

# **Tenure Review of the Twin Peaks Pastoral Lease – Substantive Proposal Document**



**August 2020**

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

Date: 24 June 2020

**Parties**

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**Holder:**

**Twin Peaks Station Limited**

C/- MW & BR Becker  
Twin Peaks Station  
890 Broken Hut Road  
Omarama  
Email: twinpeaks@netspeed.net.nz

**Holder's Solicitor:**

Heartland Law  
C/- Wayne van Vuuren  
First floor  
Ballantyne Building  
7 Canon Street  
PO Box 447  
Timaru 7910  
Email: wayne@heartlandlaw.co.nz

**Commissioner of Crown Lands:**

Land Information New Zealand  
Crown Property  
112 Tuam Street  
Private Bag 4721  
Christchurch 8140  
Email: [pastoral&tenurereview@linz.govt.nz](mailto:pastoral&tenurereview@linz.govt.nz)

**The Land**

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<b>Lease:</b>	Twin Peaks Station Limited
<b>Legal Description:</b>	Run 201G Ahuriri & Hawkdun Survey Districts
<b>Area:</b>	3532.9057 hectares
<b>Certificate of Title/Unique Identifier:</b>	OT386/94

**Summary of Designations**

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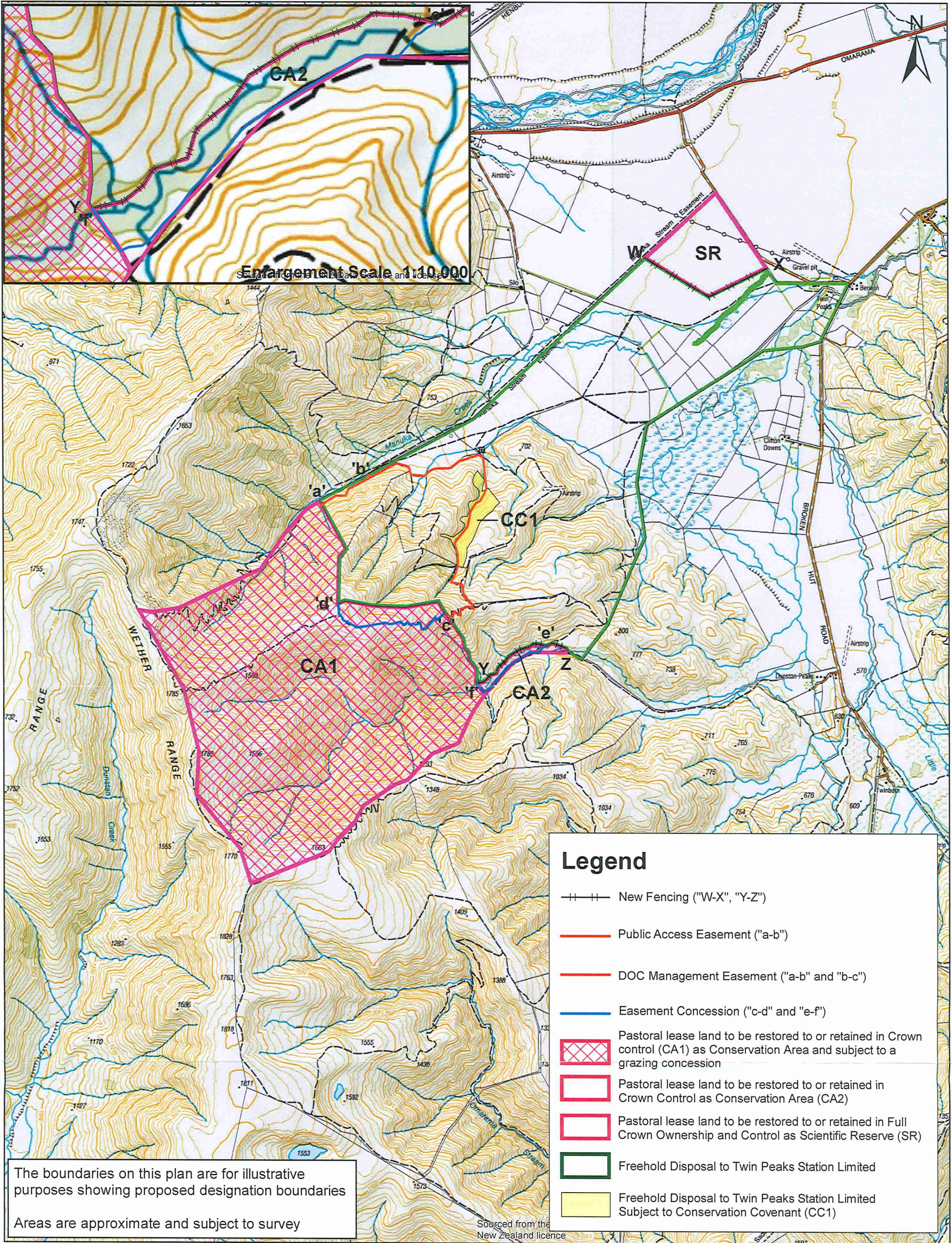
Under this Proposal, the Land is designated as follows:

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

# 1 The Plan

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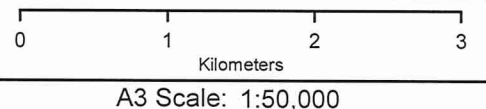
The boundaries on this plan are for illustrative purposes showing proposed designation boundaries  
Areas are approximate and subject to survey



VERSION CONTROL	11	12	13	14	15	16	17	18	19	20
OTAGO LAND DISTRICT Comprised in: CIR OT386/94 Sourced from Topographical maps Topo50 CA14 and CA15 Crown Copyright Reserved										
PREPARED BY	SM O'Brien					DATE	06/07/2018			

### Draft Substantive Proposal Proposed Designations

#### Twin Peaks Station



Handwritten initials and date: TB 11/11/18



## **2 Conditions**

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

## **3 Settlement**

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- 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) settle 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 Holder's Payment**

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- 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**

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- 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**

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

## **7 Issue of Certificate of Title**

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

## **8 Registration of Documents**

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- 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**

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- 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 and the Overseas Investment Regulations 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**

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- 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**

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- 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 Fences" W-X and Y-Z, and Fence entrance upgrade at Points 'a' & 'b' on the Plan; and
  - (b) to the specifications in Appendix 3;
- ("the Fencing").
- 11.2 If the Fencing requires 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**

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- 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**

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- 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**

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- 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**

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- 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 and the Resource Management Amendment Act 2005; and
    - (ii) any rule in any plan, resource consent or other requirement issued under the Resource Management Act 1991, and
    - (iii) the Building Act 2004 and the Building Amendment Act 2009; 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**

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- 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**

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- 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**

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- 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**

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- 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**

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- 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 10<sup>th</sup> 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 10<sup>th</sup> 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**

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- 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**

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- 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**

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- 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.



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**24 Recreation Permit**

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- 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.

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**25 Consents for Activities**

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- 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.

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**26 General**

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- 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 personal delivery, email or by post to the addressee at the 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 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
    - (ii) in the case of a letter, on the fifth working day after mailing (postage paid); and
    - (iii) in the case of an email, if the addressee has designated an information system for receiving emails, at the time the email first enters that information system, or in other situations, when the email comes to the attention of the addressee.



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:

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- (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 15<sup>th</sup> 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 the Resource Management Amendment Act 2005; 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) if the Holder comprises more than one person, each of those persons' obligations, as Holder, will be both joint and several.



## **Schedule One: Provisions relating to the Schedule One Land**

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### **1 Details of Designation**

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- 1.1 Under this Proposal the land shown edged in pink on the Plan and labelled "SR", being 140 hectares (approximately) is designated as land to be restored to or retained in full Crown ownership and control as Scientific Reserve.

### **2 Schedule One Improvements**

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Nil



## **Schedule Two: Provisions relating to the Schedule Two Land**

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### **1 Details of designation**

---

- 1.1 Under this Proposal the land shown crosshatched in pink on the Plan and labelled "CA1", being 1475 hectares (approximately) is designated as land to be restored to or retained in Crown control as conservation area subject to the:
- (a) granting of a grazing concession (shown crosshatched in pink and labelled "CA1" on the Plan) substantially as set out in Appendix 6.
  - (b) granting of an easement concession (marked as a blue line and labelled "c-d" on the Plan) substantially as set out in Appendix 7.
  - (c) an unregistered easement in gross in favour of the Airways Corporation of New Zealand for the purpose of establishing and maintaining a calibration beacon for a term of 18 years as set out in Appendix 8.
- 1.2 Under this Proposal the land shown edged in pink on the Plan and labelled "CA2", being 18 hectares (approximately) is designated as land to be restored to or retained in Crown control as conservation area subject to the:
- (a) granting of an easement concession (marked as a blue line and labelled "e-f" on the Plan) substantially as set out in Appendix 7.

### **2. Information Concerning Proposed Concessions**

---

- 2.1 A grazing concession under section 17Q(1) Conservation Act 1987 to Twin Peaks Station Limited for the grazing of up to 2000 ewes for up to 30 days in total within the period from 1 February to 30 April inclusive during each year of the term for a period of three years over the land shown shaded pink and labelled "CA1" being approximately 1475 hectares.
- 2.2 An easement concession under section 17Q(1) Conservation Act 1987 to Twin Peaks Station Limited being a right of way for farm management purposes on foot, on or accompanied by horses, by motor vehicles, with or without machinery and implements of any kind, and with or without domestic livestock, guns and farm dogs over the land marked as a blue line and labelled "c-d".
- 2.3 An easement concession under section 17Q(1) Conservation Act 1987 to Twin Peaks Station Limited being a right of way for farm management purposes on foot, on or accompanied by horses, by motor vehicles, with or without machinery and implements of any kind, and guns and farm dogs over the land marked as a blue line and labelled "e-f".



## **Schedule Three: Provisions relating to the Schedule Three Land**

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### **1 Details of designation**

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- 1.1 Under this Proposal the land shown edged in green on the Plan, being 1900 hectares (approximately), is designated as land to be disposed of by freehold disposal to the Holder subject to:
- (a) Part 4A of the Conservation Act 1987;
  - (b) Section 11 of the Crown Minerals Act 1991;
  - (c) the easements marked as an orange line and labelled "a-b" for the purposes of public access and DOC management, "b-c" for the purposes of DOC management, substantially as set out in Appendix 4; and
  - (d) the covenant shown on the Plan shaded yellow and labelled "CC1", substantially as set out in Appendix 5.
  - (e) an easement in gross in favour of the Airways Corporation of New Zealand for the purpose of access to maintain a calibration beacon for a term of 18 years as set out in Appendix 8.
- 

WB 



**Schedule Four: Conditions**

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Nil



## Appendix 1: Consents – Example of Mortgagee Consent

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[ ] 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

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[ ], 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

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### 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

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### Fenceline

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#### 1. New Fence Lines

The agreement between the Commissioner of Crown Lands (Commissioner) and the Directors of Twin Peaks Station Limited (the Holder) requires the erection of new fences on the boundaries of the Scientific Reserve marked "SR" between points "W – X" and Conservation Area marked "CA2" between points "Y – Z" on the attached plans.

