i) the Resource Management Act 1991 and the Resource Management Amendment Act 2005; 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 the Building Amendment Act 2009; and

the Holder hereby indemnifies and will indemnify the Commissioner against all losses, damages and expenses incurred by the Commissioner and against all claims made against the Commissioner in respect of any work or costs for which the Holder is liable under this clause 15;

- (d) nothing in this Proposal is affected by, and the Commissioner has no liability of any nature in respect of, the existence or terms of any leases, licences or other occupation rights of any nature (if any) granted by the Holder in respect of the Land; and
- (e) the Holder has no claim (and will not have any claim) whatsoever against the Crown and/or Commissioner in relation to the Tenure Review and/or this Proposal, including (without limitation) any claim for any misrepresentation or for any loss or damage suffered whether in contract, tort (including negligence) or otherwise.

16 No Representations or Warranties by the Commissioner

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

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

18 Solicitors Certificate

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

19 Default

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

20 Goods and Services Tax

- 20.1 The Commissioner and the Holder warrant to each other that they are registered for GST purposes.

- 20.2 On the 10th working day following the Unconditional Date, the Commissioner will provide to the Holder a GST invoice in respect of the supply evidenced by the Holder's Consideration. The invoice will specify the Commissioner's GST Date.
- 20.3 The Holder will pay GST on the Holder's Consideration to the Commissioner by bank cheque on the Commissioner's GST Date, time being of the essence.
- 20.4 On the 10th working day following the Unconditional Date, the Holder will provide to the Commissioner a GST invoice in respect of the supply evidenced by the Commissioner's Consideration.
- 20.5 The Commissioner will pay GST on the Commissioner's Consideration to the 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 the Holder (as the case may be) in accordance with this clause 20, the Holder will pay to the Commissioner, or the Commissioner will pay to the Holder (as the case may be), upon demand and together with the unpaid GST:
- (a) interest, at the Default Rate, on the amount of the unpaid GST and which will accrue from the Commissioner's GST Date until the date of payment of the unpaid GST; and
 - (b) any Default GST.

21 Lowest price

- 21.1 The Holder's Consideration does not include any capitalised interest and the parties agree that the "lowest price" for the purposes of valuing the Freehold Land under section EW 32(3) of the Income Tax Act 2007 is equal to the Holder's Consideration.
- 21.2 The Commissioner's Consideration does not include any capitalised interest and the parties agree that the "lowest price" for the purposes of valuing the Crown Land under section EW 32(3) of the Income Tax Act 2007 is equal to the Commissioner's Consideration.

22 Costs

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

23 No nomination or assignment

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

24 Recreation Permit

- 24.1 Immediately on the registration of the Final Plan 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

- 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 the proposal as Crown Land then the Holder agrees to act in good faith whilst exercising the terms of consent and not damage or destroy the Crown Land or anything thereon.

26 General

- 26.1 This Proposal and the Notice:
- (a) constitute the entire understanding and agreement between the Commissioner, the Crown and the Holder in relation to the Tenure Review; and
 - (b) supersede and extinguish all prior agreements and understandings between the Crown, the Commissioner and the Holder relating to the Tenure Review.
- 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 The 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 the Holder will sign and execute all deeds, agreements, schedules and other documents and do all acts and things as may be reasonably required by the other to effectively carry out and give effect to the terms and intentions of this Proposal.
- 26.5 This Proposal is governed by, and must be construed under, the laws of New Zealand and the Commissioner and the Holder irrevocably submit to the jurisdiction of the New Zealand courts or other New Zealand system of dispute resolution.
- 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 the Holder is to send its acceptance of this Proposal (which the Commissioner will specifically notify the 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

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 the Holder by equality of exchange for the surrender of the leasehold interest in the Lease in relation to the Crown Land, as specified in the Notice;

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

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

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

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

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

Fencing means any stock proof farm fence.

Fencing Consent means any and all consents required for fencing 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 set out in Schedule Three;

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

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

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

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

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

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

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

Mortgagee means the holder of any Mortgage;

Notice means the notice to the Holder setting out:

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

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

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

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

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

Settlement Date means the settlement date defined in clause 3.1;

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

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

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

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

Working day means a day that is not a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's birthday, Labour Day, or a day during the period commencing on any Christmas Day and ending with the 15th 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 Resource Management Amendment Act 2005; and/or 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 the Holder comprises more than one person, each of those persons' obligations, as Holder, will be both joint and several.

Schedule One: Provisions relating to the Schedule One Land

1 Details of Designation

Nil

2 Schedule One Improvements

Nil

Schedule Two: Provisions relating to the Schedule Two Land

1 Details of designation

- 1.1 Under this Proposal the land shown marked in pink on the Plan and labelled "CA1", being 3,430 hectares (approximately) is designated as land to be restored to or retained in Crown control as conservation area subject to:
- (a) the granting of the easement concession for farm management purposes (shown marked "a-b" on the Plan) substantially as set out in Appendix 4;
 - (b) the granting of the easement concession for the installation and maintenance of an irrigation pipeline (shown marked "c-d" on the Plan) substantially as set out in Appendix 4.

