

Crown Pastoral Land Tenure Review

Lease name : MARYBURN

Lease number : PT 041

Substantive Proposal

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

Sep

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**EXECUTION
COPY**

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

Date: 25 JUNE 2014

Parties

Holder: **Classic Properties Limited**
C/- HC Partners LP
39 George St
PO Box 125
Timaru 7910

Commissioner of Crown Lands:

C/- Ken Taylor
QV Rural Value
41-43 Tarbert Street
PO Box 60
Alexandra
9320

The Land

1. Pastoral Lease

Lease: Maryburn
Legal Description: Part Run 85, Part Run 85A, RS 41616, 41617,
Area: 8,477.0031 hectares approximately
Certificate of Title/Unique Identifier: CB529/45 (Canterbury Registry)

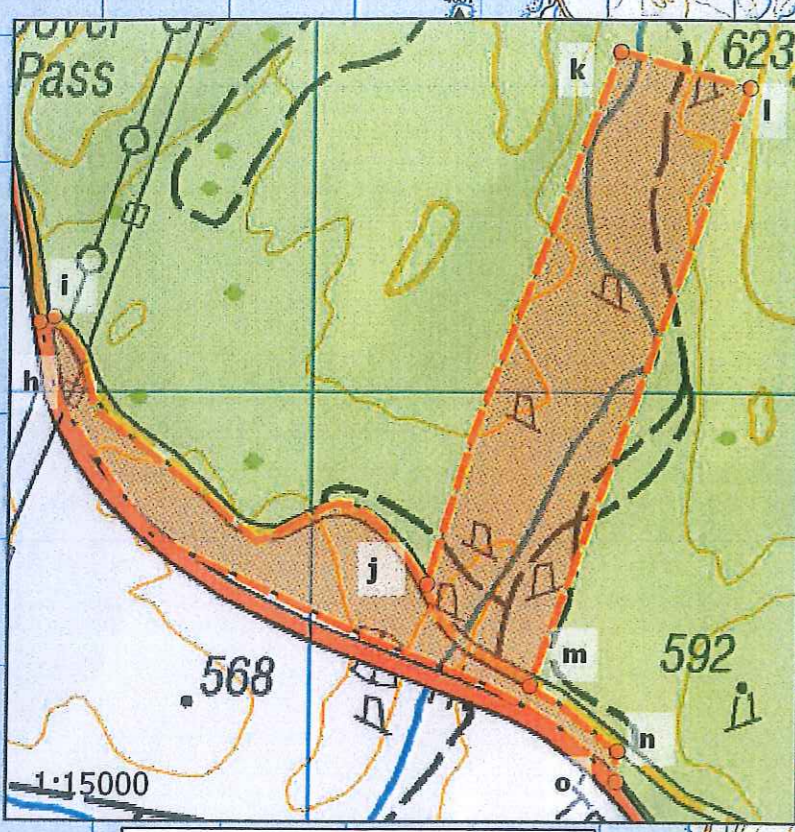
Summary of Designations

Under this Proposal, the Land is designated as follows:

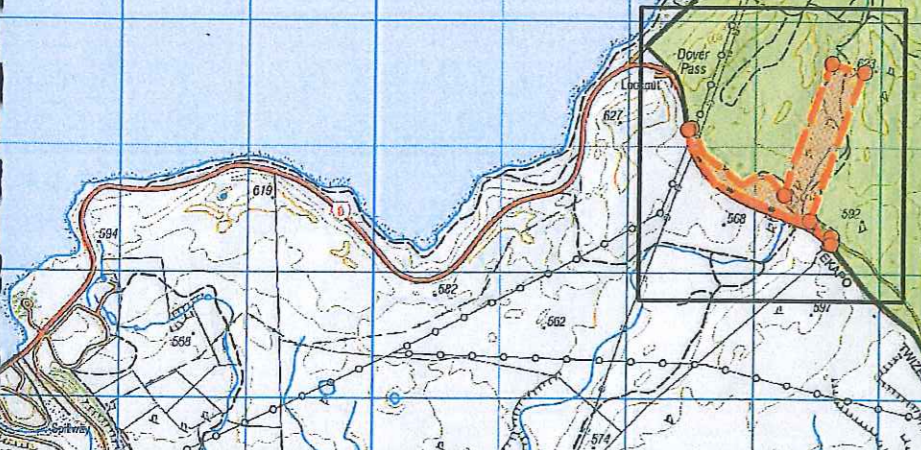
- (a) The Crown Land (shown shaded in pink on the Plan) is to be restored to, or retained by, the Crown as set out in Schedules One and Two; and
- (b) The Freehold Land (shown shaded in green on the Plan) is to be disposed by freehold disposal to the Holder as set out in Schedule Three.

1 The Plan

The boundaries shown on this plan are indicative and are for illustrative and discussion purposes only. Precise boundary positions will be determined by survey during implementation.



Enlargement of easement in gross



Enlargement of CC1



1:15000

TR 127 Maryburn (12688/Pt 041) Tenure Review Designations

- Designations**
- Land to be restored to Crown control subject to easement concession: CA1
 - Land to be disposed of as freehold subject to sustainable management covenant: SMC
 - Land to be disposed of as freehold to holder subject to conservation covenant: CC1
 - Land to be disposed of as freehold to holder
- Easements**
- Easement concession for right of way for farm management purposes: a-b
 - Easement concession for pipeline for farm management purposes: a-b-c-d
 - Easement in gross for conservation management and public access: h-i-j-k-l-m-n-o
- Fencing**
- New fencing: V-W-X1-X,P-Q, T-U
 - Upgraded fencing: Y-Z-Z1
 - Existing fence to be removed: V1-W

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", and "Upgraded 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
 - (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 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 Unless the context otherwise requires, words and phrases used in this clause have the same meaning as in the GST Act.
- 20.2 If the supplies evidenced by the Holder's Consideration and the Commissioner's Consideration are taxable supplies under the GST Act, then:
- (a) the Commissioner and the Holder warrant to each other that they are registered for GST purposes as at the Holder's acceptance of this Proposal and that they will be so registered on the Settlement Date;

- (b) the Commissioner and the Holder confirm that as at the Settlement Date:
 - (i) each is acquiring the goods supplied with the intention of using the goods for making taxable supplies; and
 - (ii) the Commissioner and any associated person in terms of section 2A(1)(c) of the GST Act do not intend to use the Crown Land and the Holder and any associated person in terms of section 2A(1)(c) of the GST Act do not intend to use the Freehold Land as a principal place of residence; and
- (c) the Commissioner and the Holder agree that the supplies evidenced by the Holder's Consideration and the Commissioner's Consideration are to be zero-rated for GST purposes under section 11(1)(mb) of the GST Act.

20.3 If any of the circumstances set out in clause 20.2 change between the date of the Holder's acceptance of this Proposal and the Settlement Date, then the relevant party will notify the other of the changed circumstances as soon as practicable and in any event not later than 2 Working Days before the Settlement Date and such party shall warrant that the changed circumstances are correct as at the Settlement Date. If the GST treatment of the supplies evidenced by the Holder's Consideration and the Commissioner's Consideration changes as a result of the changed circumstances and a party has already provided the other with a GST invoice, then that party will issue a debit note or credit note, as the case may be, for GST purposes.

20.4 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.

20.5 The Holder will pay GST (if any) on the Holder's Consideration to the Commissioner by bank cheque on the Commissioner's GST Date, time being of the essence.

20.6 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.

20.7 The Commissioner will pay GST (if any) on the Commissioner's Consideration to the Holder on the Commissioner's GST Date, time being of the essence.

20.8 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;

GST Act means the Goods and Services Tax Act 1985;

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;

Proposal means this proposal for the review of Crown Land and includes the schedules and appendixes to the Proposal and any amendment or alteration made to it

Registrar means the Registrar-General of Land 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 Part 1A 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, appendixes, 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

N/A

Schedule Two: Provisions relating to the Schedule Two Land

1 Details of designation

- 1.1 Under this Proposal the land shown shaded in pink and labelled "CA1" on the Plan, being 4,135.52 hectares (approximately) is designated as land to be restored to or retained in Crown control as conservation area subject to:
- (a) the granting of an easement concession (shown as diagonal hatching over pink and labelled "a-b-c-d" on the Plan) substantially as set out in Appendix 7; and
 - (b) the granting of an easement concession (shown as a dashed green line and labelled "a-b" on the Plan) substantially as set out in Appendix 7.

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 "a-b" 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 2 kilometres 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. There will be a right for the Concessionaire to fence a laneway by adding an additional fence.

