

DEED OF LEASE

BETWEEN

HER MAJESTY THE QUEEN

AND

THE MOUNT COOK GROUP LIMITED

[REMARKABLES SKI AREA]

Refs + Variations also
Attached at Back of Lease

MEARES WILLIAMS
Solicitors
PO Box 660
CHRISTCHURCH

Released under the Official Information Act

THIS DEED made this 30th day of August 1993

BETWEEN HER MAJESTY THE QUEEN (hereinafter together with her successors and assigns called "the Lessor")

AND THE MOUNT COOK GROUP LIMITED at Christchurch (hereinafter together with its successors and assigns called "the Lessee")

The Lessor, being registered as the proprietor of an estate for a recreation reserve subject to the Reserves Act 1977, subject, however, to such encumbrances, liens, and interests as are notified by memorandum underwritten or endorsed hereon, in the piece of land situated in the Survey District of Kawarau containing 10.5374 hectares be the same a little more or less being Part Section 1 Block X Kawarau Survey District and being part of the land comprised and described in Certificate of Title Register No. 8D/636 (Otago Registry) (hereinafter referred to as "the land") NOW THEREFORE pursuant to the provisions of Section 54(1)(a) of the Reserves Act 1977 and in consideration of the rent hereinafter reserved and of the covenants conditions restrictions and agreements on the part of the Lessee hereinafter contained and implied the Lessor DOETH HEREBY LEASE to the Lessee all the land to be held by the Lessee as tenant subject to the following covenants conditions agreements and restrictions:

Definitions:

"Regional Conservator" means the Regional Conservator, Department of Conservation, Dunedin, or such other officer of the Department as the Minister of Conservation may direct.

"Overall development plan" or "development plan" means a total development plan of the skifield and tourist facilities showing the existing and any proposed locations of buildings, structures, facilities, terrain modifications and uses of the land, and the staging of any such proposals, being proposals that the Lessee may wish to pursue during the next 10 years.

1 TERM 33 years dating from 1 March 1989, with rights of renewal for further terms of 33 years if the terms and conditions of the lease have been

Sec 9(2)(a)

complied with and if the facilities have been properly constructed, developed, maintained and controlled, that there is sufficient need for them and that some other recreational use should not have priority in the public interest.

2 THE Lessee shall use the said land solely for purposes consistent with buildings and facilities erected for use for the purpose of serving patrons of a public skifield and sightseers and if at any time the Lessor is of the opinion that the land leased is not being used or is not being sufficiently used for those purposes the Lessor after making such enquiries as the Lessor thinks fit and giving the Lessee an opportunity of explaining the usage of the land leased and if satisfied that the land leased is not being used or is not being sufficiently used for the purposes specified in the lease may terminate the lease in the manner prescribed herein.

3 (i) THE Lessee shall pay to the Regional Conservator at the office of the Department of Conservation in Dunedin (or at some other location as the Regional Conservator directs) an ^{9(2)(j)}

^{9(2)(j)}

(ii) For the purposes of this clause the term ^{9(2)(j)}

^{9(2)(j)}


4 THE Lessee will cause to be prepared each year by a chartered accountant a statement of accounts setting out the Lessee's gross annual turnover derived from the operations of the businesses operated by the Lessee on the Rastus Burn Recreation Reserve and shall forward to the Regional Conservator each year a copy of the statement of accounts. The accounts shall show the income from the sources in 3(ii) above in such a manner as to enable them to be separated from the gross annual turnover derived from other sources.

^{9(2)(a)}

5 THE Lessee will comply strictly with the provisions of all Acts and regulations applicable to the Lessee's activities.

6 WITHOUT in any way limiting the liability of the Lessee under clause 5 above, the Lessee shall insofar as it may be legally requisite have the facilities approved and certified under the Boilers Lifts and Cranes Act 1950, the Machinery Act 1950 and such other Acts as may apply, and shall comply with all regulations applicable to those Acts and with the Code of Practice for Aerial Lifts 1991 and with the provisions of the Dangerous Goods Act 1974 and any regulations made thereunder with reference to storage of motor spirits and fuel oil or any similar substance and shall comply with the Lessors bylaws under the Reserves Act 1977 regarding operation as may be required by the Regional Conservator.

7 THE Regional Conservator shall be entitled to review the 9(2)(j)
9(2)(j)



8 PRIOR to undertaking any such review the Lessor will give to the Lessee written notice of his intention such notice to be given not later than six months prior to the end of the eleven yearly period then current.

9(2)(a)



9 IF following any such review the Lessee disagrees with the amount of the percentage rate so fixed for the next period of eleven years then the Lessor shall be entitled either to reduce the amount of the percentage rate to such amount as is mutually agreed upon or alternatively to have the dispute referred to arbitration as provided in Clause 10.

10 IF the dispute is referred to arbitration it shall be referred to a single arbitrator in case the parties can agree upon one otherwise to two arbitrators one to be appointed by each party to the difference (whether consisting of one or more than one person) and in either case to be agreed upon by the parties hereto and in accordance with and subject to the provisions of the Arbitration Act 1908 and amendments or any statutory modification or re-enactment thereof for the time being in force.

11 THE Lessee shall:

- i. In each year within four months of its annual balance date deliver to the Lessor a copy of its annual accounts of the businesses (including a profit and loss account and a balance sheet) in respect of its last preceding financial year such accounts to show the gross turnover derived by the Lessee from the sources referred to in clause 3 (ii) hereof during that preceding year.
- ii. Upon termination of the lease by any means deliver to the Lessor within four months after the date of such termination a copy of its accounts for the period from the end of the preceding financial year to the date of termination.

12 THE Lessee shall appoint an auditor in accordance with the terms of Section 163 of the Companies Act 1955.

13 THE Lessee shall not at any time during the said term transfer sublease mortgage charge or otherwise dispose of its interest or any part thereof in the land without the previous consent in writing of the Lessor, such consent not to be unreasonably withheld.

14 THE Lessee will conduct all operations in a proper and efficient manner and maintain a standard of upkeep to the satisfaction of the Regional Conservator.

15 THAT the Lessee shall at all time during the said term keep all buildings and other improvements now erected or made or which may hereafter be erected or made on the said land in good repair order and condition and will when requested in writing so to do by the Regional Conservator paint the buildings and other improvements with good quality paints in colours first approved by the Regional Conservator and will not without the prior written consent of the Regional Conservator alter either externally or internally or enlarge or demolish any buildings or other improvements.

16 THAT subject to the proviso hereinafter referred to the Lessee will not discriminate in any manner against or refuse facilities to any person or persons except on the ground of misconduct or misdemeanour or uncleanness or by reason of the fact that the facilities are fully utilised or for any reason of safety - PROVIDED however that in the event of an emergency the Lessee will not discriminate against or refuse facilities to any person or persons for any reason. The Lessee will at all times observe a strictly uniform and impartial attitude as to admission rates and services and in all respect to all persons provided that the Lessee shall be entitled to impose reasonable charges and conditions in respect of the use of its facilities and/or development by any person for the purpose of direct or indirect commercial gain or to refuse access to its facilities and/or development for such purposes. Except as aforesaid the Lessee will afford as efficient a service as is usual for the undertaking mentioned in clause 2 hereof.

17 THAT the Lessee may make such rules for the management and control of the buildings erected on the said land and the conduct of persons using the same and the conduct of persons using the said land and facilities thereon as may be proper and necessary provided that all rules so made shall be consistent with these presents and before coming into force shall be submitted to and approved by the Regional Conservator and if any dispute shall arise between the Lessee and the Regional Conservator as to the propriety of any rules such dispute shall be referred to the Minister of Conservation whose decision shall be final and binding on both parties.

*Rules
made 10/10/78*

18 THAT the Lessee shall permit any person or persons appointed by the Regional Conservator to inspect the said land and all buildings erections and installations situated thereon and the Lessee will immediately comply with all directions from the Regional Conservator in relation to management and repairs and maintenance.

19 THAT the Lessee shall not erect or place any further buildings or facilities on the said land without the prior consent in writing of the Regional Conservator excepting however that the Lessee shall retain the right to implement the approved overall development plan subject to the specific approval of the Regional conservator as to location methods of installations and remedial work.

20 THAT the Lessee shall have no right of acquiring or purchasing the fee simple of the said land.

21 THAT the Lessee will insure within the meaning ascribed to those words in the Fourth Schedule to the Land Transfer Act 1952 and will produce to the Regional Conservator on demand the receipt or receipts for the annual or other premiums payable on account thereof and the policy or policies and all moneys received pursuant to any such insurance shall be expended in or towards repair reinstatement and re-erection of buildings and facilities on the said land PROVIDED HOWEVER that before expending any moneys received pursuant to any such insurance the Lessee shall obtain the approval in writing of the Regional Conservator to the design of and produce for the Regional Conservator's approval a plan of any building or facility to be repaired reinstated or re-erected.

22 THAT the Lessee shall indemnify the Lessor and the Regional conservator against all or any claim injury damage or loss which may arise during the construction erection or operation of any authorised building or works including alterations maintenance and additions thereto and shall further indemnify the Lessor and the Regional Conservator against all or any claim injury damage or loss which may arise during the said term.

23 THAT (without in any way limiting the liability of the Lessee under Clause 21 hereof) the Lessee shall forthwith take out and thereafter during the

continuance of this lease keep in the name of the Lessor and Regional Conservator and Lessee with some insurer to be approved by the Lessor a public liability insurance policy for \$500,000 whereby the Lessor and the Regional Conservator shall during the term of this lease be indemnified against all actions claims demands proceedings losses damages compensation sums of money costs charges and expenses to which the Lessor and the Regional Conservator or either of them shall or may be liable AND the Lessee will pay all premiums and other moneys payable in respect of all such insurances as the same shall become due and payable and will produce to the Lessor such policy or policies of insurance and the receipts for the premiums and other moneys payable thereunder within fourteen days of the due date of such premiums and if default shall be made in keeping the said policy or policies on foot as aforesaid or in the event of the premiums or other money payable in respect thereof being unpaid or the receipts thereof or the policy or policies not being produced to the Lessor it shall be lawful but not obligatory on the Lessor to effect and maintain such insurance and to pay the said premium or other moneys or any of them and all moneys expended for such purposes shall be repaid by the Lessee to the Lessor on demand AND the Lessee will not do or omit or suffer to be done or omitted any act matter or thing whereby any such insurances may be vitiated or rendered voidable and will give true and particular information to the office or company with which the said insurances are effected of all matters and things the non-disclosure of which might in any way prejudice or affect the said policy or policies of insurance or the payment of all or any moneys thereunder in the event of any claim being made against the Lessor and the Regional Conservator or either of them as therein provided.

24. THAT if:

- i. The rent hereby reserved or any part thereof shall be in arrears or unpaid on any day on which the same ought to be paid and shall remain unpaid for thirty (30) days thereafter whether the same shall be lawfully demanded or not, or
- ii. Default is made by the Lessee in the full and faithful performance and observance of any of the covenants conditions agreements or restrictions contained in this lease, or
- iii. The Lessee shall be wound up or dissolved or enter into any composition with or assignment for the benefit of its creditors or being a private person shall be adjudged bankrupt or being a limited liability company shall go

into liquidation for other than reconstruction purposes or an order is made or an effective resolution is passed for winding up or a receiver of the assets or any part thereof is appointed or if the estate or interest of the Lessee shall be made subject to any writ of sale or charging order or if the Lessee shall cease to function,

then in any such case it shall be lawful for the Lessor forthwith without suit notice or demand to enter into and upon the demised land or any part thereof in the name of the whole and determine this lease but without discharging the Lessee from liability for rent due or accruing due or from any previous breach of the covenants conditions agreements or restrictions contained or implied in this lease.

25 ON termination of this lease under the preceding termination clause or by effluxion of time surrender breach of conditions or otherwise the land, together with all improvements thereon shall revert to the Lessor on the terms and conditions set out hereunder PROVIDED however that if the Lessor determines that the said land should not again be leased then the Lessee will remove within such time as the Regional Conservator shall determine such improvements as were effected by the Lessee and shall leave the said land in a clean and tidy state to the satisfaction of the Regional Conservator.

26

- i. That if the lease shall be terminated in accordance with Clause 24 hereof or if the Lessee shall elect not to accept any renewal of this lease or shall surrender this lease then where the Lessor is of the opinion that the said land shall again be leased the Lessor shall cause a valuation to be made of the improvements that are then on the said land and as soon as possible thereafter shall publicly offer the said land for lease for the purposes set out in Clause 2 above weighted with the value of improvements belonging to the outgoing Lessee.
- ii. Where the Lessor is of the opinion that the leasing of the said land is being hindered by reason of the value of the improvements being excessive or of the terms for payment being onerous the Lessor may in his discretion from time to time reduce the value of the improvements or vary these terms as the case may be and again offer the said land and improvements for lease

until such time as an offer suitable to the Lessor is received for the land and improvements.

- iii. Where the said land and improvements are acquired under the provisions of this clause by an incoming Lessee the value of the improvements shall be paid by him in cash before he is admitted into possession of the said land and from the amount so paid the Lessor shall be entitled to deduct and retain any money due and owing to the Lessor for any breach or default and shall forthwith pay the remainder to the Lessee hereunder PROVIDED that the value of the improvements or any part thereof may be paid by instalments over a period of years or be secured by way of mortgages to the outgoing Lessee. Any payment by instalments over a period of years shall be subject to such conditions as to payment of interest and otherwise and any mortgage shall contain such provisions as the Lessor thinks fit.
- iv. If the Lessor should publicly offer the land and improvements for lease as provided herein and not receive any suitable offers the Lessor may offer the improvements for sale for removal and in the event of a suitable offer being received and accepted the Lessor shall be entitled to deduct and retain any moneys due and owing to the Lessor by the Lessee including any damages assessed by the Lessor for any breach or default and to apply the remainder of such proceeds towards the costs of removal or destruction of any unsaleable items and the clearing and landscaping of the said land.

27 THE Lessee shall make the lifts and tows when operating available free of charge to authorised officers of the Regional Conservator and to ski patrol personnel and to search and rescue personnel while they are on official duty.

28 THE Lessee shall to the satisfaction in all respects of the Regional Conservator:

- i. Store all bulk fuel in underground tanks or if this is impracticable in suitable concealed or rock-faced tanks.
- ii. Conceal all drums of fuel.
- iii. At all times guard against the spillage of fuel and clean up all spillages immediately they occur provided that if there is any breach of the covenant to clean up all spillages immediately they occur the Regional Conservator

may do any work necessary to remedy the breach and charge the Lessee the reasonable cost of the work.

29 THE Lessee will at all times provide and properly maintain on the ski-field an adequate and efficient internal and external communications system to the satisfaction in all respects of the Regional Conservator.

30 ANY public address system installed or operated on the said land will be operated with discretion in relation to sound levels and subject to the Regional Conservator's authority to request modifications where such modifications are deemed necessary.

31 THE Lessee shall regulate and control the use of the lifts with the objectives of safety and fairness and no preference shall be given to any person with the exception of search and rescue personnel members of any authorised ski patrol proceeding to an accident officers of the Lessor whilst engaged on the Lessor's business, rangers, persons employed by the Lessor whilst on duty, officers of the Lessee whilst engaged on the Lessee's business, employees of the Lessee, ski instructors employed or engaged by the Lessee and their classes and such other persons as the Lessor on the application of the Lessee has expressly authorised.

32 THAT the Lessee will make available the public toilet facilities in any building to be erected on the said land free of charge to the public at all times.

33 THE Lessee shall keep open its cafeterias for the public whenever the Lessee is operating the lifts and/or tows and will provide for the sale of both hot and cold meals and refreshments sold for consumption on or at the buildings hereby authorised and the Lessee shall use its best endeavours to avoid the use of or (where practicable) the sale of goods with wrappings or containers which will not readily decompose in the open air.

34 THE Lessee shall in operating any restaurant or cafeteria and in the sale of foodstuffs comply with the Health Act 1956 and all other Acts, rules, regulations and local authority by-laws governing the sale of foodstuffs.

35 THE Lessee shall at all times provide adequate and efficient safety services to cope with the risks associated with the sport of skiing, the terrain and the harsh alpine weather environment and in particular in furtherance of this obligation will provide to the satisfaction in all respect of the Regional Conservator:

- i. A ski patrol service the members of which shall be fully competent in the first aid treatment of skiing injuries and in the removal of sick or injured persons to a place where adequate medical care can be given such competency to include the ability and willingness to drive an ambulance.
- ii. A first aid treatment room with adjoining lavatories and wash basins for both men and women at the terminal building accessible to ambulances and of sufficient size to accommodate initially not less than six sick or injured persons and six ski patrollers.
- iii. Sufficient room or rooms in the facilities building for use as a first aid post (the size of which shall depend upon its location) for the use of ski patrollers administering first aid and storage of first aid emergency equipment.
- iv. Safety signs to be erected to warn all reserve users of dangerous terrain and the risk of wearing insufficient clothing.
- v. Safety fences to a design and specification approved by the Lessor in such places as are required by the Regional Conservator such fences to be maintained in good safe condition at all times.
- vi. An evacuation plan detailing the action to be taken by the Lessee in the event of an emergency.

36 THE Lessee shall develop a system of data collection and synthesis in consultation with the New Zealand Mountain Safety Council with the objective of improving avalanche hazard evaluation and forecasting ability and shall be responsible for:

- i. The delineation of the areas to be closed for varying degrees of hazard and for adequately notifying skifield users of such closures;

- ii. Determining what artificial avalanche release methods are appropriate and when and how they should be used;
- iii. Maintaining an up-to-date map showing all known avalanche paths and the dates of their occurrence. Avalanche release or control methods involving the possibility of terrain modification require the approval of the Regional Conservator.

37 THE Lessee will at all times permit constables, traffic officers and the Lessor's staff to use in the course of their duties the abovementioned first aid treatment room and first aid posts for first aid activities.

38 THE Regional Conservator will permit the Lessee to use on the Rastus Burn Recreation Reserve vehicles (the number and types of vehicles to be previously approved by the Regional Conservator) for the carriage of stores, fuel and equipment and search and rescue purposes and for the carriage of sick and injured persons construction maintenance and servicing of tracks and facilities and for snow clearing snow grooming and vegetation treatment and for other special carriage duties approved by the Regional Conservator. Any such vehicle shall be used only on such conditions as the Regional Conservator shall in writing specify but in any event:

- i. Shall during the skiing season be used during off peak periods only and in such a manner as to cause the least inconvenience and annoyance to the public;
- ii. Shall not carry fare paying passengers without the approval of the Regional Conservator;
- iii. Snow grooming is permitted only when there is sufficient snow cover to prevent damage to the vegetation and soils;
- iv. Vegetation management for ski slope preparation may only be carried out in early spring immediately after the snow thaw and only to the extent that the long-term health of the vegetation is not impaired;
- v. When required to traverse ground which is free of snow shall be used only on approved tracks and only on those tasks which are strictly necessary and

in such a manner as to ensure the least disturbance of natural vegetation and the ground surface.

39 AT any time during the term of this lease if any erosion or soil disturbance occurs on the Rastus Burn Recreation Reserve which in the opinion of the Regional Conservator is a direct or indirect result of any development activity of the Lessee the Lessee on being notified by the Regional Conservator will at its own expense and as soon as possible carry out a programme of consolidation and revegetation of the eroded or disturbed area to as near as possible to its original state and in such manner and using such plant species as approved in each case by the Regional Conservator and shall maintain the eroded or disturbed areas to the satisfaction of the Regional Conservator.

40 THE Lessee shall at all times ensure that the car parks are properly and efficiently supervised so that the parking of vehicles is orderly and in the interests of the convenience of the public and will in the car parks provide adequate space for exclusive parking (without charge) of vehicles driven by persons employed by the Regional Conservator and by search and/or rescue personnel while they are on duty.

41 THE lessee will not undertake slope grooming, earthworks, terrain modification or trail development without the written approval of the Regional Conservator. Any boulders removed are only to be removed if they are a ski field hazard and any boulder removal shall be confined to stable slopes that will not be rendered unstable by such activity. Hand tools may only be used except with the specific approval of the Regional Conservator to use machinery. No explosives are to be used without the specific approval of the Regional Conservator.

the specific approval of the Regional Conservator.

42 THE Lessee will immediately evacuate all persons from all lifts and tows and will thereafter close the lifts and tows when dangers arise from weather or other mountain conditions.

43 THE Lessee will provide an adequate number of rubbish collection receptacles wherever needed and shall at all times keep the skifield in a clean and tidy condition and free and clear of all litter and other rubbish and shall

regularly remove all rubbish to a place outside the Rastus Burn Recreation Reserve and the Remarkables Range.

44 THE Lessee will dispose of snow resulting from snow clearing operations and any other materials removed during clearing operations of the access road in such a manner as approved by the Regional Conservator.

45 THE Lessee will not at any time operate any facility in a manner inconsistent with the provisions of this lease and will at all times comply with the provisions of the Reserves Act 1977 the approved management plan and all by-laws applicable to the said land. Any proposed alterations to the management plan regulations or by-laws pursuant to the Reserves Act which are proposed for the purpose of managing the Rastus Burn Recreation Reserve which in the opinion of the Regional Conservator may substantially affect the Lessee's operations will be submitted first to the Lessee for its comments.

46

- i. The Regional Conservator or his appointed agent may at all reasonable times enter upon the facilities for the purpose of viewing the state of repair and condition thereof and also the standard of the services provided for the public and also ensuring that the Lessee is complying with the conditions of this lease.
- ii. If any such state of repair and condition is deficient having regard to the obligations of the Lessee under this lease or if the standard of any of the said services is in the opinion of the Regional Conservator unsatisfactory then the Lessee shall comply immediately with the necessary remedial measures directed by the Regional Conservator to be done.
- iii. In the event of any "nuisance" as defined by the Health Act 1956 arising from the use or occupation of any facility whether from faulty sewage disposal ineffective sanitation or otherwise the Regional Conservator shall be entitled by written notice to require the Lessee to cease using or occupying such facility until the nuisance is abated and the Lessee will comply immediately with such notice.