2 Information Concerning Proposed Concession

1 Description of the proposed activity:

Easement Concession for the adjoining landholder for farm management purposes and stock access and for the installation, maintenance and repair of a water supply system.

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

One easement area is required for access, as marked on the plan attached to the Proposal. The easement route runs along the property boundary adjacent to the Tekapo Twizel Road. It crosses the proposed Conservation Area for a distance of approximately 1 kilometre to give access for vehicles and stock for farm management purposes from the northern area of proposed freehold land to the southern area of proposed freehold land which are bisected by the proposed Conservation Area.

The second easement area is required for the installation, maintenance and repair of a water supply system, as marked on the plan attached to the Proposal. The easement route is located parallel to the Tekapo Twizel Road approximately 1 kilometre east of the road and crosses the proposed Conservation Area for a distance of approximately 1 kilometre. The easement provides for a water supply system for stock water and irrigation to be established between the northern area of proposed freehold land and the southern area of proposed freehold land which are bisected by the proposed Conservation Area.

3 Description of potential affects of proposed activity and any actions proposed to avoid, mitigate or remedy any adverse affect

The easement concession route for farm management and stock access purposes provides the most practical access route across the proposed Conservation Area that bisects the two proposed freehold areas. The width of the easement concession is limited to 20m and is located adjoining the Tekapo Twizel Road so any affects of stock or vehicles will generally be limited and confined to the width of the easement area which is located beside the property boundary.

The easement concession for the water supply requires the establishment to be within the confines of the easement area which is limited to 5m. Once initial disturbance has occurred in the establishment of the water supply, any further affects will be limited to maintenance and repairs.

Any affects on the easement areas will be mitigated by the terms of the concession including restrictions on earth disturbance, depositing of materials, lighting of fires and disturbance of waterways.

4 Details of the proposed type of concession:

An easement concession under S. 17Q (1) Conservation Act 1987.

5 Proposed duration of concession and reason for proposed duration.

Proposed duration: in perpetuity.

Both easement concession areas are essential to the running of the farming operation to enable the continuation of convenient access and a water supply between two areas of land suitable for freeholding that have been bisected by the proposed Conservation Area on the Tekapo River flats. The period for the concession will allow surety for the ongoing operation of the farm.

6 Relevant information:

Mary Burn Station has entered into this review voluntarily. The proposed easement concessions are essential for ongoing management of the farm and the effects on the area which the easement routes are to cross will be limited.

Schedule Three: Provisions relating to the Schedule Three Land

1 Details of designation

- 1.1 Under this Proposal the land shown marked in green on the Plan, being 4,946 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 covenant (shown on the Plan in yellow and labelled "SMC") substantially as set out in Appendix 5.

Schedule Four: Conditions

- 1 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 4 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 covenant referred to in Appendix 5 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

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

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

Dated:

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

Witness Signature: _____

Witness Name:
Occupation:
Address:

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

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

Dated:

SIGNED for and on behalf of) _____
[])
in the presence of:)

Witness Signature: _____

Witness Name:
Occupation:
Address:

Appendix 2: Example of Solicitors Certificate

Certifications

I [] hereby certify as follows:

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

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

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

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

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

Yours faithfully
[signed by principal of law firm]

Appendix 3: Indicative Fencing and Construction Requirements

1. New fences:

For the purposes of this fencing and construction specification and attachments, the terms "Waypoint" and "GPS point" and abbreviations "WP" and "WPT" have the same meaning; that being a latitude and longitude reference point on the earth's surface as identified by a global positioning system (GPS) unit.

Background:

The agreement between the Commissioner of Crown Lands (Commissioner) and Classic Properties Limited (the Holders) requires the erection of conventional fences fence with rabbit netting on the boundary of the conservation area set out hereunder.

The Commissioner will, at its cost, remove the existing sub-standard fence located between points "V-W" and erect a. new conventional fences with rabbit netting will be erected along the lines shown marked ""V-W-X" and "Y-Z"" on the Plan.

The fencing specification calls for the erection of a wooden post and seven wire fence with steel Y stakes between posts and rabbit netting, to the indicative requirements set out in 3.

2. Length and location:

2.1 New fences are to be erected along the lines marked as follows on the plan:

Conservation area "CA1" conventional perimeter fence with rabbit netting shown marked "V-W-X" (approximately 4300 metres) and "Y-Z" (approximately 2500 metres).

Total 6800 metres.

3. New Fence Lines

New fences will be required on part of the boundaries of Conservation Area "CA1

Conservation Area "CA1". A new fence will be required on part of the boundary of Conservation Area "CA1" (fence line "V-W-X" and "Y-Z"), shown on the plans enclosed with these specifications.

The Commissioner will remove the existing fence "V-W" so that the new fence can be erected on the same line.

