

Crown Pastoral Land Tenure Review

Lease name: MUZZLE

Lease number: PM 027

Substantive Proposal - Part 3

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

February 06

Appendix 6: Existing easement 5435728.1

YEC 5435728.1 Deed of

Copy - 01/01, Pgs - 010, 13/12/02, 09:30



DocID: 210712000

Concession number: _____

DATED _____

Between

**HER MAJESTY THE QUEEN ACTING BY AND THROUGH
THE MINISTER OF CONSERVATION**

("the Grantor")

and

COLIN A NIMMO AND CHRISTINA A NIMMO

("the Concessionaire")

**CONCESSION DOCUMENT
(Appurtenant Easement)**



Department of Conservation
Te Papa Atawhai

YEC 5435728.1

This Instrument, containing an aerial photograph / diagram⁽²⁾ has been retained at the LINZ Search Counter for searching purposes as the scanned image of the aerial photograph / diagram is illegible.

N.B. Two colour
Diagrams are
herewith

12th December

THIS DEED OF GRANT OF EASEMENT is made on this day of 2002

BETWEEN:

1. **HER MAJESTY THE QUEEN ACTING BY AND THROUGH THE MINISTER OF CONSERVATION, ("the Grantor")**

AND

2. **COLIN ALLEN NIMMO AND CHRISTINA ANNE NIMMO, ("the Concessionaire")**

BACKGROUND

- A. The Servient Land described in Item 1 of Schedule 1 is a Conservation Area being marginal strips managed by the Grantor.
- B. Section 17Q(1) of the Conservation Act 1987 authorises the Grantor to grant a Concession in respect of an Activity in a Conservation Area;
- C. The Concessionaire wishes to carry out the Concession Activity on the Easement Area subject to the terms and conditions of this Document.
- D. The Grantor is satisfied that the relevant requirements of Part III B of the Conservation Act 1987 have been met
- E. The Commissioner of Crown Lands has agreed to grant the Commissioner's Easement to the Concessionaire.

OPERATIVE PARTS

TERMS AND CONDITIONS

1.0 DEFINITIONS AND INTERPRETATION

1.1 In this Document, unless the context otherwise requires:

"Activity" has the same meaning as "Activity" in section 2 of the Conservation Act 1987.

"Background" means the matters referred to under the heading "Background" on p2 of this Document.

"Commissioner's Easement" means the easement granted by the Commissioner pursuant to a Deed of Grant of Easement dated [] over parts of the Commissioner's land marked "A", "C", "D", "F", "P", "J", "L", "P", "R", and "U" on SO Plan 7242T (Marlborough Land Registry), Holding Paddock (as defined in the Commissioners easement) and additional areas of land subject to final survey marked in blue dashes on Plan A (excluding those areas over marginal strips).

"Concession" means a concession as defined in section 2(1) of the Conservation Act 1987.

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

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"Concession Fee" means the amount specified in Item 8 of Schedule 1 and charged by the Grantor for the Concessionaire's right to carry out the Concession Activity on the Easement Area. It includes any variation in that amount following a Concession Fee Review.

"Concession Fee Payment Date" means the date specified in Item 10 of Schedule 1 on which each instalment of the Concession Fee falls due for payment.

"Conservation" has the same meaning as "Conservation" in section 2 of the Conservation Act 1987

"Conservation Area" has the same meaning as "Conservation area" in section 2(1) of the Conservation Act 1987.

"Department" means the Department of Conservation established by section 5 of the Conservation Act 1987.

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

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

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

"Easement" means the Easement granted under this Document by the Grantor to the Concessionaire under section 17Q(1) of the Conservation Act 1987.

"Easement Area" means the area of land specified in Item 3 of Schedule 1.

"Final Expiry Date" means the date specified in Item 7 of Schedule 1.

"Livestock Holding Area" means that part of section 38 SO 4288 (outlined in black) that is contained within the area being 8500 square metres more or less being that area of land cross hatched in black on Plan B.

"Penalty Interest Rate" means the rate specified in Item 11 of Schedule 1.

"Plan A" means the Plan attached marked "A"

"Plan B" means the Plan attached marked "B"

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

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

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

1.2 In this Document unless the context otherwise requires:

- (a) a reference to a party is a reference to a party to this Document and includes that party's successors in title;
- (b) schedules and annexures form part of this Document and have effect accordingly;
- (c) words appearing in this Document which also appear in Schedule 1 mean and include the details appearing after them in that Schedule;

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- (d) a provision of this Document to be performed by two or more persons binds those persons jointly and severally;
- (e) a reference to a person includes an individual, a body corporate, an association of persons (whether corporate or not), a trust, or an agency of State or of the Crown (in each case whether or not having separate legal personality);
- (f) words in a singular number include the plural and vice versa;
- (g) words importing a gender include all other genders;
- (h) references to a statute or statutory provision, or order or regulation made under it, include that statute, provision, or regulation as amended, modified, re-enacted or replaced from time to time whether before or after the date of this Document;
- (i) where the Grantor's consent or approval is expressly required under a provision of this Document, the Concessionaire must seek the consent or approval of the Grantor for each separate occasion it is required notwithstanding that the Grantor has granted consent or approval for a like purpose on a prior occasion.

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

2.0 GRANT OF APPURTENANT EASEMENT

2.1 In exercise of the Grantor's powers under section 17Q(1) of the Conservation Act 1987 the Grantor GRANTS to the Concessionaire an APPURTENANT EASEMENT over the Servient Land in favour of the Dominant Land to carry out the Concession Activity on the Easement Area subject to the terms and conditions contained in this Document.

3.0 TERM

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

4.0 CONCESSION ACTIVITY

4.1 Unless prior written approval is given by the Grantor the Concessionaire is not to use the Easement Area for any purpose other than the Concession Activity.

5.0 SUPPLY OF INFORMATION

5.1 Information supplied to the Grantor is subject to an obligation of confidence; but the parties acknowledge that such information may be subject to the provisions of the Official Information Act 1982 and the Privacy Act 1993.

6.0 COMPLIANCE

6.1 The Concessionaire will comply where relevant:

- (a) with the provisions of any conservation management strategy or conservation management plan as required by section 17W(7) of the Conservation Act 1987 pursuant to Part IIIA of the Conservation Act 1987, whichever is appropriate to the Easement Area, together with any amendment or review of any policy, strategy or plan whether approved before, on, or after the date on which this Document takes effect; and
- (b) with the Conservation Act 1987, the Biosecurity Act 1993, the Resource Management Act 1991, the Health and Safety in Employment Act 1992 and any other statute, ordinance, regulation, bylaw,

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or other enactment (collectively the "Legislation") affecting or relating to the Easement Area or affecting or relating to the Concession Activity.