47 THAT the Lessee will pay unto the Regional Conservator the rent hereinbefore referred to at the times and in the manner aforesaid free of exchange and all other deductions and will also pay and discharge all rates taxes or other charges whatsoever now or hereafter to become payable in respect of its occupation of the said land or any part or parts thereof during the said term.

48 THE Lessee will not without the written consent of the Lessor allow more than ten persons all of whom shall be employees of the Lessee to reside in the main terminal building.

49 THE Lessee will ensure that during any development on or of the said land carried out by the Lessee there is a minimum of interference with the natural features and vegetation of the said land.

50 THE Lessee will not pile material or rubbish in any place where it may in the opinion of the Regional Conservator obstruct the public or create a nuisance or cause damage to the ecology of the Rastus Burn Recreation Reserve.

51 THE Lessee will not:

- i. Mark paint or deface any rock or stone and will not blast or move or remove rocks or disturb any ground without the written consent of the Regional Conservator.
- ii. Take or remove any minerals plants or soil from any part of the said land with the exception of plants being transported to any off site nursery for the purpose of revegetation of the development.
- iii. Carry on or allow any offensive or noisy or dangerous practice or any act matter or thing which shall or may be or grow to the annoyance nuisance or disturbance of or become offensive to the public or militate against the objects or integrity of the Lessor or the Regional Conservator or the objects or spirit of the Reserves Act 1977.
- iv. Without the written consent of the Regional Conservator plant trees shrubs or any other plants in or on the said land.

- v. Without the written consent of the Regional Conservator erect display or permit to be erected or displayed any notices signs hoardings or advertising matter of any description.

52 THE Lessee will:

- i. For all purposes on the said land operate and maintain to the satisfaction in all respect of the Regional Conservator an adequate potable water supply and an adequate sewage system.
- ii. Maintain to the highest standard and to the satisfaction of the Regional Conservator all permitted notices signs hoardings and advertising matter.
- iii. At the end of each skiing season remove all dismantled ski tow equipment and store that equipment out of sight.
- iv. After the completion of any work remove all rubbish and materials not wanted for the time being and leave the said land in a clean and tidy condition to the satisfaction of the Regional Conservator.

53 IF any of the water sewage or electricity services provided by or for the Lessee are not being fully used by the Lessee and if the Lessor requires use of any such service then the Lessee will provide such service for the Lessor at such reasonable cost and upon such terms and conditions as are mutually agreed or failing agreement as are fixed by arbitration.

54 ALL powers rights functions and authorities vested in the Lessor by these presents may be enforced on behalf of the Lessor by the Regional Conservator or by any duly authorised officer servant or agent of the Lessor and any notice required to be given to the Lessee may be signed by the Regional Conservator or any duly authorised officer servant or agent of the Lessor as aforesaid and shall be served on the Lessee by posting the same by registered post to the registered office of the last known address in New Zealand of the Lessee or by posting same by registered post to the Lessee at his last known address in New Zealand.

55 AS long as the Lessee does not make default in the full and faithful performance and observance of any of the covenants conditions agreements or restrictions contained in the lease then the Lessor will ensure that no rights are granted to any other Lessee or to any licensee on the balance of the Rastus Burn Recreation Reserve for any of the purposes referred to in Clause 2 and that no easement is granted for any purpose associated with those purposes to any Grantee. If the Regional Conservator is satisfied that there is a demand for the use of the balance of Rastus Burn Recreation Reserve or any part thereof for any other purpose whatsoever and that a lease or licence or easement should be issued for the purpose of providing for it then the Lessee shall have the first option to take a lease or licence or easement for that purpose. The Regional Conservator shall notify the Lessee in writing of the terms of any lease or licence or easement proposed to be provided for (the method of service to be the same as that specified in Clause 54 above) and the Lessee shall notify the Regional Conservator in writing within three months of the date of receipt of the written advice from the Regional Conservator whether the Lessee will exercise the option on the terms stated. If within the specified time the Regional conservator has not received notification in writing from the Lessee or if the Lessee decides not to exercise the option within the specified time then the Lessor may grant the lease licence or easement on those terms to such Lessee or licensee or grantee as the Lessor thinks fit.

56 WHERE the Lessor has provided any community service benefit or facility whether within or outside the Rastus Burn Recreation Reserve for the benefit of members of the public using the Reserve:

- i. The Lessor may subject to the provisions of this subsection assess the amount of the contribution to be paid to the Lessor by the Lessees and Licensees under leases and Licences granted by the Lessor towards the cost of providing and maintaining that service benefit or facility.
- ii. The contribution assessed under paragraph (i) of this clause in respect of the capital cost of providing any such service benefit or facility shall be apportioned by the Lessor in such manner as he thinks fit among those Lessees and licensees and shall be paid in one amount or over a period of years as the Lessor may determine and the Lessor may in like manner apportion among those Lessees and licensees an annual contribution to be

made by them to the Lessor to meet the costs of maintaining any such service benefit or facility.

iii. The amount apportioned by the Lessor to be paid by any Lessee or licensee shall be due and payable to and recoverable by the Lessor on the expiration of three months after the service of a demand by the Lessor on the Lessee or Licensee. If the amount apportioned is not paid by the due date interest shall be payable thereon at such rate as is fixed from time to time by the Minister of Finance from the due date until payment in full and in any event the Lessee or Licensee shall be deemed to have committed a breach of his lease or licence.

57 THE Lessee shall at its own expense carry out the programme of revegetation, stabilisation and remedial work specified in the First Schedule hereto, and in the manner and within the time so specified.

58 THE Lessee shall by 30 June 1993 and thereafter within five yearly intervals have completed a review of any approved overall development plan for the leased area (or if there is no approved overall development plan, it shall prepare one) and shall have obtained the Regional Conservator's approval in principle by that date or its five yearly anniversary.

59. THE Regional Conservator shall forthwith obtain any necessary consents to deposit Plan No. 20495 or any subsequent plan necessary to create the pedestrian right of way referred to therein and in addition prepare, execute and register all the optional easements endorsed on S.O. Plans No. 22560 and 22561.

Sec 9(2)(a)

me/skifield

Sec 9(2)(a)

FIRST SCHEDULE

REMARKABLES SKI AREA STABILISATION, RESTORATION AND REVEGETATION PLAN

- 1 This plan and agreement thereto, and any obligation thereunder, shall be for a period of 15 years from date of commencement subject to review in terms as detailed in clause 6.
- 2 Following extensive consultation between parties and with due regard to the scope, scale and objectives of works and the agreement requirements in respect of resources applied to these works it is agreed that The Mount Cook Group Ltd expend up to fourteen thousand dollars plus GST per annum in each of years one to five of the plan and up to ten thousand dollars plus GST per annum in each of years six to 15 of the plan. (Expenditure in 1992 dollars.)
- 3 Installation of toe walling as suggested by the plan shall be only as mutually agreed by The Mount Cook Group and the Department of Conservation and in any event limited to no more than ten thousand dollars plus GST expenditure in any one year and a maximum of thirty thousand dollars plus GST in the first five years.

Should agreement on the suitability of toe walling not be possible then the matter shall be referred to arbitration by a suitably qualified engineer and/or stabilisation/revegetation expert mutually agreed to by both parties.
- 4 Progress shall be reviewed annually by both parties and a work programme for the subsequent year agreed to. Such plan and agreement to be consistent with clauses 1, 2 and 3 of these terms.

The review shall be initiated by the Department of Conservation in May of each year in order to have an agreed work programme in place by the following spring growing season.
- 5 Notwithstanding the obligations of the company with respect to Group 3 tasks, the company and the department shall work together to achieve a mutually satisfactory long term method or process to destock the areas to be revegetated until such time as it is determined that the vegetation can sustain grazing. Until that time particular sections as specified in the plan shall be fenced using temporary fencing.
- 6 Notwithstanding clause 4 the parties agree to review progress at not less than five yearly intervals or at some lesser period if it appears that the programme is satisfactorily concluded.

The purpose of the review shall be to assess progress against the plan and to consider any extraordinary circumstance which may indicate or require additional commitment of time, materials or money.

Purpose

To, over a 15 year period, ameliorate the visual scar of the access road through appropriate reformation, stabilisation and revegetation techniques and to restore a natural appearance to those parts of the ski area not occupied by buildings or required to bear mechanised traffic.

Sec 9(2)(a)

Specific Objectives

- 1 To stabilise batters to provide suitable conditions to establish and sustain a vegetative cover.
- 2 To establish and maintain a primary initial cover of exotic grasses and legumes where necessary but in the long term a self-perpetuating cover of plant species characteristic of the area.
- 3 In the longer term to achieve a planting density of approximately one per square metre of native plant material (primarily tussocks) over all disturbed areas accepting that there will be some variation according to site conditions.
- 4 To prepare and implement an annual work programme setting out specific tasks to be undertaken.

Sec 9(2)
(a)

Sec 9(2)(a)

HIGH PRIORITY TASKS TO BE COMPLETED WITHIN FIVE YEARS OF SIGNATURE OF LONG TERM LEASE

KEY

- Batter reformation by digger
- X Lay straw/netting
- Break up upper edge by hand or digger - transport usable material
- ◆ Form timber framework combined with straw/netting on difficult batter surfaces
- # Hand plant *Poa cita* and *Festuca novae zelandiae* to achieve a density of 1/m²
- * Seed using the low altitude mix incorporating lotus

Group 1

Comment

These are slip areas with high visual impact. They are sites requiring special treatment using a range of suggested techniques to achieve stabilisation and revegetation. The company shall utilise techniques which will achieve the objectives within the timeframe and other techniques (such as toe wall formation by rock placement or gabion baskets) should be utilised if necessary.

Plan No.	Location (km approx)	Batter (upper or lower)	Methods/Comment
202	5.5	upper	X ○ ◆ # *
207	7.2)	upper	○ X ◆ # *
207	7.3)	upper	
251	7.83	upper	X ○ # * Remove some boulders.
252	7.85	upper	X ○ #
271	7.83	upper and lower	Gabion wall below slump.
301	8.50	upper and lower	Build on existing toe wall. X #
302	9	upper and lower	■ (slumped sections) Spread topsoil from stockpile at Big W.
401	10.5	upper and lower	■ X ○ # *

Sec 9(2)(a)

Group 2

Comment

Minor batter reformation/shaping.

Hand planting of *Poa*, *Chionochloa*, *Festuca* spp.

Plan No.	Location (km approx)	Batter (upper or lower)	Methods/Comment
203	5.9	upper	Trimming of top edge and replant. Sow lotus sp.
401	10.5	upper and lower	■ X □ # *

Group 3

Comment

Install fencing or some other form of effective protection from grazing animals around the above sites.
Continue pest control, weed control and apply fertiliser as necessary to achieve the objectives.

Sec 9(2)
(a)

Sec 9(2)(a)

MEDIUM PRIORITY TASKS TO BE COMPLETED WITHIN
15 YEARS OF SIGNATURE OF LONG TERM LEASE

Group 1

Plan No.	Location (km approx)	Batter (upper or lower)	Methods/Comment
155	4.8	upper	Repair slump.
203	5.9	upper	Remove top edge.
272	8.07-8.31	upper	Patch seed.
402	10	upper and lower	Complete earthworks (road realignment) and final shaping.
404	11.2-11.6	upper	Trim top edge and replant toe of slope if required.
407	12.50	upper	Trim top edge and replant at toe of slope. Trial netting straw.
Base Facilities			Complete tussock/ <i>Poa</i> planting of car park batters and advanced beginners slope.
Shadow Basin Track			<i>P. colensoi</i> , <i>C rigida</i> at 1/m ² .

Sec 9(2)(a)

Sec 9(2)
(a)

**INFILL PLANTING TO BE COMPLETED WITHIN
15 YEARS OF SIGNATURE OF LONG TERM LEASE**

Group 2

Scope

Undertake an annual programme for the planting of nursery raised tussock and native shrubs. This will be implemented on a section by section basis.

Plan No.	Location (km approx)	Batter (upper or lower)	Methods/Comment
155	4.61-5.0	upper	Hand plant short tussock.
201	5.0-5.37	upper	<i>P. cita</i> , <i>F. novae zelandiae</i> - 1/m ² .
202	5.37-5.67	upper	As above.
203	5.67-6.09	upper	As above.
204	6.09-6.46	upper	As above.
205	6.46-6.71	upper	As above.
206	6.71-7.0	upper	As above.
207	7.0-7.24	upper	As above.
251	7.24-7.55	upper	As above.
251	7.24-7.55	upper and lower	Plant native shrub characteristic to boulderfield, ie, <i>Coprosma</i> , matagouri.
252	7.55-7.83	upper and lower	As above.
271	7.83-8.07	upper and lower	Plant <i>P. cita</i> and <i>F. novae zelandiae</i> .
272	8.07-8.31	upper and lower	As above.
273	8.31-8.5	upper and lower	Plant <i>P. colensoi</i> , <i>P. cita</i> , <i>F. novae zelandiae</i> , <i>C. rigida</i> at 1/m ² .
301	8.50-8.68	upper and lower	<i>F. novae zelandiae</i> , <i>P. colensoi</i> , <i>C. rigida</i> .
302	8.68-9.24	upper and lower	As above.
303	9.24-9.58	upper and lower	As above.

Sec 9(2)(a)

351	9.58-9.84	upper and lower	As above.
352	9.84-10.22	upper and lower	As above.
401	10.22-10.43	upper and lower	<i>P. colensoi</i> , <i>C. Rigida</i> 1/m ² spacings.
402	10.43-10.70	upper and lower	As above.
403	10.70-11.16	upper and lower	As above.
404	11.16-11.55	lower	As above.
405	11.55-11.93	upper and lower	As above.
406	11.93-12.25	upper and lower	As above.
407	12.25-12.50	upper and lower	As above.

Group 3

Fertilisation, weed control, pest control, fencing or other effective grazing animal exclusion method, as necessary to achieve the objectives.

Sec 9(2)
(a)

Sec 9(2)(a)

SIGNED for and on behalf of the MINISTER
OF CONSERVATION by Jeff Connell an
officer of the Department of Conservation
pursuant to a designation given to him by the
Director-General of Conservation and dated
the 30th day of June 1989 in the presence of:



Witness:



Occupation:

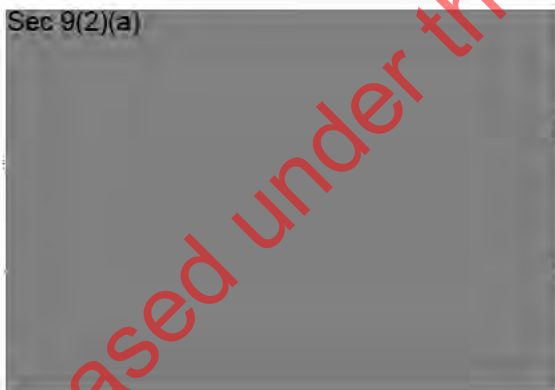
Senior Conservation Officer

Address:

Department of Conservation
Dunedin

THE COMMON SEAL OF THE MOUNT COOK GROUP
LIMITED was hereunto affixed in the presence of:

Sec 9(2)(a)



Director

Secretary



The Queenstown Lakes District Council hereby consents to the laying out and/or making of the Private Ways shown on this plan pursuant to section 348 of the Local Government Act 1974, and to the grant and/or reservation of the Rights of Way thereover in witness whereof the Common Seal of the said Council was hereunto affixed

this sixth
day of July 1984

In the presence of

County Chairman

County Manager

BLK. X

KAWARAU S.D.

SEC. 1
S.O. 19547

REC. RES.
GN 538566
(O&M 1980 p1812)
(CT 80/433)

SEE
S.O. 22560

Survey District

C.T. 386/126 GARSH KERR

S.O. 799
PT. RUA 345C
BLK. II
CONEBURN S.D.

LAND DISTRICT OTAGO

SURVEY BLK. & DIST. X KAWARAU

NTMS 261 SUT F 41 RECORD MAP No 3-4

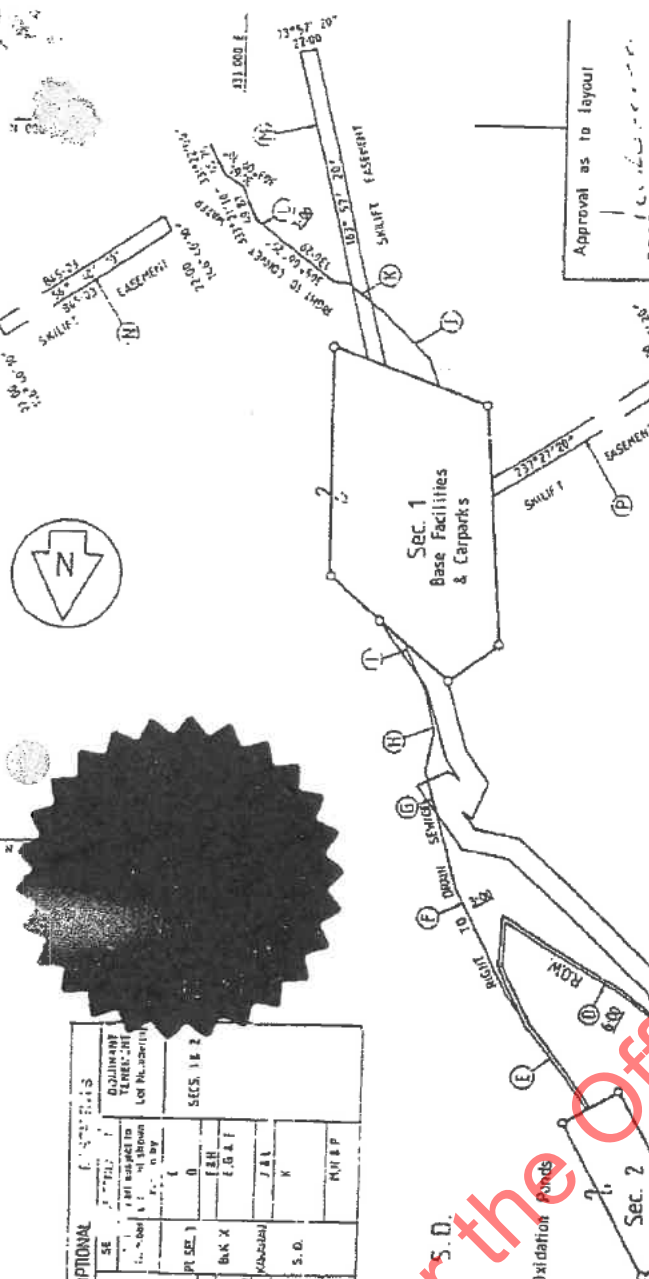
PLAN OF SECTIONS 1&2 S.O. 22561

& EASEMENTS OVER SEC. 1 BLK. X KAWARAU S.D.

TERRITORIAL AUTHORITY OTM. LAKES DIST.

Surveyed by LUCY, BORRELL & GREIG.

Date NOV. 1986



The OTM. LAKES DISTRICT COUNCIL...
(1) This plan of subdivision is approved pursuant to Section 348 of the Local Government Act 1974 by a resolution of the Council passed on the ... day of ... 1984.
(2) This plan is in accordance with the requirements and provisions of the Local Government Act 1974.
(3) The conditions of the Local Government Act 1974 are hereby certified to be complied with in the subdivision shown on the plan.
DISTRICT COUNCIL
Dated this ... day of ... 1984

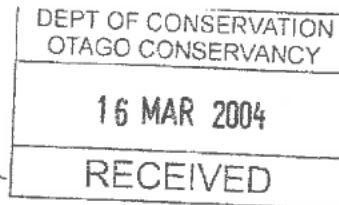
IN WITNESS whereof the Common Seal of the said Council was hereunto affixed in the presence of...

Mayor
District Manager
I do hereby certify that all conditions shown on or referred to on the approved scheme of subdivision have been complied with to the satisfaction of the DISTRICT COUNCIL.
Dated this ... day of ... 1984

FORMER DESCRIPTION
SECS. 1 & 2 being part of Sec. 1
BLK. X KAWARAU S.D.
DATUM: Geodetic 1959
ORIGIN OF COORDINATES
Mt. Nicholas 700 000 N 300 000 E
Total Area 10 537 1/2 ha.
Comprised in REC. RES. 102 090 p1812
GN 538566 (CT 80/433)

1. ALSTAIR HOEL GREIG
Registered Surveyor and holder of an annual practicing certificate for the year ...
at the Survey. All 1985 hereby certify that this plan has been made from surveys conducted by me or under my direction, that the plan is correct and true and that the same are in accordance with the Survey Regulations 1972, or any regulations made in substitution therefor.
Dated at Queenstown this ... day of ... 1984
Full Seal 2350 P. 11-77 Terrace Road 2011 P. 134-138
Reference Plus S.O. 799, 19547 & 22560
Examined by ... Correct
Approved as to Survey
10/6/88
Deposited this ... day of ... 1988
Chief Surveyor

The 1177
Received 17-1-88
District-Land Registrar
SO 22561



THIS DEED made this 23 day of *March*

2004

BETWEEN **HER MAJESTY THE QUEEN** (hereinafter together with her successors and assigns called "the Lessor")

AND **SOUTHERN ALPINE RECREATION LIMITED** (hereinafter together with its successors and assigns called "the Lessee")

WHEREAS

1. The parties are parties to a Deed of Lease dated 30 August 1993 ("the lease") of the Remarkables Ski Area.
2. The Parties have agreed to vary the lease in the manner set out in this Deed.

