

## **Crown Pastoral Land Tenure Review**

**Lease name: REDCLIFFE**

**Lease number: PC 141**

### **Preliminary Proposal**

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

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

**June**

**05**

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

**Date:**

**Parties**

---

**Holder:** William Hugh Duncan Ensor and Sarah Helen Ensor  
Redcliffe Station  
Methven

**Commissioner of Crown Lands:**

C/- Opus International Consultants Limited  
P O Box 1482  
Christchurch  
Attention Tim Broad

**The Land**

---

**Lease:** Redcliffe Station

**Legal Description:** Section 18 SO 17637 and Sections 19 and 20, SO 17642 situated in Block XI Glenrock, Blocks IV, VIII, XII and XVI Somers, Blocks I, II, III, IV and V Hutt Survey Districts

**Area:** 9192.2870 hectares more or less

**Certificate of Title/Unique Identifier:** CB33A/1191

**Summary of Designations**

---

Under this Proposal, the Land is designated as follows:

- (a) The Crown Land (shown shaded in pink and labelled CA1 on the Plan and shown edged in pink on the Plan and labelled SR1 and SR2 ) is to be restored to, or retained by, the Crown as set out in Schedules One and Two; and
- (b) The Freehold Land (shown edged in green on the Plan) is to be disposed by freehold disposal to the Holder as set out in Schedule Three.

**1      The Plan**

---

---

**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.

---

**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 1973 and the Overseas Investment Regulations 1995.
- 9.4 The Holder will procure the Mortgagee to execute a registrable discharge of the Mortgage and, if required by the Mortgagee, the Holder will execute registrable new mortgage documents and forward these to the Commissioner to be registered as set out in clause 8.
- 9.5 If required by the Mortgagee, the Commissioner will provide an undertaking that, subject to the provisions of clause 7 being satisfied, the Commissioner will register the discharge of the Mortgage and register any new mortgage against the certificate of title for Freehold Land at the same time as the certificate of title for the Freehold Land issues.

## **10 Continuation of Lease**

---

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

## **11 Fencing and Construction**

---

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

## **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 Acknowledgments**

---

- 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 1991; andthe Holder hereby indemnifies and will indemnify the Commissioner against all losses, damages and expenses incurred by the Commissioner and against all claims made against the Commissioner in respect of any work or costs for which the Holder is liable under this clause 15;
  - (d) nothing in this Proposal is affected by, and the Commissioner has no liability of any nature in respect of, the existence or terms of any leases, licences or other occupation rights of any nature (if any) granted by the Holder in respect of the Land; and
  - (e) the Holder has no claim (and will not have any claim) whatsoever against the Crown and/or Commissioner in relation to the Tenure Review and/or this Proposal, including (without limitation) any claim for any misrepresentation or for any loss or damage suffered whether in contract, tort (including negligence) or otherwise.

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

---

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

**17 Acceptance**

---

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

**18 Solicitors Certificate**

---

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

**19 Default**

---

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

**20 Goods and Services Tax**

---

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

**21 Lowest price**

---

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



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

---

**22 Costs**

- 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 General**

- 25.1 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.
- 25.2 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.
- 25.3 The Holder must comply with the Commissioner's requirements for the implementation and settlement of the Tenure Review contemplated by this Proposal.
- 25.4 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.
- 25.5 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.
- 25.6 The illegality, invalidity or unenforceability of any provision in this Proposal will not affect the legality, validity or enforceability of any other provision.
- 25.7 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).

## 26 Interpretation

---

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## 26.2 Construction of certain references

In this Proposal, unless inconsistent with the context:

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

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

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

---

**1 Details of Designation**

---

- 1.1 Under this Proposal the land shown edged in pink on the Plan and labelled SR1, being 109 hectares (approximately) is designated as land to be restored to or retained in full Crown ownership and control as a Scenic Reserve
- 1.2 Under this Proposal the land shown edged in pink and labelled SR2 on the Plan, being 4 hectares (approximately) is designated as land to be restored to or retained in full Crown ownership and control as a Scenic Reserve

**2 Schedule One Improvements**

---

Nil

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

---

### **1 Details of designation**

---

- 1.1 Under this Proposal the land shown shaded in pink and labelled CA1 on the Plan, being 7724 hectares (approximately) is designated as land to be restored to or retained in Crown control as conservation area subject to
- (a) the granting of a Tourism Concession substantially as set out in Appendix 4

### **2 Information Concerning Proposed Tourism Concession**

---

**Explanatory note: This information is required in the event that the CCL accepts the recommendation of the Director-General to designate land as land to be restored to or retained in Crown control subject to the granting of a Concession or over which a Concession is granted. This information must be provided for each Concession if more than one is proposed. The Concession may require the provisional consent of the Minister of Conservation (section 41 CPL Act)**

Description of the proposed activity:

Tourism Concession Licence for the adjoining landholder for the purpose of the business of guided tramping and guided hunting.

