

Crown Pastoral Land Tenure Review

Lease name: WEST WANAKA STATION

Lease number: PO 203




Substantive Proposal - Part 4

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

November

05

Appendix 10: Form of Easement to be Created


32
HSC HSC HSC



Form 2
RELEASED UNDER THE OFFICIAL INFORMATION ACT
Transfer Instrument

Section 90, Land Transfer Act 1952

BARCODE

Land Registration District

OTAGO

Unique Identifier(s)
[or C/T(s)]

All/Part

Area/Description of part or stratum

To Be Advised

All

Transferor

Surname(s) must be underlined

COMMISSIONER OF CROWN LANDS

Transferee

Surname(s) must be underlined

HER MAJESTY THE QUEEN acting by and through the OTAGO FISH AND GAME COUNCIL

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

Easement in gross for a right of way under section 26S of the Conservation Act 1987 for foot, motor vehicle and machinery access for management purposes (continued on pages 1 to 3 annexure schedule)

Operative Clause

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

Dated this

day of

20

Attestation

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

Commissioner's Attestation

Signed in my presence by the Transferor

Signature of Witness

Witness to complete in BLOCK letters (unless legibly printed):-

Witness name

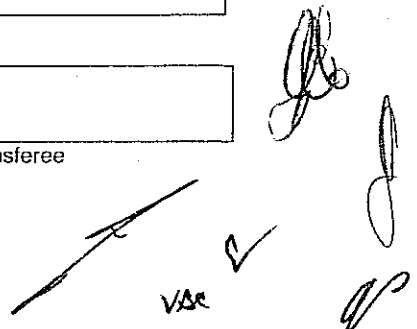
Occupation

Address

Signature [Common seal]
of Transferor

Certified correct for the purposes of the Land Transfer Act 1952

[Solicitor for] the Transferee



Form 25

Annexure Schedule

Transfer

Dated

Page 1 of 3 Pages

Definitions

In this transfer unless the context otherwise requires:

- 1.1 "Easement Area" means that part of the Servient Land which is marked "[]" on Deposited Plan/SO Plan No [].*
- 1.2 "Management Purposes" means the protection or management of any Fish and Game value of or on any adjacent public land.
- 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 Otago Fish and Game Council and includes the Transferee's employees, tenants, agents, workmen and invitees.
- 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

- 2.1 The Transferee has the right, in common with the Transferor, to pass and re-pass over and along the Easement Area on foot or by motor vehicles, with or without machinery and implements of any kind, for Management Purposes.
- 2.2 The Transferor must keep the Easement Area clear at all times of obstructions whether caused by parked vehicles, deposit or materials or unreasonable impediment to the use and enjoyment of the Easement Area.

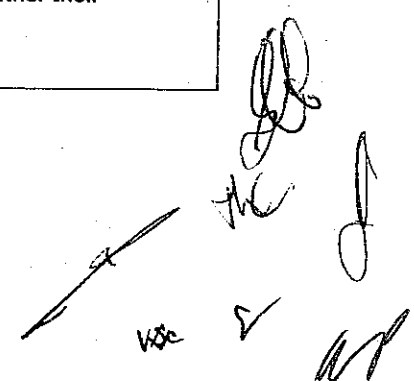
Exclusion of Schedules

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

Term

4. 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 solicitors must sign or initial in this box



Annexure Schedule

Transfer

Dated

Page 2 of 3 Pages

Dispute

- 5.1 If a dispute arises between the Transferor and Transferee concerning the rights created by this transfer the parties are to enter into negotiations in good faith to resolve it.
- 5.2 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.
- 5.3 If the dispute is not resolved within 21 days or such other period as agreed to in writing between the parties after the appointment of the mediator, the parties must submit to the arbitration of an independent arbitrator appointed jointly by the parties or, if one cannot be agreed within 14 days, to an independent arbitrator appointed by the President for the time being of the District Law Society in which the Servient Land is situated.
- 5.4 The arbitration is to be determined in accordance with the Arbitration Act 1996 and its amendments or any enactment passed in substitution.

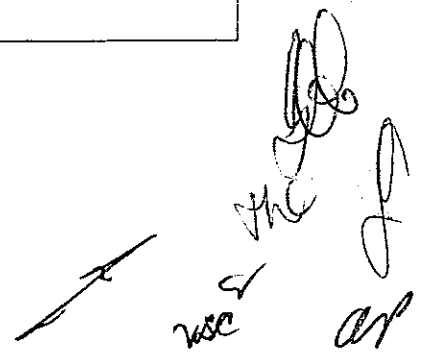
Notices

- 6.1 A notice to be given under this easement 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.
- 6.2 If clause 6.1(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.