- 6.2 The Concessionaire must comply with all conditions imposed by the Grantor in granting this Document whether expressed or implied.
- 6.3 (a) A breach or contravention by the Concessionaire of a relevant conservation management strategy, conservation management plan, management plan or general policy statement will be deemed to be a breach of this Document.
- (b) A breach or contravention by the Concessionaire of any Legislation affecting or relating to the Easement Area or affecting or relating to the Concession Activity will be deemed to be a breach of this Document.
- 6.4 If the Legislation requires the Grantor to spend an amount on structures, facilities or land alterations on the Easement Area which the Grantor considers unreasonable, the Grantor may determine this Easement and any dispute as to whether or not the amount is unreasonable is to be determined in accordance with clause 21
- 7.0 STRUCTURES, FACILITIES AND LAND ALTERATIONS**
- 7.1 The Concessionaire must not erect or bring on to the Easement Area any structure, install any facility or alter the Easement Area in any way without the prior written consent of the Grantor.
- 7.2 In giving approval under clause 7.1 the Grantor may, in the Grantor's sole and absolute discretion, impose any reasonable terms and conditions, including a review of the Concession Fee, as the Grantor considers appropriate under this clause; and may also decline the grant of such approval after consideration of the relevant conservation and environmental issues.
- 7.3 The Concessionaire must pay to the Grantor all costs associated with applications for approval under this clause determined at the standard rates then applying in the Department for cost recovery of staff time and expenses.
- 7.4 The Concessionaire must, upon request by the Grantor, submit written engineering or building plans and details to the Grantor for approval before :
- (a) erecting or altering any structure on the Easement Area;
- (b) bringing any structure on to the Easement Area;
- (c) installing any facilities on the Easement Area; or
- (d) altering the Easement Area in any way.
- 7.5 The Concessionaire must not commence any work on the Easement Area until the Grantor has given its written approval.
- 7.6 When undertaking any work under this clause the Concessionaire must comply with all statutory requirements including obtaining building consents and code compliance certificates under the Building Act 1991.
- 7.7 The Concessionaire is to keep and maintain its structures and facilities on, or alterations to, the Easement Area in good repair.
- 8.0 CONCESSIONAIRE'S FURTHER OBLIGATIONS**
- 8.1 The Concessionaire must at the Concessionaire's expense:

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- (a) take all reasonable steps to control any pest, insect or rodent infestation occurring in or emanating from the Easement Area or any structure or facility on the Easement Area, and if required by the Grantor, engage a pest exterminator approved by the Grantor;
- (b) comply strictly with the provisions of the Biosecurity Act 1993;
- (c) comply with all requirements of any competent authority regarding sanitation and with all relevant bylaws and fire safety requirements;

9.0 PROTECTION OF THE ENVIRONMENT

9.1 Except for the purposes reasonably arising out of the activities described in Schedule 1 and except as approved in writing by the Grantor the Concessionaire will not, whether by act or omission:

- (a) interfere with, remove, damage, or endanger the natural features, animals (other than farm dogs, farm stock and horses), plants, or historic resources on the Easement Area; or
- (b) bring any plants, animals (other than farm dogs, farm stock and horses), on to the Easement Area; or
- (c) deposit on the Easement Area debris, rubbish or other dangerous or unsightly matter, or contaminate any water body on the Easement Area; or
- (d) pile or store materials in any place on the Easement Area where it may obstruct the public or create a nuisance; or
- (e) conduct any noxious, noisome, dangerous or offensive activity on the Easement Area.

9.2 The Concessionaire will keep the Easement Area in a clean and tidy condition and free of weeds and all organisms specified as pests in a relevant pest management strategy.

9.3 The Concessionaire must:

- (a) take all reasonable precautions to ensure no fire hazards arise from its carrying out of the Concession Activity or from any act or neglect of its employees, contractors, invitees or agents;
- (b) not light or permit to be lit any fire on the Easement Area.
- (c) not store or permit to be stored fuels or other combustible materials on the Easement Area without the written permission of the Grantor. In that event storage of fuels and combustible materials must be in accordance with the provisions of the Dangerous Goods Act 1974;
- (d) comply with the Grantor's requirements for fire warning and safety equipment and for fire fighting equipment to be kept on the Easement Area at all times.

9.4 The Concessionaire must ensure that its employees, contractors, clients and invitees do not carry out any acts prohibited under the preceding sub clauses 9.1-9.3.

9.5 The Concessionaire must immediately report to the Lessor any act in contravention of sub clauses 9.1- 9.3 and wherever possible the names and addresses of any person carrying out such acts; and must provide the Lessor with details of the circumstances surrounding such incidents.

10.0 HEALTH AND SAFETY

10.1 The Concessionaire is to carry out the Concession Activity on the Easement Area in a safe and reliable manner and must comply with:

- (a) the Health and Safety in Employment Act 1992 and its regulations; and

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- (b) all other statutes, regulations and bylaws and all notices and requisitions of any competent authority relating to the conduct of the Concession Activity.

10.2 The Concessionaire must :

- (a) take all reasonable steps to protect the safety of all persons present on the Easement Area and must, where necessary, erect protective signposts warning the public of any dangers they may encounter as a result of the Concessionaire's operations;
- (b) take all reasonable steps to eliminate any dangers to the public and must clearly and permanently mark any that remain and of which the Concessionaire is aware.

11.0 TEMPORARY SUSPENSION

- 11.1 The Grantor may temporarily suspend this Document if, in the opinion of the Grantor, there is a temporary risk to public safety or the safety of the Department's staff or the safety of other Concessionaires whether from arising from natural events such as earthquake, land slip, volcanic activity, or flood or whether arising in any other way including the activities of the Concessionaire, its employees, clients or invitees.
- 11.2 If, in the opinion of the Grantor, the activities of the Concessionaire, its employees, clients or invitees are having or may have an adverse effect on the environment and the Grantor is of the opinion that the effect can be avoided, remedied or mitigated to an extent satisfactory to the Grantor, the Grantor may suspend this Concession until the Concessionaire remedies, avoids or mitigates the adverse impact to the satisfaction of the Grantor.
- 11.3 The Grantor may suspend this Concession while it investigates any of the circumstances contemplated in clauses 11.1 and 11.2 and also while it investigates any potential breach or possible offence by the Concessionaire under the Conservation Act 1987 or any of the Acts mentioned in the First Schedule of that Act of which it has become aware.
- 11.4 During any period of temporary suspension the Concession Fee payable by the Concessionaire is to abate in fair proportion to the loss of use by the Concessionaire of the Easement Area.
- 11.5 The Grantor is not to be liable to the Concessionaire for any loss sustained by the Concessionaire by reason of the suspension of the Concession under clause 11 including loss of profits.

12.0 ASSIGNMENT

- 12.1 The Concessionaire is not to transfer, assign, mortgage or otherwise dispose of the Concessionaire's interest under this Document or any part of it without the prior written consent of the Grantor. The Grantor consent shall not be unreasonably withheld.
- 12.2 Sections 17P, 17S, 17T, 17U, 17W, 17X, 17ZB and 17ZC of the Conservation Act 1987 shall not apply to such applications for consent.
- 12.3 The Concessionaire must pay the costs reasonably incurred by the Grantor incidental to any application for consent, whether or not such consent is granted.
- 12.4 Any change in the shareholding of the Concessionaire altering the effective control of the Concessionaire will be deemed to be an assignment and will require the consent of the Grantor.

