

Lowburn Valley Tenure Review – Preliminary Proposal



December 2021

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

Date: 29 November 2021

Parties

Holder: **Lowburn Station Limited**
185 Swann Road
RD 2
CROMWELL 9384

Commissioner of Crown Lands:

C/- Richard Summerlee
Senior Portfolio Manager
Private Bag 4721
CHRISTCHURCH 8140

The Land

Lease: Po256, Lowburn Valley

Legal Description: Run 634 Cromwell Survey District

Area: 5814.1920 hectares more or less

Certificate of Title/Unique Identifier: OTA2/1222

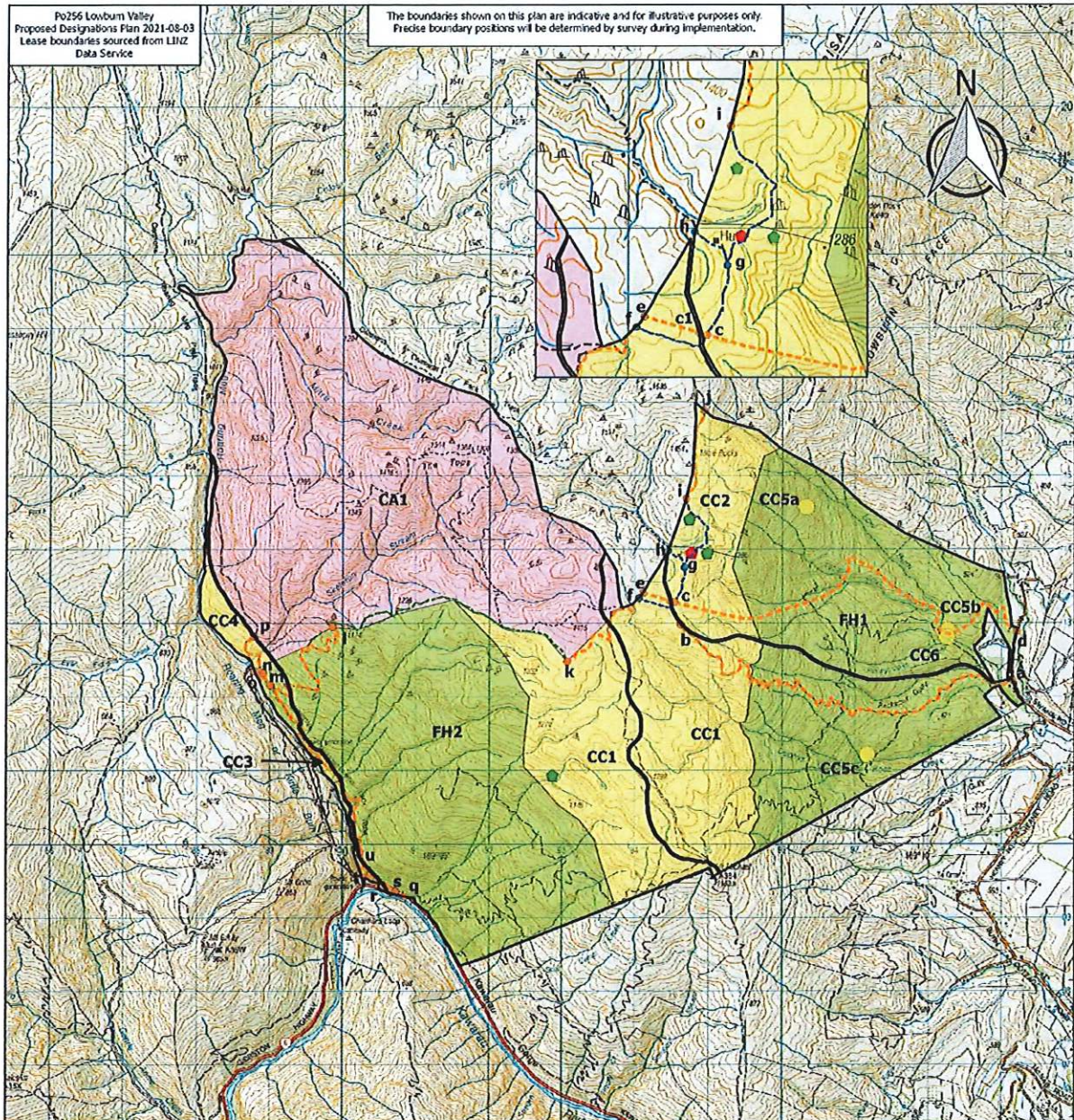
Summary of Designations

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 Schedule 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.

Po256 Lowburn Valley
Proposed Designations Plan 2021-08-03
Lease boundaries sourced from LINZ
Data Service

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



Po256 Lowburn Valley Sheet 1 of 2

— Lowburn Valley Boundary

Proposed Designations 03-08-2021

— Crown Control as a Conservation Area; CA1

— Freehold Disposal; FH1, FH2

— Freehold Disposal Subject to a Conservation Covenant; CC1, CC2, CC3, CC4, CC5, CC6

Easements

--- Public Foot access; d-c, t-u

--- Public Foot and Horse Access, Conservation Management; c1-e

--- Public Horse Access, Conservation Management; a-b (b-c1 on legal road)

--- Public Foot, Horse and Mountain Bike Access, Conservation Management Access; q-s-u-m-n-o, r-s, n-p, m-l, k-f-e, l-j

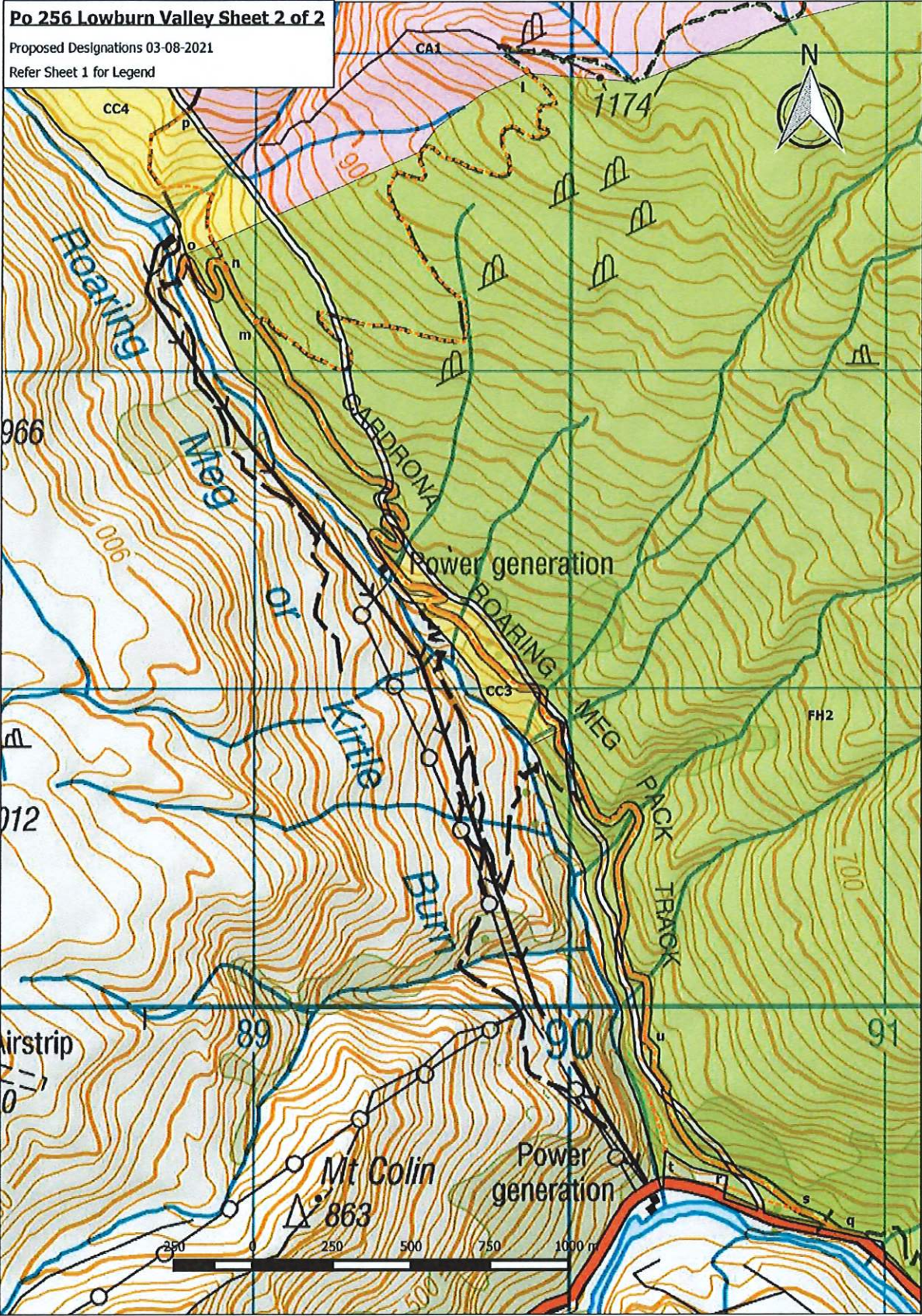
--- Conservation Management (only) Access; f-c-g-h, g-i

--- Farm Management Access; k-l

● Existing Hut In Covenant

● Proposed Hut in Covenant

Po 256 Lowburn Valley Sheet 2 of 2
Proposed Designations 03-08-2021
Refer Sheet 1 for Legend



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.
- 3.3 Notwithstanding anything to the contrary, if, as at the Settlement Date (as determined pursuant to clause 3.1), the rent payable under the Lease is subject to a Rent Review, then the Commissioner may elect to:
- (a) On the Settlement Date on the basis that the Commissioner may retain from the Commissioner's Payment an amount which the Commissioner, acting reasonably, estimates will be payable by the Holder to the Commissioner following agreement or determination of the Rent Review ("the Retention"). The Retention shall be held by the Crown Law Office in an on-call, interest-bearing trust account in the joint names of the parties for their respective rights and interests. Upon agreement or determination of the Rent Review, the Commissioner shall calculate the rent shortfall payable by the Holder to the Commissioner in respect of the period from the effective date of the Rent Review to the Settlement Date, both dates inclusive ("the Shortfall").If:
 - (i) The Shortfall is less than the Retention and the net interest earned thereon, the balance shall be paid by the Commissioner to the Holder within TEN (10) working days; or
 - (ii) The Shortfall is more than the Retention and the net interest earned thereon, the balance shall be paid by the Holder to the Commissioner within TEN (10) working days;
 - or
 - (b) Defer the Settlement Date until TEN (10) working days after the rent payable as a consequence of the Rent Review:
 - (i) Has been agreed or determined; and
 - (ii) Is not and will not be subject to any appeal, rehearing or other proceedings.