The second easement area is required for the installation, maintenance and repair of a water supply system, as marked (and will be a 5m strip) within the bounds of a diagonally hatched over pink area marked "a-b-c-d" on the plan attached to the Proposal. The easement route is located parallel to the Tekapo Twizel Road to the east of the road and crosses the proposed Conservation Area for a distance of approximately 1.5 kilometres. Because the exact route of the pipeline is yet to be determined (and from DOC's perspective it does not matter), this wider hatched area has been identified for the easement. 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 with fencing any affects of stock or vehicles will 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 shaded in green on the Plan, being 4,241.5905 hectares (approximately) is designated as land to be disposed of by freehold disposal to the Holder subject to:
- (a) Part IVA of the Conservation Act 1987;
 - (b) Section 11 of the Crown Minerals Act 1991;
 - (c) the conservation covenant (shown shaded in yellow and labelled "CC1" on the Plan) substantially as set out in Appendix 5; and
 - (d) the sustainable management covenant (shown shaded in yellow and labelled "SMC" on the Plan) substantially as set out in Appendix 6; and
 - (e) An easement in gross for conservation management and public access purposes (shown dashed and shaded in orange "h-i-j-k-l-m-n-o", on the Plan) substantially as set out in Appendix 4 but modified, as necessary, to accommodate the grant of easement set out in clause (f), below.
 - (f) an easement of right to convey water and right of way for irrigation purposes to be registered pursuant to a decision to grant an easement of the Commissioner of Crown Lands under s60 Land Act 1948, dated 20 September 2011. For the avoidance of doubt, the Holder agrees that Pukaki Irrigation Company Limited (including its successors and assigns) may lodge a caveat in respect of its interest pursuant to the Commissioner of Crown Land's decision to grant such easement against any computer register comprising the land affected by such easement, including CB 529/45 and/or any computer freehold register which issues for the Freehold Land.

Schedule Four: Conditions

Nil

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

The agreement between the Commissioner of Crown Lands (Commissioner) and Classic Properties Limited (the Holder) requires the erection of new fences, upgrade/repair of an existing fence, and removal of existing fences, on or near the boundary of the conservation areas. Detailed specifications are set out separately to this agreement and include fencing and boundary (GPS) plans.

Length and location:

2. New fences are to be erected along the lines marked as follows on the GPS plans:
 - (a) Conservation area "CA1" / Freehold boundary fence shown marked "P-Q" (approximately 2722 metres).
 - (b) Conservation Area "CA1" / Freehold boundary fence shown marked "V-W-X1-X" (approximately 6818 metres).
 - (c) Conservation Covenant "CC1" shown marked "T-U" (approximately 942 metres).

Total new fencing: approximately 10482 metres

2. Upgrading / Repairs to existing fences along the lines marked as follows on the plans:

- (a) Conservation Area "CA1" / Freehold boundary fence "Y-Z-Z1"

Total upgraded / repaired fencing: 749 metres

3. Removal of existing fences along or near the lines marked as follows on the plans:

- (a) Conservation area "CA1" / Freehold existing fence shown marked "V1-W" (approximately 3000 metres).
- (b) Conservation area "CA1" / Freehold existing boundary fence at point "Z" (approximately 15 metres).
- (c) Conservation area "CA1" / Freehold existing wing fences and gate at point "Q" (approximately 200 metres).

Total existing fencing to be removed: approximately 3215 metres.

Specifications:

1. General description:

New fence construction shall be seven wire with timber posts and steel Y stakes to the following specification:

- Five 2.5 mm galvanized high tensile wires, plus top wire to be 1.6 mm high tensile reverse twist galvanized barbed wire, plus bottom wire being 4 mm galvanized mild steel.
- 2.1 metre x 175 mm treated timber strainer posts with 2.4 metre x 125mm horizontal box strainer assembly to be used for gateways and end of strains.
- 1.8 metre x 125 mm treated intermediate posts to be used at 20 metre gaps or at lesser intervals as appropriate on high points and with tie downs at low points as required.
- Steel Y stakes evenly spread not more than 2.8 metres apart to be used between timber intermediate posts. Y stakes will be mostly 1.5 metre (5') with 1.35 metres (4'6") on rocky ground and 1.65 metre (5'6") to be used on soft ground.
- On high ground additional intermediate posts are to be placed, or additional steel Y stakes on slight rises. These must be suitably blocked to stop the fence sinking, except where the stake is into rock and cannot penetrate the ground further.
- Rocks or fill may be required at sharp low points if the bottom wire is more than 150mm above ground level.

3. Rabbit Netting

Rabbit netting is to be installed on new fences "P-Q" and "V-W-X1-X" and parts of upgraded fence "Y-Z-Z1". Rabbit-proof netting should be galvanized hex netting 41mm mesh x 1.4mm thick by 1066mm high. To be attached to new or existing fence with an RP22 2.0mm staple applied with a jambro ring plier. Rabbit netted gateways to have a concrete or timber sill to a minimum of 150mm below ground level, and gates to close to a maximum of 50mm above the sill, to prevent rabbits burrowing under gateways.

4. Upgrading / Repairs

Existing fence "Y-Z-Z1" requires a gateway to be rabbit netted and re-modelled, 10-15 metres of existing fence to be removed and replaced with new fence, a batten floodgate over Mary Burn, existing rabbit netting to be repaired, and new intermediate posts at 8-10 metre spacings to support a top electric wire above the existing fence.

5. Removal of existing fences

Sound materials on existing fences to be removed may be re-used elsewhere on the new fences.

6. Gates

- (a) Conventional gates: Nine swung gates are required. To be galvanized conventional barred gates 4.27 metres wide and 1.05 metres in height. To be constructed of 25mm NB pipe frame with (6) minimum 7.5mm horizontal bars and (8) 25 x 3mm flat support uprights; or similar. Either side of gateways the first post should not be more than 10 metres distant and steel Y stakes at not more than 2 metres apart. Gates are to be able to swing back onto a new or existing fence so they can be tied open.
- (b) Floodgates: Five floodgates are required. Floodgates 3 and 4 are to be separately strained swinging sheep netting floodgates, floodgate 5 is to be a separately strained swinging batten floodgate, and floodgates 1 and 2 are to hang from the new fence.

7. Earthworks and Vegetation Clearance

Minimal, if any, earthworks and vegetation clearance is required for the new fences and upgraded fence.

8. Materials

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.

All fencing and associated works is to comply with best practice as set out in the detailed fencing specification.

Appendix 4: Form of Easement to be Created

TRANSFER GRANT OF EASEMENT IN GROSS

1. Public Access
2. Car Parking
3. Management Purposes

Land Transfer Act 1952

This page does not form part of the Transfer.

TRANSFER

Land Transfer Act 1952

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

Land Registration District

Canterbury

Certificate of Title No. **All or Part?** **Area and legal description – *Insert only when part or Stratum, CT***

--	--	--	--

Grantor Surnames must be underlined

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

Grantee Surnames must be underlined

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

Estate or Interest or Easement to be created: *Insert e.g. Fee simple; Leasehold in Lease No.; Right of way etc.*

Public Access and Management Purposes Easement in Gross under Section 7(2) of the Conservation Act 1987 or section 12 of the Reserves Act 1977 (continued on pages 2, 3 and 4 of Annexure Schedule).

Consideration

The various considerations set out in a substantive proposal accepted under the Crown Pastoral Land Act 1998 on the day of

Operative Clause

For the above consideration (receipt of which is acknowledged) the GRANTOR TRANSFERS to the GRANTEE all the grantor's estate and interest in the land in the above Certificate(s) of Title and if an easement is described above such is granted or created.

Dated this day of

Attestation

Signed by acting under written delegation from the Commissioner of Crown Lands

Signed in my presence by the Grantor
Signature of Witness

(continued on page 4 of Annexure Schedule)

Witness to complete in BLOCK letters
(unless typewritten or legibly stamped)

Witness name

Occupation

Address

Signature, or common seal of Grantor

Certified correct for the purposes of the Land Transfer Act 1952

Annexure Schedule

**Insert below
"Mortgage", "Transfer", "Lease", etc**

Transfer Easement Dated Page of Pages

Definitions

- 1 In this transfer unless the context otherwise requires:
 - 1.1 "Easement Area" means that part of the Servient Land being approximately 46 ha which is marked ["h-i-j-k-l-m-n-o" for public access under clauses 2.1 and 2.2 and for Minister of Conservation management purposes under clause 2.3] on Deposited Plan/S.O. Plan No [] and includes the Parking Area.
 - 1.2 "Parking Area" means that part of the Servient Land which is marked ["h-i-j-m-n-o" on the Designations Plan] [" "] on SO Plan No [].
 - 1.3 "Management Purposes" means:
 - the protection of a significant inherent value of any land managed by the Grantee;
 - the ecological sustainable management of any land managed by the Grantee.
 - the management of the Easement Area consistent with the purposes for which the easement is held under the Conservation Act 1987 or the Reserves Act 1977.
 - 1.4 "Servient Land" means the land owned by the Grantor and described on page 1.
 - 1.5 "Grantee" means Her Majesty the Queen acting by and through the Minister of Conservation and includes tenants, agents, contractors, and invitees; and any employee or contractor of the Director-General of Conservation and, for the purposes of clauses 2.1 and 2.2, includes any member of the public.
 - 1.6 "Grantor" means the owner of the Servient Land described on page 1 and includes the Grantor's tenants and invitees.
 - 1.7 "Working day" means the period between any one midnight and the next, excluding Saturdays, Sundays and statutory holidays in the place where the Servient Land is located.

