

# **Crown Pastoral Land Tenure Review**

Lease name: DUNSTAN  
DOWNS

Lease number: Po019

## **Preliminary Proposal Pt2**

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

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

Sept 20

**Appendix 6: Form of Easement to be Created**

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# **TRANSFER GRANT OF EASEMENT IN GROSS**

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

**Land Transfer Act 1952**

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

## Annexure Schedule

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

Transfer Easement

Dated

Page of Pages



# 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 – <i>Insert only when part or Stratum, CT</i>

Grantor Surnames must be underlined

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

Grantee Surnames must be underlined

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

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

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

Consideration

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

Operative Clause

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_

Attestation

Signed by acting under written delegation from the Commissioner of Crown Lands	Signed in my presence by the Grantor Signature of Witness	(continued on page xx of Annexure Schedule)
	<b>Witness to complete in BLOCK letters</b> (unless typewritten or legibly stamped)	
Signature, or common seal of Grantor	Witness name Occupation Address	

Certified correct for the purposes of the Land Transfer Act 1952

Solicitor for the Transferee

## Annexure Schedule

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

Transfer Easement

Dated

Page

of

Pages

### Definitions

1. In this transfer unless the context otherwise requires:
  - 1.1 "Easement Area" means that part of the Servient Land being 20 metres wide which is marked "a-b" for public access and "a-b" and "e-f" for management purposes on Deposited Plan/S.O. Plan No [ ] and includes the Parking Area.
  - 1.2 "Parking Area" means that part of the Servient Land which is marked "a" on the Designations plan "[ ]" on SO Plan No [ ].
  - 1.3 "Management Purposes" means:
    - the protection of a significant inherent value of any land managed by the Grantee;
    - the ecological sustainable management of any land managed by the Grantee.
    - the management of the Easement Area consistent with the purposes for which the easement is held under the Conservation Act 1987 or the Reserves Act 1977.
  - 1.4 "Servient Land" means the land owned by the Grantor and described on page 1.
  - 1.5 "Grantee" means Her Majesty the Queen acting by and through the Minister of Conservation and includes tenants, agents, invitees, contractors, licensees and employees of the Minister of Conservation and the Director-General of Conservation; and for the purposes of clause 2.1 only, includes any member of the public.
  - 1.6 "Grantor" means the owner of the Servient Land described on page 1 and includes the Grantor's tenants and invitees.
  - 1.7 "Working day" means the period between any one midnight and the next, excluding Saturdays, Sundays and statutory holidays in the place where the Servient Land is located.

### Standard Easement Terms

#### Access

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

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.

DOCDM-1133092 – Public Access and Management Purposes Easement Template  
DOC-3086591 – Dunstan Downs – Public Access and DOC Management Purposes Easement

Jan 2013  
August 2019

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

#### Exclusion of Schedules

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

#### Term

5. The easement is to be in perpetuity.

#### Temporary Closure of Easement Area

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

#### Dispute Resolution

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

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.



## Notice

- 8.1 A notice to be given under this transfer by one party to the other is to be in writing and must:
- (a) be hand delivered to the receiving party; or
  - (b) be sent by ordinary post to the receiving party;
  - (c) be sent by email to the receiving party.
- 8.2 If clause 8.1(b) applies the notice will be deemed to be received by the receiving party on such date on which the ordinary post would be delivered.
- 8.3 If clause 8.1(c) applies the notice will be deemed to have been received on the day on which it is emailed if that day is a working day or, if dispatched after 5.00pm, on the next working day after the date of email.

## Gates

9. Where the Grantor wishes to erect fences across the Easement Area, the Grantor shall install a gate not less than 3 metres wide, and either:
- 9.1 Keep the gate unlocked at all times, or
  - 9.2 Ensure the Grantee is provided with a key to the gate; AND
  - 9.3 Install a stile or appropriate facility to allow for public access by foot, horse or non-motorised vehicle.
10. The Grantee (not being a member of the public) has the right:
- 10.1 To mark the Easement Area as appropriate.
  - 10.2 To erect and maintain stiles and/or gates.
  - 10.3 To erect and maintain signs informing the public:
    - (a) of the location of the land managed by the Crown and available for public access and recreation; and
    - (b) of their rights and responsibilities in relation to the Easement Area.
  - 10.4 From time to time to modify the surface of the Easement Area so that it becomes and remains fit for the purpose of clauses 2.1 and 2.2 *and* 2.3 *etc.*
  - 10.5 To use whatever reasonable means of access he/she thinks fit over the Easement Area to carry out the works in clause 10.1 to 10.4.

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

Special Easement Terms

The standard easement terms contained above must be read subject to any special easement terms set out below.

- 11. Members of the public may not take or be accompanied by a dog on the Easement Area.
- 12. If the Grantee (being a member of the public) has a hunting permit, issued by the Director-General of Conservation for public conservation land to which the Easement Area provides access, they may carry a gun on the Easement Area for the purpose of gaining access to hunt on that land.
- 13. For the avoidance of doubt, no camping or fires are permitted on the Easement Area.
- 14. The Grantor may request the Minister to temporarily close access to members of the public to all or any part of the Easement Areas in accordance with clause 6.1, where this is necessary for public safety or emergency.
- 15. Prior to using the Easement Area for management purposes, the Grantee shall make reasonable efforts to give notice by telephone to the Grantor at least 24 hours beforehand, and shall consider the Grantor's reasonable requests relating to the farm management issues. This clause does not apply in an emergency or if the Grantor is unable to be contacted by telephone. For the avoidance of doubt, clause 6 does not apply to this clause.
- 16. Health and Safety on the Easement Area:
  - 16.1 The Grantee is to comply with all health and safety practices reasonably required by the Grantor and notified to the Grantee.
  - 16.2 The Grantee acknowledges that the requirement at condition 16.1 does not release the Grantee from their obligation to take reasonable care when using the Easement Area, acknowledging that the Grantor may not be aware of hazards on the Easement Area or that it may be impassable.
  - 16.3 The Grantee (not being a member of the public) is to erect and maintain signs at the likely most popular entrances to the Easement Area, advising the public of the hazards on the Easement Area with the same information to be contained in all public information material produced for the area.