Obligations of Transferee

- 7.1 In doing any of the matters specified in clause 2, the Transferee has the right to take all reasonable steps on, in, or immediately adjacent to the Easement Area to repair and maintain the Easement Area to a standard suitable for pedestrian or vehicular access by the Transferee.
- 7.2 The Transferee must give the Transferor at least 12 hours notice of her intention to use motor vehicles on the Easement area and will have regard to any reasonable requests by the Transferor. This clause does not apply in an emergency situation.

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or solicitors must sign or initial in this box



Annexure Schedule

Transfer

Dated

Page 3 of 3 Pages

Continuation of "Attestation"

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

Witness (Signature)

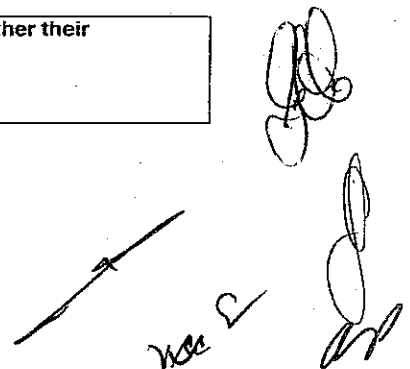
Name _____

Address _____

Occupation _____

* In substitution of the SO Plan (which is yet to be prepared) the proposed easement described in clause 1 is shown marked red on the attached plan.

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or solicitors must sign or initial in this box



Handwritten signatures and initials in the bottom right corner, including a large signature, the initials 'see 2', and another signature.

Appendix 11: Form of Covenant to be Created

33
rec ✓
[Handwritten signatures and initials]

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

Handwritten signatures and initials:
- A large signature at the top right.
- The initials "M.C." below it.
- A signature on the right side.
- The initials "AP" at the bottom right.
- A signature at the bottom left with "vic" written below it.

THIS DEED of COVENANT is made the _____ day of _____

BETWEEN

GRANT CLIFFORD COCHRANE AND JANET LESLEY
COCHRANE by the COMMISSIONER OF CROWN LANDS, the
deemed owner pursuant to Section 80 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.
- 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.

Handwritten signatures and initials in the bottom right corner, including a large signature that appears to be 'G. Lesley' and other initials.

- "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;

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A large signature at the top right.
Below it, the initials "TRC" and "J".
At the bottom right, the initials "CP".
A checkmark is visible near the bottom right.

- 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 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**

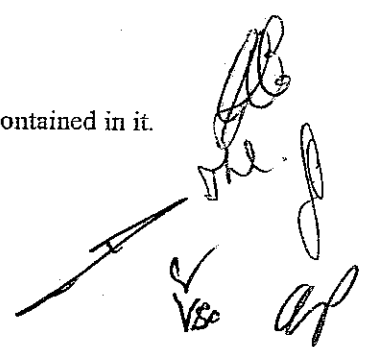
- 4.1 The Minister must have regard to the objective in clause 2.1 specified in Schedule 1 clause 3 when considering any requests for approval under this Covenant.
- 4.2 The Minister must repair and replace to its former condition any Fence or other improvement on the Land or on its boundary which may 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.

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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 If for any reason this Covenant remains unregistered and the Owner fails to obtain the agreement of a purchaser, lessee, or assignee to comply with the terms of this Covenant, the Owner will continue to be liable in damages to the Minister for any breach of the Covenant committed after the Owner has parted with all interest in the Land in respect of which a breach occurs.

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.

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9. NOTICES

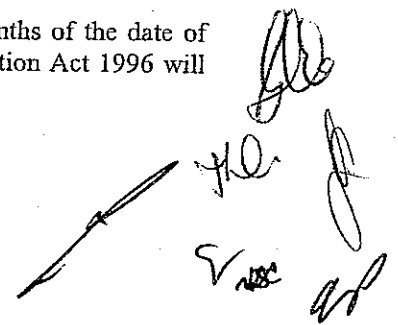
- 9.1 A notice to be given under this Covenant by one party to the other is to be in writing and made by personal delivery, by pre-paid post, or by facsimile addressed to the receiving party at the address or facsimile number set out in Schedule 1.
- 9.2 A notice given in accordance with clause 9.1 will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

Handwritten notes and signatures:
use the
[Signature]

SCHEDULE 1

1. Description of Land

That portion of the Land being 20 metres either side of the centre of Station Creek [labelled CC7 and shaded yellow on the Designations Plan.]