4. 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 Holder's

- 5.1 The Commissioner shall pay the Commissioner's Payment to the Holder on the Settlement Date.

- 5.2 No interest shall be payable to the Holder by the Commissioner in respect of the Commissioner's Payment, including (without limitation) for the period from the Vesting Date to the Settlement Date.

6 Vesting of Crown Land

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

7 Issue of Certificate of Title

- 7.1 Notwithstanding any other provision in this Proposal, the Commissioner will not request that the Surveyor-General issue a certificate to the Registrar pursuant to section 116 of the Land Act 1948 (to enable a certificate of title to issue for the Freehold Land) unless and until:
- (a) the Commissioner has received the Holder's Payment from the Holder under clause 4, and all other money payable by the Holder under this Proposal and the Notice;
 - (b) the Holder has provided to the Commissioner duplicate copies of the certificate of title relating to the Lease and/or the Lease (if any) 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 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.
- 26.6 The illegality, invalidity or unenforceability of any provision in this Proposal will not affect the legality, validity or enforceability of any other provision.
- 26.7 In relation to notices and other communications under this Proposal:
- (a) each notice or other communication is to be in writing, and sent by facsimile, personal delivery or by post to the addressee at the facsimile number or address, and marked for the attention of the person or office holder (if any), from time to time designated for that purpose by the addressee to the other party. Other than the address to which the Holder is to send its acceptance of this Proposal (which the Commissioner will specifically notify the Holder of) the address, person or office holder (if any) for each party is shown on the front page of this Proposal;
 - (b) no communication is to be effective until received. A communication will be deemed to be received by the addressee:
 - (i) in the case of a facsimile, on the working day on which it is despatched or, if despatched after 5.00 p.m. on a working day or, if despatched on a non-working day, on the next working day after the date of dispatch;
 - (ii) in the case of personal delivery (including, but not limited to, courier by a duly authorised agent of the person sending the communication), on the working day on which it is delivered, or if delivery is not made on a working day, on the next working day after the date of delivery; and
 - (iv) 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;

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 1,919 hectares (approximately) is designated as land to be restored to or retained in Crown control as conservation area subject to the easement marked as 'k-l' on the Plan and substantially as set out in Appendix 4.

2 Information Concerning Proposed Concession

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

To provide access for farm management purposes, access by foot, motor vehicle, horse, machinery and implements of any kind and with or without domestic livestock, guns and farm dogs.

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

Area labelled CA1 marked as a green dashed line "k-l" on the proposed designations plan.

2.3 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

The easement allows the Concessionaire to pass over the easement with or without vehicles, horses, dogs and farm livestock over an existing farm track. The effects of stock in the Conservation Area are avoided by Special Conditions within the easement to ensure that stock are actively driven but not held on these parts of the Easement Area. The effects of stock and vehicle movements on the track formation are managed through a Special Condition within the easement that provides that the Concessionaire may maintain the surface of the easement to a standard to allow safe passage but may not alter the alignment of the track.

2.4 Details of the proposed types of concession:

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

2.5 Details of the proposed types of concession:

Easement

2.6 Proposed duration of concession and reasons for proposed duration [s.39(e)]:

- a) Proposed duration- *Perpetuity*
- b) Reasons for proposed duration- *The proposed Concessionaire currently uses the formed track over which the easement is proposed, and will need to continue to do this for farm management purposes, as it is the only access from East to West at the northern end of the proposed freehold.*

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

- a) Proposed Concessionaire - *Lowburn Valley Station Limited*
- b) Relevant information- *The proposed Concessionaire currently already uses the formed tracks over which the easement is proposed. No negative effects associated with the current use of the track have been noted. It is expected that the Concessionaire will*

honour the terms and conditions of the easement and will have a positive working relationship with the 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 3,895 hectares (approximately) is designated as land to be disposed of by freehold disposal to the Holder subject to:
- (a) Part IVA of the Conservation Act 1987;
 - (b) Section 11 of the Crown Minerals Act 1991;
 - (c) the easement marked as 'a-b', 'd-c', 'c1-e', 'q-s-u-m-n-o', 'r-s', 'n-p', 'm-l', 'k-f-e', 'i-j' and 't-u' on the Plan and substantially as set out in Appendix 4; and
 - (d) the easement marked as 'a-b', 'c1-e', 'q-s-u-m-n-o', 'r-s', 'n-p', 'm-l', 'k-f-e', 'i-j', 'f-c-g-h' and 'g-i' on the Plan and substantially as set out in Appendix 5; and
 - (d) the covenant (shown on the Plan shaded yellow and labelled CC1, CC2, CC3, CC4, CC5a, CC5b and CC5c) substantially as set out in Appendix 6; and
 - (e) the covenant (shown on the Plan shaded yellow and labelled CC6) substantially as set out in Appendix 7; and
 - (f) the continuation of easement recorded as registration 756347 a copy of which is attached as Appendix 8; and
 - (g) the continuation of easement recorded as registration 8493630.1 a copy of which is attached as Appendix 9.

Schedule Four: Conditions

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

Appendix 1: Consents – Example of Mortgagee Consent

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

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

Dated:

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

Witness Signature: _____

Witness Name:
Occupation:
Address:

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

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

Dated:

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

Witness Signature: _____

Witness Name:
Occupation:
Address:

Appendix 2: Example of Solicitors Certificate

Certifications

I [] hereby certify as follows:

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

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

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

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

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

Yours faithfully

[signed by principal of law firm]

Appendix 3: Indicative Fencing and Construction Requirements

TBC

Appendix 4: Form of Easement Concession to be granted



Concession Document (Easement)

THIS CONCESSION is made this day of 2021

PARTIES:

1. **Minister of Conservation** (the Grantor)
2. **Lowburn Station Limited** (the Concessionaire)

BACKGROUND

- A. The Department of Conservation ("Department") Te Papa Atawhai 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 or section 59A of the Reserves Act 1977 (whichever is relevant in the circumstances).
- 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

1. In exercise of the Grantor's powers under the Crown Pastoral Land Act 1998, and the Conservation Act 1987 or the Reserves Act 1977 as relevant, 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 and its Schedules.

<p>SIGNED on behalf of the Minister of Conservation by [insert name and title of delegate]</p> <p>_____</p> <p>acting under delegated authority in the presence of:</p> <p>Witness Signature: _____ Witness Name: _____ Witness Occupation: _____ 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>SIGNED by Lowburn Station Limited by:</p> <p>_____</p> <p>Director name:</p> <p>_____</p> <p>Director name:</p> <p>_____</p> <p>in the presence of:</p> <p>Witness Signature: _____ Witness Name: _____ Witness Occupation: _____ Witness Address: _____</p>
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SCHEDULE 1

<p>1.</p>	<p>Burdened Land (Schedule 4)</p>	<p>As marked on the Proposed Designations plan attached in Schedule 4 being the area shaded pink on the Plan labelled CA1:</p> <p>Physical Description/Common Name: Lowburn Valley Land Status: Crown Land conservation area - TBC Area: 1919 hectares Legal Description: TBC</p>
<p>2.</p>	<p>Benefited Land (Schedule 4)</p>	<p>Is the easement in gross? No</p> <p>As marked on the attached Proposed Designations plan in Schedule 4 being areas shaded yellow and green and labelled CC1 and FH2:</p> <p>Physical Description/Common Name: Lowburn Valley Land Status: Freehold - TBC Area: xx hectares Legal Description: TBC 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 a 20-metre width specified as follows: labelled 'k-l' as shown marked as a dashed green line on the Proposed Designations plan, Deposited Plan/ S.O. Plan [.....].</p>
<p>4.</p>	<p>Concession Activity (clause 2)</p>	<p>(a) a right of way easement for farm management purposes only on foot, on horseback, by vehicle, and accompanied by dogs or horses over those parts of the Easement Area shown as: 'k-l'</p> <p>Livestock may be actively driven over the Easement Area.</p>
<p>5.</p>	<p>Term (clause 3)</p>	<p>In perpetuity</p>
<p>6.</p>	<p>Final Expiry Date (clause 3)</p>	<p>Not Applicable</p>
<p>7.</p>	<p>Concession Fee (clause 4)</p>	<p>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</p>

<p><i>Concessionaire's initials</i></p>		<p><i>Grantor's initials</i></p>	
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		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 9)	<u>Types and amounts:</u> Public Liability Insurance for general indemnity for an amount no less than \$1,000,000; and Third party vehicle liability for an amount no less than \$500,000.00 Insurance amounts subject to review (clause 9)
11.	Addresses for Notices (clause 19)	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: 185 Swann Road RD 2 Cromwell 9384 New Zealand Phone: 03 445 0117 Email: mailto:annebrixnielsen@gmail.com
	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 Land in the Crown as conservation area.

“**Concession Fee**” means the amount specified in Item 7 of Schedule 1 and required by the Grantor under section 53 of the Crown Pastoral Land Act 1988 and section 17X of the Conservation Act 1987 for the adverse effects of the Concession Activity on the Crown’s or public’s interest in the Easement Area.

“**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.

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

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

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

1.2 The Concessionaire is responsible for the acts and omissions of its employees, contractors, agents, clients, tenants 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 5 of Schedule 1 and ends on the Final Expiry Date specified in Item 6 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 7 and 8 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.

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 keep the easement facility (as defined in Schedule 5) now or hereafter upon the Easement Area, in good order, condition and repair and must keep the Easement Area in a clean and tidy condition and 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.
- 6.3 The Concessionaire must ensure that the Concessionaire's employees, agents, contractors, licensees and invitees comply with the obligations imposed on the Concessionaire under clause 6.
- 6.4 The Concessionaire may bring firearms on to the Easement Area for use in connection with the Concession Activity and pest control operations.
- 6.5 For the purposes of the Concession Activity, the Concessionaire may take onto 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 and 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 Concession or any part of it during the currency of the Term, then the Grantor may accept that 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 and 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.

- 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 surrender, 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 clause 9 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 clause 9 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 9 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 day's 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, National Parks Act 1980, or Wildlife Act 1953, or management plan under section 45 of the National Parks Act 1980, 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, the National Parks Act 1980, the 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 the Wildlife Act 1953 or bylaws made under the Reserves Act 1977 or the National Parks Act 1980; 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 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 by 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, notice will be deemed to have been received on the day on which it is emailed if that is a working day or, if dispatched after 5.00pm, on the next working day after the date of email.

18.2 If either party's details specified in Item 11 of Schedule 1 change then the party

whose details change must provide the other party with the changed details within 5 working days of such change.

