

# **Crown Pastoral Land Tenure Review**

**Lease name : BEN NEVIS**

**Lease number : PO 241**

## **Substantive Proposal Part 2**

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

**May**

**14**

**Appendix 7: Form of Grazing Concession to be Created over Conservation Area labelled  
"CA4" on the Plan**

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

DATED \_\_\_\_\_

Between

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

and

**PIONEER GENERATION LIMITED**  
("the Concessionaire")

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



Department of Conservation  
*Te Papa Atawhai*

**THIS LICENCE** is made this day of

**PARTIES:**

1. **MINISTER OF CONSERVATION**, ("the Grantor")
2. **PIONEER GENERATION LIMITED** ("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 and a Reserve under section 17Q(1) of the Conservation Act 1987 or section 59A of the Reserves Act 1977 (whichever is relevant in the circumstances).
- 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1.2 In this Document unless the context otherwise requires:

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

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

## **2.0 GRANT OF LICENCE**

2.1 In exercise of the Grantor's powers under either section 66 or section 68 of the Crown Pastoral Land Act 1998 (whichever is relevant in the circumstances) the Grantor **GRANTS** to the Concessionaire a **LICENCE** under either section 17Q(1) of the Conservation Act 1987 or section 59A of the Reserves Act 1977 (whichever is relevant in the circumstances) to carry out the Concession Activity on the Land subject to the terms and conditions contained in this Document.

## **3.0 TERM**

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

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

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

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

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

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

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

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

## **5.0 OTHER CHARGES**

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

**6.0 CONCESSION FEE 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, and any other statute, ordinance, regulation, bylaw, or other enactment affecting or relating to the Land, or affecting or relating to the Concession Activity.

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

- 9.1 The Concessionaire must not erect or bring on to the Land any Structure, install any facility, or alter the Land in any way without the prior written consent of the Grantor.
- 9.2 The Concessionaire must keep and maintain at the Concessionaire's cost any Structures, facilities and alterations to the Land in good repair.
- 9.3 On expiry or early termination of this Document either as to the whole or any part of the Land, the Concessionaire will not be entitled to compensation for any improvements (including pasture) and any Structures or facilities remaining on the Land are to become the property of the Grantor.
- 9.4 If requested by the Grantor, the Concessionaire must, within such time as the Grantor determines, remove all Structures, facilities or other improvements erected or installed by the Concessionaire and make good at the Concessionaire's own expense all damage done by the removal and must leave the Land in a clean and tidy condition to the satisfaction of the Grantor.

**10.0 PROTECTION OF THE ENVIRONMENT**

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

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

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

- (a)(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 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 on to the Land for use in connection with the Concession Activity and pest control operations.

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

**11.0 HEALTH AND SAFETY**

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

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

**12.0 TEMPORARY SUSPENSION**

12.1 The Grantor may suspend this Document:

- (a) if, in the opinion of the Grantor the activities of the Concessionaire, its employees, agents, contractors, licensees or invitees are having or may have an adverse effect on the environment and



the Grantor considers that the effect can be avoided, remedied or mitigated to an extent satisfactory to the Grantor;

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

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

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

### 13.0 ASSIGNMENT

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

13.2 If the Grantor gives consent under this clause the Concessionaire is to remain liable to observe and perform the terms and conditions of this Document throughout the Term and is to procure from the transferee, sublicensee, or assignee a covenant to be bound by the terms and conditions of this Document unless the Grantor otherwise provides in writing.

13.3 The Concessionaire must pay the costs reasonably incurred by the Grantor incidental to any application for consent, whether or not such consent is granted.

13.4 Any change in the shareholding of the Concessionaire altering the effective control of the Concessionaire will be deemed to be an assignment and will require the consent of the Grantor.

### 14.0 TERMINATION

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

- (a) the Concession Fee or the Administration Fee or any other money payable to the Grantor under this Document is in arrears and unpaid for 14 days after any of the days appointed for payment whether it has been lawfully demanded or not; or
  - (b)(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 local branch of the New Zealand Law Society in the region in which the Land is situated is to appoint the mediator.

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

18.5 Notwithstanding anything to the contrary in the Arbitration Act 1996, if the parties do not agree on an arbitrator within 10 working days of a party giving written notice of the requirement to appoint an arbitrator the President of the local branch of the New Zealand Law Society in the region in which the Land is situated is to appoint the arbitrator. In either case the arbitrator must not be a person who has participated in an informal dispute resolution procedure in respect of the dispute.

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

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

**19.0 NOTICES**

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

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

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

**20.0 RELATIONSHIP OF PARTIES**

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

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

**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 SPECIAL CONDITIONS**

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

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

Signed by Jeffrey Edward Connell

\_\_\_\_\_  
 for and on behalf of  
 the Minister of Conservation  
 pursuant to a written delegation (or designation as the case may be)  
 in the presence of :

Witness \_\_\_\_\_

Occupation \_\_\_\_\_

Address \_\_\_\_\_

Signed by

\_\_\_\_\_  
 as Concessionaire  
 in the presence of :

Witness \_\_\_\_\_

Occupation \_\_\_\_\_

Address \_\_\_\_\_

TRUSTEES EXECUTORS TO EXECUTE HERE

**SCHEDULE 1**

1. **Land:** *(Area marked CA4 on the designations plan) (see definition of Land in clause 1.1)*
2. **Concession Activity:** Sheep grazing, which is not to be actively encouraged by the Concessionaire *(see definition of Concession Activity in clause 1.1)*
3. **Term:** 30 years commencing on \_ \_ \_ \_ \_ *(see clause 3)*
4. (a) **Renewal Date:** not applicable *(see clause 3.2)*  
 (b) **Renewal Period:** not applicable *(see clause 3.2)*
5. **Final Expiry Date:** *(see clause 3.2)*
6. (a) **Concession Fee:** \$1 (if demanded) *(see clause 4)*  
 (b) **Administration Fee:** \$200 per annum + GST *(see clause 4)*
7. **Concession Fee Payment Date:** *(see clause 4)*  
 On or before the date specified on the invoice generated by the Grantor.
8. **Penalty Interest Rate:** *(see clause 4.2)*  
 Double the Grantor's bank's current highest 90 day bank bill buy rate.
9. **Concession Fee Review Date:** Every three year anniversary from the date of commencement for the term of the Concession. *(see clause 6)*
10. **Public Liability General Indemnity Cover:** *(see clause 15.3)*  
 for \$250,000
11. **Public Liability Forest & Rural Fire Extension:** *(see clause 15.3)*  
 for \$1,000,000
12. **Statutory Liability Insurance:** *(see clause 15.3)*  
 Amount \$20,000
13. **Other Types of Insurance:** Not Applicable *(see clause 15.3)*  
**Amounts Insured for Other Types of Insurances:** Not Applicable *(see clause 15.3)*
14. **Environmental Monitoring Contribution:** Not Applicable *(see clause 16)*
15. **Address for Notices (including facsimile number):** *(see clause 19)*
  - (a) Grantor: C/- PO Box 5244 Dunedin Facsimile (03) 477-8626
  - (b) Concessionaire:  
 Ellis Street  
 PO Box 275  
 Alexandra  
 Fax (03) 448 9439

**SCHEDULE 2**

***Special Conditions***

**Land Management**

1. The Concessionaire must not break up or crop any part of the Land without the prior written consent of the Grantor.

**Sheep**

2. The Concessionaire must not actively encourage sheep to enter on to the Land by any means, including but not limited to, by mustering or the use of salt blocks.
3. While the Grantor acknowledges that despite the best efforts of the Concessionaire, some 'sheep drift' will occur into the Land, the Concessionaire is to take all practical steps to discourage sheep from doing so and must monitor the Land on a regular basis in order to ensure compliance as far as possible.
4. If the Grantor determines that the Concessionaire is taking no steps to monitor and control 'sheep drift' and the Grantor is made aware that sheep are grazing on the Land, the Grantor may terminate this concession unless effective measures to control 'sheep drift' onto the Land are agreed between the Grantor and Concessionaire.

**Fencing**

5. The Grantor is not to be called upon at any time to contribute to the costs of work on a fence as that term is defined in the Fencing Act 1978 between the Land and any adjoining land of the Grantor.
6. The Concessionaire must keep and maintain at the Concessionaires cost any fences, stiles or gates in good repair.

**Hunting**

7. The Grantor reserves the right to authorize hunters who hold a valid hunting permit issued by the Director General of Conservation to hunt on the Land.

**Inspection**

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

**Management Prescription**

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

**Transfer**

10. In relation to Clause 13.1 consent to transfer, sublicense, assign, mortgage or otherwise dispose of the Concessionaires interest under this Document will not be unreasonably withheld by the Grantor.