#### 2. Length and Location

2.1 New fences are to be erected along the lines marked as follows on the plan:

- (a) Scientific Reserve "SR" – 640 Block. Erection of rabbit fencing shown marked "W-X" (approximately 2,040 metres).
- (b) Conservation area "CA2". Erection of standard fencing shown marked "Y-Z" (approximately 1,650 metres).

2.2 A minor upgrade of fencing is required at Points "a" and "b". At Point "a" requires the installation of a new gate and strainer along with upgrading approximately 30 metres of fencing from the gate along the boundary between CA1 and the freehold. At Point "b" requires the installation of a new gate and wooden fence to accommodate the gate.

#### 3. Specifications

##### 3.1 New Fence "W – X" – Scientific Reserve (SR)

- 2.1m x 175mm treated timber strainer posts for all end and Intermediate corner strainers. To be tied down.
- 2.4m x 125mm treated timber stay posts on all strainers.
- 1.8m x 125mm treated timber intermediate posts @ 20m max intervals.
- 1.5m steel Y-posts (2.0kg/m min weight) @ 6 per 20m.
- 1x 4.0mm bottom wire. To remain 100mm clear of ground.
- 6x 2.5mm H/T wires.
- Electric top wire with insulators on all Y-posts and wooden intermediate posts and all strainers to be "linked" to form continuous circuit using insulated under gate cable.
- "Bungy Cord" type electric wire to be pulled across steel gate to protect from stock damage when closed.
- 1x 4.2m economy style steel gate installed in new fence at "X".
- Gate to be swung to open fully and close firmly against opposite strainer post and secured shut with a wrap around type hook and chain.
- Maximum strain length 400m with wires tensioned to manufacturers specifications using permanent type strainers.
- 50 x 4mm barbed staples driven well in but to allow wires to run through.
- 1066mm x 40mm hex rabbit netting with 1.6mm galvanised wire clipped to fence with netting clips at 10 per sq/m. Netting will be on face of fence on freehold side with a "flap" of netting weighted down securely.
- No earthworks for line clearance required.

##### 3.2 New Fence "Y – Z" – Conservation Area (CA2)

- 2.1m x 175mm treated timber strainer posts, to be tied down.
- 2.4m x 125mm treated timber stay post.
- 1.5m Steel Y-post (min weight 2.0kg/m) 6 per 20m.



- 1.8m x 125mm treated timber intermediate posts on all high points at 20m max spacings.
- 1 x 4.00mm bottom wire to remain 100mm clear of ground.
- 5 x 2.5mm H/T wires.
- 1 x top barbed wire. 2.5mm 2 strand "Iowa" type reverse twist 150mm firmly laced on with 3.55mm wire.
- Tiebacks not allowed on freehold side of boundary.
- Tie down wire to be 4.0mm and remain clear of ground.
- Wires strained to manufacturers specifications with permanent type strainers with max strain length of 300m.
- 1 x 4.2m economy type steel gate erected across track at fence end "Y" and 1 x 4.2m economy type steel gate on track at creek crossing easement "e".
- Gates to be swung to open fully against fence and close to knock up firmly on opposite strainer and be secured closed with a wrap around type hook and chain.
- 50x40mm barbed staples to be driven well in but allow wires to run through.
- Major netting type flood gate required across creek toward fence end "Z".
- Flood gate to be constructed and operate independent to fence with netting swung off 4 x 4.00mm twisted wires secured to anchor points on both sides of creek above high water line to form a stock proof barrier.
- No earthworks required to establish fence line, although line clearance of vegetation will be required.

### **3.3 Upgrade Fencing at Point "a" and at Point "b"**

- 2.1m x 175mm treated timber strainer posts, to be tied down.
- 1 x 4.2m economy type steel gate erected across track at easement end Point "a".
- A timber panel type fence will be needed from the gate end to the Killermont boundary fence. Approximately 2 – 3 metres long, built of 5 x 150mm x 40mm rough sawn treated timber rails, secured to posts at 1.2m max centres with 100mm galvanised nails
- Gates to be swung to open fully against fence and close to Knock up firmly on opposite strainer and be secured closed with a wrap around type hook and chain.
- 1 x 4.2m economy type steel gate erected across track at easement end Point "b" with a timber panel type fence from the gate end to exist gate post to bridge the gap replacing the existing wooden gates. Timber panel consisting of 5 x 150mm x 40mm rough sawn treated timber rails, secured to posts at 1.2m max centres with 100mm galvanised nails.

## **4. Preliminary and General Matters**

### **4.1 New Materials**

All materials forming a permanent part of the fence shall be new, and shall conform to any relevant New Zealand or international standard.

### **4.2 Standards**

Materials forming a permanent part of the specified fence shall conform to the applicable standard. Such materials shall either identify the applicable standard on the label or certificate from the supplier or manufacturer shall be supplied stating the materials have been manufactured in a process that has been tested and which conforms to that standard.

Current standards that apply to fencing materials include but may not be limited to:

- 3471:1974 (NZS) Specifications for galvanized steel fencing wire plain and barbed.
- 3607:1989 (NZS) Specifications for round and part round timber fence posts.
- 3640:1992 (NZMP) Specifications of the minimum requirements of the NZ Timber Preservation Council Inc.

- D360:1986 (NZS/ASTM) Creosote Treatment
- 4534:1998 (AS/NZS) Zinc and zinc/aluminum alloy coating on steel wire.
- 4680:1999 (AS/NZS) Hot dip galvanized (zinc) coating on fabricated ferrous articles.

Where no applicable standard exists then materials shall be of best quality as generally accepted in the New Zealand farming and fencing industries.

Documentation would be required of:

- Manufacturers (or suppliers) warranties and test certificates where applicable.
- Guarantee certificates that transfer to the owners of the completed fences.
- Remedies available under the guarantee.
- Installation instructions for hardware where applicable to the warrantee and guarantee.

#### 4.3 Blasting

Any blasting required to loosen or remove rock shall be undertaken using electric detonators to reduce the risk of fire. Blasting should only be carried out by personnel experienced in determining the level of impact required to get posts in without any unnecessary peripheral damage. Blasting should meet the requirements of any rules setout in the District Plan of any Local Authority.

#### 4.4 Lacing

The top wire is to be laced to the top of the steel Y stake with 3.55 mm (nine gauge) wire, barbed wire with 3.55 mm. Only the barb is laced on. The 2.5mm plain wire is electrified, so will have insulators.

### 5. **Materials General** – To be used except where these have been specifically modified by the provisions of Clause 3 which shall take precedence.

#### 5.1 Wire

Fence wire will be 2.5mm galvanized high tensile steel wires and 4 mm galvanized mild steel wire all of which are to be of good quality. Tie-downs and tie-backs will be 4mm galvanized mild steel or 3.5mm stainless steel, kept clear of any ground contact.

#### 5.2 Netting for wing fences

Sheep netting, eight x 2.5 mm galvanized high tensile wires, 900 mm high netting with independent knots.

#### 5.3 Infill Posts

Infill posts will be steel Y stakes or treated timber posts on high spots. Y stakes to be minimum 2.0 kg per lineal metre.

#### 5.4 Strainer, Intermediate and Angle Posts

All timber posts used will be round and ground treated.

#### 5.5 Stay Block

300 x 50 x 600mm ground treated.



## 5.6 Staples

Staples will be 50mm x 4mm barbed galvanized steel.

## 5.7 Permanent Wire Strainers

Permanent wire strainers are to be of the yoke and reel type with a sprung loaded locking bar, or a type as agreed on site with the holder.

## 5.8 Gates

The swung gates shall be manufactured of 32 mm 2.6wt galvanized steel pipe frame, suitable braced to withstand normal pressure by beef cattle and fully covered with 50mm chain mesh manufactured from 3.15 mm gauge wire and attached with 2.24 mm galvanized lacing wire. Either side of gateways the first post should not be more than 10 metres distant and steel Y stakes at not more than 2 metres apart. Gates to be able to swing back onto the new fence so they can be tied open.

## 5.9 Gate Chains & Latches

Gate chains will be galvanized steel chain wrap around type with spring loaded hook type latches.

## 5.10 Gate gudgeons

Gudgeons are to be of galvanized steel. Top gudgeon is to be lock through type and the bottom gudgeon a bolt through type. Generally, both pins to be pointing upwards unless the gate fronts onto a road, and tie wired. All gudgeons to be bolt through type with bottom gudgeon to be a "long pin" and gate firmly secured to avoid being lifted off.

# 6. **Best Practice**

6.1 Best fencing practice must be adhered to on all occasions.

## 6.2 Strains

Length of strains to be determined by the territory but to not exceed 300 metres for high tensile and 250 metres for mild steel wire. To conform to best practice and, if applicable, the wire manufacturer's recommendations. Wire tension to account for weather conditions at time of strain and have regard to effect of winter conditions. Wire tension to average 110 kg force.

## 6.3 Placement of timber strainers, posts and stays

All strainers are to be driven where possible, or dug in and rammed and footed. Strainer, angle and intermediate posts are to have a minimum of 117 cm (46") out of the ground. Stays are to be 1/3-1/2 of the way up posts.

## 6.4 Placement of footer at strainers and angles

Strainers and angles will be footed using a wooden H4 treated cut off post with a minimum length of 350 mm rammed in beside the strainer or angle so that the foot is lying 200 mm up from the bottom of the hole at a 90 degree angle to the strainer or angle, and will be attached with 4 mm stainless steel wire and stapled to both the foot and the strainer or angle using 3 or more staples on both ends.

## 6.5 Placement of wires

Wires are to be located on the grazing side of the boundary, except where there is a high risk of snow damage where they shall be placed on leeward side away from the prevailing snow. The bottom wire is to be 100 -150 mm above the ground.

Post staples are to be driven well in but allow the wire to run through.

All wires are to be securely and neatly tied off and strained evenly. Figure 8 knots are to be used in all joins with electric wires to have an extra tie off in place after figure 8 ties.

#### 6.6 Gates

Gates must close against a post and be able to fully open back against the fence or as specified. Both gudgeons should be pointing upwards so that the gate can be lifted off if required, unless the gate fronts onto a road. Generally gates at the end of a new fence where it intersects and existing fence, should hang on a strainer on the new fence and close onto the existing fence post or strainer.

#### 6.7 Creek & River Crossings

Flood gates or sheep netting as specified to be hung and weighted and left to swing. Flood gates must be separately strained from the fence. Post and anchors to be located clear of eroding stream banks. Number of anchors to be appropriate for the size of the water way and floodgate.

#### 6.8 Tie Downs

Tie downs are to consist of half or full steel Y stakes according to conditions and the tie down is to be with 4mm wire (which is to remain above ground). If a post is a tie down, it is to be fixed to the Y stake by a 150mm x 6mm galvanized nail.

Anywhere that there is a 100 mm or more upward pull on the wires is to have a tie down placed.

#### 6.9 Tie backs

Tie backs can be used on angle posts or T irons and are not to be placed on the freehold side of the fence. There will be no tie backs on the fences on the bottom of any of the three front face blocks all angles are to be double stayed.

#### 6.10 T Irons

T irons may be used if it is not possible to drive posts. T irons may be used on all corners and on end of strains with tie-backs, except on gateways where conventional block and stays are to be used.