Standard Easement Terms

Access

2. The Grantee has the right in common with the Grantor:
 - 2.1 To pass and re-pass at any time over and along the Easement Area on foot, on or accompanied by horses, or by non-motorised vehicle powered by a person or persons.
 - 2.2 To pass and re-pass by motor vehicle along that part of the Easement Area marked "h-i-j-m-n-o" and to use, stop and park any motor vehicle on the Parking Area only.
 - 2.3 To pass and re-pass at any time over and along the Easement Area on foot, or on or accompanied by horses, or by non-motorised vehicle, or by motor vehicle, with or without machinery and implements of any kind, with or without guns and accompanied by dogs, for Management Purposes.

Approved by Register-General of Land under No. 1995/5003

Annexure Schedule

Insert below

"Mortgage", "Transfer", "Lease", etc

Transfer Easement

Dated

Page

of

Pages

3. The Grantor must keep the Easement Area clear at all times of obstructions whether caused by parked vehicles, deposit of materials or unreasonable impediment to the use and enjoyment of the Easement Area, where such event or outcome is caused by or under the control of the Grantor.

Exclusion of Schedules

4. The rights and powers contained in Schedule 4 of the Land Transfer Regulations 2002 and the Fifth Schedule of the Property Law Act 2007 are expressly negated.

Term

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

Temporary Suspension

- 6.1 The Grantee may, at any time in exercise of her/his powers, temporarily close all or part of the Easement Area to members of the public for such period as she/he considers necessary.
- 6.2 For the avoidance of doubt, it is stated that any such temporary closure by the Grantee of all or part of the Easement Area to the public in accordance with clause 6.1 does not affect the rights of the Grantor to continue to access and use the Easement Area.

Dispute Resolution

- 7.1 If a dispute arises between the Grantor and Grantee concerning the rights, management and operation created by this transfer the parties are to enter into negotiations in good faith to resolve it.
- 7.2 If the dispute is not resolved within 14 days of written notice by one party to the other it is to be referred to mediation.
- 7.3 If the dispute is not resolved within 21 days or such other period as agreed to in writing between the parties after the appointment of the mediator, the parties must submit to the arbitration of an independent arbitrator appointed jointly by the parties or, if one cannot be agreed within 14 days, to an independent arbitrator appointed by the President for the time being of the New Zealand Law Society.
- 7.4 The arbitration is to be determined in accordance with the Arbitration Act 1996 and its amendments or any enactment passed in substitution.

Notice

- 8.1 A notice to be given under this transfer by one party to the other is to be in writing and must:
 - (a) be hand delivered to the receiving party; or
 - (b) be sent by ordinary post to the receiving party;
 - (c) be sent by email to the receiving party.
- 8.2 If clause 8.1(b) applies the notice will be deemed to be received by the receiving party on such date on which the ordinary post would be delivered.

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

Approved by Register-General of Land under No. 1995/5003

Annexure Schedule

Insert below

"Mortgage", "Transfer", "Lease", etc

Transfer Easement

Dated

Page

of

Pages

8.3 If clause 8.1(c) applies the notice will be deemed to have been received on the day on which it is emailed if that day is a working day or, if dispatched after 5.00pm, on the next working day after the date of email.

Gates

9. Where the Grantor wishes to erect fences across the Easement Area, the Grantor shall install a gate not less than 3 metres wide, and either:

9.1 Keep the gate unlocked; or

9.2 Ensure the Grantee is provided with a key to the gate; AND

9.3 Install a stile or appropriate facility to allow for public access by foot, horse or non-motorised vehicle.

10. The Grantee (not being a member of the public) has the right:

10.1 To mark the Easement Area as appropriate.

10.2 To erect and maintain stiles and/or gates.

10.3 To erect and maintain signs informing the public:

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

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

10.4 From time to time to modify the surface of the Easement Area so that it becomes and remains fit for the purpose of clauses 2.1, 2.2 and 2.3.

10.5 To use whatever reasonable means of access he/she thinks fit over the Easement Area to carry out the works in clause 10.1 to 10.4.

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

Approved by Registrar-General
of Land under No. 1995/1004

TRANSFER GRANT OF EASEMENT IN GROSS

1. Public Access
2. Car Parking
3. Vehicles for Management Purposes

Land Transfer Act 1952

Law Firm Acting

Solicitor
Legal Services
Department of Conservation
Christchurch/Dunedin

This page is for Land Registry Office use only.

Appendix 5: Form of Conservation Covenant to be Created

DATED _____

Between

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

and

MINISTER OF CONSERVATION
("the Minister")

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



Department of Conservation
Te Papa Atawhai

- "Minister"** means the Minister of Conservation.
- "Natural Water"** includes water contained in streams the banks of which have, from time to time, been realigned.
- "Owner"** means the person or persons who from time to time is or are registered as the proprietor(s) of the Land.
- "Party" or "Parties"** means either the Minister or the Owner or both.
- "Values"** means any or all of the Land's natural environment, landscape amenity, wildlife habitat, freshwater life habitat, marine life habitat or historic values as specified in Schedule 1.
- "Working Day"** means the period between any one midnight and the next excluding Saturdays, Sundays, and statutory holidays in the place where the Land is located.

1.2 For avoidance of doubt:

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

2. **OBJECTIVE OF THE COVENANT**

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

3. **THE OWNER'S OBLIGATIONS**

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

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

4. THE MINISTER'S OBLIGATIONS

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

5. IMPLEMENTATION OF OBJECTIVES

- 5.1 The Minister may;

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

6. DURATION OF COVENANT

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

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

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

8. MISCELLANEOUS MATTERS

8.1 Rights

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

8.2 Trespass Act:

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

8.3 Reserves Act

- 8.3.1 Subject to the terms and conditions set out in this Covenant, sections 93 to 105 of the Reserves Act 1977, as far as they are applicable and with the necessary modifications, apply to the Land as if the Land were a reserve, notwithstanding that the Land may from time to time be sold or otherwise disposed of.

8.4 Titles

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

8.5 Acceptance of Covenant

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

8.6 Fire

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

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

8.6.2.1 requested to do so; or

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

9. NOTICES

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

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

- (a) in the case of personal delivery, on the date of delivery;
- (b) in the case of pre-paid post, on the third Working Day after posting;
- (c) in the case of email, on the day on which it is dispatched if that is a Working Day or, if it is not a Working Day or if it is dispatched after 5.00pm, on the next Working Day after the date of dispatch.

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

10. DEFAULT

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

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

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

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

10.2.1 advise the defaulting party of the default.

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

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

11. DISPUTE RESOLUTION PROCESSES

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

11.2 Mediation

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

- 11.2.2 if the parties do not agree on a mediator, the President of the New Zealand Law Society is to appoint the mediator.

11.3 Failure of Mediation

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

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

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

12. JOINT OBLIGATIONS

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

13. FURTHER AGREEMENT AND APPROVAL

- 13.1 Where clauses in this Covenant require further agreement between the parties such agreement must not be unreasonably withheld.

- 13.2 Where clauses in this Covenant require the approval of the Minister such approval must not be unreasonably withheld.

14. SPECIAL CONDITIONS

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

- 14.2 The standard conditions contained in this Covenant must be read subject to any special conditions.

Executed as a Deed

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

Witness: _____

Address : _____

Occupation: _____

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

Witness: _____

Address : _____

Occupation: _____

SCHEDULE 1**1. Description of Land**

The Land is a wetland area of approx 5.4 hectares (shown as CC1 on the Designations Plan) situated below the Maryburn terrace riser, adjacent to State Highway 8.

2. Address for Service¹

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

Minister of Conservation
C/-Department of Conservation

Physical address:

70 Moorhouse Ave
Addington
Christchurch 8011

Postal address:

Private Bag 4715
Christchurch Mail Centre
Christchurch 8140
Ph: 03 371-3700
Email: christchurch@doc.govt.nz

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

Classic Properties Limited
c/o HC Partners LP,
39 George Street
Timaru 7910
New Zealand

Directors:

Martin and Penelope Murray
Maryburn Station
Private Bag
Fairlie 7949
CANTERBURY
PH: (03) 680 6612
Email:

3. Values of Land to be Protected (Section 77, Reserves Act 1977)

The Land is a spring fed wetland retaining many indigenous wetland species. It contains some open water and the vegetation is dominated by sedge tussock, *Carex secta*, and other sedges and rushes. The wetland is degraded by cattle but it would recover if they were excluded. It is also the habitat for indigenous bird species like pied stilt and paradise shel duck. Marsh crake and bitten have also used these wetlands. It is in part recognised as a Site of Special Wildlife Interest (SSWI).

(a) *To allow and encourage the natural regeneration of indigenous species*

Fenced from stock (particularly cattle) this wetland will regenerate with indigenous wetland species.

