

Tenure Review of the Dunstan Downs Pastoral Lease – Substantive Proposal



April 2022

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

Date: 23.12.21

Parties

Holder:

Dunstan Downs Limited
1723 Omarama-Lindis Pass Road
Omarama
Email: tim.innes@farmside.co.nz

Holder's Solicitor:

Peter Hutt
Tripp & Rolleston
PO Box 27
Timaru
Email: peter@tripprolleston.co.nz

Commissioner of Crown Lands:

Land Information New Zealand
Private Bag 4721
Christchurch 8140
Attention: Richard Summerlee
Email: tenurereview@linz.govt.nz

The Land

Lease: Po019, Dunstan Downs

Legal Description: Part Run 201A, situated in Ahuriri, Hawkdun, Lindis, Longslip and St Bathans Survey Districts, Section 4 SO Plan 23073 and Section 2, Block XVI Longslip Survey District, Sections 6 and 8 SO Plan 303418 and Section 2 SO Plan 315183

Area: 12350.3003 hectares more or less

Certificate of Title/Unique Identifier: OT338/47

Summary of Designations

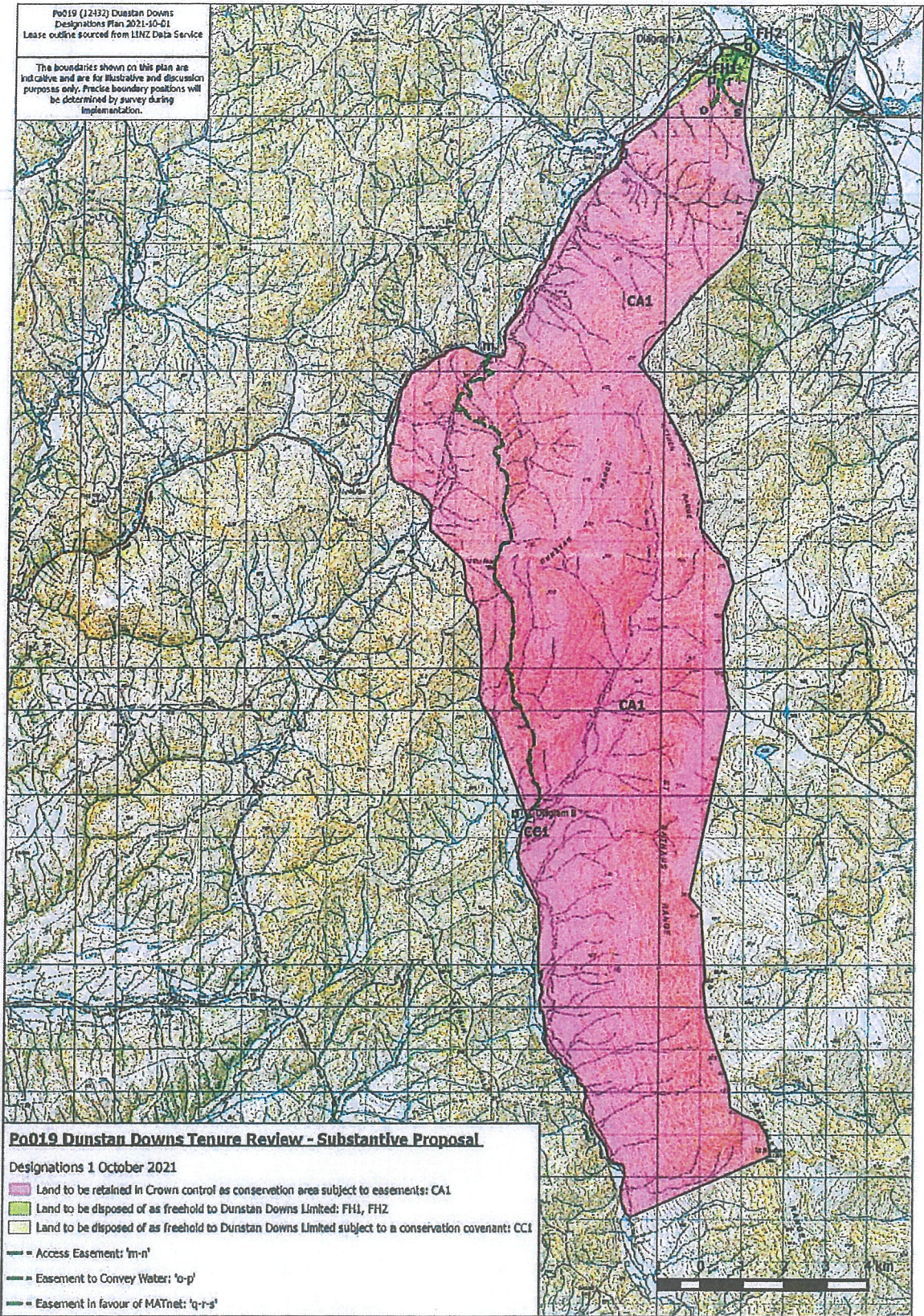
Under this Proposal, the Land is designated as follows:

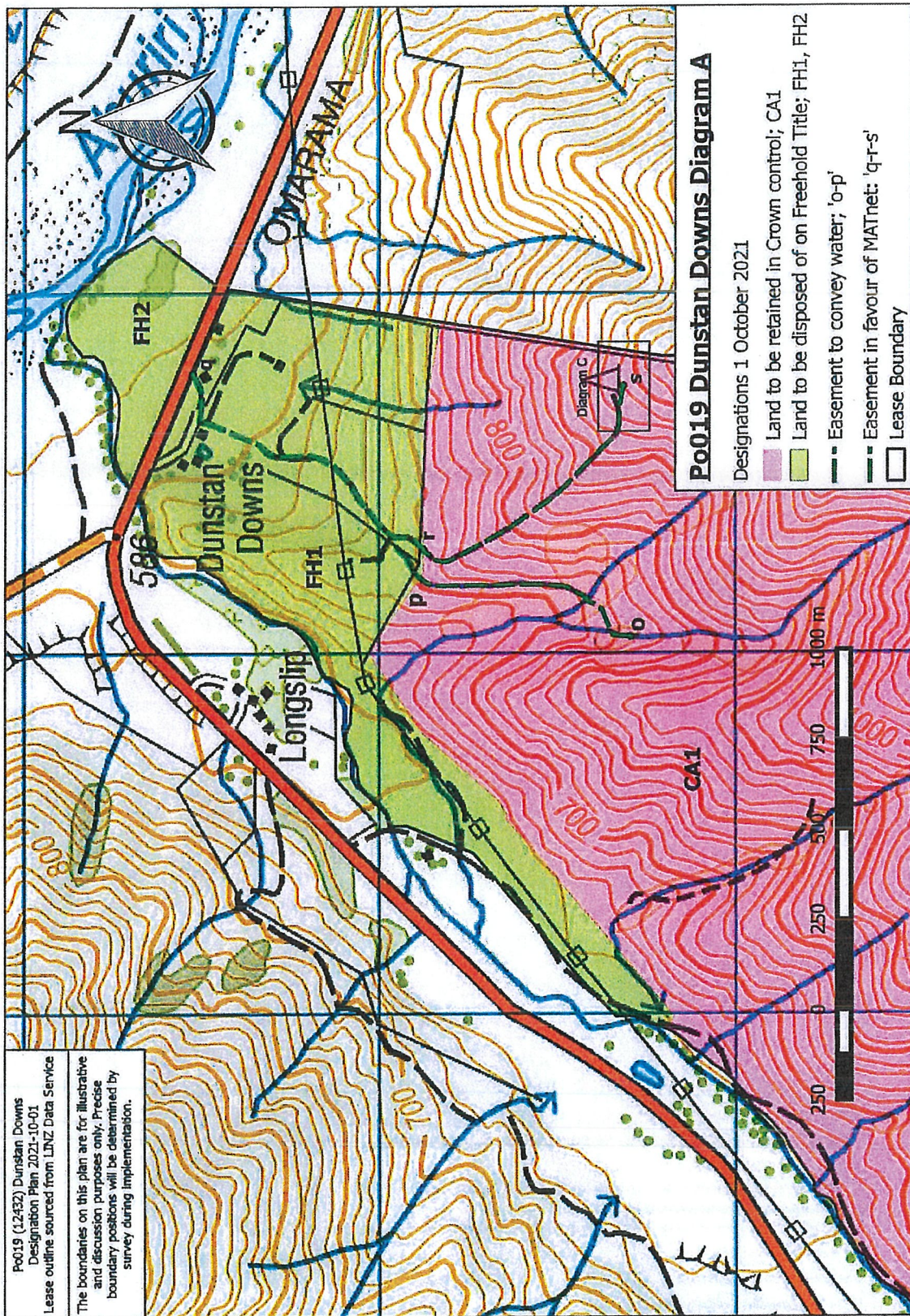
- (a) The Crown Land (shown shaded in pink on the Plan) is to be restored to, or retained by, the Crown as set out in Schedules One and Two; and
- (b) The Freehold Land (shown shaded green and yellow on the Plan) is to be disposed by freehold disposal to the Holder as set out in Schedule Three.

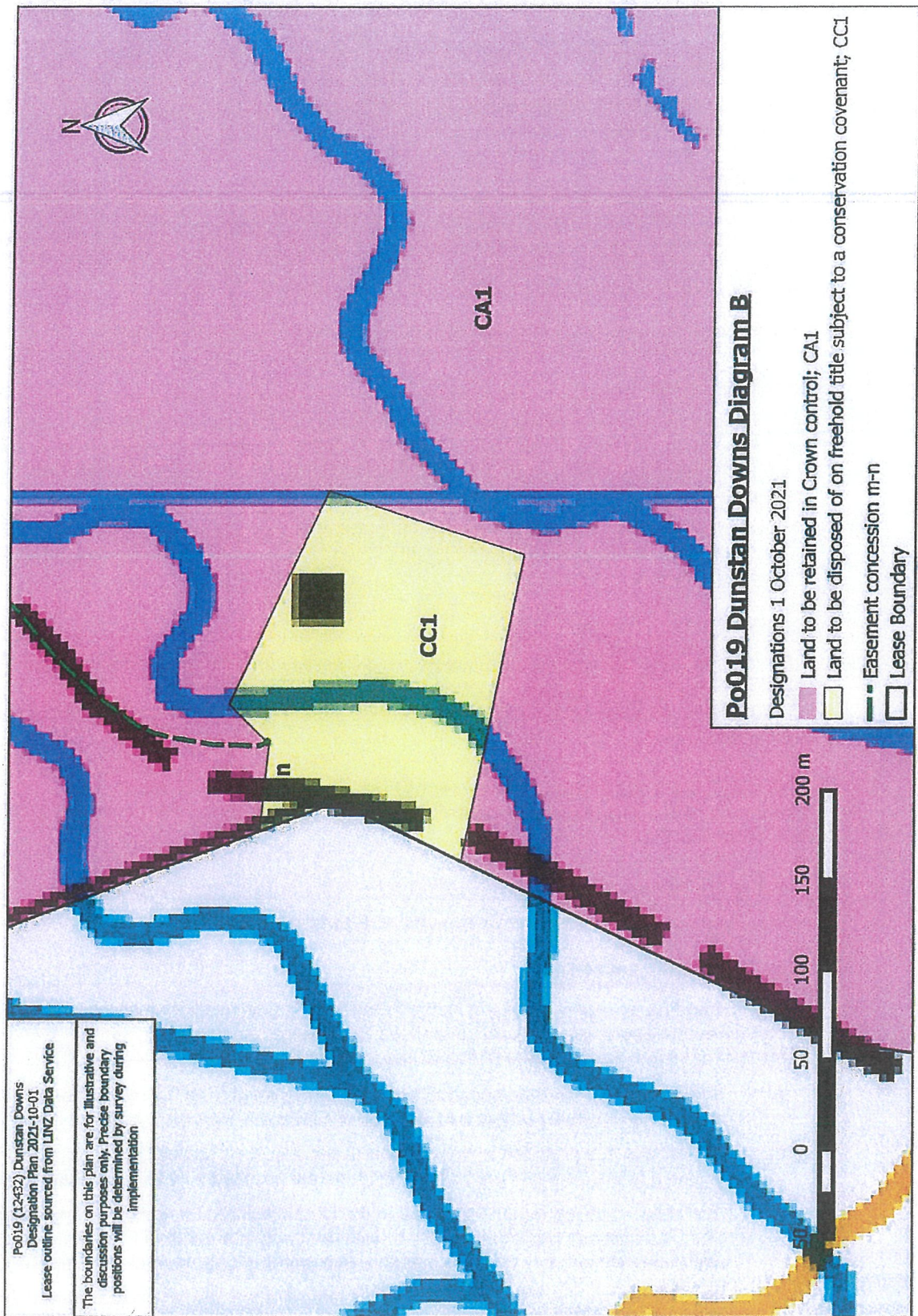
1 The Plan

Po019 (12432) Dunstan Downs
Designations Plan 2021-10-01
Lease outline sourced from LINZ Data Service

The boundaries shown on this plan are indicative and are for illustrative and discussion purposes only. Precise boundary positions will be determined by survey during implementation.







2 Conditions

- 2.1 This Proposal, and any agreement arising therefrom, is subject to the conditions contained in Schedule Four (if any).

3 Settlement

- 3.1 Unless otherwise agreed by the parties, the Settlement Date for the disposal of the Freehold Land to the Holder by freehold disposal will be the day that is TEN (10) working days following the day on which Land Information New Zealand notifies the Commissioner that the Final Plan and a copy of this Proposal are registered in accordance with the Act.
- 3.2 The Freehold Land will be disposed of to the Holder under the Land Act 1948.

4 Holder's Payment

- 4.1 By 3.00 p.m. on the Settlement Date, the Holder must pay the Holder's Payment and all other money payable to the Commissioner or the duly appointed agent of the Commissioner by bank cheque without set-off or deduction of any kind in accordance with the settlement requirements of the Commissioner.
- 4.2 If the Holder fails to pay the Holder's Payment or any part of it or any other money to the Commissioner or to the duly appointed agent of the Commissioner on the Settlement Date clause 19 will apply.