#### 6.11 Disposal of fencing waste backs

Fencing waste (including removal of old existing fences) is to be disposed of responsibly. If appropriate, fencing waste may be buried on site subject to consultation with the holder and Implementation Service Provider on behalf of the Commissioner and obtaining of any consent required for such earthworks. Fencing work cannot commence until the resource consent is received. Alternatively, waste is to be removed from site and recycled or disposed of at a suitable facility.

### **7. Resource Management Consents**

- 7.1 The construction of fencing is subject to the Commissioner obtaining any and all consents required pursuant to the Resource Management Act 1991.



**Appendix 4: Form of Minister of Conservation Management Purposes Easement in Gross and Public Access Easements to be created over that part of the Land shown labelled "a-b" and "b-c"**

---

See attached.

# **TRANSFER GRANT OF EASEMENT IN GROSS**

For Public Access and Management Purposes

**Land Transfer Act 1952**

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



# TRANSFER

Land Transfer Act 1952

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

Land Registration District

Otago

Certificate of Title No.

All or Part?

Area and legal description – *Insert only when part or Stratum, CT*

--	--	--

Transferor Surnames must be underlined

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

Transferee Surnames must be underlined

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

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

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

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 <b>BLOCK</b> letters (unless typewritten or legibly stamped)  Witness name  Occupation  Address
Signature, or common seal of Grantor	

(continued on page **xx** of Annexure Schedule)

Certified correct for the purposes of the Land Transfer Act 1952

DOCDM-1133092 – Public Access and Management Purposes Easement Template  
DOC-1381587 – Twin Peaks – Public Access and Management Purposes Easement

Solicitor for the Transferee

## Annexure Schedule

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

Transfer Easement

Dated

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### Definitions

1. In this transfer unless the context otherwise requires:

- 1.1 "Easement Area" means that part of the Servient Land being 10 metres wide which is marked "[a-b, b-c]" on Deposited Plan/S.O. Plan No [ ].
- 1.2 "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 Reserves Act 1977.
- 1.3 "Servient Land" means the land owned by the Grantor and described on page 1.
- 1.4 "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.
- 1.5 "Grantor" means the owner of the Servient Land described on page 1 and includes the Grantor's tenants and invitees.
- 1.6 "Working day" means the period between any one midnight and the next, excluding Saturdays, Sundays and statutory holidays in the place where the Servient Land is located.

### Standard Easement Terms

#### Access

2. The Grantee has the right in common with the Grantor:

- 2.1 To pass and re-pass at any time over and along that part of the Easement Area marked "a-b" on foot, on or accompanied by horses, or by non-motorised vehicle powered by a person or persons with or without guns.
- 2.2 To pass and re-pass at any time over and along that part of the Easement Area marked "a-b" and "b-c" on foot, or on or accompanied by horses, or by non-motorised vehicle, or by motor vehicle, with or without machinery and implements of any kind, with or without guns and accompanied by dogs, for Management Purposes.

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



## Annexure Schedule

Insert below

"Mortgage", "Transfer", "Lease", etc

Transfer Easement

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

### Exclusion of Schedules

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

### Term

5. The easement is to be in perpetuity.

### Temporary Closure of Easement Area

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

### Dispute Resolution

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

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

## Annexure Schedule

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

Transfer Easement

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### Notice

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

### Gates

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

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



## Annexure Schedule

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

Transfer Easement

Dated

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### Special Easement Terms

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

11. Members of the public may carry an unloaded firearm over the Easement Area, provided that person holds a hunting permit issued by the Director-General of Conservation for public conservation land to which the Easement Area provides access.
12. Members of the public may not take or be accompanied by a dog on the Easement Area.
13. If the Grantee (not being a member of the public) intends to use the Easement Area for management purposes while carrying guns or accompanied by dogs, all practical efforts will be taken to inform the Grantor in advance of the Grantee's intended use of the Easement Area with at least 24 hours notice to be given where this is possible. The Grantor may offer use of an alternative access route at that time which should be used if it enables more practical access than the easement route.
14. That part of the Easement Area labelled "b-c" may be closed by the Grantor between the dates of 1 October and 20 November inclusive for livestock management purposes only.
- 15.. If the Minister (not including members of the public) wishes to use that part of the Easement Area labelled "b-c" for management purposes during any closure in accordance with special condition 14, the Minister may request permission, and the Grantor shall reasonably consider such requests. The Minister shall request any such permission at least 24 hours before she wishes to use the Easement Area and comply with any reasonable requests the Grantor makes regarding the Minister's use. The Grantor may offer use of an alternative access route at that time which should be used if it enables more practical access than 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:

)  
)  
)  
)  
) \_\_\_\_\_

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

Name \_\_\_\_\_

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

DOCDM-1133092 – Public Access and Management Purposes Easement Template  
DOC-1381587 – Twin Peaks – Public Access and Management Purposes Easement

Jan 2013  
March 2020

## Annexure Schedule

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

Transfer Easement

Dated

Page  of  Pages

Address \_\_\_\_\_

Occupation \_\_\_\_\_

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

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

DOCDM-1133092 – Public Access and Management Purposes Easement Template  
DOC-1381587 – Twin Peaks – Public Access and Management Purposes Easement

Jan 2013  
March 2020



# TRANSFER GRANT OF EASEMENT IN GROSS

For Public Access and Management Purposes

**Land Transfer Act 1952**

Law Firm Acting

Solicitor  
Legal Services  
Department of Conservation  
Dunedin

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

## **Appendix 5: Form of Covenant to be Created**

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See attached.



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:**

- |                           |   |
|---------------------------|---|
| <b>"Act"</b>              | means the Reserves Act 1977.  |
| <b>"Covenant"</b>         | means this Deed of Covenant made under section 77 of the Act.             |
| <b>"Director-General"</b> | means the Director-General of Conservation.                               |
| <b>"Fence"</b>            | includes a gate.  |
| <b>"Fire Authority"</b>   | means a Fire Authority as defined in the Forest and Rural Fires Act 1977. |
| <b>"Land"</b>             | means the land described in Schedule 1.                                   |



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

1.2 For avoidance of doubt:

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

**2. OBJECTIVE OF THE COVENANT**

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

**3. THE OWNER’S OBLIGATIONS**

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

- 3.1.2 subject to clauses 3.2.1 and 3.2.3, felling, removal or damage of any tree, shrub or other plant;
- 3.1.3 the planting of any species of tree, shrub or other plant;
- 3.1.4 the erection of any Fence, building, structure or other improvement for any purpose;
- 3.1.5 any burning, chemical spraying, top dressing or sowing of seed;
- 3.1.6 any cultivation, earth works or other soil disturbances;
- 3.1.7 any archaeological or other scientific research involving disturbance of the soil;
- 3.1.8 the damming, diverting or taking of Natural Water;
- 3.1.9 any action which will cause deterioration in the natural flow, supply, quantity, or quality of water of any stream, river, lake, pond, marsh, or any other water resource affecting the Land;
- 3.1.10 any other activity which might have an adverse effect on the Values.
- 3.1.11 any prospecting or mining for Minerals, coal or other deposit or moving or removal of rock of any kind on or under the Land;
- 3.1.12 the erection of utility transmission lines across the Land.

3.2 The Owner must:

- 3.2.1 eradicate or control all weeds and pests on the Land to the extent required by any statute; and in particular comply with the provisions of, and any notices given under, the Biosecurity Act 1993;
- 3.2.2 if it is safe to do so, assist the Fire Authority to extinguish any wildfire upon or threatening the Land;
- 3.2.3 keep the Land free from exotic tree species;
- 3.2.4 keep the Land free from rubbish or other unsightly or offensive material arising from the Owner's use of the Land;
- 3.2.5 grant to the Minister or authorised agent of the Minister or any employee or contractor of the Director-General, a right of access at all times on and to the Land, with or without motor vehicles, machinery, and implements of any kind, for purposes associated with the management of this Covenant;
- 3.2.6 keep all Fences on the boundary of the Land in good order and condition and, notwithstanding clause 3.1.4, rebuild or replace all such Fences when reasonably required except as provided in clause 4.2.

**4. THE MINISTER'S OBLIGATIONS**

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



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

## **5. IMPLEMENTATION OF OBJECTIVES**

- 5.1 The Minister may;

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

## **6. DURATION OF COVENANT**

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

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

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

## **8. MISCELLANEOUS MATTERS**

### **8.1 Rights**

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

### **8.2 Trespass Act:**

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

### **8.3 Reserves Act**

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

#### **8.4 Titles**

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

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

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

#### **8.6 Fire**

- 8.6.1 The Owner must notify, as soon as practicable, Fire and Emergency New Zealand (FENZ) and the Minister in the event of wild fire threatening 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 in place between the Minister and FENZ an agreement 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

All that piece of land containing approximately 31 hectares shown as shaded yellow on the plan attached to the Proposal and labelled CC1.

### 2. Address for Service

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

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

Phone: (03) 477 0677

Email: [permissionsdunedin@doc.govt.nz](mailto:permissionsdunedin@doc.govt.nz)

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

Twin Peaks Station Limited  
Directors: MW & BR Becker  
Twin Peaks Station  
890 Broken Hut Road  
Omarama

Ph: (03) 438 9638

Email: [twinpeaks@netspeed.net.nz](mailto:twinpeaks@netspeed.net.nz)

Registered Office:

C/- ICL Limited

Level 1

69 Tarbert Street

Alexandra

Ph: (03) 440 0100

Email: [enquiries@iclca.co.nz](mailto:enquiries@iclca.co.nz)



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

**CC1 Part Ewe Block**

- The Land supports shrublands which include *Coprosma propinqua*, *Oleria odorata*, mountain wineberry (*Aristotelia fruiticosa*), porcupine shrub, *Carmichaelia petriei*, common broom (*Carmichaelia australis*), matagouri, tauhinau (*Cassinia leptophylla*), *Coprosma intertexta*, *Coprosma dumosa*, *Corokia cotoneaster*, *Oleria bullata*, *Hebe salicifolia* and *Hebe rakiensis*. Also present are the native vines - native jasmine (*Parsonsia capsularis* var. *rosea*), *Rubus schmidelioides*, *Clematis marata* and *Muehlenbeckia complexa*.
- The Land is visible from an important tourist highway and forms part of the enclosing ranges and backdrop to the Omarama Basin.
- The Land contributes to the ecosystem services of the area by including part of the catchment of an unnamed watercourse which is part of the watershed for Omarama Stream which provides opportunities for the protection of water quality and quantity for downstream uses.
- The Land contributes to carbon sequestration through natural regeneration of native plant communities.