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

The area of the Concession Activity is over the area designated as Conservation Area of 7,724 hectares approximately in the Redcliffe tenure review under the CPLA and includes the northern end of the Mt Hutt Range to Steepface Hill, Rat Hill, Mt Hecla and the north-western faces of Mt Bruce and adjoining the Swift River on the western boundary.

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

The Tourism Concession is limited to guided tramping and guided hunting. The potential affects include potential damage to the flora and fauna by people moving through the area although this may also happen with general public use of the Conservation Area for similar purposes. The Concession Licence document ensures that the provisions of the Conservation Act apply and includes monitoring of the concession activity. Through Schedule 2 limitations are placed on party sizes and it ensures the rights of the public are not restricted. The concession provisions ensure that all potential affects will be minimal.

Details of the proposed type of concession:

A Tourism Concession Licence under S. 17Q (1) Conservation Act 1987.

Proposed duration of concession and reason for proposed duration.

*Proposed duration: 10 years.*

The Tourism Concession Licence was sought during the consultation phase. A grazing concession had been sought by the holder but after consideration it was decided a tourism concession would allow for the diversification of the holders farming activities to enable the viability of the property to continue. A tourism concession will also have significantly less environmental impact than grazing on the proposed Conservation Area.

Relevant information:

The holders of Redcliffe, William Ensor and Sarah Ensor, have entered into this review voluntarily. The proposed tourism concession is needed for the diversification of the property following the completion of tenure review. The Ensors have farmed the property successfully for a significant number of years and will be able to build on their knowledge of the property in diversifying into tourism activities. The proposed tourism activities will have minimal impact on the area.

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

---

**1 Details of designation**

---

- 1.1 Under this Proposal the land shown edged in green on the Plan, being 1355 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 easement marked as **a-b** and **c-d** on the Plan and substantially as set out in Appendix 5;



**Schedule Four: Conditions**

---

- 1 The Commissioner is under no obligation, and may decide, in its sole discretion, not to proceed further with the Tenure Review unless and until:
  - (a) the Director General of Conservation has completed all actions required under Part IVA of the Conservation Act 1987;

**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

---

#### Fence line

---

**Length and location:** Fence to be erected along boundary line "R-S" ( 350 metres); "T-U" (2000 metres);"V-W" ( 1850 metres); "X-Y" (8,500 metres) approximately

**Type:** Sheep: Five Wire Fence and T irons or posts

#### Specifications

---

1. Fences to be constructed of five HT (2.5mm) wires, one barbed wire on top and one bottom galvanised medium tensile 4mm (No.8) wire, with wires located on the grazing side of the boundary, except where there is a high risk of snow damage, where they shall be placed on the leeward side away from the prevailing snow.
2. 2.4 metre x 200mm treated timber strainers with treated timber stays to be used for all gateways and end of strains.
3. 2.4 metre x 125mm treated timber posts or T irons to be used at 20 metre gaps or on appropriate high and low points.
4. 3.6 metre cyclone gates to be erected across vehicle track.
5. All strainers to be driven or dug in and rammed and footed with acceptable footing material. No. 8 wire to be used on foots. All dips and hollows to be tied down.
6. Six steel waratah standards per 20 metres to be used. Waratah standards to be mostly 1.5m long with 1.35m standards allowed on rocky ground and 1.65m standards on soft ground.
7. Waratahs, back to back, may be used instead of posts on high spots and on corners, with tiebacks on tussock country.
8. All strainers and angles to be mortised, stayed and blocked. Stays to be one-third of the way up posts.
9. Netting to be hung on creek crossings and left to swing.
10. Tie-backs are permitted on both sides of the fence.
11. All wires are to be securely and neatly tied off and strained evenly. Bottom wire to be kept between 100mm -150mm above the ground. Most of the line will need to be cleared manually as required. Line to be benched where required.
12. Post staples to be 50x4mm galvanised slice pointed barb and be driven well in but allow the wire to run through.
13. Strains not to exceed 300 metres for HT and 250m for No. 8 wire and strained to a tension recommended by the wire manufacturer.
14. Strainers and angle posts to be dug in to such a depth that 117cm (46") remains out of the ground.

**RELEASED UNDER THE OFFICIAL INFORMATION ACT**

15. Under no circumstances are any strainers, posts or stays to be shortened either prior to or subsequent to their placement in the ground.
16. Triplex strainers to be used on all strains.
17. Lightning droppers may be used where appropriate.