13.0 TERMINATION

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13.1 The Grantor may terminate this Concession by 21 days notice in writing to the Concessionaire if:

- (a) (i) the Concessionaire breaches any terms of this Document; and
- (a) (ii) the Grantor has notified the Concessionaire in writing of the breach; and
- (a) (iii) the Concessionaire does not rectify the breach within 21 days of receiving notification; or
- (b) the Concessionaire is convicted of an offence under the Conservation Act 1987 or any of the Acts listed in the First Schedule to that Act; or the Health and Safety in Employment Act 1982; or the Building Act 1991; or the Resource Management Act 1991; or the Biosecurity Act 1993; or
- (c) the Concessionaire is dissolved; or enters into any composition with or assignment for the benefit of its creditors; or is adjudged bankrupt; or being a company, has a receiver appointed; or is put into liquidation; or is placed under statutory management; or has a petition for winding up presented against it; or is otherwise unable to pay its debts as they fall due; or the Concessionaire ceases to function or operate; or
- (d) there is, in the opinion of the Grantor, a permanent risk to public safety or the environment whether arising from the conduct of the Concession Activity or from natural causes such as earthquake, land slip, volcanic activity, flood, or arising in any other way, whether or not from any breach of the terms of this Document on the part of the Concessionaire.
- (e) the Deed of Grant of Easement between the Commissioner and the Concessionaire is terminated.

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

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

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

14.0 GRANTOR MAY REMEDY CONCESSIONAIRE'S DEFAULT

14.1 The Grantor may elect to remedy at any time without notice any default by the Concessionaire under this Concession.

14.2 The Concessionaire must pay to the Grantor forthwith on demand all reasonable costs and expenses incurred by the Grantor, including legal costs and expenses as between solicitor and client, in remedying such default.

15.0 GRANTOR'S DIRECTIONS

15.1 The Concessionaire must comply with all reasonable notices and directions of the Grantor concerning the activities conducted by the Concessionaire on the Easement Area or the conduct of any person on the Easement Area under the authority of this Document.

16.0 POWERS, RIGHTS AND AUTHORITIES

16.1 All powers, rights and authorities of the Grantor under this Document and any notice required to be given by the Grantor may be exercised and given by the Director-General or any officer, employee, or agent of the Director-General.

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17.0 INDEMNITIES AND INSURANCE

- 17.1 The Concessionaire will indemnify and keep indemnified the Grantor against all claims made by any person in respect of any injury, loss, or damage, including fire, caused or suffered as a result of or arising out of any acts or omissions of the Concessionaire, its employees, agents, contractors, clients or invitees or otherwise caused as a consequence of its occupation of the Easement Area or as a result of its conduct of the Concession Activity on the Easement Area.
- 17.2 This indemnity is to continue after the expiry or other determination of this Document in respect of those acts or omissions occurring or arising before its expiry or determination.
- 17.3 Without prejudice to or in any way limiting its liability under clause 17.1 the Concessionaire must take out and keep in force during the Term:
- (a) a policy of public liability insurance against liability for loss, damage or injury from any one single accident or event arising out of the Concessionaire's use of the Easement Area or its conduct of the Concession Activity on the Easement Area and covering:
 - (i) general indemnity for a sum not less than the amount specified in Item 13 of Schedule I; and
 - (ii) Forest and Rural Fires Act 1977 extension for a sum not less than the amount specified in Item 14 of Schedule I; and
 - (b) statutory liability insurance for the matters and amount specified in Item 15 of Schedule I; and
 - (c) such other policy or policies of insurance against any other liability and for such other sums which the Lessor specifies in Item 16 of Schedule I,
- 17.4 With respect to clause 17.3 the Concessionaire must provide copy certificates of currency for the policies of insurance before commencing the Concession Activity and on each renewal of them.
- 17.5 (a) Without prejudice to any other provision of this Document the Concessionaire will indemnify the Grantor against all damage or loss resulting from any act or omission on the part of the Concessionaire or the Concessionaire's employees, agents, contractors, clients, or invitees;
- (b) The Concessionaire is to recompense the Lessor for all expenses incurred by the Lessor in making good any damage to the Land or the property of the Lessor resulting from such act or omission.
- 17.6 (a) The Grantor will not be liable and does not accept any responsibility for damage to or interference with the Concession Activity or to the structures or facilities on the Easement Area or any other indirect or consequential damage due to any natural disaster, vandalism, sabotage, fire or exposure to the elements except where, subject to the clause 18.6(b), such damage or interference is caused by any wilful act or omission of the Grantor, its employees, agents or contractors;
- (b) Where the Grantor is found to be liable due to a wilful act or omission, the total extent of its liability is limited to \$1,000,000 in respect of the Concessionaire's structures and facilities.
- 17.7 Notwithstanding anything else in clause 17 the Grantor is not liable for any indirect or consequential loss howsoever caused.

18.0 ENVIRONMENTAL MONITORING AND LAND REHABILITATION

- 18.1 The Concessionaire must, during the Term, if the Grantor so requests in writing, design in consultation with the Grantor and undertake a programme to monitor and report on the environmental effects of the Concessionaire's use of and activities on the Easement Area.

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18.2 If the Grantor does not make a request under clause 18.1 the Concessionaire must, during the Term, pay to the Grantor the annual environmental monitoring contribution specified in Item 17 of Schedule 1 to enable the Lessor to design and undertake a programme to monitor the environmental effects of the Concessionaire's use of and activities on the Easement Area.

18.3 Subject to any conditions imposed by the Grantor and set out in Schedule 3, at the expiry, surrender or termination of this Document, the Concessionaire must reinstate the Easement Area to its condition at the commencement of the Term and replant the Easement Area with indigenous vegetation of a similar abundance and diversity as at the commencement of the Term.

19.0 EXPIRY OF EASEMENT

19.1 If this Concession is terminated for any reason whatsoever, the Concessionaire accepts that the Grantor will have no liability whatsoever for any costs incurred by the Concessionaire as a result of the expiry of this Document.

19.2 Subject to any conditions set out in Schedule 3, at the surrender or termination of the Term, the Concessionaire must remove all the Concessionaire's structures and facilities on the Site unless the Grantor approves otherwise in writing.

19.3 If the Concessionaire does not remove the structures and facilities as required by clause 19.2 or as otherwise approved by the Grantor the structures or facilities remaining on the Easement Area at the expiry, surrender or termination of this Document will be deemed to be fixtures and property in them will vest absolutely in the Grantor.