NOW THEREFORE THIS DEED WITNESSES that the parties hereby agree to vary the lease as follows:

1. Terms used in this Deed have, unless the context requires otherwise, the same meanings as in the lease.
2. Clause 41 of the lease is hereby amended by the addition of the wording below to the existing wording in Clause 41 such that the new Clause 41 shall now be read as follows:-

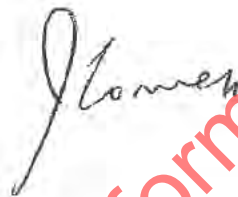
- 41 THE Lessee will not undertake slope grooming, earthworks, terrain modification or trail development without the written approval of the Regional Conservator. Any boulders removed are only to be removed if they area skifield hazard and boulder removal shall be confined to stable slopes that will not be rendered unstable by such activity. Hand tools only may be used except with the specific approval of the Regional

Conservator to use machinery. No explosives are to be used without the specific approval of the Regional Conservator.

3

The lease shall be read and construed as if the Clause 41 above was repeated in full in the lease and the parties confirm that all other covenants, provisions and restrictions expressed or implied in the lease shall continue in full force and effect, but shall be read and construed subject to the provisions hereof.

Signed by **Jeffrey Edward Connell**
Otago Conservator
OTAGO CONSERVANCY



for and on behalf of
the Minister of Conservation
pursuant to a written delegation
in the presence of :

Witness 

Occupation CRO CONCESSIONS

Address DOC - Dunedin

Signed by

Sec 9(2)(a)
 9(2)(a)


Director

SOUTHERN ALPINE RECREATION LIMITED

Sec 9(2)(a)

in the presence of :

Witness  Sec 9(2)(a)

Occupation SKI AREA MANAGER

Address P.O. Box 359, QUEENSTOWN.

THIS DEED made this 15 day of APRIL 2005

BETWEEN **HER MAJESTY THE QUEEN** (hereinafter together with her Successors and assigns called "the Lessor")

AND **SOUTHERN ALPINE RECREATION LIMITED** (hereinafter Together with its successors and assigns called "the Lessee")
(together "the parties")

WHEREAS

1. The parties are the current Lessor and Lessee under a Deed of Lease dated 30 August 1993 ("the Lease") of an area of land including The Remarkables Ski Area.
2. The parties have agreed to vary the Lease in the manner set out in this Deed.

NOW THEREFORE THIS DEED WITNESSES that the parties hereby agree to vary the Lease as follows:-

1. Terms used in this Deed have, unless the context requires otherwise, the same meanings as in the Lease.
2. The following definition shall be included under the heading "Definitions" on page 1 of the Lease:

"Snow cat" means a snow grooming type tracked vehicle or any such vehicle modified for the carrying of passengers."
3. Subclause 38(ii) of the Lease is hereby amended by substituting the wording below for the existing wording in Subclause 38(ii) such that new Subclause 38(ii) shall now read as follows:-

the Rastus Burn Recreation Reserve for the purpose of carrying fare paying passengers is having an adverse effect on the land, he/she shall consult with the Lessee, and following the consultation, the Lessor may give written directions to the Lessee aimed at avoiding, remedying or mitigating any adverse effect or effects and the Lessee will comply with such written directions.

- (e) The Lessee must within one month of the date hereof, prepare a safety plan in relation to the activity described in clause 38 (ii)(a) and have it audited by a suitably qualified person approved by the Lessor. The Lessee must have such safety plan certified by that person and supply the Lessor with a copy of the certified safety plan. Receipt of the certified safety plan by the Lessor is not to be construed as implying any responsibility or liability on the part of the Lessor.
- (f) The Lessee will ensure that the use of Snow Cats within the Rastus Burn Recreation Reserve for the purpose of carrying fare paying passengers does not unreasonably interfere with the public use of the land.

4. The Lease shall be read and construed as if the Subclause 38(ii) above was repeated in full in the Lease and the parties confirm that all the other covenants, provisions and restrictions expressed or implied in the Lease shall continue in full force and effect, but shall be read and construed subject to the provisions hereof.

SIGNED for and on behalf of)
HER MAJESTY THE QUEEN by)
Ian Robert Hugh Whitwell)
Community Relations Manager)
Department of Conservation (Dunedin))
Pursuant to delegated authority in)
The presence of:)



Douglas MacGregor Lind
Area Manager
Wakatipu

Date:

BETWEEN HER MAJESTY THE QUEEN

"the Lessor"

AND

**SOUTHERN ALPINE
RECREATION LIMITED**

"the Lessee"

**DEED OF VARIATION OF LEASE -
REMARKABLES SKI AREA**



Department of Conservation
Te Papa Atawhai

Concession Document (Lease and Licence and Easement)

Concession Number: 100472-OTH

THIS DOCUMENT is made this 30th day of August 2023

PARTIES:

Minister of Conservation (the Grantor)



NZSki 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 Department is under the control of the Grantor.
- C.** The carrying out of these functions may result in the Grantor granting concessions to carry out activities on public conservation land.
- D.** The Grantor administers public conservation lands described in Schedule 1 as the Land.
- E.** The Conservation legislation applying to the Land authorises the Grantor to grant a concession over the Land.
- F.** The Concessionaire wishes to carry out the Concession Activity on the Land subject to the terms and conditions of this Concession.
- G.** The Concessionaire acknowledges that the land may be the subject of Treaty of Waitangi claims.
- H.** The parties wish to record the terms and conditions of this Concession and its Schedules.

OPERATIVE PARTS

- I.** In exercise of the Grantor's powers under the Conservation legislation the Grantor **GRANTS** to the Concessionaire a **LEASE AND LICENCE AND EASEMENT** to carry out the Concession Activity on the Land subject to the terms and conditions contained in this Concession and its Schedules.

	<p>SIGNED by NZSki Limited by Paul Anderson, Chief Executive Officer, having authority to enter into contracts</p> <p>Sec 9(2)(a)</p>
<p>SIGNED on behalf of the Minister of Conservation by Aaron Fleming, Director Operations, Southern South Island, acting under delegated authority</p>	<p>in the presence of:</p>
<p>in the presence of:</p>	<p>Witness Signature:</p>
<p>Witness Signature: </p>	<p>Sec 9(2)(a)</p>
<p>Witness Name: Tze-Yu Joanne Liew</p>	<p>Witness Name:</p>
<p>Witness Occupation: Personal Assistant</p>	<p>Sec 9(2)(a)</p>
<p>Witness Address: Cavells Building, 1 Arthurs Point Road, Queenstown</p>	<p>Witness Occupation:</p>
	<p>Office Manager</p>
<p>A copy of the Instrument of Delegation may be inspected at the Director-General's office at 18-32 Manners Street, Wellington.</p>	<p>Witness Address: Level 1, 9 Duke Street, Queenstown</p>

SCHEDULE 1

1.	Land (clause 1)	<p>The areas of land outlined on the plans in Schedule 4 over the following conservation land:</p> <p>Physical Description/Common Name: Rastus Burn Recreation Reserve (F41055)</p> <p>Land Status: Held as Recreation Reserve under section 17 of the Reserves Act 1977</p> <p>Legal Description: Section 1-2 Survey Office Plan 22561 and part Section 1 Block X Kawarau Survey District</p> <p>Map Reference: NaPALIS ID: 2804656; Approximate GPS NZTM 2000 of lift bottom station E1270347, N5002497 to top station E1269817, N5001797.</p> <p>Total area of lease land and license land is approximately 5.5872 hectares (area not defined by survey) as shown on the plans in Schedule 4.</p> <p>The Land is comprised of the Lease Land, the License Land and the Easement Land which are more particularly described below.</p> <p><u>Lease Land</u></p> <p>Those parts of the Land measuring approximately 0.0692 hectares in total to which clause 3.1 in Schedule 2 applies whose general locations are depicted on the plans in Schedule 4 and the description and size of each lease area is set out in Item 2 of this Schedule 1.</p> <p><u>License Land</u></p> <p>That part of the Land measuring approximately 5.4488 hectares to which clause 3.1 in Schedule 2 does not apply and which is generally comprised of the skiable terrain, road access as shown on the plans in Schedule 4 and the description and size of each license area is set out in Item 2 of this Schedule 1.</p> <p><u>Easement Land (in gross)</u></p> <p>Those parts of the Land which are depicted on the plans in Schedule 4 and described as easements in Item 2 of this Schedule 1 which, together, measure approximately 1.2552 hectares.</p>
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2.	Concession Activity (clause 2)	<p>Subject to the limitations in Schedules 2 and 3, the Concessionaire may carry out the following activities directly connected with the operation, repair and maintenance of a commercial ski-field upon the Land.</p> <p>The establishment and operation of the Shadow Basin passenger lift system, related ski trail development, access road changes and alteration to stream bed within the Rastus Burn Recreation Reserve, in accordance with the plans and diagrams in Schedule 4 comprising:</p> <ol style="list-style-type: none"> 1. Installation, repair and maintenance of a bottom station (approximately 6.921m high above finished ground level, canopy 9.890m wide x 21.990m long; footprint of 217.48m²); 2. Installation, repair and maintenance of a bottom station chair storage building (approximately 6m wide x 25m long; footprint of 150m²); 3. Installation, repair and maintenance of a top station (approximately 6.921m high above finished ground level, canopy 9.890m wide x 31m long; footprint of 275.59m²); 4. Installation, repair and maintenance of a top station integrated lift operator building (approximately 3.704m high above finished ground level, 8.09m wide x 6.09m long; footprint 49.2681m²); 5. Formation of new ski trails "Calypso Trail and Cushion Trail" in accordance with the plans in Schedule 4; 6. Installation and maintenance of utilities and services – water, air (airburst system) electricity, telecommunications and computer media cabling, transformers; 7. Installation and maintenance of ancillary equipment - snow making and pumping equipment (wands/snow guns), towers (11 in total ranging in height from 5.7m to 15.54m), lift cables, ski lift chairs; 8. Decommissioning and removal of the existing passenger lift system (known as Shadow Basin chairlift); 9. Maintaining or modifying the skiable terrain; 10. Carrying out avalanche prevention; 11. Operation of snow making and snow grooming machines; 12. Manage, operate, maintain and repair the structures and facilities listed in this Concession; and 13. Helicopter operations for activities associated with the establishment and ongoing operation of this Concession to support health and safety work, search and rescue activities, avalanche management and to respond to medical emergencies.
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Lease Land

As shown on the plan in Schedule 4, being the footprint of structures and facilities:

14. Bottom station (approximately 6.921m high above finished ground level, canopy 9.890m wide x 21.990m long – footprint of 217.48m² or 0.021748 hectares);
15. Bottom station chair storage building (approximately 6m wide x 25m long - footprint of 150m² or 0.015 hectares);
16. Top station (approximately 6.921m high above finished ground level, canopy 9.890m wide x 31m long - footprint of 275.59m² or 0.27559 hectares);
17. Top station integrated lift operator building (approximately 3.704m high above finished ground level, 8.09m wide x 6.09m long - footprint 49.2681m² or 0.0049268 hectares);

Licence Land

As shown on the plan in Schedule 4 and table below, being the ski area comprising:

18. Two new trails/skiable terrain (slopes) itemised in the table below over approximately 34,975.142m² or 3.4975 hectares

Trail name	Length	Maximum width
Calypso Trail	365 metres	up to 30 metres
Cushion Trail	183 metres	up to 15 metres

19. Road access changes (15,900m² or 1.59 hectares)
20. Alteration of a stream bed (80 m² or 0.008 hectares)

Easement Land

21. In respect of the Easement Land, use the Easement Land and the existing easement structures and facilities located on or in the Easement Land for purposes connected with:

- a. conveyance of water:
- b. conveyance of electricity:
- c. conveyance of telecommunications and computer media:
- d. conveyance of gas (compressed air):
- e. the passing and repassing with ski-lift cables, associated ski-lift chairs and towers.

Associated with:

22. utilities and services (above and under the ground infrastructure) for water, air (airburst system) electricity, telecommunications and computer media (approximately 1,300m² or 0.13 hectares);

		<p>23. ancillary equipment (above and under the ground infrastructure) such as snow making and pumping equipment (wands/snow guns), towers, lift cables, ski lift chairs (approximately 11,252.192m² or 1.125 hectares).</p> <p>24. Use vehicles where that use is necessary and directly connected with the activities listed in 1 to 23 above.</p> <p>- and as more specifically set out in Schedule 3.</p>
3.	Term (clause 4)	30 years 0 months commencing on 1 September 2023 and ending on the Final Expiry Date.
4.	Renewal(s) (clause 4)	Not applicable
5.	Final Expiry Date (clause 4)	The earlier of 31 August 2053 or the expiry or termination or other determination of concession number 96118-SKI (should that be granted).
6.	Concession Fee (clause 5)	<p>(a) Concession Activity Fee: For this Concession, there will be no Concession Activity Fees charged in addition to the rent that is required in accordance with the Deed of Lease dated 30 August 1993 or such successor or replacement of that lease as may exist from time to time.</p> <p>AND</p> <p>(b) Concession Management Fee: For this Concession, there will be no Concession Management Fees charged in addition to the rent that is required in accordance with the Deed of Lease dated 30 August 1993 or such successor or replacement of that lease as may exist from time to time.</p>
7.	Environmental Monitoring Contribution (clause 10)	Not required.
8.	Community Services Contribution (clause 7)	Not required.
9.	Total Payment to be made per annum (clause 5)	<p>Concession Activity Fee (Item 6);</p> <p>AND</p> <p>the Concession Management Fee (Item 6);</p> <p>AND</p> <p>the Environment Monitoring Contribution (Item 7);</p> <p>AND</p> <p>the Community Services Contribution (Item 8).</p>
10.	Total Payment instalment(s) (clause 5)	As per Item 9 above

11.	Concession Fee Payment Date(s) (clause 5)	<p>(a) Concession Management Fee (Item 6), Environmental Monitoring Contribution (Item 7): Not required.</p> <p>(b) Concession Activity Fee (Item 6): Not required.</p> <p>(c) Community Services Contribution (Item 8): Not required.</p>
12.	Penalty Interest Rate (clause 5)	Double the current Official Cash Rate (OCR). See Reserve Bank of New Zealand website
13.	Concession Fee Review Date(s) (clause 6)	Not applicable.
14.	Insurance (To be obtained by Concessionaire) (clause 13)	<p>Types and amounts:</p> <p>Public Liability Insurance for:</p> <p>(a) General indemnity for an amount no less than \$2,000,000.00; and</p> <p>(b) Third party vehicle liability for an amount no less than \$500,000.00.</p> <p>Subject to review on each Concession Fee Review Date.</p>
15.	Health and Safety (clause 14)	Audited Safety Plan: Required. Concessionaire has provided safety plan to Grantor.
16.	Concessionaire Identification (clause 32)	The Concessionaire and any person acting under the authority of the Concessionaire must carry and display a Concession Identification card when carrying out the Concession Activity, unless attired in appropriate Concessionaire's uniform with logo visible. Contractor's establishing the Concession Activity are exempted from this requirement.

17.	Addresses for Notices (clause 25)	<p>The Grantor's address for notices:</p> <p>Physical Address: Department of Conservation Level 1, John Wickliffe House 265 Prince Street Ōtepoti/Dunedin 9016 New Zealand</p> <p>Postal Address: PO Box 5244 Ōtepoti/Dunedin 9054 New Zealand</p> <p>Phone: (03) 477 0677 Email: transactioncentre@doc.govt.nz</p>
		<p>The Concessionaire's address in New Zealand is:</p> <p>Physical Address: NZSki Limited Queenstown Snow Centre Ground Level, The Station Building 9 Duke Street Queenstown 9300</p> <p>Postal Address: PO Box 359 Queenstown 9348</p> <p>Phone: 0800 697 547 Email: info@nzski.com</p>
18.	Guarantee (clause 30)	Not Required
19.	Special Conditions (clause 36)	See Schedule 3
20.	Processing Fee (clause 5)	<p>\$36,944.74 plus GST</p> <p>Comprising: Invoice number: 1800074452 dated 9 June 2023 for \$17,009.74 plus GST (paid 20 July 2023); Balance of processing fee \$19,935.00 plus GST</p>

Note: Unless otherwise stated, the clause references in column 2 are to the Grantor's Standard Terms and Conditions of Lease and License and Easement set out in Schedule 2.

SCHEDULE 2

STANDARD TERMS AND CONDITIONS OF LEASE AND LICENCE AND EASEMENT

1. Interpretation

1.1 In this Document, unless the context otherwise requires:

“**Land**” means the Lease Land, Licence Land and Easement Land described in Item 1 of Schedule 1.

“**Lease Land**” specifically means the Land described as Lease Land in Item 1 of Schedule 1.

“**Licence Land**” specifically means the Land described as Licence Land in Item 1 of Schedule 1.

“**Easement Land**” specifically means the Land described as Easement Land in Item 1 of Schedule 1.

1.2 Where the Grantor's consent or approval is expressly required under a provision of this Concession, the Concessionaire must seek the consent or approval of the Grantor for each separate occasion it is required notwithstanding that the Grantor has granted consent or approval for a like purpose on a prior occasion.

1.3 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.

1.4 Where this Concession requires the Grantor to exercise a discretion or give any approval or provides for any other actions by the Grantor, then the Grantor must act reasonably and within a reasonable time. When a consent is required under this Concession such consent must not be unreasonably withheld.

1.5 Where this Concession provides for approvals, directions, reports and consents to be given by one party to the other, those approvals, directions, reports and consents must be given by notice in writing and clause 25 is to apply.

1.6 The rights and powers implied in the relevant easements by Schedule 5 to the Land Transfer Regulations 2018 (as set out in Schedule 5 of this Concession) apply to this Concession **EXCEPT** to the extent set out in Schedule 3 of this Concession.

1.7 The rights and powers implied by Schedule 5 to the Property Law Act 2007 do not apply to this Concession.

2. What is being authorised?

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

- 2.2 The Concessionaire must exercise reasonable skill, care and diligence in carrying out the Concession Activity, in accordance with standards of skill, care and diligence normally practised by suitably qualified and experienced people in carrying out such activities.
- 2.3 The Concessionaire must provide the Grantor with evidence of the competency and qualifications of its employees and contractors if the Grantor so requests.
- 2.4 The Concessionaire must not commence the Concession Activity until the Concessionaire has signed the Concession Document and returned one copy of this Document to the Grantor, as if it were a notice to be given under this Concession.

3. What about quiet enjoyment?

- 3.1 The Concessionaire, while paying the Concession Fee and performing and observing the terms and conditions of this Concession, is entitled peaceably to hold and enjoy the Lease Land and any structures and facilities of the Grantor without hindrance or interruption by Grantor or by any person or persons claiming under the Grantor until the expiration or earlier termination of this Concession.
- 3.2 Provided reasonable notice has been given to the Concessionaire the Grantor, its employees and contractors may enter the Lease Land to inspect the Lease Land and facilities, to carry out repairs and to monitor compliance with this Concession.

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

- 4.1 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.
- 4.2 If there is a right of renewal then the Grantor at the Concessionaire's cost must renew the Term for a further period as set out in Item 4 of Schedule 1 provided the Concessionaire:
 - (a) gives the Grantor at least three month's written notice before the end of the Term, which notice is to be irrevocable, of the Concessionaire's intention to renew this Concession; and
 - (b) at the time notice is given in accordance with this clause the Concessionaire is not in breach of this Concession.
- 4.3 The renewal is to be on the same terms and conditions expressed or implied in this Concession except that the Term of this Concession plus all further renewal terms is to expire on or before the Final Expiry Date.

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

- 5.1 The Concessionaire must pay the Processing Fee (Item 20 of Schedule 1) to the Grantor in the manner directed by the Grantor. Except where the Grantor's written consent has been given, the Concessionaire cannot commence the Concession Activity until the Processing Fee has been paid.
- 5.2 The Concessionaire must pay to the Grantor in the manner directed by the Grantor the Concession Fee and any other payment comprised in the Total Payment specified in Item 9 of Schedule 1 in the instalments and on the Concession Fee Payment Date specified in Items 10, and 11 of Schedule 1.

- 5.3 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 12 of Schedule 1.

6. When can the fee be reviewed?

- 6.1 The Grantor is to review the Concession Fee on the Concession Fee Review Dates in the following manner:
- (a) The Grantor must commence the review not earlier than 3 months before a Concession Fee Review Date by giving notice to the Concessionaire.
 - (b) Subject to clause 6.1(e) the notice must specify the Concession Fee which the Grantor considers to be the market value for the Concession Activity as at the Concession Fee Review Date having regard to the matters specified in section 17Y(2) of the Conservation Act 1987.
 - (c) If, within 28 days of receipt of the Grantor's notice, the Concessionaire gives notice to the Grantor that the Concessionaire disputes the proposed new Concession Fee, the new Concession Fee is to be determined in accordance with clause 6.2(a) or (b).
 - (d) If the Concessionaire does not give notice to the Grantor under clause 6.1(c) the Concessionaire is to be deemed to have accepted the Concession Fee specified in the Grantor's notice.
 - (e) Notwithstanding clause 6.1(b) the new Concession Fee so determined or accepted must not be less than the Concession Fee payable during the year preceding the particular Concession Fee Review Date and is to be the Concession Fee payable by the Concessionaire from the Concession Fee Review Date.
 - (f) Until determination of the new Concession Fee, the Concession Fee payable by the Concessionaire from the Concession Fee Review Date is to be the Concession Fee specified in the Grantor's notice. On determination of the new Concession Fee an adjustment is to be made and paid, either by the Grantor or by the Concessionaire, whichever is applicable.
- 6.2 Immediately the Concessionaire gives notice to the Grantor under clause 6.1(c) the parties are to endeavour to agree on a new Concession Fee. If the parties are unable to reach agreement within 28 days the new Concession Fee is to be determined either:
- (a) By one party giving notice to the other requiring the new Concession Fee to be determined by the Disputes clause (clause 23) or, if the parties agree,
 - (b) by registered valuers acting as experts and not as arbitrators as follows:
 - (i) Each party must appoint a valuer and give notice of the appointment to the other party within 14 days of the parties agreeing to determine the new Concession Fee by this means.
 - (ii) If the party receiving a notice does not appoint a valuer within the 14 day period the valuer appointed by the other party is to determine the new Concession Fee and that valuer's determination is to be binding on both parties.