5 Commissioner's Payment

- 5.1 The Commissioner will pay the Commissioner's Payment to the Holder in two instalments as detailed in the Notice with the first instalment to be paid within 5 working days of the registration of a notice under section 61 of the Act and the second instalment to be paid on the Settlement Date.
- 5.2 No interest shall be payable to the Holder by the Commissioner in respect of the Commissioner's Payment, including (without limitation) for the period from the Vesting Date to the Settlement Date.

6 Vesting of Crown Land

- 6.1 The Crown Land will vest in the Crown on the Vesting Date.

7 Issue of Certificate of Title

- 7.1 Notwithstanding any other provision in this Proposal, the Commissioner will not request that the Surveyor-General issue a certificate to the Registrar pursuant to section 116 of the Land Act 1948 (to enable a certificate of title to issue for the Freehold Land) unless and until:
- (a) the Commissioner has received the Holder's Payment from the Holder under clause 4, and all other money payable by the Holder under this Proposal and the Notice;
 - (b) the Holder has provided to the Commissioner duplicate copies of the certificate of title relating to the Lease (if any) and/or the Lease if requested by the Commissioner;
 - (c) the Holder has signed and returned to the Commissioner all documents required by the Commissioner to be signed by the Holder to give effect to this Proposal (including, without limitation, any permit, covenant, easement and/or any other document); and
 - (d) the Holder has procured a registrable discharge of any Mortgage and provided this to the Commissioner together with any new mortgage documents to be registered against the Freehold Land.

8 Registration of Documents

- 8.1 Subject to clause 7, the Commissioner will lodge all documents necessary to give effect to this Proposal (including, without limitation any easement, covenant, discharge of mortgage, and/or duplicate copy of the Lease) and any new mortgage documents to be registered against the certificate of title to be issued for the Freehold Land so that the certificate of title for the Freehold Land will issue subject to the encumbrances provided in this Proposal. Any new mortgage will be registered after any other encumbrances such as any easements and/or covenants are registered.

9 Consents

- 9.1 The Holder must obtain the written consent to the Holder's acceptance of this Proposal from all persons having an interest in the Land (other than the Holder), including, but not limited to:
- (a) any Mortgagee(s);
 - (b) any party entitled to the benefit of a land improvement agreement registered against the Lease and/or the Land; and
 - (c) any other person that the Commissioner reasonably believes has an interest in the Land or who the Holder reasonably believes has an interest in the Land, whether registered or not.
- 9.2 The consents required under clause 9.1 must be in a form acceptable to the Commissioner in all respects and be returned to the Commissioner with this Proposal on its acceptance by the Holder. Examples of the form of consents required under clause 9.1 are set out in Appendix 1.
- 9.3 The Holder must also obtain, and provide to the Commissioner if requested, all consents necessary for the Holder to accept this Proposal including (without limitation) any:
- (a) corporate and/or trustee consents; and
 - (b) consent required under the Overseas Investment Act 2005.
- 9.4 The Holder will procure the Mortgagee to execute a registrable discharge of the Mortgage and, if required by the Mortgagee, the Holder will execute registrable new mortgage documents and forward these to the Commissioner to be registered as set out in clause 8.
- 9.5 If required by the Mortgagee, the Commissioner will provide an undertaking that, subject to the provisions of clause 7 being satisfied, the Commissioner will register the discharge of the Mortgage and register any new mortgage against the certificate of title for Freehold Land at the same time as the certificate of title for the Freehold Land issues.

10 Continuation of Lease

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

Land (subject to the provisions of any permit, easement, concession, other encumbrance or document provided under this Proposal). The Holder will not be entitled to any compensation for any of its improvements, fencing, buildings, structures, fixtures, fittings or chattels which are on the Crown Land as at the Vesting Date.

11 Fencing and Construction Works

- 11.1 If the Holder has accepted this Proposal and that acceptance has taken effect pursuant to the Act, the Commissioner will, subject to clauses 11.2 and 14.4, erect at the Commissioner's cost new fencing:
- (a) approximately along the line marked "New Fencing Line" on the Plan; and
 - (b) to the specifications in Appendix 3;
- ("the Fencing").
- 11.2 If the Fencing requires a resource consent or any other consent from any local or territorial authority ("the Fencing Consent"), the following provisions shall apply:
- (a) The Commissioner shall use reasonable endeavours to obtain the Fencing Consent within 6 months of this Proposal taking effect pursuant to the Act.
 - (b) If the Fencing Consent:
 - (i) is not obtained within 6 months of this Proposal taking effect pursuant to the Act; and/or
 - (ii) is obtained on terms which are not satisfactory to the Commissioner in all respects;the Commissioner may, acting reasonably, elect to do any one or more of the following:
 - (iii) erect the Fencing in a position different from that shown on the Plan;
 - (iv) erect the Fencing over a shorter distance than that shown on the Plan; or
 - (v) erect the Fencing to specifications different from those in Appendix 3.
- 11.3 If the Commissioner has not completed the Fencing by the Settlement Date, the Holder agrees that the Commissioner may register a covenant, on terms entirely satisfactory to the Commissioner (in the Commissioner's sole discretion), over the Freehold Land to enable the Commissioner to complete the Fencing. The Holder will do all things necessary (including signing any document) to enable the Commissioner to register such a covenant.
- 11.4 The ongoing maintenance of the Fencing referred to in clauses 11.1 and 11.2 will be subject to the terms of the Fencing Act 1978.
- 11.5 If the Holder has accepted this Proposal and that acceptance has taken effect pursuant to the Act, the Commissioner will, subject to clause 11.6, undertake the construction works set out in Appendix 3 on the terms and conditions set out in Appendix 3 ("the Construction Works").
- 11.6 If any Construction Works for which the Commissioner is liable, or jointly liable with the Holder, require a resource consent or any other consent from any local or territorial authority ("the Works Consent"), the following provisions shall apply:
- (a) The Commissioner shall use reasonable endeavours to obtain the Works Consent within 6 months of this Proposal taking effect pursuant to the Act.
 - (b) If the Works Consent:

- (i) is not obtained within 6 months of this Proposal taking effect pursuant to the Act; and/or
- (ii) is obtained on terms which are not satisfactory to the Commissioner in all respects;

the Commissioner may, acting reasonably, elect to vary the extent of the Construction Works in question and/or the terms and conditions upon which they are carried out.

12 Apportionments

- 12.1 Rent payable under the Lease in respect of the Freehold Land shall be apportioned as follows:
 - (a) Rent paid or payable will be apportioned on the Settlement Date as at the Settlement Date and either deducted from or added to (as the case may be) the amount required to settle.
 - (b) Notwithstanding that the Lease continues in effect until a certificate of title issues for the Freehold Land, the Holder shall not be required to pay any rent under the Lease for the Freehold Land from the Settlement Date.
- 12.2 Rent paid or payable under the Lease for the Crown Land will be apportioned on the Settlement Date as at the Vesting Date and either deducted from or added to (as the case may be) the amount required to settle.
- 12.3 All rates, levies, and all other incomings and outgoings and other charges receivable from or charged upon the Freehold Land will, unless otherwise agreed by the parties, be apportioned on the Settlement Date as at the Settlement Date.
- 12.4 All rates, levies and all other incomings and outgoings and other charges receivable from or charged upon the Crown Land will be apportioned on the Settlement Date as at the Vesting Date and either deducted from or added to (as the case may be) the amount required to settle.
- 12.5 Following the date that a certificate of title issues for the Freehold Land, the Commissioner will undertake a final apportionment and either the Commissioner will pay to the Holder, or the Holder will pay to the Commissioner, any additional amounts due because of any payments made or received by one party on behalf of the other for the period from the Settlement Date to the date on which a new certificate of title issues for the Freehold Land.

13 Risk

- 13.1 On and with effect from the Unconditional Date all risk of any nature in respect of the Freehold Land will pass from the Commissioner to the Holder. For the avoidance of doubt, the Holder's current risk in respect of matters arising under the Lease, including, without limitation, the Holder's risk in respect of all improvements, buildings, fencing, fixtures, fittings and chattels, will continue to remain with the Holder until the Lease is deemed to be surrendered under clause 10.2.
- 13.2 The Holder will be required to comply with its settlement obligations under this Proposal irrespective of any damage to, or destruction of, the Freehold Land prior to the Settlement Date.

14 Survey

- 14.1 All areas of the Land forming part of this Proposal and delineated on the Plan are approximate and subject to preparation of the Final Plan. The measurements of the areas may therefore alter on the Final Plan.
- 14.2 No error, misdescription or amendment of any part of the Land will annul, vary, or derogate from this Proposal, or the Holder's acceptance of this Proposal.
- 14.3 For the avoidance of doubt, the Holder will not be entitled to cancel or withdraw its acceptance of this Proposal, nor will the Holder, or any successor in title of the Holder or any party with an interest in the Land, be entitled to payment of any compensation, should any area of the Land on the Final Plan have a different measurement to the area specified in this Proposal.

- 14.4 The Commissioner does not warrant that any existing fence is erected on, or that any new fence to be erected will be on, any boundaries of the Land or any part of the Land as outlined on the Plan or the Final Plan.

15 Holder's Acknowledgements

- 15.1 If the Holder accepts this Proposal and that acceptance takes effect under the Act, the Holder acknowledges that:
- (a) it is obtaining the freehold interest in the Freehold Land:
 - (i) "as is", solely in reliance on its own investigations and judgement; and
 - (ii) not in reliance on any representation or warranty made by the Commissioner, its employees, agents or any other person or persons directly or indirectly associated with the Commissioner;
 - (b) the Holder has carried out all inspections of the Freehold Land which the Holder considers necessary to satisfy itself as to all matters relating to the Freehold Land;
 - (c) the Holder, at its cost, is entirely responsible for all work to ensure that the Freehold Land complies with all applicable laws including (without limitation):
 - (i) the Resource Management Act 1991 any rule in any plan, resource consent or other requirement issued under the Resource Management Act 1991, and
 - (iii) the Building Act 2004; andthe Holder hereby indemnifies and will indemnify the Commissioner against all losses, damages and expenses incurred by the Commissioner and against all claims made against the Commissioner in respect of any work or costs for which the Holder is liable under this clause 15;
 - (d) nothing in this Proposal is affected by, and the Commissioner has no liability of any nature in respect of, the existence or terms of any leases, licences or other occupation rights of any nature (if any) granted by the Holder in respect of the Land; and
 - (e) the Holder has no claim (and will not have any claim) whatsoever against the Crown and/or Commissioner in relation to the Tenure Review and/or this Proposal, including (without limitation) any claim for any misrepresentation or for any loss or damage suffered whether in contract, tort (including negligence) or otherwise.

16 No Representations or Warranties by the Commissioner

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

17 Acceptance

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

18 Solicitors Certificate

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

19 Default

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

20 Goods and Services Tax

- 20.1 Unless the context otherwise requires, words and phrases used in this clause have the same meaning as in the GST Act.
- 20.2 If the supplies evidenced by the Holder's Consideration and the Commissioner's Consideration are taxable supplies under the GST Act, then:
- (a) the Commissioner and the Holder warrant to each other that they are registered for GST purposes as at the Holder's acceptance of this Proposal and that they will be so registered on the Settlement Date;
 - (b) the Commissioner and the Holder confirm that as at the Settlement Date:
 - (i) each is acquiring the goods supplied with the intention of using the goods for making taxable supplies; and
 - (ii) the Commissioner and any associated person in terms of section 2A(1)(c) of the GST Act do not intend to use the Crown Land and the Holder and any associated person in terms of section 2A(1)(c) of the GST Act do not intend to use the Freehold Land as a principal place of residence; and
 - (c) the Commissioner and the Holder agree that the supplies evidenced by the Holder's Consideration and the Commissioner's Consideration are to be zero-rated for GST purposes under section 11(1)(mb) of the GST Act.
- 20.3 If any of the circumstances set out in clause 20.2 change between the date of the Holder's acceptance of this Proposal and the Settlement Date, then the relevant party will notify the other of the changed circumstances as soon as practicable and in any event not later than 2 working days before the Settlement Date and such party shall warrant that the changed circumstances are correct as at the Settlement Date. If the GST treatment of the supplies evidenced by the Holder's Consideration and the Commissioner's Consideration changes as a result of the changed circumstances and a party has already provided the other with a GST invoice, then that party will issue a debit note or credit note, as the case may be, for GST purposes.
- 20.4 On the 10th working day following the Unconditional Date, the Commissioner will provide to the Holder a GST invoice in respect of the supply evidenced by the Holder's Consideration. The invoice will specify the Commissioner's GST Date.
- 20.5 The Holder will pay GST (if any) on the Holder's Consideration to the Commissioner by bank cheque on the Commissioner's GST Date, time being of the essence.

- 20.6 On the 10th working day following the Unconditional Date, the Holder will provide to the Commissioner a GST invoice in respect of the supply evidenced by the Commissioner's Consideration.
- 20.7 The Commissioner will pay GST (if any) on the Commissioner's Consideration to the Holder on the Commissioner's GST Date, time being of the essence.
- 20.8 Where any GST is not paid to the Commissioner or to the Holder (as the case may be) in accordance with this clause 20, the Holder will pay to the Commissioner, or the Commissioner will pay to the Holder (as the case may be), upon demand and together with the unpaid GST:
- (a) interest, at the Default Rate, on the amount of the unpaid GST and which will accrue from the Commissioner's GST Date until the date of payment of the unpaid GST; and
 - (b) any Default GST.

21 Lowest price

- 21.1 The Holder's Consideration does not include any capitalised interest and the parties agree that the "lowest price" for the purposes of valuing the Freehold Land under section EW 32(3) of the Income Tax Act 2007 is equal to the Holder's Consideration.
- 21.2 The Commissioner's Consideration does not include any capitalised interest and the parties agree that the "lowest price" for the purposes of valuing the Crown Land under section EW 32(3) of the Income Tax Act 2007 is equal to the Commissioner's Consideration.

22 Costs

- 22.1 The Commissioner will meet the costs of the survey (if any) of the Land, including all designation areas, the Final Plan and for a certificate of title to issue for the Freehold Land.
- 22.2 The Holder is responsible for all costs the Holder incurs in respect of and incidental to the Tenure Review. In particular, but without limitation, the Holder shall bear all its costs in relation to the review of all documentation forming part of the Tenure Review (including this Proposal), and all professional advice provided to or sought by the Holder.