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 the 5th Schedule to the Land Transfer Regulations 2018 (set out in Schedule 5 of this Concession) apply to this easement **EXCEPT** to the extent set out in Schedule 3 of this Concession.
- 20.2 The rights and powers implied by Schedule 5 to the Property Law Act 2007 do not apply to 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 deleting the words “grantee and” from the interpretation of “**grantee and grantor**”
 - (c) 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.”
 - (d) 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.”
 - (e) Clause 11(2) is deleted and clause 11(4) is amended by deleting the reference to (2).
 - (f) Clauses 13 and 14 are deleted.

Accidental Discovery Protocol

2. The Concessionaire must take all reasonable care to avoid any archaeological values on the 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 Grantor;
 - (b) If it is an archaeological site as defined by the Heritage New Zealand Pouhere Taonga Act 2014 then Heritage New Zealand 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 the New Zealand Police should also be notified;
 - (f) In the event of cessation of approved work because of discovery of potential historical artefact or archaeological site the Concessionaire must not recommence work until permitted to do so by the Grantor.

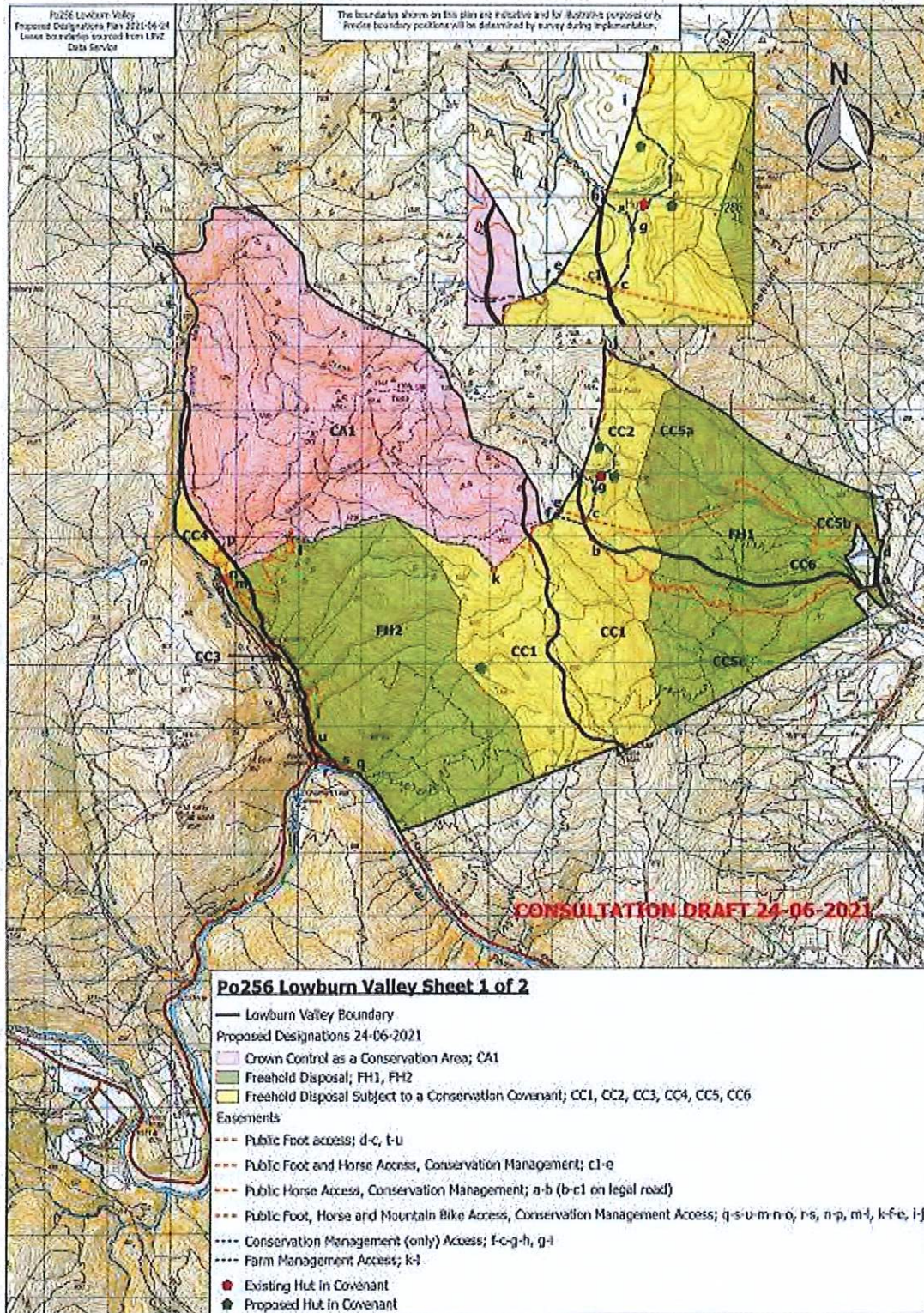
Establishment and maintenance of formed track(s)

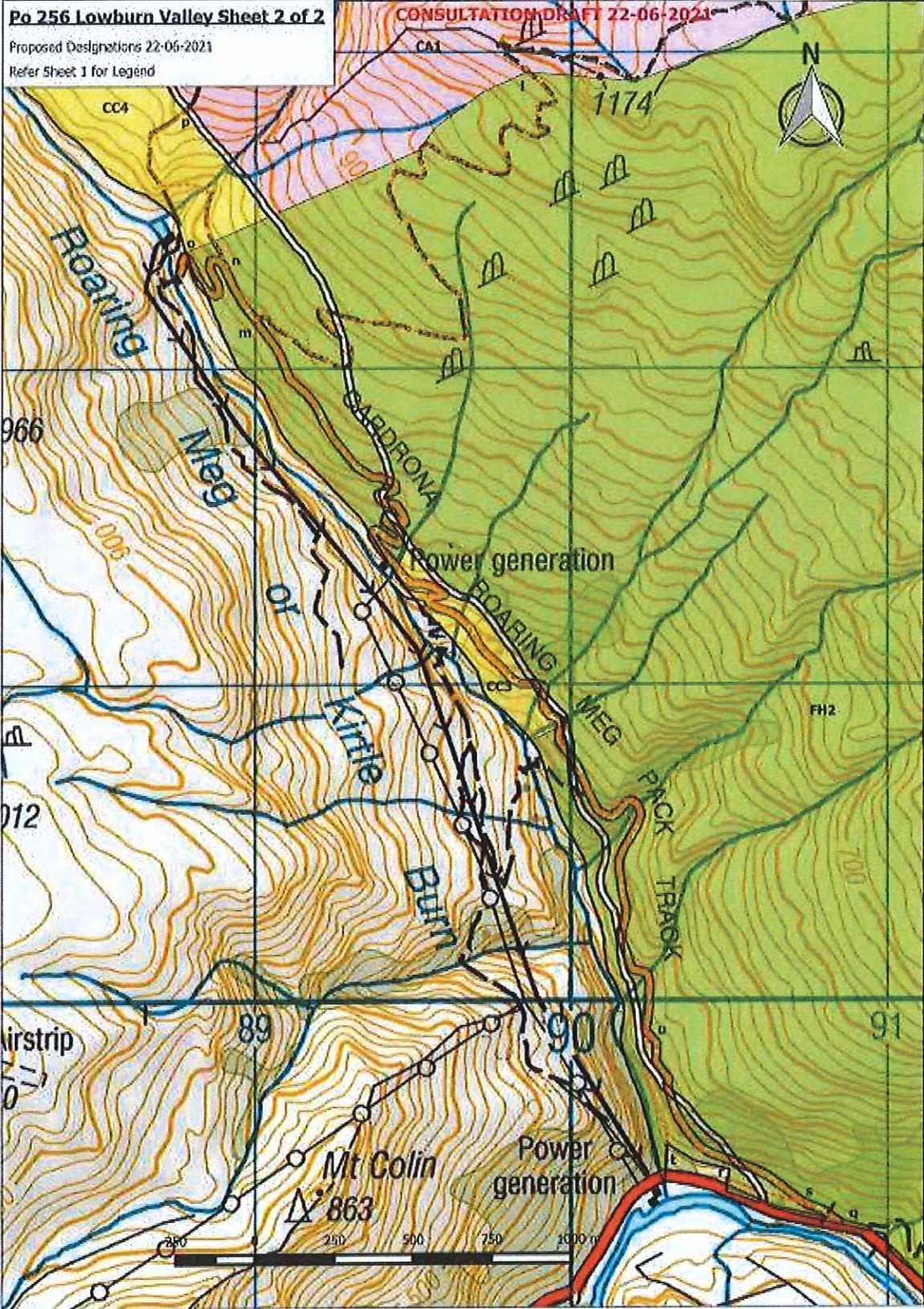
3. The Concessionaire has the right to repair and maintain any formed track(s) on their existing alignment within the Easement Area, including the right to enter the Burdened Land with or without machinery as necessary.
4. The Concessionaire must not alter the existing alignment of any formed track(s) within the Easement Area without seeking the prior written permission of the Grantor.
5. The cost of maintaining any formed track(s) within the Easement Area shall be shared between the Grantor and the Concessionaire having regard to the proportion of each party's use of the formed track(s).
6. The Concessionaire (including any employees, contractors, agents, and invitees) may carry firearms on the Easement Area only for the purposes of pest control and other farm management on the Benefited Land.

Note: For clarification, if the Concessionaire (including any employee, contractor, agent, or invitee) wishes to hunt on the Burdened Land with firearms or other hunting weapons the Concessionaire must hold a current hunting permit for the Burdened Land issued by the Director-General of Conservation.

SCHEDULE 4

Map – Proposed Designations





SCHEDULE 5

RIGHTS AND POWERS IMPLIED IN EASEMENTS

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, 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

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

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) domestic animal or (if the burdened land is rural land) farm animal.
- (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

- (1) 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,—
 - (i) enter upon the burdened land by a reasonable route and with all necessary tools, vehicles, and equipment; and
 - (ii) remain on the burdened land for a reasonable time for the sole purpose of completing the necessary work; and
 - (iii) 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

Deleted.

14 Disputes

Deleted.

Appendix 5: Form of Easement to be Created

TRANSFER GRANT OF EASEMENT IN GROSS

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

Land Transfer Act 2017

This page does not form part of the Transfer.