(b) *To preserve freshwater life on and habitat of the land*

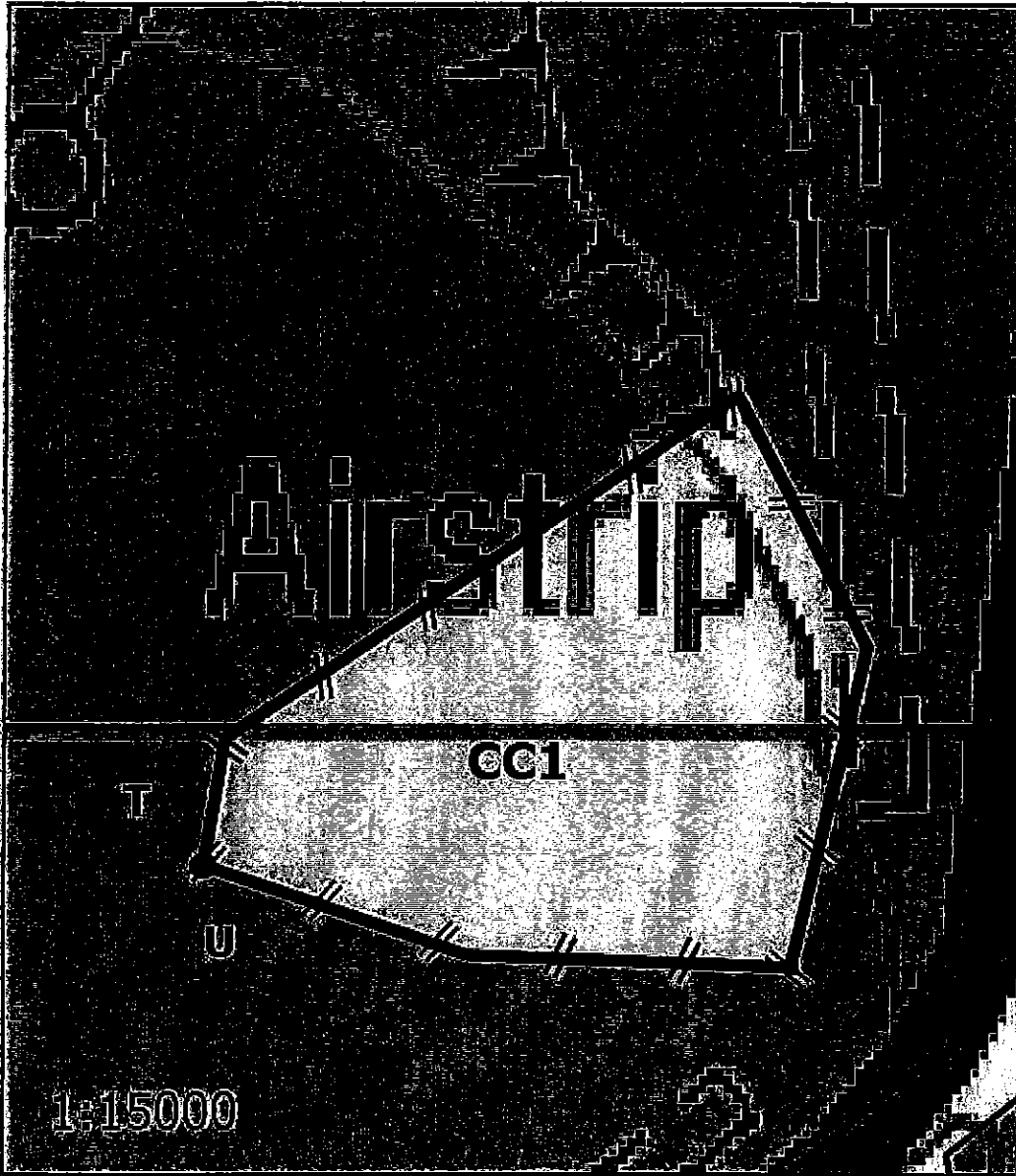
This is a site for feeding and breeding of wetland birds, many of them 'threatened' or 'at risk' species.

¹ State street address as well as any Post Office Box number.

SCHEDULE 2

Special Conditions - Nil

Plan



GRANT of

Correct for the purposes of the
Land Transfer Act 1952
Solicitor for the Minister

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

COMMISSIONER OF CROWN
LANDS

to

MINISTER OF CONSERVATION

Solicitor

Department of Conservation
DUNEDIN/CHRISTCHURCH

Appendix 6: Form of Sustainable Management Covenant to be Created

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
	Signature of Witness 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

- (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 544 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.

- 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

MARYBURN SUSTAINABLE MANAGEMENT COVENANT

Annual Monitoring and Management Return Form

To be completed annually in the same month as the month the SMC monitoring programme is commenced, and forwarded with photos to:

Commissioner of Crown Lands – Land Information New Zealand

Crown Property

Private Bag 4721

Christchurch

Attention: Sustainable Management Covenant Monitoring

MONITORING

1. 12 Overview photos in landscape orientation taken from marked and numbered points established in monitoring programme. Photos to be taken at similar time of day, with a standard lens and showing the vegetation in foreground and middle distance. Digital photos to be named with corresponding point number, or photographs to have point number written on reverse.

(tick one) Digital photos emailed Labelled photos enclosed

2. Comment on climatic conditions experienced over last 12 months in relation to 'normal':
(eg – dry spring/ more snow than usual in winter/ extremely dry summer etc)

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3. Any general observations in relation to soil and vegetation:
(eg – increased erosion in places/ any changes in vegetation species present etc)

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4. Any other comments in relation to monitoring:

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7. Pest and weed management:
(provide details of pest and weed control, including wilding conifers, undertaken in last 12 months with rabbit/hare numbers if available)

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Comment on status of pest and weed management:
(eg – whether satisfactory control is being gained from control measures and if not, identify factors affecting)

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8. Any other comments in relation to management:

.....
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.....

Signed by Grantor or Grantor's Manager as a True and Accurate Record:

Date:

Name:

Appendix 7: Form of Easement Concession to be Created



Department of Conservation
Te Papa Atawhai

Concession Number:

Concession Document (Easement)

THIS CONCESSION is made this day of

PARTIES:

- 1. **Minister of Conservation** (the Grantor)
- 2. **CLASSIC PROPERTIES LIMITED** (the Concessionaire)

BACKGROUND

- A. The Department of Conservation ("Department") Te Papa Atawhai is responsible for managing and promoting conservation of the natural and historic heritage of New Zealand on behalf of, and for the benefit of, present and future New Zealanders.
- B. 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.
- C. The land described in Item 2 of Schedule 1 as the Dominant Land is freehold land of the Concessionaire.
- D. 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).
- E. The Concessionaire wishes to carry out the Concession Activity on the Easement Area subject to the terms and conditions of this Concession.
- F. 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

- 1. In exercise of the Grantor's powers under the Crown Pastoral Land Act 1998, and the Conservation Act 1987 or the Reserves Act 1977 as relevant, the Grantor **GRANTS** to the Concessionaire an **EASEMENT APPURTENANT** to the Dominant Land to carry out the Concession Activity on the Easement Area subject to the terms and conditions contained in this Concession and its Schedules.

SIGNED on behalf of the Minister of Conservation by [insert name and title of delegate]

acting under delegated authority
in the presence of:

Witness Signature: _____

Witness Name: _____

Signed by :
Classic Properties Limited
Director – Martin Murray
as Concessionaire

<p>Witness Occupation: _____ Witness Address: _____</p> <p>A copy of the Instrument of Delegation may be inspected at the Director-General's office at 18-22 Manners Street, Wellington.</p>	<p>Classic Properties Limited Director – Penelope Murray as Concessionaire</p>
--	--

SCHEDULE 1

1.	Servient Land (Schedule 4)	As marked on the Proposed Designations plan attached in Schedule 4 being the area shaded pink, labelled CA1 being more particularly the crosshatched area inside the points marked "a-b-c-d" inclusive: <i>Physical Description/Common Name:</i> <i>Land Status:</i> Conservation Area <i>Area:</i> approximately 4135hectares. <i>Legal Description:</i>
2.	Dominant Land (Schedule 4)	As marked on the Proposed Designations plan in Schedule 4 being the area shaded green: <i>Physical Description/Common Name:</i> Maryburn Station <i>Land Status:</i> Freehold <i>Area:</i> 4241 ha approx <i>Legal Description:</i>
3.	Easement Area (Schedule 4)	As marked on the Proposed Designations Plan attached in Schedule 4 being within CA1 an irregularly shaped area crosshatched and marked "a-b-c-d" on the Designations Plan. <i>Legal Description:</i>
4.	Concession Activity (clause 2)	(a) a 20 metre wide right of way over that part of the Easement Area marked "a-b" on the Designations Plan: for farm management purposes only for the Concessionaire (including the Concessionaire's tenants and contractors) on foot, on or accompanied by horses, by motor vehicles, with or without machinery and implements of any kind, and with or without domestic livestock, guns and farm dogs. (b) a 5 metre wide right to convey water within the Easement Area marked "a-b-c-d" on the Designations Plan: for farm management purposes only for the Concessionaire to install and maintain a water supply system to supply stock water and irrigation.
5.	Term (clause 3)	In perpetuity
6.	Final Expiry Date (clause 3)	Not Applicable
7.	Concession Fee (clause 4)	A one-off fee has (in effect) been accounted for on behalf of the Grantor as part of the substantive proposal put by the Commissioner of Crown Lands and accepted by the Concessionaire on [date] and for which an approved plan has been registered pursuant to section