### SCHEDULE 3

#### *Management Prescription*

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

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

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

1. The goal of the concession is to achieve the protection of, landscape, vegetation, soil and water values and recreational opportunities whilst formally recognising that some sheep will enter into the area as the conservation land / freehold boundary is unable to be practically fenced.

**(a) Vegetation**

To manage the vegetation within the concession area to enhance the cover of native vegetation whilst minimising the risk of invasion by exotic woody weeds and trees.

**(b) Landscape**

To manage the concession area in a manner which retains and enhances the open landscape which is characterised by a low level of human modification.

**(c) Recreation**

To facilitate public recreation activities which are compatible with the concession areas proposed status as a conservation area; for example tramping and hunting.

**(d) Soil and Water**

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

2. These goals are to be met through periodic regular inspections and liaison with the Concessionaire.

The concession document requires the Concessionaire to comply with the legal obligations of the Biosecurity Act.

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

Below approximately 1000 m there are extensive mixed shrublands dominated by *Olearia odorata*, *Coprosma propinqua* and matagouri. Other important shrubs include *Corokia cotoneaster*, *Carmichaelia petriei*, *Olearia bullata* and *Melicytus alpinus*. Within these shrublands there are occasional trees of kowhai (*Sophora microphylla*) which are likely indicators of the previous forest cover. The shrublands on the lower-most river terraces are comprised of almost pure *Olearia odorata*.

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

No detailed monitoring programme is to be implemented due to the very limited nature of grazing catered for in the concession. DOC staff frequently visit and fly over the area for a range of purposes. If any specific concerns arise a monitoring programme can be implemented at a later date.

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

The concession caters for limited grazing of sheep. The onus is on the concessionaire to conduct his grazing on land above the concession area in a manner which minimises stock drift below the unfenced boundary. For this reason it is not appropriate to have a formal stock limit.



**Appendix 8: Form of Public Access and Minister of Conservation Management Purposes Easement in Gross to be Created over route labelled "a-b", "c-d", "e-f-g-h-i", "aa-ab", "h-j", "f-k", "n-o-p", "o-q" and "s-t", plus car park at CP2 on the Plan**

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## **TRANSFER GRANT OF EASEMENT IN GROSS**

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

**Land Transfer Act 1952**

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

**TRANSFER**

**Land Transfer Act 1952**

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

Land Registration District

Otago

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

|  |     |  |
|--|-----|--|
|  | All |  |
|--|-----|--|

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.*

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

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<br>Signature of Witness<br>_____ (continued on page 4 of Annexure Schedule)<br><b>Witness to complete in BLOCK letters</b><br>(unless typewritten or legibly stamped)<br>Witness name<br>Occupation<br>Address |
| Signature, or common seal of Transferor  |  |

**Certified correct for the purposes of the Land Transfer Act 1952** (DELETE INAPPLICABLE CERTIFICATE)

Otago-37213 Easement in gross template docdm-756494. "CP2" "a-b", "aa-ab", "c-d", "e-f-g-h-i", "h-j", "f-k", "o-q", "n

\_\_\_\_\_

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 "a-b", "aa-ab", "c-d", "e-f-g-h-i", "h-j", "f-k", "o-q", "n-o-p" & "s-t" on the designations plan [ ] on Deposited Plan/S.O. Plan No [ ].
  - 1.2 "Parking Area" means that part of the Servient Land which is marked ["CP2" on the Designations Plan] [ ] on S.O. Plan No [ ].
  - 1.3 "Management Purposes" means:
    - the protection of a significant inherent value of the land managed by the Transferee (not being a member of the public), in the vicinity of the easement area.
    - The management of the land administered by the Transferee (not being a member of the public) 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 licensees; 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:
  - 2.1 In common with the Transferor to pass and re-pass at any time over and along the Easement Area on foot, on or accompanied by horses, or by non-motorised vehicle powered by a person or persons.
  - 2.2 To pass and re-pass at any time over and along the Easement on foot, or on or accompanied by horses, or by motor vehicle, with or without machinery and implements of any kind, or with or without guns and dogs, for Management Purposes.
  - 2.3 In common with the Transferor from time to time to park vehicles on the Parking Area.

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.  
Otaco-37213 Easement in gross template  
docdm-756494. "CP2" "a-b", "aa-ab", "c-d", "e-f-g-h-i", "h-j", "f-k", "o-q", "n-o-p" & "s-t". 22 July 4 2011.

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 (*marked "r-s" & "f-m" on the Designation Plan*) being 10metres wide which is marked "[ ]" on S.O. Plan No [ ].
  - 1.2 "Management Purposes" means:
    - the protection of a significant inherent value of the land managed by the Transferee in the vicinity of the easement area.
    - The management of the land administered by the Transferee in a way that is ecologically sustainable.
  - 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 licensees; 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 to pass and re-pass at any time over and along the Easement on foot, or on or accompanied by horses, or by motor vehicle, or by non motorised vehicle powered by person or persons, with or without machinery and implements of any kind, or with or without guns and dogs, 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.
4. 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.

Exclusion of Schedules

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

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.

OTACO-38229 Easement for Mgmt in Gross Templ.doc  
DOCDM 756903 - DOC Mgmt. Ben Nevis "r-s" & "f-m". 7 July 2011.

3. The Transferor must keep the Easement Area clear at all times of obstructions whether caused by parked vehicles (other than the Parking Area which is usable in common with the Transferee), 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.
4. 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.

Exclusion of Schedules

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

Term

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

Temporary Suspension

7. The Transferee (not being a member of the Public) 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

- 8.1 If a dispute arises between the Transferor and Transferee (not being a member of the Public) concerning the rights, management and operation created by this transfer the parties are to enter into negotiations in good faith to resolve it.
- 8.2 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.
- 8.3 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 of the local branch of the New Zealand Law Society in which the Servient Land is situated.
- 8.4 The arbitration is to be determined in accordance with the Arbitration Act 1996 and its amendments or any enactment passed in substitution.

Notice

- 9.1 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.
- 9.2 If clause 9.1(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.
- 9.3 If clause 9.1(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.

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.

Otaco-37213 Easement in gross template

docdm-756494. "CP2" "a-b", "aa-ab", "c-d", "e-f-g-h-i", "h-j", "f-k", "o-q", "n-o-p" & "s-t". July 4 2011.

### Special Easement Terms

- 10 The standard easement terms contained above must be read subject to any special easement terms set out below.
11. Clause 2.1 is deleted and replaced with:
  - 2.1 In common with the Transferor to pass and re-pass at any time over and along the Easement Area as detailed below.
    - 2.1.1 On foot.
    - 2.1.2 On or accompanied by horses on those parts of the Easement Area marked "a-b", "c-d", "e-f-g-h-i", "h-j" and "aa-ab" on the designations plan.
    - 2.1.3 By non-motorised vehicle powered by person or persons.
    - 2.1.4 With guns and dogs on those parts of the Easement Area marked "a-b", "c-d", "e-f-g-h-i", "h-j", "f-k", "n-o-p" and "aa-ab" on the designations plan if a permit to hunt on the conservation land serviced by the easement is held. Dogs must be kept on a leash. Dogs are not permitted on those parts of the Easement Area marked "a-b", "c-d" and "e-f-g-h-i" on the designations plan over the lambing period (October 15<sup>th</sup> to November 30<sup>th</sup> inclusive). Dogs and guns cannot be taken onto those parts of the Easement Area marked "o-q" & "s-t" at any time of the year.
12. In addition to rights conveyed in Clause 2.1 as replaced by Clause 11 the Transferee (being a member of the public) may, subject to the discretion of the Department of Conservation Central Otago Area Manager, use a motor vehicle on that part of the Easement Area labelled "a-b", "c-d" & "e-f-g-h-i" between December 1<sup>st</sup> and March 15<sup>th</sup> inclusive. If weather conditions render the track vulnerable to damage, or factors associated with public vehicle use cause undue interference with the Transferor's farming operation, the Department of Conservation Central Otago Area Manager may at his/her discretion from time to time preclude vehicle use within the open period for such period(s) as the Department of Conservation Central Otago Area Manager considers necessary.
- 13 The Transferee will erect lockable gates or barriers at points "a & i" on the designations plan. Keys will be made available to members of the public from the Department of Conservation Central Otago Area Office in Alexandra during those times when the Easement Area is open for public vehicle use. The Transferor must be provided with a key, or may install their own lock.
- 14 The Transferor and the Transferee will share the cost of the maintenance of that part of the Easement Area to which special condition 12 applies. The share will be agreed between the parties and will reflect the use of the Easement Area made by each party.
- 15 The Transferor is under no obligation to maintain those parts of the Easement Area outside of that area covered by special easement term 12 and for which they hold primary maintenance responsibility.
- 16 The Transferee will make members of the public aware that use of the Easement, with the exception of the usual statutory requirements and duties incumbent upon both the Transferor and the Transferee arising out of the easement, will be at the public's own risk.
- 17 The sections of the Easement area marked "f-k", "n-o-p", "s-t", & "o-q" on the designations plan shall be closed to members of the public for lambing purposes from October 15<sup>th</sup> to November 30<sup>th</sup> inclusive.
- 18 The Transferee has the right:
  - 18.1 To mark the Easement Area as appropriate

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.