23 No nomination or assignment

- 23.1 The Holder is not entitled to, and is expressly prohibited from, nominating another person to perform the Holder's obligations under this Proposal or assigning to another person the Holder's interest (or any part) under this Proposal.

24 Recreation Permit

- 24.1 Immediately on the registration of the Final Plan and a copy of the proposal to which it relates over the Land and pursuant to s64 of the Act, any recreation permit granted over the Land shall be determined.

25 Consents for Activities

- 25.1 If the Holder has been granted a consent by the Commissioner to do an activity on the land under sections 15 or 16 of the Act, and the area over which the consent is exercised is designated in the proposal as Crown Land then the Holder agrees to act in good faith whilst exercising the terms of consent and not damage or destroy the Crown Land or anything thereon.

26 General

- 26.1 This Proposal and the Notice:
- (a) constitute the entire understanding and agreement between the Commissioner, the Crown and the Holder in relation to the Tenure Review; and
 - (b) supersede and extinguish all prior agreements and understandings between the Crown, the Commissioner and the Holder relating to the Tenure Review.

- 26.2 Each provision of this Proposal will continue in full force and effect to the extent that it is not fully performed at the Settlement Date.
- 26.3 The Holder must comply with the Commissioner's requirements for the implementation and settlement of the Tenure Review contemplated by this Proposal.
- 26.4 The Commissioner and the Holder will sign and execute all deeds, agreements, schedules and other documents and do all acts and things as may be reasonably required by the other to effectively carry out and give effect to the terms and intentions of this Proposal.
- 26.5 This Proposal (including any schedules or other documents) may be executed and delivered in any number of counterparts (including scanned and emailed PDF counterparts), each of which shall be deemed to be an original and all of which, when taken together, shall be deemed to be one and the same document. A signed copy of this Proposal and the Notice transmitted by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy.
- 26.6 This Proposal is governed by, and must be construed under, the laws of New Zealand and the Commissioner and the Holder irrevocably submit to the jurisdiction of the New Zealand courts or other New Zealand system of dispute resolution.
- 26.7 The illegality, invalidity or unenforceability of any provision in this Proposal will not affect the legality, validity or enforceability of any other provision.
- 26.8 In relation to notices and other communications under this Proposal:
- (a) each notice or other communication is to be in writing, and sent by email, personal delivery or by post marked for the attention of the person or office holder (if any), from time to time designated for that purpose by the addressee to the other party. Other than the address to which the Holder is to send its acceptance of this Proposal (which the Commissioner will specifically notify the Holder of) the address, person or office holder (if any) for each party is shown on the front page of this Proposal;
 - (b) no communication is to be effective until received. A communication will be deemed to be received by the addressee:
 - (i) In the case of an email, if the addressee has designated an information system for receiving emails, at the time the email first enters that information system, or in other situations, when the email comes to the attention of the addressee.
 - (ii) in the case of personal delivery (including, but not limited to, courier by a duly authorised agent of the person sending the communication), on the working day on which it is delivered, or if delivery is not made on a working day, on the next working day after the date of delivery; and
 - (iii) in the case of a letter, on the fifth working day after mailing (postage paid).

27 Interpretation

27.1 Definitions

In this Proposal unless the context otherwise requires:

Act means the Crown Pastoral Land Act 1998;

Commissioner means the Commissioner of Crown Lands appointed under section 24AA of the Land Act 1948;

Commissioner's Consideration means the amount payable by the Commissioner to the Holder by equality of exchange for the surrender of the leasehold interest in the Lease in relation to the Crown Land, as specified in the Notice;

Commissioner's GST Date means the earlier of Settlement Date or the fifth working day before the day on which the Commissioner is due to pay to the Inland Revenue Department all GST payable by the Commissioner in respect of the supply made under this Proposal;

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

Crown Land means the land (including any improvements) set out in Schedule One and the land (including any improvements) set out in Schedule Two (if any);

Default GST means any additional GST, penalty or other sum levied against either the Commissioner or the Holder under the Goods and Services Tax Act 1985 or the Tax Administration Act 1994 by reason of either the Commissioner or the Holder failing to pay GST as required by this Proposal. It does not include any sum levied against the Commissioner or the Holder by reason of a default by the Commissioner after payment of GST to the Commissioner by the Holder or by reason of a default by the Holder after payment of GST to the Holder by the Commissioner;

Default Rate means the rate of 11 per cent per annum;

Fencing means any stock proof farm fence.

Fencing Consent means any and all consents required for fencing under the Resource Management Act 1991.

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

Freehold Land means the land set out in Schedule Three;

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

GST Act means the Goods and Services Tax Act 1985;

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

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

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

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

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

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

Mortgagee means the holder of any Mortgage;

Notice means the notice to the Holder setting out:

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

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

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

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

Rent Review means the process for determination of the rent payable under the Lease as set out in sections 6 - 8 of the Act;

Settlement Date means the settlement date defined in clause 3.1;

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

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

Unconditional Date means the date that the Commissioner receives from the Holder an executed copy of this Proposal signed by the Holder containing the signed consents of all persons having an interest in the Land to the Holder's acceptance of this Proposal which results in the acceptance taking effect under the Act and has registered a notice under section 61 of the Act in protection of such acceptance;

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

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

Works Consent means any and all consents required under the Resource Management Act 1991; and/or the Building Act 2004.

27.2 Construction of certain references

In this Proposal, unless inconsistent with the context:

- (a) a reference to a certificate of title includes a reference to a computer register;
- (b) words importing a gender include all genders;
- (c) reference to a statute includes reference to all enactments that amend or are passed in substitution for the relevant statute and to all regulations relating to that statute;
- (d) words in the singular include the plural and vice versa;
- (e) reference to a month means a calendar month;
- (f) reference to a person means an individual, a body corporate, an association of persons (whether corporate or not), a trust or a state or agency of a state (in each case, whether or not having separate legal personality);
- (g) references to sections, clauses, sub-clauses, parts, annexures, attachments, appendices, schedules, paragraphs and sub-paragraphs are references to such as they appear in this Proposal and form part of this Proposal;
- (h) headings are included for ease of reference only and will not affect the construction or interpretation of this Proposal;
- (i) all monetary amounts are expressed in New Zealand currency;
- (j) references to obligations includes reference to covenants, undertakings, warranties and, generally, obligations or liabilities of any nature properly arising whether directly or indirectly, under or in respect of the relevant contract, agreement or arrangement;
- (k) all references to times are references to times in New Zealand;
- (l) if the Holder comprises more than one person, each of those person's obligations, as Holder, will be both joint and several.

Schedule One: Provisions relating to the Schedule One Land

1 Details of Designation

1.1 Nil

Schedule Two: Provisions relating to the Schedule Two Land

1 Details of designation

- 1.1 Under this Proposal the land shown shaded pink and labelled CA1 on the Plan, being 12,251 hectares (approximately) is designated as land to be restored to or retained in Crown control as conservation area subject to:
- (a) the granting of the right to take water and right of way easement concession to Dunstan Downs Limited (shown on the Plan as a dashed green line and labelled 'm-n' and 'o-p') substantially as set out in Appendix 4; and
 - (b) the granting of the right to operate and maintain a communications facility easement concession to Mackenzie Agricultural Technologies Limited (shown on the Plan as a dashed green line and labelled ('q-r') substantially as set out in Appendix 5; and
 - (c) the continuation of easement recorded on Gazette Notice 6182320.2 a copy of which is attached as Appendix 6.
 - (b) the continuation of easement recorded as registration 5063428.1 a copy of which is attached as Appendix 7.

2 Information Concerning easement Concession to Dunstan Downs Limited

1. Description of proposed activities [s.39(a)]:

Right to take and convey water over 'o-p' and a right of way over 'm-n' on foot, with motor vehicles and horses and with guns and dogs. There will be no stock access along the easement areas.

2. Description of place(s) where proposed activity to be carried out and proposed status [s.39(b)]

Area marked as CA1 and labelled 'o-p' (water supply), 'm-n' (right of way) on the proposed designations plan.

3. Description of potential effects of proposed activity and any actions proposed to avoid, mitigate or remedy any adverse effect. [s.39(c)] noting the requirements of s.51(3)(a) and s.51(2)(d) of the CPLA

- *Easement route 'm-n' is 10m wide. provided that any disturbance for installation and maintenance is restricted to 5m.*
- *The area 'o-p' is 20m wide to ensure the pipeline and water race are included within the easement area, but also ensuring that any disturbance for its maintenance is restricted to no more than 5m.*
- *The pipes and valves along all existing and proposed water supply easement routes will be surveyed and the easement standard and special conditions ensure that potential adverse effects of the proposed activities will be mitigated and minor.*
- *Farm management Right of Way (ROW) easement route "m-n" is 10m wide utilising existing vehicle tracks and is necessary for access to CC1. No adverse impacts are expected to arise from the access.*

DOC staff will periodically visit the easement areas for a range of activities including surveillance and control of wild animals and weeds and will therefore be aware if the concession activity is having any negative effects.

4. Details of the proposed types of concession:

The easement concession will be under Section 17(Q) (1) Conservation Act 1987.

5. Duration of concession and reasons for duration [s.39(e)]:

a) *Duration- 60 years for water supply and in perpetuity for ROW easement*

b) *Reasons for duration-The concessionaire currently uses formed tracks over the ROW to access and service existing infrastructure.*

6. Relevant information about the Concessionaire including information relevant to the concessionaire's ability to carry out the proposed activity [s.39(f)]:

a) *Concessionaire- Dunstan Downs Limited*

b) *Relevant information- The proposed concessionaire currently already uses the formed tracks over which the easement is proposed. The water easement includes an existing domestic water race and pipeline. Conditions will mitigate negative effects associated with the use of existing infrastructure and the installation of new infrastructure and subsequent maintenance. It is expected that the concessionaire will honour the terms and conditions of the concession and will have a positive working relationship with Department staff.*

Schedule Three: Provisions relating to the Schedule Three Land

1 Details of designation

- 1.1 Under this Proposal the land shown shaded green and yellow on the Plan, being 99 hectares (approximately) and labelled FH1, FH2 and CC1 is designated as land to be disposed of by freehold disposal to the Holder subject to:
- (a) Part IVA of the Conservation Act 1987;
 - (b) Section 11 of the Crown Minerals Act 1991;
 - (c) the granting of the right to operate and maintain a communications facility easement to Mackenzie Agricultural Technologies Limited (shown on the Plan as a dashed green line and labelled ('r-s') substantially as set out in Appendix 5; and
 - (d) the covenant (shown on the Plan shaded yellow and labelled CC1) substantially as set out in Appendix 8.

Schedule Four: Conditions

1. The Commissioner will use all reasonable endeavours to achieve a Settlement Date by 30 November 2022 and will keep the Holder fully informed throughout the implementation process.
2. The Commissioner acknowledges and accepts that notwithstanding that the Lease continues in effect until a certificate of title issues for the Freehold Land, the Holder intends to cease farming the areas designated in the Proposal as Crown Land prior to the Settlement Date.

Appendix 1: Consents – Example of Mortgagee Consent

[] as Mortgagee under Mortgage [] ("the Mortgage"), hereby:

- (a) consents to acceptance of the Proposal dated [] ("the Proposal") by [the Holder] ("the Holder") pursuant to the Crown Pastoral Land Act 1998 and agrees and consents to the registration of the documents affecting the Freehold Land referenced in the Proposal prior to the registration of any new mortgage to be granted in its favour over the Freehold Land ; and
- (b) agrees to sign and execute all deeds, agreements, schedules and other documents and do all acts and things as may be reasonably required by the Holder or the Commissioner to register a discharge of the Mortgage and any new mortgage over the Freehold Land.

Dated:

SIGNED by [])
in the presence of: [])

Witness Signature:

Witness Name:
Occupation:
Address:

Appendix 1: Consents (continued) - Example of "Other" Consent

[], being the party entitled to the benefit of [] registered against Lease [], hereby consents to the acceptance of the Proposal dated [] by [the Holder] pursuant to the Crown Pastoral Land Act 1998.

Dated:

SIGNED for and on behalf of [])
[])
in the presence of: [])

Witness Signature:

Witness Name:
Occupation:
Address:

Appendix 2: Example of Solicitors Certificate

Certifications

I [] hereby certify as follows:

1. [[insert name of Holder] ("the Holder") is a duly incorporated company under the Companies Act 1993. The Holder's entry into and performance of its obligations under the Proposal dated [] ("the Proposal") have been duly authorised by the directors and, if required, by the shareholders of the Holder. The Holder has executed the Proposal in accordance with its constitution.] **OR**

The entry into the Proposal dated [] ("the Proposal") by [insert name of Holder] ("the Holder") and performance of the Holder's obligations under the Proposal have been duly authorised by the trustees of the [insert name of trust] in accordance with its trust deed **OR**

[[insert name of Holder] ("the Holder") has delegated responsibility for signing the Proposal on its behalf to an attorney in accordance with its constitution. The attorney of the Holder has properly executed the Proposal in accordance with this power of attorney and in accordance with the Holder's constitution and a certificate of non-revocation is enclosed.]

2. The consent of each person that has an interest (registered or unregistered) in the Land (as that term is defined in the Proposal), to the Holder's acceptance of the Proposal has been obtained and included in the copy of the Proposal, signed by the Holder, that has been provided to the Commissioner.
3. [No consent, licence, approval or authorisation by any court, regulatory authority or governmental agency is required to enable the Holder to accept the Proposal, perform the Holder's obligations under the Proposal and to acquire the freehold interest in the Land (as defined in the Proposal).] **OR**

[All necessary consents, licences, approvals and authorisations required to enable the Holder to accept the Proposal, perform its obligations under it and to acquire the freehold interest in the Land (as defined in the Proposal) have been obtained. Evidence of the consents, licences, approvals and authorisations are attached to this letter.]

Yours faithfully

[signed by principal of law firm]

Appendix 3: Indicative Fencing Requirements

Fencing

Length and location: A-B: 300 metres approximately (Replaces current fence)
C-D-E-F-G: 550 metres approximately (new fence)

Type: Standard rabbit netted sheep fence.