Pre-fencing Construction Works – item 3.1

3.1 The existing sub-standard conventional fence "V-W" is to be dismantled and removed and the new fence erected on the same line.

The Commissioner will, at its cost, erect a steel post and seven wire conventional fence with rabbit netting to the following indicative requirements:

Conventional steel post and wire fences – items 3.2 / 3.6

3.2 Six x 4 mm galvanized mild steel wires, plus top wire to be 1.6 mm high tensile reverse twist galvanized barbed wire. Total of 7 wires.

- 3.3 900 mm high x 41 mm mesh rabbit proof netting is to be attached to the new fences
- 3.4 1.85 metre T-iron strainer posts with multiple tie-backs to be used for angles, gateways and end of strains.
- 3.5 1.65 metre T-iron intermediate posts to be used at 20 metre gaps or at lesser intervals on appropriate high and low points as required. 117 cm (46") to remain out of the ground.
- 3.6 Six steel Y stakes per 20 metres to be used. Y stakes will be mostly 1.5 metre (5') with 1.35 metres (4'6") on rocky ground and 1.7 metre (5'6") to be used on soft ground.
- 3.7 4 x 3.6 metre gate to be erected at point marked GT1, 1,3, and 4.

Vegetation and Ground Clearance Requirements – item 3.13 / 3.15

- 3.8 Lines are to be hand cleared to remove vegetation and debris to provide a suitable fence line. No mechanical benching or clearance is permitted.
- 3.9 Vegetation includes hand removal of tussock in direct line of fence.
- 3.10 Hand clearing of matagouri and scrub is required to 1 metre either side of the fence line.

4. Preliminary and General Matters

4.1 New Materials

All materials forming a permanent part of the fence shall be new and shall conform to any relevant New Zealand or international standard.

4.2 Standards

New materials forming a permanent part of the specified fence shall conform to the applicable standard. Such materials shall either identify the applicable standard on the label or certificate from the supplier or manufacturer shall be supplied stating the materials have been manufactured in a process that has been tested and which conforms to that standard.

Current standards that apply to fencing materials include but may not be limited to:

- 3471:1974 (NZS) Specifications for galvanized steel fencing wire plain and barbed.
- 3607:1989 (NZS) Specifications for round and part round timber fence posts.
- 3640:1992 (NZMP) Specifications of the minimum requirements of the NZ Timber Preservation Council Inc.
- D360:1986 (NZS/ASTM) Creosote Treatment
- 4534:1998 (AS/NZS) Zinc and zinc/aluminium alloy coating on steel wire.
- 4680:1999 (AS/NZS) Hot dip galvanized (zinc) coating on fabricated ferrous articles.

Where no applicable standard exists then materials shall be of best quality as generally accepted in the New Zealand farming and fencing industries.

Documentation would be required of:

- Manufacturers (or suppliers) warranties and test certificates where applicable.
- Guarantee certificates that transfer to the owners of the completed fences.
- Remedies available under the guarantee.
- Installation instructions for hardware where applicable to the warrantee and guarantee.

4.3 Blasting

Any blasting required to loosen or remove rock shall be undertaken using electric detonators to reduce the risk of fire.

4.4 Drilling

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

4.5 Spiking

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

4.6 Lacing

The top wire is to be laced to the top of the steel Y stake with 3.15 mm (9 gauge) wire.

4.7 Land Disturbance

No earth disturbance unless separately specified.

5. **Materials General**

To be used except where these have been specifically modified by the provisions of Clause 7 which shall take precedence.

5.1 Wire

Fence wire will be 2.5mm galvanized high tensile steel wires, 4 mm galvanized mild steel wire and 1.6 mm galvanized high tensile reverse twist barbed wire all of which are to be of good quality. Tie-downs and tie-backs will be 4mm galvanized mild steel kept clear of any ground contact.

5.2 Infill Posts

Infill posts will be steel Y stakes or galvanized T irons for use on high spots.

5.3 Strainer, Intermediate and Angle Posts

All timber posts used will be round and ground treated.

5.4 Stay Block

12 x 2 x 24 ground treated.

5.5 Staples

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

5.6 Permanent Wire Strainers

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

5.7 Crossing Netting

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

5.8 Gates

The swung gates shall be manufactured of 32 mm 2.6wt galvanized steel pipe frame, suitable braced to withstand normal pressure by beef cattle and fully covered with 50mm chain mesh manufactured from 3.15 mm gauge wire and attached with 2.24 mm galvanized lacing wire.

5.9 Gate Chains

Gate chains will be galvanized steel chain and staple type.

5.10 Gate gudgeons

Gudgeons are to be of galvanized steel. Top gudgeon is to be lock through type and the bottom gudgeon a bolt through type.

5.11 Rabbit Netting

Rabbit netting is to be attached to wires with Ring Fasteners using approximately 10 per square metre. The netting should be 41mm mesh by 900mm high with the bottom tightly to the ground.