<i>Concessionaire's initials</i>		<i>Grantor's initials</i>	
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		65 of the Crown Pastoral Land Act 1998.
8.	Concession Fee Payment Date (clause 4)	Not Applicable – see item 7 above.
9.	Penalty Interest Rate (clause 4)	Not Applicable
10.	Insurance (To be obtained by Concessionaire) (clause 9)	<u>Types and amounts:</u> Public Liability Insurance for: (a) general indemnity for an amount no less than \$1,000,000 and (b) Forest and Rural Fires Act extension for an amount no less than \$1,000,000; and Insurance amounts subject to review (clause 9)
11.	Addresses for Notices (clause 19)	The Grantor's address is: Minister of Conservation C/-Department of Conservation Physical address: 70 Moorhouse Ave Addington Christchurch 8011 Postal address: Private Bag 4715 Christchurch Mail Centre Christchurch 8140 Ph: 03 371-3700 Fax: 03 365-1388 Email: christchurch@doc.govt.nz
12.		The Concessionaire's address in New Zealand is: Classic Properties Limited c/o HC Partners LP, 39 George Street Timaru 7910 New Zealand Directors: Martin and Penelope Murray Maryburn Station Private Bag Fairlie 7949 CANTERBURY PH: (03) 680 6612 Email:

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

Concessionaire's initials		Grantor's initials	
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Note: Please initial each page of Schedule 1

<i>Concessionaire's initials</i>		<i>Grantor's initials</i>	
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SCHEDULE 2

STANDARD TERMS AND CONDITIONS

1. Interpretation

1.1 In this Concession, unless the context otherwise requires:

"Background" means the matters referred to under the heading 'Background' on the first page of this Document, and words used in the Background have the meaning given to them in this clause 1.1.

"Concession Fee" means the amount specified in Item 7 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 this document and any subsequent amendments and all schedules, annexures, and plans attached to it.

"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.

"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 2 of the Reserves Act 1977.

"Servient Land" means a Conservation Area or Reserve being the land 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.

1.2 The Concessionaire is responsible for the acts and omissions of its employees, contractors, agents, clients, tenants and invitees (excluding other members of the public accessing the Easement Land). The Concessionaire is liable under this Concession for any breach of the terms of the Concession by its employees, contractors, agents, clients and invitees (excluding other members of the public accessing the Easement Land), as if the breach had been committed by the Concessionaire.

1.3 In this Concession unless the context otherwise requires:

- (a) a reference to a party is a reference to a party to this Concession;
- (c) words appearing in this Concession which also appear in Schedule 1 mean and include the details appearing after them in that Schedule;
- (d) a provision of this Concession 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 Concession;

2. What is being authorised?

- 2.1 The Concessionaire is only allowed to use the Easement Area for the Concession Activity.

3. How long is the Concession for - the Term?

- 3.1 This Concession commences on the date specified in Item 5 of Schedule 1 and ends on the Final Expiry Date specified in Item 6 of Schedule 1.

4. What are the fees and when are they to be paid?

- 4.1 The Concessionaire must pay to the Grantor in the manner directed by the Grantor the Concession Fee plus GST on the Concession Fee Payment Date specified in Items 7 and 8 of Schedule 1.
- 4.2 If the Concessionaire fails to make payment within 14 days of the Concession Fee Payment Date then the Concessionaire is to pay interest on the unpaid Concession Fee from the Concession Fee Payment Date until the date of payment at the Penalty Interest Rate specified in Item 9 of Schedule 1.

5. Are there any other charges?

- 5.1 The Concessionaire must pay all levies rates and other charges, including utility charges payable in respect of the Easement Land or for the services provided to the Easement Land which relate to the Concessionaire's use of the Easement Land or the carrying on of the Concession Activity. Where the Grantor has paid such levies, rates or other charges the Concessionaire must on receipt of an invoice from the Grantor pay such sum to the Grantor within 14 days of receiving the invoice. If payment is not made within the 14 days then the Concessionaire is to pay interest on the unpaid sum from the date payment was due until the date of payment at the Penalty Interest Rate specified in Item 9 of Schedule 1.

6. What are the obligations to protect the environment?

6.1 Without the prior written consent of the Grantor, the Concessionaire must not allow or carry out any of the following on the Easement Area:

- (a) cut down or damage any vegetation;
- (b) bring any animals onto the easement area other than those specified in item 4 of Schedule 1 ;
- (c) disturb, or allow any stock to disturb any stream or watercourse;
- (d) undertake any earthworks or disturbance to the ground, other than as required for repair or maintenance;
- (e) damage any natural feature or historic resource;
- (f) light any fire on the Easement Land.

6.2 The Concessionaire must at its cost keep the easement facility (as defined in Schedule 5) now or hereafter upon the Easement Area, in good order, condition and repair and must keep the Easement Area in a clean and tidy condition and must not store hazardous materials on the Easement Area nor store other materials on the Easement Area where they may obstruct the public or create a nuisance.

6.3 The Concessionaire must ensure that the Concessionaire's employees, agents, contractors, licensees and invitees comply with the obligations imposed on the Concessionaire under clause 6.

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

6.5 For the purposes of the Concession Activity, the Concessionaire may take onto or use vehicles on the Easement Area on existing formed access tracks only.

7. When can structures be erected?

7.1 The Concessionaire must not erect, nor place any structures on, under or over the Easement Land without the prior consent of the Grantor.

7.2 The Concessionaire must keep and maintain and structures and facilities on and alterations to the Easement Area in good repair.

8. What if the Concessionaire wishes to surrender the Concession?

8.1 If the Concessionaire wishes to surrender this Concession or any part of it during the currency of the Term, then the Grantor may accept that surrender on such conditions as the Grantor considers appropriate.

9. What are the liabilities and who insures?

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

- 9.2 The Concessionaire must indemnify the Grantor against all claims, actions, losses and expenses of any nature which the Grantor may suffer or incur or for which the Grantor may become liable arising from the Concessionaire's performance of the Concession Activity.
- 9.3 This indemnity is to continue after the surrender, expiry or termination of this Concession in respect of any acts or omissions occurring or arising before its surrender, expiry or termination.
- 9.4 The Concessionaire has no responsibility or liability for costs, loss, or damage of whatsoever nature arising from any act or omission or lack of performance or any negligent or fraudulent act or omission by the Grantor, or any contractor or supplier to the Grantor, or any employee or agent of the Grantor.
- 9.5 Despite anything else in clause 9 the Concessionaire is not liable for any indirect or consequential damage or loss howsoever caused.
- 9.6 The Grantor is not liable and does not accept any responsibility for damage to or interference with the Easement Area, the Concession Activity, or to any structures, equipment or facilities on the Easement Area or any other indirect or consequential damage or loss due to any natural disaster, vandalism, sabotage, fire, or exposure to the elements except where, subject to clause 9.7, such damage or interference is caused by any wilful act or omission of the Grantor, the Grantor's employees, agents or contractors.
- 9.7 Where the Grantor is found to be liable in accordance with clause 9.6, the total extent of the Grantor's liability is limited to \$1,000,000 in respect of the Concessionaire's structures, equipment and facilities.
- 9.8 Despite anything else in clause 9 the Grantor is not liable for any indirect or consequential damage or loss howsoever caused.
- 9.9 Without prejudice to or in any way limiting its liability under this clause 9 the Concessionaire at the Concessionaire's expense must take out and keep current policies for insurance and for the amounts not less than the sums specified in Item 10 of Schedule 1 with a substantial and reputable insurer.
- 9.10 After every three year period of the Term the Grantor may, on giving 10 working day's notice to the Concessionaire, alter the amounts of insurance required under clause 9.9. On receiving such notice the Concessionaire must within 10 working days take out and keep current policies for insurance and for the amounts not less than the sums specified in that notice.
- 9.11 The Concessionaire must provide to the Grantor within 5 working days of the Grantor so requesting:
- (a) details of any insurance policies required to be obtained under this Concession, including any renewal policies if such renewal occurs during the Term; and/ or;
 - (b) a copy of the current certificate of such policies.

10. What about Health and Safety?

- 10.1 The Concessionaire must exercise the rights granted by this Concession in a safe and reliable manner and must comply with the Health and Safety in Employment Act 1992 and its regulations and all other provisions or requirements of any competent

authority relating to the exercise of this Concession. The Concessionaire must comply with any safety directions of the Grantor.