## SCHEDULE 2

### Special Conditions

Notwithstanding the provisions of clause 3.1 the following special conditions apply to the Land:

1. Grazing of the Land by sheep and cattle only is permitted at any time.
2. Oversowing and topdressing is permitted on the Land except within a 20 metre margin of watercourses.
3. Routine maintenance of all existing tracks and fences within their existing alignment on the Land is permitted. Any maintenance undertaken outside the existing alignment or further upgrading of tracks and fences or new tracks and fences within the Land requires the prior written consent of the Minister.
4. Clearance of exotic weeds by the Owner using mechanical and chemical means is permitted on the Land.
5. Notwithstanding clause 3.2.5, the Owner will permit the Director-General's staff and contractors entry on and to the Land at all times for purposes associated with management of the Covenant **except** between the dates of 1 October and 20 November inclusive, provided the Owner considers closure of entry over this period is necessary for livestock management purposes. During this period, the Director-General's staff and contractors may request entry for management purposes, and the Owner shall give reasonable consideration to such requests.
6. Prior to accessing the Land reasonable efforts will be made by the Minister, the Minister's agent, or the Director-General's staff or contractor to give the Owner advance notice, with 24 hours' notice to be given where this is possible.
7. The Minister and the Owner may undertake a monitoring programme on the Land should the Minister consider this appropriate, as set out in Schedule 3. The purposes of the monitoring programme are to ensure the objective of the Covenant is met by preserving and maintaining the Values of the Land.



### **SCHEDULE 3**

#### **MONITORING PROGRAMME**

The Minister, as per special condition 7 may undertake the following monitoring programme on the Land.

**1. Responsibilities:**

A vegetation monitoring programme may be implemented by the Minister.

**2. Costs:**

The Minister is responsible for the costs of establishing the vegetation monitoring programme and first report. The Owner will be responsible for the cost of subsequent monitoring and report write up, provided that should any Department of Conservation staff member participate in subsequent monitoring, the Owner is not required to meet the costs of that staff member.

**3. Monitoring Methods:**

A series of general repeatable photo point sites will be established for vegetation monitoring. The purpose of these photo points is to detect deterioration of the shrublands being recorded as a consequence of sheep, cattle and feral animal impacts and other management practices.

The position, number of photo points and report format will be decided when the monitoring programme is implemented. The frequency of the monitoring will be, five yearly, unless agreed otherwise between the Owner and the Minister.

The Minister will have the discretion to require additional methods of monitoring to be used, at the Minister's expense, if results from photo points or observations are found to be unsuitable for measuring the Values being protected.

**4. Monitoring Results:**

- a) Following monitoring the results will be written up in a report, and will be discussed between the Owner and the Minister.
- b) If in the opinion of the Minister the results show there has been deterioration in the Values, the Minister will work with the Owner to assess whether any changes in the Owner's management of the Land (which may include changes in stocking, or fencing all or part of the Land) 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.

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 6: Form of Grazing Concession to be created**

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See attached.



**Concession Document (Grazing Licence)**

**THIS CONCESSION** is made this                      day of

**PARTIES:**

- 1. Minister of Conservation** (the Grantor)
- 2. Twin Peaks 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 Land is a Conservation Area or a Reserve under the management of the Grantor.
- C. 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).
- D. The Concessionaire wishes to carry out the Concession Activity on the Land subject to the terms and conditions of this Concession.
- E. The parties wish to record the terms and conditions of this Concession and its Schedules.

**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 a **GRAZING LICENCE** to carry out the Concession Activity on the Land subject to the terms and conditions contained in this Concession and its Schedules.

*mb*



<p>_____</p> <p>SIGNED on behalf of the Minister of Conservation by [insert name and title of delegate] acting under delegated authority</p> <p>in the presence of:</p> <p>_____</p> <p>Witness Signature</p> <p>Witness Name: _____</p> <p>Witness Occupation: _____</p> <p>Witness Address: _____</p> <p>A copy of the Instrument of Delegation may be inspected at the Director-General's office at 18-22 Manners Street, Wellington.</p>	<p>SIGNED by <b>Twin Peaks Station Limited</b> by:</p> <p></p> <p>Director: Mark Becker</p> <p></p> <p>Director: Bronwen Becker</p>
--	---

# **SCHEDULE 1**

1.	<b>Land</b> (Schedule 4)	As marked on the Proposed Designations plan attached in Schedule 4, being the area marked in pink and labelled CA1:  Physical description/ Common name:  Land Status:  Area: 1,475 hectares more or less  Legal description:
2.	<b>Concession Activity</b> (clause 2)	Grazing on the Land for up to 2,000 ewes for up to 30 days total within the period from 1 February to 30 April inclusive during each year of the term.
3.	<b>Term</b> (clause 3)	3 years commencing on the date that an approved plan is registered vesting the Land in the Crown as a conservation area (the commencement date).
4.	<b>Renewal(s)</b> (clause 3)	None.
5.	<b>Final Expiry Date</b> (clause 3)	The 3 <sup>rd</sup> anniversary of the commencement date.
6.	<b>Concession Fee</b> (clause 4 and Schedule 5)	<p><b>Concession Activity Fee</b></p> <p>An activity fee will be calculated on the basis of <del>\$5</del> <sup>\$10.00 PER</sup> ewe per annum plus GST for the ewes run on the Land during the permitted grazing period for that year.</p> <p>In order that the activity fee may be calculated, the Concessionaire will file a return of stock in the form in Schedule 5 to the Grantor by 30 June in each year showing the stock carried on the Land over the preceding 12 months.</p> <p>If a return is not made by this date, the activity fee will be charged assuming the maximum stock numbers had been run for the total permitted period.</p> <p><b>Annual Management Fee:</b> \$500 per annum plus GST</p> <p><b>Annual Environmental Monitoring Fee:</b> Not required</p>
7.	<b>Concession Fee Payment Instalments</b> (clause 4)	Annually
8.	<b>Concession Fee Payment Date(s)</b> (clause 4)	On or before the date specified on the invoice issued by the Grantor.
9.	<b>Penalty Interest Rate</b> (clause 4)	Double the current Official Cash Rate (OCR). <a href="#">See Reserve Bank of New Zealand website</a>
10.	<b>Concession Fee</b>	Not required



	<b>Review Date(s)</b> (clause 5)	
11.	<b>Health and Safety</b> (clause 12)	Safety Plan: Not required
12.	<b>Insurance</b> (To be obtained by Concessionaire) (clause 11)	Types and amounts: Public Liability Insurance for General indemnity for an amount no less than \$1,000,000.00; Subject to review on each Concession Fee Review Date
13.	<b>Addresses for Notices</b> (clause 21)	The Grantor's address is: Physical Address: Department of Conservation Level 1 John Wickliffe House 265 Princes Street Dunedin 9058  Postal Address: PO Box 5244 Moray Place Dunedin 9058  Phone: (03) 477 0677 Email: permissionsdunedin@doc.govt.nz
		The Concessionaire's address in New Zealand is: Twin Peaks Station Limited 890 Broken Hut Road Omarama 9412  Phone: (03) 438 9638 Email: twinpeaks@netspeed.net.nz

Note: The clause references are to the Minister of Conservation's Standard Terms and Conditions for Grazing Licences set out in Schedule 2.



## **SCHEDULE 2**

### **STANDARD TERMS AND CONDITIONS FOR GRAZING LICENCES**

#### **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.

**"Commencement date"** means the date that an approved plan is registered vesting the Land in the Crown as a conservation area.

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

**"Concession Activity"** means the activity described in Item 2 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

**"Land"** means the land described in Item 1 of Schedule 1.

**"Reserve"** has the same meaning as "reserve" in section 59A of the Reserves Act 1977.

**"Structure"** includes a bridge, a culvert, and a fence, but not a temporary electric fence.

**"Term"** means the period of time specified in Item 5 of Schedule 1 during which this Concession operates.

##### **1.2** The Concessionaire is responsible for the acts and omissions of its employees, contractors, agents, clients and invitees (excluding other members of the public accessing the Land). 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 Land), as if the breach had been committed by the Concessionaire.

#### **2. What is being authorised?**

##### **2.1** The Concessionaire is only allowed to use the Land for the Concession Activity.

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

##### **3.1** This Concession commences on the date set out in Item 3 of Schedule 1 and ends on the Final Expiry Date specified in Item 5 of Schedule 1.

##### **3.2** No renewals of this Concession are permitted.

#### **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 (which includes the Annual Activity Fees, the Management Fee,



and the Environmental Monitoring Fee) plus GST in the instalments and on the Concession Fee Payment Dates specified in Items 6, 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. When can the fees be reviewed?**

- 5.1 The Grantor is to review the Concession Fee on the Concession Fee Review Date stated in Item 10 of Schedule 1. The new Concession Fee is to be the market value of the Concession Activity carried out on the Land having regard to the matters set out in section 17Y(2) of the Conservation Act 1987.
- 5.2 Both parties are to agree on the new fee within 30 working days of the Grantor giving the Concessionaire written notice of the review.
- 5.3 If the parties cannot so agree then each party is to appoint a Registered Valuer who must meet and agree on the new fee. If the Registered Valuers fail to reach agreement the new fee is to be determined by an umpire appointed by the two Registered Valuers. Each party is to bear that party's own costs and half the costs of the umpire (if any).

**6. Are there any other charges?**

- 6.1 The Concessionaire must pay all levies rates and other charges, including utility charges payable in respect of the Land or for the services provided to the Land which relate to the Concessionaire's use of the Land 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.

**7. When can the Concession be assigned?**

- 7.1 The Concessionaire must not transfer, sub licence, assign, mortgage or otherwise dispose of the Concessionaire's interest under this Concession or any part of it (which includes the Concessionaire entering into a contract or any other arrangement whatsoever whereby the Concession Activity would be carried out by a person (called the assignee) other than the Concessionaire) without the prior written consent of the Grantor.
- 7.2 The Grantor may in the Grantor's discretion decline any application for consent under clause 7.1.
- 7.3 Sections 17P, 17S, 17T, 17U, 17W, 17X, 17ZB and 17ZC of the Conservation Act 1987 apply to applications for consent under this clause unless the Grantor, in the Grantor's discretion, decides otherwise.
- 7.4 If the Grantor gives consent under this clause then the Concessionaire remains liable to observe and perform the terms and conditions of this Concession throughout the



Term and is to procure from the Assignee a covenant to be bound by the terms and conditions of this Concession.

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

7.6 Any change in the shareholding of the Concessionaire altering the effective control of the Concessionaire is to be deemed to be an assignment and requires the consent of the Grantor.

## **8. What are the obligations to protect the environment?**

8.1 The Concessionaire must not cut down or damage any vegetation; or damage any natural feature or historic resource on the Land; or light any fire on the Land without the prior consent of the Grantor.

8.2 The Concessionaire must use and manage the Land in a good and husband like manner, and not impoverish or waste its soil.

8.3 The Concessionaire must keep the Land free from plant and animal pests and must comply with the Biosecurity Act 1993 and relevant pest management strategies.

8.4 The Concessionaire must not bury

(a) any toilet waste within 50 metres of a water source on the Land; or

(b) any animal or fish or any part thereof within 50 metres of any water body, water source or public road or track.

## **9. When can structures be erected?**

9.1 The Concessionaire must not place any Structure on the Land nor alter the Land without the prior written consent of the Grantor.

9.2 The Concessionaire must keep all Structures, gates, stiles, cattle stops drains and other physical improvements now or hereafter upon the Land, in good order, condition and repair and must keep the land in a clean and tidy condition and must not store hazardous materials on the Land, or store other materials on the Land where they may obstruct the public or create a nuisance.

9.3 Despite clause 9.1, where there are existing tracks on the Land, the Concessionaire may maintain these tracks within their existing alignment at its own cost, without obtaining the prior written consent of the Grantor.