2. Address for Service

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

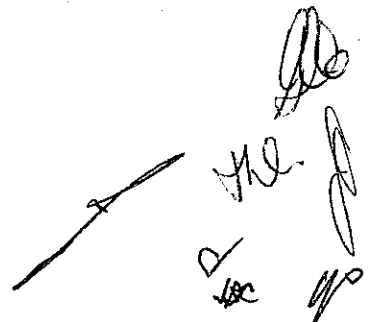
C/- Box 5244 Fax (03)477 8626
DUNEDIN

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

WEST WANAKA STATION
LAKE WANAKA

3. Values of Land to be Protected

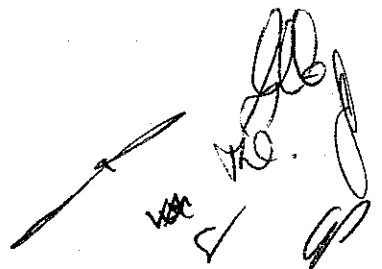
Station Creek has a stable bed and a well vegetated riparian margin. The stream supports a large population of sizeable koaro (100mm to 200mm). Fish in this size range are not common in many areas where habitat has been greatly modified.



SCHEDULE 2

Special Conditions

1. Notwithstanding clause 3.1.6 existing tracks/fords at two locations at grid references NZMS 260 F40 942 181 and 906 187 can be maintained.
2. The Owner will not carry out the discharge of waste on the Land unless otherwise agreed in writing by the parties.
3. (a) Clause 3.1.1 is deleted.
(b) The Owner may graze the Land to an extent which is consistent with the objectives of this Covenant.
4. The Owner may request assistance from the Minister in meeting the obligations in clauses 3.2.1 and 3.2.3 if they impose a substantial burden in excess of the legal obligations that would have applied in the absence of this Covenant.
5. The Owner will not draw off or allow to be drawn off any water from the stream within or above the Land for any purposes without first obtaining the Minister's approval to a minimum waterflow level to apply in the event of any such drawing off of water. The parties agree that the purpose of this subclause is to protect the koaro in the stream.
5. The words "river, lake, pond, marsh, or any other water resource" are deleted from clause 3.1.9.

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GRANT of

Correct for the purposes of the
Land Transfer Act 1952

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/CHRISTCHURCH

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Appendix 12: Form of Covenant to be Created

[Handwritten signature]
34
[Handwritten initials]

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

Handwritten signatures and initials, including 'JHE' and 'KSC'.

THIS DEED of COVENANT is made the day of

BETWEEN

**GRANT CLIFFORD COCHRANE AND JANET LESLEY
COCHRANE** by the COMMISSIONER OF CROWN LANDS, the
deemed owner pursuant to Section 80 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.
- 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.

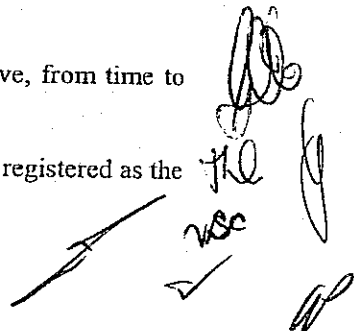
OPERATIVE PARTS

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



RELEASED UNDER THE OFFICIAL INFORMATION ACT

- "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:

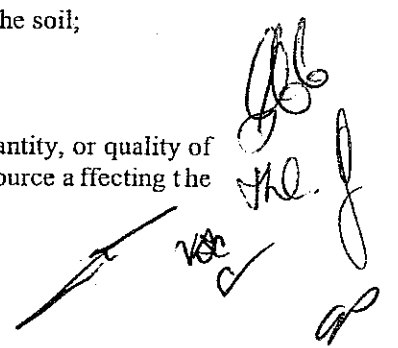
- 1.2.1 the reference to any statute in this Covenant extends to and includes any amendment to or substitution of that statute;
- 1.2.2 clause and other headings are for ease of reference only and are not to be treated as forming any part of the context or to affect the interpretation of this Covenant;
- 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;



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- 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 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 in clause 2.1 specified in Schedule 1 clause 3 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.