**Appendix 4: Form of Concession to be Created**

---

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

DATED \_\_\_\_\_

Between

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

and

**WILLIAM HUGH DUNCAN ENSOR and SARAH HELEN ENSOR**  
("the Concessionaire")

**CONCESSION DOCUMENT**  
**UNDER THE CROWN PASTORAL LAND ACT 1998**  
(for Tourism Activities)



Department of Conservation  
*Te Papa Atawhai*



THIS LICENCE is made on this day of

**PARTIES:**

1. MINISTER OF CONSERVATION, ("the Grantor")
2. WILLIAM HUGH DUNCAN ENSOR and SARAH HELEN ENSOR, ("the Concessionaire")

**BACKGROUND**

- A. The Grantor manages the Land described in Schedule 1 as a Conservation Area.
- B. 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.
- C. The Concessionaire wishes to carry out the Concession Activity on the Land subject to the terms and conditions of this Document.

**OPERATIVE PARTS**

**TERMS AND CONDITIONS**

**1.0 DEFINITIONS AND INTERPRETATION**

1.1 In this Document, unless the context otherwise requires:

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

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

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

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

"Concessionaire" includes the Concessionaire's successors, assigns, executors, and administrators.

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

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

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

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

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

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

**"Co-Site"** means the use of the Land or the Concessionaire's facilities on the Land by a third party for an Activity and **"Co-Sitee"** and **"Co-Siting"** have corresponding meanings.

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

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

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

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

**"Licence"** for purposes of this Document is the Licence granted under this Document by the Grantor to the Concessionaire under section 17Q(1) of the Conservation Act 1987.

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

**"Renewal Date"** means the date specified in Item 4 of Schedule 1.

**"Renewal Period"** means the period specified in Item 4 of the Schedule 1.

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

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

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

1.2 In this Document unless the context otherwise requires:

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

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

**2.0 GRANT OF LICENCE**

2.1 In exercise of the Grantor's powers under either section 66 of the Crown Pastoral Land Act 1998 the Grantor **GRANTS** to the Concessionaire a **LICENCE** under section 17Q(1) of the Conservation Act 1987 to carry out the Concession Activity on the Land subject to the terms and conditions contained in this Document.

**3.0 TERM**

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

**4.0 CONCESSION FEE AND ADMINISTRATION FEE**

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

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

(b) the Administration Fee plus GST specified in Item 6(b) of Schedule 1.

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

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

**5.0 OTHER CHARGES**

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

**6.0 CONCESSION FEE REVIEW**

6.1 The Grantor will review the Concession Fee on the Concession Fee Review Dates.

6.2 The Grantor will commence the review not earlier than 3 months before a Concession Fee Review Date and no later than 9 months following the Concession Fee Review Date by giving written notice to the Concessionaire.

6.3 The notice must specify the Concession Fee which the Grantor considers to be the market value for the Concession Activity as at the Concession Fee Review Date having regard to the matters specified in section 17Y(2) of the Conservation Act 1987.

6.4 If, within 28 days of receipt of the Grantor's notice, the Concessionaire gives written notice to the Grantor that the Concessionaire disputes the proposed new Concession Fee the new Concession Fee is to be determined in accordance with clause 18.

6.5 Until determination of the new Concession Fee, the Concession Fee payable by the Concessionaire from the Concession Fee Review Date is to be the Concession Fee payable immediately before the Concession Fee Review Date. On determination of the new Concession Fee an adjustment is to be made and paid, either by the Grantor or by the Concessionaire, whichever is applicable.

6.6 If the Concessionaire does not give notice to the Grantor under clause 6.4 the Concessionaire will be deemed to have accepted the Concession Fee specified in the Grantor's notice.

**7.0 CONCESSION ACTIVITY**

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

**8.0 COMPLIANCE**

8.1 The Concessionaire will comply where relevant:

- (a) with the provisions of any conservation management strategy or conservation management plan under Part IIIA of the Conservation Act 1987 together with any amendment or review of the strategy or plan whether approved before, on, or after the date on which this Document takes effect; and
- (b) with the Conservation Act 1987, the Reserves Act 1977, the Health and Safety in Employment Act 1992, the Resource Management Act 1991, Historic Places Act 1993 and any other statute, ordinance, regulation, bylaw, or other enactment affecting or relating to the Land, or affecting or relating to the Concession Activity.

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

9.1 The Concessionaire must not erect or bring on to the Land any Structure, install any facility, or alter the Land in any way without the prior written consent of the Grantor.

9.2 The Concessionaire must keep and maintain at the Concessionaire's cost any Structures, facilities and alterations to the Land in good repair.

9.3 On expiry or early termination of this Document either as to the whole or any part of the Land, the Concessionaire will not be entitled to compensation for any improvements (including pasture) and any Structures or facilities remaining on the Land are to become the property of the Grantor.