**Continuation of "Attestation"**

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

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

Name \_\_\_\_\_

Address \_\_\_\_\_

Occupation \_\_\_\_\_

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.

**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.

DOCDM-1133092 – Public Access and Management Purposes Easement Template  
DOC-3086591 – Dunstan Downs – Public Access and DOC Management Purposes Easement

Jan 2013  
August 2019

# TRANSFER GRANT OF EASEMENT IN GROSS

For Public Access and Management Purposes

**Land Transfer Act 1952**

Law Firm Acting

Solicitor  
Legal Services  
Department of Conservation  
Dunedin

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

**Appendix 7: Form of Conservation Covenant to be Created (CC1)**

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**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 the 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 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 habitat, freshwater life habitat, marine life habitat or historic values as specified in Schedule 1.
“Working Day”	means the period between any one midnight and the next excluding Saturdays, Sundays, and statutory holidays in the place where the Land is located.

1.2 For avoidance of doubt:

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

**2. OBJECTIVE OF THE COVENANT**

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

**3. THE OWNER’S OBLIGATIONS**

- 3.1 Unless agreed in writing by the parties, the Owner must not carry out or allow to be carried out on or in relation to the Land:
  - 3.1.1 grazing of the Land by livestock;

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

#### **4. THE MINISTER'S OBLIGATIONS**

- 4.1 The Minister must have regard to the objective specified in clause 2.1 when considering any requests for approval under this Covenant.



- 4.2 The Minister must repair and replace to its former condition any Fence or other improvement on the Land or on its boundary which may have been damaged in the course of the Minister or any person referred to in clause 3.2.5 exercising any of the rights conferred by this Covenant.

## **5. IMPLEMENTATION OF OBJECTIVES**

- 5.1 The Minister may;

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

## **6. DURATION OF COVENANT**

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

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

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

## **8. MISCELLANEOUS MATTERS**

### **8.1 Rights**

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

### **8.2 Trespass Act:**

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

### **8.3 Reserves Act**

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

#### 8.4 **Titles**

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

#### 8.5 **Acceptance of Covenant**

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

#### 8.6 **Fire**

8.6.1 The Owner must notify, as soon as practicable, the appropriate Fire and Emergency New Zealand (FENZ) and the Minister if fire threatens the Land;

8.6.2 The Minister will render assistance to FENZ in suppressing the fire if:

8.6.2.1 requested to do so; or

8.6.2.2 if there is in agreement in place between the Minister and FENZ to render such assistance under section 147 of the Fire and Emergency New Zealand Act 2017.

### 9. **NOTICES**

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

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

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

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

### 10. **DEFAULT**

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

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

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

## **11. DISPUTE RESOLUTION PROCESSES**

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

### **11.2 Mediation**

- 11.2.1 if the dispute is not capable of resolution by agreement within 14 days of written notice by one party to the other (or such further period as the parties may agree to in writing) either party may refer the dispute to mediation with a mediator agreed between the parties;
- 11.2.2 if the parties do not agree on a mediator, the President of the New Zealand Law Society is to appoint the mediator.

### **11.3 Failure of Mediation**

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

## **12. JOINT OBLIGATIONS**

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

## **13. FURTHER AGREEMENT AND APPROVAL**

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

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

**14. SPECIAL CONDITIONS**

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

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



Executed as a Deed

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

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

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

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

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

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

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

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

## SCHEDULE 1

### 1. Description of Land

The piece of land containing a total of approximately 30 hectares shown as CC1, which is shaded yellow on the Designations Plan.

### 2. Address for Service

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

Department of Conservation  
Level 1  
John Wickliffe House  
265 Princes Street  
Dunedin 9058

Phone: (03) 477 0677  
Email: [permissionsdunedin@doc.govt.nz](mailto:permissionsdunedin@doc.govt.nz)

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

Charles and Tania Innes  
Dunstan Downs Limited  
1723 Omarama – Lindis Pass Road  
Omarama 9412

Phone: (03) 438 9696  
Email: [ctinnes@farmside.co.nz](mailto:ctinnes@farmside.co.nz)

### 3. Values of Land to be Preserved (Section 77, Reserves Act 1977) – Natural Environment and Landscape Amenity

This area comprises of a large scree/boulderfield which supports a significant Halls totara forest. Significant values include:

- This is a remnant podcarp forest with Halls totara and mountain toatoa.
- Remnant lowland shrublands are particularly important as the last remnants of a community that was once far more widespread.
- *Olearia fimbriata* (declining) and *Coprosma intertexta* (uncommon) are both present.
- These are diverse shrublands that are recognised as having high faunal values and diverse invertebrate communities due partly to the presence of *Olearia* species.
- This is a significant feature visible from the Lindis Pass Highway.

## **SCHEDULE 2**

### **Special Conditions**

1. For the avoidance of doubt, it is confirmed that notwithstanding clause 8.3, the Owner and the Owner's agents, employees, contractors and tenants are hereby authorised to take and possess any firearm, weapon, trap, net or other like object on the Land for farm management purposes only.
2. The Owner may access the land with dogs and horses
3. The values of the Land will be monitored as set out in Schedule 3

### Schedule 3

#### DESCRIPTION OF THE MONITORING PROGRAMME TO BE ESTABLISHED

##### 1. Responsibilities:

A vegetation monitoring programme will be established at the commencement of the covenant term by the Minister. A monitoring report will be produced to describe the programme, methods and results and to enable successful re-monitoring. This report will be provided to the Owner. Subsequent re-monitoring is to be organized by the Owner with the assistance of the Minister.