- (iii) Before commencing their determination the respective valuers must appoint an umpire who need not be a registered valuer.
- (iv) The valuers are to determine the new Concession Fee which they consider to be the market value for the Concession Activity as at the Concession Fee Review Date having regard to the matters specified in section 17Y(2) of the Conservation Act 1987 but in no case is the new Concession Fee to be less than the Concession Fee payable during the year preceding the particular Concession Fee Review Date. If they fail to agree the Concession Fee is to be determined by the umpire.
- (v) In determining the Concession Fee the valuers or umpire are to disregard the annual cost to the Concessionaire to maintain or provide access to the Land.
- (vi) Each party is to be given the opportunity to make written or oral representations or submissions to the valuers or the umpire subject to such reasonable time and other limits as the valuers or the umpire may prescribe.
- (vii) The valuers or the umpire must have regard to any such representations but are not bound by them.
- (c) The valuers or umpire must give written notice to the parties once they have determined the new Concession Fee. The notice is to be binding on the parties and is to provide how the costs of the determination are to be borne.
- (d) If a Concession Fee Review Date is postponed because of a moratorium imposed by law the Concession Fee Review is to take place at the date the moratorium is lifted or so soon afterwards as is practicable; and
 - (i) the Concession Fee Review is to establish the market value for the Concession Activity as at that date instead of the date fixed under clause 6.1 having regard to the matters specified in section 17Y(2) of the Conservation Act 1987 but in no case is the new Concession Fee to be less than the Concession Fee payable during the year preceding the particular Concession Fee Review Date; and
 - (ii) each subsequent Concession Fee Review is to take place in accordance with the procedure fixed in clause 6.1.

7. Are there any other charges?

- 7.1 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.
- 7.2 The Grantor is not liable for any cost incurred in re-establishing the supply of any utilities in the event of any of them becoming unavailable for any reason.
- 7.3 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 12 of Schedule 1.

- 7.4 Where the Grantor or Director-General has provided a community service, benefit or facility for the benefit of the Concessionaire under section 17ZH of the Conservation Act 1987, the Concessionaire must pay the Grantor the amount specified in Item 8 of Schedule 1 as part of the Total Payment specified in Item 9 of Schedule 1 on the Concession Fee Payment Dates specified in Item 11 of Schedule 1.

8. When can the Concession be assigned?

- 8.1 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.
- 8.2 The Grantor may in the Grantor's discretion decline any application for consent under clause 8.1.
- 8.3 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.
- 8.4 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.
- 8.5 The Concessionaire must pay the costs reasonably incurred by the Grantor incidental to any application for consent, whether or not such consent is granted.
- 8.6 If the Concessionaire is not a publicly listed company then 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.

9. What are the obligations to protect the environment?

- 9.1 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.
- 9.2 The Concessionaire must at its cost keep the Land in a clean and tidy condition and free of weeds and all organisms specified as pests in a relevant pest management strategy.
- 9.3 The Concessionaire must not store hazardous materials on the Land nor store other materials on the Land where they may obstruct the public or create a nuisance.
- 9.4 If directed by the Grantor, the Concessionaire must take all steps necessary to control, or, at the Grantor's option, contribute to the cost of controlling any pest, insect or rodent infestation occurring in or emanating from the Land or any structure or facility on the Land, and if directed by the Grantor, engage a pest exterminator approved by the Grantor.
- 9.5 The Concessionaire must make adequate provision for suitable sanitary facilities for the Land if directed by the Grantor and for the disposal of all

refuse material and is to comply with the reasonable directions of the Grantor in regard to these matters.

- 9.6 The Concessionaire must keep all structures, facilities and land alterations and their surroundings in a clean and tidy condition. If reasonably directed by the Grantor the Concessionaire must paint all structures and facilities in colours approved by the Grantor and with paints of a type approved by the Grantor.
- 9.7 If, during the Term, the Concessionaire removes a structure or facility from the Land the Concessionaire must, unless the Grantor directs otherwise, repair and make good at its own expense all damage which may have been done by the removal and must leave the Land in a clean and tidy condition.
- 9.8 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.

10. What about Environmental Monitoring?

- 10.1 The Concessionaire must, during the Term, if the Grantor so directs, design in consultation with the Grantor and undertake a programme to monitor and report on the environmental effects of the Concessionaire's use of the Land and conduct of the Concession Activity.
- 10.2 If the Grantor does not issue a direction under clause 10.1 the Concessionaire must, during the Term, pay to the Grantor the annual Environmental Monitoring Contribution specified in Item 7 of Schedule 1 to enable the Grantor to design and undertake a programme to monitor the environmental effects of the Concessionaire's use of the Land and conduct of the Concession Activity.

11. When can new structures be erected or land alterations occur?

- 11.1 The Concessionaire must not erect, alter or bring on to the Land any structure not authorised in Schedule 3 nor alter the Land in any way without the prior approval of the Grantor.
- 11.2 In giving approval under clause 11.1 the Grantor may, in the Grantor's sole and absolute discretion, impose any reasonable terms and conditions, including a review of the Concession Fee, as the Grantor considers appropriate under this clause; and may also decline the grant of such approval after consideration of the relevant conservation and environmental issues.
- 11.3 The Concessionaire must pay to the Grantor all costs associated with applications for approval under this clause determined at the standard rates then applying in the Department for cost recovery of staff time and expenses.
- 11.4 The Concessionaire must, upon request by the Grantor, submit written engineering or building plans and details to the Grantor for approval before:
 - (a) erecting new structure or altering any structure on the Land
 - (b) altering the Land in any way.
- 11.5 The Concessionaire must at all times where a building warrant of fitness under the Building Act 2004 is required display a copy of the relevant current certificate showing the location of the compliance schedule in a place in each

building (as defined in that Act) on the Land to which users of the building have ready access.

- 11.6 The Concessionaire must keep and maintain all building systems and any structure on the Land in accordance with the, requirements of any compliance schedule.
- 11.7 The Concessionaire must retain and make available to any territorial authority and any other person with a right to inspect any structures on the Land under the Building Act 2004 a copy of the compliance schedule, together with the written reports relating to compliance with the compliance schedule over the previous two year period.

12. What about advertising?

- 12.1 The Concessionaire must not erect or display any signs or advertising on the Land without the prior approval of the Grantor. At the expiry or termination of this Concession the Concessionaire must remove all signs and advertising material and make good any damage caused by the removal.
- 12.2 If directed by the Grantor, the Concessionaire must ensure that all its advertising and promotional material specifies that it is carrying out the Concession Activity under a Concession granted by the Grantor on land administered by the Department.
- 12.3 If directed by the Grantor, the Concessionaire must include information in its advertising and promotional material which assists its clients to understand the features and values of the natural and historic resources of the Land and the surrounding area.
- 12.4 The Concessionaire is encouraged to obtain information from and have regard to the views of tangata whenua.

13. What are the liabilities and who insures?

- 13.1 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.
- 13.2 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.
- 13.3 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.
- 13.4 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.
- 13.5 Despite anything else in clause 13 the Concessionaire is not liable for any indirect or consequential damage or loss howsoever caused.

- 13.6 The Grantor is not liable and does not accept any responsibility for damage to or interference with the Land, the Concession Activity, or to any structures, equipment or facilities on the Land 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 13.7, such damage or interference is caused by any wilful act or omission of the Grantor, the Grantor's employees, agents or contractors.
- 13.7 Where the Grantor is found to be liable in accordance with clause 13.6, the total extent of the Grantor's liability is limited to \$1,000,000 in respect of the Concessionaire's structures, equipment and facilities.
- 13.8 Despite anything else in clause 13 the Grantor is not liable for any indirect or consequential damage or loss howsoever caused.
- 13.9 Without prejudice to or in any way limiting its liability under this clause 13 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 14 of Schedule 1 with a substantial and reputable insurer.
- 13.10 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 13.9. 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.
- 13.11 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.

14. What about Health and Safety?

- 14.1 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 15 of Schedule 1), and with any safety directions of the Grantor.
- 14.2 Before commencing the Concession Activity the Concessionaire must, if required by Item 15 of Schedule 1:
- (a) prepare a safety plan;
 - (b) have it audited by a suitably qualified person approved by the Grantor and forward to the Grantor a certificate from the auditor certifying that the safety plan is suitable for the Concession Activity; and
 - (c) the Concessionaire must obtain from the auditor details as to when the safety plan is to be re-audited. The Concessionaire must comply with any such requirement to re-audit and forward a copy of the re-audit certificate to the Grantor within 5 working days of the certificate being issued.

- 14.3 If clause 14.2 applies then if the Concessionaire amends or replaces the safety plan then before the amendment or replacement plan takes effect the Concessionaire must comply with 14.2(b) and (c).
- 14.4 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.
- 14.5 Receipt of the certified safety plan by the Grantor is not in any way to limit the obligations of the Concessionaire under clause 14 and is not to be construed as implying any responsibility or liability on the part of the Grantor.
- 14.6 The Concessionaire must:
- (a) notify the Grantor of any natural events or activities on the Land or the surrounding area which may endanger the public or the environment;
 - (b) take all practicable steps to protect the safety of all persons present on the Land and must, where necessary, erect signposts warning the public of any dangers they may encounter as a result of the Concessionaire's operations;
 - (c) take all practicable steps to eliminate any dangers to the public and must clearly and permanently mark any that remain and of which the Concessionaire is aware;
 - (d) record and report to the Grantor all accidents involving serious harm within 24 hours of their occurrence and forward an investigation report within 3 days of the accident occurring;
 - (e) ensure that all contracts between the Concessionaire and any contractors contain, at a minimum, the same requirements as clause 14;
 - (f) be satisfied that facilities or equipment provided by the Grantor to enable the Concession Activity to be carried out meet the safety requirements of the Concessionaire;
 - (g) not bring onto the Land or any land administered by the Department any dangerous or hazardous material or equipment which is not required for purposes of the Concession Activity; and if such material or equipment is required as part of the Concession Activity, the Concessionaire must take all practicable steps at all times to ensure that the material or equipment is treated with due and proper care.

15. What are the compliance obligations of the Concessionaire?

- 15.1 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 IIA 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 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, 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 or the National Parks Act 1980; 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; and
- (d) with all Department signs and notices placed on or affecting the Land; and
- (e) with all reasonable notices and directions of the Grantor concerning the Concession Activity on the Land.

15.2 The Concessionaire must comply with this Concession.

15.3 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 15.1.(a) is deemed to be a breach of this Concession.

15.4 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.

15.5 If the Legislation requires the Grantor to spend money on the Grantor's own structures, facilities or land alterations on the Land, the Grantor may charge, in addition to the Concession Fee, an annual sum equal to 15% per annum of the amount spent by the Grantor.

15.6 If the Legislation requires the Grantor to spend money on structures, facilities or land alterations on the Land which the Grantor considers unreasonable, the Grantor may determine this Concession and any dispute as to whether or not the amount is unreasonable is to be determined in accordance with clause 23.

16. What if the Grantor's structures or facilities are damaged or destroyed

16.1 If the Grantor's structures or facilities or any portion of them are totally destroyed or so damaged:

- (a) as to render them untenable, the Concession is to terminate at once; or
- (b) as, in the reasonable opinion of the Grantor, to require demolition or reconstruction, the Grantor may, within 3 months of the date of damage or destruction, give the Concessionaire 1 month's notice to terminate and a fair proportion of the Concession Fee and Other Charges is to cease to be payable according to the nature and extent of the damage.

16.2 Any termination under clause 16.1 is to be without prejudice to the rights of either party against the other.

16.3 If the Grantor's structures or facilities or any portion of them are damaged but not so as to render the premises untenable and:

- (a) the Grantor's policy or policies of insurance have not been invalidated or payment of the policy monies refused in consequence of some act or default of the Concessionaire; and

- (b) all the necessary permits and consents are obtainable; and
- (c) the Grantor has not exercised the right to terminate under clause 16.1,

the Grantor must, with all reasonable speed, apply all insurance money received by the Grantor in respect of the damage towards repairing the damage or reinstating the structures or facilities; but the Grantor is not liable to spend any sum of money greater than the amount of the insurance money received.

- 16.4 Any repair or reinstatement may be carried out by the Grantor using such materials and form of construction and according to such plan as the Grantor thinks fit and is to be sufficient so long as it is reasonably adequate for the Concessionaire's use of the Land for the Concession Activity.
- 16.5 Until the completion of the repairs or reinstatement a fair proportion of the Concession Fee and other charges is to cease to be payable according to the nature and extent of the damage.
- 16.6 If any necessary permit or consent is not obtainable or the insurance money received by the Grantor is inadequate for the repair or reinstatement, the Term is at once to terminate but without prejudice to the rights of either party against the other.

17. What are the Grantor's rights to remedy defaults?

- 17.1 The Grantor may elect to remedy at any time, after giving notice, if practicable, any default by the Concessionaire under this Concession. 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.
- 17.2 The Concessionaire must pay to the Grantor forthwith on demand all reasonable costs and expenses incurred by the Grantor, including legal costs and expenses as between solicitor and client, in remedying such default. The Concessionaire is to pay interest on such costs and expenses if payment is not made within 14 days of the Grantor's demand from the date of the demand until the date of payment at the Penalty Interest Rate specified in Item 12 of Schedule 1.

18. When can the Concession be suspended?

- 18.1 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.
- 18.2 If, in the Grantor's opinion, the activities of the Concessionaire are 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.
- 18.3 The Grantor may suspend the Concession for such period as the Grantor determines where the Concessionaire has breached any terms of this Concession.

- 18.4 The Grantor may suspend this Concession while the Grantor investigates any of the circumstances contemplated in clauses 18.1 and 18.2 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.
- 18.5 The word "investigates" in clause 18.4 includes the laying of charges and awaiting the decision of the Court.
- 18.6 During any period of temporary suspension arising under clauses 18.1 or 18.2 the Concession Fee payable by the Concessionaire is to abate in fair proportion to the loss of use by the Concessionaire of the Land.
- 18.7 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 18 including loss of profits.

19. When can the Concession be terminated?

- 19.1 The Grantor may terminate this Concession either in whole or in part:
- (a) by 14 days notice to the Concessionaire if the Concession Fee or any other money payable to the Grantor under this Concession is in arrears and unpaid for 10 working days after any of the days appointed for payment whether it has been lawfully demanded or not; or
 - (b) by 14 days notice to the Concessionaire or such sooner period as it appears necessary and reasonable to the Grantor if.
 - (i) the Concessionaire breaches any terms of this Concession and in the Grantor's sole opinion the breach is able to be rectified; and
 - (ii) the Grantor has notified the Concessionaire of the breach; and
 - (iii) the Concessionaire does not rectify the breach within 7 days of receiving notification; or such earlier time as specified by the Grantor; or
 - (c) by notice in writing to the Concessionaire where the Concessionaire breaches any terms of this Concession and in the sole opinion of the Grantor the breach is not capable of being rectified; or
 - (d) immediately by notice in writing to the Concessionaire where the Concessionaire breaches clauses 13.9 and 14; or
 - (e) by notice in writing to the Concessionaire if the Concessionaire ceases to conduct the Concession Activity or, in the reasonable opinion of the Grantor, the conduct of the Concession Activity is manifestly inadequate; or
 - (f) by notice in writing to the Concessionaire if the Concessionaire is convicted of an offence under the Conservation Act 1987 or any of the Acts listed in the First Schedule to that Act or any statute, ordinance, regulation, bylaw, or other enactment affecting or relating to the Land or which in the Grantor's sole opinion affects or relates to the Concession Activity; or
 - (g) by notice in writing to the Concessionaire if the Concessionaire or the Guarantor is dissolved; or enters into any composition with or assignment for the benefit of its creditors; or is adjudged bankrupt; or

being a company, has a receiver appointed; or is put into liquidation; or is placed under statutory management; or has a petition for winding up presented against it; or is otherwise unable to pay its debts as they fall due; or the estate or interest of the Concessionaire is made subject to a Writ of Sale or charging order; or the Concessionaire ceases to function or operate; or

- (h) immediately if there is, in the opinion of the Grantor, a permanent risk to public safety or to the natural and historic resources of the Land whether arising from the conduct of the Concession Activity or from natural causes 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.

19.2 The Grantor may exercise its power to terminate under 19.1(h) without giving notice.

19.3 The Grantor may exercise the Grantor's right under this clause to terminate the Concession notwithstanding any prior waiver or failure to take action by the Grantor or any indulgence granted by the Grantor for any matter or default.

19.4 Termination of the Concession is not to prejudice or affect the accrued rights or claims and liabilities of the parties.

20. What happens on termination or expiry of the Concession?

20.1 If the Grantor permits the Concessionaire to remain in occupation of the Land after the expiry or earlier termination of the Term, (which permission may be oral or in writing), the occupation is to be on the basis:

- (a) of a monthly tenancy only, terminable by 1 month's notice by either party; and
- (b) at the Concession Fee then payable; and
- (c) otherwise on the same terms and conditions, as they would apply to a monthly tenancy, as expressed or implied in this Concession.

20.2 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.

20.3 The Concessionaire may, with the Grantor's written consent, remove any specified structures and other 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 and other public conservation land affected by the removal in a clean and tidy condition.

20.4 The Concessionaire must, if the Grantor gives written notice, remove any specified structures and other 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 and other public conservation land affected by the removal in a clean and tidy condition and replant the Land with indigenous vegetation of a similar abundance and diversity as at the commencement of the Term. If before the expiry of the Term the Concessionaire makes an application for a further concession in respect of the same Concession Activity on the Land then the Grantor can not require such removal and reinstatement until such time as that concession application has been determined. If a new concession is granted then removal and reinstatement can not be required until the expiry or termination of the new concession.

21. When is the Grantor's consent required?

- 21.1 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.

22. What about other concessions?

- 22.1 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.

23. How will disputes be resolved?

- 23.1 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.
- 23.2 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.
- 23.3 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.
- 23.4 The arbitrator must include in the arbitration award reasons for the determination.
- 23.5 Despite the existence of a dispute, each party must continue to perform its obligations under this Concession.

24. What about prosecution for offences?

- 24.1 Where any breach of this Concession by the Concessionaire also constitutes an offence under the Resource Management Act 1991, the Conservation Act 1987, or any of the Acts listed in the First Schedule to that Act:
- (a) no waiver or failure to act by the Grantor under this Concession is to preclude the Grantor from prosecuting the Concessionaire; and
 - (b) no failure by the Grantor to prosecute the Concessionaire is to preclude the Grantor from exercising the Grantor's remedies under this Concession; and

- (c) any action of the Grantor in prosecuting the Concessionaire is not to preclude the Grantor from exercising the Grantor's remedies under this Concession.

25. How are notices sent and when are they received?

- 25.1 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 17 or 18 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, on the date receipt of the email is acknowledged by the addressee by return email or otherwise in writing.
- 25.2 If any party's details specified in Item 17 or 18 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.

26. What is the scope of the Concession?

- 26.1 Except as provided by legislation, this Concession and any written variation agreed by the parties contain the entire understanding between the parties with reference to the subject matter of this Concession and there is no other agreement, representation or warranty whether it is expressed or implied which in any way extends, defines or otherwise relates to the provisions of this Concession.

27. Can provisions be severed?

- 27.1 Any illegality, or invalidity or unenforceability of any provision in this Concession is not to affect the legality, validity or enforceability of any other provisions.

28. What about the payment of costs?

- 28.1 The Concessionaire must pay the Grantor's legal costs and expenses of and incidental to preparing and signing this Concession or any extension or variation of it.
- 28.2 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.

29. What is the relationship of parties?

- 29.1 Nothing expressed or implied in this Concession is to be construed as:
 - (a) constituting the parties as partners or joint venturers;
 - (b) conferring on the Concessionaire any right of exclusive occupation or use of the Licence Land and Easement Land;
 - (c) granting any exclusive estate or interest in the Licence Land and Easement Land to the Concessionaire;

- (d) affecting the rights of the Grantor and the public to have access across the Licence Land and Easement Land.

30. What about a Guarantee?

- 30.1 Where the Grantor has in Item 18 of Schedule 1 required this Concession to be guaranteed by a third party the following clauses are to apply.
- 30.2 In consideration of the Grantor entering into this Concession at the Guarantor's request the Guarantor:
 - (a) guarantees payment of the Concession Fee and the performance by the Concessionaire of the covenants in this Concession; and
 - (b) indemnifies the Grantor against any loss the Grantor might suffer should the Concession be lawfully disclaimed or abandoned by any liquidator, receiver or other persons.
- 30.3 The Guarantor covenants with the Grantor that:
 - (a) no release, delay, or other indulgence given by the Grantor to the Concessionaire, to the Concessionaire's successors or assigns, or any other thing whereby the Guarantor would have been released had the Guarantor been merely a surety is to release, prejudice, or affect the liability of the Guarantor as a Guarantor or as indemnifier;
 - (b) as between the Guarantor and Grantor the Guarantor may, for all purposes, be treated as the Concessionaire and the Grantor is under no obligation to take proceedings against the Concessionaire before taking proceedings against the Guarantor;
 - (c) the guarantee is for the benefit of and may be enforced by any person entitled for the time being to receive the Concession Fee;
 - (d) any assignment of this Concession and any Concession Fee Review in accordance with this Concession are not to release the Guarantor from liability;
 - (e) should there be more than one Guarantor the liability of each Guarantor under this Guarantee is to be joint and several.

31. What about Co-Siting?

- 31.1 In this clause "Co-Site" means the use of the Concessionaire's structures or facilities on the Land by a third party for an activity; and "Co-Sitee" and "Co-Siting" have corresponding meanings.
- 31.2 The Concessionaire must not allow Co-Siting on the Land without the prior written consent of the Grantor.
- 31.3 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 Land.
- 31.4 In addition, the Grantor must withhold consent if:
 - (a) the Co-Siting would result in a substantial change to the Concession Activity on the Land; or
 - (b) the Grantor considers the change to be detrimental to the environment of the Land.