Annexure Schedule

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

Transfer Easement

Dated

Page of Pages

TRANSFER

Land Transfer Act 1952

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

Land Registration District

Otago

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

--	--	--

Grantor Surnames must be underlined

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

Grantee Surnames must be underlined

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

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

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

Consideration

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

Operative Clause

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

Dated this _____ day of _____

Attestation

Signed by acting under written delegation from the Commissioner of Crown Lands	Signed in my presence by the Grantor Signature of Witness _____ Witness to complete in BLOCK letters <i>(unless typewritten or legibly stamped)</i> Witness name Occupation Address	(continued on page 4 of Annexure Schedule)
	Signature, or common seal of Grantor	

Certified correct for the purposes of the Land Transfer Act 2017

Annexure Schedule

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

Transfer Easement Dated Page of Pages

Definitions

1. In this transfer unless the context otherwise requires:
 - 1.1 "Burdened Land" means the land owned by the Grantor and described on page 1.
 - 1.2 "Easement Area" means that part of the Burdened Land being 20 metres wide labelled "a-b", "d-c", "c1-e", "f-c-g-h", "k-f-e", "g-i", "i-j", "m-l", "n-p", "q-s-u-m-n-o", "r-s" and "t-u" and shown marked as a dashed orange line or a dashed blue line on the designations plan, Deposited Plan/SO Plan [...], and includes the Parking Area..
 - 1.3 "Grantee" means Her Majesty the Queen acting by and through the Minister of Conservation and includes tenants, agents, invitees, contractors, licensees and employees of the Minister of Conservation and the Director-General of Conservation; and for the purposes of clause 2.1 only, includes any member of the public.
 - 1.4 "Grantor" means the owner of the Servient Land described on page 1 and includes the Grantor's tenants and invitees.
 - 1.5 "Management Purposes" means:
 - the protection of a significant inherent value of any land managed by the Grantee;
 - the ecological sustainable management of any land managed by the Grantee.
 - the management of the Easement Area consistent with the purposes for which the easement is held under the Conservation Act 1987 or the Reserves Act 1977.
 - 1.6 "Non-motorised vehicle powered by a person or persons" includes an electric power assisted cycle (e-bike).
 - 1.7 "Parking Area" means that part of the Burdened Land which is labelled "d" on the Designations Plan on SO Plan [...].
 - 1.8 "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.

Standard Easement Terms

Access

2. The Grantee has the right in common with the Grantor:
 - 2.1 To pass and re-pass at any time over and along that part of the Easement Area:
 - a) labelled "d-c" and "t-u" on foot only,
 - b) labelled "c1-e" on foot or on or accompanied by horses only,
 - c) labelled "a-b" on or accompanied by horses only, and

Annexure Schedule

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

Transfer Easement Dated Page of Pages

- d) labelled "i-j", "r-s", "q-s-u-m-n-o", "n-p", "m-l" and "k-f-e" for foot, on or accompanied by horses, or by non-motorised vehicle powered by a person or persons, and
 - e) to use, stop and park any motor vehicle on the Parking Area only
- 2.2 To pass and re-pass at any time over and along that part of the Easement Area labelled "a-b", "c1-e", "f-c-g-h", "g-i-j", "q-s-u-m-n-o", "n-p", "m-l" and "k-f-e-d" on foot, or on or accompanied by horses, or by non-motorised vehicle, or by motor vehicle, with or without machinery and implements of any kind, with or without guns and accompanied by dogs, and to use, stop and park any motor vehicle on the Parking Area, for Management Purposes.
3. The Grantor must keep the Easement Area clear at all times of obstructions whether caused by parked vehicles, deposit of materials or unreasonable impediment to the use and enjoyment of the Easement Area, where such event or outcome is caused by or under the control of the Grantor.

Exclusion of Schedules

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

Term

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

Temporary Closure of Easement Area

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

Dispute Resolution

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

Annexure Schedule

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

Transfer Easement Dated Page of Pages

Notice

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

Gates

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

Annexure Schedule

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

Transfer Easement Dated [] Page [] of [] Pages

Special Easement Terms

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

- 11. Firearms and dogs on the Easement Area
11.1 Members of the public may carry unloaded firearms only on those parts of the Easement Area...
11.2 Members of the public may take or be accompanied by dogs only on those parts of the Easement Area...
11.3 The Grantee, not being a member of the public, may take or be accompanied by dogs, and firearms...
12. For the avoidance of doubt, no camping is permitted on the Easement Area including the Parking Area.
13. When the Grantee, not being a member of the public, requires access to the Easement Area...
14. The Grantee shall pay the costs of any repair or maintenance required to the Easement Area...
15. The Grantor and The Grantee, not being a member of the public, are to meet regularly and not less than once a year to review the management of the Easement Area.

Continuation of "Attestation"

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

Annexure Schedule

Insert below
“Mortgage”, “Transfer”, “Lease”, etc

Transfer Easement

Dated

Page of Pages

Witness (Signature)

Name _____

Address _____

Occupation _____

Occupation _____

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

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

TRANSFER GRANT OF EASEMENT IN GROSS

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

Land Transfer Act 2017

Law Firm Acting

Solicitor
Legal Services
Department of Conservation
Dunedin

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

Appendix 6: Form of Conservation Covenant to be Created (CC1- CC5)

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 Pisa Range Plateau Covenant

All that piece of land comprising 1105 hectares approximately shown shaded yellow on the plan attached in Appendix 3 and labelled CC1, also shown in the plan attached to the Proposal.

CC2 Low Burn Headwaters Covenant

All that piece of land comprising 165 hectares approximately shown shaded yellow on the plan attached in Appendix 3 and labelled CC2, also shown in the plan attached to the Proposal.

CC3 Roaring Meg Beech Covenant

All that piece of land comprising 8 hectares approximately shown shaded yellow on the plan in Appendix 3 and labelled CC3, also shown in the plan attached to the Proposal.

CC4 Skeleton Creek Covenant

All that piece of land comprising 47 hectares approximately shown shaded yellow on the plan in Appendix 3 and labelled CC4, also shown in the plan attached to the Proposal.

CC5 Lower Faces Covenant

All those pieces of land (three sites) comprising 15 hectares approximately shown shaded yellow on the plan in Appendix 3 and labelled CC5a, CC5b and CC5c, also shown in the plan attached to the Proposal.

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 Owner is:

Lowburn Station Limited
185 Swann Road
RD 2
Cromwell 9384
Ph: (03) 03 445 0117
Email: annebrixnielsen@gmail.com

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

CC1 Pisa Range Plateau and CC2 Low Burn Headwaters Covenant Areas– natural environment, wildlife habitat, landscape amenity and historical values

These areas support:

- The summit plateau with the presence of rock tors and diverse vegetation cover and visibility is significant.
- Rare ecosystems are present – cushion bogs, seepages, flushes and ephemeral wetlands.
- The threatened: Nationally Endangered plant, *Crassula multicaulis* is present in a wetland near Mt Michael.
- The At Risk: Naturally Uncommon plants,
 - *Festuca matthewsii*, subsp. *pisamontis* is present in the alpine zone,
 - *Plantago obconica* is present in cushion bogs on the Mt Michael ridge,
 - *Ranunculus maculatus* is present in cushion bogs on the Mt Michael ridge.
- The plateau area has significant invertebrate conservation value because of its distinctiveness and high diversity of high alpine habitats.
- Provides habitat for avifauna:
 - At Risk - Recovering eastern falcon, *Falco novaeseelandiae* “eastern”.
 - At Risk - Declining New Zealand pipit (*Anthus novaeseelandiae novaeseelandiae*),
 - At Risk - Declining, South Island pied oystercatcher, *Haematopus finschi*,
 - Non threatened Southern black backed gull, *Larus dominicanus dominicanus*.
- The upper catchments provide ecosystem services value in yielding high quality water supply.
- The Mt Michael and Cardrona-Cromwell pack tracks provide testament to early gold mining activity in the high country.
- The Cardrona-Cromwell pack track remains intact and is used for recreational purposes.

CC3 Roaring Meg Beech Covenant – natural environment and landscape amenity

The area supports:

- A small area of remnant of mature and developing silver beech trees *Lophozonia menziesii* is located on an area adjacent to the Roaring Meg stream. While the origin of these trees is uncertain, they are a thriving outlier of this species.

CC4 Skeleton Creek Covenant – natural environment and landscape amenity

- The lower Skeleton Stream is described as containing a moderate range of soil-vegetation associations, including remnants of previously widespread soils under narrow-leaved snow tussock and diverse shrub land associations.
- A number of threatened species and their habitats exist in this area, including:
 - Hector's tree daisy *Olearia hectorii* (Threatened - Nationally Endangered)
 - Dryland cress *Pachycladon cheesmanii* (Threatened - Nationally Endangered),
 - Hypsela *Lobelia ionantha* (At Risk - Declining),
 - Pimelea *Pimelea aridula* subsp. *aridula* (At Risk - Declining),
 - *Anisotome caudicola* (At Risk-Declining),
- Diverse shrubland in the lower Skeleton Creek gorge.

CC5a, CC5b and CC5c Lower Faces Covenant – natural environment and landscape amenity

- CC5a comprises 6 ha of rock talus at c. 930 m between Tongue Spur Creek and Low Burn. The proposal supports an unusually large population of weeping matipo of at least 100 shrubs and small trees. Other associated shrub species include mingimingi, *Coprosma dumosa*, *C. tayloriae*, *Olearia odorata*, desert broom, mountain wineberry, porcupine shrub, *Helichrysum intermedium* and false beech.
- CC5b comprises 2.5 ha of low hill slopes on the north side of the Low Burn at c. 350 m. This area supports a predominantly native shrubland of surprising diversity, despite recovering from being sprayed by previous lessees. The shrub canopy includes *Coprosma virescens*, porcupine shrub, *Olearia odorata*, mountain wineberry, koromiko, sweet briar, elder, matagouri and cottonwood. Lianas are common and include native jasmine (*Parsonsia heterophylla*) and *Clematis marata*. Rock outcrops support the uncommon *Einadia allanii* and *Pimelea aridula*.
- CC5c is located on the north side of lower Roses Creek and comprises approximately 4.5 ha located at c. 460m a.s.l. At this site, 30 shrubs and small trees of the threatened (Nationally Endangered) tree daisy *Olearia hectorii* are present on a damp slumpy hillslope. Most plants are 2-5 m tall with largest reaching 7 m. They are associated with elder, mingimingi, *Olearia odorata*, *O. lineata*, matagouri, sweet briar, prickly shield fern (*Polytrichum vestitum*), *Carex* sp., sweet vernal and *Clematis foetida*

SCHEDULE 2

Special Conditions

Special conditions applying to all parts of the Land:

1. The Owner is permitted to maintain existing fences, tracks and structure within the Land. For clarity, and notwithstanding clauses 3.1.2 and 3.1.6, maintenance may include minor clearance of indigenous vegetation and soil disturbances within the existing alignment of the fence or track and its footprint to return these to a state comparable to that of five years previously.
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.