6. Best Practice

6.1 Best fencing practice must be adhered to on all occasions.

6.2 Strains

Length of strains to be determined by the territory but to not exceed 300 metres for HT and 250 metres for No. 8 wire, unless specifically varied where floodgates are required to be on a separate strain. To conform to best practice and if applicable the wire manufacturing recommendations. Wire tension to account for weather conditions at time of strain and have regard to effect of winter conditions. Wire tension to average 110 kg force.

6.3 Placement of timber strainers, posts and stays

Under no circumstances are any strainers, stays or posts to be shortened either prior to or subsequent to their placement in the ground.

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

to have a minimum of 117 cm (46") out of the ground. Stays are to be 1/3 of the way up posts.

6.4 Placement of footer at strainers and angles

Strainers and angles will be footed using a wooden H4 treated cut off post with a minimum length of 350 mm rammed in beside the strainer or angle so that the foot is lying 200 mm up from the bottom of the hole at a 90 degree angle to the strainer or angle, and will be attached with 4 mm galvanised steel wire and stapled to both the foot and the strainer or angle using 3 or more staples on both ends

6.5 Placement of wires

Wires are to be located on the grazing side of the boundary, except where there is a high risk of snow damage where they shall be placed on the leeward side away from the prevailing snow. The bottom wire is to be 100 -150 mm above the ground.

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

All wires are to be securely and neatly tied off and strained evenly. Figure 8 knots are to be used in all joins.

6.6 Gates

Gates must close against a post and be able to fully open back against the fence.

6.7 Netting at creek crossing

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

6.8 Tie Downs

Tie downs are to consist of half or full steel Y stakes according to conditions and the tie down is to be with 4mm galvanized soft wire (which is to remain above ground). If a post is a tie down, it is to be fixed to the Y stake by a 150mm x 6mm galvanized nail.

Anywhere that there is a 100 mm or more upward pull on the wires is to have a tie down placed.

6.9 Tie backs

Tie backs can be used on angle posts or T irons and are permitted on both sides of the fence.

6.10 T Irons

T irons are to be mused on all corners and on the end of strains with tie-backs on them except on the gateways where conventional block and stays are to be used.

7. Resource Management Consents

- 7.1 The construction of fencing is subject to the Commissioner obtaining any and all consents required pursuant to the Resource Management Act 1991.

Appendix 4: Form of Easement Concessions to be created over Conservation Area marked “a-b” and marked “c-d” on the Plan

Concession number: _____

DATED _____

Between

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

and

**CLASSIC PROPERTIES LIMITED
("the Concessionaire")**

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



Department of Conservation
Te Papa Atawhai

THIS DOCUMENT is made this day of 200

PARTIES:

1. **MINISTER OF CONSERVATION**, ("the Grantor")

2. **CLASSIC PROPERTIES 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 New Zealand Law Society 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 New Zealand Law Society 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 Name:

Occupation:

Address:

Signed by :

Classic Properties Limited

Director – Martin Murray

as Concessionaire

in the presence of :

Witness Name :

Occupation :

Address :

Signed by :

Classic Properties Limited

Director – Penelope Murray

as Concessionaire

in the presence of :

Witness Name :

Occupation :

Address :

SCHEDULE 1

1. **Servient Land:** The land described as being part of _____ being Conservation Area on the Tekapo River flats situated in the Canterbury Land District and delineated in pink and marked CA1 on the plan attached to the Proposal.
(see definition of Servient Land in clause 1.1)
2. **Dominant Land:** The land described as being _____ situated in Blocks VII, VIII, XI, XII, XVI and XVII Pukaki and Block III Gladstone Survey Districts and described in Certificate of Title CB _____ (Canterbury Registry).
(see definition of Dominant Land in clause 1.1)
3. **Easement Area:** That part of the land labelled “a-b” and “c-d” and shown as a dashed orange line on the plan attached to the Proposal and in respects of “a-b” having a width of 20 metres and in respects of “c-d” having a width of 5 metres.
(see definition of Easement Area in clause 1.1)
4. **Concession Activity:** The Concessionaire has the right to from time to time and at all times for the Concessionaires, their servants, employees, agents workmen, contractors, licensees and invitees (in common with the Grantor and any other person lawfully entitled so to do) to have the full, free uninterrupted and unrestricted right liberty and privilege from time to time and at all times by day and by night to go pass and repass for farm management purposes only on foot and with motor vehicles and with or without horses, farm dogs, machinery and implements of any kind to and from the dominant land over and along;
 - easement area “a-b” and “c-d”,
 - and in respects of “a-b” the right for the Concessionaire to also pass and repass with or without farm stock,
 - and in respect of “c-d” the right for the Concessionaire to also install, maintain and repair a water supply system across the land for the purpose of supplying stock water and irrigation,
 but subject to the limitations expressed in this deed, to the intent that the easement hereby created shall forever be appurtenant to the Dominant Land.
(see definition of Concession Activity in clause 1.1.)
5. **Term:** The concession is granted in perpetuity commencing on the day of registration of an approved plan affecting Certificate of Title CB529/45 (Canterbury Registry) *(see clause 3.1)*
6. **Compensation: \$ Nil**
(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 \$1,000,000
9. **Statutory Liability Insurance** *(see clause 12.3)*
Nil
10. **Other Types of Insurance:** *(see clauses 12.3)*
Nil