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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 If for any reason this Covenant remains unregistered and the Owner fails to obtain the agreement of a purchaser, lessee, or assignee to comply with the terms of this Covenant, the Owner will continue to be liable in damages to the Minister for any breach of the Covenant committed after the Owner has parted with all interest in the Land in respect of which a breach occurs.

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.

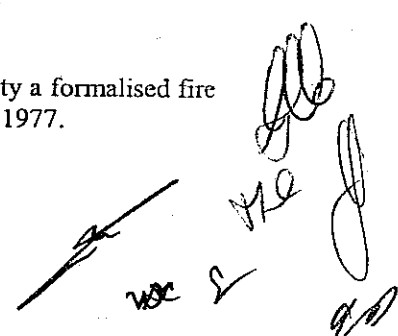
8.5 Acceptance of Covenant

- 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



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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

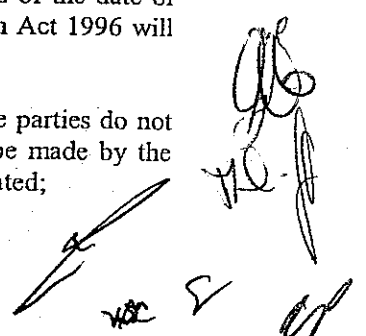
11.2.1 if the dispute is not capable of resolution by agreement within 14 days of written notice by one party to the other (or such further period as the parties may agree to in writing) either party may refer the dispute to mediation with a mediator agreed between the parties;

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;



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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: _____

1. Description of Land

[Those parts of the Land labelled CC1,2,3,4,5,6 and 8 shaded yellow on the Designations Plan].

2. Address for Service

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

C/- Box 5244 Fax (03)477 8626
DUNEDIN

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

WEST WANAKA STATION
LAKE WANAKA

3. Values of Land to be Protected

[CC1-CC3 on the Designations Plan] These small catchments which have served as fire refugia; probably since early Polynesian times, retain patches of beech forest. Beech species present include mountain (*Nothofagus solandri var cliffortioides*), silver (*N. menziesii*) and on well drained sites, red (*Nothofagus fusca*). Halls totara (*Podocarpus hallii*) is also present. Sub canopy trees and shrubs include fuchsia (*Fuchsia excorticata*), wineberry (*Aristotelia fruticosa*), broadleaf or kapuka (*Griselinia littoralis*), koromiko (*Hebe salicifolia*), mapou (*Myrsine australis*), and lancewood (*Pseudopanax crassifolius*).

[CC4 on the Designations Plan] This area contains numerous low bluffs and extensive boulder fields, vegetated by diverse shrublands. Shrub species present include *O. lineata*, *O. odorata*, koromiko, broadleaf, *Aristotelia fruticosa*, lancewood, cabbage trees (*Cordyline australis*), fuchsia, kohuhu (*Pittosporum tenuifolium*) and native broom (*Carmichaelia petriei*). Rocky bluffs are vegetated by kiokio fern (*Blechnum spp*) and in some protected locations mountain anise (*Gingidia montana*).

The area marked *[CC5 on the Designations Plan]* comprises a diverse mixed regenerating shrubland containing many of the species described under *[CC4 on the Designations Plan]*. Towards the summit of Lookout Hill, shrublands grade into a mixed narrow leaved tussock (*Chionochloa rigida*), hard tussock (*Festuca novae-zelandiae*) grassland/shrubland.

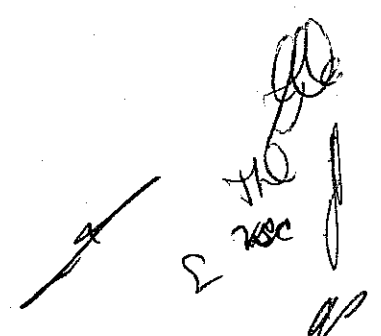
Lake faces marked *[CC6 on the Designations Plan]* retain a mix of native species including southern rata (*Metrosideros umbellata*), kowhai (*Sophora microphylla*), Halls totara, koromiko, cabbage trees, kanuka (*Kunzea ericoides*), manuka (*Leptospermum scoparium*), lancewood, broadleaf, mountain akeake (*Olearia avicenniifolia*), tree daisy (*O. arborescens*) and *O. odorata* growing at its western limit.