11. What are the compliance obligations of the Concessionaire?

11.1 The Concessionaire must comply where relevant:

- (a) with the provisions of any conservation management strategy or conservation management plan under the Conservation Act 1987 or Part 2A of the Reserves Act 1977, or any general policy statement made under the Conservation Act 1987, Reserves Act 1977, National Parks Act 1980, or Wildlife Act 1953, or management plan under section 45 of the National Parks Act 1980, whichever is appropriate to the Servient Land, together with any amendment or review of any policy, strategy or plan whether approved before, on, or after the date on which this Concession takes effect; and
- (b) with the Conservation Act 1987, the Reserves Act 1977, the National Parks Act 1980, the Wildlife Act 1953, the Biosecurity Act 1993, the Resource Management Act 1991 and any other statute, ordinance, regulation, bylaw, or other enactment (collectively the "Legislation") affecting or relating to the Servient Land or affecting or relating to the Concession Activity, including any regulations made under the Conservation Act 1987 and the Wildlife Act 1953 or bylaws made under the Reserves Act 1977 or the National Parks Act 1980; and
- (c) with all notices and requisitions of any competent authority affecting or relating to the Servient Land or affecting or relating to the conduct of the Concession Activity; and
- (d) unless previously agreed in writing with the Grantor, with all Department signs and notices placed on or affecting the Easement Area.

11.2 The Concessionaire must comply with this Concession.

11.3 A breach or contravention by the Concessionaire of a relevant conservation management strategy, conservation management plan, management plan or any statement of general policy referred to in clause 11.1.(a) is deemed to be a breach of this Concession.

11.4 A breach or contravention by the Concessionaire of any Legislation affecting or relating to the Servient Land or affecting or relating to the Concession Activity is deemed to be a breach of this Concession.

12. When can the Concession be terminated?

12.1 If the Concessionaire breaches any of the conditions of this Concession the Grantor may terminate this Concession at any time in respect of the whole or any part of the Easement Area. Before so terminating the Grantor must give the Concessionaire either:

- (a) one calendar month's notice in writing; or
- (b) such other time period which in the sole opinion of the Grantor appears reasonable and necessary;

of the Grantor's intention so to terminate this Concession.

12.2 The Grantor may choose to remedy at any time any default by the Concessionaire

under this Concession. Where that occurs, the Concessionaire must pay forthwith on demand all reasonable costs incurred by the Grantor in remedying such default. Before electing to so remedy in accordance with this clause the Grantor must, if practicable, first give the Concessionaire notice of the default and a reasonable opportunity to remedy the default.

13. What happens on termination or expiry of the Concession?

13.1 On expiry or termination of this Concession, either as to all or part of the Easement Area, the Concessionaire is not entitled to compensation for any structures or other improvements placed or carried out by the Concessionaire on the Easement Land.

13.2 The Concessionaire may, with the Grantor's written consent, remove any specified structures and other improvements on the Easement Area. Removal under this clause must occur within the time specified by the Grantor and the Concessionaire is to make good any damage and leave the Easement Area and other public conservation land affected by the removal in a clean and tidy condition.

13.3 The Concessionaire must, if the Grantor gives written notice, remove any specified structures and other improvements on the Easement Area. Removal under this clause must occur within the time specified by the Grantor and the Concessionaire is to make good any damage and leave the Easement Area, Servient Land and other public conservation land affected by the removal in a clean and tidy condition, and replant the Servient Land with indigenous vegetation of a similar abundance and diversity as at the commencement of the Term.

14. When is the Grantor's consent required?

14.1 Where the Grantor's consent or approval is required, such consent or approval must not be unreasonably withheld. Any such consent or approval may be made on such conditions as the Grantor considers appropriate.

14.2 Where the Grantor's consent or approval is expressly required under this Concession then the Concessionaire must seek that approval or consent for each separate time it is required even though the Grantor may have given approval or consent for a like purpose on a prior occasion.

15. Are there limitations on public access and closure?

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

16. What about other concessions?

16.1 Nothing expressed or implied in this Concession is to be construed as preventing the Grantor from granting other concessions, whether similar or not, to other persons provided that the Grantor must not grant another concession that would derogate in any material way from the Concessionaire's ability to carry out the Concession Activity.

17. How will disputes be resolved?

17.1 If a dispute arises between the parties in connection with this Concession the parties must, without prejudice to any other rights or entitlements they may have, attempt

to resolve the dispute by agreement using informal dispute resolution techniques such as negotiation, mediation, independent expert appraisal or any other alternative dispute resolution technique. The rules governing any such technique adopted are to be agreed between the parties.

- 17.2 If the dispute cannot be resolved 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
- 17.3 If the parties do not agree on a mediator, the President of the New Zealand Law Society is to appoint the mediator.
- 17.4 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.
- 17.5 If the parties do not agree on an arbitrator within 10 working days of a party giving written notice of the requirement to appoint an arbitrator the President of the New Zealand Law Society is to appoint the arbitrator. In either case the arbitrator must not be a person who has participated in an informal dispute resolution procedure in respect of the dispute.
- 17.6 The arbitrator must include in the arbitration award reasons for the determination.
- 17.7 Despite the existence of a dispute, each party must continue to perform its obligations under this Concession.
- 18. How are notices sent and when are they received?**
- 18.1 Any notice to be given under this Concession is to be in writing and made by personal delivery, by pre paid post or by email to the receiving party at the address or email address specified in Item 11 of Schedule 1. Any such notice is to be deemed to have been received:
- (a) in the case of personal delivery, on the date of delivery;
 - (b) in the case of post, on the 3rd working day after posting;
 - (c) in the case of email, on the date receipt of the email is acknowledged by the addressee by return email or otherwise in writing.
- 18.2 If either party's details specified in Item 11 of Schedule 1 change then the party whose details change must provide the other party with the changed details within 5 working days of such change.
- 19. What about the payment of costs?**
- 19.1 The Concessionaire must pay the Grantor's legal costs and expenses of and incidental to preparing and signing any variation of this Concession, including a partial surrender.
- 19.2 The Concessionaire must pay in full immediately and on demand all costs and fees (including solicitor's costs and fees of debt collecting agencies engaged by the Grantor) arising out of and associated with steps taken by the Grantor to enforce or attempt to enforce the Grantor's rights and powers under this Concession including

the right to recover outstanding money owed to the Grantor.

20. What about the powers implied by statute?

20.1 The rights and powers implied in the relevant easements by the 5th Schedule to the Property Law Act 2007 and the Fourth Schedule to the Land Transfer Regulations 2002 (as set out in Schedule 5 of this Concession) apply to this easement **EXCEPT** to the extent set out in Schedule 3 of this Concession.

21. What about Co-Siting?

21.1 In this clause "Co-Site" means the use of the Concessionaire's structures or facilities on the Easement Area by a third party for an activity; and "Co-Sitee" and "Co-Siting" have corresponding meanings.

21.2 The Concessionaire must not allow Co-Siting on the Easement Area without the prior written consent of the Grantor.

21.3 The Grantor's consent must not be unreasonably withheld but is at the Grantor's sole discretion and subject to such reasonable terms and conditions as the Grantor thinks fit including a requirement that the Co-Sitee be liable for direct payment to the Grantor of a concession fee and any environmental premium assessed in respect of the Co-Sitee's activity on the Easement Area.

21.4 In addition, the Grantor must withhold consent if:

- (a) the Co-Siting would result in a substantial change to the Concession Activity on the Easement Area; or
- (b) the Grantor considers the change to be detrimental to the environment of the Easement Area.

21.5 Subject to clause 21.4 the Concessionaire must, if required by the Grantor, allow Co-Siting on the Easement Area.

21.6 Where the Concessionaire maintains that Co-Siting by a third party on the Easement Land would:

- (a) detrimentally interfere physically or technically with the use by the Concessionaire of the Easement Area; or
- (b) materially prejudice any resource consents obtained by the Concessionaire or cause more onerous conditions to be imposed on it by the relevant authority; or
- (c) obstruct or impair the Concessionaire's ability effectively to operate from the Easement Area; or
- (d) interfere with or prevent future forecast works of the Concessionaire,

the Grantor, must, as a pre-condition to consideration of an application to grant a concession to a third party, require that third party to obtain, at its own cost, a report prepared by an independent consultant acceptable to the Grantor confirming or rejecting the presence of the matters specified in this clause 21.6. The Grantor must not grant a concession to a third party where the report confirms that the proposed concession would give rise to one or more of the matters specified in this clause 21.6.