9.4 If requested by the Grantor, the Concessionaire must, within such time as the Grantor determines, remove all Structures, facilities or other improvements erected or installed by the Concessionaire and make good at the Concessionaire's own expense all damage done by the removal and must leave the Land in a clean and tidy condition to the satisfaction of the Grantor.

**10.0 PROTECTION OF THE ENVIRONMENT**

10.1 Except as approved in writing by the Grantor the Concessionaire will not, whether by act or omission:

- (a) interfere with, remove, damage, or endanger the natural features, indigenous animals and plants, or historic resources on the Land; or
- (b) bring any plants or animals on to the Land; or
- (c) deposit on the Land debris, rubbish or other dangerous or unsightly matter, or contaminate any water body on the Land; or
- (d) pile or store materials in any place on the Land where they may obstruct the public or create a nuisance; or
- (e) conduct any noxious, noisome, dangerous or offensive activity on the Land; or
- (f) top-dress, burn, cultivation, sow seed, or carry out earthworks (including tracking, drainage or ditching) on the Land; or
- (g) disturb any stream or watercourse on the Land; or

(h) light any fire on the Land.

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

(a)(i) if required by the Grantor take all steps necessary to control any pest, insect, or rodent infestation occurring on or emanating from the Land described in Schedule 1 clause 1 or any Structure or facility on the Land;

(a)(ii) if considered necessary by the Grantor, engage a pest exterminator approved by the Grantor; and

(b) comply strictly with the provisions of the Biosecurity Act 1993.

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

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

10.5 The Concessionaire for purposes of the Concession Activity may take onto or use vehicles on the Land.

#### **11.0 HEALTH AND SAFETY**

11.1 The Concessionaire is to carry out the Concession Activity on the Land in a safe and reliable manner and must comply with the Health and Safety in Employment Act 1992 and its regulations and an independently audited safety plan, prepared to the satisfaction of the Grantor.

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

#### **12.0 TEMPORARY SUSPENSION**

12.1 The Grantor may suspend this Document:

(a) if, in the opinion of the Grantor the activities of the Concessionaire, its employees, agents, contractors, licensees or invitees are having or may have an adverse effect on the environment and the Grantor considers that the effect can be avoided, remedied or mitigated to an extent satisfactory to the Grantor;

(b) while the Grantor investigates any of the circumstances contemplated by this clause and also while the Grantor investigates any potential breach or possible offence by the Concessionaire related to the Concession Activity under the Conservation Act 1987 or any of the Acts mentioned in the First Schedule of that Act of which the Grantor has become aware.

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

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

#### **13.0 ASSIGNMENT**

13.1 The Concessionaire is not to transfer, sublicense, assign, mortgage or otherwise dispose of the Concessionaire's interest under this Document or any part of it without the prior written consent of the Grantor, such consent shall not be unreasonably withheld. The Grantor may, in the Grantor's discretion, decline to grant consent under this clause.

- 13.2 If the Grantor gives consent under this clause the Concessionaire is to remain liable to observe and perform the terms and conditions of this Document throughout the Term and is to procure from the transferee, sublicensee, or assignee a covenant to be bound by the terms and conditions of this Document unless the Grantor otherwise provides in writing.
- 13.3 The Concessionaire must pay the costs reasonably incurred by the Grantor incidental to any application for consent, whether or not such consent is granted.
- 13.4 Any change in the shareholding of the Concessionaire altering the effective control of the Concessionaire will be deemed to be an assignment and will require the consent of the Grantor.

#### 14.0 TERMINATION

- 14.1 The Grantor may terminate this Document by notice in writing to the Concessionaire if:
- (a) the Concession Fee or the Administration Fee or any other money payable to the Grantor under this Document is in arrears and unpaid for 14 days after any of the days appointed for payment whether it has been lawfully demanded or not; or
  - (b)(i) the Concessionaire breaches any terms of this Document; and
  - (b)(ii) the Grantor has notified the Concessionaire in writing of the breach; and
  - (b)(iii) the Concessionaire does not rectify the breach within 28 days of receiving notification; or
  - (c) the Concessionaire ceases to conduct the Concession Activity; or
  - (d) the Concessionaire is convicted of an offence, related to the Concession Activity, under the Conservation Act 1987 or any of the Acts listed in the First Schedule to that Act; or the Resource Management Act 1991; or the Biosecurity Act 1993; or the Health and Safety in Employment Act 1992; or
  - (e) the Concessionaire is dissolved; or enters into any composition with or assignment for the benefit of its creditors; or is adjudged bankrupt; or being a company has a receiver appointed; or is put into liquidation; or is placed under statutory management; or has a petition for winding up presented against it; or is otherwise unable to pay its debts as they fall due; or the estate or interest of the Concessionaire is made subject to a writ of sale or charging order; or the Concessionaire ceases to function or operate.
- 14.2 If the Grantor terminates the Document under this clause 14 all rights of the Concessionaire are to cease absolutely; but the Concessionaire is not to be released from any liability to pay the Concession Fee or Administration Fee or other monies up to the date of termination or for any breach of any term up to the date of termination.
- 14.3 The Grantor may exercise the Grantor's right under this clause to terminate the Concession notwithstanding any prior waiver or failure to take action by the Grantor or any indulgence granted by the Grantor for any matter or default.