## **10. What if the Concessionaire wishes to surrender the Concession?**

10.1 If the Concessionaire wishes to surrender this Concession during the currency of the Term, then the Grantor may accept that surrender on such conditions as the Grantor considers appropriate.

## **11. What are the liabilities and who insures?**

11.1 The Concessionaire agrees to use the Land 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 Land.

- 11.2 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.
- 11.3 This indemnity is to continue after the expiry or termination of this Concession in respect of any acts or omissions occurring or arising before its expiry or termination.
- 11.4 Without prejudice to or in any way limiting its liability under this clause 12 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 stated in Item 12 of Schedule 1 with a substantial and reputable insurer.
- 11.5 The Grantor may on each Concession Fee Review Date on giving 10 working day's notice to the Concessionaire alter the amounts of insurance required under clause 11.4. 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.
- 11.6 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.

## **12. What about Health and Safety?**

- 12.1 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 its safety plan (if one is required in Item 11 of Schedule 1), and with any safety directions of the Grantor.
- 12.2 Before commencing the Concession Activity, the Concessionaire must, if required by Item 11 of Schedule 1, prepare a safety plan;
- 12.3 The Grantor may at any time request the Concessionaire to provide the Grantor with a copy of the current safety plan in which case the Concessionaire must provide the copy within 10 working days of receiving the request.
- 12.4 The Concessionaire must notify the Grantor of any natural events or activities on the Land or surrounding area which may endanger the public or the environment.

## **13. What are the compliance obligations of the Concessionaire?**

- 13.1 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, National Parks Act 1980, Reserves Act 1977, or the Wildlife Act 1953, or management plan under section 45 of the National Parks Act 1980, whichever is appropriate to the 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, National Parks Act 1980, Wildlife Act 1953 and any other statute, ordinance, regulation, bylaw, or other enactment (collectively the "Legislation") affecting or relating to the Land or affecting or relating to the Concession Activity, including any regulations made under the Conservation Act 1987 and Wildlife Act 1953 or bylaws made under the Reserves Act 1977; and
- (c) with all notices and requisitions of any competent authority affecting or relating to the land or affecting or relating to the conduct of the Concession Activity.

13.2 The Concessionaire must comply with this Concession.

13.3 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 13.1 (a) is deemed to be a breach of this Concession.

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

#### 14. **When can the Concession be suspended?**

14.1 If, in the Grantor's opinion, there is a temporary risk to any natural or historic resource on or in the vicinity of the Land or to public safety whether arising from natural events such as earthquake, land slip, volcanic activity, flood, or arising in any other way, whether or not from any breach of the terms of this Concession on the part of the Concessionaire, then the Grantor may suspend this Concession.

14.2 If, in the Grantor's opinion, the activities of the Concessionaire is having or may have an adverse effect on the natural, historic or cultural values or resources of the Land and the Grantor considers that the effect can be avoided, remedied or mitigated to an extent satisfactory to the Grantor, then the Grantor may suspend this Concession until the Concessionaire avoids, remedies or mitigates the adverse effect to the Grantor's satisfaction.

14.3 The Grantor may suspend the Concession for such period as the Grantor determines where the Concessionaire has breached any terms of this Concession.

14.4 The Grantor may suspend this Concession while the Grantor investigates any of the circumstances contemplated in clauses 14.1 and 14.2 and also while the Grantor investigates any potential breach or possible offence by the Concessionaire, whether or not related to the Concession Activity under the Conservation Act 1987 or any of the Acts mentioned in the First Schedule of that Act.

14.5 The word "investigates" in clause 14.4 includes the laying of charges and awaiting the decision of the Court.

14.6 During any period of temporary suspension arising under clauses 14.1 or 14.2 the Concession Fee payable by the Concessionaire is to abate in fair proportion to the loss of use by the Concessionaire of the Land.

14.7 The Grantor is not to be liable to the Concessionaire for any loss sustained by the Concessionaire by reason of the suspension of the Concession under this clause 14 including loss of profits.

15. **When can the Concession be terminated?**

15.1 If:

(a) the Concessionaire breaches any of the conditions of this Concession; or

(b) the whole or any part of the Land is required for the Grantor's use

the Grantor may terminate this Concession at any time in respect of the whole or any part of the Land. Before so terminating the Grantor must give the Concessionaire either

(c) one calendar month's notice in writing; or

(d) such other time period which in the sole opinion of the Grantor appears reasonable and necessary

of the Grantor's intention to terminate this Concession. If this Concession is terminated then the Grantor, at the Grantor's sole discretion, may adjust the Concession Fee payable or refund any Concession Fee paid in advance.

16. **What are the Grantor's Rights to remedy defaults?**

16.1 The Grantor may choose to remedy at any time without notice 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.

17. **What happens on termination or expiry of the Concession?**

17.1 On expiry or termination of this Concession, either as to all or part of the Land, the Concessionaire is not entitled to compensation for any Structures or other improvements placed or carried out by the Concessionaire on the Land.

17.2 The Concessionaire may, with the Grantor's written consent, remove any specified Structures, gates, drains and other physical improvements erected or placed on the land by the Concessionaire on the Land. 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 Land in a clean and tidy condition.

17.3 The Concessionaire must, if the Grantor gives written notice, remove any specified Structures, gates, drains and other physical improvements on the Land. 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 Land in a clean and tidy condition.

18. **When is the Grantor's consent required?**



18.1 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. Any such consent or approval may be made on such conditions as the Grantor considers appropriate.

19. **Are there limitations on public access and closure?**

19.1 The Concessionaire acknowledges that the Land 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.

20. **How will disputes be resolved?**

20.1 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.

20.2 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 arbitration which arbitration is to be carried out in accordance with the provisions of the Arbitration Act 1996.

20.3 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.

20.4 The arbitrator must include in the arbitration award reasons for the determination.

20.5 Despite the existence of a dispute, each party must continue to perform its obligations under this Concession.

21. **How are notices sent and when are they received?**

21.1 Any notice to be given under this Concession is to be in writing and made by personal delivery, fax, by pre-paid post or email to the receiving party at the address, fax number or email address specified in Item 13 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 fax, on the date of dispatch;
- (c) in the case of post, on the 3rd working day after posting;
- (d) 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.

- 21.2 If either party's details stated out in Item 13 of Schedule 1 change then the party whose details change must within 5 working days of such change provide the other party with the changed details.

**22. What about the payment of costs?**

- 22.1 The Concessionaire must pay the Grantor's legal costs and expenses of and incidental to preparing and signing any variation of this Concession.

- 22.2 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. This includes the right to recover outstanding money owed to the Grantor.

**23. When can the conditions of the Concession be varied?**

- 23.1 The Grantor may on each Concession Fee Review Date, after first consulting with the Concessionaire, vary any condition of this Concession to make the condition more effective in addressing any adverse effects resulting from the Concession Activity.

- 23.2 Nothing in clause 23.1 otherwise affects the Grantor's rights to vary the Concession under section 17ZC of the Conservation Act 1987.

**24. What are the Special Conditions?**

- 24.1 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.

**25. The Law**

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



### SCHEDULE 3 - SPECIAL CONDITIONS

1.	Stocking rate	The stocking rate must not to exceed 0.1 stock units per hectare per year.
2.	Stock matters	<p>The Concessionaire must monitor stock at regular intervals to ensure that:</p> <ul style="list-style-type: none"> <li>(a) they are contained within the Land; and</li> <li>(b) there is sufficient feed available on the Land to discourage stock from grazing other land administered by the Grantor and not part of this Concession; and</li> <li>(c) they do not graze to a level resulting in damage to, or pugging of, the Land.</li> </ul> <p>The Concessionaire must not develop wintering pads, stand-off pads or silage pits on the Land.</p> <p>The Concessionaire must not graze, nor permit to be grazed on the Land, any stock, which the Concessionaire knows or ought to have reasonably known, would be dangerous to any person entering the Land.</p>
3.	Farm vehicles	The Concessionaire may use farm vehicles for the purposes of the Concession Activity and for pest management on existing formed tracks on the Land.
4.	Firearms	The Concessionaire may not use firearms.
5.	Dogs and horses	The Concessionaire may use dogs and horses on the Land for the purposes of the Concession Activity.
6.	Fencing	The Concessionaire must at its cost ensure that stock is adequately contained within the land.
7.	Gates	The Concessionaire may lock any gates located on the Land. Where gates are to be so locked the Concessionaire must give the Grantor a key so where necessary the Grantor can unlock the gates. Where any gate is so locked the Grantor may require the Concessionaire to erect a stile near the locked gate.
8.	Adverse effects	If, in the opinion of the Grantor, the Concession Activity is having or may have an adverse effect on the Land or adjoining bush or riparian margins administered by the Grantor, the Grantor may require the Concessionaire to comply with all reasonable notices and directions by the Grantor concerning the activities conducted by the Concessionaire including but not limited to notices or directions regarding the numbers of stock that may be grazed on the Land or any part of the Land. The Grantor, at the sole discretion of the Grantor, may adjust the Concession Fee payable or refund any Concession Fee paid in advance.
9.	Changes in Concessionaire's shareholding	Notwithstanding clause 7.6 in Schedule 2, where any change in the shareholding of the Concessionaire involves the same shareholders or immediate family members of the shareholders in the Concessionaire, the Grantor's consent is not required.

## **SCHEDULE 4**

Plan or map – *Insert Designations Plan*

DocDM-1128894 – Concessions Contract – Grazing Licence – Tenure Review template.final  
Twin Peaks - Grazing licence - Tenure review - DOC-2646089

Jan 2013  
Nov 2017



## SCHEDULE 5

### Activity Return

Numbers	Date stock placed on Land	Date stock removed from land	Total days Land grazed (not exceeding 30 days)	Price per stock unit per annum	Total annual activity fee

**Appendix 7: Form of Easement Concessions to be created.**

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See attached.