The area marked *[CC8 on the Designations Plan]* comprises a catchment and adjacent faces supporting approximately 200 hectares of native shrublands/regenerating forest. Surrounding bracken fern lands also contain a major component of native woody species including kanuka (up to 40cm dbh), broadleaf, marble leaf or putaputaweta (*Carpodetus serratus*), cabbage trees, *Coprosma parviflora*, turpentine scrub, mountain ribbonwood, *Olearia bullata* and silver beech in the depth of a gully.

SCHEDULE 2

Special Conditions

1. Notwithstanding clause 3.1.6 the Owner may carry out maintenance of existing tracks.
2. (a) Clause 3.1.1 is deleted.
(b) The Owner may graze the Land to an extent which is consistent with the objectives of this Covenant.
3. The Owner may request assistance from the Minister in meeting the obligations in clause 3.2.1 if they impose a substantial burden in excess of the legal obligations that would have applied in the absence of this Covenant.
4. Notwithstanding clause 3.1.5 the Owner may oversow and topdress that part of the covenant area labelled [] (*CC 6 on the Proposed Designations Plan*) located above the 340 metres above sea level contour.



GRANT of

Correct for the purposes of the
Land Transfer Act 1952

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/CHRISTCHURCH

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Appendix 13: Form of Covenant to be Created

7
VSA
35
VLO
VLO

Conservation Covenant

Otago Fish and Game Council

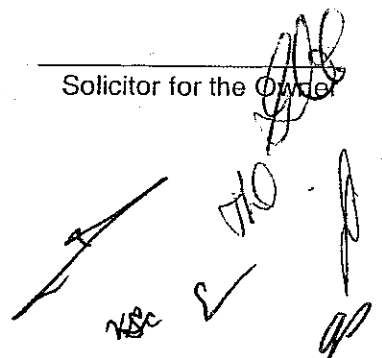
and

Commissioner of Crown Lands

Date

Correct for the
purposes of the Land
Transfer Act 1952

Solicitor for the Otago



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This Deed is made on 2004

between (1) Otago Fish and Game Council (the Council)
and (2) Commissioner of Crown Lands (the Owner).

Introduction

- A. Section 77 of the Reserves Act 1977 (the Act) provides that:
- (i) any body, with approval of the Minister of Conservation (**Minister**), may agree with any owner or lessee of land, that all or part of the land should be managed so as to preserve the natural environment or landscape amenity or wildlife or freshwater life or marine-life habitat or historical value of the land; and
 - (ii) the terms of such agreement may be recorded in a conservation covenant which is registered against the title to the land or the lease so as to bind the land or the lease and its owner or lessee to the performance of the terms of the agreement, in perpetuity or for such other period as the parties may agree.
- B. The Minister has approved the Council as a body authorised to enter into conservation covenants under section 77 of the Act.
- C.
- (i) An approved plan designating the land in the Schedule (**Land**) as land over part of which a conservation covenant under section 77 of the Act shall apply, has been registered under section 64 of the Crown Pastoral Land Act 1998;
 - (ii) The Owner is deemed to be the owner of the Land under section 80(5) of the Crown Pastoral Land Act 1998; and
 - (iii) The area of the Land to be managed by the Council under the terms of this deed is described in the Schedule and identified on the plan attached to this deed (**Site**).
- D. The Owner and the Council are concerned to prevent drainage, cultivation, oversowing, topdressing, subdivision, fencing or other activities that may change the character of the Site or adversely affect the vegetation and habitat for game birds.
- E. The Owner and the Council have agreed that the Site be managed with the following conservation purposes and objectives:
- (i) to maximise the habitat for waterfowl and in particular game bird species; and
 - (ii) to protect and enhance natural values of the Site, its wetlands, vegetation and water quality.

[Handwritten signatures and initials]
VSc S M

It is declared

1. Covenant

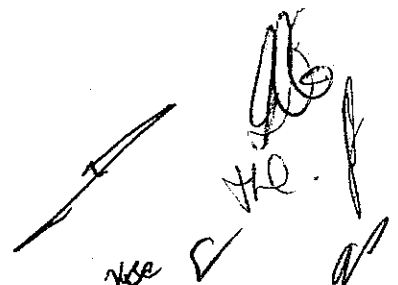
In accordance with section 77 of the Act, the Owner and the Council covenant from the date of this deed and in perpetuity, that the Site shall be managed for the purposes and objectives set out in paragraph E of the introduction.