11. **Address for Notices (including facsimile number):**

(see clause 15)

- (a) Grantor
- Conservator
Department of Conservation
195 Hereford Street
Private Bag 4715
CHRISTCHURCH
PH: (03) 371 3700
Fax: (03) 365 1388
- (b) Concessionaire
- Classic Properties Limited
c/o Hubbard Churcher & Co
Chartered Accountants
39 George Street
Timaru 7910
- Directors:
Martin and Penelope Murray
Maryburn Station
Private Bag
Fairlie 7949
CANTERBURY
PH: (03) 680 6612
Fax: (03)

SCHEDULE 2

Special Conditions

1. **THE** rights granted under this deed are non-exclusive and are exercisable in common with the Grantor and any other person granted similar rights by the Grantor, whether now or in the future, and without limitation the Grantor may grant the following persons access rights over the Easement Area:
 - i. members of the public;
 - ii any lessee or licensee of the Grantors land

2. **THAT** in exercising the right liberty and privilege take all reasonable care to avoid damage to the soil and vegetation of the land in the easement and in particular will avoid using the easement when conditions render the land over which the easement is granted particularly vulnerable to damage.

3. **THE** cost and responsibility of any maintenance of the easement Area shall be borne by the Concessionaire and any other person or person(s) to whom the Grantor has granted similar rights in respect of the Easement Area, according to each persons use of the Easement Area PROVIDED THAT if any repair or maintenance is rendered necessary by the act, neglect, or default of any user or its servants, agents, contractors, workmen, licensees or invitees, then that user shall promptly carry such repair and maintenance and bear the cost of the work PROVIDED THAT the Grantor shall not be required to contribute to the cost of any maintenance in respect to the Easement Area PROVIDED further that any routine maintenance undertaken by the Concessionaire within the existing alignment does not require the prior consent in writing of the Grantor HOWEVER maintenance outside of the existing alignment undertaken by the Concessionaire requires the prior consent in writing of the Grantor.

4. **THAT** the Concessionaire shall ensure that no action by them or on their behalf has the effect of preventing the Easement Area over which the easement is granted being kept clear at all times of obstructions whether caused by parked vehicles, deposit of materials, or any other unreasonable impediment to the use and enjoyment of the said land.

5. **NOT** withstanding the provisions of clause 9.2(a) & (b) hereof the Concessionaire responsibility to control weed, pest, insect or rodent infestations is confined to such infestation that arise due to the acts or omissions of the Concessionaire.

Appendix 5: Form of Covenant to be created over Freehold Area marked in yellow and labelled "SMC" on the Plan

Form 8
ENCUMBRANCE INSTRUMENT
(Land Transfer Act 1952 section 101)

BARCODE

Land Registration District
Canterbury

Unique Identifier(s) or C/T(s)	All/Part	Area/Description of part or stratum
CB 529/45	Part	Part Run85 and Part Runs 85A and Rural Section 41616 and rural Section 41617

Encumbrancer *Surname(s) must be underlined*
Classic Properties Limited

Encumbrancee *Surname(s) must be underlined*
 Her Majesty the Queen acting by and through the Commissioner of Crown Lands

Estate or interest to be encumbered *Insert eg. Fee simple; Leasehold in Lease No. etc.*
 Fee simple

Encumbrance Memorandum Number

Nature of security *State whether sum of money, annuity or rentcharge and amount*
 Rentcharge

Operative Clause *Delete words in [], as appropriate*

The **Encumbrancer encumbers** for the benefit of the **Encumbrancee** the land in the above certificate(s) of title or computer register(s) **with** the above sum of money, annuity or rentcharge, to be raised and paid in accordance with the terms set out in the [above Encumbrance Memorandum] [Annexure Schedule(s)] **and** so as to incorporate in this Encumbrance the terms and other provisions set out in the [above Encumbrance Memorandum] [and] [Annexure Schedule(s)] for the better securing to the Encumbrancee the payment(s) secured by this Encumbrance, and compliance by the Encumbrancer with the terms of this encumbrance.