#### 15.0 INDEMNITIES AND INSURANCE

- 15.1 The Concessionaire will indemnify and keep indemnified the Grantor against all claims made by any person in respect of any injury, loss, or damage, including fire, caused or suffered as a result of or arising out of any acts or omissions of the Concessionaire, its employees, contractors, or invitees or otherwise caused as a result of its use of the Land or the Concessionaire's carrying out of the Concession Activity on the Land.

- 15.2 This indemnity is to continue after the expiry or other determination of this Document in respect of those acts or omissions occurring or arising before its expiry or determination.
- 15.3 Without prejudice to or in any way limiting its liability under clause 15.1 the Concessionaire must take out and keep in force during the Term if required by the Grantor:
- (a) a policy of public liability insurance against liability for loss, damage or injury from any one single accident or event arising out of its conduct of the Concession Activity on the Land and covering:
    - (i) general indemnity for a sum not less than the amount specified in Item 10 of Schedule 1; and
    - (ii) Forest and Rural Fires Act 1977 extension for a sum not less than the amount specified in Item 11 of Schedule 1; and
  - (b) statutory liability insurance for the amount specified in Item 12 of Schedule 1; and
  - (c) such other policy or policies of insurance against any other liability and for such other sums which the Grantor specifies in Item 13 of Schedule 1.
- 15.4 With respect to clause 15.3 the Concessionaire must, before commencing the Concession Activity and on each renewal of insurance provide the Grantor with certificates of insurance issued by the Concessionaire's insurer confirming the nature, amount and duration of cover.

#### **16.0 ENVIRONMENTAL MONITORING**

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

#### **17.0 FORCE MAJEURE**

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

#### **18.0 DISPUTE RESOLUTION AND ARBITRATION**

- 18.1 If any dispute arises between the parties in connection with this Document, the parties must, without prejudice to any other rights they have under this Document, attempt to resolve the dispute by negotiation or other informal dispute resolution techniques agreed by the parties.
- 18.2 If the dispute is not capable of resolution by agreement within 14 days of written notice by one party to the other (or such further period as the parties may agree to in writing) either party may refer the dispute to mediation with a mediator agreed between the parties.
- 18.3 If the parties do not agree on a mediator, the President of the District Law Society in the region in which the Land is situated is to appoint the mediator.
- 18.4 In the event that the dispute is not resolved by mediation within 2 months of the date of referral to mediation the parties agree that the provisions of the Arbitration Act 1996 will apply.
- 18.5 Notwithstanding anything in the Arbitration Act 1996, if the parties do not agree on an arbitrator within 10 working days of a party giving written notice of the requirement to appoint an arbitrator the President of the District Law Society in the region in which the Land is situated is to appoint the arbitrator. In either case the arbitrator must not be a person who has participated in an informal dispute resolution procedure in respect of the dispute.

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

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

#### **19.0 NOTICES**

19.1 Any notice to be given under this Document by one party to the other is to be in writing and made by personal delivery, by pre-paid post or by facsimile addressed to the receiving party at the address or facsimile number set out in Item 15 of Schedule 1.

19.2 A notice given in accordance with clause 19.1 will be deemed to have been received:

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

#### **20.0 RELATIONSHIP OF PARTIES**

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

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

#### **21.0 OFFENCES**

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

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

#### **22.0 ADVERTISING.**

22.1 The Concessionaire must not erect or display any signs or advertising on the Land without the prior written approval of the Grantor. At the expiry or termination of this Concession the Concessionaire must remove all signs and advertising material and make good any damage caused by the removal.

22.2 Where required by the Grantor, the Concessionaire must ensure that all its advertising and promotional material specifies that it is carrying out the Concession Activity under a Concession granted by the Grantor on land administered by the Department.



22.3 If required by the Grantor in writing the Concessionaire must include information in its advertising and promotional material which assists its clients to understand the features and values of the natural and historic resources of the Land and the surrounding area.

22.4 In preparing such information the Concessionaire must obtain information from and have regard to the views of tangata whenua.

### **23.0 EMPLOYMENT OF STAFF.**

23.1 The Concessionaire must ensure that the Concession Activity is conducted at all times by a person or persons suitably trained and qualified to carry out the Concession Activity.