The Minister will be party to the re-monitoring by provided one staff member to assist with the physical monitoring. The Minister will be consulted as to the selection of a suitably qualified monitoring provider. The Minister will be given a copy of the monitoring report in a format nominated by the Minister.

##### 2. Costs:

The Minister is responsible for the cost of establishing the monitoring and the initial report. The Owner will be responsible for the cost of repeat monitoring and the repeat monitoring write up. The Minister will cover his own staff cost for re-monitoring

##### 3. Monitoring Methods:

A series of repeatable photo point sites will be established on the Land for monitoring. The purpose of these photopoints is to detect deterioration of the tussock, shrublands and forest being recorded as a consequence of grazing impacts and other management practices

The number and position of photopoints will be decided when monitoring is implemented.

Within the Covenant area photopoints will consist of a series of photos to ensure that conditions of the covenant are complied with.

- General monitoring: A series of general landscape photos.
- Within shrubland areas will include: Obvious fragmentation, tracking, gaps and canopy breakdown.
- Within forest areas will include: Observations of stock damage to the understory and regeneration of the forest.

The Minister will have the discretion to require additional methods of monitoring to be used if results from photopoints or observations are found to be unsuitable for measuring the values being protected.

##### 4. Monitoring Frequency:

The photopoints will be re-monitored every 5 years or at some other interval agreed between the parties.

##### 5. Monitoring Results:

Following monitoring, results will be discussed between the Owner and the Minister.

Should monitoring results indicate that grazing or other pastoral practices are having a detrimental impact on the Values then the Owner in consultation with the Minister, will take

significant steps to prevent this continuing which may include such measures as reducing stock or pest numbers or changing stock types.

**GRANT** of

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

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

**COMMISSIONER OF CROWN  
LANDS**

to

**MINISTER OF CONSERVATION**

---

**Solicitor**

**Department of Conservation**

# DUNEDIN

**Appendix 8: Form of Conservation Covenant to be Created (CC2)**

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**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*



<b>“Minerals”</b>	means any mineral that is a Crown owned mineral under section 2 of the Crown Minerals Act 1991.
<b>“Minister”</b>	means the Minister of Conservation.
<b>“Natural Water”</b>	includes water contained in streams the banks of which have, from time to time, been realigned.
<b>“Owner”</b>	means the person or persons who from time to time is or are registered as the proprietor(s) of the Land.
<b>“Party” or “Parties”</b>	means either the Minister or the Owner or both.
<b>“Values”</b>	means any or all of the Land’s natural environment, landscape amenity, wildlife habitat, freshwater life habitat, marine life habitat or historic values as specified in Schedule 1.
<b>“Working Day”</b>	means the period between any one midnight and the next excluding Saturdays, Sundays, and statutory holidays in the place where the Land is located.

1.2 For avoidance of doubt:

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

**2. OBJECTIVE OF THE COVENANT**

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

**3. THE OWNER’S OBLIGATIONS**

- 3.1 Unless agreed in writing by the parties, the Owner must not carry out or allow to be carried out on or in relation to the Land:
  - 3.1.1 grazing of the Land by livestock;

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

#### **4. THE MINISTER'S OBLIGATIONS**

- 4.1 The Minister must have regard to the objective specified in clause 2.1 when considering any requests for approval under this Covenant.



- 4.2 The Minister must repair and replace to its former condition any Fence or other improvement on the Land or on its boundary which may have been damaged in the course of the Minister or any person referred to in clause 3.2.5 exercising any of the rights conferred by this Covenant.

## **5. IMPLEMENTATION OF OBJECTIVES**

- 5.1 The Minister may;

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

## **6. DURATION OF COVENANT**

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

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

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

## **8. MISCELLANEOUS MATTERS**

### **8.1 Rights**

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

### **8.2 Trespass Act:**

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

### **8.3 Reserves Act**

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

#### 8.4 Titles

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

#### 8.5 Acceptance of Covenant

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

#### 8.6 Fire

8.6.1 The Owner must notify, as soon as practicable, Fire and Emergency New Zealand (FENZ) and the Minister if fire threatens the Land;

8.6.2 The Minister will render assistance to FENZ in suppressing the fire if:

8.6.2.1 requested to do so; or

8.6.2.2 there is an agreement in place between the Minister and FENZ to render such assistance under section 147 of the Fire and Emergency New Zealand Act 2017.

### 9. NOTICES

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

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

(a) in the case of personal delivery, on the date of delivery;

(b) in the case of pre-paid post, on the third Working Day after posting;

(c) in the case of email, on the day on which it is dispatched if that is a Working Day or, if it is not a Working Day or if it is dispatched after 5.00pm, on the next Working Day after the date of dispatch.

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

### 10. DEFAULT

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

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

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

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

10.2.1 advise the defaulting party of the default;

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

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

## **11. DISPUTE RESOLUTION PROCESSES**

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

### **11.2 Mediation**

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

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

### **11.3 Failure of Mediation**

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

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

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

## **12. JOINT OBLIGATIONS**

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

## **13. FURTHER AGREEMENT AND APPROVAL**

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

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

**14. SPECIAL CONDITIONS**

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

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



Executed as a Deed

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

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

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

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

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

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

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

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

## SCHEDULE 1

### 1. Description of Land

The piece of land containing a total of approximately 865 hectares shown as CC2, which is shaded yellow on the Designations Plan.