2. Owner's obligations

- 2.1 The Owner may graze the Site in a manner that is consistent with the purposes and objectives of this deed, as agreed from time to time between the Owner and the Council, and shall maintain all fences and gates on the Site, or its boundary, in a good stockproof condition in order to facilitate proper grazing control.
- 2.2 The Owner shall ensure that stock numbers and stock type are at all times kept within the limits as may be agreed by the Owner and the Council from time to time.
- 2.3 The Owner shall, so far as is practicable, keep the Site free from:
- (a) gorse, broom, sweet briar, nodding thistle and all other noxious plants and, in particular, comply with the provisions of, and any notices given under, the Biosecurity Act 1993;
 - (b) rabbits and vermin and, in particular, comply with the provisions of, and any notices given under, the Biosecurity Act 1993; and
 - (c) rubbish or other unsightly or offensive material arising from the Owner's use of the Site.

The Owner may request assistance from the Council in meeting these obligations if they impose a substantial burden in excess of the legal obligations that would have applied in the absence of this deed, or require the Council to contribute to the costs under clause 5.

- 2.4 The Owner shall not carry out, nor allow to be carried out, without the Council's prior approval:
- (a) the erection of any fence, building, structure or other improvements on the Site whether for the Owner's purpose or for other private or public purposes;
 - (b) any burning, topdressing, spraying or the sowing of seed on the Site;
 - (c) any prospecting or mining for minerals, coal, or other deposit in or under the Site;
 - (d) any cultivation, earthworks, drainage or other soil disturbance on the Site;



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- (e) the construction of any dam on the Site or the diversion or taking of the natural water on or from the Site;
- (f) any subdivision on the Site;
- (g) any tree-planting on the Site;
- (h) any removal of native plants, shrubs or trees or other exotic trees from the Site; or
- (i) depositing or discharge of any waste or rubbish on, or any contamination of, the Site,

and the Council shall have regard to the conservation purposes and objectives set out in this deed when considering any request for approval under this clause, and shall not unreasonably decline approval.

- 2.5 The Owners shall permit the Council to undertake works to enhance the Site as a waterfowl habitat, however, before commencing any such works, the Council shall first obtain the Owner's approval of all plans and specifications relating to the works.

3. Council's obligations

The Council may:

- (a) provide to the Owner, from time to time, and at any time upon request by the Owner, such technical advice or assistance as may be necessary or desirable to assist in meeting the conservation purposes and objectives set out in this deed; and
- (b) prepare, in consultation with the Owner, a joint plan for the management of the Site designed to implement the conservation purposes and objectives set out in this deed to the mutual satisfaction of the parties.

4. Access

The Owner grants to the Council, and any officer or duly authorised agent of the Council, a right of access on to the Site for the purposes of examining and recording the condition of the Site or for carrying out protection or maintenance work on the Site consistent with the conservation purposes and objectives set out in this deed. Prior to exercising this right, however, the Council and the officers or agents of the Council shall consult with the Owner and have regard to all reasonable request and requirements of the Owner.

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5. Contribution to costs

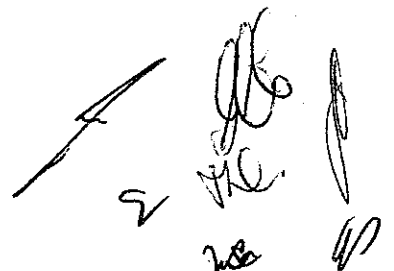
- 5.1 The Council shall pay to the Owner a proportionate share of the costs of new fences, or the repair and maintenance of existing fences upon the Site, if such work has first been approved by the Council.
- 5.2 The proportionate share payable by the Council under this clause shall be calculated having regard to the purpose of any expenditure, with the intent that:
- (a) expenditure essentially for game bird management purposes only shall be borne by the Council;
 - (b) expenditure essential for farming purposes only, including stock control, shall be borne by the Owner; and
 - (c) where the expenditure is partly for game bird management and partly for farming purposes then the expenditure shall be borne by the parties equally or in such other proportion as they may agree and failing agreement as may be determined by arbitration provided for under clause 8.

6. Fires

The Owner will notify the appropriate Fire Authority (District Council or the Minister as the case may be, see section 2 of the Forest and Rural Fires Act 1977) in the event of wildfire threatening the Site.