Specifications:

1. Fence to be constructed of five HT (2.4mm) wires and one bottom No 8 wire.
2. 2.1 metre (7') treated timber strainers with treated timber stay to be used for gateways and at the end of strains.
3. 125 mm (5") treated timber posts to be used where required.
4. All strainers, angle posts and dip posts to be driven or dug in and rammed and footed with acceptable footing material. No 9 wire to be used on foots. All dips and hollows to be tied down to Y standards of a minimum length of 75 cm on rocky ground and 130 cm on soft ground.
5. All strainers and angles are to be mortised, stayed and blocked. Stays are to be one-third of the way up the posts.
6. Tie-backs are permitted on both sides of the fence.
7. All wires are to be securely and neatly tied off and strained evenly. Bottom wire is to be kept 15 cm off the ground.
8. Post staples (*barbed*) to be driven well in but allow the wire to run through.
9. Strains not to exceed 300 metres for HT wire and 250 metres for No 8 wire on easy country.
10. Posts to be driven or dug in to such a depth that 112 cm (44") remains out of the ground.
11. Strainers and angle posts to be dug in to such a depth that 117 cm (46") remains out of the ground.
12. Under no circumstances are any strainers, posts or stays to be shortened either prior to or subsequent to their placement in the ground.
13. Six Y standards per 20 metres to be used. Y standards to be mostly 150 cm (5' long with 135 cm (4'6") standards allowed on rocky ground and 165 cm (5'6") standards on soft ground.
14. Triplex strainers to be used on all strains.
15. Gate ways are to be constructed as shown on the fencing plans. All gates are to be swung and to be steel gates 4.2 metres wide.
16. No mechanical line clearance is to be undertaken during construction of fences without separate and specific approval from LINZ. Limited manual clearance may be required.
17. Rabbit netting to be affixed on the freehold side of the existing fence with skirt rock packed.
18. Existing fences A-B and a short length of fence at F are to be removed.
19. Floodgates are to be installed adjacent to WPT 23 ("C") and between WPT24 and WPT 25. These are to be separately strained from the fence, with one or two 2.1m x 150mm treated timber posts or T iron anchors each side, depending on the size of the gate. They are to be positioned on the downstream side of the fence, and so as not to be affected by eroding stream banks. Floodgate cable thickness to be minimum 4 strands of wire or comparable, relative to the size of floodgate required. Netting to be weighted down with treated timber posts and rocks.

Appendix 4: Form of Easement Concession to be granted



Concession Document (Easement)

THIS CONCESSION is made this _____ day of _____ 202

PARTIES:

Minister of Conservation (the Grantor)

DUNSTAN DOWNS LIMITED (the Concessionaire)

BACKGROUND

- A. The Department of Conservation Te Papa Atawhai ("Department") is responsible for managing and promoting conservation of the natural and historic heritage of New Zealand on behalf of, and for the benefit of, present and future New Zealanders.
- B. The land described in Item 1 of Schedule 1 as the Burdened Land is a Conservation Area or a Reserve under the management of the Grantor.
- C. The land described in Item 2 of Schedule 1 as the Benefited Land is freehold land of the Concessionaire.
- D. Sections 66 and 68 of the Crown Pastoral Land Act 1998 authorise the Grantor to grant a Concession for a Concession Activity in a Conservation Area and a Reserve under section 17Q(1) of the Conservation Act 1987.
- E. The Concessionaire wishes to carry out the Concession Activity on the Easement Area subject to the terms and conditions of this Concession.
- F. The Grantor has agreed to grant the Concessionaire an Easement appurtenant to the Benefited Land over that part of the Burdened Land specified as the Easement Area.

OPERATIVE PARTS

- G. In exercise of the Grantor's powers under the Crown Pastoral Land Act 1998 and the Conservation Act 1987 the Grantor **GRANTS** to the Concessionaire an **EASEMENT** appurtenant to the Benefited Land to carry out the Concession Activity on the Easement Area subject to the terms and conditions contained in this Concession, including its Schedules.

<p>SIGNED on behalf of the Minister of Conservation by [insert name and title of delegate]</p> <p>acting under delegated authority in the presence of:</p> <p>Witness Signature: _____</p> <p>Witness Name: _____</p> <p>Witness Occupation: _____</p>	<p>SIGNED for on behalf of DUNSTAN DOWNS LIMITED by two of its Directors:</p> <p>Witness Signature: _____</p> <p>Witness Name: _____</p> <p>Witness Occupation: _____</p>
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<p>Witness Address: _____</p> <p>A copy of the Instrument of Delegation may be inspected at the Director-General's office at 18-22 Manners Street, Wellington</p>	<p>Witness Signature: _____</p> <p>Witness Name: _____</p> <p>Witness Occupation: _____</p>
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SCHEDULE 1

<p>1.</p>	<p>Burdened Land (the land where the easement activity occurs) (Schedule 4)</p>	<p>As marked on the attached Proposed Designations plan in Schedule 4 being the area shaded pink and labelled CA1: Physical Description/Common Name: Dunstan Downs Land Status: Crown Land conservation area (TBC) Area: 12 251hectares Legal Description: TBC Map Reference: TBC</p>
<p>2.</p>	<p>Benefited Land (the land that benefits from the easement) (If none then select “in gross”) (Schedule 4)</p>	<p>Is the easement in gross? No As marked on the attached Proposed Designations plan in Schedule 4 being the area shaded green and labelled FH1, FH2 and CC1: Physical Description/Common Name: Dunstan Downs Land Status: Freehold - TBC Area: 99 hectares Legal Description: TBC, subject to survey Map Reference: TBC</p>
<p>3.</p>	<p>Easement Area (Schedule 4)</p>	<p>As marked on the Proposed Designations Plan attached in Schedule 4 being the areas between the points shown and having the width and length specified as follows: ‘o-p’ being 20 metres wide and 670m long ‘m-n’ being 10 metres wide and 14,800m long. ‘Legal Description: Subject to survey.</p>
<p>4.</p>	<p>Concession Activity (clause 2)</p>	<p>(a) a right to take and convey water over those parts of the Easement Area shown as: ‘o-p’ (b) a right of way only for the Concessionaire (including the Concessionaire’s employees, agents, tenants and contractors) on foot, on or accompanied by horses, by motor vehicles, and with guns and farm dogs. Easement Area shown as: ‘m-n’</p>
<p>5.</p>	<p>Term (clause 3)</p>	<p>In relation to the easement to take and convey water, being that part of the Easement Area marked ‘o-p, a term of 60 years commencing on the Commencement Date. In relation to the right of way easement, being that part of the Easement Area marked ‘m-n’, in perpetuity commencing on the Commencement Date.</p>
<p>6.</p>	<p>Final Expiry Date</p>	<p>In relation to that part of the Easement Area marked ‘o-p’,</p>

<p><i>Concessionaire's initials</i></p>		<p><i>Grantor's initials</i></p>	
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	(clause 3)	the 60 th anniversary of the Commencement Date In relation to that part of the Easement Area marked 'm-n', there is no expiry date as this easement is in perpetuity.
7.	Concession Fee (clause 4)	A one-off fee has (in effect) been accounted for on behalf of the Grantor as part of the substantive proposal put by the Commissioner of Crown Lands and accepted by the Concessionaire on [date] and for which an approved plan has been registered pursuant to section 65 of the Crown Pastoral Land Act 1998.
8.	Concession Fee Payment Date (clause 4)	Not applicable – see Item 7 above.
9.	Penalty Interest Rate (clause 4)	Double the current Official Cash Rate (OCR). See Reserve Bank of New Zealand website
10.	Insurance (To be obtained by Concessionaire) (clause 11)	Types and amounts: Public Liability Insurance for general indemnity for an amount no less than \$1,000,000.00; and Third party vehicle liability for an amount no less than \$500,000.00. Reviewable on the third anniversary of the Commencement Date and every three years thereafter until the end of the Term.
11.	Addresses for Notices (clause 20)	The Grantor's address is: Department of Conservation <i>Te Papa Atawhai</i> Level 1, John Wickliffe House 265 Princes Street Dunedin, 9016 New Zealand Postal Address: PO Box 5244 Dunedin 9054 New Zealand Phone: 03 477 0677 Email: permissionsdunedin@doc.govt.nz
		The Concessionaire's address is: Dunstan Downs Limited 1723 State Highway 8 Omarama 9412

Concessionaire's initials		Grantor's initials	
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		New Zealand Phone: 03 438 9696 Email: ctinnes@farmside.co.nz
12.	Special Conditions (clause 25)	See Schedule 3

Note: The clause references are to the Grantor's Standard Terms and Conditions set out in Schedule 2.

Note: Please initial each page of Schedule 1.

<i>Concessionaire's initials</i>		<i>Grantor's initials</i>	
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SCHEDULE 2

STANDARD TERMS AND CONDITIONS

1. Interpretation

1.1 In this Concession, unless the context otherwise requires:

“**Background**” means the matters referred to under the heading “Background” on the first page of this Document, and words used in the Background have the meaning given to them in this clause 1.1.

“**Benefited Land**” means the land specified in Item 2 of Schedule 1.

“**Burdened Land**” means a Conservation Area or Reserve being the land more particularly described in Item 1 of Schedule 1.

“**Commencement date**” means the date that an approved plan is registered vesting the Burdened Land in the Crown as conservation area.

“**Concession Fee**” means any amount specified in Item 7 of Schedule 1.

“**Concession**” means this document and any subsequent amendments, and all schedules, annexures, and plans attached to it.

“**Concessionaire**” means the registered proprietor for the time being of the Benefited Land and includes the Concessionaire’s successors, assigns, executors, and administrators.

“**Concession Activity**” means the use of the Easement Area by the Concessionaire for purposes specified in Item 4 of Schedule 1.

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

“**Director-General**” means the Director-General of Conservation.

“**Easement**” means the Appurtenant Easement granted under this Document by the Grantor to the Concessionaire under section 17Q of the Conservation Act 1987 or section 59A of the Reserves Act 1977 (whichever is relevant in the circumstances).

“**Easement Area**” means that part of the Burdened Land specified in Item 3 of Schedule 1.

“**Structure**” includes a bridge, a culvert, and a fence.

“**Term**” means the periods of time specified in Item 5 of Schedule 1 during which this Concession operates.

1.2 The Concessionaire is responsible for the acts and omissions of its employees, contractors, agents, clients and invitees (excluding other members of the public accessing the Easement Area). The Concessionaire is liable under this Concession for any breach of the terms of the Concession by its employees, contractors, agents, clients and invitees (excluding other members of the public accessing the Easement Area), as if the breach had been committed by the Concessionaire.

1.3 In this Concession unless the context otherwise requires:

(a) a reference to a party is a reference to a party to this Concession;

- (b) words appearing in this Concession which also appear in Schedule 1 mean and include the details appearing after them in that Schedule;
- (c) a provision of this Concession to be performed by two or more persons binds those persons jointly and severally;
- (d) words in a singular number include the plural and vice versa;
- (e) words importing a gender include other genders;
- (f) references to a statute or statutory provision, or order or regulation made under it, include that statute, provision, or regulation as amended, modified, re-enacted or replaced from time to time whether before or after the date of this Concession;

2. What is being authorised?

- 2.1 The Concessionaire is only allowed to use the Easement Area for the Concession Activity.

3. How long is the Concession for - the Term?

- 3.1 This Concession commences on the date specified in Item 4 of Schedule 1 and ends on the Final Expiry Dates specified in Item 5 of Schedule 1.

4. What are the fees and when are they to be paid?

- 4.1 The Concessionaire must pay to the Grantor in the manner directed by the Grantor the Concession Fee plus GST on the Concession Fee Payment Date specified in Items 6, and 7 of Schedule 1.
- 4.2 If the Concessionaire fails to make payment within 14 days of the Concession Fee Payment Date then the Concessionaire is to pay interest on the unpaid Concession Fee from the Concession Fee Payment Date until the date of payment at the Penalty Interest Rate specified in Item 9 of Schedule 1.

5. Are there any other charges?

- 5.1 The Concessionaire must pay all levies rates and other charges, including utility charges payable in respect of the Easement Area or for the services provided to the Easement Area which relate to the Concessionaire's use of the Easement Area or the carrying on of the Concession Activity. Where the Grantor has paid such levies, rates or other charges the Concessionaire must on receipt of an invoice from the Grantor pay such sum to the Grantor within 14 days of receiving the invoice. If payment is not made within the 14 days then the Concessionaire is to pay interest on the unpaid sum from the date payment was due until the date of payment at the Penalty Interest Rate specified in Item 9 of Schedule 1.
- 5.2 The Concessionaire must pay all levies rates and other charges, including utility charges payable in respect of the Easement Area or for the services provided to the Easement Area which relate to the Concessionaire's use of the Easement Area or the carrying on of the Concession Activity.

- 5.3 The Grantor is not liable for any cost incurred in re-establishing the supply of any utilities in the event of any of them becoming unavailable for any reason.
- 5.4 Where the Grantor has paid such levies, rates or other charges the Concessionaire must on receipt of an invoice from the Grantor pay such sum to the Grantor within 14 days of receiving the invoice. If payment is not made within the 14 days then the Concessionaire is to pay interest on the unpaid sum from the date payment was due until the date of payment at the Penalty Interest Rate specified in Item 8 of Schedule 1.

6. What are the obligations to protect the environment?

- 6.1 Without the prior written consent of the Grantor, the Concessionaire must not allow or carry out any of the following on the Easement Area:
- (a) cut down or damage any vegetation;
 - (b) bring any animals onto the Easement Area other than those specified in item 4 of Schedule 1;
 - (c) disturb, or allow any stock to disturb any stream or watercourse;
 - (d) undertake any earthworks or disturbance to the ground, other than as required for repair or maintenance;
 - (e) damage any natural feature or historic resource;
 - (f) light any fire on the Easement Area.
- 6.2 The Concessionaire must, at its cost:
- (a) keep the easement facility (as defined in Schedule 5) now or hereafter upon the Easement Area, in good order, condition and repair; and
 - (b) must keep the Easement Area in a clean and tidy condition.
- 6.3 The Concessionaire must not store hazardous materials on the Easement Area nor store other materials on the Easement Area where they may obstruct the public or create a nuisance.
- 6.4 The Concessionaire must ensure that the Concessionaire's employees, agents, contractors, licensees, and invitees comply with the obligations imposed on the Concessionaire under this clause.
- 6.5 The Concessionaire may bring firearms on to the Easement Area for use in connection with the Concession Activity and pest control operations on the Benefited Land.
- 6.6 For the purposes of the Concession Activity, the Concessionaire may take on to or use vehicles on the Easement Area on existing formed access tracks only.