23.2 The Concessionaire must provide the Grantor with evidence of the competency and qualifications of its employees if the Grantor so requests.

23.3 The Concessionaire must comply with all statutes relating to employment of staff.

### **24.0 VARIATIONS**

24.1 The provisions of section 17ZC of the Conservation Act 1987 apply to all variations sought by the Concessionaire.

24.2 The Grantor may vary any conditions of this Document if the variation is necessary:

- (a) to deal with significant adverse effects of the Activity that were not reasonably foreseeable at the time this Licence was granted; or
- (b) because the information made available to the Grantor by the Concessionaire for the purposes of the Concessionaire's application contained inaccuracies which materially influenced the decision to grant the Licence and the effects of the Activity permitted by this Document require more appropriate conditions.

24.3 The Concessionaire is to be bound by every such variation.

### **25.0 CO-SITING.**

25.1 The Concessionaire must, if required by the Grantor, allow Co-Siting on the Land or the Land immediately adjoining the Site except when a Concessionaire demonstrates to the reasonable satisfaction of the Grantor that the Co-Siting by a third party:

- (a) would impact on the ability of the Concessionaire to conduct its Concession Activity; or
- (b) would result in a substantial change to the Concession Activity carried out by the Concessionaire on the Land.

25.2 The Grantor will be entitled to require the Concessionaire to obtain at the Concessionaire's expense a report prepared by an independent consultant acceptable to the Grantor confirming the matter specified in clause 25.1.

25.3 For the avoidance of doubt, a Co-Sitee permitted on the Land must enter into a separate agreement with the Grantor in terms of which the Co-Sitee will be required to pay a fee to the Grantor to conduct an Activity on the Land. This separate agreement will not contain provisions that conflict with the Concessionaire's rights and obligations in relation to the Land.

### **26.0 SPECIAL CONDITIONS**

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

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

Signed by \_\_\_\_\_ )  
\_\_\_\_\_ )  
for and on behalf of the Minister of )  
Conservation pursuant to a written )  
delegation in the presence of : )

\_\_\_\_\_

Witness \_\_\_\_\_

Occupation \_\_\_\_\_

Address \_\_\_\_\_

Signed by \_\_\_\_\_ )  
as Concessionaire in the presence of : )

\_\_\_\_\_

Witness \_\_\_\_\_

Occupation \_\_\_\_\_

Address \_\_\_\_\_

**SCHEDULE 1**

1. **Land:** Conservation Area of 7,724 hectares approximately being part of Section 18 S.O. 17637 situated in Block XI Glenrock Survey District, Blocks IV, VII, XII and XVI Somers Survey District and Blocks I, II, III, IV and V Hutt Survey District being the land described in folio number CB 33A/1191 (Canterbury Registry) and shown on the plan attached to the Preliminary Proposal as CA1 being shaded pink and herein referred to as the Land. *(see definition of Land in clause 1.1)*
2. **Concession Activity:**  
Tourism Concession;  
The use of the Land described in clause 1, Schedule 1, for the purpose of the business of guided tramping and guided hunting. *(see definition of Land in clause 1.1)*
3. **Term:** 10 years commencing on the date on which the Surrender of Redcliffe Pastoral lease folio number CB 33A/1191 (Canterbury registry) becomes effective pursuant to the Crown Pastoral Land Act 1998, being the .....day of .....200.. *(see clause 3)*
4. **Renewal:** No right of renewal
5. **Expiry Date:** .....day of .....200..
6. **Concession Fee:**  
(a) Tourism Concession fee: per paying tourist per full day, per paying tourist per half day. *(see clause 4)*  
(b) Administration Fee: *(see clause 4)*
7. **Concession Fee Payment Date:** Annually upon commencement of the term set out in clause 3, Schedule 1, 1<sup>st</sup> July 200... and 1<sup>st</sup> July annually thereafter. *(see clause 4)*
8. **Penalty Interest Rate:** Double the Grantor's bank's current highest 90 day bank bill buy rate *(see clause 4.2)*
9. **Concession Fee Review Date:** Every three years from the commencement date. *(see clause 6)*
10. **Public Liability General Indemnity Cover:** *(see clause 15.3)*
11. **Public Liability Forest & Rural Fire Extension:** *(see clause 15.3)*
12. **Statutory Liability:** 500,000 *(see clause 15.3)*
13. **Other Types of Insurance:** NIL *(see clause 15.3)*  
**Amounts Insured for Other Types of Insurances:** NIL *(see clause 15.3)*
14. **Environmental Monitoring Contribution:** To be negotiated between the Grantor and the Concessionaire if required as per Clause 16 (Environmental Monitoring and Land Rehabilitation) of the concession document. *(see clause 16)*