- 31.5 Subject to clause 31.4 the Concessionaire must, if required by the Grantor, allow Co- Siting on the Land.
- 31.6 Where the Concessionaire maintains that Co-Siting by a third party on the Land would:
- (a) detrimentally interfere physically or technically with the use by the Concessionaire of the Land; 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 Land; 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 31.6. 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 31.6.
- 31.7 If the independent consultant report rejects the Concessionaire's concerns, the Concessionaire may dispute this in accordance with the procedure set out in clause 23 of Schedule 2.
- 31.8 Where the Concessionaire is required under clause 31.5 to allow Co-Siting on the Land, the Concessionaire is, subject to clause 31.10 entitled to enter into commercial agreements with third parties for them to conduct an activity on the Land and to receive a reasonable fee from them for any agreed activity they intend to carry out on the Land. 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.
- 31.9 If the Concessionaire does not accept the Grantor's determination, the Concessionaire may dispute this in accordance with the procedure set out in clause 23 of Schedule 2.
- 31.10 For the avoidance of doubt, a Co-Sitee permitted on the Land 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 Land. This separate concession must not contain provisions that conflict with the Concessionaire's rights and obligations in relation to the Land.
- 31.11 The Grantor must not authorise the third party to commence work on the Land 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.

32. What about Identification cards?

- 32.1 Before commencing the Concession Activity the Concessionaire must, if required by the Grantor in Item 16 of Schedule 1, obtain Concessionaire Identification cards from the Grantor. The Grantor is to supply such cards to the Concessionaire on a cost recovery basis.
- 32.2 The Concessionaire and any person acting under the authority of the Concession must carry and display a Concession Identification card when carrying out the Concession Activity.
- 32.3 The Concessionaire must obtain sufficient cards to ensure all people acting under the authority of the Concession can carry and display such cards when undertaking the Concession Activity.

33. What about registering the Concession?

- 33.1 The Grantor is not required to do any act or thing to enable this Concession to be registered and the Concessionaire must not register a caveat in respect of the Concessionaire's interest under the Concession.
- 33.2 Nevertheless, if the Concessionaire wishes to register this Concession under the Land Transfer Act 2017, the Grantor must take all such steps as are necessary to enable a certificate of title to issue in respect of the land against which the Concession may be registered subject to the Concessionaire being responsible for and bearing all costs of and incidental to any survey necessary to enable such issue of title and all costs incurred by the Grantor in enabling such an issue of title and in having this Concession re-executed by the parties in a form suitable for registration.

34. Are there limitations on public access and closure?

- 34.1 The Concessionaire acknowledges that the Licence Land and Easement Land is open to the public for access and that the Grantor may close public access during periods of high fire hazard for reasons of public safety or emergency.

35. Which clauses survive termination?

- 35.1 Clauses which, by their nature, ought to survive termination will do so, including clauses 13 and 25.

36. Are there any Special Conditions?

- 36.1 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.

37. The Law

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

SCHEDULE 3

SPECIAL CONDITIONS

GENERAL SPECIAL CONDITIONS

ESTABLISHMENT OF THE REPLACEMENT SHADOW BASIN PASSENGER LIFT SYSTEM; CONSTRUCTION OF TRAILS (2); CHANGING ROAD ACCESS; ALTERATION OF A STREAM BED, AT RASTUS BURN RECREATION RESERVE

Prior to establishment of the Concession Activity

1. Prior to establishment of the Concession Activity, the Concessionaire, at its cost, must:
 - (a) Enlist the services of an ecologist/botanist approved by the Grantor to survey and identify all individual *Aciphylla lecomtei*, *A. simplex*, *Anisotome lanuginosa* and *Brachyscome montana* plants within the Concession Activity area as shown on the schematic plans in Schedule 4; and
 - (b) Enlist the services of an ecologist/ornithologist approved by the Grantor to survey and identify any nesting pipit or kea within the Concession Activity area as shown on the schematic plans in Schedule 4; and
 - (c) Mark on the ground the approximate final outline of cut and fill areas identified by two different coloured fluorescent marker pegs (red for cut, green for fill) for the Grantor's inspection. For clarification purposes, the maximum width of each trail is to be in accordance with the table below; and

Trail name	Length	Maximum width
Calypso Trail	365 metres	up to 30 metres
Cushion Trail	183 metres	up to 15 metres
 - (d) Mark on the ground with marker pegs construction access routes; and
 - (e) Mark on the ground with pegs an outline of the bottom station and chair lift storage building and top station and integrated lift operator building, and lift towers for the Grantor's inspection; and
 - (f) Confirm the name of the independent monitor with the Grantor.

Independent monitor appointment

2. The appointment of the independent monitor in clause 1(f) of this Schedule will be agreed between the Grantor and Concessionaire. In the event that agreement cannot be reached, clause 23 in Schedule 2 "How will disputes be resolved?" will be followed.

Commencement of work

3. Establishment of the Concession Activity as described in clause 1 in this Schedule must not proceed until the Grantor:
 - (a) Has received a copy of the reports in clauses 1(a) to 1(b) in this Schedule, and confirms in writing that any recommendations have been implemented satisfactorily; and
 - (b) Has carried out, or is carried out by the Grantor's representative, a site inspection of the Concession Activity as described in clauses 1(c) to 1(e) in this Schedule; and
 - (c) Has confirmed the independent monitor named and agreed to in clause 1(f) and clause 2 in this Schedule is acceptable to the Grantor; and
 - (d) Has confirmed the timeline for the commencement and completion of the Concession Activity establishment works is satisfactory; and
 - (e) Has given written approval (email notification acceptable) to the Concessionaire that works to establish the Concession Activity may commence.

Establishment of the Concession Activity

Invertebrates (Peripatus/ngaokeoke)

4. The Concessionaire must ensure that at each lift tower site a pre-works invertebrate survey is carried out by an ecologist/entomologist approved by the Grantor, noting the presence of any invertebrate (including Peripatus/ngaokeoke). Should any invertebrates be present within an area of disturbance, collect the live animals (if possible) and move them no less than 100 metres away to an equivalent habitat. This is particularly important for the immobile or slow moving and flightless invertebrates (e.g. Peripatus/ngaokeoke).

Lizards

5. The Concessionaire must ensure that if a lizard is seen or found (alive or dead), then the Department of Conservation is to be contacted to provide guidance on the next steps, including whether a Wildlife Act Authority is required.

Construction timeframes

6. The following construction timeframes must be complied with:
 - (a) Prior to the commencement of each stage of development, the Concessionaire must submit a plan of works to the Grantor and the independent monitor. The plan of works is to include a timeline of works to be undertaken during that stage, the machinery to be used and the expected monitoring requirements.
 - (b) A briefing must be provided by the independent to contractors and the Concessionaire's staff prior to each key construction stage.
 - (c) All development and rehabilitation works impacting the natural environment must be completed by May 1st each year. Any unfinished work must be stabilised to prevent soil erosion until works can recommence.
 - (d) Should the Concessionaire desire construction be staged over two or more years the project plan is to account for remediation measures for unfinished works that may become redundant due to changing circumstances.

Construction guidelines

7. The Concessionaire must ensure that all establishment work is in accordance with the:
 - (a) *"Doppelmayr Lift NZ Ltd Construction Method Statement"*;
 - (b) Southern Land Development Consultants plans shown in Schedule 4, included in the Concessionaire's application;
 - (c) Stantec Report for Geotech and Stormwater Specifications and Design referred to on Southern Land Development Consultants plans shown in Schedule 4, included in the Concessionaire's application;
 - (d) Plans of Passenger Lift System and Associated Buildings shown in Schedule 4, included in the Concessionaire's application.

Top station installation

8. The Grantor must ensure that the top station is not visible from within the Lake Alta cirque area as shown in the graphic below (supplied by the Concessionaire) that shows shaded areas where the top station cannot be seen and areas where the top station can be seen (lighter shading). Lake Alta is shown in the centre of the graphic surrounded by dark shading.
9. In accordance with clause 8 in this Schedule, if the top station is visible from the Lake Alta cirque area (as determined solely by the Grantor), the Grantor will demand immediate removal of the top station.



Contractor selection

10. The Concessionaire must ensure that only contractors with a demonstrated ability in alpine earthworks and native vegetation restoration are used to carry out works.

Hours of work

11. Establishment work must only take place between 7am to 6pm Monday to Friday, and 7am to 5pm on Saturday. If work is required on Sunday between

the hours of 7am to 5pm, the Concessionaire must seek prior approval from the Grantor (email acceptable) no later 5pm Thursday, on a weekly basis.

Public access and safety

12. The Concessionaire must comply with the following conditions:
 - (a) The Concessionaire must keep road closures to a minimum and ensure the public is able to pass freely and safely through the licence Land and Easement Land (including the parking of vehicles in the upper carpark areas), whenever reasonably possible, except that:
 - (i) Public access may be restricted temporarily to the extent necessary to avoid harm to the public, but only with prior written agreement of the Grantor. Suitable temporary alternative access (such as to enable foot access to the West Face and summit ridges of the Remarkables and the 'Queens Drive' from the top of the Shadow Basin) is to be provided and marked. Any restrictions on public access are to be publicly notified by the Concessionaire at its expense;
 - (ii) The Concessionaire is to install signage for the duration of the works, at its expense, advising the public as to the nature of the work.

Vehicle and machinery access

13. The Concessionaire must ensure that:
 - (a) Excavator access route is in accordance with existing and new trails as shown on the schematic plans in Schedule 4.
 - (b) All machinery enters and exits work sites from existing roads or on existing and new trails, whichever is closer.
 - (c) Machinery does not disturb terrain, other than as authorised in this Concession.
 - (d) Platforms are placed over the cushion field vegetation along access routes to help minimise the damage to fragile vegetation.

Weed and pest mitigation

14. The Concessionaire must ensure that:
 - (a) Machinery and equipment entering the Land is cleaned and checked for soil that could contain seeds or exotic plants, and take all practicable steps to avoid the introduction of exotic seeds or plants; and
 - (b) No imported soil is brought onto the Land. Where the Concessionaire plans to deposit soil over the surface of the newly contoured slopes or batters, this soil must be from the Concession Activity work area; and
 - (c) No soil is moved upslope from lower areas (to prevent the further spread of weeds).
 - (d) Any exotic plant species which are introduced through the course of the works are controlled/removed.

Wetland protection

15. The Concessionaire must comply with the following conditions:

- (a) All wetlands are to be avoided.
- (b) When working on or using accessways above any wetland, any runoff is to be contained to avoid the risk of sedimentation.

Control of surface runoff and silt

- 16. Suitable drainage, cut-outs and silt traps are to be installed to control new surface flows into lower areas of vegetation, wetlands and watercourses.
- 17. Where areas of surface or sub-surface drainage are unable to be avoided, suitable provision for maintaining their flow and quality is to be installed eg. coarse rock, geocloth, piping, silt traps.

Watercourse

- 18. No alteration to the existing path, flow or direction of any watercourses is to occur without the consent of the Grantor. For the avoidance of doubt, this does not include alteration of the stream bed referred to in the *eg Scientific Lower Shadow Basin Lift Station Freshwater Assessment* included in the Concessionaire's application.

Vegetation protection during establishment

Aciphylla lecomtei

- 19. Where it is not possible to avoid *Aciphylla lecomtei*, the Concessionaire, at its cost, must remove each plant individually, and prepare it for re-planting. Once work is completed removed plants must be re-planted and plantings maintained until re-establishment.

Aciphylla simplex

- 20. The rocky upper section of the Calypso and Cushion trails, chairlift tower sites and adjacent areas are to be surveyed for *Aciphylla simplex*. All plants are to have their location marked and counted. Best endeavours are to be employed to avoid *Aciphylla simplex* plants. Information on the number of plants found and the number proposed to be destroyed is to be provided to the Grantor before any disturbance to plants occurs.

Anisotome lanuginosa

- 21. Where it is not possible to avoid *Anisotome lanuginosa*, the Concessionaire, at its cost, must either:
 - (a) remove each plant individually and prepare for re-planting. Once work is completed removed plants must be re-planted and plantings maintained until re-establishment; or;
 - (b) The snow tussock grassland which contains the *Brachysome montana* species is to be uplifted, stored in a manner that is likely to ensure its survival and successful re-planting and reinstated as soon as possible after earthworks are complete.
 - (c) Where the developed trails (Calypso and Cushion trails) pass through rock field, and revegetation is not possible, trails should be finished with coarse rock rather than smaller gravel sized material.

Colours and lighting

22. The Concessionaire must ensure that:
- (a) All buildings and structures (including roofs) must be made of non-reflective materials and painted using recessive colours;
 - (b) Lighting on the top station and snow making guns must be muted and where practical lighting is to be pointed down. No lighting is to be installed on the passenger lift system towers. Lighting must not be visible from the Lake Alta area or from the wider Wakatipu basin.

Completion of establishment works

23. The Concessionaire must:
- (a) Advise the Grantor when all work to establish the Concession Activity has been completed; and
 - (b) Within 3 months of completion of the facility provide the Grantor with:
 - (i) photographs of the Concession Activity on the Land, illustrating the final 'as-built' form and extent of the Concession Activity authorised by this Concession, and
 - (ii) final as-built scale plans of the Concession Activity, and
 - (iii) NZTM shapefiles or GPX files of the Concession Activity.

Post establishment of the Concession Activity

24. After establishment of the Concession Activity, the Concessionaire must, at its cost:
- (a) Establish photo monitoring points, in consultation with the Grantor, in order to track the progress of reinstated vegetation in clause 29 in this Schedule; and
 - (b) Ensure all areas of disturbed rock-fields are reinstated to reflect their natural appearance prior to construction, to the Grantor's satisfaction; and
 - (c) Enlist the services of an ecologist/botanist to prepare a report on all individual *Aciphylla lecomtei*, *Aciphylla simplex*, *Anisotome lanuginosa* and *Brachyscome montana*. one year after establishment of the Concession Activity to determine survival rates. Undertake further or alternative measures if required to achieve no net loss of *these plants* in the Reserve. The report must be provided to the Grantor.

Monitoring

25. The Concessionaire must undertake the following monitoring:
- (a) Monitoring of silt control, re-vegetation and all works is to occur by the independent monitor (as agreed by the Grantor and the Concessionaire in accordance with clause 2 in this Schedule) at a frequency of an average of one site visit per week for the duration of the works. All costs are to be at the expense of the Concessionaire. Reports are to be provided to both parties within three working days of the site visit.
 - (b) Monitoring of other works may be conducted by the Grantor. All costs are to be at the expense of the Concessionaire.

Restoration work

Re-vegetation protocol

26. All works must be in accordance with the "*Protocol for the rehabilitation of natural alpine environments following ski area development*" attached as Schedule 3A.
27. If there is a conflict between this Schedule and the protocol in Schedule 3A, this Schedule prevails.

Removal and storage of vegetation

28. The Concessionaire must comply with the following conditions:
 - (a) Vegetation is to be stripped and stored locally as construction progresses. It must be stripped and stored with enough surrounding soil and humus and in a manner that is likely to result in successful replanting and long-term survival.
 - (b) Stripping may be by machine or by hand, whichever will provide the best chance for success given the nature of the vegetation.
 - (c) Watering of vegetation material may be required, at the direction of the Grantor or its nominated independent monitor, to ensure its survival while stored.

Re-vegetation

29. When re-vegetating disturbed areas, the Concessionaire must comply with the following conditions:
 - (a) Vegetation is to be replanted using locally sourced material, including that stripped and stored under clause 28(a) in this Schedule, as soon as possible following completion of works at individual sites such as individual tower sites or trenches. Follow-up maintenance of re-vegetated areas to enhance their chances of re-establishment must be undertaken prior to the end of the growing season;
 - (b) Where there is sufficient plant material and humus to allow survival, stripped material can be split. To supplement re-vegetation works split material may also be sourced from other areas in the Remarkables ski area, provided it does not result in additional adverse ecological effects on the source areas;
 - (c) The snow tussock grassland which contains the *Brachysome montana* species is to be uplifted, stored in a manner that is likely to ensure its survival and successful re-planting and reinstated as soon as possible after earthworks are complete;
 - (d) Geotextile cloth is to be laid over any areas where there has been insufficient planting by May 1st. This is to be removed in the following spring and re-vegetation works continued;
 - (e) Plant spacing should be adequate to ensure revegetation of the site to a sufficient vegetation cover, with additional density detail as specified by the independent monitor on site;

- (f) To intensify re-vegetation of tussocks, nursery reared plants, sourced from appropriate seed, may be used where there is insufficient existing vegetation available for transplanting. The rearing and planting of any plants to be brought on site must be to the satisfaction of the Grantor;
- (g) The seed of appropriate species sourced from the Rastus Burn Recreation Reserve or similar location should be broadcast to promote vegetation growth in the rock areas, between transplanted/planted tussocks and to assist revegetation of fellfield areas;
- (h) Where there has been insufficient replanting by May 1st, any exposed topsoil must be managed to avoid erosion losses until replanting can be restarted in the following spring;
- (i) All disturbed areas that have existing vegetation cover are to be re-vegetated, including new chair lift tower sites, decommissioned Shadow Basin chairlift, new ski trails, ski trail batters and sites associated with the snow making infrastructure;
- (j) Clauses 29(a) to 29(i) in this Schedule requiring re-vegetation are complied with only once the Grantor has confirmed in writing that the relevant areas have been re-vegetated to the Grantor's satisfaction.

Decommissioning redundant Shadow Basin chairlift

Decommissioning and removal of the redundant Shadow Basin chairlift (top and bottom stations, towers and associated infrastructure):

that removal is in accordance with the following requirements:

- 30. The Concessionaire must ensure, wherever practicable, that removal is carried out by using purpose designed mats temporarily laid across the existing ground to spread the loading and prevent tyres/tracks damaging vegetation.
- 31. Rehabilitation of the land once the top and bottom stations, towers, tower concrete footings and other infrastructure is removed is to be in accordance with restoration clauses 26 to 29 in this Schedule, and making good is to be to a standard commensurate with the surrounding environment and to the satisfaction of the Grantor.
- 32. The Concessionaire must notify the Grantor when decommissioning and making good is completed, so that a final inspection can be carried out by the Grantor.

Remediation of works

- 33. Where the Grantor identifies any requirement for remediation following monitoring or inspection, the remediation is to be carried out as specified by the Grantor at the Concessionaire's cost.

Suspension of works

- 34. The Grantor, at its sole discretion, may require all works to be suspended until suitable remediation is completed.

Satisfactory completion of works

35. Confirmation that re-vegetation and any other remedial works (including the decommissioning of redundant Shadow Basin chairlift and associated infrastructure) has been completed satisfactorily is to be at the discretion of the Grantor.

GENERAL

Other consents, approvals and assessments

36. This Concession approval does not replace or supersede any other lawfully required consents, approvals and assessments from other agencies. This includes (but is not limited to) geotechnical, engineering, district and regional resource consents, and building consents. Copies of these approvals are to be provided to the Grantor prior to works commencing.

In respect to Ngāi Tahu

37. The Concessionaire is requested to consult the relevant Papatipu Rūnanga (as set out below) if it wishes to use Ngāi Tahu cultural information. If the Concessionaire wishes to use the Tōpuni or statutory acknowledgement information contained in schedules 14-108 of the Ngāi Tahu Claims Settlement Act 1998, or any interpretative material produced by the Department of Conservation in respect to Ngāi Tahu cultural information, the Concessionaire is requested to notify the relevant Papatipu Rūnanga, as a matter of courtesy.
38. The Concessionaire must, as far as practicable, attend any workshops held by the Department of Conservation for the purpose of providing information to Concessionaires, which includes Ngāi Tahu values associated with Tōpuni areas.
39. The Concessionaire must ensure its employees are requested to recognise and provide for Ngāi Tahu values in the conduct of their activities.

Interpretation Materials and Cultural Values

40. If the Concessionaire intends to undertake any written interpretation materials (panels, brochures etc) that include Māori/iwi values of the area, then this shall be done in partnership with Ngāi Tahu. The Concessionaire should contact the Papatipu Rūnanga (as set out below) and Te Rūnanga o Ngāi Tahu.

Office of Te Rūnanga o Ngāi Tahu
PO Box 13 046
Christchurch 8141
Phone: 0800 524 8248
email: info@ngaitahu.iwi.nz

Accidental Discovery Protocol

41. The Concessionaire must take all reasonable care to avoid any archaeological values on the Land which includes (but is not limited to) historic sites and protected New Zealand objects on the Land. In the event that archaeological sites or other features with heritage values are found during any approved earth disturbance work on the Land:
- (a) Work must cease immediately until further notice and advice must be sought from the Grantor;
 - (b) If it is an archaeological site as defined by the Heritage New Zealand Pouhere Taonga Act 2014 then Heritage New Zealand must be contacted and its advice sought;
 - (c) If it is an archaeological site relating to Māori activity then the Papatipu Rūnanga must be contacted and their advice sought;
 - (d) If it is an artefact as defined by the Protected Objects Act 1975 then the Ministry for Culture and Heritage must be notified within 28 days;
 - (e) If it is human remains the New Zealand Police should also be notified;
 - (f) In the event of cessation of approved work because of discovery of potential historical artefact or archaeological site the Concessionaire must not recommence work until permitted to do so by the Grantor.

Works

42. The Concessionaire must provide a proposed annual summer maintenance work programme to the Grantor no later than 3 months following the end of the previous ski season. The Grantor may request plans, drawings, diagrams and/or specifications, scope of work and an assessment of its potential effects (and any other information required) for consideration and the Grantor (at its entire discretion) may require changes to be made to ensure the proposed works are within scope of this Concession. The information to be provided is to include, but is not limited to:
- (a) any building or asset modifications requested by the Concessionaire;
 - (b) proposed terrain modification or other earth disturbance activities;
 - (c) appropriate restoration or preventative maintenance the Concessionaire may require;
 - (d) any works proposed as part of any development plan subject to Concession conditions;
 - (e) any revegetation, remediation or reinstatement measures to be performed by the Concessionaire and required by the Grantor to the Land;
 - (f) expected commencement and completion dates of any such works.