Minister's and Director-General's access to the Land:

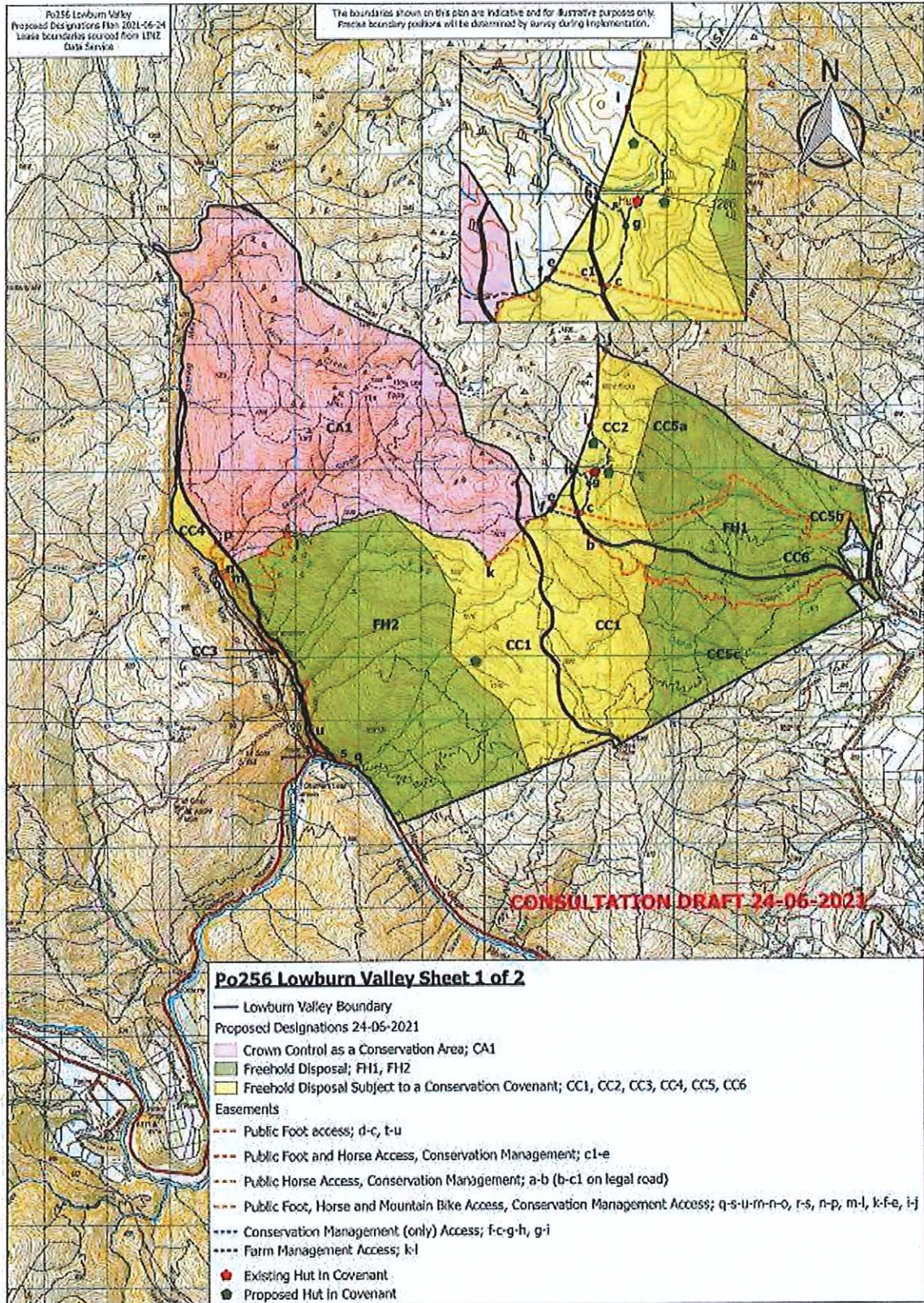
5. Further to Clause 3.2.5, prior to accessing the Land the Minister (which includes the Minister's authorised agent, or any employee or contractor of the Director-General), shall give the Owner at least 24 hours' notice and shall have regard to reasonable requests by the Owner relating to farm management issues. In an emergency the

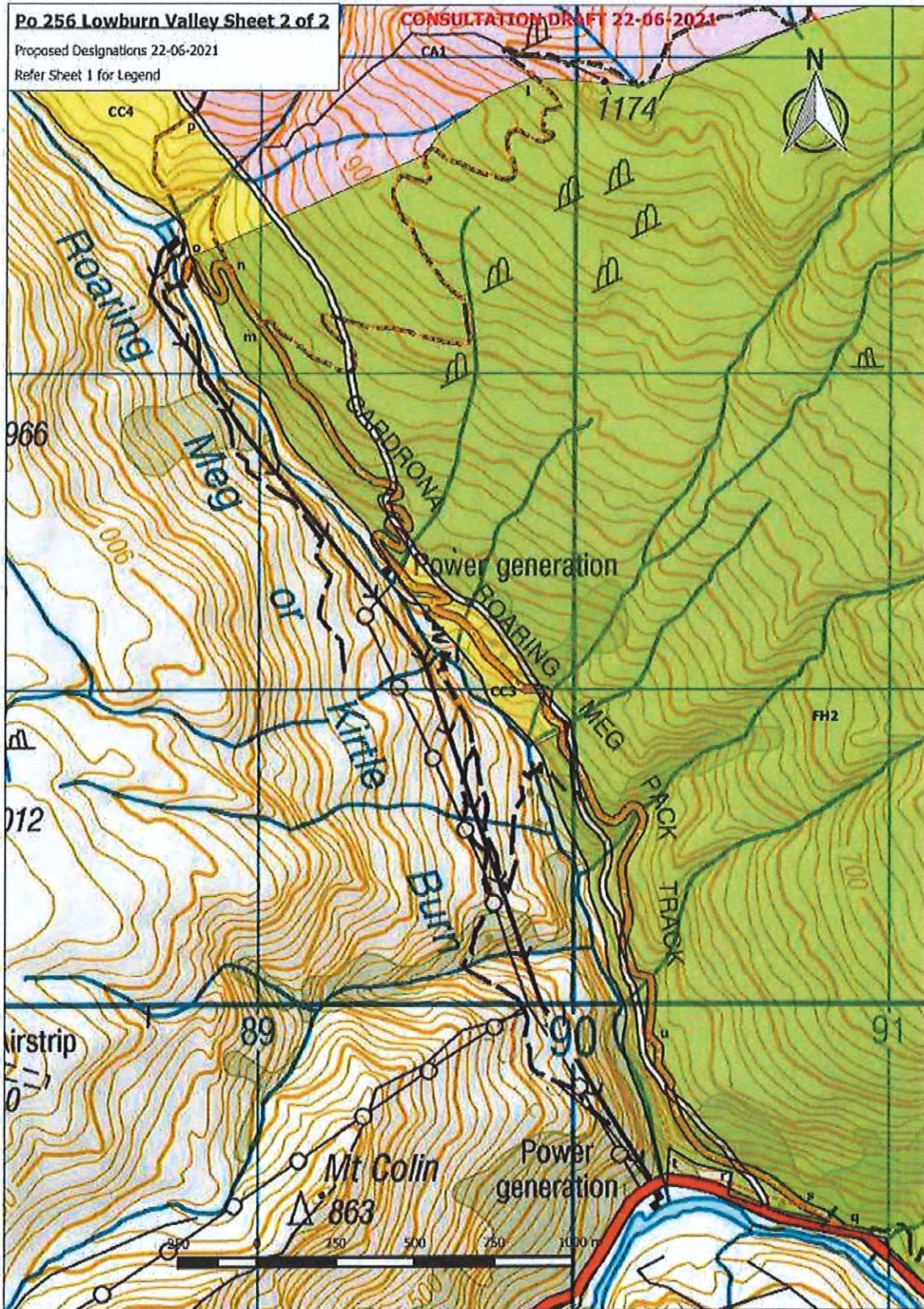
Minister shall make reasonable efforts to contact the Owner prior to entering the Land.

Special conditions applying to specified parts of the Land only:

6. Notwithstanding clause 3.1.1 that part of the Land being CC1 may be grazed with up to 2000 stock units (sheep only) for two months in total in the period between 1 February and 31 May inclusive each year.
7. Notwithstanding clause 3.1.1 those parts of the Land being CC3, CC5a, CC5b and CC5c may be grazed with sheep and cattle incidental to the grazing of adjacent land held by the Owner.
8. If in the sole opinion of the Minister any grazing undertaken by the Owner pursuant to special conditions 6 or 7 is having an effect on the Values of that part of the Land, the Minister may review the grazing and in discussion with the Owner the parties may agree on limits to the numbers and/or stock types, and any restrictions on periods when such stock is able to graze the Land or any part thereof.
9. Those parts of the Land being CC2 and CC4 may not be grazed.
10. Notwithstanding clause 3.1.4, in addition to the existing hut within the Land, the Owner may construct and maintain a maximum of three accommodation units for tourism purposes within those parts of the Land being CC1 and CC2 subject to the prior written approval of the Minister as to location, size, design of the units and landscaping of the immediate surrounds of the units.
11. Members of the public may wander at will over that part of the Land being CC4 provided:
 - (a) the public may only access this part of the Land on foot, except when using Easement Area 'n-p';
 - (b) the public may not take or carry firearms or take or be accompanied by dogs or horses on this part of the Land, except when using Easement Area 'n-p';
 - (c) for clarity, the public may not camp on this part of the Land;
 - (d) the Minister is to erect and maintain signs advising the public of known hazards at any entrances to this part of the Land, with the same information to be contained in any public information material produced by the Minister or the Director-General for this part of the Land;
 - (e) the Owner and the Minister may meet to review public access over this part of the Land, to discuss how best to address any adverse impacts the parties both agree arises from the public access; and
 - (f) for clarity, the Owner may continue to undertake their usual activities on this part of the Land, including commercial recreational activities, hunting with firearms, trapping for pests, and taking horses and dogs on the Land.

SCHEDULE 3
Plans – Substantive Proposal Designations





GRANT of

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

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

COMMISSIONER OF CROWN
LANDS

to

MINISTER OF CONSERVATION

Solicitor
Department of Conservation
DUNEDIN

Appendix 7: Form of Conservation Covenant to be Created (CC6)

DATED _____

Between

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

and

MINISTER OF CONSERVATION
("the Minister")

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



Department of Conservation
Te Papa Atawhai

THIS DEED of COVENANT is made the day of

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

AND **MINISTER OF CONSERVATION**

BACKGROUND

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

OPERATIVE PARTS

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

1. INTERPRETATION

1.1 In this Covenant unless the context otherwise requires:

- “Act” means the Reserves Act 1977.
- “Covenant” means this Deed of Covenant made under section 77 of the Act.
- “Director-General” means the Director-General of Conservation.
- “Fence” includes a gate.
- “Land” means the land described in Schedule 1.
- “Minerals” means any mineral that is a Crown owned mineral under section 2 of the Crown Minerals Act 1991.
- “Minister” means the Minister of Conservation.