Otago-37213 Easement in gross template

docdm-756494. "CP2" "a-b", "aa-ab", "c-d", "e-f-g-h-i", "h-j", "f-k", "o-q", "n-o-p" & "s-t". July 4 2011.

- 18.2 To erect and maintain stiles/gates.
  - 18.3 To construct and maintain a benched track along those sections of the Easement area where there is currently no formed track
  - 18.4 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.
  - 18.5 to use whatever reasonable means of access he/she thinks fit over the Easement Area to carry out the works in clause 18.1 to 18.4
  - 18.6 to install cattle stops and adjacent stock gates on that part of the Easement Area available for public vehicle use
- 19 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.

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.

Otaco-37213 Easement in gross template

docdm-756494. "CP2" "a-b", "aa-ab", "c-d", "e-f-g-h-i", "h-j", "f-k", "o-q", "n-o-p" & "s-t". July 4 2011.



**Schedule One**

**Summary of Conditions**

| Section                               | Foot | MTB | Horse | Public Vehicle                         | Lambing Closure                            | Guns        | Dogs                                     |
|---------------------------------------|------|-----|-------|--|--|-------------|--|
| "a-b", "c-d" & "e-f-g-h-i"            | ✓    | ✓   | ✓     | Dec 1 <sup>st</sup> - 15 <sup>th</sup> | ✗  | With Permit | With hunting permit – not during lambing |
| "h-j"                                 | ✓    | ✓   | ✓     | ✗                                      | ✗  | With Permit | With hunting permit                      |
| "f-k"                                 | ✓    | ✓   | ✗     | ✗                                      | Oct 15 <sup>th</sup> -Nov 30 <sup>th</sup> | With Permit | With hunting permit                      |
| "o-q"                                 | ✓    | ✓   | ✗     | ✗                                      | Oct 15 <sup>th</sup> -Nov 30 <sup>th</sup> | ✗           | ✗  |
| "n-o-p"                               | ✓    | ✓   | ✗     | ✗                                      | Oct 15 <sup>th</sup> -Nov 30 <sup>th</sup> | With Permit | With Permit                              |
| "s-t"                                 | ✓    | ✓   | ✗     | ✗                                      | Oct 15 <sup>th</sup> -Nov 30 <sup>th</sup> | ✗           | ✗  |
| "aa-ab" – (part of Craigroy Easement) | ✓    | ✓   | ✓     | ✗                                      | ✗  | With Permit | With Permit                              |

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.  
 Otaco-37213 Easement in gross template  
 docdm-756494. "CP2" "a-b", "aa-ab", "c-d", "e-f-g-h-i", "h-j", "f-k", "o-q", "n-o-p" & "s-t". July 4 2011.

**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.

Otaco-37213 Easement in gross template

docdm-756494. "CP2" "a-b", "aa-ab", "c-d", "e-f-g-h-i", "h-j", "f-k", "o-q", "n-o-p" & "s-t". July 4 2011.

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

## TRANSFER GRANT OF EASEMENT IN GROSS

1. Public Access
2. Management Purposes

**Land Transfer Act 1952**

**Law Firm Acting**

Conservancy Solicitor  
Department of Conservation  
Dunedin

Auckland District Law Society  
REF:4135

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

Otaco-37213 Easement in gross template  
docdm-756494. "CP2" "a-b", "aa-ab", "c-d", "e-f-g-h-i", "h-j", "f-k", "o-q", "n-o-p" & "s-t". July 4 2011.

**Appendix 9: Form of Public Access Easement in Gross to be Created over route labelled "ae-af", "ac-ad", "g-l" and "v-w", plus car parks at CP1 and CP3 on the Plan**

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**TRANSFER GRANT OF  
EASEMENT IN GROSS**

Public Access

Car Parking

**Land Transfer Act 1952**

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

**TRANSFER**

**Land Transfer Act 1952**

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

**Land Registration District**

OTAGO

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

|  |  |     |  |
|--|--|-----|--|
|  |  | ALL |  |
|--|--|-----|--|

**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.*

Public Access Easement in Gross under section 7(2) of the Conservation Act 1987 (continued on pages 2, 3 and 4 of Annexure Schedule).

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 TRANSFEEE 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<br>Signature of Witness<br>_____ (continued on page 4 of Annexure Schedule)<br><b>Witness to complete in BLOCK letters</b><br>(unless typewritten or legibly stamped)<br>Witness name<br>Occupation<br>Address |
| Signature, or common seal of Transferor  |  |

**Certified correct for the purposes of the Land Transfer Act 1952.**

Easement in Gross for Public Access (adapted from Otago 37213).  
 DOCDM-756928-Ben Nevis Public Access & Car parking "ac-af", "ac-ad", "g-l" & "v-w". "CF"

\_\_\_\_\_

**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 (*marked "ae-af", "ac-ad", "g-1" & "v-w" on the Designation Plan*) being 10 metres wide marked [ ] "[ ]" on Deposited Plan/S.O. Plan No [ ]
  - 1.2 "Parking Area" means those parts of the Servient Land which are marked [*"CP1" & "CP3" on the Designations Plan*] "[ ]" on S.O. Plan No [ ].
  - 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, invitees and licensees; and any employee or contractor of the Director-General of Conservation; and any member of the public.
  - 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 on foot, on or accompanied by horses, or by non-motorised vehicle powered by a person or persons.
3. The Transferor must keep the Easement Area clear at all times of obstructions whether caused by parked vehicles (other than the Parking Area which is usable in common with the Transferee), 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.
4. The Transferee has the right in common with the Transferor from time to time to park vehicles on the Parking Area.

Exclusion of Schedules

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

Term

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

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.

Easement in Gross for Public Access (adapted from Otaco 37213).  
DOCDM-756928-Ben Nevis Public Access & Car parking "ae-af", "ac-ad", "g-1" & "v-w". "CP1, & CP 3". 7.07.2011.

### Temporary Suspension

7. The Transferee (not being a member of the Public) 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

- 8.1 If a dispute arises between the Transferor and Transferee (not being a member of the Public) concerning the rights, management and operation created by this transfer the parties are to enter into negotiations in good faith to resolve it.
- 8.2 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.
- 8.3 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 Branch of the New Zealand Law Society in which the Servient Land is situated.
- 8.4 The arbitration is to be determined in accordance with the Arbitration Act 1996 and its amendments or any enactment passed in substitution.

### Notice

- 9.1 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.
- 9.2 If clause 9.1(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.
- 9.3 If clause 9.1(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**

- 10 The standard easement terms contained above must be read subject to any special easement terms set out below.
- 11 The words "on or accompanied by horses" are deleted from Clause 2.
- 12 The Transferee (not being a member of the public) has the right:
- 12.1 To mark the Easement Area as appropriate.
  - 12.2 To erect and maintain stiles.
  - 12.3 To erect and maintain signs informing the public of their rights and responsibilities in relation to the Easement Area.
  - 12.4 To construct and maintain a benched track on the Easement Area.

Easement in Gross for Public Access (adapted from Otaco 37213).

DOCDM-756928-Ben Nevis Public Access & Car parking "ac-af", "ac-ad", "g-1" & "v-10". "CP1 & CP 3. 7.07.2011.

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.



12.5 To use whatever reasonable means of access she thinks fit over the Easement Area to carry out the works in clause 12.1 to 12.4.

13 If the Transferee (being a member of the public) has a hunting permit, issued by the Director-General of Conservation for land to which the easement provides access, he may take a dog and carry a gun on that part of the Easement Area (marked "v-w" on the Designations Plan) [ ] "[ ]" on Deposited Plan/S.O. Plan No [ ] for the purpose of gaining access to hunt on land adjacent to that part of the Easement Area marked "v-w" on the Designations Plan) [ ] "[ ]" on Deposited Plan/S.O. Plan No [ ]. Dogs and guns cannot be taken onto the other parts of the Easement Area.