Operation of plant, machinery and equipment

43. The Concessionaire must operate all plant, machinery and equipment on the Land to required standards, codes of practice and legislative requirements. The Concessionaire shall, at the Grantor's request, provide the Grantor with documentary evidence of compliance with the said requirements.
44. Plant, machinery and equipment used in conducting the Concession Activity must be maintained at all times to prevent leakage of oil and other contaminants onto the Land.

Fuels, hazardous materials, chemicals and waste

45. Any waste or rubbish must be disposed of in an approved manner off the Land at a Council approved site. Waste held on the Land prior to its removal must be stored in a manner so as to ensure it does not become a contaminant or is not blown by wind or present a potential hazard to wildlife.
46. At the completion of any approved works programme, the Concessionaire must remove all construction related waste and fill from the Land and dispose at a resource recovery centre, Council landfill or other authorised facility.
47. The Concessionaire must ensure that all site personnel are trained in hazardous material, waste and fuel handling and spill contingency and emergency procedures.
48. The Concessionaire must ensure that all hazardous materials including paints, fuels and other chemicals are stored in a secure enclosed facility onsite, including the provision of any spill cleanup kits used to contain and/or absorb all hazardous substances used in the Concession Activity.
49. The Concessionaire must use clean fuels in preference to fossil fuels wherever possible.
50. In the event of any hazardous substance spill the Concessionaire must:
 - (a) Take all practicable measures to stop the flow of the substances and prevent further contamination onto the Land or water;
 - (b) Immediately contain, collect and remove the hazardous substances and any contaminated material, and dispose of all such material in an appropriate manner / authorised facility;
 - (c) Notify the Grantor as soon as practicable;
 - (d) Undertake any remedial action to restore any damage to the land; and
 - (e) Take all measures to prevent any reoccurrence.

Freshwater pests

51. The Concessionaire must comply and ensure its clients comply with the Ministry for Primary Industry (MPI)'s "Check, Clean, Dry" cleaning methods to prevent the spread of didymo (*Didymosphenia geminata*) and other freshwater pests when moving between waterways. "Check, Clean, Dry" cleaning methods can be found at - <http://www.biosecurity.govt.nz/cleaning>. The Concessionaire must regularly check this website and update their precautions accordingly.

Climate Change Considerations

52. The Concessionaire acknowledges that the Grantor and the Department of Conservation are reviewing their obligations under the Climate Change Response Act 2002 and developing responses to address greenhouse gas emissions from activities conducted on public conservation land and waters. The reviews are likely to result in policies which seek to measure, manage and reduce greenhouse gas emissions from Concession Activities. The Grantor wishes to signal to the Concessionaire that new concession conditions related to both climate change mitigation and adaptation may be imposed during the life of this Concession to address greenhouse gas emissions associated with the Concession Activity.
53. If the Grantor requests data relating to greenhouse gas emissions associated with the Concession Activity, the Concessionaire must provide any relevant data that is reasonably available to it within 6 months of the Grantor's request.
54. The Concessionaire will, at its expense and in consultation with the Grantor, procure a carbon emission assessment (the **Carbon Emission Assessment**) relating to greenhouse gas emissions associated with the Concession Activity within 1 year of the commencement of this Concession.
55. The Carbon Emissions Assessment must, as a minimum:
 - (a) be prepared by a person with relevant skills and experience and whose credentials have first been provided to the Grantor and approved by the Grantor;
 - (b) clearly identify the sources of greenhouse gas emissions associated with the Concession Activity and quantify the amounts from each source;
 - (c) recommend a comprehensive set of remedial actions to reduce greenhouse gas emissions associated with the Concession Activity; and
 - (d) quantify the anticipated greenhouse gas reductions associated with each remedial action and the timeframes over which those reductions would be experienced.
56. The Concessionaire will provide a copy of the Carbon Emission Assessment to the Grantor within 1 week of the final version being received by the Concessionaire. The Concessionaire will also provide annual updates on the Concessionaire's performance against the recommendations in the report and actions taken. These annual updates do not need to be performed by a qualified expert and are intended to provide interim data between the 3-yearly Carbon Emission Assessments required under clause 57 in this Schedule.
57. Further to clause 54 in this Schedule, the Concessionaire will, at its expense, procure follow-up Carbon Emission Assessments within 3 years of the commencement date of this Concession (and every 3 years thereafter). Those subsequent Carbon Emission Assessments will conform with the requirements of clause 55 in this Schedule as well as report on the extent to which the Concessionaire has implemented the recommendations contained in previous assessments.
58. The Grantor may review and amend the conditions of this Concession (Revised Conditions) to:
 - (a) reflect climate change-related legislation and Government or Departmental policy; and/or
 - (b) give effect to the recommendations contained in the Carbon Emission Assessments; and/or

- (c) measure, manage and set targets for reducing greenhouse gas emissions associated with the Concession Activity which align with Government and/or Departmental policy.
- 59. Before amending the conditions of this Concession in accordance with clause 58 in this Schedule, the Grantor will provide the Concessionaire the draft Revised Conditions. The Concessionaire may provide written comments on those draft Revised Conditions within 60 days. The Grantor must take into account any comments received from the Concessionaire on the Revised Conditions before finalising the Revised Conditions.
- 60. The Revised Conditions will apply to the Concession Activity 4 months after the Grantor has notified the Concessionaire of the Revised Conditions in accordance with clause 59 in this Schedule or any later date specified in the Revised Conditions.

Monitoring and compliance

- 61. If the Grantor determines that the conditions of this Document or the effects of Concession Activity should be monitored, the Concessionaire shall meet: either the full costs of any monitoring programme that is implemented; or, if the Grantor determines that the costs should be apportioned among several Concessionaires who use the same locations, part of the costs of the monitoring programme. These costs will include the Department's standard charge-out rates for staff time and the mileage rates for vehicle use associated with the monitoring programme.
- 62. Where the Concessionaire has been required by the Grantor to provide documentary evidence of compliance the Concessionaire must provide such documentation to the Grantor within thirty (30) days of the date of any written notice requesting the documentation, or such timeframe mutually agreed between the Grantor and Concessionaire.

Signage

- 63. Clause 12.1 in Schedule 2 is amended to read:

"12.1 The Concessionaire may erect or display any signs or advertising on the Lease Land and may erect or display any signs that relate to the safe and efficient operation of the activity on the Licence Land and Easement Land without the prior approval of the Grantor. At the expiry or termination of this Concession the Concessionaire must remove all signs and advertising material and make good any damage caused by the removal."

Public access, safety and education

- 64. The Concessionaire must clearly define, mark and control areas deemed unsafe for the public on the Land and educate paying visitors about the danger of skiing or going outside these areas.
- 65. The Concessionaire must take reasonable care to manage any approved works, structures or landscaping on the Land to ensure that users of conservation land are not adversely impeded.
- 66. The Concessionaire must allow access to members of the public through the Land who are passing through the Land to conduct their own, not-for-profit recreational activities, but without guns and animals.

67. Clause 14.6(d) in Schedule 2 is replaced with the following:

The Concessionaire must:

- (a) *Report to the Grantor all accidents involving serious harm that are reportable to WorkSafe in accordance with the Concessionaire's health and safety plan and applicable legislation;*
- (b) *Provide the report within 3 days of providing a report to WorkSafe;*
- (c) *Provide to the Grantor at the Grantor's request any weekly or monthly reports generated by the Concessionaire and derived from the Concessionaire's accident reporting database.*

68. In order to comply with its obligations under the Health and Safety at Work Act 2015 to eliminate or minimise risks to health and safety so far as is reasonably practicable, the Concessionaire may, when undertaking activities such as slope safety, road safety, snow grooming and avalanche control work, control, limit or restrict public access to the specific area of the Land where the activity is to be carried out for a period not exceeding 2 days.

69. If the particular activity in clause 68 in this Schedule will require more than 2 days or if the Concessionaire considers an extension beyond the period of 2 days is necessary, the Concessionaire must advise the Grantor of the time sought and the reasons for it and comply with any directions the Grantor may give concerning the matter.

Other

70. The Concessionaire and its agents must take reasonable and proper care not to damage any property of the Grantor or other authorised Concessionaires. Should any damage occur which is attributable to the actions of the Concessionaire or its agents, the Concessionaire must promptly repair any such damage at its cost.
71. After any approved works have been completed, the Concessionaire must reinstate the Land in accordance with the protocols in Schedule 3A, and generally maintain the Land in a tidy condition to the satisfaction of the Grantor.

Review of Conditions

72. In addition to the express opportunities the Grantor has to review conditions elsewhere in this Concession, the Grantor may, on each Concession Fee Review Date, and after consulting with the Concessionaire, delete, vary or add any condition to more effectively manage the Concession Activity.

LEASE SPECIFIC CONDITIONS

Lease area

73. The lease area land under this Concession is as described in Item 1 of Schedule 1 and shown on the plans and diagrams in Schedule 4.

Structures and facilities

74. The Concessionaire must (at its cost) operate, maintain and repair buildings, equipment sheds, utility huts, lift infrastructure and other similar devices and apparatus on the Land to required standards, codes of practice and legislative requirements. The Concessionaire must at the Grantor's request, provide the Grantor with documentary evidence of compliance with the said requirements.

Maintenance

75. The Concessionaire is authorised to perform the following maintenance work under this Concession on the Land:
- a. Ongoing interior maintenance and interior modification of any building;
 - b. The exterior maintenance of any building, stationary plant item or structure on the Land where such maintenance does not alter the external appearance of that building or structure, and where consent from the Grantor is not otherwise required under this Concession.

LICENCE SPECIFIC CONDITIONS

License area

76. The license area land under this Concession is as described in Item 1 of Schedule 1 and shown on the plans in Schedule 4.

Main ski field area (skiable terrain)

77. The Concessionaire must (at its cost) operate and maintain the main ski field area (skiable terrain) on the Land to required standards, codes of practice and legislative requirements. The Concessionaire must at the Grantor's request, provide the Grantor with documentary evidence of compliance with the said requirements.

Snow-making and grooming

78. The Concessionaire is permitted to use *e.g. Snomax®* for snow-making purposes and may undertake snow grooming activities, provided that this causes minimal adverse effects to natural values on the Land.

Use of explosives

79. The Concessionaire may use explosives for the purposes of operational snow area safety management.
80. The Concessionaire may only use explosives for approved terrain modification activities on written approval from the Grantor, which may be subject to conditions.
81. The Concessionaire's safety plan must address risks associated with all explosives activities and include means to avoid, remedy or minimise adverse effects. The Concessionaire must ensure that explosive charges are placed so there is minimal potential for adverse effects to be caused to natural features and wildlife present on the Land.

Weed and pest management

82. The Concessionaire must maintain all creeks, drains, ditches and water courses and keep them clean and clear of weeds and obstructions, while ensuring that fish passage (if relevant) is maintained.
83. To minimise the introduction of weed species, the Concessionaire must ensure that all machinery, tools and equipment used on the Land is cleaned and weed free prior to being brought onto the Land. Any gravel, other materials and construction material used for any approved works must be sourced from an approved weed free source.

Terrain modification

84. All terrain modification is to be set out in the approved works programme in clause 42 in this Schedule. No other terrain modification works may occur.
85. The Concessionaire may perform the maintenance of any water table, culvert or other runoff water control device on the Land.
86. Any vegetation removal and soil disturbance necessary to undertake any approved terrain modification described in the approved works programme in clause 42 in this Schedule must be kept to a minimum.

Released under the Official Information Act

EASEMENT SPECIFIC CONDITIONS

Easement facilities

87. The Concessionaire must (at its cost) operate, maintain and repair snow making and pumping equipment (wands/snow guns), towers, lift cables, ski lift chairs and utilities (water, electricity, telecommunications and computer media) on the Land to required standards, codes of practice and legislative requirements. The Concessionaire must at the Grantor's request, provide the Grantor with documentary evidence of compliance with the said requirements.

General

88. The Right and Powers implied in easements under Schedule 5 of the Land Transfer Regulations 2018, apply as is relevant to the class of easement provided for in this Concession. Schedule 5 of the Regulations (excluding clause 13 and 14) is set out in Schedule 5 of this Concession and the clauses are varied as follows:
- (a) Clause 1 is amended by adding the words "in Schedule 4" after the words "on a plan" in paragraph (a) of the interpretation of "**easement area**"
 - (b) Clause 1 is amended by deleting the words "grantee and" from the interpretation of "**grantee and grantor**".
 - (c) Clauses 2(b) and 2(c) are deleted.
 - (d) Right to drain water (Clause 4) and Right to drain sewage (Clause 5) are deleted.
 - (e) Schedule 5 is amended by adding a new clause 1A: "Any reference to "grantee" in this Schedule is to be read as "Concessionaire" and includes Concessionaire's agents, employees, contractors, tenants, licenses and invitees."
 - (f) Clause 11(2) is deleted and clause 11(4) is amended by deleting the reference to (2).
 - (g) Clause 6(2)(b) is deleted.
 - (h) Clauses 13 and 14 are deleted.

SCHEDULE 3A**PROTOCOL FOR THE REHABILITATION OF NATURAL ALPINE ENVIRONMENTS FOLLOWING SKI AREA DEVELOPMENT****Between****DEPARTMENT OF CONSERVATION and NZSKI LTD.****1. Introduction**

The protocol sets out practical means of achieving a high standard of environmental rehabilitation during and following development works at either Coronet Peak or The Remarkables Ski Areas. NZSki will require its staff and contractors to act in accordance with the protocol.

The scope includes any work that results in any environmental disturbance including (not limited to) the indigenous vegetation, native fauna, soil, wetlands, streams, lakes and natural landforms of the ski area. Works may only be exempted from the protocol with prior agreement from DOC.

DOC staff will conduct regular monitoring to observe progress and assess effectiveness of the measures. This will include providing advice, troubleshooting unexpected problems, adjusting management approaches and, if necessary, require corrective action to ensure the objectives of the protocol are met.

2. Objectives of the protocol

To ensure that during the course of ski area developments there is a minimum of interference with the natural environment, and avoidance of disturbance to areas outside approved work areas;

To ensure that any indigenous vegetation disturbed by development is restored as near as possible to its original density and diversity, within the shortest practical timeframe;

To minimise the erosion and sedimentation of exposed soils (and soil among transplanted vegetation), optimising the longer term regeneration of indigenous vegetation through natural dispersal;

To otherwise replicate a high standard of natural appearance to any ground not occupied by permanent structures or required to regularly bear mechanised traffic; and

To establish a clear understanding between the staff and contractors of both the Department of Conservation (DOC) and NZSki on the required standards for:

- Work site control measures;
- Removal and replacement of vegetation and top soil;
- Management of soil erosion and sediment control;
- Ongoing monitoring and maintenance of rehabilitated areas;
- Contracted monitoring; and
- DOC's ability to suspend works.

3. Work Site control measures:

- a. Only machinery operators with a demonstrated ability in low impact earthworks and vegetation rehabilitation in an alpine setting are to undertake construction;

- b. Prior to works NZSki shall ensure that a briefing occurs between its staff, contractors and DOC to ensure a common understanding of how works will be conducted;
- c. NZSki must minimise disturbing non target areas when accessing and working within development sites. If machinery is required to move off existing tracks the least damaging route must be used and any disturbed vegetation must be rehabilitated when works are completed;
- d. The risk of soil erosion over denuded areas must be carefully managed until rehabilitation works are undertaken and soil is no longer exposed;
- e. Works must be conducted to ensure no contaminants are discharged onto the land or into watercourses (directly or indirectly). All vehicles, machinery, equipment and aggregate material must be cleaned of weeds, seeds and soils before entering the works area. Refueling must be undertaken on hard surfaces away from watercourses and vegetation.
- f. Sensitive natural features including streams, wetlands, tarns, lakes and rare habitats are not to be disturbed, either for development works or access to development sites. Where disturbance is unavoidable prior approval must be sought and additional environmental protection measures may be required;
- g. All development and rehabilitation works impacting the natural environment must be completed by the 1st May. Any unfinished work must be stabilised to prevent soil erosion until works can recommence.

4. Removal and replacement of vegetation and top soil:

- a. Vegetation must be carefully removed in a manner to minimise damage to both the above ground plant and to protect as much soil material around the roots as possible;
- b. The remaining topsoil must also be removed before excavation of rock material may commence. If not used quickly with the replanting of vegetation this topsoil may be stockpiled for later use;
- c. All vegetation removed should be quickly replanted into areas where works have already been completed. This will usually occur through progressive reinstatement on completed formations behind the main work "face";
- d. Priority for replanting shall be given to areas prone to erosion;
- e. Individual plants or clumps of vegetated material ("sod") shall be reinstated by careful use of a digger bucket. Spacing should be no greater than 1 metre, unless directed otherwise by DOC.
- f. Final positioning of transplanted vegetation and sods should be conducted by hand tools, with top soil packed around each plant or sod to maximise survivorship and to achieve a result that closely resembles the surrounding natural areas;
- g. When transplanted plants and sods are insufficient to cover the disturbed area additional vegetation may be sourced through splitting indigenous vegetation from adjacent areas. This should only be done where there is sufficient plant and humic material to allow survival of both 'parent' and 'split' plants.
- h. Nursery reared plants (usually tussocks) may also be used to supplement transplanted vegetation and sods. Only locally sourced

seeds may be used to grow plants for the ski area. Nursery reared plants are susceptible to rapid die off and browsing and must be handled carefully as follows:

- Fertiliser is to be placed in the root well prior to planting;
 - Plants must be well bedded to lessen risk of uprooting by feral animals; and
 - Plants may be treated with suitable chemicals to deter browsing by feral animals.
- i. Locally sourced seed of appropriate species may be broadcast to promote vegetation growth between transplanted vegetation and sods. Exotic seeds may be spread only with prior approval;
 - j. Special care must be taken when replanting on steep slopes between 30 and 45 degrees:
 - Plants should be transplanted quickly, steep slopes require plants to be in the healthiest possible condition;
 - Indented troughs or depressions should be formed to create “bedding” for the tussocks or sods to be transplanted. Replanting should not occur on sheer surfaces;
 - Replanting should be as close together as practical, leaving little exposed ground;
 - Large heavy plants and sods should be staked for support where possible;
 - Steep slopes should be closely monitored and any plants or sods released from the slope quickly retrieved, split into smaller, lighter clumps and replanted back into the slope as described above;
 - Consideration should be provided to planting small nursery reared plants where possible;
 - Attempts at replanting vegetation on slopes steeper than 45 degrees should only proceed with prior approval;
 - k. The vegetation removed at one site may be used at another development site within the ski area only with prior approval;
 - l. If no areas are available for a quick reinstatement, vegetation may be temporarily stored in designated areas with prior agreement:
 - All handling of vegetation for longer term storage must be done with great care to minimise cumulative damage to plants;
 - Vegetation may only be stockpiled up to one metre high to avoid die off resulting from smothering and crushing; and
 - All vegetation temporarily stored must be watered when protracted dry conditions may impact on survivorship.
 - m. If NZSki expects to have a surplus of vegetation and/or topsoil at the end of works, this must be replanted /spread over other areas of rehabilitation, under direction from DOC.
 - n. Any surplus rock material must not be stockpiled and/or spread over nearby terrain without prior approval.
 - o. NZSki will actively eradicate any noxious weeds from all development and rehabilitation areas; and

- p. No rock landscaping may be used as a substitute for vegetation unless by prior agreement.

5. Management of soil erosion and sediment control

- a. The surface of vehicle tracks, formed ski trails and any other disturbed ground without a cover of indigenous vegetation will be managed to improve water infiltration, minimise rilling and sheet erosion, reduce suspension of sediment and provide micro sites for wind borne seed to settle. Control measures include;
- shaping / crowning the surface;
 - applying an appropriate gravel surface in problem areas;
 - forming of earth, rock or vegetation bunds;
 - Ripping or roughening soils perpendicular to the slope angle; and
 - Constructing water tables/swale drains to intercept and divert surface flows.
- b. Where the slope angle exceeds 30 degrees natural features such as rocks could be incorporated into the slope where this leads to the stability of the site; this would require prior approval from DOC and potentially the support of geotechnical experts. This solution would be considered on a site by site basis.
- c. Water tables/swales must have a catchment area no greater than 2,000m². Ski trails must have functioning swales no less than 60m apart. All water tables/swales must be clear of sediment and able to convey water.
- d. Water tables and swales must lead to an appropriately designed and armoured settlement pond to capture sediment so only clear water disperses into the surrounding landscape.
- These ponds must be large enough to 'settle' the flow and allow sediment to be deposited, particularly from heavy rainfall events. Precise dimensions will depend on the area and erosion potential of catchment above, however, these may be graduated areas 1m wide x 2m long x 1m deep. They should be armoured with rocks or surrounded by soil mounds and tussocks or geotextile materials.
 - Sediment captured by settlement ponds are to be redistributed to assist re-vegetation of disturbed areas, whether previous or planned earthworks e.g. used to fill gaps between transplanted tussocks or to improve the mineral soil content when planting nursery tussocks.
 - Settlement ponds must be maintained such that they provide a means of monitoring the effectiveness of control measures thereby assist adjusting management approaches to reduce the potential for recurrent erosion.
- e. To protect wetlands and wetland vegetation from sediment no surface water carrying sediment must be allowed to run into wetland areas. Settlement ponds must not exit onto wetland areas. Water tables and swales must be designed to maintain the hydrological integrity of adjacent seepages and wetlands.
- f. Areas requiring erosion control measures are to be prioritised based on the following criteria:

- Vulnerability to erosion (e.g. slopes > 20 degrees, unconsolidated soils, disturbed ground adjacent to compacted soils)
 - Saturated soils on cut faces where seepages have been intercepted,
 - Remediation of slips or slumped land and stabilisation of land to prevent further or repeated slope failures.
 - Settlement areas that require armouring or treatment in order to filter water,
 - Stabilisation works required to facilitate revegetation.
- g. Areas identified for erosion control and soil conservation work may vary from year to year as revegetation occurs and slope and soil stability is achieved. Areas prioritised for erosion control in the 2015 – 2016 works programme are outlined in **Attachment A** below.
- h. Significant developments will have a soil conservation and erosion control plan in place prior to the commencement of works. This plan will demonstrate how the objectives of this protocol will be achieved.