Dated this day of 20

Attestation	Signed in my presence by the Encumbrancer
	_____ <i>Signature of Witness</i> Witness to complete in BLOCK letters (unless legibly printed):- Witness name Occupation Address
Signature [Common Seal] of Encumbrancer	

Certified correct for the purposes of the Land Transfer Act 1952

[Solicitor for] the Encumbrancee

Annexure Schedule 1

**Encumbrance
Instrument**

Dated

Page 1 of 1 Pages

Terms

Continue on additional Annexure Schedule(s), if required

1. Length of term – Continued on Annexure Schedule 2

2. Payment date(s) – Continued on Annexure Schedule 2

3. Rate(s) of interest – Continued on Annexure Schedule 2

4. Event(s) in which the sum, annuity or rentcharge becomes payable – Continued on Annexure Schedules 2

5. Event(s) in which the sum, annuity or rentcharge ceases to be payable – Continued on Annexure Schedules 2

Covenants and conditions

Continue on additional Annexure Schedule(s), if required

Continued on Annexure Schedule 2.

Annexure Schedule 2**Encumbrance
Instrument**

Dated

Page 2 of Pages

Covenants and conditions*Continue on additional Annexure Schedule(s), if required***“Continuation of “Terms” and Covenants and conditions:”*****Introduction***

- A. The Land has been reviewed under Part 2 of the Crown Pastoral Land Act 1998 and has been disposed of by the Commissioner to the Grantor in accordance with that Act.
- B. As part of that review, the Land was designated as suitable for such disposal subject to the creation of a sustainable management covenant in favour of the Commissioner under section 97 of the Act providing for the management of the Land, and the monitoring of activities undertaken on the Land and the effects of those activities on that Land.
- C. The parties have agreed to enter into a sustainable management covenant on the terms and conditions set out in this deed.

Interpretation

In this deed:

- (a) **“the Act”** means the Crown Pastoral Land Act 1998;
- (b) **“Area”** means the Land;
- (c) **“CPI”** means the Consumer Price Index (All Groups) published by Statistics New Zealand or any other government agency, or the most nearly-comparable index if that index ceases to exist or to be published;
- (d) **“deed”** means this Encumbrance Instrument, including all schedules and attachments, and includes any variation of this Encumbrance Instrument;
- (e) **“the Commissioner”** means the Encumbrancee together with its successors and assigns and includes the Encumbrancee’s authorised agent, where applicable;
- (f) **“the Grantor”** means the Encumbrancer together with its successors and assigns;
- (g) **“the Land”** means the land more particularly described in the First Schedule;
- (h) **“the Permitted Number”** means the maximum number of sheep and cattle referred to in clauses 3 and 4 of the Second Schedule;
- (i) **“Vermin”** includes deer, possums, pigs, goats, rabbits, wallabies, and hares.
- (j) **“Objectives”** means the objectives of this covenant set out in Clause 2.1.

In this deed, unless the context otherwise requires:

- (a) where the Grantor comprises more than one person, the terms and conditions contained in this deed shall bind each such person jointly and severally;
- (b) reference to a person means an individual, a body corporate, an association of persons (whether corporate or not), a trust or a State or any agency of a State (in each case, whether having separate legal personality);
- (c) where the Grantor is a company, the terms and conditions contained in this deed shall bind a receiver, liquidator, statutory manager or statutory receiver. Where the Grantor is a natural person, the terms and conditions contained in this deed shall bind an Official Assignee. In either case, the terms and conditions contained in this deed shall bind a mortgagee in possession;
- (d) words importing a gender include all other genders;
- (e) words in the singular include the plural; and
- (f) a reference to any legislation extends to and includes any amendment to, or re-enactment of, that legislation.
- (g) all monetary figures exclude GST (Goods and Services Tax)

The parties agree as follows:

Covenant

- 1.1 In accordance with section 97 of the Act, the Grantor covenants with the Commissioner, from the date of this deed and in perpetuity, to observe and perform the covenants given on the part of the Grantor set out in the Second Schedule.

Objectives of the covenant

- 2.1 The objectives of this covenant are to better achieve ecologically sustainable management of the land by the minimization of soil erosion through the improvement of vegetation cover and maintenance thereafter, and any other means of reducing the exposure of the soil to erosion, particularly wind erosion.

A reviewable target towards the achievement of the objectives is an increase of more than 10% ground cover in the protection of the Land from wind erosion within 20 years of the commencement of this covenant, taking into account the general vegetation cover of all of the Land, and the size and nature of any land use changes.

Default

- 3.1 To better secure the performance of the covenants contained in this deed by the Grantor, the Grantor hereby encumbers the Land for the benefit of the Commissioner with a five yearly rentcharge to be paid by the Grantor to the Commissioner in accordance with this deed.