**Concession Document (Easement)**

**THIS CONCESSION** is made this                      day of

**PARTIES:**

- 1. Minister of Conservation** (the Grantor)
- 2. Twin Peaks 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 Servient 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 Dominant 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 Dominant Land over that part of the Servient 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 Dominant 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>_____</p> <p>SIGNED on behalf of the Minister of Conservation by [insert name and title of delegate] acting under delegated authority</p> <p>in the presence of:</p> <p>_____</p> <p>Witness Signature</p> <p>Witness Name: _____</p> <p>Witness Occupation: _____</p> <p>Witness Address: _____</p> <p>A copy of the Instrument of Delegation may be inspected at the Director-General's office at 18-22 Manners Street, Wellington.</p>	<p>SIGNED by <b>Twin Peaks Station Limited</b> by:</p> <p>_____</p> <p>Director: Mark Becker</p> <p>_____</p> <p>Director: Bronwen Becker</p>
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## SCHEDULE 1

<b>1.</b>	<b>Servient Land</b> (Schedule 4)	As marked on the Proposed Designations plan attached in Schedule 4 being the area marked in pink and labelled CA1 and CA2:  <i>Physical Description/Common Name:</i> <i>Land Status:</i> <i>Area: 1,475 hectares more or less</i> <i>Legal Description:</i>
<b>2.</b>	<b>Dominant Land</b> (Schedule 4)	As marked on the Proposed Designations plan in Schedule 4 being the area outlined in green:  <i>Physical Description/Common Name:</i> <i>Land Status:</i> <i>Area:</i> <i>Legal Description:</i>
<b>3.</b>	<b>Easement Area</b> (Schedule 4)	As marked on the Proposed Designations Plan attached in Schedule 4 being the land between the points shown as "c-d" and "e-f" being 10 metres wide.  <i>Legal Description:</i>
<b>4.</b>	<b>Concession Activity</b> (clause 2)	(a) a right of way:  <b>"c-d": for farm management purposes only</b> for the Concessionaire (including the Concessionaire's tenants and contractors) on foot, on or accompanied by horses, by motor vehicles, with or without machinery and implements of any kind, and with or without domestic livestock, guns and farm dogs.  <b>"e-f": for farm management purposes only precluding stock access</b> , for the Concessionaire (including the Concessionaire's tenants and contractors) on foot, on or accompanied by horses, by motor vehicles, with or without machinery and implements of any kind, guns and farm dogs.
<b>5.</b>	<b>Term</b> (clause 3)	In perpetuity commencing on the date (the commencement date) that an approved plan is registered vesting the Land in the Crown as a conservation area [insert date]: _____
<b>6.</b>	<b>Final Expiry Date</b> (clause 3)	Not Applicable
<b>7.</b>	<b>Concession Fee</b> (clause 4)	A one-off fee has (in effect) been accounted for on behalf of the Grantor as part of the substantive proposal put by the Commissioner of Crown Lands and accepted by the Concessionaire on [date] and for which an approved plan

		has been registered pursuant to section 65 of the Crown Pastoral Land Act 1998.
<b>8.</b>	<b>Concession Fee Payment Date</b> (clause 4)	Not Applicable – see item 7 above.
<b>9.</b>	<b>Penalty Interest Rate</b> (clause 4)	Double the current Official Cash Rate (OCR). <a href="#">See Reserve Bank of New Zealand website</a>
<b>10.</b>	<b>Insurance</b> (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)
<b>11.</b>	<b>Addresses for Notices</b> (clause 19)	The Grantor's address is: Physical Address: Department of Conservation Level 1 John Wickliffe House 265 Princes Street Dunedin 9058  Postal Address: PO Box 5244 Moray Place Dunedin 9058  Phone: (03) 477 0677 Email: permissionsdunedin@doc.govt.nz
		The Concessionaire's address in New Zealand is: Twin Peaks Station Limited 890 Broken Hut Road Omarama 9412  Phone: (03) 438 9638 Email: twinpeaks@netspeed.net.nz

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



## 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.

**"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 Dominant 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.

**"Dominant Land"** means the land specified in Item 2 of Schedule 1.

**"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 Servient Land specified in Item 3 of Schedule 1.

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

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

**"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 Land). 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 Land), 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 Land or for the services provided to the Easement Land which relate to the Concessionaire's use of the Easement Land 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 Land.
- 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 Land 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 Servient 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 Servient 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 Servient 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 Servient 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 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 Land.
- 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, Servient Land and other public conservation land affected by the removal in a clean and tidy condition, and replant the Servient 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 3<sup>rd</sup> 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 5<sup>th</sup> Schedule to the Property Law Act 2007 and the Fourth Schedule to the Land Transfer Regulations 2002 (as set out in Schedule 5 of this Concession) apply to this easement **EXCEPT** to the extent set out in Schedule 3 of this Concession.

**21. What about Co-Siting?**

21.1 In this clause "Co-Site" means the use of the Concessionaire's structures or facilities on the Easement Area by a third party for an activity; and "Co-Sitee" and "Co-Siting" have corresponding meanings.

21.2 The Concessionaire must not allow Co-Siting on the Easement Area without the prior written consent of the Grantor.

21.3 The Grantor's consent must not be unreasonably withheld but is at the Grantor's sole discretion and subject to such reasonable terms and conditions as the Grantor thinks fit including a requirement that the Co-Sitee be liable for direct payment to the Grantor of a concession fee and any environmental premium assessed in respect of the Co-Sitee's activity on the Easement Area.

21.4 In addition, the Grantor must withhold consent if:

- (a) the Co-Siting would result in a substantial change to the Concession Activity on the Easement Area; or
- (b) the Grantor considers the change to be detrimental to the environment of the Easement Area.

21.5 Subject to clause 21.4 the Concessionaire must, if required by the Grantor, allow Co-Siting on the Easement Area.



- 21.6 Where the Concessionaire maintains that Co-Siting by a third party on the Easement Land 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 implied in easements of vehicular right of way in the 5<sup>th</sup> Schedule of the Property Law Act 2007 as set out in Schedule 5 of this document are amended by:
  - (a) replacing the word, "grantee" with "Concessionaire"; and
  - (b) adding to Clause 2(a) the words, "after first obtaining the prior consent of the Grantor as required in clauses 7 and 8 of Schedule 2 of this easement.
2. The Concessionaire has the right to repair and maintain any formed track(s) on their existing alignment, including the right to enter the Servient Land with or without machinery as necessary.

## **SCHEDULE 4**

### **Proposed Designations Plan**



## **SCHEDULE 5**

### **RIGHTS AND POWERS IMPLIED IN EASEMENTS**

#### **A. FIFTH SCHEDULE PROPERTY LAW ACT 2007**

##### **Rights implied in easements of vehicular right of way**

###### **1. Right to pass and re-pass**

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

###### **2. Right to establish and maintain driveway**

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

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

###### **3. Right to have land restored after completion of work**

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

## **B. LAND TRANSFER REGULATIONS 2002**

### **1. Interpretation**

In this schedule, unless the context requires otherwise,—

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

**easement facility**,—

- (a) deleted:
- (b) deleted:
- (c) in relation to a right of way, means that part of the surface of the land described as the stipulated area:
- (d) deleted:
- (e) deleted:
- (f) deleted:

**grantee**, in relation to an easement,—

- (a) means—
  - (i) the registered proprietor of the dominant land; or
  - (ii) the person having the benefit of an easement in gross; andincludes the agents, employees, contractors, tenants, licensees, and other invitees of the grantee

**grantor**, in relation to an easement,—

- (a) means the registered proprietor of the servient land; and
- (b) includes the agents, employees, contractors, tenants, licensees, and other invitees of the grantor

**servient land**, in relation to an easement, means—

- (a) the parcel of land over which an easement is registered and that is described by reference to the register in a transfer instrument, easement instrument, or deposit document:
- (b) a stipulated course or stipulated area

**stipulated course or stipulated area**, in relation to any of the classes of easements referred to in these regulations, means the course that—

- (a) is shown on a plan prepared for the purpose of specifying the easement; and
- (b) is referred to in a transfer instrument, easement instrument, or deposit document.

### **2. Classes of easements**



For the purposes of regulation 10(a), 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 and computer media:
- (g) a right to convey gas.

### **Rights and powers implied in easements granting certain rights**

#### **3. Right to convey water**

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

#### **4. Right to drain water**

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

#### **5. Right to drain sewage**

5(1) to 5(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 servient land is rural land) farm animal.
- 3. A right of way includes—
  - (a) the right to establish a driveway, to repair and maintain an existing driveway, and (if necessary for any of those purposes) to alter the state of the land over which the easement is granted; and
  - (b) the right to have the easement facility kept clear at all times of obstructions (whether caused by parked vehicles, deposit of materials, or unreasonable impediment) to the use and enjoyment of the driveway.

#### **7. Right to convey electricity**

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

#### **8. Right to convey telecommunications and computer media**

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

**9. Right to convey gas**

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

**Rights and powers implied in all classes of easements**

**10. General rights**

1. All the easements referred to in this schedule include—
  - (a) the right to use any easement facility already situated on the stipulated area or course for the purpose of the easement granted; and
  - (b) if no suitable easement facility exists, the right to lay, install, and construct an easement facility reasonably required by the grantee (including the right to excavate land for the purpose of that construction).
2. The grantor must not do and must not allow to be done on the servient land anything that may interfere with or restrict the rights of any other party or interfere with the efficient operation of the easement facility.
3. the grantee must not do and must not allow to be done on the dominant land or the servient land anything that may interfere with or restrict the rights of any other party or interfere with the efficient operation of the easement facility.

**11. Repair, maintenance, and costs**

1. If the grantee (or grantees, if more than 1) has (or 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 servient land.
4. The parties responsible for maintenance under subclause (1) or subclause (2) (as the case may be) must meet any associated requirements of the relevant local authority.

**12. Rights of entry**

1. For the purpose of performing any duty or in the exercise of any rights conferred under these regulations or implied in any easement, the grantee may—
  - (a) enter upon the servient land by a reasonable route and with all necessary tools, vehicles, and equipment; and
  - (b) remain on the servient land for a reasonable time for the sole purpose of completing the necessary work; and
  - (c) leave any vehicles or equipment on the servient land for a reasonable time if work is proceeding.
2. The grantee must ensure that as little damage or disturbance as possible is caused to the servient land or to the grantor.



3. The grantee must ensure that all work is performed in a proper and workmanlike manner.
4. The grantee must ensure that all work is completed promptly.
5. The grantee must immediately make good any damage done to the servient land by restoring the surface of the land as nearly as possible to its former condition.
6. The grantee must compensate the grantor for all damages caused by the work to any crop (whether ready for harvest or not) or to any buildings, erections, or fences on the servient land.

**13. Default**

Deleted.

**14. Disputes**

Deleted.

**Appendix 8: Unregistered Easement in Gross in favour of the Airways Corporation of New Zealand.**

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See attached.



## GRANT OF EASEMENT

DATED

PARTIES

1. THE COMMISSIONER OF CROWN LANDS  
at Wellington ("the Grantor").
2. AIRWAYS CORPORATION OF NEW ZEALAND LIMITED at  
Wellington [hereinafter with successors and permitted assigns] ("the  
Grantee").

### BACKGROUND

- A. The Grantee wishes to establish a calibration beacon as part of a  
multilateration surveillance system supporting the New Zealand air  
navigation network ("the Purpose").
- B. The Grantor has agreed to grant to the Grantee an easement over the  
Grantor's land (as set out in the First Schedule) "the Servient 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)

"Deed" means this deed, the background and the schedules.

"Easement Land" means the area of the Grantor's Land delineated in the  
plan in the Second Schedule within which the Grantee may exercise the  
rights granted by this Deed;

"Grantee" includes the Grantee's servants, agents, employees, workers,  
invitees, licences and contractors.

"Lessee" means the lessee in CIR OT386/94.

- 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, for a term of 18 years, commencing on 1 April 2013 and expiring on 31 March 2031 the following easement:-
- 2.1.1 The right to from time to time and at all times to establish, operate, maintain, repair, replace and/or upgrade equipment at the site in accordance with the Purpose.
- 2.1.2 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 the Easement Land 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.
- 2.1.3 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 one-off payment of \$500 (plus GST if any).
- 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.
- 



**5. PAYMENT OF COMPENSATION TO LESSEES**

- 5.1 The Grantee has entered into an agreement with the Lessees (attached as the Third Schedule) recording receipt by the Lessees of a payment by the Grantee.