6. **Ongoing monitoring and maintenance of the rehabilitated area**

- a. The purpose of the monitoring is to assess the progress of rehabilitation and advise NZSki how to prevent or minimise risks to re-growth becoming self sustaining;
- b. All development and rehabilitation works will be monitored at least once prior to the commencement of work and again at completion of works. Interim monitoring may be required, depending on the nature of work. Following completion, regular monitoring will continue until DOC resolves, at its sole discretion, that the rehabilitation of the natural environment can progress unaided;
- c. Additional monitoring of erosion and sediment control measures will be made during or following significant periods of rainfall.
- d. Where monitoring establishes significant risks to rehabilitation, DOC will require NZSki to take any reasonable steps to rectify the situation and return the area to its desired condition. Any additional work required will be carried out at the cost of NZSki;
- e. In the event that an area is not rehabilitated following works, monitoring will continue until rehabilitation works have begun. Attention will be paid to preventing erosion during any lay period;
- f. DOC should reserve the right to recover the actual and reasonable costs of monitoring work.

7. **Contracted monitoring:**

DOC may contract monitoring to an external person/s. This approach not only provides time savings, but can also source specialist expertise on how to rehabilitate the sensitive alpine vegetation. This expertise is also vital to advise on appropriate remedial actions for any issues, and to provide expert input to planning processes. Contracted monitoring will take place as follows;

- a. The contractor is generally tasked to monitor the implementation of this protocol during any ski area development work that disturbs the natural environment;
- b. The monitor is to resolve any concerns of a routine nature directly with NZSki. Issues should be referred to DOC when problems are

- recurrent, significant in scale, unconventional or if a mutual agreement cannot be reached;
- c. To advise both DOC and NZSki whenever their action (or inaction) may present a problem for ski area environment, whether related to a specific development or any other activity;
- d. The monitor is to immediately advise DOC and NZSki if unauthorised works may be occurring, of significant risks to the natural environment that warrant suspension of works, and of any concerns with geotechnical hazards and/or public safety;
- e. Monitoring visits are to be scheduled in consultation with NZSki and DOC at a frequency of no more than once a week and no less than three times a summer (depending on nature of works over summer);
- f. If agreement on scheduling cannot be reached, DOC will make a final decision and notify NZSki of when monitoring is to occur;
- g. A brief written report of each monitoring visit is to be forwarded to DoC and NZSki in a timely manner. Reports should take a broad approach to assess overall performance, record agreements reached on site and highlight unresolved issues. Reports should take advantage of photo monitoring where possible;
- h. The time required for visits (and reports) are to be appropriate to the works in progress. The monitor is to notify and seek agreement from NZSki on where the combined time required for site visits and reporting is likely to exceed 5 hours;
- i. Support tasks supplementary to monitoring and reporting (e.g. research and meetings) are to be agreed with DOC and NZSki prior work occurring;
- j. The time spent on monitoring visits, reporting and support work will be billed directly to NZSki at a rate equivalent to DOC's current hourly rate for field staff, plus GST. Disbursements are to be billed separately.
- k. All monitoring reports and discussions between the contractor, NZSki and DOC will be kept confidential.

8. Right to suspend works

- a. DOC will, at its sole discretion, suspend any development work or activity should contracted monitoring, public feedback or DOCs own observations determine there are unexpected and/or significant impacts on the natural environment that are not being adequately rehabilitated.
- b. Any suspension shall remain in place until a response plan is agreed with NZSki.

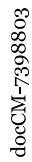
Southern Land Development Consultants (SDC) Proposed Shadow Basin Works (16 pages)

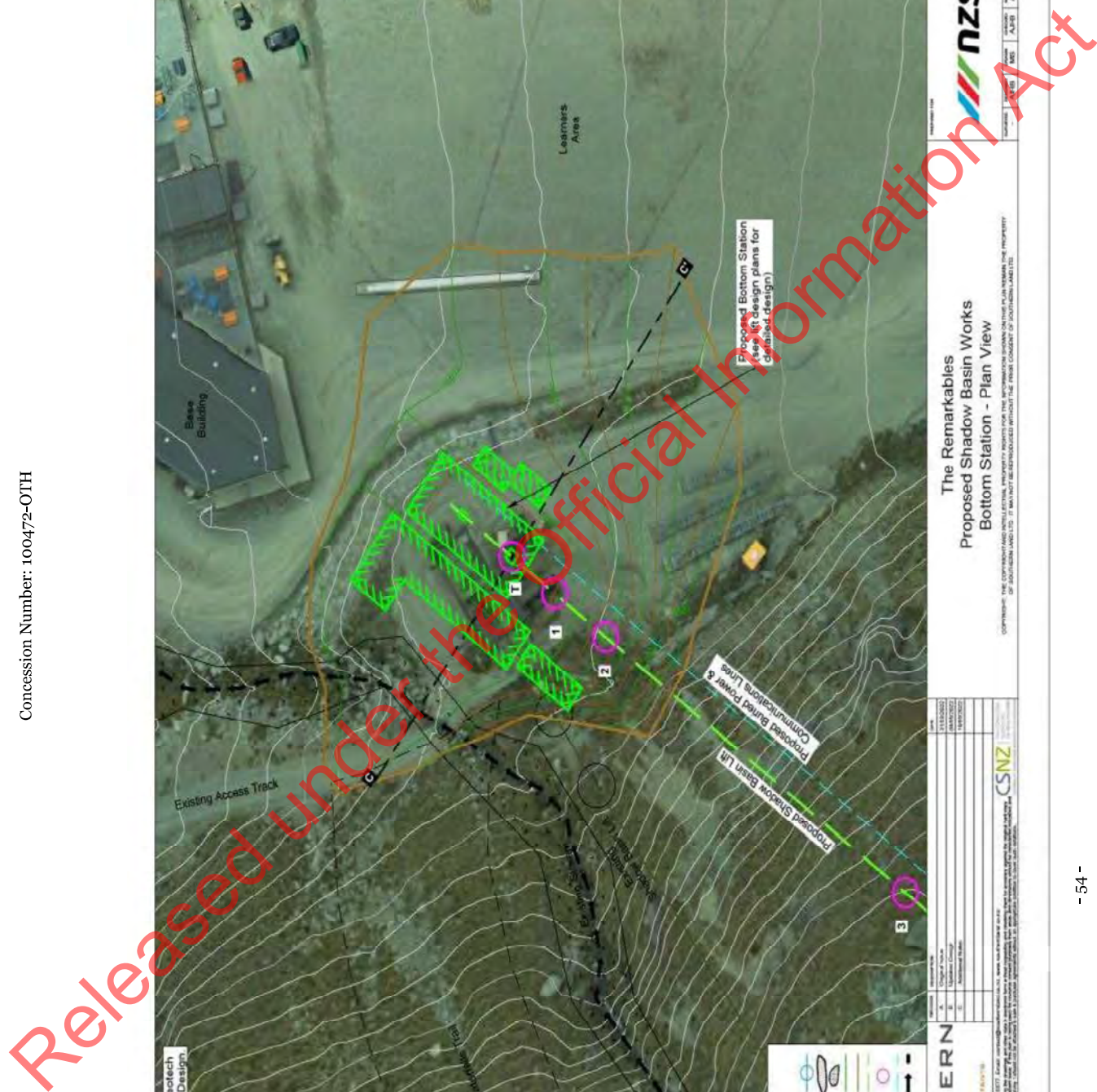
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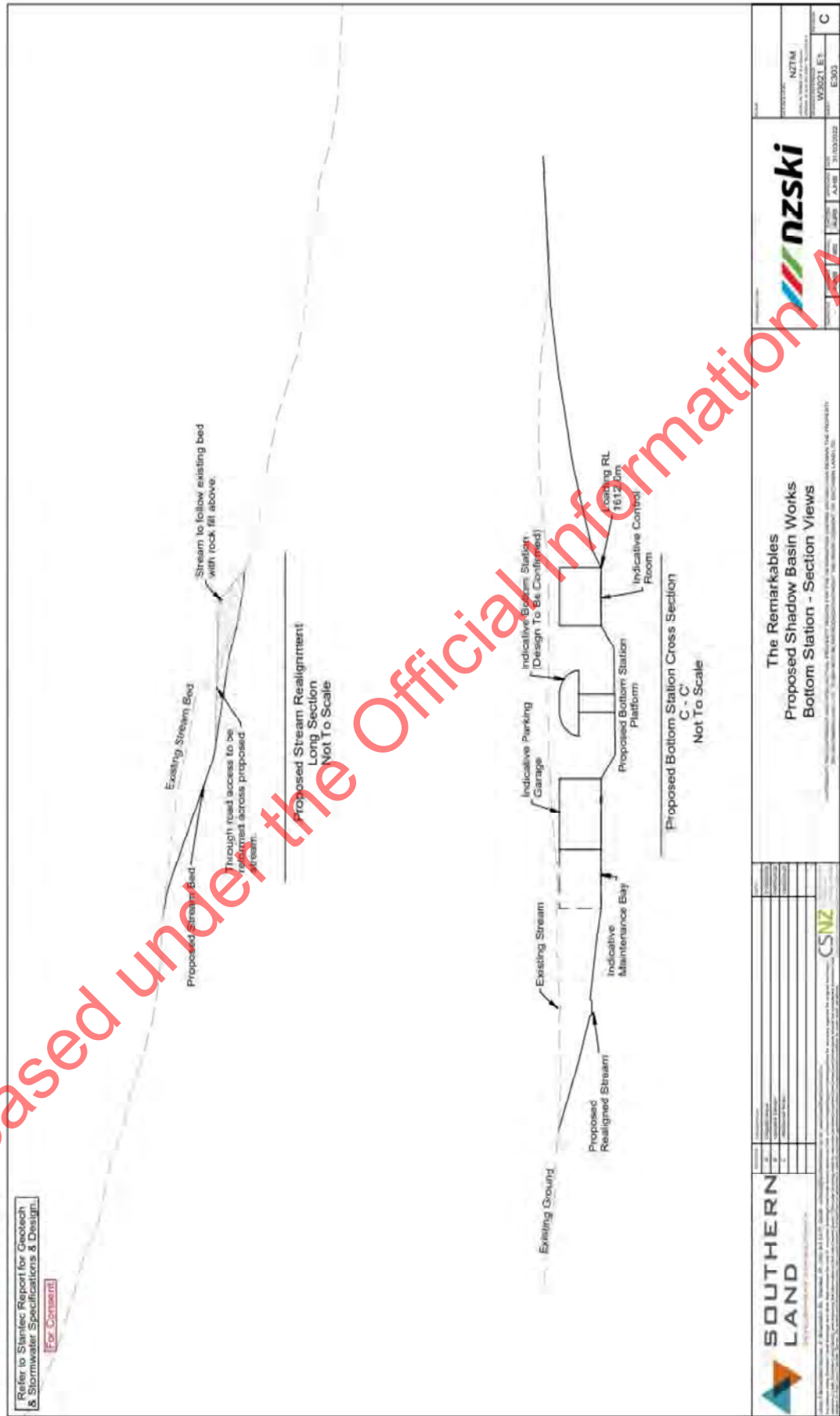


Proposed Shadow Basin Works

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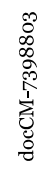












For Equipment



My Score: 1000 @ A2
Very Satisfactory 1000 @ A2



SOUTHERN LAND
100% owned and controlled by New Zealanders

THE REMARKABLES
PROPOSED SHADOW BASIN WORKS
TRAILS - CUSHION - LONGSECTION

PROJECT DATA

A	PROJECT NAME
B	CLIENT NAME
C	PROJECT CHARGE
D	PROPOSED DATES

CLIENT DATA

E	CLIENT NAME
F	CLIENT ADDRESS
G	CLIENT PHONE
H	CLIENT FAX
I	CLIENT EMAIL

PROJECT DESCRIPTION

The project is a proposed new 100% owned and controlled by New Zealanders. It is a proposed new 100% owned and controlled by New Zealanders. It is a proposed new 100% owned and controlled by New Zealanders.

PROJECT LOCATION

The project is located in the Shadow Basin area, near the Cushion and Longsection areas. It is a proposed new 100% owned and controlled by New Zealanders.

PROJECT CONTACTS

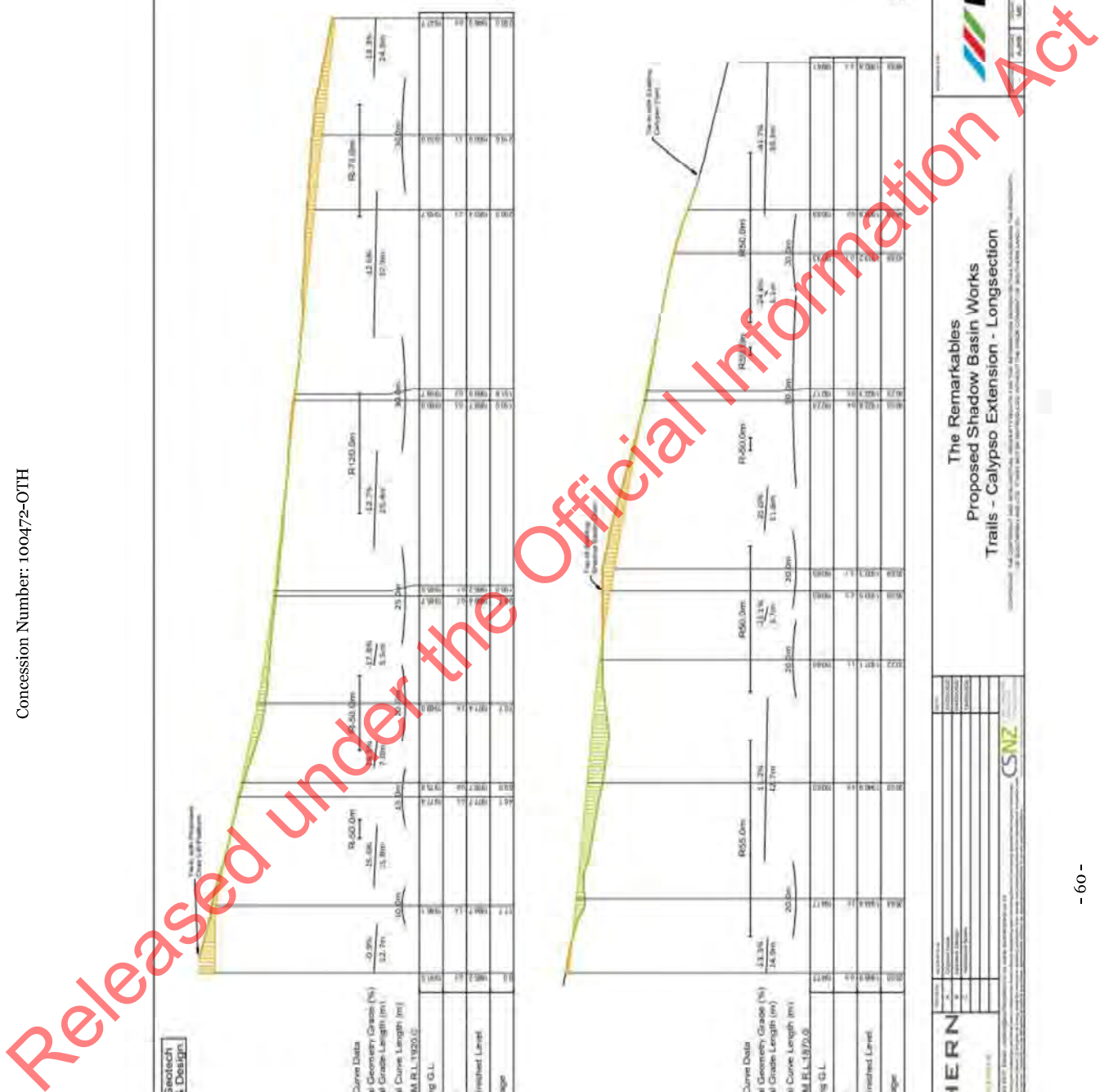
The project is managed by the Shadow Basin area, near the Cushion and Longsection areas. It is a proposed new 100% owned and controlled by New Zealanders.

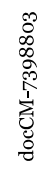
PROJECT STATUS

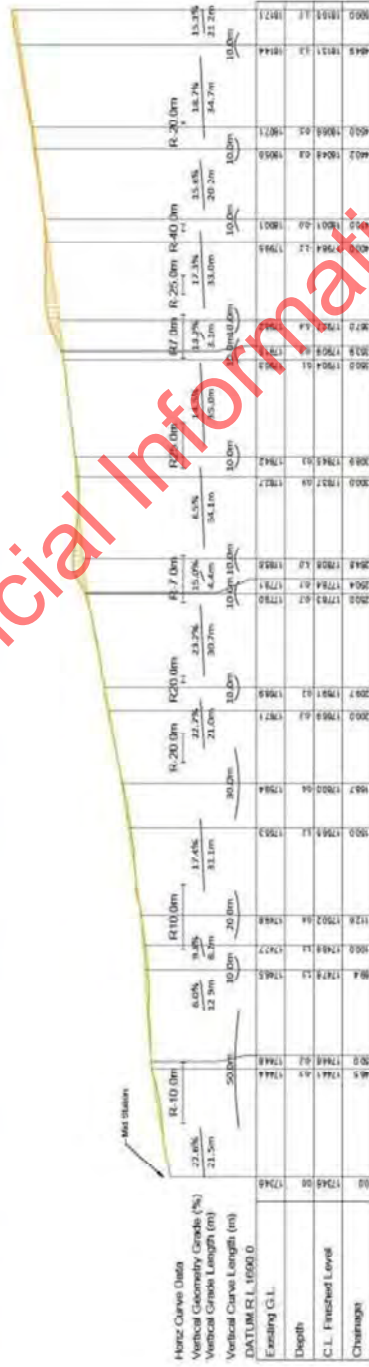
The project is currently in the planning stage. It is a proposed new 100% owned and controlled by New Zealanders.

PROJECT NOTES

The project is a proposed new 100% owned and controlled by New Zealanders. It is a proposed new 100% owned and controlled by New Zealanders.









SOUTHERN LAND
SOUTHERN LAND GROUP LIMITED

The Remarkables
Proposed Shadow Basin Works
Track - Longsection and Plan View

Project Name: **THE REMARKABLES**

Client: **CSNZ**

Location: **THE REMARKABLES**

Scale: **1:10000**

Map Sheet: **NZTM**

Map Sheet: **W0021 E 1**

Map Sheet: **E314**

Project Name: **THE REMARKABLES**

Client: **CSNZ**

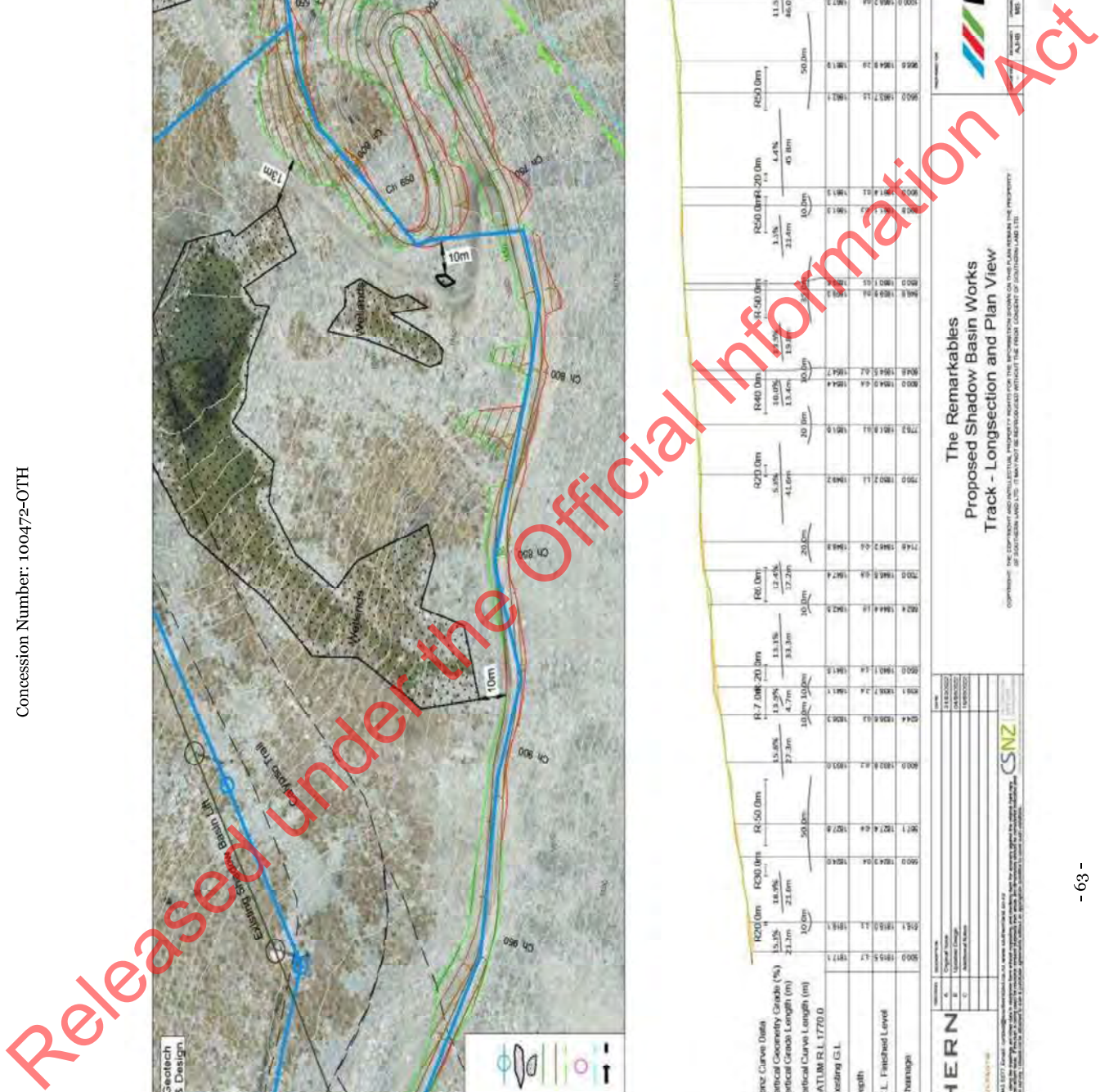
Location: **THE REMARKABLES**

Scale: **1:10000**

Map Sheet: **NZTM**

Map Sheet: **W0021 E 1**

Map Sheet: **E314**

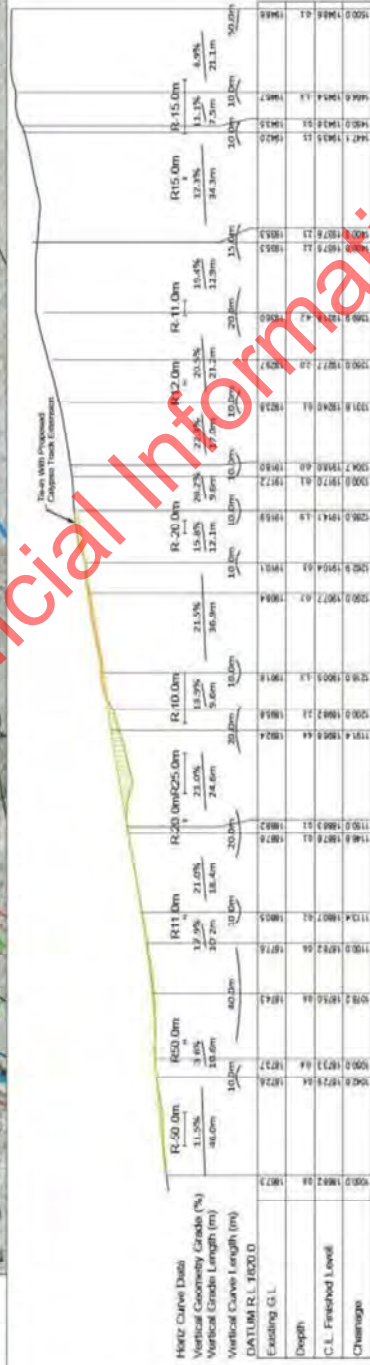


Concession Number: 100472-OTH

Concession Number: 100472-OTH

Concession Number: 100472-OTH

-63-



The Remarkables

Proposed Shadow Basin Works

Track - Longseong and Plan View

1:1000 @ A3

N71M

W2021 E1

E316

21/03/2022

Author: [Redacted]