7. When can structures be erected?

- 7.1 The Concessionaire must not erect, nor place any structures on, under or over the Easement Area without the prior consent of the Grantor.
- 7.2 The Concessionaire must keep and maintain any structures and facilities on and alterations to the Easement Area in good repair.

8. What if the Concessionaire wishes to surrender the Concession?

8.1 If the Concessionaire wishes to surrender this Easement or any part of it during the currency of the Term, then the Grantor may accept that surrender or partial surrender on such conditions as the Grantor considers appropriate.

9. What are the liabilities and who insures?

9.1 The Concessionaire agrees to use the Easement Area at the Concessionaire's own risk and releases to the full extent permitted by law the Grantor and the Grantor's employees, agents from all claims and demands of any kind and from all liability which may arise in respect of any accident, damage or injury occurring to any person or property in or about the Easement Area or the Burdened Land.

9.2 The Concessionaire must indemnify the Grantor against all claims, actions, losses and expenses of any nature which the Grantor may suffer or incur or for which the Grantor may become liable arising from the Concessionaire's performance of the Concession Activity.

9.3 This indemnity is to continue after the surrender, expiry or termination of this Concession in respect of any acts or omissions occurring or arising before its expiry or termination.

9.4 The Concessionaire has no responsibility or liability for costs, loss, or damage of whatsoever nature arising from any act or omission or lack of performance or any negligent or fraudulent act or omission by the Grantor, or any contractor or supplier to the Grantor, or any employee or agent of the Grantor.

9.5 Despite anything else in this clause, the Concessionaire is not liable for any indirect or consequential damage or loss howsoever caused.

9.6 The Grantor is not liable and does not accept any responsibility for damage to or interference with the Easement Area, the Concession Activity, or to any structures, equipment or facilities on the Easement Area or any other indirect or consequential damage or loss due to any natural disaster, vandalism, sabotage, fire, or exposure to the elements except where, subject to clause 9.7, such damage or interference is caused by any wilful act or omission of the Grantor, the Grantor's employees, agents or contractors.

9.7 Where the Grantor is found to be liable in accordance with clause 9.6, the total extent of the Grantor's liability is limited to \$1,000,000 in respect of the Concessionaire's structures, equipment and facilities.

9.8 Despite anything else in this clause the Grantor is not liable for any indirect or consequential damage or loss howsoever caused.

9.9 Without prejudice to or in any way limiting its liability under this clause the Concessionaire at the Concessionaire's expense must take out and keep current policies for insurance and for the amounts not less than the sums specified in Item 10 of Schedule 1 with a substantial and reputable insurer.

9.10 After every three year period of the Term the Grantor may, on giving 10 working days' notice to the Concessionaire, alter the amounts of insurance required under clause 9.9. On receiving such notice the Concessionaire must

within 10 working days take out and keep current policies for insurance and for the amounts not less than the sums specified in that notice.

9.11 The Concessionaire must provide to the Grantor within 5 working days of the Grantor so requesting:

- (a) details of any insurance policies required to be obtained under this Concession, including any renewal policies if such renewal occurs during the Term; and/or;
- (b) a copy of the current certificate of such policies.

10. What about Health and Safety?

10.1 The Concessionaire must exercise the rights granted by this Concession in a safe and reliable manner and must comply with the Health and Safety at Work Act 2015 and its regulations and all other provisions or requirements of any competent authority relating to the exercise of this Concession. The Concessionaire must comply with any safety directions of the Grantor.

11. What are the compliance obligations of the Concessionaire?

11.1 The Concessionaire must comply where relevant:

- (a) with the provisions of any conservation management strategy or conservation management plan under the Conservation Act 1987 or Part 2A of the Reserves Act 1977, or any general policy statement made under the Conservation Act 1987, Reserves Act 1977, or Wildlife Act 1953, , whichever is appropriate to the Burdened Land, together with any amendment or review of any policy, strategy or plan whether approved before, on, or after the date on which this Concession takes effect; and
- (b) with the Conservation Act 1987, the Reserves Act 1977, Wildlife Act 1953, the Biosecurity Act 1993, the Resource Management Act 1991 and any other statute, ordinance, regulation, bylaw, or other enactment (collectively the “Legislation”) affecting or relating to the Burdened Land or affecting or relating to the Concession Activity, including any regulations made under the Conservation Act 1987 and Wildlife Act 1953 or bylaws made under the Reserves Act 1977; and
- (c) with all notices and requisitions of any competent authority affecting or relating to the Burdened Land or affecting or relating to the conduct of the Concession Activity; and
- (d) unless previously agreed in writing with the Grantor, with all Department signs and notices placed on or affecting the Easement Area.

11.2 The Concessionaire must comply with this Concession.

11.3 A breach or contravention by the Concessionaire of a relevant conservation management strategy, conservation management plan, management plan or any statement of general policy referred to in clause 11.1(a) is deemed to be a breach of this Concession.

11.4 A breach or contravention by the Concessionaire of any Legislation affecting or relating to the Burdened Land or affecting or relating to the Concession Activity is deemed to be a breach of this Concession.

12 When can the Concession be terminated?

- 12.1 If the Concessionaire breaches any of the conditions of this Concession the Grantor may terminate this Concession at any time in respect of the whole or any part of the Easement Area. Before so terminating the Grantor must give the Concessionaire either:
- (a) one calendar month's notice in writing; or
 - (b) such other time period which in the sole opinion of the Grantor appears reasonable and necessary;
- of the Grantor's intention so to terminate this Concession.
- 12.2 The Grantor may choose to remedy at any time any default by the Concessionaire under this Concession. Where that occurs, the Concessionaire must pay forthwith on demand all reasonable costs incurred by the Grantor in remedying such default. Before electing to so remedy in accordance with this clause the Grantor must, if practicable, first give the Concessionaire notice of the default and a reasonable opportunity to remedy the default.

13 What happens on termination or expiry of the Concession?

- 13.1 On expiry or termination of this Concession, either as to all or part of the Easement Area, the Concessionaire is not entitled to compensation for any structures or other improvements placed or carried out by the Concessionaire on the Easement Area.
- 13.2 The Concessionaire may, with the Grantor's written consent, remove any specified structures and other improvements on the Easement Area. Removal under this clause must occur within the time specified by the Grantor and the Concessionaire is to make good any damage and leave the Easement Area, and other public conservation land affected by the removal in a clean and tidy condition.
- 13.3 The Concessionaire must, if the Grantor gives written notice, remove any specified structures and other improvements on the Easement Area. Removal under this clause must occur within the time specified by the Grantor and the Concessionaire is to make good any damage and leave the Easement Area, Burdened Land and any other public conservation land affected by the removal in a clean and tidy condition and replant the Burdened Land with indigenous vegetation of a similar abundance and diversity as at the commencement of the Term.

14 When is the Grantor's consent required?

- 14.1 Where the Grantor's consent or approval is required, such consent or approval must not be unreasonably withheld. Any such consent or approval may be made on such conditions as the Grantor considers appropriate.
- 14.2 Where the Grantor's consent or approval is expressly required under this Concession then the Concessionaire must seek that approval or consent for each separate time it is required even though the Grantor may have given approval or consent for a like purpose on a prior occasion.

15 Are there limitations on public access and closure?

- 15.1 The Concessionaire acknowledges that the Easement Area, is open to the

public for access and that the Grantor may close public access during periods of high fire hazard or for reasons of public safety or emergency.

16 What about other concessions?

- 16.1 Nothing expressed or implied in this Concession is to be construed as preventing the Grantor from granting other concessions, whether similar or not, to other persons provided that the Grantor must not grant another concession that would derogate in any material way from the Concessionaire's ability to carry out the Concession Activity.

17 How will disputes be resolved?

- 17.1 If a dispute arises between the parties in connection with this Concession the parties must, without prejudice to any other rights or entitlements they may have, attempt to resolve the dispute by agreement using informal dispute resolution techniques such as negotiation, mediation, independent expert appraisal or any other alternative dispute resolution technique. The rules governing any such technique adopted are to be agreed between the parties.
- 17.2 If the dispute cannot be resolved by agreement within 14 days of written notice by one party to the other (or such further period as the parties may agree to in writing) either party may refer the dispute to the Disputes Tribunal, where relevant, or to mediation with a mediator agreed between the parties.
- 17.3 If the parties do not agree on a mediator, the President of the New Zealand Law Society is to appoint the mediator.
- 17.4 In the event that the dispute is not resolved by mediation within 2 months of the date of referral to mediation the parties agree that the provisions of the Arbitration Act 1996 will apply.
- 17.5 If the parties do not agree on an arbitrator within 10 working days of a party giving written notice of the requirement to appoint an arbitrator the President of the New Zealand Law Society is to appoint the arbitrator. In either case the arbitrator must not be a person who has participated in an informal dispute resolution procedure in respect of the dispute.
- 17.6 The arbitrator must include in the arbitration award reasons for the determination.
- 17.7 Despite the existence of a dispute, each party must continue to perform its obligations under this Concession.

18 How are notices sent and when are they received?

- 18.1 Any notice to be given under this Concession is to be in writing and made by personal delivery, by pre-paid post or email to the receiving party at the address, or email address specified in Item 11 of Schedule 1. Any such notice is to be deemed to have been received:
- (a) in the case of personal delivery, on the date of delivery;
 - (b) in the case of post, on the 3rd working day after posting;
 - (c) in the case of email,

- (i) if sent between the hours of 9am and 5pm on a working day, at the time of transmission; or
- (ii) if subclause (i) does not apply, at 9am on the next working day after the day and time of sending.

Provided that an email is not deemed received unless (if receipt is disputed) the party giving notice produces a printed copy of the email which evidences that the email was sent to the email address of the party given notice.

- 18.2 If either party's details specified in Item 11 of Schedule 1 change, then within 5 working days of such change the party whose details change must provide the other party with the changed details.

19 What about the payment of costs?

- 19.1 The Concessionaire must pay the Grantor's legal costs and expenses of and incidental to preparing and signing any variation of this Concession, including a partial surrender.
- 19.2 The Concessionaire must pay in full immediately and on demand all costs and fees (including solicitor's costs and fees of debt collecting agencies engaged by the Grantor) arising out of and associated with steps taken by the Grantor to enforce or attempt to enforce the Grantor's rights and powers under this Concession including the right to recover outstanding money owed to the Grantor.

20 What about the powers implied by statute?

- 20.1 The rights and powers implied in the relevant easements by 5th Schedule to the Property Law Act 2007 and the Fourth Schedule to the Land Transfer Regulations 2018 (as set out in Schedule 5 of this Concession) apply to this Concession **EXCEPT** to the extent set out in Schedule 3 of this Concession.

21 What about Co-Siting?

- 21.1 In this clause "Co-Site" means the use of the Concessionaire's structures or facilities on the Easement Area by a third party for an activity; and "Co-Sitee" and "Co-Siting" have corresponding meanings.
- 21.2 The Concessionaire must not allow Co-Siting on the Easement Area without the prior written consent of the Grantor.
- 21.3 The Grantor's consent must not be unreasonably withheld but is at the Grantor's sole discretion and subject to such reasonable terms and conditions as the Grantor thinks fit including a requirement that the Co-Sitee be liable for direct payment to the Grantor of a concession fee and any environmental premium assessed in respect of the Co-Sitee's activity on the Easement Area.
- 21.4 In addition, the Grantor must withhold consent if:
- (a) the Co-Siting would result in a substantial change to the Concession Activity on the Easement Area; or
 - (b) the Grantor considers the change to be detrimental to the environment of the Easement Area.
- 21.5 Subject to clause 21.4 the Concessionaire must, if required by the Grantor,

allow Co-Siting on the Easement Area.

- 21.6 Where the Concessionaire maintains that Co-Siting by a third party on the Easement Area would:
- (a) detrimentally interfere physically or technically with the use by the Concessionaire of the Easement Area; or
 - (b) materially prejudice any resource consents obtained by the Concessionaire or cause more onerous conditions to be imposed on it by the relevant authority; or
 - (c) obstruct or impair the Concessionaire's ability effectively to operate from the Easement Area; or
 - (d) interfere with or prevent future forecast works of the Concessionaire, the Grantor, must, as a pre-condition to consideration of an application to grant a concession to a third party, require that third party to obtain, at its own cost, a report prepared by an independent consultant acceptable to the Grantor confirming or rejecting the presence of the matters specified in this clause 21.6. The Grantor must not grant a concession to a third party where the report confirms that the proposed concession would give rise to one or more of the matters specified in this clause 21.6.
- 21.7 If the independent consultant report rejects the Concessionaire's concerns, the Concessionaire may dispute this in accordance with the procedure set out in clause 17 of Schedule 2.
- 21.8 Where the Concessionaire is required under clause 21.5 to allow Co-Siting on the Easement Area, the Concessionaire is, subject to clause 21.10 entitled to enter into commercial agreements with third parties for them to conduct an activity on the Easement Area and to receive a reasonable fee from them for any agreed activity they intend to carry out on the Easement Area. If a dispute arises between the Concessionaire and a third party such dispute must be determined by the Grantor having regard to, but not limited to, the following matters:
- (a) any written comments or submissions of the Concessionaire and third party;
 - (b) market value for the concession activity proposed by the third party having regard to the matters specified in Section 17Y(2) of the Conservation Act 1987;
 - (c) any other matters the Grantor considers relevant.
- 21.9 If the Concessionaire does not accept the Grantor's determination, the Concessionaire may dispute this in accordance with the procedure set out in clause 17 of Schedule 2.
- 21.10 For the avoidance of doubt, a Co-Sitee permitted on the Easement Area must enter into a separate concession with the Grantor in terms of which the Co-Sitee may be required to pay to the Grantor a concession fee and environmental premium assessed in respect of the Co-Sitee's activity on the Easement Area. This separate concession must not contain provisions that conflict with the Concessionaire's rights and obligations in relation to the Easement Area.
- 21.11 The Grantor must not authorise the third party to commence work on the Easement Area until all relevant resource consents are issued, an agreement

is executed between the Concessionaire and third party, and any conditions imposed by the Concessionaire have been met.