15. **Address for Notices:**

*(see clause 19)*

(a) Grantor

Conservator  
Department of Conservation  
Private Bag 4715  
CHRISTCHURCH  
Ph (03) 379-9758  
Fax (03) 365-1388

(b) Concessionaire

William H D Ensor and Sarah H Ensor  
Redcliffe Station  
METHVEN  
Ph (03) 318-5874  
Fax (03) 318-5875

**SCHEDULE 2**

*Special Conditions*

**A General Conditions**

- 1 The public have unrestricted access rights to the Land. The Grantor may erect signposts and mark the access routes through the Land for the benefit of the public.
- 2 The Grantor will have no obligation to maintain any of the tracks within the Land. The Grantor shall have all rights and powers whether on the track or necessarily adjacent thereto to take all reasonable steps to repair and maintain the tracks to a standard suitable for Conservation management use and public pedestrian access. The Concessionaire may maintain any existing tracks within the Concession area.
- 3 The Concessionaire shall actively promote and, by all practicable means, cause all clients to adhere to the Environmental Care Code and the Water Care Code at all times.
- 4 The Concessionaire shall complete an Activity Return Form by the 1<sup>st</sup> April each and every year of operation.
- 5 Before commencing any of the Concession Activities, the Concessionaire must prepare a safety plan and have it audited, pursuant to clause 11.
- 6 The Concessionaire shall provide evidence (at the same time as providing their activity return) satisfactory to the Grantor that the Concessionaire's safety plan is current and operational. If the evidence provided by the Concessionaire is not satisfactory to the Grantor, the Concessionaire shall (at the Concessionaires expense) provide the Grantor with a recently completed audit (no more than 30 days old) of the safety plan.
- 7 The Grantor reserves the right to request further or different activity related information in order to best monitor and determine any effects of the Concession Activity on the Land.
- 8 The Concessionaire must report all incidents and accidents of what so ever nature and whether or not the subject of an official search and rescue operation to the Grantor. At the request of the Grantor the Concessionaire must supply a report in writing of any inquiry into the cause of an incident, or accident, and if in the opinion of the Grantor the inquiry reveals that a reasonable standard of safety was not maintained and/or the Concessionaire, their servants, or employees or agents were negligent then the Grantor may determine this concession. The Concessionaire must at the request of the Grantor make available any employee, servant or agent who in the opinion of the Grantor might assist in any such enquiry.
9. The Concessionaire and their servants, agents, invitees and staff shall be solely responsible for the safety and conduct of all persons participating in the concession activity and shall be held vicariously liable for any breach, non-observance or non-performance of any of the conditions herein contained or implied caused by any act or omission of the Concessionaires servants or invitees.
10. The Grantor shall be entitled to send any officer of the Department of Conservation on any of the Concession Activities to assess their impact on conservation values, and compliance with terms and conditions of this Permit. The costs of such assessment are recoverable from the Concessionaire.
11. The Grantor reserves the right to apply restrictions on the Concession Activity of the Concessionaire, or withdraw all or part of the Land or Concession Activity approved, if in the opinion of the Grantor the Concession Activity granted is having, or may have, an adverse effect on the physical or social environment and the effect cannot be avoided, remedied or mitigated to an extent satisfactory to the Grantor. The concessionaire shall not be entitled to any compensation in the event of such action being taken.

**B Guided tramping Conditions:**

1. The activity is limited to the following;

DOC Facilities (eg huts) or informal campsites	Max. Party Size (incl. guides)	Frequency of Use (trips) per Year	Max. number of trips per week	Duration of visit (half or full days?)
	15	260	5	Full day – 5 hours

2. The Concessionaire is to limit the party size to the maximum party size (**including guide**)-identified in the table above.
3. The Concessionaire is requested to consult the relevant Papatipu Runanga if they wish to use Ngai Tahu cultural information. If the concessionaire wishes to use the Töpuni or statutory acknowledgement information contained in schedules 14-108 of the Ngäi Tahu Claims Settlement Act 1998, or any Department produced interpretative material in respect to Ngäi Tahu cultural information, they are requested to notify the relevant Papatipu Rünanga, as a matter of courtesy.

*Note: The Department of Conservation will, in relation to this clause, provide the Concessionaire with:*

- (a) the contact details of the relevant Papatipu Rünanga, and;
- (b) the relevant Topuni information.

4. The Concessionaire and any persons employed by the Concessionaire are requested to recognise and provide for Ngäi Tahu values in the conduct of their activities.
5. The Concessionaire shall, as far as practicable, attend any workshops held by the Department of Conservation for the purpose of providing information to concessionaires, which will include the Ngäi Tahu values associated with Töpuni areas.
6. If sites of cultural or historical significance are located during the Term, the Grantor reserves the right to prohibit or restrict any Concession Activity relating to those sites.
7. The Concessionaire and their clients shall remain on formed tracks or well-used routes where these facilities have been designed to protect the natural and historic features of the land at all times. All safety signs must be adhered to at all times.