19.4 In that case the Grantor will not be liable to pay compensation to the Concessionaire for the structures and facilities and may, at its option, remove or destroy or otherwise dispose of them, and recover the costs and expenses of their removal or destruction from the Concessionaire as a debt due to the Grantor.

20.0 FORCE MAJEURE

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

20.2 If the delay or failure continues for at least 28 days either party will be entitled to terminate this Document by notice in writing.

21.0 DISPUTE RESOLUTION AND ARBITRATION

21.1 If a dispute arises between the parties in connection with this Document including without limitation the interpretation, validity, breach or termination of any of its provisions, the parties will, without prejudice to any other rights or entitlements they may have under this Document or otherwise, 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.

21.2 If the dispute is not capable of resolution by agreement within 14 days of written notice by one party to the other (or such further period as the parties may agree to in writing) either party may refer the dispute to the Disputes Tribunal, where relevant, or to arbitration which arbitration is to be carried out in accordance with the provisions of the Arbitration Act 1996.

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

21.4 Notwithstanding anything to the contrary in the Arbitration Act 1996 if the parties do not agree on an arbitrator within 10 working days of a party giving written notice of the requirement to appoint an arbitrator

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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.

21.5 The arbitrator must include in the arbitration award reasons for the determination.

22.0 NOTICES

22.1 Any notice to be given under this Document by one party to the other is to be in writing and made by personal delivery, by pre-paid post or by facsimile addressed to the receiving party at the address or facsimile number set out in Item 18 of Schedule 1.

22.2 A notice given in accordance with clause 22.1 will be deemed to have been received:

- (a) in the case of personal delivery, on the date of delivery;
- (b) in the case of pre-paid post, on the third working day after posting;
- (c) in the case of facsimile, on the date of dispatch, unless the facsimile is received after 5pm on a working day, in which case the facsimile is deemed to have been received at 9am on the next working day.

23.0 COSTS

23.1 The Concessionaire must also pay the costs of the Grantor in enforcing or attempting to enforce its rights and powers under this Document if the Concessionaire is in default.

24.0 RELATIONSHIP OF PARTIES

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

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

25.0 OFFENCES

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

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

26.0 SEVERABILITY

26.1 Any illegality, or invalidity or unenforceability of any provision in this Document is not to affect the legality, validity or enforceability of any other provisions.

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27.0 REGISTRATION

27.1 The Grantor may register this Easement, at the expense of the Concessionaire, as provided by section 17ZA of the Conservation Act 1987.

28.0 SURVEY

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

28.2 The Concessionaire shall be solely responsible for the costs of registration (if any) of this Document and any associated costs.

28.3 The Concessionaire shall, at its cost, undertake the survey work of that part of the Easement Area between Seymour Stream and Tyler Point and the Livestock Holding Area.

Signed for an on behalf of Her Majesty the Queen by

[Handwritten signature]

Under a written delegation in the presence of:

Witness :
Occupation :
Address :

*MR Clem
Manager DOC
122 Victoria St Christchurch.*

Signed by Colin A Nimmo as Concessionaire in the presence of:

CA Nimmo

Witness :
Occupation :
Address :

*K. DUNLOP KRO
CONSERVATION RANGER
51 TORQUAY ST
KAIKOURA*

Signed by Christina A Nimmo as Concessionaire in the presence of:

Christina A Nimmo

Witness :
Occupation :
Address :

*K. DUNLOP KRO
CONSERVATION RANGER
51 TORQUAY ST
KAIKOURA*

SCHEDULE 1

1. **Servient Land:** The land described as Marginal Strips (Conservation Area) marked B, E, G, H, K, M, N, O & Q as shown on SO 7242T (Marlborough Land Registry), the Livestock Holding Area and further areas of the Grantor's land, being marginal strip, delineated in blue dashes on Plan A and black hatching on Plan B (the areas shown in blue dashes and black hatching are subject to final survey).
2. **Dominant land:** 17,919.7783 hectares more or less being Part Runs 119 and 121, ~~Part Sections 3, 5, 6 and 8 and Sections 1, 2, 4, 7 and 9 SO6746~~ situated in Upcot, Kaitarau, Tone and Tapuae-o-uenuku Survey Districts and being all the Land comprised and described in pastoral lease folio MB 46/177(Marlborough Land Registry)
3. **Easement Area:** The land described in Schedule 1, item 1.
4. **Concession Activity:**
 - (i) The Concessionaire has the right to from time to time and at all times for the Concessionaire, its servants, employees, agents, workmen, contractors, licensees and invitees (in common with the Grantor and any other person lawfully entitled so to do) to have the full, free uninterrupted and unrestricted right liberty and privilege from time to time and at all times by day and by night to go pass and repass with motor vehicles and with or without horses, machinery and implements of any kind and with or without farm dogs and farm stock to and from the Dominant Land over and along the Easement Area, to the intent that the easement hereby created shall forever be appurtenant to the Dominant Land, but subject to the limitations expressed in this Document.
 - (ii) The Concession Activity described in Schedule 1, item 4(i) may be carried out in the Livestock Holding Area by the Concessionaire but only to the extent necessary to enable the Concessionaire to hold farm stock within the Livestock Holding Area from time to time and for short periods of time in preparation for the farm stock to be removed by truck from the Concessionaires' land.
5. **Term:** The concession is granted in perpetuity commencing on 1st December 2002.
6. **Renewal:** NIL
7. **Final Expiry Date:** NIL
8. **Concession Fee:** The concession fee payable shall be a one off payment of one dollar, receipt of which the Grantor hereby acknowledges.
9. **Concession Fee Instalments:** NIL
10. **Concession Fee Payment Date:** NIL
11. **Penalty Interest Rate:** NIL
12. **Concession Fee Review Date:** NIL
13. **Public Liability General Indemnity Cover:** \$1,000,000
14. **Public Liability Forest & Rural Fire Act Extension:** \$1,000,000
15. **Statutory Liability Insurance:** Nil
- 16(a) **Other Types of Insurance:** Nil

CM³
CAN

16(b) Amounts Insured for Other Types of Insurances: Nil

17. Environmental Monitoring Contribution: Nil

18. Address for Notices:

(a) Grantor

Conservator
Department of Conservation
Private Bag 5
Nelson
Facsimile Number (03) 548 2805

(b) Concessionaire

Colin A Nimmo and Christina A Nimmo
Muzzle Station
PO Box 48
Kaikoura

can
can

- 15 -

SCHEDULE 2
Community Service Contribution
Not Applicable

SCHEDULE 3
Special Conditions

1 **THE** rights granted in this Document are non-exclusive and are exercisable in common with the Grantor and any other person granted similar rights by the Grantor, whether now or in the future, and without limitation the Grantor may grant the following persons access rights over the Easement Area:

- i. members of the public for access on foot, and with or without bicycles and horses;
- ii. Her Majesty the Queen acting by and through the Commissioner of Crown Lands for the purposes of undertaking management of adjacent land held for pastoral purposes; and
- iii. any lessee or licensee of the Grantors land,

PROVIDED THAT prior to granting such rights to any other person the Grantor shall first obtain the Concessionaire's written consent to such grant, which consent shall not be unreasonably or arbitrarily withheld or delayed if the rights to be granted are granted on reasonable terms and conditions.