- 21.7 If the independent consultant report rejects the Concessionaire's concerns, the Concessionaire may dispute this in accordance with the procedure set out in clause 17 of Schedule 2.
- 21.8 Where the Concessionaire is required under clause 21.5 to allow Co-Siting on the Easement Area, the Concessionaire is, subject to clause 21.10 entitled to enter into commercial agreements with third parties for them to conduct an activity on the Easement Area and to receive a reasonable fee from them for any agreed activity they intend to carry out on the Easement Area. If a dispute arises between the Concessionaire and a third party such dispute must be determined by the Grantor having regard to, but not limited to, the following matters:
- (a) any written comments or submissions of the Concessionaire and third party;
 - (b) market value for the concession activity proposed by the third party having regard to the matters specified in Section 17Y(2) of the Conservation Act 1987;
 - (c) any other matters the Grantor considers relevant.
- 21.9 If the Concessionaire does not accept the Grantor's determination, the Concessionaire may dispute this in accordance with the procedure set out in clause 17 of Schedule 2.
- 21.10 For the avoidance of doubt, a Co-Sitee permitted on the Easement Area must enter into a separate concession with the Grantor in terms of which the Co-Sitee may be required to pay to the Grantor a concession fee and environmental premium assessed in respect of the Co-Sitee's activity on the Easement Area. This separate concession must not contain provisions that conflict with the Concessionaire's rights and obligations in relation to the Easement Area.
- 21.11 The Grantor must not authorise the third party to commence work on the Easement Area until all relevant resource consents are issued, an agreement is executed between the Concessionaire and third party, and any conditions imposed by the Concessionaire have been met.
- 22. Are there any Special Conditions?**
- 22.1 Special conditions are specified in Schedule 3. If there is a conflict between this Schedule 2 and the Special Conditions in Schedule 3, the Special Conditions shall prevail.
- 23. The Law**
- 23.1 This Concession is to be governed by, and interpreted in accordance with the laws of New Zealand.

SCHEDULE 3

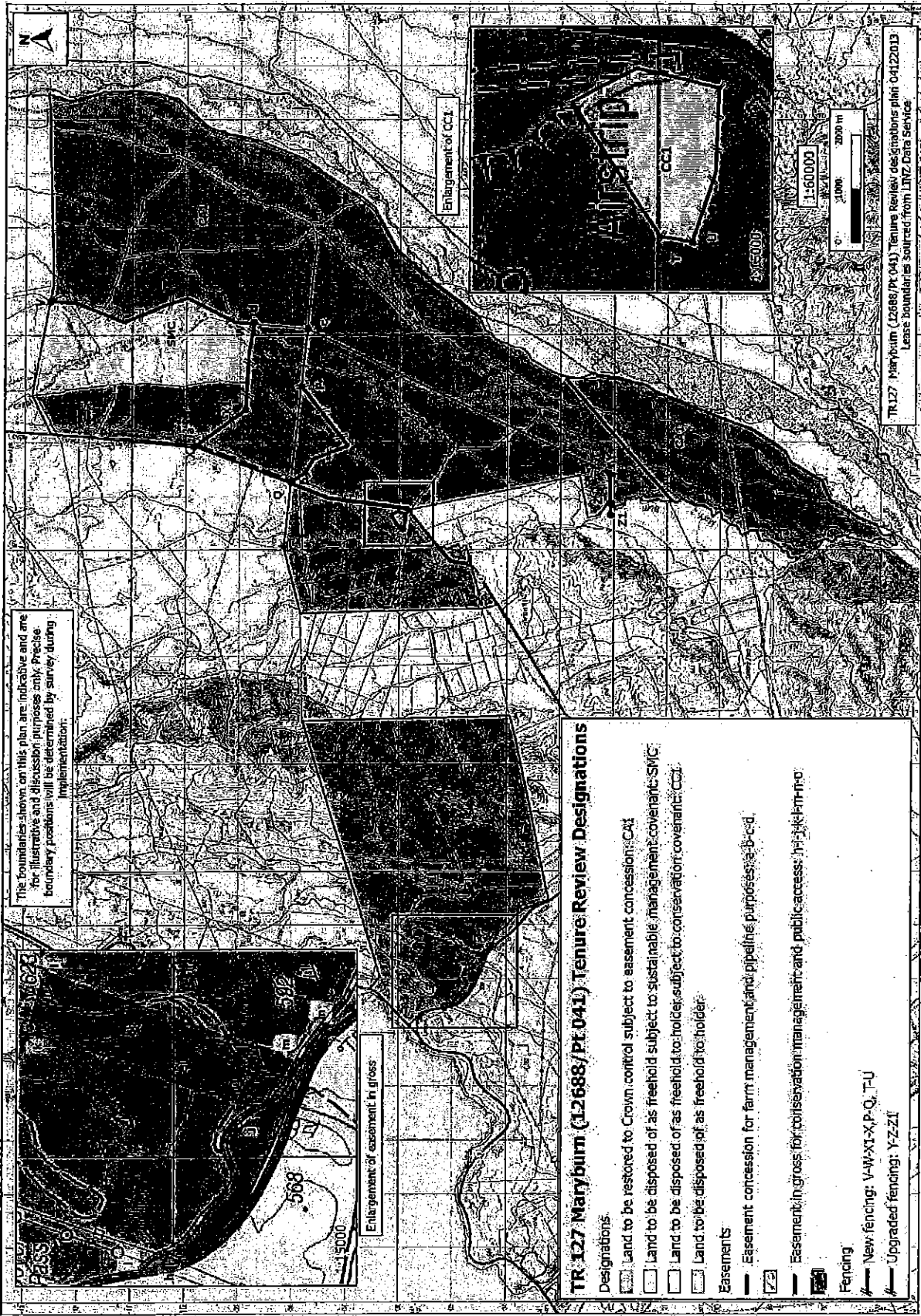
SPECIAL CONDITIONS

1. The rights implied in easements of vehicular right of way in the 5th Schedule of the Property Law Act 2007 as set out in Schedule 5 of this document are amended by:
 - (a) replacing the word, "grantee" with "Concessionaire"; and
 - (b) adding to Clause 2(a) the words, "after first obtaining the prior consent of the Grantor as required in clauses 7 and 8 of Schedule 2 of this easement.
2. The Right and Powers implied in easements under the 4th Schedule of the Land Transfer Regulations 2002 as set out in Schedule 5 of this Concession are varied as follows, the rights and powers in:
 - (a) Regulation 1 is amended by replacing the word, "grantee" with "Concessionaire"
 - (b) Regulation 6(3)(a) is amended by adding at the end the words, "after first obtaining the prior consent of the Grantor as required in clauses 7 and 8 of Schedule 2 of this easement."
 - (c) Regulation 10(1) (b) is amended by adding at the end the words, "after first obtaining the prior consent of the Grantor as required in clauses 7 and 8 of Schedule 2 of this easement."
 - (d) Regulation 11(2) is deleted and sub clause (4) is amended by deleting the reference to sub clause (2).
 - (e) Regulations 13 and 14 are deleted.
3. Nothing contained or implied in this easement requires the Grantor or the Concessionaire to supply services on or under the Easement Land or entitles the Concessionaire to interfere with the services of any other user of the Easement Land.
4. Nothing contained or implied in this easement enables the Concessionaire whether by subdivision or by any means whatsoever to have the within easement be available to or for additional users.

Establishment and maintenance of formed track(s)

5. The Concessionaire has the right to repair and maintain any formed track(s) on their existing alignment, including the right to enter the Servient Land with or without machinery as necessary.
6. The cost of maintaining any formed track(s) shall be at the sole cost of the Concessionaire.
7. The Concessionaire has the right to fence the eastern side of the easement route "a-b" to facilitate stock movement.

SCHEDULE 4:
Proposed Designations Plan



SCHEDULE 5

RIGHTS AND POWERS IMPLIED IN EASEMENTS

A. FIFTH SCHEDULE PROPERTY LAW ACT 2007

Rights implied in easements of vehicular right of way

1. Right to pass and re-pass

- (1) The grantee and the grantor have (in common with one another) the right to go, pass, and re-pass over and along the land over which the right of way is granted.
- (2) That right to go, pass, and re-pass is exercisable at all times, by day and by night, and is exercisable with or without vehicles, machinery, and equipment of any kind.
- (3) In this clause, the grantee and the grantor include agents, contractors, employees, invitees, licensees, and tenants of the grantee or the grantor.

2. Right to establish and maintain driveway

The owners and occupiers of the land for the benefit of which, and the land over which, the right of way is granted have the following rights against one another:

- (a) the right to establish a driveway on the land over which the right of way is granted, and to make necessary repairs to any existing driveway on it, and to carry out any necessary maintenance or upkeep, altering if necessary the state of that land; and
- (b) any necessary rights of entry onto that land, with or without machinery, plant, and equipment; and
- (c) the right to have that land at all times kept clear of obstructions, whether caused by parked vehicles, deposit of materials, or unreasonable impediment to the use and enjoyment of the driveway; and
- (d) the right to a reasonable contribution towards the cost of establishment, maintenance, upkeep, and repair of the driveway to an appropriate standard; and
- (e) the right to recover the cost of repairing any damage to the driveway made necessary by any deliberate or negligent act of a person bound by these covenants or that person's agents, contractors, employees, invitees, licensees, or tenants.

3. Right to have land restored after completion of work

- (1) This clause applies to a person bound by these covenants (person A) if a person entitled to enforce these covenants (person B) has undertaken work, in accordance with the right conferred by clause 2(a) or with an order of a court, on the land over which a right of way is granted.
- (2) Person A has the right, after the completion of the work, to have the land restored as far as possible to its former condition (except for the existence of the driveway).
- (3) That right of person A is subject to person B's right, in accordance with clause 2(d), to receive a reasonable contribution towards the cost of the work.