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

1.2 For avoidance of doubt:

- 1.2.1 the reference to any statute in this Covenant extends to and includes any amendment to or substitution of that statute;
- 1.2.2 expressions defined in clause 1.1 bear the defined meaning in the whole of this Covenant including the Background. Where the parties disagree over the interpretation of anything contained in this Covenant and in determining the issue, the parties must have regard to the matters contained in the Background;
- 1.2.3 clause and other headings are for ease of reference only and are not to be treated as forming any part of the context or to affect the interpretation of this Covenant;
- 1.2.4 words importing the singular number include the plural and vice versa;
- 1.2.5 words importing one gender include 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 DISPOSAL OF LAND

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

8. MISCELLANEOUS MATTERS

8.1 Rights

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

8.2 Trespass Act:

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

8.3 Reserves Act

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

8.4 Titles

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

8.5 Acceptance of Covenant

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

8.6 Fire

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

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

8.6.2.1 requested to do so; or

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

9. NOTICES

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

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

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

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

10. DEFAULT

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

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

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

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

- 10.2.1 advise the defaulting party of the default;
- 10.2.2 state the action reasonably required of the defaulting party to perform or observe in accordance with this Covenant; and
- 10.2.3 state a reasonable period within which the defaulting party must take action to remedy the default.

11. DISPUTE RESOLUTION PROCESSES

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

11.2 Mediation

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

11.3 Failure of Mediation

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

12. JOINT OBLIGATIONS

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

13. FURTHER AGREEMENT AND APPROVAL

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

14. SPECIAL CONDITIONS

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

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

Executed as a Deed

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

Witness: _____

Address : _____

Occupation: _____

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

Witness: _____

Address : _____

Occupation: _____

SCHEDULE 1

1. Description of Land

The land has an area of approximately 1 hectare labelled CC6 on the Designations Plan, and shown in Plan 1 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
365 Princes Street
DUNEDIN 9016

Phone: (03) 477 0677
Email: slm@doc.govt.nz

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

Lowburn Station Limited
185 Swann Road
RD 2
Cromwell 9384
Ph: (03) 03 445 0117
Email: annebrixnielsen@gmail.com

3. Values of Land to be Preserved (Section 77, Reserves Act 1977) – historical values

One of two pastoral stone huts noted in Hamel's (1996: 5) reported at Lowburn that belonged to the original Mt Pisa Run and the only one located within the lease. The hut which is a registered NZAA archaeological site (NZAA F41/337), is an interesting example of early stonework with a notable chimney built within the wall (DOC 2002: 10). The hut has been partially destroyed. The covenant will protect the hut site and an additional 5 metres around the building perimeter for the purpose of preserving its historic values.

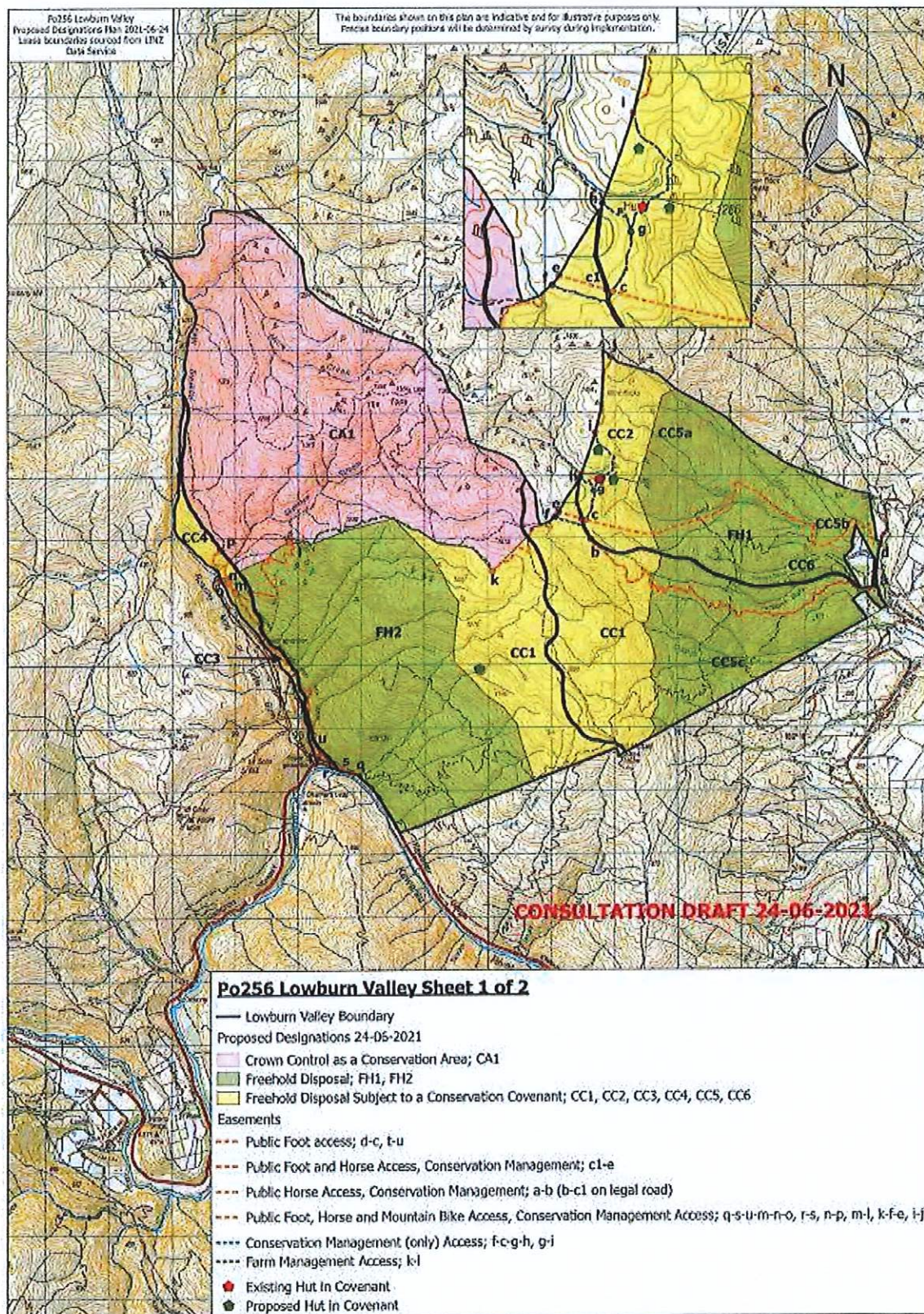
SCHEDULE 2

Special Conditions

1. Notwithstanding clause 3.1.1 that part of the Land being CC6 may be grazed with sheep only incidental to the grazing of adjacent land held by the Owner.
2. Further to Clause 3.2.5, prior to accessing the Land the Minister (which includes the Minister's authorised agent, or any employee or contractor of the Director-General), shall give the Owner at least 24 hours' notice and shall have regard to reasonable requests by the Owner relating to farm management issues. In an emergency the Minister shall make reasonable efforts to contact the Owner prior to entering the Land.

SCHEDULE 3

Plan – Substantive Proposal Designations Plan



GRANT of

Correct for the purposes of the
Land Transfer Act 2017
Solicitor for the Minister

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

COMMISSIONER OF CROWN
LANDS

to

MINISTER OF CONSERVATION

Solicitor

Department of Conservation

DUNEDIN

DOCDM-1143309 – Conservation Covenant – Reserves Act – CPLA Template Version Final
DOC-6704404 – Lowburn Valley – Conservation Covenant – Historic

Jan 2013
July 2021

Appendix 8: Copy of Easement 756347 to Continue

(Approved by the Registrar General of Land as No. 206157)

MEMORANDUM OF TRANSFER

WHEREAS JACK NOBLE DAVIS of Lowburn Farmer and CLAIRE ALICE DAVIS his wife (called the 'first transferors') are

, being registered as proprietor

of an estate in fee simple

subject however to such encumbrances

liens and interests as are notified by memoranda underwritten or endorsed hereon in all that

piece of land situated in the Otago Land District

containing by admeasurement 25.4193ha

be the same a little more or less being section 22 block 5 Cromwell District Excepting any metals precious stones minerals coal and oil on and under the said land and being all the land contained in Certificate of Title 202/253 (Otago Registry) Subject To

1) As to all dispositions to the restrictions imposed by Part 13 of 'The Land Act 1908' and section 29 of The Land Laws Amendment Act 1913 and 2) Mortgage Nos 493285/1 & 529834/2 (called the 'first land')

AND WHEREAS VINCENT JOHN BROWN of Cromwell Sheepfarmer as to a one half share and MARY MELVILLE BROWN of Lowburn Widow, VINCENT JOHN BROWN of Lowburn Farmer and WILLIAM RUSSELL BROWN of Lowburn Farmer as executors (jointly inter se) as to a one half share as tenants in common in the above recited shares (called the 'second transferors') are registered as proprietors of all that leasehold land containing 5814.1920ha more or less being Part Run 634 Cromwell Survey District and being the balance of the land contained in P.256 recorded as Register No A2/1222 Otago Registry Subject To Compensation Certificate 604484 (called the 'second land')

AND WHEREAS the first and second transferors are each desirous of transferring an incorporated society registered under the Incorporated Societies Act 1908 and having its office at Lowburn to the Lowburn Curling Club Incorporated (called 'the Club') certain rights relating to access over the first and second land.

NOW THEREFORE in consideration of the sum of ten cents (0-10) paid by the Club to each of the first and second transferors (the receipt of which is hereby acknowledged). The first and second transferors do hereby respectively transfer and grant to the club an easement in gross over that part of the first and second land marked 'A' on the ^{Deposited Plan 16864 and S.O. 20752} ~~plans (Deposited Plan 16864 and S.O. 20732)~~ ~~attached hereto~~ for the purposes of access to exercise its rights in terms of any valid recreational permit granted to the club by the Department of Lands & Survey or any like authority having jurisdiction over the first and/or second land for the sole purposes of the club's members invitees agents or servants to arrange for and/or partake in the game of curling and any other activity directly associated with the game of curling.

The granting of this easement has been consented to by the Land Settlement Board in so far as it relates to the second land pursuant to section 89 of the Land Act 1948.