22 Are there any Special Conditions?

- 22.1 Special conditions are specified in Schedule 3. If there is a conflict between this Schedule 2 and the Special Conditions in Schedule 3, the Special Conditions shall prevail.

23 The Law

- 23.1 This Concession is to be governed by and interpreted in accordance with the laws of New Zealand.

SCHEDULE 3

SPECIAL CONDITIONS

1. The rights and powers implied in easements under Schedule 5 of the Land Transfer Regulations 2018, apply as is relevant to the class of easement provided for in this Concession. Schedule 5 of the Regulations (excluding clauses 13 and 14) is set out in Schedule 5 of this Concession and the clauses are varied as follows:
 - (a) Clause 1 is amended by adding the words “in Schedule 4” after the words “on a plan” in paragraph (a) of the interpretation of “**easement area**”
 - (b) Clause 1 is amended by replacing the word “grantee” with “Concessionaire”
 - (c) Schedule 5 is amended by adding a new clause 1A: “Any reference to “grantee” in this Schedule is to be read as “Concessionaire” and includes the Concessionaire’s agents, employees, contractors, tenants, licensees and invitees.”
 - (d) Clause 6(3)(a) is amended by adding at the end the words, “after first obtaining the prior consent of the Grantor as required in clauses 7 and 8 of Schedule 2 of this easement.”
 - (e) Clause 10(1)(b) is amended by adding at the end the words, “after first obtaining the prior consent of the Grantor as required in clauses 7 and 8 of Schedule 2 of this easement, and as required by special conditions 3 and 4 of Schedule 3 of this easement.”
 - (f) Clause 11(2) is deleted and clause 11(4) is amended by deleting the reference to (2).
 - (g) Clauses 13 and 14 are deleted.

2. The rights implied in easements of vehicular right of way in the 5th Schedule of the Property Law Act 2007 as set out in Schedule 5 of this document are amended by:
 - (a) replacing the word, “grantee” with “Concessionaire”; and
 - (b) adding to Clause 2(a) the words, “after first obtaining the prior consent of the Grantor as required in clause 7 of Schedule 2 of this easement, and as required by special conditions 3 and 4 of this easement.”

Construction conditions – all Easement Areas

3. Prior to any establishment, maintenance, alteration, or repair of any part of the Easement Facility on the Easement Area the Concessionaire shall seek the prior written approval of the Grantor for such works and comply with the Grantor’s reasonable directions.

4. In particular, where new structures are required for any part of the Easement Facility, the Grantor’s prior written approval is required for the design of such structures before the Concessionaire begins the construction, installation or establishment of such structures.

Accidental Discovery Protocol – all Easement Areas

5. The Concessionaire must take all reasonable care to avoid any archaeological values on the Burdened Land which includes (but is not limited to) historic sites and

protected New Zealand objects on the Easement Area. In the event that archaeological sites or other features with heritage values are found during any approved earth disturbance work on the Easement Area:

- (a) Work must cease immediately until further notice, and advice must be sought from the Twizel Operations Manager;
- (b) If it is an archaeological site as defined by the Heritage New Zealand Pouhere Tāonga Act 2014 then Heritage New Zealand Pouhere Tāonga must be contacted and its advice sought;
- (c) If it is an archaeological site relating to Māori activity, then local iwi must be contacted and their advice sought;
- (d) If it is an artefact as defined by the Protected Objects Act 1975 then the Ministry for Culture and Heritage must be notified within 28 days;
- (e) If it is human remains/ koiwi the New Zealand Police must be notified;
- (f) In the event of cessation of approved work because of the discovery of a potential historical artefact or archaeological site the Concessionaire must not recommence work until authorised to do so by the Twizel Operations Manager.

Pipeline and water race condition – Easement Area ‘o-p’

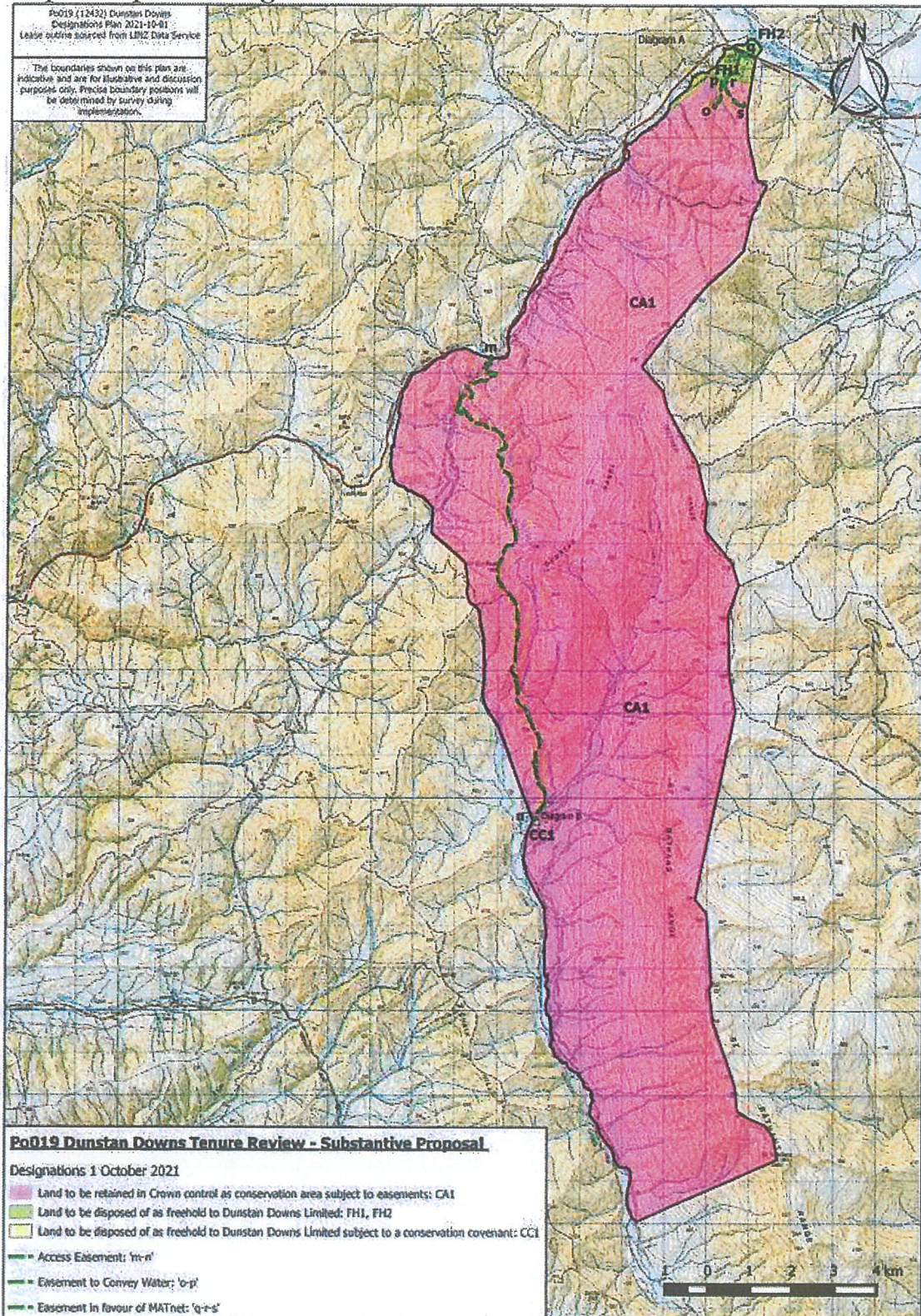
6. The concessionaire’s pipeline, water race and two intakes must be suitably disguised so as to blend in with the surroundings. Following installation if the Grantor in her sole opinion is not satisfied that the intake is suitably disguised, the Grantor may require the concessionaire to take appropriate steps to remedy this.

Establishment and maintenance of formed track(s) – Easement Area ‘m-n’

7. The Concessionaire has the right to establish and construct a formed track within the Easement Area shown as ‘m-n’.
8. Once established, the Concessionaire has the right to repair and maintain any formed track(s) on their existing alignment on the Easement Area within a total 5-metre width.
9. The cost of maintaining any formed track(s) shall be shared between the Grantor and the Concessionaire having regard to the proportion of each party’s use of the formed track(s).

SCHEDULE 4

Map – Proposed Designations



SCHEDULE 5

RIGHTS AND POWERS IMPLIED IN EASEMENTS

A. FIFTH SCHEDULE PROPERTY LAW ACT 2007

Rights implied in easements of vehicular right of way

1. Right to pass and re-pass

- (1) The grantee and the grantor have (in common with one another) the right to go, pass, and re-pass over and along the land over which the right of way is granted.
- (2) That right to go, pass, and re-pass is exercisable at all times, by day and by night, and is exercisable with or without vehicles, machinery, and equipment of any kind.
- (3) In this clause, the grantee and the grantor include agents, contractors, employees, invitees, licensees, and tenants of the grantee or the grantor.

2. Right to establish and maintain driveway

The owners and occupiers of the land for the benefit of which, and the land over which, the right of way is granted have the following rights against one another:

- (a) the right to establish a driveway on the land over which the right of way is granted, and to make necessary repairs to any existing driveway on it, and to carry out any necessary maintenance or upkeep, altering if necessary the state of that land; and
- (b) any necessary rights of entry onto that land, with or without machinery, plant, and equipment; and
- (c) the right to have that land at all times kept clear of obstructions, whether caused by parked vehicles, deposit of materials, or unreasonable impediment to the use and enjoyment of the driveway; and
- (d) the right to a reasonable contribution towards the cost of establishment, maintenance, upkeep, and repair of the driveway to an appropriate standard; and
- (e) the right to recover the cost of repairing any damage to the driveway made necessary by any deliberate or negligent act of a person bound by these covenants or that person's agents, contractors, employees, invitees, licensees, or tenants.

3. Right to have land restored after completion of work

- (1) This clause applies to a person bound by these covenants (person A) if a person entitled to enforce these covenants (person B) has undertaken work, in accordance with the right conferred by clause 2(a) or with an order of a court, on the land over which a right of way is granted.
- (2) Person A has the right, after the completion of the work, to have the land restored as far as possible to its former condition (except for the existence of the driveway).
- (3) That right of person A is subject to person B's right, in accordance with clause 2(d), to receive a reasonable contribution towards the cost of the work.

LAND TRANSFER REGULATIONS 2018

The following are the rights and powers implied in easements as set out in Schedule 5 of the Land Transfer Regulations 2018. The Regulation Schedule applies to all classes of easement and so it is only the specific provisions which relate to the class of easement dealt with in this Concession which apply, along with those that apply to all forms of easement. This Schedule does not include clauses 13 and 14 of Schedule 5 of the Regulations as they are deleted and replaced by the specific default and dispute provisions of the Concession. Refer to Schedule 3 of the Concession for changes to these implied rights and powers.

1 Interpretation

In this schedule, unless the context otherwise requires,—

benefited land, in relation to an easement that benefits land, means the land that takes the benefit of the easement and that is described by reference to the register in the relevant easement instrument, transfer instrument, or deposit document

burdened land, in relation to an easement,—

- (a) means the land over which the easement is registered and that is described by reference to the register in the relevant easement instrument, transfer instrument, or deposit document; and
- (b) includes the easement area

easement area, in relation to an easement, means an area that—

- (a) is shown on a plan in Schedule 4; and
- (b) is referred to in the relevant easement instrument, transfer instrument, or deposit document as the area to which the easement applies

easement facility,—

- (a) for a right to convey water, means pipes, water race, pumps, pump sheds, storage tanks, water purifying equipment, other equipment suitable for that purpose (whether above or under the ground), and anything in replacement or substitution:
- (b) for a right to convey electricity or a right to convey telecommunications, means wires, cables (containing wire or other media conducting materials), ducts, surface boxes, towers, poles, transformers, switching gear, other equipment suitable for that purpose (whether above or under the ground), and anything in replacement or substitution:
- (c) for a right of way, means the surface of the land described as the easement area, including any driveway:
- (d) for a right to drain water, means pipes, conduits, open drains, pumps, tanks (with or without headwalls), manholes, valves, surface boxes, other equipment suitable for that purpose (whether above or under the ground), and anything in replacement or substitution:
- (e) for a right to drain sewage, means pipes, conduits, pumps, tanks (with or without headwalls), manholes, valves, surface boxes, other

equipment suitable for that purpose (whether above or under the ground), and anything in replacement or substitution:

- (f) for a right to convey gas, means pipes, conduits, valves, other equipment suitable for that purpose (whether above or under the ground), and anything in replacement or substitution

grantor—

- (a) have the meanings given by section 107 of the Act; and
- (b) in clauses 3 to 9 and 12(1), include those persons' agents, employees, contractors, tenants, licensees, and invitees

repair and maintenance, in relation to an easement facility, includes the replacement of the easement facility

telecommunication means the conveyance by electromagnetic means from one device to another of any encrypted or non-encrypted sign, signal, impulse, writing, image, sound, instruction, information, or intelligence of any nature, whether for the information of any person using the device or not.

- 1A** Any reference to “grantee” in this Schedule is to be read as “Concessionaire” and includes the Concessionaire’s agents, employees, contractors, tenants, licensees and invitees.”

2 Classes of easements

For the purposes of regulation 21, easements are classified by reference to the following rights:

- (a) a right to convey water:
- (b) a right to drain water:
- (c) a right to drain sewage:
- (d) a right of way:
- (e) a right to convey electricity:
- (f) a right to convey telecommunications:
- (g) a right to convey gas.