2 **THE** Concessionaire shall maintain the Easement Area as an access track of sufficient standard for use by four wheel drive vehicles, save when the track is impassable by reason of adverse weather conditions. The Concessionaire shall obtain the Grantor's written consent before commencing any maintenance work that requires the realignment of the access way on the Easement Area.

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

4. **SUBJECT** to clauses 2 and 3, no party shall do anything that prevents or interferes with free passage over and along the Easement Area.

5. **SHOULD** the Concessionaire or any other user of the Easement are desire to upgrade the accessway on the Easement Area then it shall obtain the prior written consent of the Grantor, the Concessionaire (if relevant) and any other user of the Easement Area and then proceed to carry out such works and future maintenance of those works at its own cost.

6. **THE** Grantor shall provide the Concessionaire and all authorised users of the Easement Land with keys to all locked gates on the Easement Area

7. **THE** Livestock Holding Area shall only be used for the temporary holding of farm stock whilst droving stock along the Easement Area in conjunction with the Commissioner's Easement.

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PLAN A

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PLAN B

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Appendix 7: Form of easement to be created

Appurtenant Easement: Public Access and Management Purposes to
Conservation Area. WGNHO 136888 - Version 5.1

CHCCO- 48188 - Muzzle - 6 June 2003.

TRANSFER GRANT OF APPURTENANT EASEMENT

1. **Public Access to Conservation Area**
2. **Vehicles for Management Purposes**

Land Transfer Act 1952

This page does not form part of the Transfer.

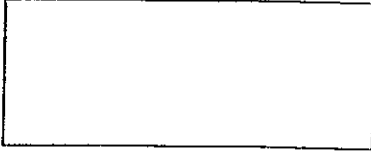
Transfer Instrument

Section 90, Land Transfer Act 1952

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

Land Registration District

Marlborough



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

To be advised All

Transferor

Surname(s) must be underlined

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

Transferee

Surname(s) must be underlined

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

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

Public Access and Management Purposes Easement to conservation area granted by section 7(2) of the Conservation Act 1987 (continued on pages 2, 3 and 4 of Annexure Schedule).

Operative Clause

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

Dated this day of

Attestation

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

Signed in my presence by the Transferor

Signature of witness

Witness to complete in BLOCK letters (unless legibly printed)

Witness name

Occupation

Address

Signature [common seal] of Transferor

Certified correct for the purposes of the Land Transfer Act 1952



[Solicitor for] the Transferee

Annexure Schedule

Transfer Instrument Dated Page of Pages

Definitions

1. In this transfer unless the context otherwise requires:
 - 1.1 "Easement Area" means that part of the Servient Land being [] metres wide which is marked "[]" on Deposited Plan/S.O. Plan No [].
 - 1.2 "Dominant Land" means the land administered by the Department of Conservation and contained in Certificate of Title "[]".
 - 1.3 "Management Purposes" means:
 - the protection of a significant inherent value of the Dominant Land;
 - the management of the Dominant Land in a way that is ecologically sustainable.
 - 1.4 "Servient Land" means the land owned by the Transferor and described on page 1.
 - 1.5 "Transferee" means Her Majesty the Queen acting by and through the Minister of Conservation and, for purposes of clause 2.1, includes the Transferee's tenants, agents, contractors, and invitees; and any employee or contractor of the Director-General of Conservation; and any member of the public; but for the purposes of clause 2.2 means the Transferee's tenants, agents, contractors, and invitees; and any employee or contractor of the Director-General of Conservation only.
 - 1.6 "Transferor" means the owner of the Servient Land described on page 1 and includes the Transferor's tenants and invitees.

Standard Easement Terms

Access

2. The Transferee has the right in common with the Transferor:
 - 2.1 To pass and re-pass at any time over and along the Easement Area marked e-d-c, e-f-g, i-j-k, l-m and n-o on foot, or by non-motorised vehicle powered by a person or persons for the purpose of obtaining access to the Dominant Land.
 - 2.2 To pass and re-pass at any time over and along the Easement Area marked a-b, c-d-h, d-e-f, f-g, f-h, h-j, i-j, j-k, l-m and n-o on foot, or on or accompanied by horses, or by motor vehicle, with or without machinery and implements of any kind, for Management Purposes associated with the Dominant Land. In accessing the Easement Area pursuant to this clause the Transferee will take all practical steps to advise the Transferor in advance of its intended use.
3. The Transferor must keep the Easement Area clear at all times of obstructions whether caused by parked vehicles, deposit of materials or unreasonable impediment to the use and enjoyment of the Easement Area, where such event or outcome is caused by or under the control of the Transferor.

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

Annexure Schedule

Transfer Instrument Dated Page of Pages

Exclusion of Implied Rights and Powers

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

Term

5. The easement created by this transfer is to be appurtenant to the Dominant Land in perpetuity.

Temporary Suspension

6. The Transferee may (not being a member of the public), at any time in exercise of her/his powers, temporarily close all or part of the Easement Area for such period as she/he considers necessary.

Dispute Resolution

- 7.1 If a dispute arises between the Transferor and Transferee 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 District Law Society in which the Servient Land is situated.
- 7.4 The arbitration is to be determined in accordance with the Arbitration Act 1996 and its amendments or any enactment passed in substitution.

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

Annexure Schedule

Transfer Instrument Dated Page of Pages

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

Special Easement Terms

9. The standard easement terms contained above must be read subject to any special easement terms set out below. The Transferee (not being a member of the public) has the right:
- 9.1 To mark the Easement Area as appropriate
 - 9.2 To erect and maintain stiles
 - 9.3 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.
 - 9.4 To use whatever reasonable means of access she thinks fit over the Easement Area to carry out the works in clauses 9.1 to 9.3.
- 10 The Transferee shall not take or allow dogs to enter the Easement Area without the consent of the Transferor.