**6. OBLIGATIONS OF THE GRANTEE**

- 6.1 The Grantee shall when on the Grantor's Land (subject to clause 2.1.2):
- 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.
- 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 its 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 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 or the Lessee, or any agents, employees and contractors of the Grantor 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 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.

## **7. OWNERSHIP OF STRUCTURES**

7.1 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.

7.2 The Grantee will, on the expiry of the term granted or sooner determination of the rights created by this Deed, remove all structures, lines and works from the Easement Land within one month and will restore the Grantor's Land to the condition that it was in at the commencement of this Deed.

7.3 If the Grantee has not taken the steps set out in clause 8.2 within the specified time frame, the Grantor may remove all structures, lines and works 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 of this Deed and recover all costs incurred from the Grantee.

## **8. COSTS**


8.1 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.

8.2 The Grantee shall be solely responsible for the registration (if any) of this Deed and any associated costs.

8.3 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.

## **9. INDEMNITY**

9.1 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 as a result of any breach by the Grantee of its obligations, undertakings or warranties contained or implied in this Deed.





**10. GRANTOR'S LIABILITY EXCLUDED**

- 10.1 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.


**11. TERMINATION**

- 11.1 The Grantor may terminate the rights and obligations 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.
- 11.2 If the breach remains unrectified (or is unable to be rectified) then termination must be by written notice from the Grantor.
- 11.3 The Grantee may terminate the rights and obligations created by this Deed upon 12 months written notice to the Grantor.
- 11.4 Upon Termination (for whatever reason) of the grant of easement evidence 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.
- 11.5 Upon termination the Grantee shall formally surrender the rights under this Deed and surrender the grant of easement.

**12. ASSIGNMENT**

- 12.1 The Grantee may not transfer, lease, assign or licence all or any part of its interest in the Easement Land, and/or the rights in this Deed or any parts of those rights without the prior written consent of the Grantor. Any such transfer, lease, assignment or licence shall be subject to the rights and obligations set out in this Deed.

**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 District Law Society in which the Grantor's Land is situated. Such arbitration shall be determined in accordance with the Arbitration Act 1996, excluding the second schedule thereof, and the parties' execution of this Deed shall be deemed to be a submission to arbitration **PROVIDED THAT** this clause shall be subject in all respects to the provisions of section 17 of the Land Act 1948.

#### 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 address 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 3 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.

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

**SIGNED** by the Commissioner of  
Crown Lands as Grantor  
in the presence of:



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

**David Rhodes** (Team Manager Pastoral)  
Land Information New Zealand  
Under delegated authority of the  
Commissioner of Crown Lands.

*Jeremy Severin*  
*Portfolio Manager*



**SIGNED** by  
Airways Corporation of New Zealand Ltd  
as Grantee in the presence of:

Witness:

Occupation:

Address:

*Rex Wilson*  
*Comms & Surveillance Engineer*  
*26 Sir William Pickering Drive*  
*Russley*  
*Christchurch*

**FIRST SCHEDULE**

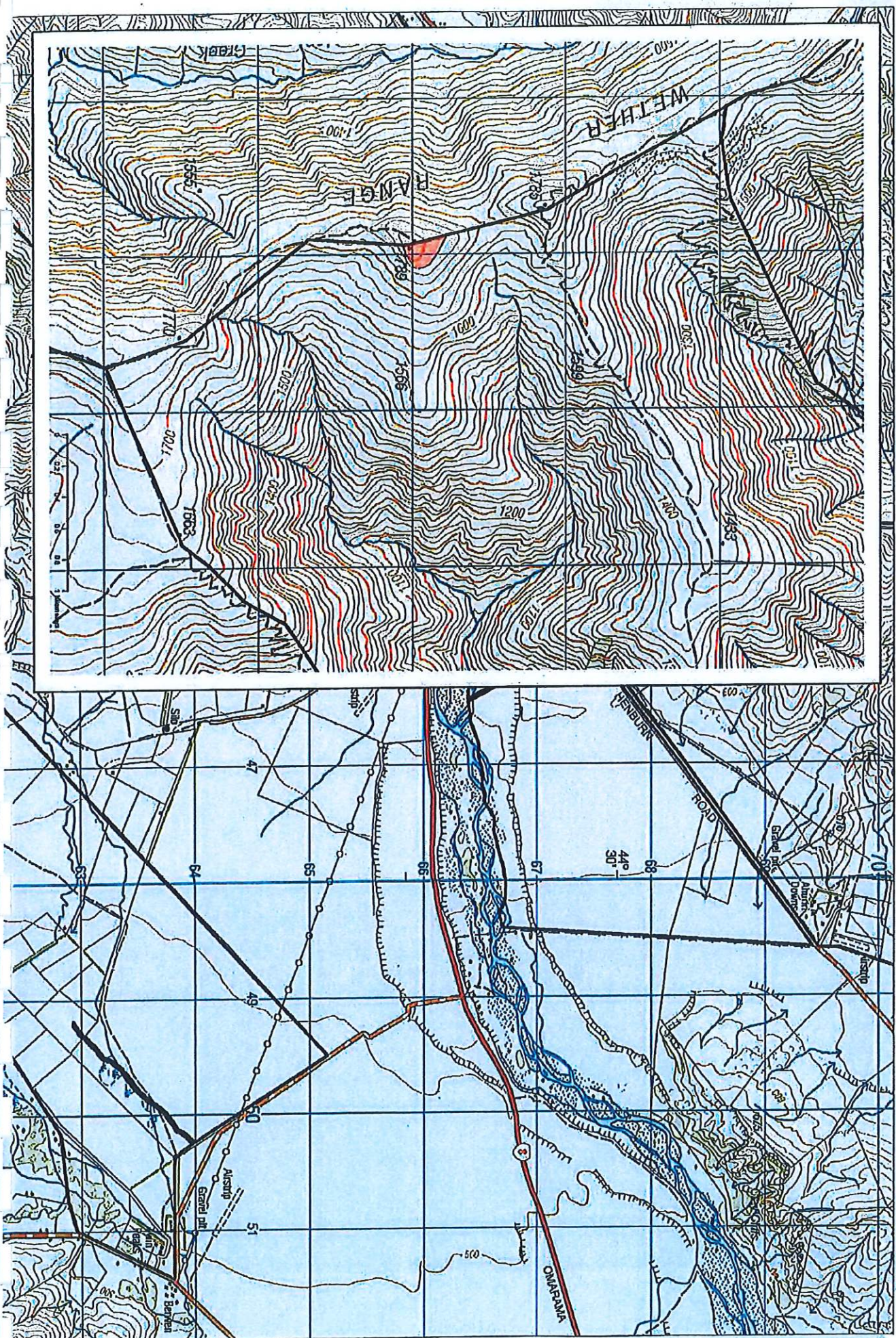
1. **GRANTOR'S LAND**  
All of the land described as Run 201G and contained in CIR OT386/94.
2. **GRANTOR'S ADDRESS**  
ICL Limited  
Level 1  
69 Tarbert Street  
Alexandra 9320
3. **GRANTEE'S ADDRESS**  
Level 26, Majestic Centre  
100 Willis Street  
Wellington



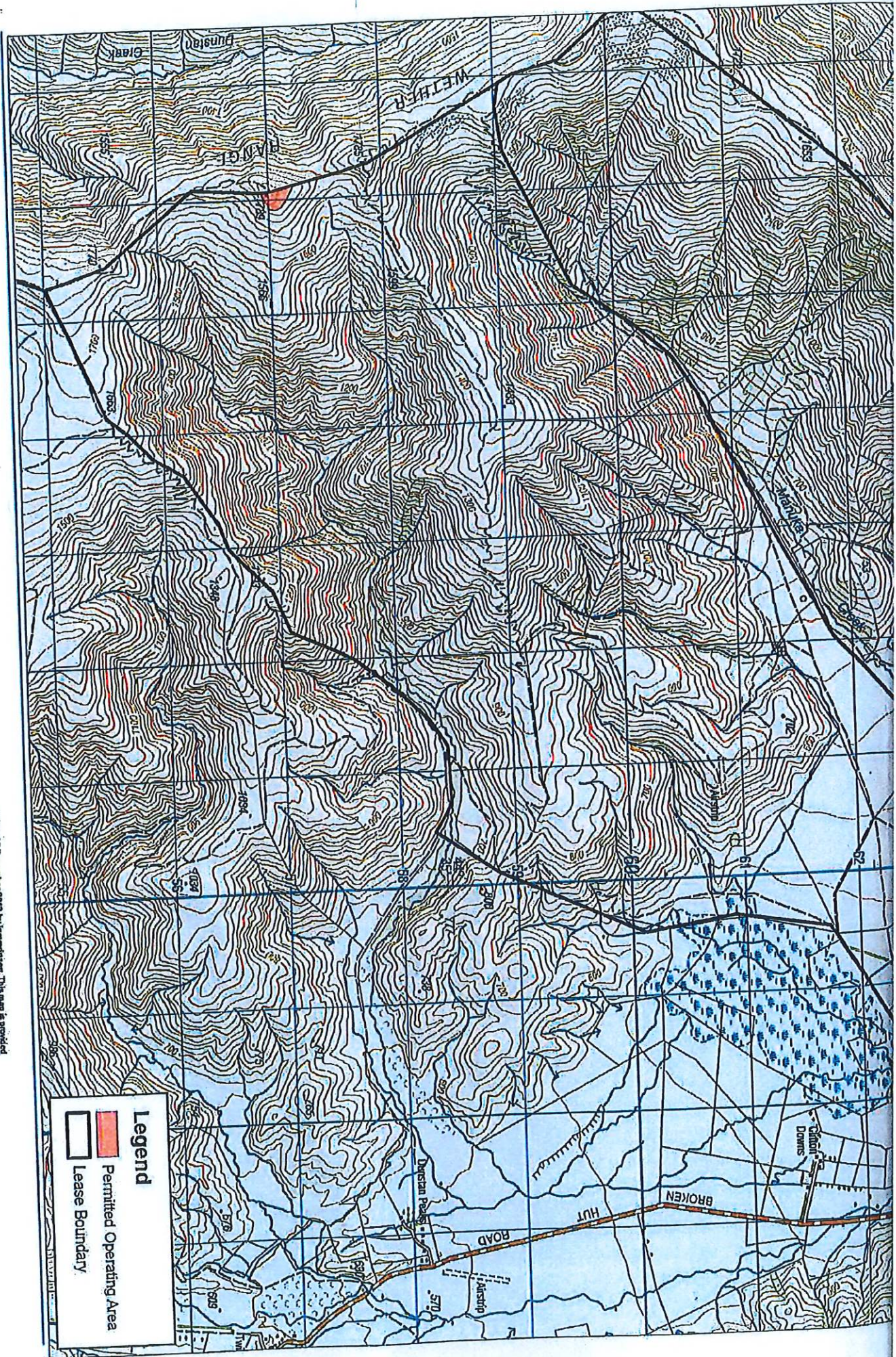
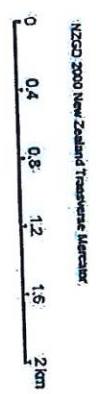


**SECOND SCHEDULE****EASEMENT LAND**A handwritten signature in blue ink, located in the bottom right corner of the page. The signature is stylized and appears to be a single name.