### 2. Address for Service

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

Department of Conservation  
Level 1  
John Wickliffe House  
265 Princes Street  
Dunedin 9058

Phone: (03) 477 0677  
Email: [permissionsdunedin@doc.govt.nz](mailto:permissionsdunedin@doc.govt.nz)

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

Charles and Tania Innes  
Dunstan Downs Limited  
1723 Omarama – Lindis Pass Road  
Omarama 9412

Phone: (03) 438 9696  
Email: [ctinnes@farmside.co.nz](mailto:ctinnes@farmside.co.nz)

### 3. Values of Land to be Preserved (Section 77, Reserves Act 1977) – Natural Environment and Landscape Amenity

The land contains open space, landscape and indigenous vegetation values. Specific values include:

- The area retains a high degree of naturalness
- The area is a highly visible and visually significant part of the State Highway 8 corridor in the Lindis Pass
- The valley is classified as an outstanding natural landscape
- The face of Old Man Peak forms a visually impressive backdrop and enclosing range to the Lindis Pass area
- The hummocky foreground is a distinctive landform with reasonably intact tall tussock grassland

## SCHEDULE 2

### Special Conditions

1. Notwithstanding Clause 3.1.1 the Owner may graze the Land with sheep and cattle, provided stocking rates are kept at or below a rate compatible with preservation of the values listed in clause 3 of schedule 1.
2. For the avoidance of doubt, it is confirmed that notwithstanding clause 8.3, the Owner and the Owner's agents, employees, contractors and tenants are hereby authorised to take and possess any firearm, weapon, trap, net or other like object on the Land for farm management purposes only.
3. The Owner may access the Land with dogs and horses.
4. Notwithstanding Clause 3.1.4 the Owner may maintain existing tracks and fences on the Land.
5. Notwithstanding Clause 3.1.5 the Owner may maintain existing over sowing and top dressing on the Land, provided over sowing and top dressing does not exceed a rate or intensity compatible with preservation of the Values, including the indigenous vegetation values.
6. The Values of the Land will be monitored as set out in Schedule 3.

### Schedule 3

#### DESCRIPTION OF THE MONITORING PROGRAMME TO BE ESTABLISHED

**1. Responsibilities:**

A landscape and natural environment monitoring programme will be established at the commencement of the covenant term by the Minister. A monitoring report will be produced to describe the programme, methods and results and to enable successful re-monitoring. This report will be provided to the Owner. Subsequent re-monitoring is to be organized by the Owner with the assistance of the Minister.

The Minister will be party to the re-monitoring by provided one staff member to assist with the physical monitoring. The Minister will be consulted as to the selection of a suitably qualified monitoring provider. The Minister will be given a copy of the monitoring report in a format nominated by the Minister.

**2. Costs:**

The Minister is responsible for the cost of establishing the monitoring and the initial report. The Owner will be responsible for the cost of repeat monitoring and the repeat monitoring write up. The Minister will cover his own staff cost for re-monitoring

**3. Monitoring Methods:**

A series of general repeatable photo point sites will be established on the Land for monitoring. The purpose of these photopoints is to detect deterioration of the tussock, or shrublands as a consequence of grazing impacts and other management practices

The number and position of photopoints will be decided when monitoring is implemented.

**4. Monitoring Frequency:**

The photopoints will be re-monitored every 5 years or at some other interval agreed between the parties.

**5. Monitoring Results:**

Following monitoring, results will be discussed between the Owner and the Minister.

Should monitoring results indicate that grazing or other pastoral practices are having a detrimental impact on the Values then the Owner in consultation with the Minister, will take significant steps to prevent this continuing which may include such measures as modifying oversowing practices, reducing stock numbers or changing stock types.

GRANT of

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

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

COMMISSIONER OF CROWN  
LANDS

to

MINISTER OF CONSERVATION

---

**Solicitor**

**Department of Conservation**

**DUNEDIN**

DOCDM-1143309 – Conservation Covenant – Reserves Act – CPLA Template Version Final  
DOC-3086596 – Dunstan Downs – Conservation Covenant CC2

Jan 2013  
August 2019



**Appendix 9: Copy of Easement GN6182320.2 to Continue**

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**Right of Way Easement in Gross Acquired for Police Purposes—Old Man Peak Repeater, State Highway No. 8, Omarama—Lindis Pass Road, Lindis Pass, Waitaki District**

Pursuant to sections 20 (1) and 28 of the Public Works Act 1981, and to a delegation from the Minister for Land Information, Ronald Alistair Jolly, Land Information New Zealand, declares that pursuant to an agreement to that effect having been entered into:

(a) The land described in the First Schedule to this notice is acquired for police, law enforcement, public safety and emergency services, radio communications, broadcasting and telecommunications purposes.

(b) The easement described in the Third Schedule to this notice is acquired as an easement in gross over those parts of the land described in the Second Schedule as are specified in the Third Schedule. The easement shall vest in the Crown for New Zealand Police for police, law enforcement, public safety and emergency services, radio communications, broadcasting and telecommunications and access purposes ("the grantee") on the date of publication of this notice in the *New Zealand Gazette* and may be surrendered by a further notice in the *New Zealand Gazette*.

**Otago Land District—Waitaki District**

**First Schedule**

**Land to be Acquired**

Area m <sup>2</sup>	Description
673	Part Run 201A; shown as Section 1 on SO 308219 (part Computer Interest Register OT338/47).
430	Part Run 201A; shown as Section 2 on SO 308219 (part Computer Interest Register OT338/47).