- 3.2 Subject always to clause 2.5, the Grantor shall pay to the Commissioner a five yearly rentcharge as follows:

- (a) on the fifth anniversary of the date of this deed, the sum of \$10,000.00.
- (b) on each subsequent five yearly anniversary of the date of this deed, the sum equivalent to the amount of the annual rentcharge payable on the preceding anniversary of the date of this deed but adjusted in accordance with any change in the CPI, such adjustment to be calculated as follows:

$$\text{NRC} = \frac{\text{RC} \times \text{B}}{\text{A}}$$

Where:

NRC is the new annual rentcharge payable by the Grantor

RC is the annual rentcharge payable by the Grantor on the preceding five yearly anniversary of the date of this deed

B is the most recently-published quarterly CPI figure

A is the CPI figure for the equivalent quarter date at the end of the preceding five yearly period

- (c) Notwithstanding anything to the contrary, in no circumstances shall the amount of the five yearly rentcharge payable by the Grantor be less than \$10,000.00, except where it is waived in accordance with clause 3.3 below.
- 3.3 If the results of the monitoring and inspection prescribed in clause 17 of the Second Schedule, or any other interim inspection by the Commissioner, indicate that there has been no substantial breach by the Grantor of the covenants contained in this deed, then the rentcharge payable on each subsequent five yearly anniversary date shall be waived and shall not be payable.

Notices

- 4.1 Each notice or other communication under this deed is to be in writing, is to be sent by facsimile, personal delivery or by post to the addressee at the facsimile number or address provided by each party from time to time, and is to be marked for the attention of the person or office Grantor (if any), from time to time designated for that purpose by the addressee to the other party.
- 4.2 No communication is to be effective until received. A communication will be deemed to be received by the addressee:
- (a) 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;
- (b) in the case of personal delivery (including, but not limited to, courier by a duly authorised agent of the person sending the communication), when delivered; and

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- (c) in the case of a letter, on the fifth working day after mailing and the sender providing the addressee with confirmation of mailing by telephone or facsimile.

General

- 5.1 This deed is a sustainable management covenant under section 97 of the Act. The covenant runs with the Land and is an interest in land for the purposes of the Land Transfer Act 1952.
- 5.2 The Commissioner intends to apply, under section 97(3) of the Act, to the Registrar-General of Land for registration of this deed. This deed will bind the registered proprietor, for the time being, of the Land and any successor in title, transferee or lessee of the registered proprietor.
- 5.3 If the Grantor sells, leases, or parts with possession of the Land, the Grantor must ensure that the Grantor obtains the agreement of the purchaser, lessee, or assignee to comply with the terms of this Covenant.
- 5.4 A person will not be liable as the Grantor under this deed for any breach of the provisions of this deed which occurs after that person has parted with its entire interest in the Land.
- 5.5 If a variation of this deed is required by the Commissioner pursuant to clause 22 of the Second Schedule, then the Grantor agrees that it will, at its cost, sign all documents and do all things necessary to register the variation.

Dispute Resolution

- 6.1 If any dispute or difference arises between the Grantor and the Commissioner in any way arising out of, or in connection with, this deed, then, subject also to the application of section 17 of the Land Act 1948 (as the case may be) the following shall apply:
 - (a) the parties shall enter into negotiations in good faith to resolve the dispute;
 - (b) if the dispute is not resolved within one calendar month from the date on which the parties begin their negotiations, submit the dispute to the arbitration of a single arbitrator appointed jointly by the parties.
 - (c) if the parties cannot agree on the appointment of an arbitrator within 10 working days, then the arbitration shall be carried out by an independent arbitrator appointed by the President of the Wellington District Law Society; and
 - (d) such arbitration shall be determined in accordance with the Arbitration Act 1996.

Severance

- 7.1 If any part of this deed is or becomes legally ineffective, invalid, or unenforceable, the effectiveness, validity, or enforceability of the remainder is not affected.

Assignment

- 8.1 The Commissioner may at any time assign or transfer the Commissioner's interest under this deed to a regional or district council as set out in section 97(4) of the Act.

Alteration or termination

- 9.1 This covenant may be altered or terminated by agreement between the Commissioner and the Grantor.

First Schedule

All that parcel of land containing 470 hectares as shown highlighted in yellow on the designations plan attached hereto.

Second Schedule

Land management:

1. The Grantor shall exercise due care in managing the Land and shall at all times manage the Land so as to achieve the Objectives of the covenants contained in this deed. This is not restricted to, nor does it diminish obligations the Grantor may also have with respect to other legislation, such as the Soil Conservation and Rivers Control Act 1941.

Weed/Pest Control:

2. It is recognised that the control of rabbits and other plant and animal pests may be critical to the achievement of the Objectives of this covenant. The Grantor shall undertake pest control as appropriate to achieve the Objectives on the Land. This is not restricted to, nor does it diminish any obligations the Grantor may also have in relation to other legislation, such as the operative Canterbury Regional Pest Management Strategy 2005-2015 or successor documents under the Biosecurity Act 1993.

Other conditions:

3. In relation to earth disturbance or the modification or removal of vegetation, the Grantor will minimize any injury to the surface of the land, and such actions must comply with the covenants contained in this deed. In taking any such actions it is the Grantors responsibility to comply with all statutory requirements in addition to this covenant.