SIGNED for and on behalf of the Land Settlement Board by the Assistant Commissioner of Crown Lands for the Land District of Otago in the presence of:

J.R. Gleaves

Witness : *[Signature]*
 Occupation : Clerk Department of Lands & Survey
 Address : Dunedin

~~IN CONSIDERATION of the sum of~~

~~paid to by~~

~~the receipt of which is hereby acknowledged~~

~~the first and second transferors~~

~~of land~~



Pt RUN 634
 SO1170
 1171

OPUD
 Adpt (S.O. 3016)

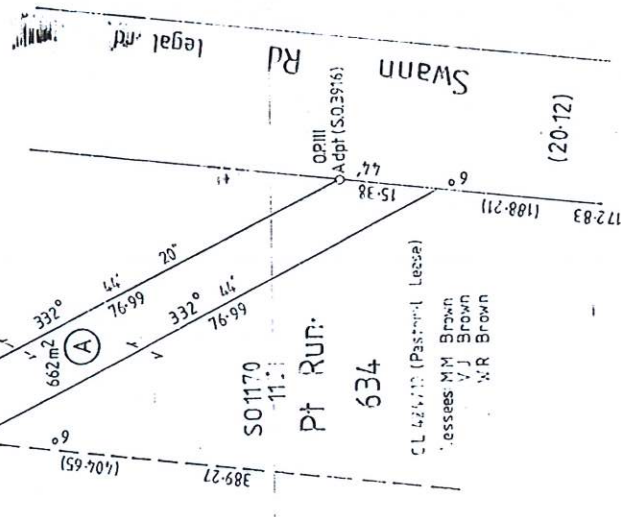
15-38

Adpt
 (DP 16854)

Sec 22

CT 2027253

JN 3 CA Davis



1350 m.s

170 m.s

PROPOSED EASEMENT

Purpose: Storm Sewer, Easement
 Access: 3' Pathway, Easement
 Turning: 10' Pathway, Easement

Return Old Easement
 Station: 101.7, Cromwell, SD

Total Area: 662 m²

Enclosed in: CL 421710

Patrol: Langdon, Block 11, Cromwell

Plat: 101.7, Cromwell, SD

Reference: 101.7, Cromwell, SD

Reference: 101.7, Cromwell, SD

Reference: 101.7, Cromwell, SD

Reference: 101.7, Cromwell, SD

COMPUTED PLAN

300 m.s
 250 m.s
 200 m.s

101.7 DISTRICT C1890
 DISTRICT C1890 DIST. V. CROMWELL
 SHEET NO. P. 117.000-3

Access Easement - Pt Run 634

Block V Cromwell S.D.

101.7

IN WITNESS WHEREOF

We have hereunto subscribed our name this 30th

day of June one thousand nine hundred and eighty ~~five~~

SIGNED by the above-named JACK NOBLE DAVIS of Lowburn Farmer and CLAIRE ALICE DAVIS his wife

as Transferor in the presence of

J. N. Davis *C. A. Davis*

Witness *[Signature]*
Occupation *Solicitor*
Address *Cromwell*

SIGNED by the said VINCENT JOHN BROWN of Cromwell Sheepfarmer and MARY MELVILLE BROWN and WILLIAM RUSSELL BROWN of Lowburn Farmer in the presence of:

V. J. Brown
M. Melville Brown
W. Russell Brown
Mr. George J. M. Brown

The Common Seal of the LOWBURN CURLING CLUB INCORPORATED was hereunto affixed in the presence of:

[Signature] Secretary
[Signature] Hamilton Pres.
C. R. Perram Past Pres.

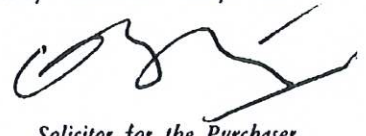


YANSON BROS. PRINTING & BOOKBINDING
100 ...
2004 ...

TRANSFER OF

Easement over Land

Correct for the purposes of "The Land Transfer Act"



Solicitor for the Purchaser.

situated in the

J.N. DAVIS & OTHERS

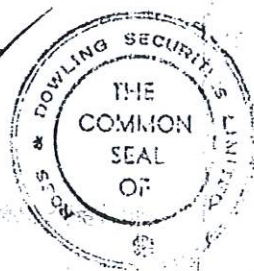
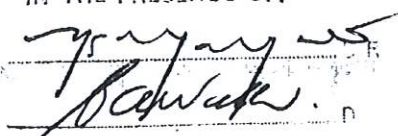
Transferor
~~XXXXXX~~

LOWBURN CURLING CLUB
INCORPORATED

Transferee
~~XXXXXX~~

ROSS DOWLING SECURITIES LIMITED as
Mortgagee under Mortgage No. 493285/1
hereby consents to the within Transfer

THE COMMON SEAL OF
ROSS DOWLING SECURITIES
LIMITED WAS HERETO AFFIXED
IN THE PRESENCE OF:



Particulars entered in the Register shall be in
on the day and at the

District Land Register
Assistant

of the District of

9.17 13 JUN 90 756347
PARTICULARS ENTERED IN REGISTER
LAND REGISTRY OTAGO
ASST LAND REGISTRAR - J. Sumner
202/258
142/222

**BRODRICK, PARCELL and McKAY,
SOLICITORS,
CROMWELL.**



Appendix 9: Copy of Easement 8493630.1 to Continue

[If easement is to be registered]

Entered in the Register Book as

Volume Folio

(Otago Registry) this

day of *[Year]*

at o'clock

Assistant District Land Registrar

[Otago District]



GRANT OF EASEMENT

DATED

22 April 2010

PARTIES

1. THE COMMISSIONER OF CROWN LANDS at Wellington pursuant to the Land Act 1948 ("**the Grantor**").
2. Jack Noble DAVIS, Claire Alice DAVIS, Peter John MEAD [hereinafter with successors and *permitted* assigns] ("**The Grantee**").

BACKGROUND

- A. **The Grantee** owns the Dominant Land and wishes to establish easements for the purpose of Right of Way, and Conveyance of Electricity, Computer Media and Telecommunications over the Easement Land, in perpetuity in favour of the Dominant Land.
- B. **The Grantor** has agreed to grant to the Grantee easement rights over the Grantor's Land on the terms and conditions set out in this Deed.

TERMS OF THIS DEED

1. **DEFINITIONS and INTERPRETATION**
 - 1.1 In this Deed (including the Schedules)
 - "Commencement Date" means Date of this Deed.
 - "Deed" means this deed, the background and the schedules.

all
CAD [Signature]

"Dominant Land" means that piece of land situated in the land District of Otago containing 25.4193 hectares more or less being Section 2, Block V, Cromwell Survey District and being all the land comprised and described in Computer Freehold Register OT202/253 Otago Registry.

"Easement Land" means the area of the Grantor's Land delineated as the area marked A on SO 20732 (Otago Land District) within which the Grantee may exercise the rights granted by this Deed;

"Grantee" includes the Grantee's servants, agents, employees, workers, invitees, licensee, lessee, tenant and contractors of the Grantee;

"Grantor's Land" means Run 634 in the Otago Land Registry which at the date of this Deed is subject to the Pastoral Lease;

"Lessee" means the lessee under the Pastoral Lease.

"Lines" and "Works" means: the electricity, telecommunication and computer media cables and road construction materials to be layed on or in the Easement Land by the Grantee.

"Pastoral Lease" means pastoral lease no P. 256 recorded in the Register Book as Computer Interest Register OTA2/1222 (Otago Land District)

1.2 In the interpretation of this Deed unless the context otherwise requires:

1.2.1 the headings and subheadings appear as a matter of convenience and shall not affect the interpretation of this Deed;

1.2.2 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;

1.2.3 the singular includes the plural and vice versa and words incorporating any gender shall include every gender.

2. GRANT OF EASEMENT

2.1 Pursuant to section 60 of the Land Act 1948 the Grantor grants to the Grantee, in perpetuity, the Easement Rights over the Easement Land as set out in the Second Schedule, on the terms set out below:

2.1.1 Right of Way

A right of way easement over the Easement Land upon and subject to the terms and conditions set out in Schedule 4 of the Land Transfer Regulations 2002 provided that in the event of any conflict between the provisions of the regulations and this Deed, then the provisions of this Deed shall prevail.

me
CAD *[Signature]*

2.1.2 Right to Convey Electricity, Computer Media and Telecommunications

A right to convey electricity and computer media and telecommunications easement over the Easement Land upon and subject to the terms and conditions set out in Schedule 4 of the Land Transfer Regulations 2002 provided that in the event of any conflict between the provisions of the regulations and this Deed, then the provisions of this Deed shall prevail.

2.1.3 For clarity:

- This right includes the right for the Grantee to excavate and disturb the soil within the Easement Land for the purposes of installation, removal and repair and maintenance of the easement facility; and
- The Grantee agrees not to do anything and not allow anything to be done on the Easement Land under this easement right that may interfere with or restrict the rights of any other party (including without limitation any reasonable use of the Easement Land as a vehicular and farm access way by the Lessee and/or Grantor).

2.1.4 Notwithstanding anything contained in Schedule 4 of the Land Transfer Regulations 2002 (or any subsequent or replacement regulation or legislation) the Grantor (including the Grantor's agents, Lessee and other Grantor invitees) has no obligation to establish, maintain, repair, or make any contribution to establish, maintain, repair, any Lines, Works and/or easement facility on the Easement Land. For the purposes of this deed, easement facility has the same meaning as defined in Schedule 4 of the Land Transfer Regulations 2002.

2.1.5 Except where inconsistent with the terms of this Deed, the Grantor (including the Grantor's agents, Lessee and other invitees) is excluded from having to comply with any obligations contained in clauses 10 – 14 Schedule 4 of the Land Transfer Regulations 2002. The parties agree that the implied terms contained in Schedule 5 of the Property Law Act 2007 do not apply to this Deed.

2.1.6 The right from time to time and at all times to enter, exit, pass through and remain on, under or over such part of the Grantor's Land as is reasonable for the exercise of the rights granted under this Deed from time to time and at all times for all purposes reasonably necessary for the exercise of the rights granted under this Deed with or without vehicles or machinery necessary for such purposes *but subject to the limitations expressed in the Deed.*

all
CAO 

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

3. CONSIDERATION

3.1 In consideration of the grant of easement in this Deed:

3.1.1 The Grantee shall pay the Grantor a lump sum payment of \$500.00 [five hundred dollars] *plus GST* on the Commencement Date of this Deed.

3.1.2 The Grantee shall observe the obligations imposed on it under this Deed.

4. REGISTRATION

4.1 It is intended that this easement shall be registered pursuant to section 60 of the Land Act 1948 and the Grantee will do all things reasonably necessary to enable such registration.

5. PAYMENT OF COMPENSATION TO LESSEES

5.1 The Grantee has entered into an agreement with the Lessee (attached as the Third Schedule) recording receipt by the Lessee of a payment by the Grantee. In that agreement the Lessee:

(a) acknowledges that such payment is in lieu of compensation payable (if any) by the Grantor pursuant to section 60(1) of the Land Act 1948; and

(b) waives their right to any compensation from the Grantor in respect of the grant of easement in this Deed.