**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.*

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

## TRANSFER GRANT OF EASEMENT IN GROSS

### 1. Public Access

#### Land Transfer Act 1952

|                        |
|------------------------|
| <b>Law Firm Acting</b> |
|------------------------|

|  |
|--|
| Conservancy Solicitor<br>Department of Conservation<br>Dunedin |
|--|

Auckland District Law Society  
REF:4135

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

**Appendix 10: Form of Minister of Conservation Management Purposes Easement in Gross to be Created over route labelled "r-s" and "f-m" on the Plan**

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**TRANSFER GRANT OF  
EASEMENT IN GROSS**

Access for Management Purposes

**Land Transfer Act 1952**

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

**TRANSFER**

**Land Transfer Act 1952**

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

**Land Registration District**

OTAGO

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

|  |  |     |  |
|--|--|-----|--|
|  |  | ALL |  |
|--|--|-----|--|

**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 7(2) of the Conservation Act 1987 (continued on pages 2, 3 and 4 of Annexure Schedule).

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<br><br><br><br><br>Signature, or common seal of Transferor | Signed in my presence by the Transferor<br>Signature of Witness<br><br>_____ (continued on page 4 of Annexure Schedule)<br><b>Witness to complete in BLOCK letters</b><br>(unless typewritten or legibly stamped)<br>Witness name<br>Occupation<br>Address |
|---|--|

**Certified correct for the purposes of the Land Transfer Act 1952.**

**Solicitor for the Transferee**

Term

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

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 Branch of the New Zealand 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.

**Special Easement Terms**

- 9 The standard easement terms contained above must be read subject to any special easement terms set out below.
- 10 The Transferor is under no obligation to maintain the Easement Area to any standard other than that which is necessary for his own purposes.
- 11 In terms of clause 8.1 notices will not be sent to the Transferor via facsimile.

**Continuation of "Attestation"**

OTACO-38229 Easement for Mgmt in Gross Templ.doc  
DOCDM 756903 - DOC Mgmt. Ben Nevis "r-s" & P-m

7 July 2011.

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.

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.*

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

## TRANSFER GRANT OF EASEMENT IN GROSS

1. Access for Management Purposes

**Land Transfer Act 1952**

Law Firm Acting

Conservancy Solicitor  
Department of Conservation  
Dunedin

Auckland District Law Society  
REF:4135



**Appendix 11: Form of Conservation Covenant to be Created over Area labelled "CC1", "CC2", "CC3", "CC3A" and "CC4" on the Plan**

---

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

**Between**

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

**and**

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

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



**Department of Conservation**  
*Te Papa Atawhai*

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

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

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

**BACKGROUND**

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

**OPERATIVE PARTS**

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

**1. INTERPRETATION.**

1.1 In this Covenant unless the context otherwise requires:

- "Act"                                      means the Reserves Act 1977.
- "Covenant"                                means this Deed of Covenant made under section 77 of the Act.
- "Director-General"                      means the Director-General of Conservation.
- "Fence"                                    includes a gate.
- "Fire Authority"                         means a Fire Authority as defined in the Forest and Rural Fires Act 1977.
- "Land"                                     means the land described in Schedule 1.
- "Minerals"                                means any mineral that is not a Crown owned mineral under section 2 of the Crown Minerals Act 1991.
- "Minister"                                means the Minister of Conservation.
- "Natural Water"                         includes water contained in streams the banks of which have, from time to time, been realigned.

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

**1.2 For avoidance of doubt:**

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

**2. OBJECTIVE OF THE COVENANT**

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

**3. THE OWNER'S OBLIGATIONS**

**3.1 Unless agreed in writing by the parties, the Owner must not carry out on or in relation to the Land:**

- 3.1.1 grazing of the Land by livestock;
- 3.1.2 subject to clauses 3.2.1 and 3.2.3, felling, removal or damage of any tree, shrub or other plant;
- 3.1.3 the planting of any species of tree, shrub or other plant;
- 3.1.4 the erection of any Fence, building, structure or other improvement for any purpose;
- 3.1.5 any burning, chemical spraying, top dressing or sowing of seed;
- 3.1.6 any cultivation, earth works or other soil disturbances;

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

#### 4. THE MINISTER'S OBLIGATIONS

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

#### 5. IMPLEMENTATION OF OBJECTIVES

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

**6. DURATION OF COVENANT**

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

**7. OBLIGATIONS ON SALE OF LAND**

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

7.2 A Transferee of the Land will at law be bound by the registered Covenant. Such transfer is deemed to provide the agreement to comply with the terms of this Covenant required by clause 7.1.

**8. MISCELLANEOUS MATTERS**

**8.1 Rights**

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

**8.2 Trespass Act:**

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

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

**8.3 Reserves Act**

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

**8.4 Titles**

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

**8.5 Acceptance of Covenant**

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

**8.6 Fire**

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

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

8.6.2.1 requested to do so; or

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

**9. NOTICES**

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

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

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

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

**10. DEFAULT**

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

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

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

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

10.2.1 advise the defaulting party of the default.

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

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

**11. DISPUTE RESOLUTION PROCESSES**

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

**11.2 Mediation**

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

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

**11.3 Failure of Mediation**

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



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

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

12. JOINT OBLIGATIONS

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

13. SPECIAL CONDITIONS

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

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

Executed as a Deed

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

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

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

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

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

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

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

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

SCHEDULE 1

1. Description of Land

Shaded yellow and marked CCI, CC2, CC3, CC3A and CC4 on the Designations Plan.

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

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

77 Stuart Street  
PO Box 5244  
Dunedin  
Fax: (03) 477 8626

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

Ellis Street  
PO Box 275  
Alexandra  
Fax: (03) 448 9439

3. Values of Land to be Protected

**Landscape:** The Land forms a component of a wide open, highly legible landscape and contributes significantly to the natural landscape character of the Remarkables Ecological District.

**Historic Values**

The area's colourful mining history is reflected by the presence of diggings, sluicings, sluice faces, tailings, water races, exploration pits, discarded mining equipment and building ruins.

Partial documentation of historic sites is contained in Hamel (1994) and the NZ Archaeological Association Inventory of Recorded historic sites.

**Botanical Values:** The Land contains significant botanical values. The five separate component areas are described below: (threat status is sourced from De Lange et al 2009).

**CCI**

Below approximately 1000 m there are extensive mixed shrublands dominated by *Olearia odorata*, *Coprosma propinqua* and matagouri. Other important shrubs include *Corokia cotoneaster*, *Carmichaelia petriei*, *Olearia bullata* and *Melicotus alpinus*. Within these shrublands there are occasional trees of kowhai (*Sophora microphylla*) which are likely indicators of the previous forest cover. The shrublands on the lower-most river terraces are comprised of almost pure *Olearia odorata*.

The upper parts of the face support a moderate cover of narrow-leaved tussock with a predominantly native groundcover comprising golden speargrass (*Actiphyla aurea*), *Pimelea oreophila*, dwarf broom (*Carmichaelia vexillata*), hard tussock (*Festuca novae-zelandiae*), *Leucopogon fraseri*, *Raoulia subsericea*, *Gaultheria depressa* and *Scleranthus uniflorus*.

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

Imbedded within the higher portion of this area are tors and rock outcrops which have distinctive vegetation that includes *Coprosma cheesemanii*, *Meliccytus alpinus*, *Muehlenbeckia axillaris*, *Celmisia lyallii*, *Blechnum penna-marina*, *Myrsine mummularia*, *Stellaria gracilentia* and *Thelymitra longifolia*.

The many mossy seeps in this upper portion contain *Olearia bullata*, *Bulbinella angustifolia*, *Anaphaloides bellidioides*, mosses, liverworts, *Uncinia* spp. and *Hydrocotyle montana*.

*Carmichaelia vexillata* ("At Risk – Declining" is found in the upper tussocklands) *Vittadinia australis* is found in the middle slopes).

This area encompasses a continuous altitudinal sequence of predominantly indigenous vegetation between approximately 700 m and 1300 m, that forms part of a greater ecological and landscape sequence from the valley floor to the summit ridge of the Hector Mountains.