**Second Schedule**

**Servient Tenement**

Area ha	Description
12350.4940	Run 201A, Section 4, SO 23073 and Section 2, Block XVI, Longslip Survey District (Computer Interest Register OT338/47).

**Third Schedule**

**Right of Way Easement**

A right of way over those pieces of land in the Second Schedule described as follows:

Part Run 201A; marked "A" on SO 308219.

**Additional Rights and Conditions Included in the Easement**

**Definitions and Interpretation**

"Easement Land" is the land shown as "A" on SO 308219.

"Grantee" means the Crown for the purposes of police, law enforcement, public safety and emergency services, radio broadcasting and telecommunications.

"Grantor" means the lessee of the servient land and includes their respective successors and assignees.

"Lessee" means the owner of a lease of the servient land and includes their respective successors and assignees.

"Repeater Station" means part of the land known as Part Run 201A and more particularly shown as Sections 1 and 2 on SO 308219.

"Servient Land" means Part Run 201A, Waitaki District and incorporated in the Register as OT338/47.

**Rights, Powers, Terms and Conditions of Right of Way Easement**

- The rights and powers implied in easements of right of way shall be as set out in the Fourth Schedule of the Land Transfer Regulations 2002 insofar as such terms are not inconsistent with any conditions as contained in this agreement, in which case the conditions of this agreement shall prevail.
- The grantor shall keep the easement land cleared of any vegetation encroaching on or overhanging the easement land which may impede the grantee's access over and along the easement land which shall further be maintained by the grantor at no cost to the grantee.
- The grantor shall at all times keep and maintain in good condition suitable for use by 4WD vehicles the access track on the easement land to the satisfaction of the grantee.
- The grantor will not grow or permit to be grown any trees, shrubs or bushes of any description on the easement land, which will interfere with the rights granted by this easement.
- If in the reasonable opinion of the grantee, the grantor has breached the provisions of clauses 1 to 4 of this Schedule because of any act or omission, and the breach is causing or is likely to cause damage to or restrict the grantee's access to the repeater station, the grantee shall notify the grantor of the nature of the breach.
  - If the grantor receives notice under clause 4, it shall within a reasonable time do anything necessary to remedy the breach of its covenants under clauses 1 to 4.
  - If the grantor has not remedied the breach of its covenants under clauses 1 to 4 within a reasonable time of receiving notice, the grantee may, in addition to the rights set out in clause 10 at the grantor's cost, do anything necessary to remedy the breach, including but not limited to partially or fully removing, relocating, or demolishing that part of any building or vegetation that in the grantee's reasonable opinion is likely to cause damage to, or restrict the grantee's access to, the repeater station.
- The grantor shall not, without the prior permission of the grantee (which will not be unreasonably withheld):
  - Grant any further rights in respect of the land which result in interference with the rights granted to the grantee under the easement; or
  - Do or permit or suffer to be done any act which may in the reasonable opinion of the grantee, interfere with or prejudice the rights hereby granted to the grantee.
- The grantee shall provide the grantor with prior notice of not less than five working days of its intention to enter upon the easement land. However, access to the easement land without notice to the grantor may occur under circumstances of emergency.
- The grantee shall ensure that all gates are kept secure and closed at all times following exit and entry to the easement land to the satisfaction of the grantor.
- The grantee shall not be required to fence any of the easement land.
- The grantee may transfer or assign all or any part of its estate or interest granted by this easement to any person or corporation subject to its obtaining the written consent of the grantor which shall not be unreasonably or arbitrarily withheld.
- (a) In the event of any dispute arising between the grantee and the grantor ("the parties") in respect of or in connection with this transfer and without

prejudice to any other right or entitlement they may have under this transfer or otherwise the parties shall explore whether the dispute can be resolved by use of alternative dispute resolution technique or mediation.

- (b) The rules governing such technique shall be agreed between the parties or as recommended by the New Zealand Law Society or as selected by the chairman of the New Zealand Chapter of LEADR (Lawyers Engaged in Alternative Dispute Resolution).
- (c) In the event the dispute is not resolved within 28 days of written notice by one party to the other of the dispute either party may refer the dispute to arbitration under the provisions of the Arbitration Act 1996 or any amendment or re-enactment of it.

Dated at Wellington this 28th day of September 2004.

R. A. JOLLY, for the Minister for Land Information.

(LINZ CPC/2001/6962)

ln6611

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**Appendix 10: Copy of Easement 5063428.1 to Continue**

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VEC 5063420.1 DEED OF EASEMENT  
CPV-01/01.PGS-010.25/07/01.13:06



DocID: 110229825

HER MAJESTY THE QUEEN

and

TELECOM NEW ZEALAND LIMITED

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**DEED OF EASEMENT**  
*(General Easement)*

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McVEAGH FLEMING  
SOLICITORS  
AUCKLAND



**DEED OF EASEMENT**  
(General easement)

Date:

13<sup>th</sup> July 2002**PARTIES**

- (1) **THE COMMISSIONER OF CROWN LANDS** pursuant to the Land Act 1948 (the "Grantor")
- (2) **TELECOM NEW ZEALAND LIMITED** at Wellington (the "Grantee")

**BACKGROUND**

- (A) The Grantee wishes to enter upon and cross the Grantor's Land for the purposes of installing, maintaining and using telecommunications lines and works, and conveying electricity.
- (B) The Grantor has agreed to grant to the Grantee easements for those purposes on the terms and conditions set out in this Deed.