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

Transfer Instrument
Section 90, Land Transfer Act 1952

BARCODE

Land Registration District
Marlborough

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

Transferor *Surname(s) must be underlined*
Commissioner of Crown Lands

Transferee *Surname(s) must be underlined*
Nelson Marlborough Fish & Game Council

Estate or interest to be transferred, or easement(s) or profit(s) à prendre to be created
State if fencing covenant imposed
Easement in Gross for a right of way under section 26S (2) (a) of the Conservation Act 1987 for foot, motor vehicle and machinery access for Management Purposes (continued on pages 1,2,and 3 Annexure Schedule

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

Dated this day of 2003

Attestation *If the Transferee or Grantee is to execute this Transfer, include the attestation in an Annexure Schedule*

Signed by	Signed in my presence by the Transferor
	Signature of Witness
Commissioner of Crown Lands	Witness to complete in BLOCK letters (unless legibly printed):-
	Witness name
	Occupation
	Address

Annexure Schedule

[] Dated [] Page [1] of [3] Pages

Definitions

1. In this transfer unless the context otherwise requires:
 - 1.1 "Easement Area" means that part of the Servient Land marked "a-b, c-d-h-j-k, l-m, n-o, d-e-f-h, f-g, i-j" on Plan No [].
 - 1.2 "Management Purpose" means the management of sports fish and game bird and the protection management and monitoring of the habitat for sports fish and game bird on the Easement Area or any adjacent public land or waterway.
 - 1.3 "Servient Land" means the land owned by the Transferor and described on page 1.
 - 1.4 "Transferee" means the Central South Island Fish & Game Council, and includes the Transferee's agents, contractors, employees, invitees and any honorary rangers.
 - 1.5 "Transferor" means the owner of the Servient Land and includes the Transferor's tenants and invites.

Standard Easement Terms

2. Access
 - 2.1 The transferee has the right to pass and re-pass at any time over and along the Easement Area on foot, or by motor vehicle, and in each case with or without machinery and implements of any kind, for Management Purposes. The Transferee shall take all practical steps to advise the Transferor in advance of its intended use.
 - 2.2 In doing any of the matter specified in clause 2.1 the Transferee has the right to take all reasonable steps on , or adjacent to the Easement Area to repair and maintain the Easement Area to a standard suitable for pedestrian or vehicular access by the Transferee. The Transferee shall take all practical steps to advise the Transferor in advance of its intended use.
 - 2.3 In carrying out the activity in clause 2.1 the Transferee must take all reasonable care to avoid damage to the soil and vegetation of the Easement Area and, in particular, avoid using the Easement Area when conditions such as softening during frost thaw render the Easement Area vulnerable to damage.

Annexure Schedule

[]

Dated

[]

Page

2

of

3

Pages

3. Transferor's Obligations

The Transferor must keep the Easement Area clear at all times of obstructions and must not impede to the use and enjoyment of the Easement Area by the Transferee.

4. Exclusion of Schedules

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

5. Term

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

6. Dispute Resolution

If any dispute or difference which may arise as to the liability of either party or as to the construction or interpretation of any of the provisions of this transfer shall be determined by arbitration in accordance with the provisions of the Arbitration Act 1996 or any Act passed in substitution or amendment for that Act and this clause shall be deemed to be a submission to arbitration within the meaning of that Act.

7. Notice

Any 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 facsimile to the receiving party.

7.1 If clause 7.1(b) applies the notice will be deemed to be received by the receiving party on such date on which the ordinary post would be delivered.

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

Annexure Schedule

[]

Dated

[]

Page

3

of

3

Pages

Continuation of "Attestation"

Signed under seal of
NELSON MARLBOROUGH FISH & GAME COUNCIL
in the presence of:

Witness (Signature)

Name _____

Address _____

Occupation _____

In substitution of the Survey Office Plan (which is yet to be prepared) the "Easement Area" described in clause 1 is marked on the Plan

Certified correct for the purposes of the Land Transfer Act 1952

[]

[Solicitor for] the Transferee

Appendix 8: Form of easement to be created

Transfer Instrument
Section 90, Land Transfer Act 1952

BARCODE

Land Registration District
Marlborough

Unique Identifier(s) for C/T(s)]	All/Part	Area/Description of part or stratum
TBA	TBA	TBA

Transferor *Surname(s) must be underlined*
Commissioner of Crown Lands

Transferee *Surname(s) must be underlined*
Nelson Marlborough Fish & Game Council

Estate or interest to be transferred, or easement(s) or profit(s) à prendre to be created
State if fencing covenant imposed
Easement in Gross for a right of way under section 26S (2) (a) of the Conservation Act 1987 for foot, motor vehicle and machinery access for Management Purposes (continued on pages 1,2,and 3 Annexure Schedule

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

Dated this day of **2003**

Attestation *If the Transferee or Grantee is to execute this Transfer, include the attestation in an Annexure Schedule*

Signed by	Signed in my presence by the Transferor
	_____ <i>Signature of Witness</i> Witness to complete in BLOCK letters (unless legibly printed):- _____ Witness name _____ Occupation _____ Address _____
Commissioner of Crown Lands	

Annexure Schedule

[] Dated [] Page [1] of [3] Pages

Definitions

1. In this transfer unless the context otherwise requires:
 - 1.1 "Easement Area" means that part of the Servient Land marked "a-b, c-d-h-j-k, l-m, n-o, d-e-f-h, f-g, i-j" on Plan No [].
 - 1.2 "Management Purpose" means the management of sports fish and game bird and the protection management and monitoring of the habitat for sports fish and game bird on the Easement Area or any adjacent public land or waterway.
 - 1.3 "Servient Land" means the land owned by the Transferor and described on page 1.
 - 1.4 "Transferee" means the Central South Island Fish & Game Council, and includes the Transferee's agents, contractors, employees, invitees and any honorary rangers.
 - 1.5 "Transferor" means the owner of the Servient Land and includes the Transferor's tenants and invites.

Standard Easement Terms

2. Access
 - 2.1 The transferee has the right to pass and re-pass at any time over and along the Easement Area on foot, or by motor vehicle, and in each case with or without machinery and implements of any kind, for Management Purposes. The Transferee shall take all practical steps to advise the Transferor in advance of its intended use.
 - 2.2 In doing any of the matter specified in clause 2.1 the Transferee has the right to take all reasonable steps on , or adjacent to the Easement Area to repair and maintain the Easement Area to a standard suitable for pedestrian or vehicular access by the Transferee. The Transferee shall take all practical steps to advice the Transferor in advance of its intended use.
 - 2.3 In carrying out the activity in clause 2.1 the Transferee must take all reasonable care to avoid damage to the soil and vegetation of the Easement Area and, in particular, avoid using the Easement Area when conditions such as softening during frost thaw render the Easement Area vulnerable to damage.

Annexure Schedule

[]

Dated []

Page [2] of [3] Pages

3. Transferor's Obligations

The Transferor must keep the Easement Area clear at all times of obstructions and must not impede to the use and enjoyment of the Easement Area by the Transferee.

4. Exclusion of Schedules

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

5. Term

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

6. Dispute Resolution

If any dispute or difference which may arise as to the liability of either party or as to the construction or interpretation of any of the provisions of this transfer shall be determined by arbitration in accordance with the provisions of the Arbitration Act 1996 or any Act passed in substitution or amendment for that Act and this clause shall be deemed to be a submission to arbitration within the meaning of that Act.

7. Notice

Any 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 facsimile to the receiving party.

7.1 If clause 7.1(b) applies the notice will be deemed to be received by the receiving party on such date on which the ordinary post would be delivered.