#### CC2

This area encompasses a continuous altitudinal sequence which stretches from alpine herbfield on the ridge tops (c. 1680m) to valley floor riparian shrublands (c. 1000m). The alpine herbfield includes a large population of *Myosotis pygmaea* var. *drucei* set in scattered *Chionochloa rigida*, the latter of which extends downslope to the Nevis Burn. This tussockland is intact with a good diversity of inter-tussock herbs and is intermixed with both *Aciphylla* "Loimond" and *Hebe anomala*. Shrub density increases towards the Nevis Burn with matagouri, *Coprosma propinqua*, *Olearia bullata* and *Carmichaelia petriei* being the dominant species. The exotic ground cover increases (with a corresponding decrease in botanical values) in the lower portion of the area near the Nevis Burn and is interspersed with heavily grazed *Chionochloa rigida* and cattle pugged wetlands. These wetlands consist of scattered flushes and impounded drainage bogs with occasional specimens of *Carex kaloides*. *Ranunculus maculatus* (Naturally Uncommon) is also present. This area of exotic vegetation interspersed with the aforementioned remnant indigenous vegetation is below the two water races marked on NZMS F42 which are centred on grid reference F42 908 531.

The continuous altitudinal sequence of predominantly indigenous vegetation between approximately 1000m and 1680 m, forms part of a greater ecological and landscape sequence, from the lower slopes to the summit ridge of the Hector Mountains.

Historic features within this area comprise the intakes and upper sections of disused water races were used to supply water to the vicinity of the 1930's workings.

#### CC3 (including CC3A)

Exotic grasses and herbs are the dominant ground cover in the lower portion of this area and their cover decreases with altitude. Below approximately 1000 m the ground cover is completely dominated by indigenous vegetation.

Remnant shrubland is present in the riparian area along Schoolhouse Creek and on adjoining slopes between approximately 700 m to 1200 m. Characteristic species of these shrublands include matagouri, *Hebe* and *Coprosma* species. Individual species include *Hebe anomala*, *H. propinqua*, *Carmichaelia petriei*, *Coprosma ciliata*, *Aristotelia fruticosa*, *Olearia odorata*, *Dracophyllum longifolium*, *Olearia cymbifolia* and *mingimingi* (*C. propinqua*). These shrublands are the robust survivors of the pre-human woody vegetation in this area and are a significant seed source for future regeneration.

Throughout the area *Chionochloa rigida* persists and its extent increases with altitude. *Chionochloa macra* begins to appear at approximately 1500 m. Of particular note is a record of a type of cress found within a boulderfield. This is an unusual *Cardamine* is known elsewhere only from one site (which is on the Old Man Range) and may represent an unnamed species.

This area contains a continuous altitudinal sequence of indigenous vegetation between approximately 700 m and 1460 m, that forms part of a greater ecological and landscape sequence from the valley floor to the summit ridge of the Hector Mountains.

On that part of the Land which surrounds the 1930's gold workings (conservation area) - indigenous vegetation is limited to scattered *C. rigida*.

Historic features comprise numerous remains such as water and or tail races, a stacked stone walled compound and associated building ruins and mining artefacts of 19<sup>th</sup> or early 20<sup>th</sup> Century origin.

#### CC4

This area comprises the poorly drained lower reaches of Schoolhouse Creek incorporating a small patch of copper tussock. The balance of the area supports extensive areas of bog rush (*Schoenus pauciflorus*), cutty grass (*Carex coriacea*), *Ranunculus spp.*, and *Callitriche petriei*. The uncommon buttercup *Ranunculus ternatifolius* has previously been recorded here but was not observed during a recent survey. Lowland /montane wetlands are of conservation significance as the majority have been drained for agricultural purposes.

## SCHEDULE 2

### Special Conditions

1. Clause 3.1.1 is deleted and replaced with:  
  
The Land may be grazed to the extent consistent with the preservation of the Values. See Schedule 3 (Management Prescription Document) for stocking rates.
2. Clause 3.1.4 is deleted and replaced with the following:  
  
3.1.4 the erection of any fence, building, structure or other improvement for any purpose, other than repairing any existing fence, building, structure or other improvements on the Land, or erecting any replacement fence, building, structure or other improvements on the land to replace any existing facility. Locations of existing fences are marked on Map 1, Schedule 4.
3. Clause 3.1.5 is deleted and replaced with the following:  
  
3.1.5 (a) any burning  
(b) any chemical spraying of native vegetation apart from any activity required to keep existing open grassed areas clear of woody vegetation (existing open areas are marked on Map 1 Schedule 4.; and  
(c) any topdressing or sowing of seed other than to the extent traditionally carried out, (traditional fertilizer application comprises 190 kg per hectare of sulphur super every two to three years. Areas which have been historically oversown and topdressed are marked on Map 1, Schedule 4.
4. Notwithstanding Clause 3.2.6 the Minister will pay a half share of maintenance/ replacement of those fences which bound land held for conservation purposes and managed by the Minister..
5. Clause 3.1.6 is deleted and replaced with the following:  
  
3.1.6 any cultivation, earth works or other soil disturbances, apart from any such activity required to maintain existing vehicle tracks on the Land to a standard appropriate for four wheel drive vehicles and to maintain the current extent of land under cultivation . Existing tracks and cultivated areas are marked on Map 1, Schedule 4.
6. The Owner and the Minister will comply with the provisions of the Management Prescription Document contained in Schedule 3.

**SCHEDULE 3**

**BEN NEVIS CONSERVATION COVENANTS CC1, CC2, AND CC3 – MANAGEMENT PRESCRIPTION DOCUMENT**

The management prescription document provides for:

1. The specific goals of management of the land consistent with the objective of the covenant document.
  2. A description of how the goals are to be met.
  3. A description of how the vegetation monitoring programme of the activity effects is to be carried out.
  4. A specification concerning grazing systems, including identification of vegetation trends and how that will affect the grazing systems.
  5. A description of the existing balance of exotic pasture species and the indigenous plant communities.
  6. The revision of the management prescription document ten years from the date of creation of the covenant and ten years thereafter.
1. **The specified goals of the management of the land is to achieve the maintenance and enhancement of existing vegetation, landscape and historic Values whilst meeting the objective of the covenant.**

To manage the vegetation within the covenant area in a manner which preserves and enhances the landscape, historic features and the condition of the following indigenous plant communities, whilst minimising the risk of invasion by exotic weeds and trees:

- *Chionochloa rigida* tussocklands
- Diverse Shrublands
- Extensive short tussock grasslands
- Communities associated with rocky tors and mine tailings.

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

Grazing levels and management will be adjusted should that be necessary following analysis of photo point monitoring and field observations by the Grantor or Owner.

3. **Description of a monitoring programme to be established for vegetation conditions.**

Photo points are to be established and located at selected sites which are considered representative of the values contained in the covenant areas.

4. **Number of stock and duration permitted to be run on the covenanted areas within the current term of the management prescription document.**  
Up to the following stock numbers may be grazed on the Land:

*Area CC1 on the designations plan (sunny Elliots): 2000 ewes over 2.5 months in winter. 1500 hoggets for 6 weeks in November/December.*

*Area CC2 on the designations plan (Sunny Ryders): 350 ewes lambed on this block from October 1 and remain until 30 August the following year.*

*Area CC3 on the designations plan (Sunny Schoolhouse): 400 ewes lambed on this block from October 1 to end of February. 30 cows calve on this block from October until the end of March. 1000 ewes winter on this block for three months.*

*Area CC3A on the designations plan:* sheep only may be grazed in this area. No limit is prescribed for sheep numbers although this may be reviewed if monitoring reveals a deterioration in the Values.

*Area CC4 on the designations plan:* only sheep may be grazed in this area. No limit is prescribed for sheep numbers although this may be reviewed if monitoring reveals a deterioration in the Values.

The grazing limitations shall be reviewed after 10 years in light of the monitoring results.

5. Description of the existing balance of exotic pasture species and the indigenous plant communities.

CC1

This covenant area encompasses a continuous altitudinal sequence of predominantly indigenous vegetation. This forms part of a greater ecological and landscape sequence. Below approximately 1000m are extensive mixed shrublands including *Olearia odorata*, *Coprosma propinqua* and matagouri. Occasional trees of kowhai are indicators of previous forest cover. The tors and rocky outcrops have distinctive vegetations that includes *Coprosma cheesemanii*, *Melicytus alpinus*, *Muehlenbeckia axillaris*, *Celmisia lyallii*, *Blechnum penna-marina*, *Myrsine nummularia*, *Stellaria gracilentia* and *Thelymitra longifolia*. The upper parts have a moderate cover of narrow-leaved tussock and groundcover of golden speargrass, dwarf broom and hard tussock.

CC2

This covenant area comprises a continuous altitudinal sequence of predominantly indigenous vegetation which forms part of a greater ecological and landscape sequence. The area contains an alpine herbfield with a large population of *Myosotis pygmaea* var. *drucei*. The tussocklands are intact with good diversity of inter-tussock herbs. Exotic ground cover increases and is interspersed with heavily grazed *Chionochloa rigida* and cattle pugged wetlands, which consist of scattered flushes and impounded drainage bogs.