**Legend**

- Permitted Operating Area
- Lease Boundary

Printed 3 December 2013 by JervisTerra. This map is provided for informational purposes only. Pastoral lease areas are indicative only. Any person wishing to rely on this map should consult the primary data source to ascertain the suitability and reliability of the information.



**THIRD SCHEDULE****AGREEMENT WITH LESSEES**



# CHECKETTS McKAY LAW

Central Otago

22 April 2013

Checketts McKay Law Limited  
35 The Mall  
PO Box 184, Cromwell 9342

Maxine Knowler Phone: 03 445 9244  
Fax: 03 445 1650

[www.cmlaw.co.nz](http://www.cmlaw.co.nz)

BNZ 02 0916 0007675 00  
GST 101-259-315

Also practising at Alexandra  
and Wanaka

Airways Corporation  
P O Box 14131,  
**CHRISTCHURCH**

Attention: Rex Wilson

Dear Rex

**RE: TWIN PEAKS STATION LIMITED**

Following our recent exchanges (Maxine/Rex) we enclose herewith the agreement (original in duplicate) between Twin Peaks Station Limited and Airways Corporation of New Zealand Limited amended as requested.

We confirm your advice that any costs whatsoever incurred by the owners of Twin Peaks Station Limited in respect to the installation of the aerial on their land will be met by Airways Corporation of NZ Ltd. We note that our clients were anxious that should they incur additional rating charges from the local territorial authority or any other incidental costs due to the installation of the aerial, those costs will be paid by you.

We confirm further that we have amended the map reference to read NZ Topo 50 Reference CA14 420 572.

We look forward to receiving our client's signed copy of the agreement, together with payment of our costs as per the invoice included.

Yours faithfully  
**CHECKETTS McKAY**

  
**Maxine L Knowler**  
Director

MLK:AMC

E-mail to [maxine@cmlaw.co.nz](mailto:maxine@cmlaw.co.nz)

Copy to: Brendon Hill Consulting Limited  
P O Box 29-353  
Fendalton  
**CHRISTCHURCH 8540**

W:\1 Maree\Twin Peaks Station Ltd\Rebank Finance\Mr Brendon Hill Consulting 18.4.13.doc



**TWIN PEAKS STATION**

~~(NZMS 260 H40 517 195)~~

NZ Topo 50 CA114 420 572.

AGREEMENT made this 15<sup>th</sup> day of April 2013.

**BETWEEN** **TWIN PEAKS STATION LIMITED** of L1, 69 Tarbert Street,  
Alexandra "The Owner"

**AND** **AIRWAYS CORPORATION OF NEW ZEALAND LIMITED** of  
L26, 100 Willis Street, Wellington "Airways"

**THE PARTIES AGREE**

1. In consideration of the sum of two thousand Five hundred dollars (\$2,500.00) plus GST, paid annually in advance by Airways to the Owner (the **Annual Rent**), the Owner hereby agrees to allow Airways to enter upon the property situated at Twin Peaks Station, 890 Broken Hut Road, Omarama (described as Run 201G contained in Certificate of Title reference OT386/94) (the **Land**) to:
  - a) erect an aerial on the Land for the purpose of establishing and maintaining an air traffic control surveillance system (as outlined on the attached plans) including a radio communications station and any related structures or services required to operate the aerial (the **Equipment**); and
  - b) access the Land to inspect, repair, maintain, upgrade or replace the Equipment from time to time as required.
2. This Licence will operate for an initial term of nine (9) years commencing on 1 April 2013 (**Commencement Date**) with a right of renewal for a further term of nine (9) years on substantially the same terms as contained in this agreement subject to a new market rental to be agreed.
3. On every anniversary of the Commencement Date the Owner may adjust the Annual Rent in accordance with the movement of the Consumer Price Index (All Groups) published by Statistics New Zealand or other governmental agency.
4. Airways will make reasonable endeavours to give the Owner 24 hours notice prior to accessing the Land for purposes consistent with the terms of this Licence but will be entitled to access the Land if such attempt to give notice has been unsuccessful or if access is urgently required. If prior notice has not been provided Airways shall make a reasonable attempt to advise the Owner or the Occupier on arrival.
5. Airways will repair and make good all damage to fences, gates, or erections upon the Land directly caused by Airways exercising its rights under this agreement.
6. For civil aviation safety reasons, the Owner will not be permitted to access the area housing Equipment without the authority of Airways.
7. Airways must ensure that it does not cause or allow any inter-channel interference with the Owner or any other party who may from time to time operate communications equipment on or from the Land **PROVIDED THAT** the Owner will not grant any further licence to any other party without ensuring that such licence will not interfere with Airways' operations under this Licence.



8. Airways may terminate this agreement upon 12 months written notice to the Owner.
9. Airways may not sublicense or allow any third party to locate any further equipment on its Equipment without the prior consent of the Owner which will not be unreasonably withheld.
10. Airways will indemnify and will keep indemnified the Owner against all actions, claims, demands, proceedings, damages, costs, charges, expenses, loss and liability which the Owner may be put to or incur as a result of the exercise by Airways of any of the rights granted under this agreement or the failure of Airways to perform any of its obligations under this agreement.
11. The Owner will have no liability for any loss or damage suffered in connection with or arising out of Airways use of the Land, including without limitation any damage to the Equipment, and whether arising in contract, tort or on any other basis, unless that loss or damage was the direct result of negligence or wilful misconduct of the Owner.
12. Prior to issuing a lease, selling or transferring the Land the Owner undertakes to advise the prospective Lessee, purchaser or transferee of Airways' interest under this agreement and agrees that the land will be leased, sold or transferred subject to this Licence.
13. This Licence is conditional upon;
  - (a) Airways at its cost obtaining Land Information New Zealand approval to this licence
  - (b) Airways at its cost obtaining all local body consents and approvals for installation of the equipment

**EXECUTED AS AN AGREEMENT.**

SIGNED BY  
TWIN PEAKS STATION  
LIMITED

)  
) *J. Becker*  
)  
) *[Signature]*

In the presence of:

Name: *Maxine Lee-Ann Knowler*  
Occupation: *Solicitor*  
Address: *Cromwell*

AND

SIGNED BY  
AIRWAYS CORPORATION OF  
NEW ZEALAND LIMITED

)  
)  
)  
) *[Signature]*

In the presence of:

Name: *Rex Wilson*  
Occupation: *Surveillance Engineer*  
Address: *26 Sir William Pickering Drive*  
*Russley*  
*Christchurch*

*Peter D. Regan*



METRIC 0 10 20 30 40 50 60 70 80 90 100 110 120 130 140 150 160 170 180 190 200

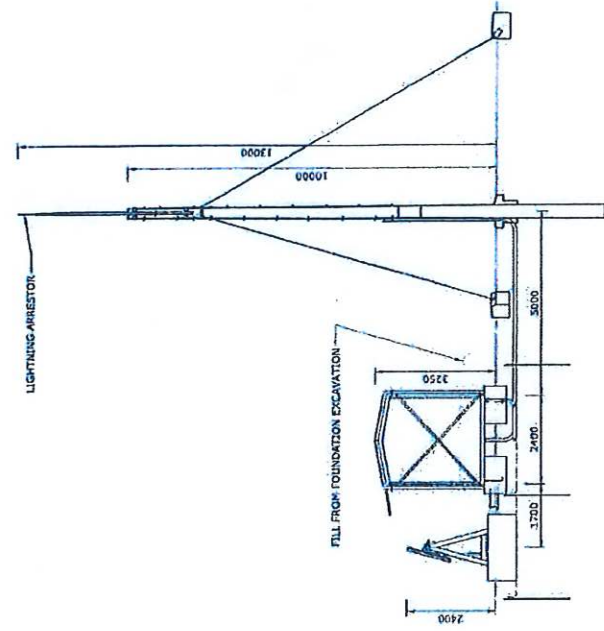
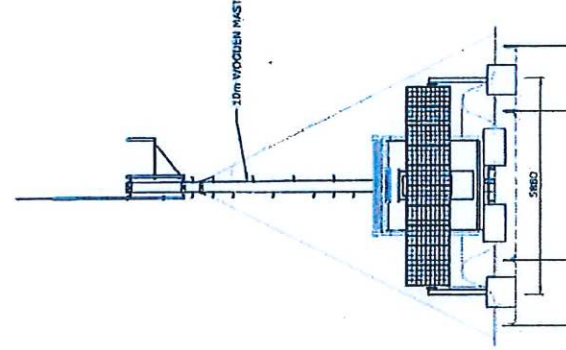
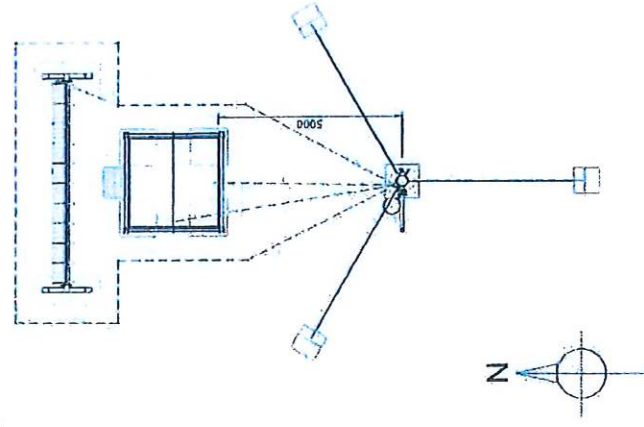


Locality

Site  
(Site access in red)

Existing View  
(Looking north)

Proposed View  
(Looking north)



DETAILS SHOWN ARE INDICATIVE ONLY AND ARE SUBJECT TO FINAL DESIGN AND CONSTRUCTION.

SOUTH LAND MULTILAT PROJECT PROPOSED SITE LOCATIONS									
WETHER RANGE									
Issue	Amendment	Orig	Date	Drawn	Date	Orig	Ck	Design	Date
A	MAST - HORIZONTAL DISTANCE RELOCATED TO ON SITE RELOCATED	WCH	25.12	JMK	25.12	WCH	12.13	WCH	12.13
B	PICTURE (HORIZONTAL DISTANCE) ADDED	WCH	12.12	JMK	12.13	WCH	12.13	JMK	25.12
Sheet	4	of	8	Sheets		Drawn		Design	
Scale									
Issue									
B									

AIRWAYS

Airways Corporation of New Zealand Limited

A3

Printer: 2012/12

This information contained on this drawing is current only at the time of issue - please check for latest version.



## Execution Section

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


**SIGNED** for and on behalf of the  
**Commissioner of Crown Lands**  
pursuant to a delegation under the  
Crown Pastoral Land Act 1998 in  
the presence of:

  
\_\_\_\_\_  
Witness


*Solicitor*


\_\_\_\_\_  
Occupation

*112 Inam St, Chch NZ*  
\_\_\_\_\_  
Address

  
\_\_\_\_\_  
Jerome Sheppard

**SIGNED** for and on behalf of **Twin Peaks Station Limited** by two of its directors:

  
\_\_\_\_\_  
Bronwen Ruth Becker

  
\_\_\_\_\_  
Mark William Becker