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

Annexure Schedule

[]

Dated

[]

Page

3

of

3

Pages

Continuation of "Attestation"

Signed under seal of
NELSON MARLBOROUGH FISH & GAME COUNCIL
in the presence of:

Witness (Signature)

Name _____

Address _____

Occupation _____

In substitution of the Survey Office Plan (which is yet to be prepared) the "Easement Area" described in clause 1 is marked on the Plan

Certified correct for the purposes of the Land Transfer Act 1952

[]

[Solicitor for] the Transferee

Appendix 9: Form of covenant to be created

17 October 2002

Sustainable Management Covenant

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

and

Colin Allen Nimmo and Christina Anne Nimmo

Date

This Deed is made on

2005

between (1) **Commissioner of Crown Lands (the Commissioner)**

and (2) **Colin Allen Nimmo and Christina Anne Nimmo** (and includes each of their legal or personal representatives, successors in title, and assigns) (the **Holder**).

Introduction

- A. The Commissioner has put to the Holder and the Holder has accepted, a substantive proposal for The Muzzle tenure review (the **Substantive Proposal**) in accordance with the provisions of the Crown Pastoral Land Act 1998 (the **Act**) for the freehold disposal to the Holder of certain land (the **Freehold Land**, as described in Schedule Three of the Proposal).
- B. Under section 97 of the Act, a substantive proposal may reserve over land disposed of under Part 2 or Part 3 of the Act, a covenant in favour of the Commissioner, providing for the management of that land, and the monitoring of activities undertaken on the land and the effect of those activities on that land.
- C. In accordance with the Substantive Proposal, an approved plan has been registered designating part of the Freehold Land over the area marked in blue wash on the Plan and being 2,107 hectares approximately, as land over which a sustainable management covenant under section 97 of the Act will be reserved.
- D. The approved plan also designates the land adjoining the Land to be land to be restored to full Crown ownership and control and to Crown control as conservation area under the Substantive Proposal (**Conservation Area** as described in Schedules One and Two).
- E. The Land is to be used for pastoral farming and the Commissioner and the Holder have agreed that the Land is to be managed for the purpose of protecting the conservation values of the Conservation Area including the preservation and protection of the natural resources for the purpose of maintaining their intrinsic values.

Agreed

1. **Covenant**

In accordance with section 97 of the Act, the Holder covenants with the Commissioner, from the date of this Deed and in perpetuity, that the Land will be managed so as to meet the Purposes and Objectives.

2. **Holder's obligations**

The Holder agrees it will not allow:

- (a) sheep or any other livestock, except any type of cattle, to enter onto or graze on the Land; and
- (b) any cattle or any other livestock to enter onto and graze on the Conservation Area.

3. Monitoring and access

- 3.1 The Commissioner may, in its discretion, undertake a monitoring programme to monitor the effects on the Conservation Area of the grazing of cattle only on the Land.
- 3.2 The Holder 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 Holder's compliance with clause 2.
- 3.3 The Commissioner may require that this covenant is varied, from time to time, to better achieve the Purposes and Objectives, including without limitation:
- (a) restricting the numbers, ages or types of cattle permitted to graze on the Land; and
 - (b) restricting the periods of time or times of the year during which cattle may be permitted to graze on the Land.
- 3.4 The Holder must sign all documents and do all things necessary to register any variation of this covenant under clause 3.3, at the Holder's cost.

4. Fencing

- 4.1 The Holder will not require the Commissioner or the Crown to erect or to contribute to the cost of erecting, any fencing along the boundary between the Land and the Conservation Area or across any part of the Land.
- 4.2 If the Holder elects to erect a fence along the boundary between the Land and the Conservation Area or across any part of the Land, the Holder will erect the fence at the sole cost of the Holder and, the ongoing maintenance of the fence will be under the terms of the Fencing Act 1978.
- 4.3 Clauses 4.1 and 4.2 do not prevent the parties concluding a different arrangement as to fencing in the future.

5. Surrender or variation

- 5.1 In the event that the Holder erects a fence along all or part of the boundary between the Land and the Conservation Area under clause 4.2, the Holder may apply to the Commissioner for a surrender of this covenant or a variation of the relevant parts of this covenant.
- 5.2 The Commissioner may decide to surrender this covenant or to vary this covenant if it considers, in its sole discretion, that the erection of the fence has the effect that this covenant is no longer necessary to achieve the Purposes and Objectives or that this covenant may be varied and still achieve the Purposes and Objectives.
- 5.3 The Holder must supply such information as the Commissioner considers necessary to enable the Commissioner to decide whether this covenant may be surrendered or varied.
- 5.4 If the Commissioner decides to surrender or vary this covenant, the Commissioner will prepare a surrender or variation of this covenant, and register the surrender or variation against the certificate of title for the Freehold Land at the Land Transfer Office. The costs for the preparation,

execution and registration of the surrender or variation of this covenant shall be borne by the Holder.

6. Default

- 6.1 If any of the Holder's livestock other than cattle enters onto the Land or if cattle or any other livestock enters onto the Conservation Area, the Holder must:
- (a) immediately notify the Commissioner, providing details of the type and numbers of livestock on the Land and/or the Conservation Area; and
 - (b) remove the livestock from the Land and/or the Conservation Area within five calendar days of the date that the Holder first became aware that the livestock had entered the Land and/or the Conservation Area or the date specified in any notice that may be given to the Holder by the Commissioner (or its authorised agent) requiring the livestock to be removed (whichever is the earlier date).
- 6.2 In the event that the Holder fails to remove the livestock from the Land and/or the Conservation Area within five calendar days of the date referred to in clause 6.1(b), the Commissioner may remove the livestock and will be entitled to recover from the Holder on demand, as a debt due by the Holder to the Commissioner, all costs incurred by the Commissioner or its agents in removing that livestock from the Land and/or the Conservation Area.
- 6.3 In addition to the costs referred to in clause 6.2, the Holder will pay to the Commissioner on demand liquidated damages calculated as follows:
- (a) \$5 per animal (except cattle) for each period of 14 days that the animal is on the Land; and
 - (b) \$5 per animal (including cattle) for each day that the animal is on the Conservation Area.
- 6.4 The Holder and the Commissioner agree that the amount of the liquidated damages specified in clause 6.3 reflects the genuine and demonstrable loss anticipated as a result of the breach of covenant by the Holder.

7. Notice

- 7.1 Each notice or other communication under this covenant 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 holder (if any), from time to time designated for that purpose by the addressee to the other party.
- 7.2 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.

8. Sustainable management covenant

- 8.1 This covenant is a sustainable management covenant under section 97 of the Act. The covenant runs with the Freehold Land and is an interest in land for the purposes of the Land Transfer Act 1952.
- 8.2 The Commissioner intends to apply, under section 97(3) of the Act, to the Registrar-General of Land for registration of this covenant. This covenant will bind the registered proprietor, for the time being, of the Land and any successor in title, transferee or lessee of the registered proprietor.
- 8.3 A person will not be liable as the Holder under this covenant for any breach of the provisions of this covenant that are committed after that person has parted with its entire interest in the Freehold Land.