**BY THIS DEED IT IS AGREED AND DECLARED as follows:****1.1 DEFINITIONS**

In this deed,

"Commencement Date" means the date first written above;

"Deed" means this deed, the Background and the Schedules annexed hereto;  
referred to in clauses 2.1.1 and 2.1.2

"Easement Land" means the areas of the Grantor's Land ~~delimited on the annexed plans setting out the location of the lines and Works on the Grantor's Land~~ being the areas within which the Grantee may exercise the rights granted by this Deed;

"Grantee" includes the Grantee's servants, agents, employees, workers and contractors and any licensee, lessee or tenant of the Grantee, but only where (in any case) the Grantee has allowed such person or persons to use the rights conferred by this Deed;

"Grantor's Land" means the land described in the Pastoral Lease;

"Lessee" means the lessee named in the Pastoral Lease;

*AW CS*

"Line" means a wire, cable or a conductor of any kind (including fibre optic cable) used or intended to be used for Telecommunication and includes any pole, mast, transmitter, receiver, amplifier, machinery, insulator, casing, fixture, tunnel or other equipment or material used or intended to be used for supporting any such wire, cable or conductor or relating to Telecommunication, and includes any part of a Line, and includes "existing lines" as defined by the Telecommunications Act 1987 and its amendments;

"Pastoral Lease" means pastoral lease no P 19 recorded in the Register Book as Volume 338 Folio 47 (Otago Land District) and as is more particularly delineated in the plan drawn thereon;

"Telecommunication" means the conveyance, transmission, emission, or reception of signs, signals, impulses, writing, images, sounds, instructions, information or intelligence of any nature whether by electromagnetic waves or not on any frequency and whether for the information of any person or not and includes any electronic power supply relating to Telecommunication;

"Works" includes a Line and any instrument, tower, mast, radio apparatus comprising transmitters or receivers or a combination of both, furniture, plant, office, building, machinery, engine, excavation, or work of whatever description used for the purpose of or in relation to or in any way connected with Telecommunication and includes "existing works" as defined in the Telecommunications Act 1987 and its amendments.

## 1.2 Construction

In the construction of this Deed, unless the context otherwise requires:

- 1.2.1 the headings and sub-headings appear as a matter of convenience and shall not affect the construction of this Deed;
- 1.2.2 references to Clauses and Schedules are to the clauses and schedules of this Deed;
- 1.2.3 references to any statute, regulation or other statutory instrument or bylaw shall be deemed to be references to the statute, regulation, instrument or bylaw as from time to time amended and includes substitution provisions that substantially correspond to those referred to; and
- 1.2.4 the singular includes the plural and vice versa, and words importing any gender include the other genders.

## 2. GRANT OF RIGHTS

- 2.1 The Grantor hereby grants to the Grantee, for a term of sixty (60) years commencing on the Commencement Date and (subject to clause 12) expiring on the day prior to the sixtieth anniversary of the Commencement Date, pursuant to section 60 of the Land Act 1948, the following easements in gross:

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- 2.1.1 the right to construct, install and maintain Works on those parts of the Easement Land marked "A" and "D" on Survey Office Plan SO24827 and to use the Works for the purposes of Telecommunication without interruption or impediment;
- 2.1.2 the right to lay and maintain Lines in and under the soil of those parts of the Easement Land marked "A", "B", "C", "D" and "E" on Survey Office Plan SO24827 or as the case may be on and over the aforesaid parts of the Easement Land and to use such Lines for the purposes of Telecommunication without interruption or impediment;
- 2.1.3 the right for the Grantee to enter upon, go, pass and repass by vehicle, air or foot over the Easement Land (and such part of the Grantor's Land immediately adjoining the Easement Land as may reasonably be necessary to exercise the rights in this clause, provided that the Lessee's consent is first obtained) with or without vehicles, laden or unladen and with materials, machinery and implements from time to time and at all times and to remain there for any reasonable time for the purpose of laying, inspecting, cleansing, repairing, maintaining, replacing or altering and renewing any Lines or Works or any part thereof and of opening up the soil of the Easement Land to such extent as may be necessary and reasonable in that regard subject to the condition that as little disturbance as possible is caused to the surface of the Grantor's Land.

### 3 CONSIDERATION

- 3.1 In consideration of the grant of easements in this Deed:
- 3.1.1 the Grantee has paid the Grantor the sum of \$1,500.00 plus GST (receipt of which is acknowledged by the Grantor), and
- 3.1.2 the Grantee shall duly observe the obligations imposed on it under this Deed.

### 4 PAYMENT OF COMPENSATION TO LESSEES

- 4.1 The Grantee has entered into an agreement with the Lessees recording receipt by the Lessees of a payment from the Grantee, which amount is acknowledged by the Lessee to be paid in lieu of the payment of any compensation by the Grantor pursuant to section 60(1) of the Land Act 1948, and that agreement records the Lessees' waiver of their right to any compensation from the Grantor in respect of the grant of easements in this Deed.

### 5 OBLIGATIONS OF THE GRANTEE

- 5.1 The rights and powers conferred under clause 2 of this Deed are granted subject to the following conditions and obligations:
- 5.1.1 The Grantee shall when on the Easement Land:

*ellw*

*R*

*CRS*

- (i) wherever possible remain on the roads and tracks constructed on the Easement Land;
- (ii) not use or cause to be used either any tracked vehicle or any other class of vehicle which has been prohibited by the Grantor;
- (iii) immediately after passing through any gates, close such of them as were closed and lock such of them as were locked immediately before such passing through;
- (iv) take all reasonable precautions for guarding against any danger (including, but without limitation, fire, physical damage or disease) on the Grantor's Land, and in particular shall (but without limiting the general obligation to take full and proper precautions pursuant to this clause 5.1.1 (iv)) comply with all reasonable conditions that may be imposed from time to time by the Grantor or any lawful authority;
- (v) ensure that as little damage or disturbance as possible is caused to the surface of the Grantor's Land and that the surface is restored as nearly as possible to its former condition and any other damage done by reason of the activities permitted on the Easement Land by this Deed is repaired forthwith;
- (vi) ensure that the Grantee does not enter upon the Easement Land without first contacting the Lessees by telephone and advising them of their intention to enter upon the Easement Land for the purposes permitted in this Deed except in cases of emergency.