Agreement as to Vegetation Monitoring and inspection:

4. The Commissioner shall undertake a programme of vegetation monitoring as follows:
 - a. The Commissioner shall engage a suitably qualified ecologist to establish the transects and photo points described under 4c at the Commissioner's cost.
 - b. The Commissioner shall engage a suitably qualified ecologist to carry out at 5 year intervals the system of vegetation monitoring and inspection described below.
 - c. Methodology:

The monitoring programme is to be undertaken as follows:

- (i) Six 50 metre transects are to be established by the Commissioner's ecologist to establish a baseline suitable for assessing the ecological condition of the land and these are to be re-measured five yearly by the Commissioner's ecologist, the cost of re-measuring shall be met by the Commissioner.
- (ii) The following information is to be recorded from each transect at five yearly intervals:

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

Ground Cover (expressed as a percentage to total 100%)

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

Cover Classes

Each Species present in each quadrant 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%

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.

- (iii) Twelve photo points are to be established by the Commissioner or his ecologist to establish a baseline. Repeat photographs are to be taken at 5 (five) year intervals thereafter. On each transect, photos will be taken with a standard lens (55mm) looking up and down the line. Photos should be taken at the same time of year (within a 30 day period); a similar time of day; and under similar weather conditions. Photos should be oriented in horizontal (landscape) mode.
- (iv) In association with the quantitative monitoring and photo points, the agency responsible for the monitoring will undertake the following:
- Make visual observations as to the condition of all of the Land with respect to the Objectives and not just of the transect locations.
 - Identify any relevant developments with respect to the Objectives of this covenant. This could include, but may not be limited to, the development of windbreaks, and changes in land use such as irrigation, cropping, planting for carbon sequestration, bio fuel, timber, or protection. Any significant areas of soil disturbance will also be noted.
 - Gather management information available from the Grantor of relevance to their management relating to the Objectives, such as stock rates, pest control measures, developments such as oversowing and top dressing, and changes in management regimes. The information collected by the Grantor under item (5) should be made available to the agency writing this report.
 - Provide any information of relevance with respect to the Objectives relating to external environmental conditions, such as the recent climatic conditions and any pest plagues.

Reporting:

The agency responsible for the monitoring will provide the Commissioner and the Grantor with a monitoring and inspection report presenting the monitoring results together with the information indicated in (iv) above, to assist in the determination of compliance with the covenants contained in this deed.

The cost of the vegetation monitoring, observations, and reporting listed under item (4) of this schedule is to be met by the Commissioner.

5. The Grantor will undertake a programme of recording and reporting as follows:

- (i) Establish and maintain a set of at least 12 photo points to be photographed annually providing sample coverage of all main areas of the Land.
- Photo point locations to be permanently located and marked using either readily identifiable existing features, or marked using permanent steel stakes.
 - Each photograph should be taken in landscape mode with a standard lens and should show the vegetation in the foreground and middle distance
 - Photographs should be labelled and stored with photopoint number and date of photography.
 - Photos to be taken during the same month each year and preferably at the same time of day.
- (ii) Maintain records of land management using the attached Annual Monitoring and Management Return Form, including the following:
- Stock type, number, and grazing period in each block included in the covenant Land.

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- Plant and animal pest control measures undertaken
- Any development inputs, such as top dressing and oversowing, plantings, irrigation etc.

(iii) Supply the Commissioner with a copy of the photographs and the Annual Monitoring and Management Return Form by each anniversary date of this covenant.

(iv) The grantor may optionally provide to the Commissioner further interpretation of the results and report indicated under item (4) of this schedule.

The cost of the monitoring, recording, and reporting listed under item (5) of this schedule is to be met by the Grantor.

6. The Grantor shall review the results of the monitoring and inspection and shall use this to make adjustments to the management of the land including stock type and numbers and timing and duration of stocking for each block.

7. 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.

8. If the Commissioner considers that the monitoring and inspection information discloses that the Objectives of the covenant are not adequately being achieved, the management of the land may be altered by agreement between the Commissioner and the Grantor. This could include adjustments to stock rates over all or part of the Land, additional pest control measures, or any other changes in land use considered appropriate.

Where agreement cannot be reached within three months of the commencement of discussions, the Commissioner may require adjustments to the grazing of the land, including destocking of all or part of the land for a defined period or other reasonable management adjustments, taking into account external factors that may have influenced the condition of the land.

9. The Commissioner will use the results of the monitoring and inspection, any decisions reached under item (8) of this schedule, and taking into account any management initiatives by the Grantor, to determine whether the Grantor has complied with the covenants contained in this deed, for the purposes of determining whether the rentcharge will apply or be waived for the next five year period.

Execution

Executed as a deed

SIGNED by the **Commissioner of**)
Crown Lands in the presence of :)
)

Witness Signature

Witness Name

Occupation

Address

Execution Section

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

SIGNED by the **Commissioner of Crown Lands** pursuant to the Crown Pastoral Land Act 1998 in the presence of:

Witness

Occupation

Address

SIGNED for and on behalf of **Classic Properties Limited** by two of its directors:

Martin Douglas Murray

Penelope Jane Murray