9. Arbitration

If any dispute or difference arises between the Holder and the Commissioner in any way arising out of, or in connection with, this covenant, it is agreed that the dispute or difference must be referred, at the request of either the Commissioner or the Holder, to arbitration under the Arbitration Act 1996.

10. General

- 10.1 Where there is more than one owner of the leasehold or fee simple interest in the Freehold Land, the terms and conditions contained in this covenant shall bind each owner jointly and severally.
- 10.2 Where the Holder is a company the terms and conditions contained in this covenant shall bind a receiver, liquidator, statutory manager or statutory receiver. Where the Holder is a natural person, the terms and conditions contained in this covenant shall bind an Official Assignee. In either case the terms and conditions contained in this covenant bind a mortgagee in possession.
- 10.3 The reference to any legislation in this covenant extends to and includes any amendment to, or re-enactment of, that legislation.

11. **Severance**

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

Execution

Executed as a deed

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

)
)
)

Witness Signature

Witness Name

Occupation

Address

**SIGNED by Colin Allen Nimmo
and Christina Anne Nimmo in the
presence of :**

)
)
)
)
)
)

Colin Allen Nimmo

Christina Anne Nimmo

Witness Signature

Witness Name

Occupation

Address

Schedule: Description of the Freehold Land, the Land and the Conservation Area

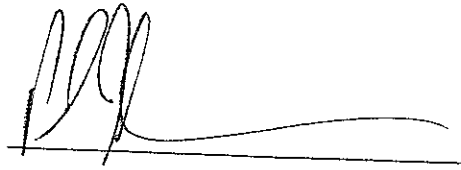
Freehold Land means the land being disposed of to the Holder and coloured in part yellow and part blue on the Plan attached to the Substantive Proposal.

Conservation Area means those areas of land being restored to full Crown ownership and control and to Crown control marked as "CA1, CA2, CA3, CA4 and CA5" as outlined in green wash and buff wash on the Plan attached to the Substantive Proposal.

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 Paul Alexander Jackson acting
pursuant to a delegated authority in
the presence of:



Paul Alexander Jackson
Witness
Solicitor
Occupation
Wellington
Address

SIGNED by Colin Allan Nimmo and
Christina Anne Nimmo in the
presence of:

Colin Allan Nimmo
Christina Anne Nimmo

K. L. Reardon
Witness
Housewife
Occupation
170 Totara St Kaitiaki
Address

TRIPP, ROLLESTON & CO.

BARRISTERS & SOLICITORS

PARTNERS: PETER WILLIAM HUTT
JOHN HUBERT STUBBS

ASSOCIATE: DAVID MICHAEL SIBLEY

P.O. BOX 27
TELEPHONE (03) 684-3079
FAX (03) 688-4983
EMAIL admin@tripprolleston.co.nz
251 STAFFORD STREET
TIMARU, NEW ZEALAND

18th 
15th November 2005

Certifications

I, PETER WILLIAM HUTT hereby certify as follows:

1. COLIN ALLEN NIMMO and CHRISTINA ANNE NIMMO ("the Holder") have personally executed the Proposal dated 18th August 2005 ("the Proposal").
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).

Yours faithfully

TRIPP ROLLESTON & CO

Per: 
PETER WILLIAM HUTT
Partner

ANZ NATIONAL BANK LIMITED as Mortgagee under Mortgage 133578.1 ("the Mortgage"), hereby:

- (a) consents to acceptance of the Proposal dated 18th August 2005 ("the Proposal) by COLIN ALLAN NIMMO and CHRISTINA ANNE NIMMO ("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: 10 October 2005

SIGNED by ANZ NATIONAL BANK LIMITED
By its Attorney

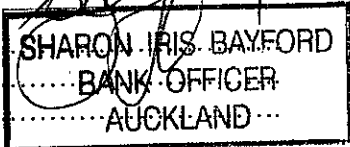
..... KAPUA KATRINA GARDINER
.....
(name in full)

.....
Signature

in the presence of:

Witness Signature:
.....

Witness Name:
Occupation:
Address:
.....
.....
.....



CERTIFICATE OF NON-REVOCATION OF POWER OF ATTORNEY

I, **Kapua Katrina Gardiner**, Manager Lending Services of Auckland in New Zealand hereby certifies that:

1. By Deed dated 28 June 1996 deposited in the Land Registry Offices situated at:

Auckland	as No.	D.016180	Hokitika	as No.	105147
Blenheim	as No.	186002	Invercargill	as No.	242542.1
Christchurch	as No.	A.256503.1	Napier	as No.	644654.1
Dunedin	as No.	911369	Nelson	as No.	359781
Gisborne	as No.	G.210991	New Plymouth	as No.	433509
Hamilton	as No.	B.355185	Wellington	as No.	B.530013.1

The National Bank of New Zealand Limited appointed me its attorney with the powers and authorities specified in that Deed.

2. On 26 June 2004 The National Bank of New Zealand Limited was amalgamated with ANZ Banking Group (New Zealand) Limited to become ANZ National Bank Limited and the property being dealt with pursuant to the Deed has become the property of ANZ National Bank Limited (as the amalgamated company) under Part XIII of the Companies Act 1993.
3. At the date of this certificate, I am the Manager Lending Services, Auckland Lending Services Centre of The National Bank of New Zealand, part of the ANZ National Bank Limited.
4. At the date of this certificate, I have not received any notice or information of the revocation of that appointment by the winding-up or dissolution of the ANZ National Bank Limited or otherwise.

DATED at Auckland this 10th day of October 2005

*

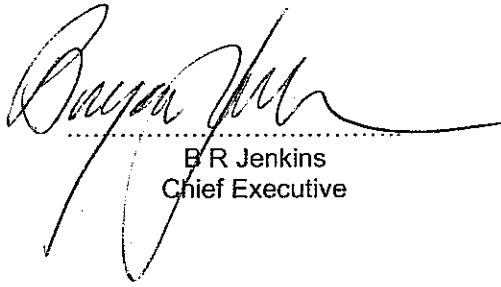
Kapua Katrina Gardiner

CANTERBURY REGIONAL COUNCIL as Chargeholder under Land Improvement Agreement 169052 ("the Land Improvement Agreement"), hereby:

- (a) consents to acceptance of the Proposal dated 18th August 2005 ("the Proposal") by COLIN ALLAN NIMMO and CHRISTINA ANNE NIMMO ("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 the Land Improvement Agreement or any new Land Improvement Agreement 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 Land Improvement Agreement or any new Land Improvement Agreement over the Freehold Land.

Dated: 17th November 2005

SIGNED for and on behalf of
CANTERBURY REGIONAL COUNCIL

) 
)
) B R Jenkins
) Chief Executive

In the presence of:

Witness Signature: Manson

Witness Name: Margaret Manson

Occupation: Executive Assistant

Address: Christchurch