CC3-CC3A

This covenant area comprises a continuous altitudinal sequence of indigenous vegetation which forms part of a greater ecological and landscape sequence. Exotic grasses and herbs are the dominant ground cover in lower parts of the covenant. Below approximately 1000m the ground cover is dominated by indigenous vegetation. Robust shrublands of the pre-human woody vegetation is found in this area and are a significant seed source for future regeneration. Throughout the area *Chionochloa rigida* is present. The lower reaches of CC3A contain gold workings, water races and other historical features originating from gold mining conducted during the depression in the 1930's. These features are vulnerable to damage from cattle grazing.

CC4

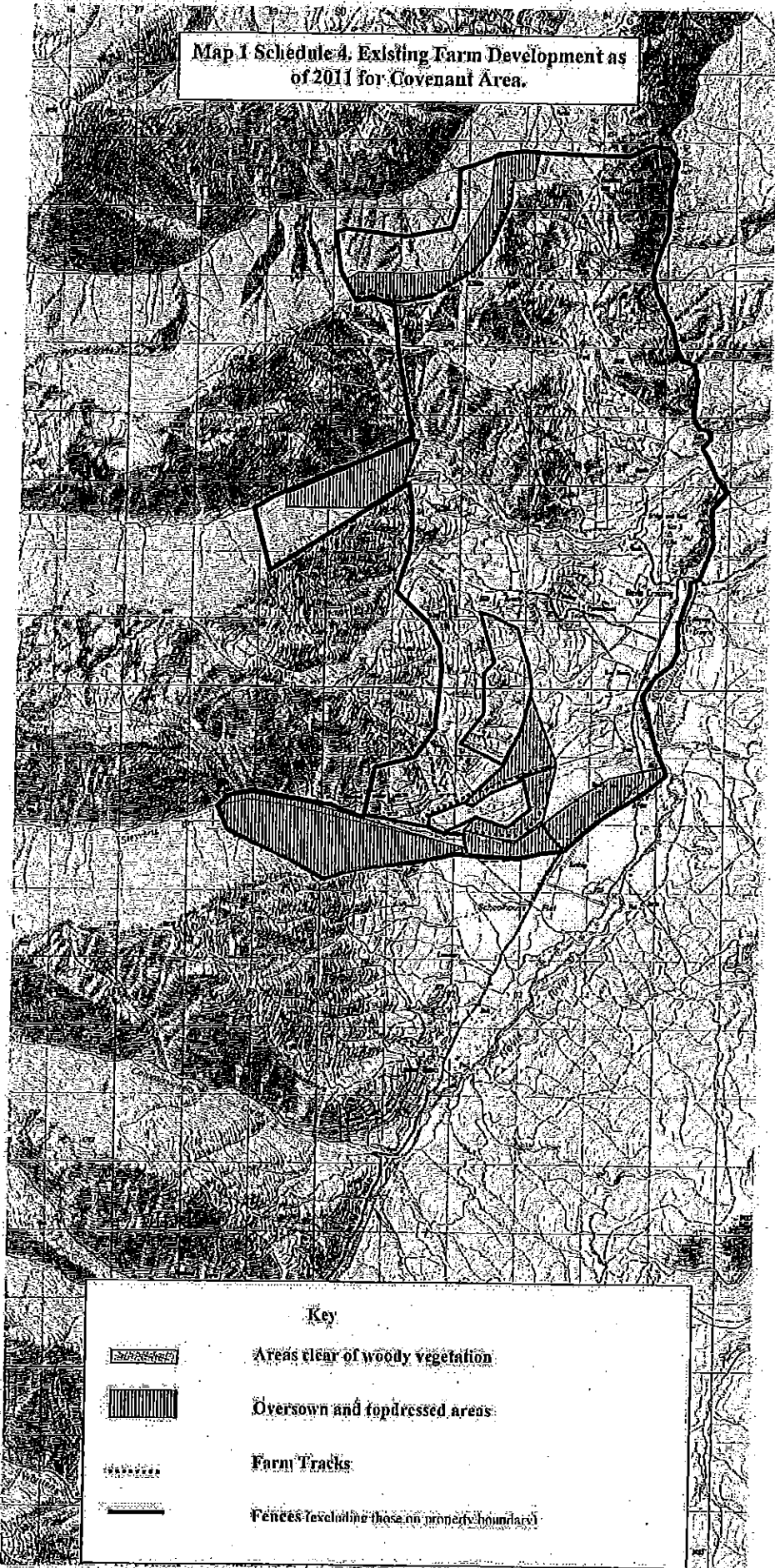
This area comprises the poorly drained lower reaches of Schoolhouse Creek incorporating a ground is largely exotic however there are extensive areas of native bog rush (*Schoenus pauciflorus*), cutty grass (*Carex coriacea*) and a small patch of copper tussock. Native herbs are scattered throughout.

6. The revision of the management prescription document ten years from the date of creation of the covenant and ten years thereafter.

At every tenth anniversary of the creation of the covenant the Grantor and/or the Owner may request that part or all of the management prescription document be amended, in order to better meet the objective of the covenant. Any such amendments must be mutually agreed to.

SCHEDULE 4

Map 1 Schedule 4, Existing Farm Development as of 2011 for Covenant Area.



Key



Areas clear of woody vegetation



Oversown and topdressed areas



Farm Tracks



Fences (excluding those on property boundaries)



GRANT of

Correct for the purposes of the  
Land Transfer Act 1952

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

Solicitor for the Minister

COMMISSIONER OF CROWN  
LANDS

to

MINISTER OF CONSERVATION

---

Solicitor  
Department of Conservation  
DUNEDIN

**Appendix 12: Form of Conservation Covenant to be Created over Area labelled  
"CC(Landscape)" on the Plan**

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

S

**Between**

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

**and**

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

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



**Department of Conservation**  
*Te Papa Atawhai*



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

1.2 For avoidance of doubt:

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

**2. OBJECTIVE OF THE COVENANT**

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

**3. THE OWNER’S OBLIGATIONS**

- 3.1 Unless agreed in writing by the parties, the Owner must not carry out on or in relation to the Land:
- 3.1.1 grazing of the Land by livestock;
- 3.1.2 subject to clauses 3.2.1 and 3.2.3, felling, removal or damage of any tree, shrub or other plant;
- 3.1.3 the planting of any species of tree, shrub or other plant;
- 3.1.4 the erection of any Fence, building, structure or other improvement for any purpose;

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

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

#### 4. THE MINISTER'S OBLIGATIONS

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

#### 5. IMPLEMENTATION OF OBJECTIVES

- 5.1 The Minister may;

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.

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

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

**6. DURATION OF COVENANT**

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

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.

**7. OBLIGATIONS ON SALE OF LAND**

7.1 A Transferee of the Land will at law be bound by the registered Covenant. Such transfer is deemed to provide the agreement to comply with the terms of this Covenant required by clause 7.1.

7.2 A Transferee of the Land will at law be bound by the registered Covenant. Such transfer is deemed to provide the agreement to comply with the terms of this Covenant required by clause 7.1.

**8. MISCELLANEOUS MATTERS**

**8.1 Rights**

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

**8.2 Trespass Act:**

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

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

**8.3 Reserves Act**

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

**8.4 Titles**

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

**8.5 Acceptance of Covenant**

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

**8.6 Fire**

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

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

8.6.2.1 requested to do so; or

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

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.



## 9. NOTICES

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

## 10. DEFAULT

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

## 11. DISPUTE RESOLUTION PROCESSES

- 11.1 If any dispute arises between the Minister and the Owner in connection with this Covenant, the parties must, without prejudice to any other rights they may have under this Covenant, attempt to resolve the dispute by negotiation or other informal dispute resolution technique agreed between the parties.
- 11.2 **Mediation**
- 11.2.1 if the dispute is not capable of resolution by agreement within 14 days of written notice by one party to the other (or such further period as the parties may agree to in writing) either party may refer the dispute to mediation with a mediator agreed between the parties;
  - 11.2.2 if the parties do not agree on a mediator, the President of the local branch of the New Zealand Law Society in the region in which the Land is situated is to appoint the mediator.

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**11.3 Failure of Mediation**

- 11.3.1 in the event that the dispute is not resolved by mediation within 2 months of the date of referral to mediation the parties agree that the provisions in the Arbitration Act 1996 will apply;
- 11.3.2 notwithstanding anything to the contrary in the Arbitration Act 1996, if the parties do not agree on the person to be appointed as arbitrator, the appointment is to be made by the President of the District Law Society in the region in which the Land is situated;
- 11.3.3 the parties further agree that the results of arbitration are to be binding upon the parties.