7. Notice

- 7.1 Each notice or other communication under this deed is to be in writing, is to be made by facsimile, personal delivery or by post to the addressee at the facsimile number or address provided by each party from time to time, and is to be marked for the attention of the person or office holder (if any), from time to time designated for that purpose by the addressee to the other party.
- 7.2 No communication is to be effective until received. A communication will be deemed to be received by the addressee:
- (a) in the case of a facsimile, on the working day on which it is despatched or, if despatched after 5.00pm on a working day or, if despatched on a non-working day, on the next working day after the date of dispatch;
 - (b) in the case of personal delivery (including, but not limited to, courier by a duly authorised agent of the person sending the communication), when delivered; and
 - (c) in the case of a letter, on the fifth working day after mailing.



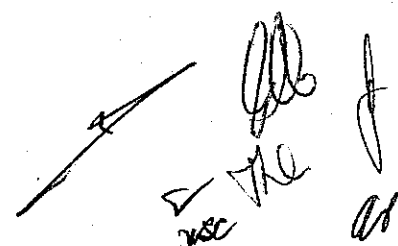
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8. Arbitration

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

9. General

- 9.1 In the event that the Site, or a part of the Site, is on land designated as land to be freeholded under the Crown Pastoral Land Act 1998 it is intended that this deed will be registered against the fee simple title to issue for that land and shall bind the registered proprietor of that land or any transferee or lessee of the registered proprietor.
- 9.2 The Owner shall not be personally liable in damages for any breach of covenant under this deed committed after the Owner has parted with all interest in the Site in respect of which such a breach occurs.
- 9.3 Where there is more than one owner of the leasehold or fee simple title to the Site, the covenants contained in this deed shall bind each owner jointly and severally.
- 9.4 Where the Owner is a company the covenants contained in this deed shall bind a receiver, liquidator, statutory manager or statutory receiver. Where the Owner is a natural person, this deed shall bind an Official Assignee. In either case this deed binds a mortgagee in possession.
- 9.5 The reference to any legislation in this deed extends to and includes any amendments to, or re-enactment of, that legislation.
- 9.6 The Owner and the Council shall take all steps and do all things necessary to register this deed against the Land.

Handwritten signature and initials, including a checkmark and the word 'rec'.

10. Severance

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

Execution

Executed as a deed

The Common Seal of the **Otago
Fish and Game Council** was
affixed in the presence of:

Witness Signature

Print Name

Occupation

Address

Address of Otago Fish and Game Council

Address

Facsimile

Attention

Telephone

[Handwritten signatures and initials]