Rights and powers implied in easements granting certain rights

3 Right to convey water

- (1) A right to convey water includes the right for the grantee, in common with the grantor and other persons to whom the grantor may grant similar rights, at all times, to take and convey water in free and unimpeded flow from the source of supply or point of entry through the easement facility and over the easement area and (for an easement that benefits land) to the benefited land.
- (2) The right to take and convey water in free and unimpeded flow is limited to the extent required by any period of necessary cleansing, renewal, modification, or repair of the easement facility.
- (3) The easement facility for the relevant easement is the easement facility laid or to be laid along the easement area in accordance with clause 10(1).

- (4) The grantor must not do and must not allow to be done anything on the burdened land that may cause the purity or flow of water in the water supply system to be polluted or diminished.

4 Right to drain water

4(1) to (3) deleted as not relevant.

5 Right to drain sewage

5(1) to (3) deleted as not relevant.

6 Rights of way

- (1) A right of way includes the right for the grantee, in common with the grantor and other persons to whom the grantor may grant similar rights, at all times, to go over and along the easement facility.
- (2) The right to go over and along the easement facility includes the right to go over and along the easement facility with or without any kind of—
- (a) vehicle, machinery, or implement; or
 - (b) [deleted]
- (3) A right of way includes the right to have the easement facility kept clear at all times of obstructions (whether caused by parked vehicles, deposits of materials, or unreasonable impediment) to the use and enjoyment of the easement facility.
- (4) The right to go over and along the easement facility, and to have the easement facility kept clear, is limited to the extent by any period of necessary repair or maintenance of the easement facility.
- (5) The easement facility for the relevant easement is the surface of the land described as the easement area, including any easement facility laid or to be laid along the easement area in accordance with clause 10(1).

7 Right to convey electricity

7(1) to (3) deleted as not relevant

8 Right to convey telecommunications

8(1) to (3) deleted as not relevant.

9 Right to convey gas

9(1) to (3) deleted as not relevant.

Rights and powers implied in all classes of easement

10 General rights

- (1) All the easements referred to in this schedule include—

- (a) the right to use any easement facility already situated in the easement area for the purpose of the easement granted; and
 - (b) if no suitable easement facility exists in the easement area, the right to lay, install, and construct in the easement area (including the right to excavate land for the purpose of that construction) an easement facility that the grantee reasonably requires and for which the grantor has given prior consent; and
 - (c) the right to repair and maintain the easement facility.
- (2) The grantor must not unreasonably withhold consent under subclause (1)(b).
 - (3) The grantor must not do and must not allow to be done on the burdened land anything that may interfere with or restrict the rights of any other party or interfere with the efficient operation of the easement facility.
 - (4) The grantee must not do and must not allow to be done on the benefited land (if any) or the burdened land anything that may interfere with or restrict the rights of any other party or interfere with the efficient operation of the easement facility.
 - (5) To avoid doubt, all the easements referred to in this schedule (other than for a right to convey electricity) include the right to convey electricity necessary to operate a pump or other equipment that is part of the easement facility.

11 Repair, maintenance, and costs

- (1) If the 1 or more grantees have exclusive use of the easement facility, each grantee is responsible for arranging the repair and maintenance of the easement facility, and for the associated costs, so as to keep the facility in good order and to prevent it from becoming a danger or nuisance.
- (2) Deleted.
- (3) If the easement is in gross, the grantee bears the cost of all work done outside the burdened land.
- (4) The parties responsible for maintenance under subclause (1) or (5) (as the case may be) must meet any associated requirements of the relevant local authority.
- (5) Any repair or maintenance of the easement facility that is attributable solely to an act or omission by the grantor or the grantee must be promptly carried out by that grantor or grantee at their sole cost.
- (6) However, if the repair and maintenance of the easement facility is only partly attributable to an act or omission by the grantor or grantee,—
 - (a) that party must pay the portion of the costs of the repair and maintenance that is attributable to that act or omission; and
 - (b) the balance of those costs is payable in accordance with subclause (2).
- (7) The costs of any electricity used for the conveyance of water must be apportioned between users of the water in proportion to their usage of the water.

12 Rights of entry

- (1) The grantee may, for the purpose of exercising any right or power, or performing any related duty, implied in an easement by these regulations,—
 - (a) enter upon the burdened land by a reasonable route and with all necessary tools, vehicles, and equipment; and
 - (b) remain on the burdened land for a reasonable time for the sole purpose of completing the necessary work; and
 - (c) leave any vehicles or equipment on the burdened land for a reasonable time if work is proceeding.
- (2) However, the grantee must first give reasonable notice to the grantor.
- (3) The grantee must ensure that as little damage or disturbance as possible is caused to the burdened land or to the grantor.
- (4) The grantee must ensure that all work is performed properly.
- (5) The grantee must ensure that all work is completed promptly.
- (6) The grantee must immediately make good any damage done to the burdened land by restoring the surface of the land as nearly as possible to its former condition.
- (7) The grantee must compensate the grantor for all damage caused by the work to any crop (whether ready for harvest or not) or to any buildings, erections, or fences on the burdened land.

13 Default

If the grantor or the grantee does not meet the obligations implied or specified in any easement,—

- (a) the party not in default may serve on the defaulting party written notice requiring the defaulting party to meet a specific obligation and stating that, after the expiration of 7 working days from service of the notice of default, the other party may meet the obligation:
- (b) if, at the expiry of the 7-working-day period, the party in default has not met the obligation, the other party may—
 - (i) meet the obligation; and
 - (ii) for that purpose, enter the burdened land:
- (c) the party in default is liable to pay the other party the cost of preparing and serving the default notice and the costs incurred in meeting the obligation:
- (d) the other party may recover from the party in default, as a liquidated debt, any money payable under this clause.

14 Disputes

If a dispute in relation to an easement arises between parties who have a registered interest under the easement,—

- (e) the party initiating the dispute must provide full written particulars of the dispute to the other party; and
- (f) the parties must promptly meet and in good faith try to resolve the dispute using informal dispute resolution techniques, which may include negotiation, mediation, independent expert appraisal, or any other dispute resolution technique that may be agreed by the parties; and
- (g) if the dispute is not resolved within 14 working days of the written particulars being given (or any longer period agreed by the parties),—
 - (i) the dispute must be referred to arbitration in accordance with the Arbitration Act 1996; and

Appendix 5: Form of easement to be granted to Mackenzie Agricultural Technologies Ltd

TRANSFER GRANT OF EASEMENT IN GROSS

For Communications Facility

Land Transfer Act 2018

This page does not form part of the Transfer.

TRANSFER

Land Transfer Act 1952

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

Land Registration District

Canterbury

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

--	--	--	--

Grantor Surnames must be underlined

--

Grantee Surnames must be underlined

MACKENZIE AGRICULTURAL TECHNOLOGIES LIMITED

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

Easement in gross to operate and maintain a communications facility (continued on pages 2, 3 and 4 of Annexure Schedule).

Consideration

\$1.00 plus GST (if any)

Operative Clause

For the above consideration (receipt of which is acknowledged) the GRANTOR as the registered proprietor of the land in the above Certificate(s) of Title grants to the GRANTEE the easement in gross described above.

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) Witness to complete in BLOCK letters (unless typewritten or legibly stamped)
	Witness name Occupation Address
Signature, or common seal of Grantor	

Certified correct for the purposes of the Land Transfer Act 2018

Dunstan Downs – Communications Easement

--

Solicitor for the Transferee

Annexure Schedule 1

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

Transfer Easement

Dated

Page

of

Pages

1. Definitions

1.1. In this transfer unless the context otherwise requires:

- (a) "Burdened Land" means the land described on page 1.
- (b) "Easement Area" means that part of the Burdened Land labelled "s" and "q-r-s" on the plan provided in Annexure 2.
- (c) "Co-Site" means the use of the Site by a third party and "Co-Sitee" and "Co-Siting" have corresponding meanings.
- (d) "Grantor" means the owner of the Burdened Land described on page 1 and includes the Grantor's tenants and invitees.
- (e) "Plan" means Deposited Plan/S.O. Plan No []
- (f) "Working day" means the period between any one midnight and the next, excluding Saturdays, Sundays and statutory holidays in the place where the Burdened Land is located.

2. Grant of easements

2.1. Pursuant to section 36(3)(b) of the Crown Pastoral Land Act 1998 the Grantor grants to the Grantee, for a term of 30 years, commencing on the date of registration of the Plan, an easement in gross to:

- (a) Establish, operate, maintain, repair, replace and/or upgrade a communications facility for the provision of communication services at the site labelled "s" on the Plan (Site); and
- (b) Pass and repass over that part of the Burdened Land labelled "q-r-s" on the Plan for ingress to and egress from the Site as is reasonably necessary for the Grantee to exercise its rights under this easement with or without four-wheel drive vehicles or machinery necessary for such purposes.

2.2. The rights granted by this easement are non-exclusive and are exercisable in common with the Grantor and any other person having similar rights either now or in the future.

2.3. The rights and powers contained in Schedule 5 of the Land Transfer Regulations 2018 and the Fifth Schedule of the Property Law Act 2007 are expressly negated.

3. Obligations of the Grantee

3.1 The Grantee shall when on the Burdened Land:

- (a) 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;
- (b) Take all reasonable precautions for guarding against any danger (including, but without limitation, fire, physical damage or disease), and in particular shall (but

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.

without limiting the general obligation to take full and proper precautions pursuant to this clause;

- (c) Comply with all conditions that may be imposed from time to time by the Grantor acting reasonably or any lawful authority;
 - (d) Ensure that as little damage or disturbance as possible is caused to the Burdened 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 Area by this transfer is promptly repaired.
- 3.2 The Grantee shall, at its cost repair to the satisfaction of the Grantor any part of the Burdened Land, including the tracks, fences, gates, drains, buildings or other structures, which is damaged by the Grantee PROVIDED THAT the obligation to repair shall only arise if the damage is caused directly and solely by the Grantee.
- 3.3 The Grantee shall at all times in the exercise of the rights set out in this easement not obstruct or hamper the Grantor, or any agents, invitees, employees and contractors of the Grantor, in its or their normal or reasonable use of the Burdened Land.
- 3.4 The Grantee shall not at any time except with the prior written approval of the Grantor carry out any activity which is not included within clause 2 of this easement on the Burdened Land or do any other thing which would affect the ability of the Grantor to use the Burdened Land.
- 3.5 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 easement.
- 3.6 The Grantee must, if required by the Grantor, allow Co-Siting except when a Concessionaire demonstrates to the reasonable satisfaction of the Grantor that the Co-Siting by a third party would impact on the ability of the Grantee to operate its communications facility on the Easement Area.

3. Ownership of Structures

- 3.1. All structures, lines and works placed by the Grantee for the purposes of exercising the rights of the Grantee created by this easement will remain the property of the Grantee and no part of them will become a fixture on the Burdened Land.
- 3.2. The Grantee will, on the expiry of the term or sooner determination of the rights created by this easement, remove all structures, lines and works from the Site within one month and will restore the Site to as near as reasonably possible to its original condition.
- 3.3. If the Grantee has not taken the steps set out in clause 3.2 within a reasonable timeframe, the Grantor may remove all structures, lines and works from the Site and restore the Site to as near as reasonably possible to its original condition and recover all costs incurred from the Grantee.

4. Indemnity

- 4.1. The Grantee indemnifies the Grantor against any direct loss, claim, damage, costs, expense, liability or proceeding suffered or incurred at any time by the Grantor arising directly out of the Grantee's use of the Burdened Land in connection with this easement or as a direct result of the exercise of rights by the Grantee or any breach by the Grantee of their obligations, undertakings or warranties contained or implied by this easement.

5. Grantor's Liability Excluded

- 5.1. The Grantor holds no liability in contract, tort, or otherwise in relation to any aspect of this easement. This exclusion of liability extends to consequential loss, anything arising

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.

directly or indirectly from this easement and any activity of the Grantor on the Burdened Land.

6. Termination

- 6.1. The Grantor may terminate the rights created by this easement in accordance with clause 6.2 if the Grantee breaches any of the terms of this easement and the breach is unable to be rectified or remains unrectified within 7 days or such other time as the parties may agree.
- 6.2. The Grantor shall give written notice to the Grantee, specifying the breach and identifying how the breach should be rectified (if capable of being rectified), stating the period (as contemplated in clause 6.1) within which the breach is to be rectified, and providing that if the breach is not so rectified, then the Grantor may give one month's notice of termination of the rights created by this easement.
- 6.3. If the Grantor terminates the rights under this easement all rights of the Grantee shall immediately cease upon expiry of the notice period in clause 6.2 but the Grantee shall not be released from any liability to pay consideration or other moneys up to the date of termination.

7. Assignment

- 7.1. The Grantee is not to transfer, sublicense, assign, mortgage or otherwise dispose of the Grantee's interest under this easement or any part of it without the prior written consent of the Grantor, such consent not to be unreasonably withheld or delayed.
- 7.2. Any change in the shareholding of the Grantee altering the effective control of the Grantee will be deemed to be an assignment and will require the consent of the Grantor, such consent not to be unreasonably withheld or delayed.

8. Dispute Resolution

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

9. Notice

- 9.1. A notice to be given under this transfer by one party to the other is to be in writing and must:
 - (a) be hand delivered to the receiving party; or
 - (b) be sent by ordinary post to the receiving party; or
 - (c) be sent by email to the receiving party.

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

- 9.2. If clause 9.1(b) applies the notice will be deemed to be received by the receiving party on such date on which the ordinary post would be delivered.
- 9.3. If clause 9.1(c) applies the notice will be deemed to have been received on the day on which it is emailed if that day is a working day or, if dispatched after 5.00pm, on the next working day after the date of email.

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.