**C Guided hunting Conditions:**

1. The Grantor reserves the right to authorize any hunter who holds a valid hunting permit issued by the Department of Conservation to hunt on the land.
2. The Concessionaire shall limit party size, including guides, to **6 people per trip**.
3. The Concessionaire shall not guide any hunting party in the concession area without having first obtained hunting permits to cover all members of the specific hunting party.
4. The Concessionaire shall pay, as a charge additional to the concession fee, all standard hut fees for all members of the Concessionaire's party for the use of any hut.

**Appendix 5: Form of Easement to be Created**

---

In Gross Easement: Management Purposes. – Version 5.1

CHCCO- 74247 - Redcliffe - August 2005

**TRANSFER GRANT OF  
EASEMENT IN GROSS**

Vehicles for Management Purposes

**Land Transfer Act 1952**

**This page does not form part of the Transfer.**



~~TRANSFER~~  
RELEASED UNDER THE OFFICIAL INFORMATION ACT  
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*

--	--	--	--

Transferor Surnames must be underlined

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

Transferee 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.*

Management Purposes Easement in Gross under 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 TRANSFEROR TRANSFERS to the TRANSFEE all the transferor'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 Transferor Signature of Witness  _____ <b>Witness to complete in BLOCK letters</b> <i>(unless typewritten or legibly stamped)</i>  Witness name Occupation Address
(continued on page 4 of Annexure Schedule)	
Signature, or common seal of Transferor	

Certified correct for the purposes of the Land Transfer Act 1952

Certified that Part IIA of the Land Settlement Promotion and Land Acquisition Act 1952 does not apply  
Certified that no conveyance duty is payable by virtue of Section 24(1) of the Stamp and cheque Duties Act 1971.  
(DELETE INAPPLICABLE CERTIFICATE)

[Signature Line]

Solicitor for the Transferee

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

**Annexure Schedule**

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

Dated

Page  of  Pages

**Definitions**

1. In this transfer unless the context otherwise requires:
  - 1.1 "Easement Area" means that part of the Servient Land being 10 metres wide which is marked "[ ]" on Deposited Plan/S.O. Plan No [ ].
  - 1.2 "Management Purposes" means:
    - the protection of a significant inherent value of the land managed by the Transferee;
    - the ecological sustainable management of the land managed by the Transferee.
  - 1.3 "Servient Land" means the land owned by the Transferor and described on page 1.
  - 1.4 "Transferee" means Her Majesty the Queen acting by and through the Minister of Conservation and includes the Transferee's tenants, agents, contractors, and invitees; and any employee or contractor of the Director-General of Conservation.
  - 1.5 "Transferor" means the owner of the Servient Land described on page 1 and includes the Transferor's tenants and invitees.

**Standard Easement Terms**

Access

2. The Transferee has the right in common with the Transferor:

To pass and re-pass at any time over and along the Easement Area a-b and c-d on foot, or on or accompanied by horses, or by motor vehicle, with or without machinery and implements of any kind, for Management Purposes.
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.

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

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.

**Annexure Schedule**

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

Dated

Page  of  Pages

Exclusion of Schedules

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 in perpetuity.

Temporary Suspension

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

Dispute Resolution

- 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.

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.

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

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.

Annexure Schedule

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

[ ]

Dated [ ]

Page [ ] of [ ] Pages

**Special Easement Terms**

- 9. The standard easement terms contained above must be read subject to any special easement terms set out below.
- 10. The Transferee has the right:
  - 10.1 To mark the Easement Area as appropriate.
  - 10.2 To erect and maintain stiles.
  - 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 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 10.3.

**Continuation of "Attestation"**

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

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

Name \_\_\_\_\_

Address \_\_\_\_\_

Occupation \_\_\_\_\_

*Footnote: In substitution of the SO Plan (which has yet to be prepared), the proposed easement described in clause 1 is marked on the Plan.*

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

Vehicles for Management Purposes

**Land Transfer Act 1952**

Law Firm Acting

Conservancy Solicitor  
Department of Conservation  
133 Victoria Street  
Christchurch

Auckland District Law Society  
REF:4135

**This page is for Land Registry Office use only.**  
(except for "Law Firm Acting")

**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:

---

---

Witness

---

Occupation

---

Address

**SIGNED** by William Hugh Duncan  
Ensor in the presence of:

---

---

Witness

---

Occupation

---

Address

**SIGNED** by Sarah Helen Ensor in  
the presence of:

---

---

Witness

---

Occupation

---

Address