**12. JOINT OBLIGATIONS**

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

**13. SPECIAL CONDITIONS**

- 13.1 Special conditions relating to this Covenant are set out in Schedule 2.
- 13.2 The standard conditions contained in this Document must be read subject to any special conditions.

Executed as a Deed

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

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

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

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

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

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

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

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

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## SCHEDULE 1

### 1. Description of Land

*Shaded yellow and marked CC (Landscape) on the designations plan.*

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

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

77 Stuart Street  
PO Box 5244  
Dunedin  
Fax: (03) 477 8626

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

Ellis Street  
PO Box 275  
Alexandra  
Fax: (03) 448 9439

### 3. Values of Land to be Protected

#### Landscape

Nationally significant landscape values which sustain the special natural quality and integrity of this wide open, highly legible landscape and contribute significantly to the natural landscape character of the Remarkables Ecological District.

The tall and short tussocklands and montane shrublands within the Land provide an attractive natural component to the landscape in the montane zone. Shrubland communities provide an insight into the character of the area prior to an increase in the frequency of fire associated with Maori and European settlement.

#### Historic

Partial documentation of historic sites is contained in Hamel (1994), Middleton (2005), the NZ Archaeological Association Inventory of Recorded historic sites and the New Zealand Historic Places Trust Registration Report for the Lower Nevis Historic Area (Bauchop 2010).

#### Pastoral

Much of the Land's visual character is derived from pastoral farming and mining activity which has occurred in the valley since the 1860's.

The farmscape comprises a suite of early farm buildings and associated structures including yards and fences, cultivated flatlands, oversown and topdressed hill country and extensively grazed tall and short tussocklands.

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

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## Mining

The area's colourful mining history is reflected in a myriad of diggings, sluicings, sluice faces, dredge tailings, water races, exploration pits, discarded mining equipment, building ruins.

Historic sites present on the lowest river bed flats reveal different mining techniques employed over time. The dominant features are ponds and large heaps of tailings left by hydraulic elevating and dredging at the turn of the century. These ponds stretch along the river flats from the Crossing to the southern boundary of the Land (and beyond). The remains of what was probably the Nevis Crossing dredge, lie south of the Schoolhouse Creek confluence. This dredge worked on the river from 1902 to 1939.

Although core 1930's workings are protected within an adjoining conservation area, peripheral workings and associated features are present on the Land including large water races from both Schoolhouse Creek and Scotchman's Creek. The race complex from Scotchman's Creek includes head races from creeks further north including the Nevis Burn.

On the same fault line on which the gold workings lie, there are several coal pits in the Nevis Burn, and near the Crossing. From the winter of 1863 onwards, these supplied coal for household fuel for the miners, and were intensively worked in 1900's to supply the dredges and other stationery engines.

## Fauna

### Aquatic Fauna

Native fish: Smeagol galaxiids (*Galaxias* aff. *gollumoides* "Nevis") inhabit several small waterways on the Land. It has only recently been ascertained that this fish is genetically distinct from other Gollum galaxas (*G. gollumoides*) populations in Otago and Soutland. The Nevis Valley population is considered a unique lineage, geologically isolated by the mid-Pleistocene river capture event which created the Nevis River from the upper part of the Nokomai River (Waters *et al.* 2001). The Nevis Valley population also occupies an altitudinal range that is significantly higher than all other Gollum galaxias sites (Allibone 2008).

Smeagol galaxiids are classified as a 'Threatened Species' ranked as "Nationally Vulnerable".

### Herpetofauna

**Cryptic Skink.** Chapple *et al.* 2011 describe a new skink species of cryptic *Oligosoma toka* (*O. toka*) which was found to be particularly abundant on tailings adjacent to the Nevis River.

**Conservation status.** Little is known about the range, abundance and population viability of *O. toka*. It is currently considered Data Deficient in the New Zealand Department of Conservation's national threat classification lists (Hitchmough *et al.* 2010).

**Habitat and life history.** *O. toka* appears to be confined to Nevis Valley where it has been recorded from LENZ environments N3, N4 and Q3. It is unclear how far south the Nevis skink population extends to, but it is likely to be the entire valley and adjacent areas. The predominant ecology consists of exotic pasture for sheep and cattle grazing, with lowland tussockland in the foothills, and red or subalpine tall tussockland at higher elevations. *O. toka* are extremely abundant around rock piles (old gold tailings) along the eastern side of the Nevis River, but not as abundant elsewhere where cover is scarce on the open Nevis Valley flats. However, they do occur widely in the area, on the river flats, around the foothills and up to the Nevis Crossing. The artificial rock piles are likely to be important refugia for the population in the Nevis Valley, and *O. toka* is the most abundant species in the valley, especially adjacent to the Nevis River (T. Jewell, pers. obs.). Important vegetation for *O. toka* include tussocks and rank grasses (native, exotic), *Coprosma*, *Discaria Muehlenbeckia*, *Melicytus* and *Rubus* spp. In the wider Nevis Valley, *O. toka* is sympatric with *O. inconspicuum*, *O. polychroma*, *O. maccanni*, *Hoplodactylus* sp. 'Cromwell', and *Hoplodactylus* sp. 'Otago large' (T. Jewell, pers. obs.).

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**Botanical**

As of 2010, three 'Threatened' and one 'At Risk' (De Lange et al 2009) plant species are recorded on the Land. See table below. Future finds will be recorded in the Department of Conservation's Threatened Species Data Base or equivalent.

**Threatened and At Risk Deficient Plant Species**

| <b>Threat Division</b> | <b>Threat Category</b> | <b>Species</b>                                 | <b>Comments</b>  |
|------------------------|------------------------|--|--|
| Threatened             | Nationally Critical    | <i>Myosurus minimus subsp. novae-zelandiae</i> | Recorded on gentle slopes adjacent to lower Nevis Burn |
| Threatened             | Nationally Endangered  | <i>Carex uncifolia</i>                         | Recorded on terraces north of Schoolhouse Creek        |
| Threatened             | Nationally Vulnerable  | <i>Hebe pimeleoides var faucioides</i>         | Recorded from the Nevis River Gorge                    |
| At Risk                | Naturally Uncommon     | <i>Myosotis glabrescens</i>                    | Recorded from the Nevis River Gorge                    |

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## SCHEDULE 2

### Special Conditions

1. Clause 3.1.1 is deleted and replaced with the following:
  - 3.1.1 grazing of Land by livestock other than sheep and cattle;
2. Notwithstanding Clause 3.1.3 trees which form part of an existing shelter belt or existing amenity plantings may be replaced provided that species prone to spread are not planted. The location of existing shelter belts is a marked in Schedule 4.
3. Clause 3.1.4 is deleted and replaced with the following:
  - 3.1.4 the erection of any fence except for the purpose of fencing conservation areas or reserves, building, structure or other improvement for any purpose, other than repairing any existing fence, building, structure or other improvements on the Land, or erecting any replacement fence, building, structure or other improvements on the Land to replace any existing facility. Locations of existing fences are marked in Schedule 4.
4. Clause 3.1.5 is deleted and replaced with the following:
  - 3.1.5 (a) any burning  
(b) any chemical spraying of native vegetation apart from any activity required to keep existing open grassed areas clear of woody vegetation (existing open areas are marked on Map 1 Schedule 4.); and  
(c) any topdressing or sowing of seed other than to the extent traditionally carried out (traditional fertilizer application comprises 350kg per hectare of potash sulphur super and 250kg per hectare of lime per annum on cultivated paddocks and 190 kg per hectare of sulphur super on oversown and topdressed country every 2-3 years.
5. Clause 3.1.6 is deleted and replaced with the following:
  - 3.1.6 any cultivation, earth works or other soil disturbances, apart from any such activity required to maintain existing vehicle tracks on the Land to a standard appropriate for four wheel drive vehicles and to maintain the current extent of land under cultivation. Existing tracks and cultivated areas are marked in Schedule 4.
6. The Owner and the Minister will comply with the provisions of the Management Prescription Document contained in Schedule 3.
7. Having regard to the provisions of the Water Conservation (Kawarau) Order 1997, the Owner may seek the Minister's consent to use part(s) of the Land for hydro-electrical generation purposes. In such a case, the Owner will submit to the Minister a plan identifying the proposed development, location, extent, ground works, associated services, structures and facilities including transmission lines for the Minister's consideration. In considering the Owner's request for consent, the Minister shall have regard to the provisions of the Covenant, including in particular clause 3.1, but not so as to decline consent and so prohibit any such works, only to impose reasonable conditions on the Owner to protect the Values. Any consent given under this special condition shall not derogate from any rights of the Director-General of Conservation to make submissions and representations in any consent processes under the Resource Management Act 1991.