5.1.2 The Grantee shall, at its cost, maintain and repair to the reasonable satisfaction of the Grantor any part of the Grantor's Land, including the tracks, fences, gates, drains, buildings or other structures, which is damaged by the Grantee **PROVIDED THAT** the obligation to maintain and repair shall only arise if damage is caused by the Grantee.

- 5.2 The Grantee shall compensate the Grantor for any loss suffered by the Grantor if the actions of the Grantee result in damage to stock on the Grantor's Land.
- 5.3 The Grantee shall at all times in the exercise of the rights set out in this Deed not obstruct or hamper the Grantor, or any agents, employees and contractors of the Grantor, in its or their normal or reasonable use of the Grantor's Land.
- 5.4 The Grantee shall not at any time except with the prior written approval of the Grantor (which approval shall not be unreasonably withheld) carry out any activity which is not included within clause 2 of this Deed on the Grantor's Land, or do any other thing which would affect the ability of the Grantor to use the Grantor's Land.
- 5.5 The Grantee shall comply at all times with all statutes and regulations and obtain all approvals, consents and authorisations as are necessary for the Grantee to conduct the activities permitted by this Deed.



## 6 OBLIGATIONS OF THE GRANTOR

- 6.1 The Grantor shall not grant any lease, licence or easement with respect to any part of the Grantor's Land or any building erected on it to any other party which authorises the operation of any equipment which causes interference (as defined in section 2 of the Radiocommunications Act 1989) with the operation of the Grantee's Telecommunication equipment on the Easement Land.
- 6.2 The Grantor shall not grow or permit to be grown any trees, shrubs or bushes of any description which will interfere with the rights granted by this Deed provided however that the provisions of this clause shall not apply so long as the Grantor hereunder is Her Majesty the Queen.

## 7 ACCESS TRACK

- 7.1 The Grantee may at its own expense form a metalled surface access track suitable for four wheel drive vehicles between the areas marked "A" and "D" on Survey Office Plan SO24827 and the Omarama-Lindis Pass Road and shall maintain that access track to a standard sufficient for use by four wheel drive vehicles, save when the track is impassable by reason of snowfall.

## 8 OWNERSHIP OF LINES AND WORKS

- 8.1 All Lines and Works placed on the Easement Land by the Grantee for the purposes of exercising the rights of the Grantee created by this Deed will remain the property of the Grantee and no part of them will become a fixture on the Easement Land.
- 8.2 The Grantee shall, on the expiry of the term or sooner determination of the rights created by this Deed, remove all Lines and Works from the Easement Land within one month and will restore the Grantor's Land to the condition that it was in at the commencement of this Deed.
- 8.3 In determining whether the Grantee has restored the Grantor's Land to the condition that it was in at the commencement of this Deed, the Grantor will take into account any changes since the Commencement Date in that part of the Grantor's Land where the Easement Land is located, and any other factors affecting the physical state of the Grantor's Land.
- 8.4 If the Grantee has not taken the steps set out in clause 8.2 within the specified time frame, the Grantor may remove all Lines and Works from the Easement Land and restore the Grantor's Land to the condition that it was in at the commencement of this Deed and recover all costs incurred from the Grantee.



## 9 COSTS

- 9.1 The Grantee shall bear all reasonable costs and expenses (including the Grantor's legal costs and expenses where recovery of those costs is permitted by law) in relation to the preparation registration and enforcement of any provisions in this Deed.
- 9.2 All costs for the installation of Lines and carrying out of Works permitted by this Deed shall be paid for by the Grantee.

## 10 INDEMNITY

- 10.1 The Grantee hereby indemnifies the Grantor against any loss, claim, damage, costs, expense, liability or proceeding suffered or incurred at any time by the Grantor in connection with this Deed or as a direct result of the exercise by the Grantee of its rights under this Deed, or any breach by the Grantee of its obligations, undertakings or warranties contained or implied in this Deed.

## 11. GRANTOR'S LIABILITY EXCLUDED

- 11.1 Under no circumstances will the Grantor be liable in contract, tort, or otherwise to the Grantee for any expense, costs, loss, injury, or damage whether consequential or otherwise, arising directly or indirectly from this Deed or any activity undertaken by the Grantor on the Grantor's Land, whether the expense, cost, loss, injury or damage is the direct or indirect result of negligence or otherwise.

## 12 TERMINATION

- 12.1 The Grantee may terminate the rights created by this Deed by the giving of twelve months notice in writing to the Grantor and on termination pursuant to this clause the provisions of clause 8 shall be applicable.

## 13 REGISTRATION

- 13.1 The parties shall take and do all such acts and things necessary to ensure that this Deed may be registered if the Grantee wishes to register the Deed or a Memorandum of Transfer Grant of Easement on substantially the same terms in the appropriate Land District.

## 14 DELEGATION

- 14.1 All rights, benefits, and obligations of the Grantor arising under this Deed may be exercised by any person duly appointed by the Grantor **PROVIDED THAT** the exercise of any such rights, benefits or obligations by that person shall not limit the liability of the Grantor in the performance or observance of the provisions of this Deed.