B. LAND TRANSFER REGULATIONS 2002

1. Interpretation

In this schedule, unless the context requires otherwise,—

dominant land, in relation to an easement, means the land that takes the benefit of the easement and that is described by reference to the register in a transfer instrument, easement instrument, or deposit document

easement facility,—

- (a) in relation to a right to convey water, means pipes, pumps, pump sheds, storage tanks, water purifying equipment, other equipment suitable for that purpose (whether above or under the ground), and anything in replacement or substitution:
- (b) in relation to a right to convey electric power or a right to convey telecommunications and computer media, means wires, cables (containing wire or other media conducting materials), towers, poles, transformers, switching gear, other equipment suitable for that purpose (whether above or under the ground), and anything in replacement or substitution:
- (c) in relation to a right of way, means that part of the surface of the land described as the stipulated area:
- (d) in relation to a right to drain water, means pipes, conduits, open drains, pumps, tanks (with or without headwalls), manholes, valves, surface boxes, other equipment suitable for that purpose (whether above or under the ground), and anything in replacement or substitution:
- (e) in relation to a right to drain sewage, means pipes, conduits, pumps, tanks (with or without headwalls), manholes, valves, surface boxes, other equipment suitable for that purpose (whether above or under the ground), and anything in replacement or substitution:
- (f) in relation to a right to convey gas, means pipes, conduits, valves, other equipment suitable for that purpose (whether above or under the ground), and anything in replacement or substitution.

grantee, in relation to an easement,—

- (a) means—
 - (i) the registered proprietor of the dominant land; or
 - (ii) the person having the benefit of an easement in gross; andincludes the agents, employees, contractors, tenants, licensees, and other invitees of the grantee

grantor, in relation to an easement,—

- (a) means the registered proprietor of the servient land; and
- (b) includes the agents, employees, contractors, tenants, licensees, and other invitees of the grantor

servient land, in relation to an easement, means—

- (a) the parcel of land over which an easement is registered and that is described by reference to the register in a transfer instrument, easement instrument, or deposit document:

- (b) a stipulated course or stipulated area

stipulated course or stipulated area, in relation to any of the classes of easements referred to in these regulations, means the course that—

- (a) is shown on a plan prepared for the purpose of specifying the easement; and
- (b) is referred to in a transfer instrument, easement instrument, or deposit document.

2. Classes of easements

For the purposes of regulation 10(a), easements are classified by reference to the following rights:

- (a) a right to convey water:
- (b) a right to drain water:
- (c) a right to drain sewage:
- (d) a right of way:
- (e) a right to convey electricity:
- (f) a right to convey telecommunications and computer media:
- (g) a right to convey gas.

Rights and powers implied in easements granting certain rights

3. Right to convey water

1. A right to convey water includes the right for the grantee in common with the grantor and other persons to whom the grantor may grant similar rights to take and convey water in free and unimpeded flow from the source of supply or point of entry through the easement facility and over the servient land to the dominant land.
2. The right to take and convey water in free and unimpeded flow is limited to the extent required by any period of necessary cleansing, renewal, modification, or repair of the easement facility.
3. The easement facility referred to in sub clause (1) is the easement facility laid or to be laid along the stipulated course or stipulated area, as agreed by the grantor at the time of installation of the facility.
4. The grantor must not do and must not allow to be done anything on the servient land that may cause the purity or flow of water in the water supply system to be diminished or polluted.

4. Rights of way

1. A right of way includes the right for the grantee in common with the grantor and other persons to whom the grantor may grant similar rights, at all times, to go over and along the easement facility.
2. The right to go over and along the easement facility includes the right to go over and along the easement facility with or without any kind of—
 - (a) vehicle, machinery, or implement; or
 - (b) domestic animal or (if the servient land is rural land) farm animal.

3. A right of way includes—
 - (a) the right to establish a driveway, to repair and maintain an existing driveway, and (if necessary for any of those purposes) to alter the state of the land over which the easement is granted; and
 - (b) the right to have the easement facility kept clear at all times of obstructions (whether caused by parked vehicles, deposit of materials, or unreasonable impediment) to the use and enjoyment of the driveway.

Rights and powers implied in all classes of easements

5. General rights

1. All the easements referred to in this schedule include—
 - (a) the right to use any easement facility already situated on the stipulated area or course for the purpose of the easement granted; and
 - (b) if no suitable easement facility exists, the right to lay, install, and construct an easement facility reasonably required by the grantee (including the right to excavate land for the purpose of that construction).
2. The grantor must not do and must not allow to be done on the servient land anything that may interfere with or restrict the rights of any other party or interfere with the efficient operation of the easement facility.
3. the grantee must not do and must not allow to be done on the dominant land or the servient land anything that may interfere with or restrict the rights of any other party or interfere with the efficient operation of the easement facility.

6. Repair, maintenance, and costs

1. If the grantee (or grantees, if more than 1) has (or have) exclusive use of the easement facility, each grantee is responsible for arranging the repair and maintenance of the easement facility, and for the associated costs, so as to keep the facility in good order and to prevent it from becoming a danger or nuisance.
2. If the grantee (or grantees, if more than 1) and the grantor share the use of the easement facility, each of them is responsible equally for the repair and maintenance of the easement facility, and for the associated costs, for the purposes set out in subclause (1).
3. If the easement is in gross, the grantee bears the cost of all work done outside the servient land.
4. The parties responsible for maintenance under subclause (1) or subclause (2) (as the case may be) must meet any associated requirements of the relevant local authority.

7. Rights of entry

1. For the purpose of performing any duty or in the exercise of any rights conferred under these regulations or implied in any easement, the grantee may—
 - (a) enter upon the servient land by a reasonable route and with all necessary tools, vehicles, and equipment; and
 - (b) remain on the servient land for a reasonable time for the sole purpose of completing the necessary work; and

- (c) leave any vehicles or equipment on the servient land for a reasonable time if work is proceeding.
- 2. The grantee must ensure that as little damage or disturbance as possible is caused to the servient land or to the grantor.
- 3. The grantee must ensure that all work is performed in a proper and workmanlike manner.
- 4. The grantee must ensure that all work is completed promptly.
- 5. The grantee must immediately make good any damage done to the servient land by restoring the surface of the land as nearly as possible to its former condition.
- 6. The grantee must compensate the grantor for all damages caused by the work to any crop (whether ready for harvest or not) or to any buildings, erections, or fences on the servient land.

8. Default

If the grantor or the grantee does not meet the obligations implied or specified in any easement,—

- (a) the party not in default may serve on the defaulting party written notice requiring the defaulting party to meet a specific obligation and stating that, after the expiration of 7 working days from service of the notice of default, the other party may meet the obligation:
- (b) if, at the expiry of the 7-working-day period, the party in default has not met the obligation, the other party may—
 - (i) meet the obligation; and
 - (ii) for that purpose, enter the servient land:
- (c) the party in default is liable to pay the other party the cost of preparing and serving the default notice and the costs incurred in meeting the obligation:
- (d) the other party may recover from the party in default, as a liquidated debt, any money payable under this clause.

9. Disputes

If a dispute in relation to an easement arises between parties who have a registered interest under the easement,—

- (a) the party initiating the dispute must provide full written particulars of the dispute to the other party; and
- (b) the parties must promptly meet and in good faith try to resolve the dispute using informal dispute resolution techniques, which may include negotiation, mediation, independent expert appraisal, or any other dispute resolution technique that may be agreed by the parties; and
- (c) if the dispute is not resolved within 14 working days of the written particulars being given (or any longer period agreed by the parties),—

- (i) the dispute must be referred to arbitration in accordance with the Arbitration Act 1996; and
- (ii) the arbitration must be conducted by a single arbitrator to be agreed on by the parties or, failing agreement, to be appointed by the President of the New Zealand Law Society.

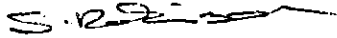
Execution Section

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

SIGNED for and on behalf of the
Commissioner of Crown Lands
by BRIAN JOHN USHERWOOD
pursuant to the Crown Pastoral
Land Act 1998 in the presence of:



Brian John Usherwood

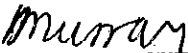


SHERYL DAWNE ROBINSON
Witness

SOLICITOR
Occupation

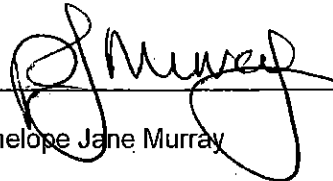
LAND INFORMATION NEW ZEALAND, WELLINGTON
Address

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

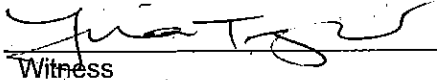


Martin Douglas Murray

in the presence of:



Penelope Jane Murray



Witness

Julia Mary Traylor
Solicitor
Timaru

Occupation

Address