6. OBLIGATIONS OF THE GRANTEE

6.1 The Grantee shall when on the Grantor's Land (subject to clause 2.1.2): *me*

6.1.1 Wherever possible remain on the constructed roads and tracks and when on those roads or tracks comply with all traffic laws and regulations as are applicable to public roads.

6.1.2 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.

6.1.3 Take all reasonable precautions for guarding against any danger (including, but without limitation, fire, physical damage or disease), and in particular shall (but without limiting the general obligation to take full and proper precautions pursuant to this clause 6.1.3) comply with all conditions that may be imposed from time to time by the Grantor or any lawful authority. *me*

me
me
me

- 6.1.4 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 similarly restored.
- 6.1.5 The Grantee shall, at their own cost, maintain and repair to the satisfaction of the Grantor any part of the Grantor's Land, including the tracks, fences, gates, drains, buildings or other structures, which is damaged directly or indirectly by the Grantee.
- 6.2 The Grantee shall compensate the Grantor for any loss suffered by the Grantor and/or the Lessee resulting directly or indirectly from the actions of the Grantee.
- 6.3 The Grantee shall at all times in the exercise of the rights set out in this Deed not obstruct or hamper the Grantor and/or the Lessee, or any agents, employees and contractors of the Grantor and/or the Lessee, in its or their normal or reasonable use of the Grantor's Land.
- 6.4 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 Deed on the Grantor's Land, or do any other thing which would affect the ability of the Grantor and/or the Lessee to use the Grantor's Land.
- 6.5 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.
- 6.6 The Grantee shall at all times use its best endeavours to keep the Easement Land clear of noxious weeds *and pests*.
- 6.7 The Grantee shall compensate the Grantor and/or the Lessee for any damage to stock on the Grantor's Land caused directly or indirectly by the Grantee.
- 7. ACCESS TRACK**
- 7.1 The Grantee is responsible at its own expense for the repair and maintenance of any road or track on the Easement Land and for the associated costs so as to keep any road or track in good order and repair and to prevent it from becoming a danger or a nuisance.
- 8. OWNERSHIP OF STRUCTURES**
- 8.1 All structures, Lines and Works placed by the Grantee on the Easement Land 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 Grantor's Land.
- 8.2 The Grantee will, on the expiry of the term granted or sooner determination of the rights created by this Deed, remove all structures, Lines, Works and



easement facilities from the Easement Land and will restore the Grantor's Land to the condition that it was in at the Commencement Date.

- 8.3 If the Grantee under this Deed has not taken action to comply with clause 8.2 within one calendar month of surrender of the particular right, the Grantor may remove all structures, Lines, Works and easement facilities from the Easement Land and restore the Grantor's Land as close as is reasonably possible to the condition that it was in at the Commencement Date 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) in relation to the preparation, registration and enforcement of any provisions in this Deed.
- 9.2 The Grantee shall be responsible for the registration (if any) of this Deed and any associated costs.
- 9.3 All costs for the installation and maintenance of structures, Lines and Works, and carrying out of associated Works, permitted by this Deed shall be at the Grantee's cost.

10. INDEMNITY

- 10.1 The Grantee hereby indemnifies the Grantor and the Lessee against any loss, claim, damage, costs, expense, liability or proceeding suffered or incurred at any time by the Grantor and the Lessee in connection with this Deed or as a result of the exercise by the Grantee of their rights under this Deed, or any breach by the Grantee of their 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 Grantor may terminate the rights created by this Deed if the Grantee breaches any of the terms of this Deed and the breach remains unrectified following written notice to the Grantee specifying the breach and seeking rectification within 7 days or such other time provided the parties agree.

Am
CAD
JMD *ve*

- 12.2 If the breach remains unrectified (or is unable to be rectified) then termination must be by written notice from the Grantor.
- 12.3 Upon Termination (for whatever reason) of the grant of easement evidenced by this Deed all rights of the Grantee shall immediately cease (subject to clause 8.2 of this Deed) but the Grantee shall not be released from any liability to pay consideration or other moneys up to the date of termination.
- 12.4 Upon termination the Grantee shall formally surrender the rights under this Deed and surrender the grant of easement.

13. DISPUTES

- 13.1 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 New Zealand Law Society. 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.

14. NOTICES

- 14.1 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 addressee in writing to the other party.
- 14.1.1 The Grantor's Address as set out in paragraph 2 of the First Schedule.
- 14.1.2 The Grantee's Address as set out in paragraph 4 of the First Schedule.
- 14.2 Any notice posted shall be deemed to be served three (3) working days after the date of posting.

15. SEVERABILITY

- 15.1 If any part of this Deed is held by any court or administration 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.



16 NO WAIVER

- 16.1 The waiver by the Grantor of any provision of this Deed shall not be effective unless given in writing, and then it shall be effective only to the extent that it is expressly stated to be given,
- 16.2 A failure, delay or indulgence by the Grantor in exercising any power or right shall not operate as a waiver of that power or right. A single exercise or partial exercise of any power or right shall not preclude further exercises of that power or right or the exercise of any other power or right.

17 HEALTH AND SAFETY

- 17.1 The Grantee will comply with all obligations imposed on the Grantee at law as the person in charge of a place of work and will be responsible for the health and safety of any person who enters on the Grantor's Land and/or Easement Land at the request of the Grantee.
- 17.2 The Grantee shall take all practicable steps (as far as legally permissible) to ensure that any obligation imposed on the Grantor under the Health and Safety in Employment Act 1992 are complied with at all times and shall comply with any reasonable obligations imposed by the Grantor and/or the Lessee regarding the identification and mitigation of hazards and the health and safety of persons on the Grantor's Land.

18 GRANTOR'S RIGHTS OF DELEGATION

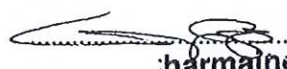
- 18.1 All rights and obligations of the Grantor arising under this Deed may be exercised by any person duly appointed by the Grantor PROVIDED THAT the exercise of any such rights, benefits or obligations by that person shall not limit the liability of the Grantor in the performance or observance of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

Handwritten signature and initials, possibly "EAG" and "JTB", with a flourish.

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

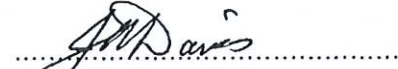
SIGNED by
acting for and on behalf of the
Commissioner of Crown Lands
pursuant to a delegation under
Section 41 of the State Sector Act 1988
in the presence of:



Witness: 
Occupation: Charmaine Humphries
Address: Management Support Officer
Crown Property & Investment
Land Information New Zealand

SIGNED by THE GRANTEE

Jack Noble Davis



Claire Alice Davis



Peter John Mead



in the presence of:

Witness: H.E. Mucklebridge
Occupation: Retired
Address: 48 Sunhaven Cove - Cromwell

SIGNED by THE LESSEE

Lowburn Station Limited


Director

Director

FIRST SCHEDULE

1. **GRANTOR'S LAND**
means Run 634 in the Otago Land Registry which at the date of this Deed is subject to the Pastoral Lease comprised in Computer Interest Register OTA2/1222

2. **GRANTOR'S ADDRESS**
Commissioner of Crown Lands
Land Information New Zealand
Private Bag 4721
CHRISTCHURCH

Attention: Daryl Nielsen

3. **GRANTEE'S LAND**
Section 22, Block V, Cromwell Survey District comprised in Computer Freehold Register OT202/253

4. **THE GRANTEE'S ADDRESS**
JN & CA Davis
274 Swann Road
RD2
CROMWELL 9384

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JN & CA Davis
274 Swann Road
RD2
CROMWELL 9384

[Handwritten signature]
C.A.D.
[Handwritten signature]

SECOND SCHEDULE

EASEMENT RIGHTS

Purpose	Shown As	Servient Tenement	Dominant Tenement
Right of Way, Right to convey Electricity, Computer Media and Telecommunications	A on SO 20732	Pt Run 634 comprised in OTA2/1222	OT202/253

Done
E.A.D.
J.M. MC

THIRD SCHEDULE

Deed of Agreement

The Grantee as set out below have entered into an agreement with the Lessees recording receipt by the Lessee 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 Lessee's waiver of their right to any compensation from the Grantor in respect of the grant of easements in this Deed.

Signed By The Grantee

Jack Noble Davis

Claire Alice Davis

Peter John Mead

J.N. Davis
.....
C.A. Davis
.....
P.J. Mead
.....

Signed By The Lessee

Lowburn Station Limited

A. R. [Signature]
.....
[Signature]
.....

SECOND SCHEDULE**EASEMENT RIGHTS**

Purpose	Shown As	Servient Tenement	Dominant Tenement
Right of Way, Right to convey Electricity, Computer Media and Telecommunications	A on SO 20732	Pt Run 634 comprised in OTA2/1222	OT202/253



OT

MANUAL DEALING LODGEMENT FORM

Landonline User ID: landisin

LODGING FIRM: Land Information Services Ltd

Private Individual: PO Box 516

Address: INVERCARGILL 9840

Dealing/SUBJ Number
(LINZ use only)

Priority Barcode/Date Stamp
(LINZ use only)

ASSOCIATED FIRM: _____

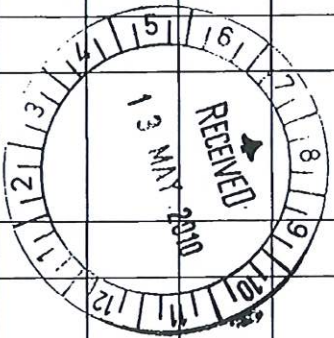
Client Code / Ref: _____

Plan Number/Pre-Allocated or
to be Deposited: _____

Rejected Dealing Number: _____

YEC 8493630.1 Deed of
Copy - 02/03, Pgs - 015, 13/05/10, 13/59
Copies
(inc. original)
DocID: 212631702

Priority Order	CT Ref	Type of Instrument	Names of Parties	Document Fees	Resubmission	Notices	Priority Capture	FEES \$ GST INCLUSIVE
1	OTA2/1222 OT202/253	BY YEC	Commissioner of Crown Land / Davis & Wead	60.00				60.00
2								
3								
4								
5								



Land Information Services Ltd
 100, Victoria Street, Auckland
 Phone: 09 308 9000
 Fax: 09 308 9001
 GST Registration Number: 9222856

Amount due: 60.00

Original Signatures: _____

Less fees paid on Dealing # _____

Subtotal: \$60.00

Debit My Landonline account for
 (Only available for Landonline customers)
 or Cash / Cheque enclosed for
 or Eft-pos payment due for

Total for this dealing: \$60.00

(Eft-pos only available if lodging the dealing in person at a LINZ processing centre)

Execution Section

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

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

Witness

Occupation

Address

SIGNED for and on behalf of Lowburn Station Limited by two of its directors:

Director

Director