**15 DISPUTES**

15.1 If any dispute arises between the Grantor and the Grantee concerning the rights created by this Deed the parties shall enter into negotiations in good faith to resolve their dispute. If the dispute is not resolved within one month of the date on which the parties begin their negotiations the parties shall submit to the arbitration of an independent arbitrator appointed jointly by the parties, and if one cannot be agreed upon within 14 days, to an independent arbitrator appointed by the President for the time being of the District Law Society in which the Grantor's Land is situated. Such arbitration shall be determined in accordance with the Arbitration Act 1996, excluding the second schedule thereof, and the parties' execution of this Deed shall be deemed to be a submission to arbitration **PROVIDED THAT** this clause shall be subject in all respects to the provisions of section 17 of the Land Act 1948.

**16 NOTICES**

16.1 Any notice to be given by one party under this Deed to the other shall be in writing and shall be forwarded by either delivering or posting it to the addressee at the appropriate address set out below or to such address notified by the address in writing to the other party.

16.1.1 The Grantor's Address as set out in paragraph 2 of the First Schedule.

16.1.2 The Grantee's Address as set out a paragraph 5 of the First Schedule.

16.2 Any notice posted shall be deemed to be served three (3) working days after the date of posting.

**17 SEVERABILITY**

17.1 If any part of this Deed is held by any court or administrative body of competent jurisdiction to be illegal, void, or unenforceable, such determination shall not impair the enforceability of the remaining parts of this Deed which shall remain in full force.

**18 TELECOMMUNICATIONS ACT**

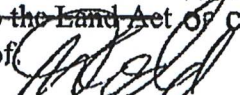
18.1 Nothing in this Deed shall be construed to limit, remove, alter or restrict any rights, powers, remedies or actions which the Grantee may have under the Telecommunications Act 1987 or any statutory amendment or re-enactment thereof.

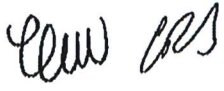
**IN WITNESS WHEREOF** this Deed has been duly executed on the date first written above.

SIGNED by the Commissioner of Crown Lands ~~DAVID JOSEPH GULLEN~~ pursuant to the Land Act 1948 in the presence of

ROBERT WILLIAM LYSAGHT  
PURSUANT TO A DELEGATION  
FROM THE COMMISSIONER  
OF CROWN LANDS



  
**MICHAEL JOHN TODD  
PORTFOLIO MANAGER  
CROWN PROPERTY MANAGEMENT  
C/- LINZ, CHRISTCHURCH**





SIGNED for and on behalf of TELECOM NEW ZEALAND LIMITED  
on the 17th day of May 2000 by two of its Attorneys:  
and

Tina Ming-Wong  
Environmental Manager  
Wellington

Craig Ritchie Bonnington  
Network Property Information Manager  
Telecom New Zealand Limited

  
.....  
Signature

  
.....  
Signature

in the presence of:

WITNESS: (to both signatures)

  
.....  
Signature

Name:  
Occupation:  
Address:

Grant Jason Robertson  
Acquisition Project Consultant  
Wellington

CERTIFICATE OF NON-REVOCATION OF POWER OF ATTORNEY

We: Tina Ming-Wong  
Environmental Manager  
Wellington

and Craig Ritchie Bonnington  
Network Property Information Manager  
Telecom New Zealand Limited

hereby severally certify:

1. That by a Power of Attorney dated 26 February 1998 copies of which are deposited in the Land Titles Offices at:

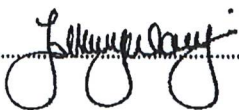
Auckland	as No D250016.1F	Gisborne	as No G219546.1	Napier	as No 668157
Blenheim	as No 196252.1	Hamilton	as No B469761.1	Nelson	as No 375631.1
Christchurch	as No A342475.1	Hokitika	as No 109390.1	New Plymouth	as No 448858.1
Dunedin	as No 944665.1	Invercargill	as No 256408.1	Wellington	as No B654792.1

Telecom New Zealand Limited appointed as its Attorneys on the terms and subject to the conditions set out in the said Power of Attorney any two of the following persons (and each and every person as may for the time being be acting as such): the Manager, Property Acquisitions and Divestments, Telecom New Zealand Limited; the Environmental Manager, Telecom New Zealand Limited; the Network Property Information Manager, Telecom New Zealand Limited; the Property Divestments Manager, Telecom New Zealand Limited; the Manager, Network Property Asset Utilisation, Telecom New Zealand Limited; the Manager, Telecom Property Services, Telecom New Zealand Limited; the Commercial Manager, Telecom Property Services, Telecom New Zealand Limited; the Manager, Corporate Services, Telecom New Zealand Limited; the Manager, Capability Management, Telecom New Zealand Limited.

2. That we are employed by Telecom in the offices set out above under our respective names and as such are Attorneys for Telecom pursuant to the said Power of Attorney.

3. That at the date hereof we have not received any notice or information of the revocation of that appointment by the commencement of liquidation of Telecom or otherwise.

SIGNED at Wellington  
this 17th day of May 2000

  
.....

SIGNED at Wellington  
this 17 day of MAY 2000

  
.....



**\*FIRST SCHEDULE****1. GRANTOR'S LAND**

12351.5305 ha being Run 201A Longslip, Ahuriri, Hawkdun, St Bathans and Lindis Survey Districts and being all of the land referred to in Pastoral Lease P 19 entered in the Otago Land District Registry Book Volume 338 Folio 47.

**2. GRANTOR'S ADDRESS**

Land Information New Zealand  
Lambton House  
110 Lambton Quay  
Wellington

Attention: The Commissioner of Crown Lands

**3. GRANTEE'S ADDRESS**

Telecom Centre L1U2  
49-55 Tory Street  
Wellington

Attention: The Manager  
Property Acquisitions and Divestments  
(or such other person as the Grantee may hereafter advise in writing to the Grantor)



**Execution Section**

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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 Dunstan Downs Limited by two of its directors:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_