Continuation of "Attestation"

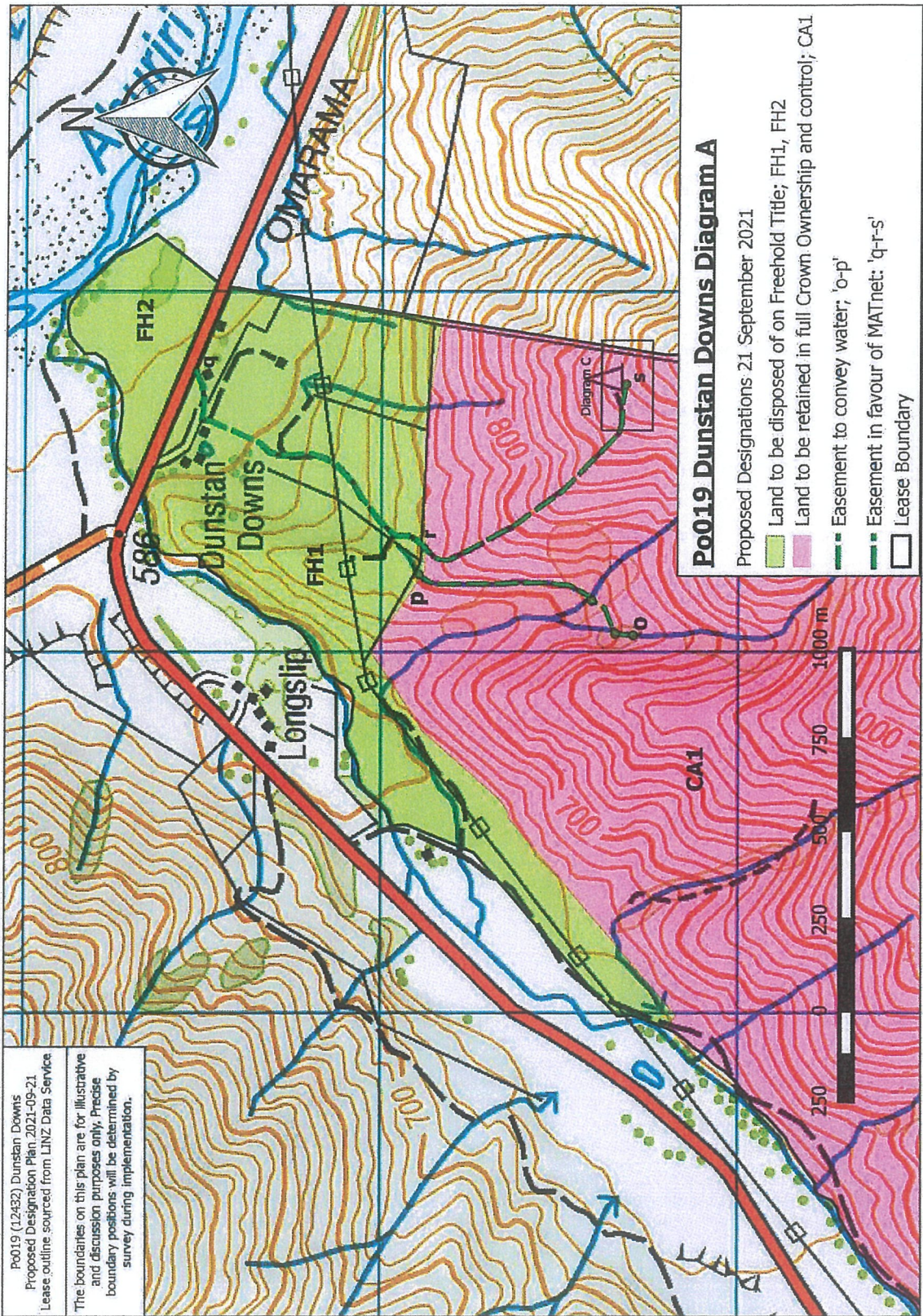
Signed for and on behalf of
**MACKENZIE AGRICULTURAL
TECHNOLOGIES LIMITED**

)
)
)
) _____

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.

Annexure 2 – Plan of Easement Area



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

TRANSFER GRANT OF EASEMENT IN GROSS

For Communications Facility

Land Transfer Act 2018

Law Firm Acting

Solicitor
Legal Services
Land Information New Zealand
Christchurch

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

Appendix 6: Copy of Easement GN6182320.2 to Continue



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 ²	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

1. 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.
2. 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.
3. 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.
4. 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.
5. (a) 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.
(b) 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.
(c) 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.
6. The grantor shall not, without the prior permission of the grantee (which will not be unreasonably withheld):
(a) Grant any further rights in respect of the land which result in interference with the rights granted to the grantee under the easement; or
(b) 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.
7. 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.
8. 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.
9. The grantee shall not be required to fence any of the easement land.
10. 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.
11. (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

Appendix 7: Copy of Easement 5063428.1 to Continue

VEC 5063420.1 DEED OF EASEMENT
CPV-01/01.PGS-618.25/07/01.13:06



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HER MAJESTY THE QUEEN

and

TELECOM NEW ZEALAND LIMITED

DEED OF EASEMENT
(General Easement)

McVEAGH FLEMING
SOLICITORS
AUCKLAND

DEED OF EASEMENT

(General easement)

Date: 13th July 2000.

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;~~ ~~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;

[Handwritten signatures]

"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:

- 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:

- (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.



0127904.01

DUNSTAN DOWNS AND AHURIRI REPEATER



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

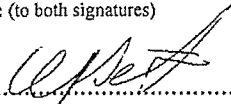
Craig Ritchie Bonnington
Network Property Information Manager
Telecom New Zealand Limited


.....
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:

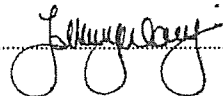
Auckland	as No D250016.1F	Gisborne	as No G219546.1	Napier	as No 668157
Blenheim	as No 196252.1	Hamilton	as No B469761.1	Nelson	as No 375631.1
Christchurch	as No A342475.1	Hokitika	as No 109390.1	New Plymouth	as No 448858.1
Dunedin	as No 944665.1	Invercargill	as No 256408.1	Wellington	as No B654792.1

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.

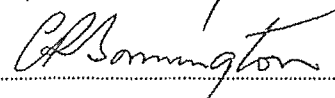
2. That we are employed by Telecom in the offices set out above under our respective names and as such are Attorneys for Telecom pursuant to the said Power of Attorney.

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


.....

R

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)

AW
RS

Appendix 8: Form of Conservation Covenant to be Created (CC1)

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

- “**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 all genders;
- 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 Objective is for the Land to 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

CC1 Dunstan Creek Hut Covenant

All that piece of land comprising 2 hectares approximately shown shaded yellow on the plan attached to the Proposal and labelled CC1, as shown in Schedule 3.

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 9016

Ph: (03) 477 0677
Email: SLM@doc.govt.nz

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

Dunstan Downs Limited
1723 State Highway 8
Omarama 9412
New Zealand

Ph: 03 438 9696
Email: ctinnes@farmside.co.nz

3. Values of Land to be Protected (Section 77, Reserves Act 1977)

CC1 Dunstan Creek Hut Covenant – natural environment and landscape amenity

The area supports:

- The Land adjoins a conservation area and represents a mosaic tussock grassland landscape.
- Landscape values of the Land as part of the adjacent landform are significant.

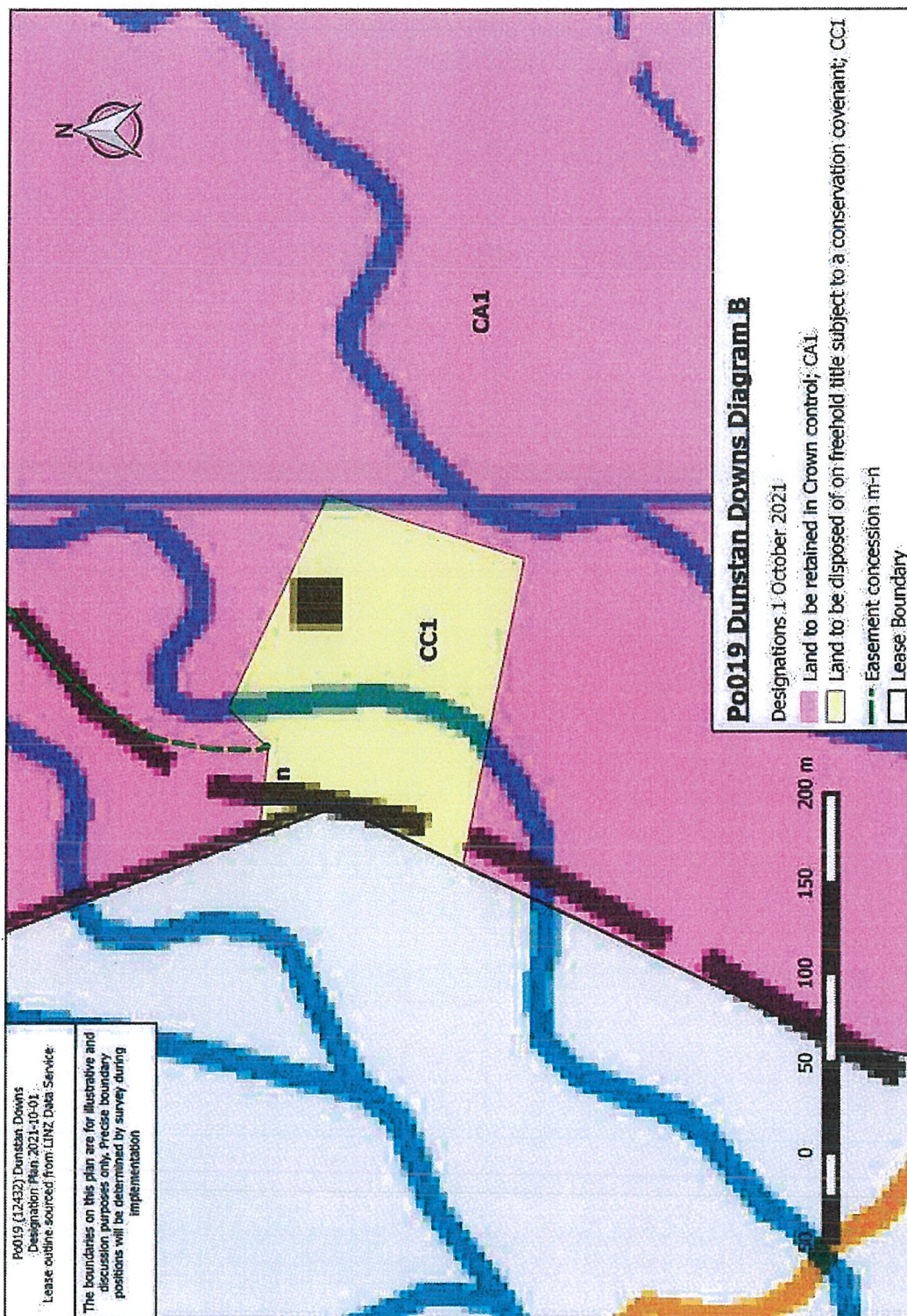
SCHEDULE 2

Special Conditions

Special conditions applying to the Land:

1. The Owner is permitted to maintain existing fences and tracks within the Land. For clarity, maintenance may include minor clearance of indigenous vegetation and soil disturbances within the existing alignment of the fence or track.
2. Notwithstanding clauses 3.2.1 and 3.2.3, the Owner must, at his or her sole expense, control wilding pines, exotic broom and gorse on the Land and must take all reasonably practicable steps to prevent them from seeding. The Minister may require the Owner to submit an eradication plan for the control of wilding pines, exotic broom and gorse on the Land for the Minister's approval. Should the Owner fail to undertake this work, the Minister may arrange to have this work undertaken on the Land at the Owner's expense including any reasonable costs of the Minister.
3. Notwithstanding clause 3.2.1, the Owner must, at his or her own expense, control wild and pest animals including rabbits, deer, goats, and pigs to a level low enough to avoid damage to the Land. The Minister may require the Owner to submit an eradication plan for the control of wild and pest animals on the Land for the Minister's approval. Should the Owner fail, in the Minister's sole opinion, to control animals to a level low enough to avoid damage to the Land the Minister may arrange to have this work undertaken on the Land at the Owner's expense including any reasonable costs of the Minister.
4. The Minister may undertake a monitoring programme on the Land:
 - (a) To ensure the ecological integrity of the Land and associated vegetation and fauna is maintained; and to enable the monitoring of any effects on the vegetation cover and condition, faunal values and any other Values of the Land that may have been affected by the management of the Land.
 - (b) The monitoring programme will be reviewed at regular intervals with the Owner.
 - (c) If in the opinion of the Minister there are any issues identified with the status of any of the species on the Land or deterioration in the condition and extent of the ecological condition of the Land the Minister will work with the Owner to assess whether any changes in management are necessary to achieve the objective of the Covenant. The Minister will liaise with the Owner in implementing any such changes and the Owner will cooperate in giving effect to any changes considered necessary by the Minister.
5. Notwithstanding clause 3.1.1, the Owner may graze up to 20 horses on the Land for no longer than 24 hours at any one time. If the Land is unfenced, the Owner will take all reasonably practicable steps to ensure horses under his control remain within the Land and do not drift into the adjoining conservation area.
6. Notwithstanding clause 3.1.4, the Owner may construct and maintain an accommodation unit for tourism purposes on the Land, subject to the Minister's prior written approval as to the location, size and design of the unit, and landscaping of the immediate surrounds of the unit.
7. For clarification, the Minister acknowledges there is an existing woolshed and two farm huts on the Land which the Owner may repair and maintain within its existing footprint without seeking the Minister's prior approval. Should the Owner wish to extend the existing farm hut beyond its current footprint, the Minister's prior written approval is required as to the increased size and design of the hut, and any additional landscaping of the immediate surrounds arising from the extension of the existing hut.

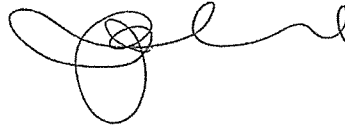
SCHEDULE 3
Plan showing covenant area



Execution Section

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

SIGNED by the **Commissioner of Crown Lands** by Kaihautū Customer Delivery pursuant to a delegation under the Crown Pastoral Land Act 1998 in the presence of:



Jan Pierce

Janet Orchard

Witness

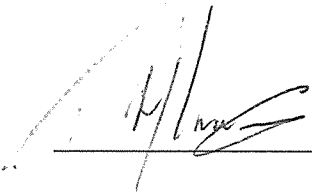
executive assistant

Occupation

11 Kea Street

Address

SIGNED for and on behalf of Dunstan Downs Limited by ^{two} of its directors:



Paul Lewis

Yunnes