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8. "The Minister acknowledges that there is a Mining Permit 41 734, dated 24 October 2002, issued pursuant to the Crown Minerals Act and in favour of Golden Bush Mining Limited for the land included in this covenant. The Minister acknowledges that this covenant is to be read subject to the provisions of that Mining Permit and that accordingly, Clause 3.1.11 of this covenant is to be deleted and replaced with the following;

"any prospecting or mining for minerals, coal or other deposit or moving or removal of rock of any kind on or under the land with the exception of such activities associated with mining pursuant to Mining Permit 41 734 in favour of Golden Bush Mining Limited."

9. Notwithstanding Clause 3.2.6 the Minister will pay a half share of maintenance/ replacement of those fences which bound land held for conservation purposes and managed by the Minister.
10. The Minister acknowledges that the occupiers of two cribs which are located on sites designated conservation land as an outcome of pastoral lease tenure review on Ben Nevis pastoral lease, may wish to relocate the buildings onto the Land included in this covenant. While the Minister will have discretion as to siting of the cribs, consent will not be unreasonably withheld for their relocation onto the Land by their current occupiers. The crib occupiers will bear all costs associated with relocating the buildings. This clause does not imply consent under any other legislation under which consent may be required. Furthermore this clause does not imply consent from the Owner which must be acquired separately.

The occupiers and locations of the cribs which this condition refers to are:

Sam Graham: Situated close to the Nevis Hotel Site NZTM E1282490 N4983564

Colin Klein (Noted in Middleton report 2005 page 7 as Cline's cottage) NZTM E1281773 N4982333

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

**SCHEDULE 3**

**BEN NEVIS CONSERVATION COVENANT CC (LANDSCAPE) – MANAGEMENT PRESCRIPTION DOCUMENT**

The management prescription document provides for:

1. Outlining of the specific management goals for the Land which must be consistent with the objectives of the Covenant document.
2. A description of how the goals are to be met.
3. A description of monitoring programmes which will be implemented to assess the condition of the Values and to assist in determining whether the objective of the Covenant is being met.
4. A specification concerning grazing systems, including an explanation as to how monitoring results may be used to adjust grazing systems.
5. A description of the existing balance of exotic pasture species and the indigenous plant communities.
6. The revision of the management prescription document ten years from the date of registration of the Covenant and ten years thereafter.

1. The specified goals for the management of the Land is to achieve the maintenance and enhancement of existing vegetation, landscape, biodiversity and historic Values, whilst meeting the objective of the Covenant.

a) Vegetation

To manage the vegetation within the covenant area by maintaining the existing balance of exotic pasture species and the following five indigenous plant communities, while minimising the risk of invasion by exotic weeds and trees.

- *Chionochloa rigida* tussocklands
- Diverse shrubland
- Extensive short tussock grasslands
- Communities associated with rocky tors
- Threatened species tabled in Schedule 1

b) Landscape

To maintain and enhance the landscape values within the covenant area. The landscape values are as follows:

- The altitudinal sequence of vegetation and landforms on the lower faces;
- The association of the indigenous plant communities with the tors;
- The historical shrubland communities;
- The substantially unmodified character of the Land;
- The wild and scenic characteristics of the Nevis River.

c) Aquatic fauna

To preserve and enhance Smeagol galaxias habitats and populations within the Land by:

- Minimizing stock impacts on galaxiid habitats including damage to stream-banks, stream-beds spawning sites and defecation into water.

d) Herpetofauna

To maintain and enhance cryptic skink habitat within the Land.

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.



- e) **Historic**  
To preserve the historic Values on the Land by ensuring these sites are not subject to earth disturbance, inappropriate stocking or other activities which damage or otherwise accelerate the rate of deterioration which inevitably occurs in a harsh environment.
2. These goals are to be met through regular monitoring (including general inspections), liaison with the Owner and revision of grazing limits prior to the preparation of management prescription documents.
  - a) Stocking levels and management will be adjusted should it become apparent on the analysis monitoring results and field observations by the Grantor or Owner that grazing is having an adverse effect on the Values.
3. A description of monitoring programmes which will be implemented to assess the condition of the Values.

#### **Vegetation**

Upwards of 20 photo points are to be established and located at selected sites which the Minister considers representative of the Values contained on the Land.

#### **Aquatic Fauna**

The Minister may establish a monitoring programme for Smeagol galaxias. Smeagol galaxias habitats and populations will be monitored by sampling selected habitats pursuant to the standard DOC Non-migratory Galaxiid Monitoring methods for streams and small rivers. If established the monitoring programme will be for five years, with a review at the end of that period. If the results of that review are satisfactory, then future monitoring may be carried out once every five years thereafter.

#### **Cryptic Skinks**

The Minister may carry out further survey work on cryptic skinks (*O. toka*) on the Land and may subsequently establish a monitoring programme. Priority will be given to clarifying the conservation status of this newly described species.

#### **Historic Features.**

Upwards of 20 photo points are to be established and located at selected sites.

#### **Landscape**

Upwards of 20 photo points are to be established and located at selected sites.

4. A specification concerning grazing systems, including an explanation as to how monitoring results may be used to adjust farm management practices in the event that monitoring reveals a deterioration in the Values.

The Land may be grazed with sheep and cattle only, at a stocking rate where the Values are preserved. If upon expiry of this Management Prescription Document, monitoring has recorded a deterioration in the Values, a numerical stock limit may be introduced into subsequent Management Prescription Documents.

If monitoring reveals that the objectives of the covenant are not being met, the Owner will in consultation with the Minister, develop a strategy to mitigate the effects of their use of the Land. Such a strategy may include but is not limited to strategic fencing of affected sites, the introduction of a stock limitation, or stock limitations over specific blocks. The Owner will cover the costs of implementing mutually agreed protective measures.

#### **5. Description of the existing balance of exotic pasture species and the indigenous plant communities.**

The covenant area comprises the front faces of the broad spurs rising above the flats and terraces. The lower slopes have been oversown and topdressed and have a mixture of pasture grasses, short tussock

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.

and a few scattered narrow-leaved snow tussock (*Chionochloa rigida*). Tall tussockland is scattered at the lower altitudes before becoming thicker at about 1250 metres. Fescue and blue tussock are a component throughout, along with adventive grasses at the lower altitudes. Silver tussock (*Poa cita*) occurs in the more fertile sites and along road edges.

Shrublands are common on the toe slopes and close to creeks. Old gold mining tailings occupying the toe slopes often support low growing mingimingi, native broom, matagouri and sweet briar. The creeks climb steeply and the riparian zones contain a shrubby element of matagouri, *Hebe* and *Coprosma* species. Rocky tors, common along streamsides at the northern end of the property, support rock loving plants such as *Anisotome caudicola*.

**6. The revision of the management prescription document ten years from the date of creation of the Covenant and ten years thereafter.**

At the tenth anniversary of the registration this Covenant the Grantor and/or the Owner may request that part or all of the management prescription document be amended, in order to better meet the objective of the covenant. Any such amendments must be mutually agreed to.

If this Annexure Schedule 1s used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

**Schedule 4. Existing Farm Development as of 2011.**



**GRANT** of

Correct for the purposes of the  
Land Transfer Act 1952

Solicitor for the Minister

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

**COMMISSIONER OF CROWN  
LANDS**

to

**MINISTER OF CONSERVATION**

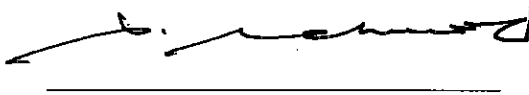
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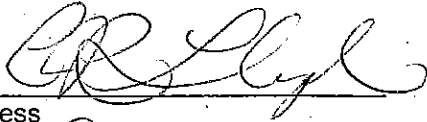
**Solicitor  
Department of Conservation  
DUNEDIN**

**Execution Section**

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

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

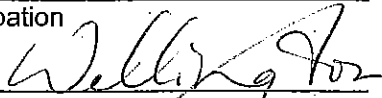




Witness



Occupation



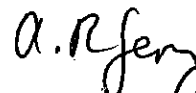
Address

**SIGNED** for and on behalf of **Pioneer Generation Limited** by two of its directors:



STUART BARRY HEAL

Name of director:



Alison R. Gerry

Name of director:

In the presence of

P. T. Mulvihill

Witness

Civil Engineer

Occupation

28 Kenmare Street

Alexandra

Address