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

Witness Signature

Print Name

Occupation

Address

Address of Commissioner of Crown Lands

Address

Facsimile

Attention

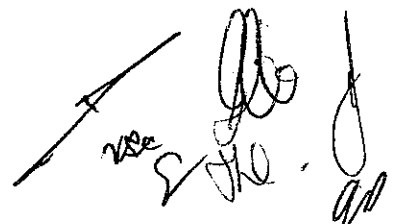
Telephone

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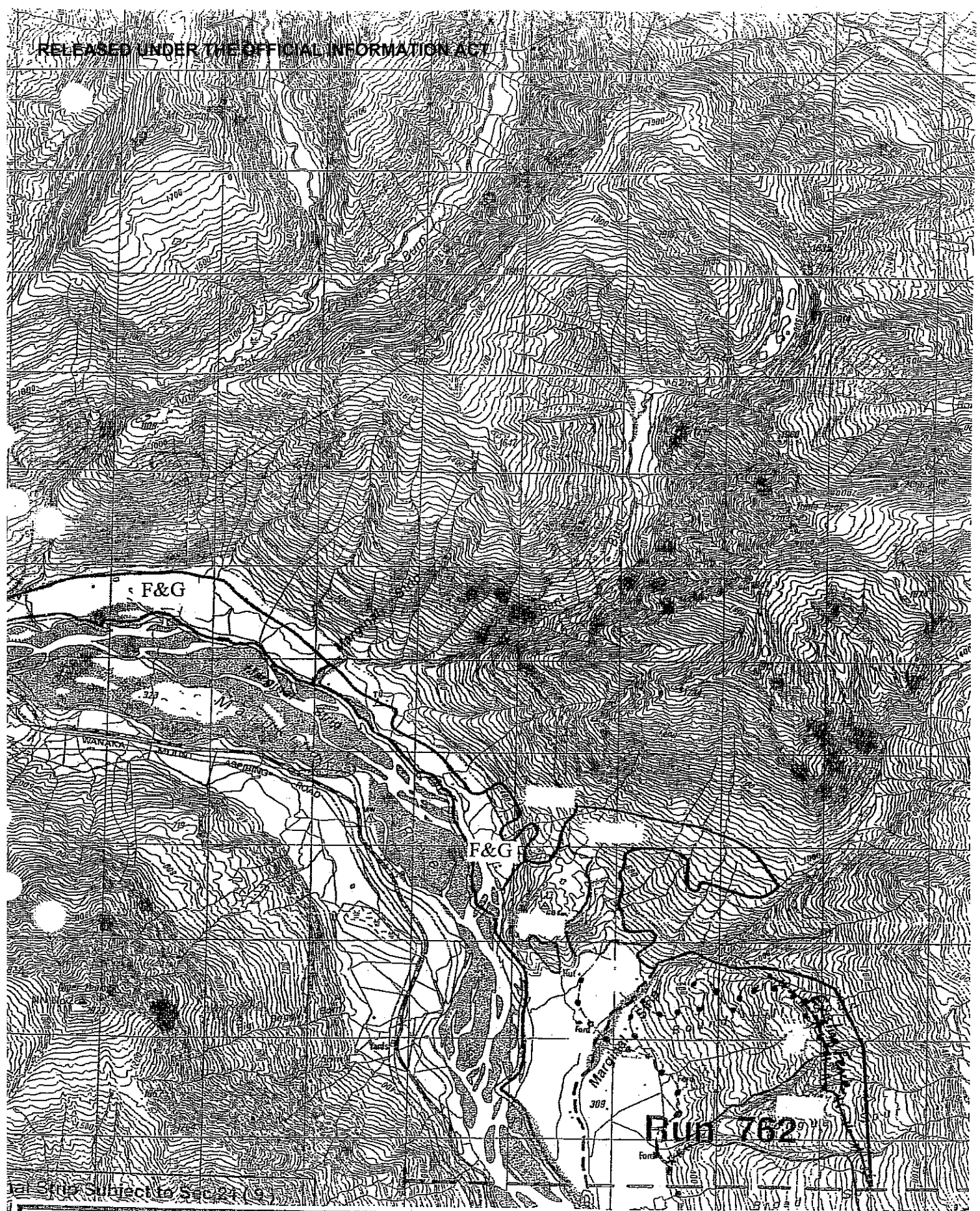
Schedule

Land: All that parcel of land containing approximately 7162.9358 hectares, being Run 762 Matukituki, Mid and Lower Wanaka and Motatapu Survey Districts held in certificate of title OT 386/129 and being the land shown in the Plan Substantive Proposal dated [date], relating to the West Wanaka Station, prepared under the Crown Pastoral Land Act 1988.

Site: That part of the Land marked F&G on the attached plan.



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Subject to Sec 24 (9)

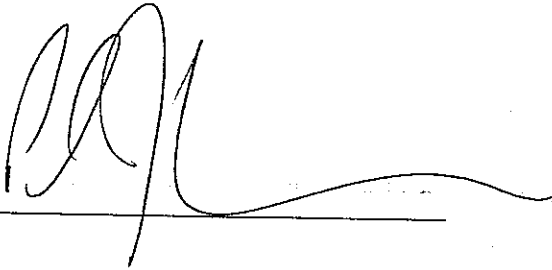
WEST WANAKA STATION
 CONSERVATION COVENANT
 Otago Fish & Game Council

Handwritten notes and signatures:
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 use 700
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Execution Section

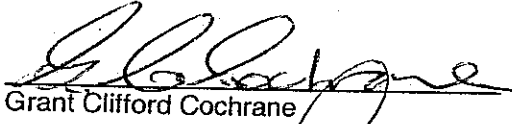
This Proposal (including the schedules and appendices) is signed by the Commissioner and the Holder as a binding agreement.

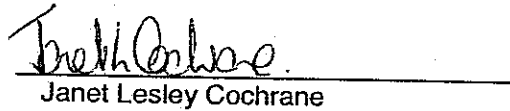
SIGNED for and on behalf of the Commissioner of Crown Lands by Paul Alexander Jackson acting pursuant to a delegated authority in the presence of:



Paul Alexander Jackson
Witness
Salcitor
Occupation
Wellington
Address

SIGNED by the Holder:


Grant Clifford Cochrane


Janet Lesley Cochrane

In the presence of:

17/10/11
Witness
Salcitor
Occupation
Worahua
Address