Checked: [Redacted]

Drawn: [Redacted]

Scale: [Redacted]

Project: [Redacted]

Client: [Redacted]

Site: [Redacted]

Sheet: [Redacted]

Revision: [Redacted]

Project: [Redacted]

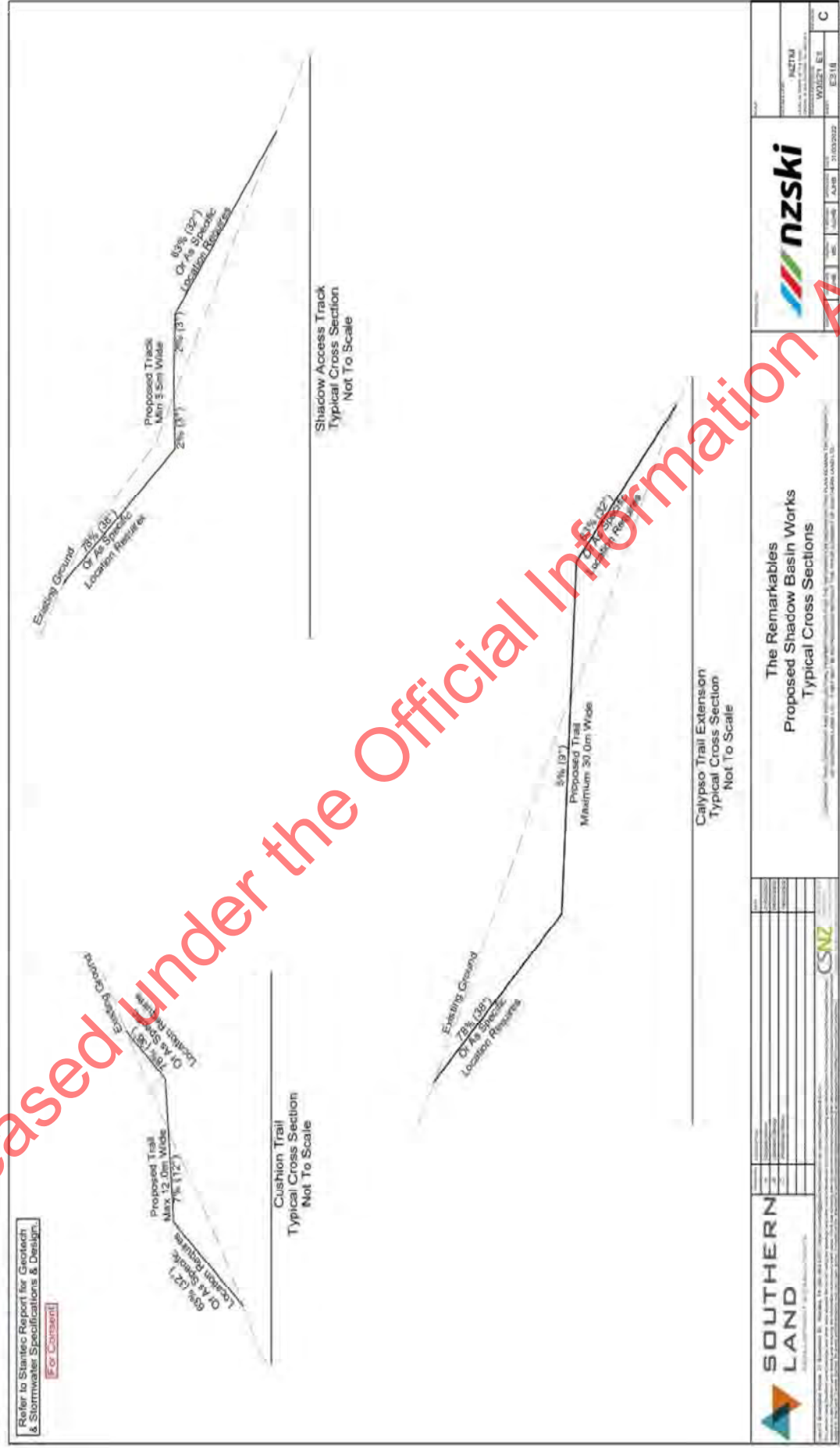
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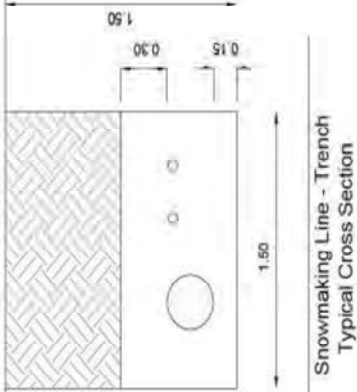
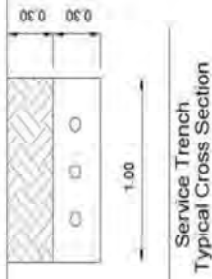
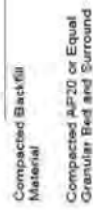
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Revision: [Redacted]

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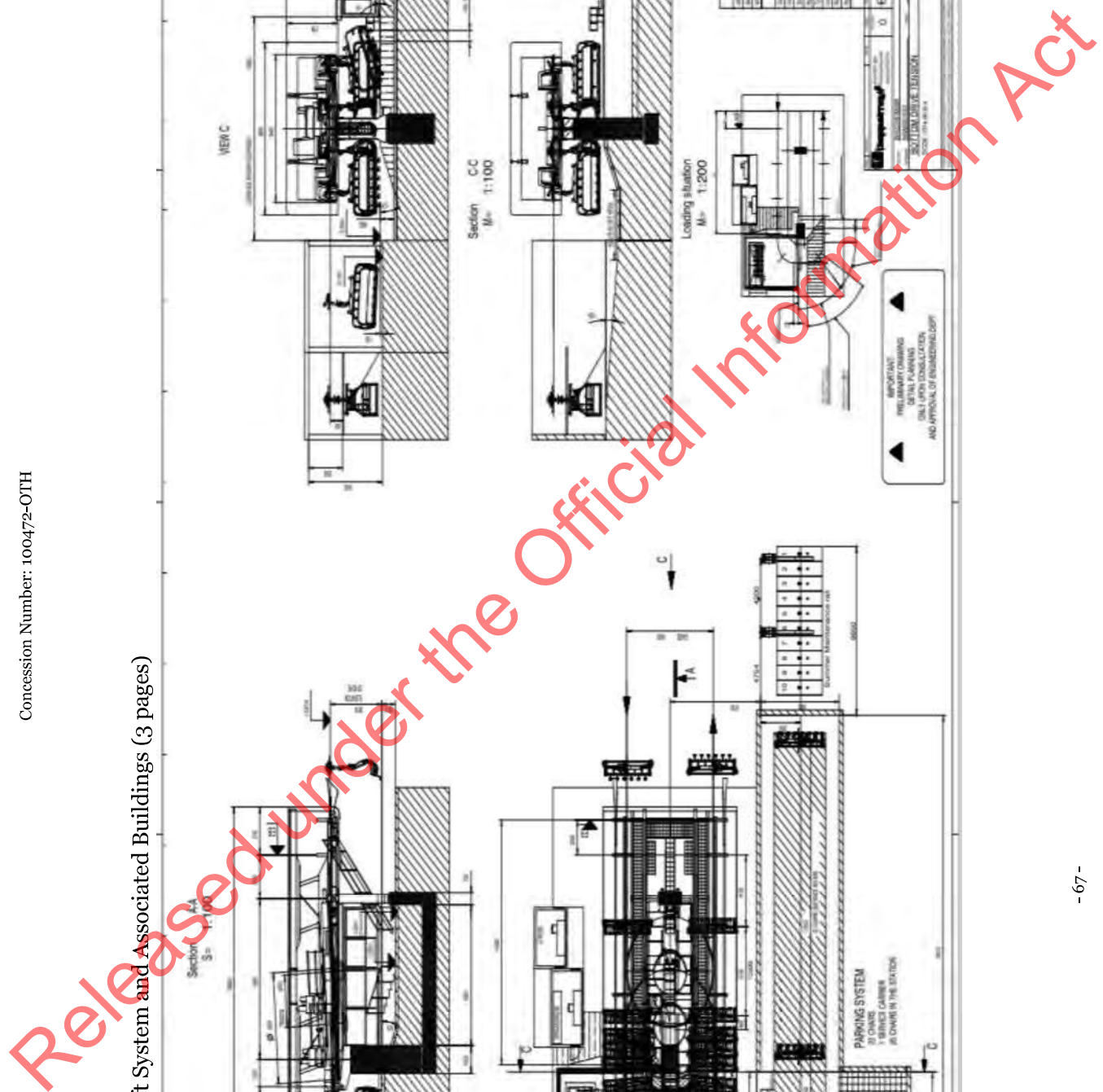


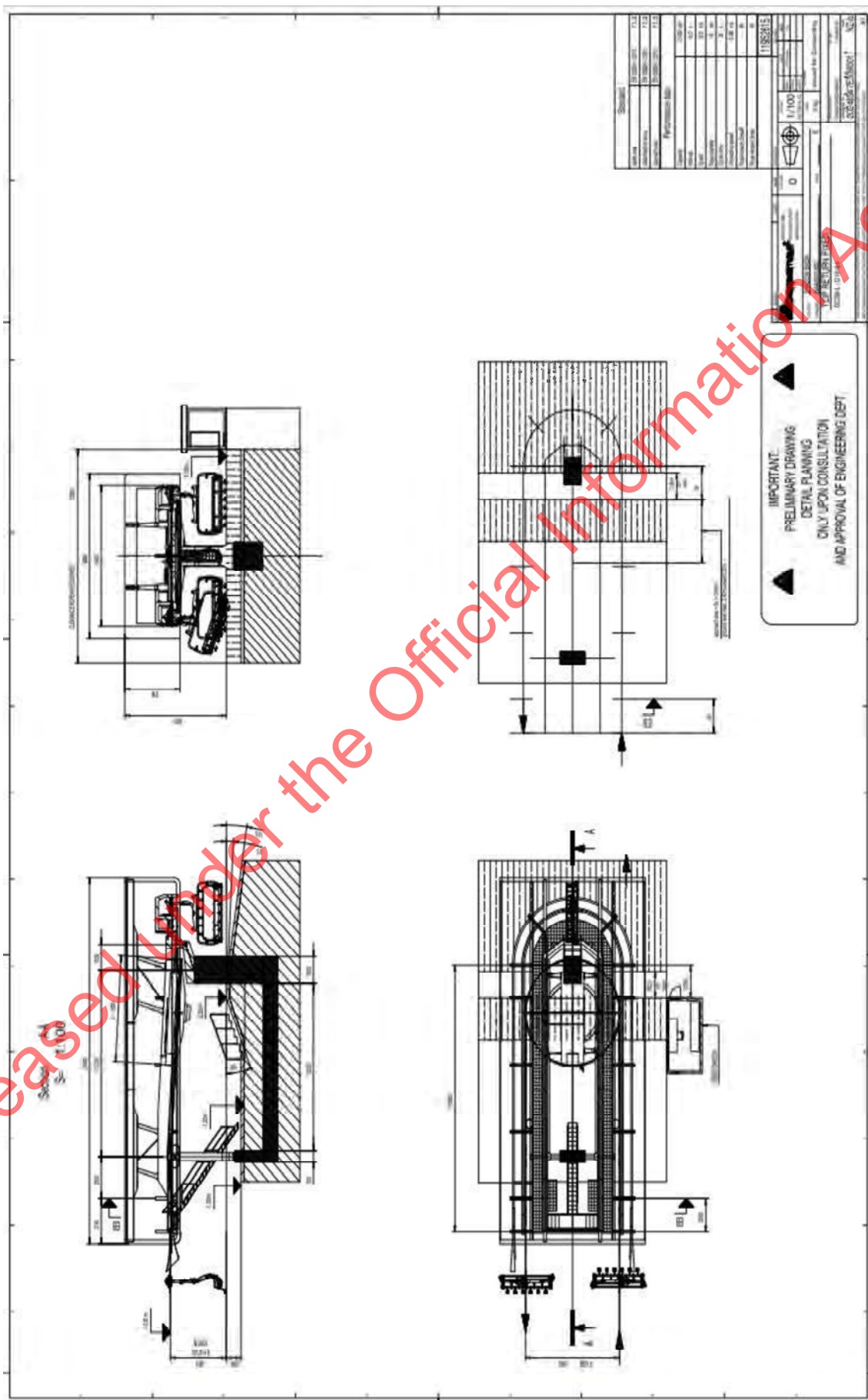
Concession Number: 100472-OTH

t System and Associated Buildings (3 pages)

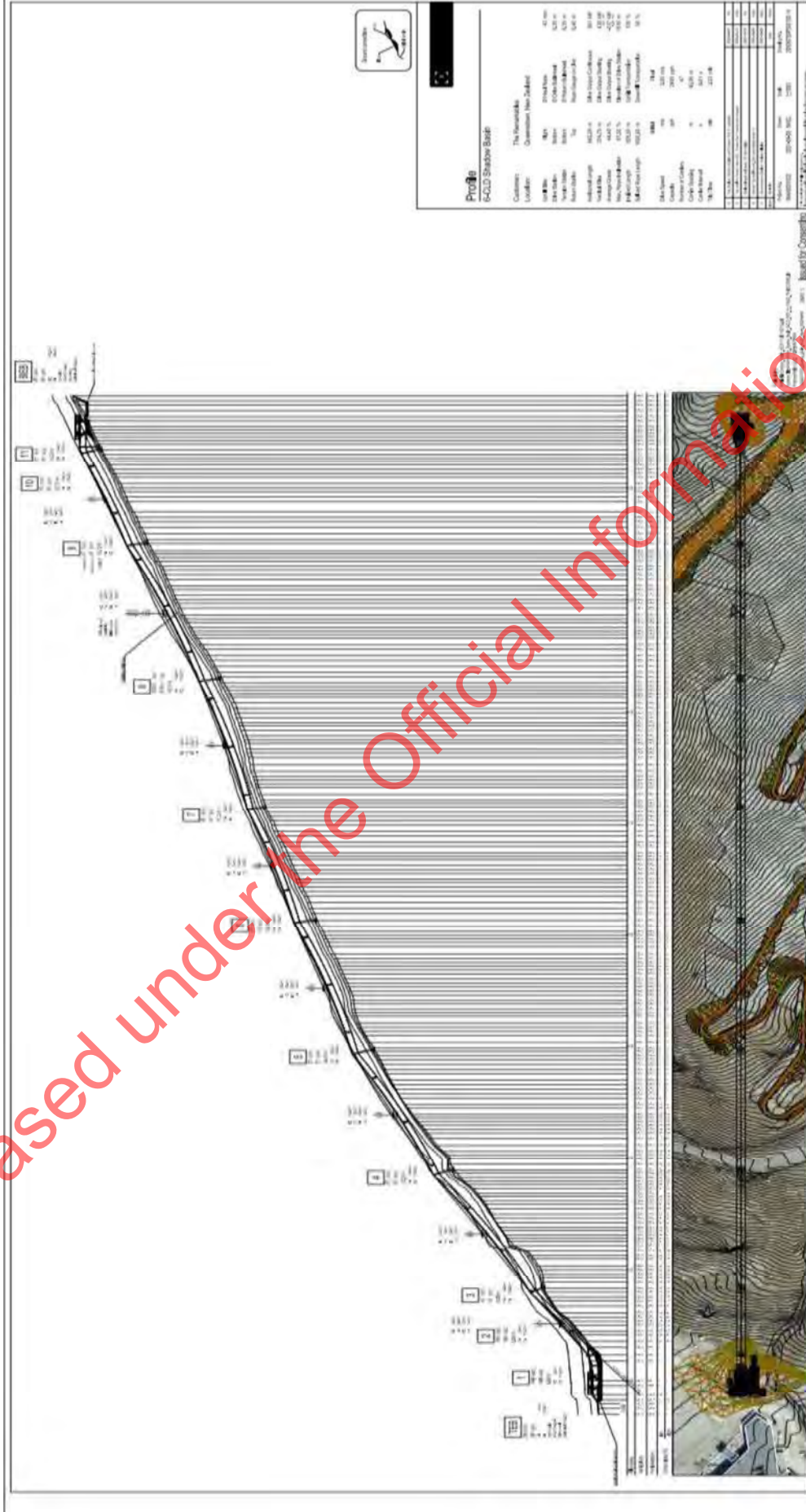
Released under the Official Information Act

-67-





Released under the Official Information Act



SCHEDULE 5

RIGHTS AND POWERS IMPLIED IN EASEMENTS

SCHEDULE 5, LAND TRANSFER REGULATIONS 2018

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

1 Interpretation

In this schedule, unless the context otherwise requires,—

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

burdened land, in relation to an easement,—

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

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

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

easement facility,—

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

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

grantor—

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

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

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

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

2 Classes of easements

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

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

Rights and powers implied in easements granting certain rights

3 Right to convey water

- (1) A right to convey water includes the right for the grantee, in common with the grantor and other persons to whom the grantor may grant similar rights, at all times, to take and convey water in free and unimpeded flow from the source of supply or point of entry through the easement facility and over the easement area and (for an easement that benefits land) to the benefited land.
- (2) The right to take and convey water in free and unimpeded flow is limited to the extent required by any period of necessary cleansing, renewal, modification, or repair of the easement facility.
- (3) The easement facility for the relevant easement is the easement facility laid or to be laid along the easement area in accordance with clause 10(1).
- (4) The grantor must not do and must not allow to be done anything on the burdened land that may cause the purity or flow of water in the water supply system to be polluted or diminished.

4 Right to drain water

4(1) to 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) deleted.
- (3) A right of way includes the right to have the easement facility kept clear at all times of obstructions (whether caused by parked vehicles, deposits of materials, or unreasonable impediment) to the use and enjoyment of the easement facility.
- (4) The right to go over and along the easement facility, and to have the easement facility kept clear, is limited to the extent by any period of necessary repair or maintenance of the easement facility.
- (5) The easement facility for the relevant easement is the surface of the land described as the easement area, including any easement facility laid or to be laid along the easement area in accordance with clause 10(1).

7 Right to convey electricity

- (1) A right to convey electricity 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 lead and convey electricity and electrical impulses without interruption or impediment from the point of entry through the easement facility and over the easement area and (for an easement that benefits land) to the benefited land.
- (2) The right to convey electricity without interruption or impediment is limited to the extent required by any period of necessary renewal or repair of the easement facility.
- (3) The easement facility for the relevant easement is the easement facility laid or to be laid along the easement area in accordance with clause 10(1).

8 Right to convey telecommunications

1. A right to convey telecommunications 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 lead and convey telecommunications without interruption or impediment through the easement facility and over the easement area and (for an easement that benefits land) to and from the benefited land.
2. The right to convey telecommunications without interruption or impediment is limited to the extent required by any period of necessary renewal or repair of the easement facility.

3. The easement facility for the relevant easement is the easement facility laid or to be laid along the easement area in accordance with clause 10(1).

9 Right to convey gas

- (1) A right to convey gas 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 lead and convey gas without interruption or impediment from the point of entry through the easement facility and over the easement area and (for an easement that benefits land) to the benefited land.
- (2) The right to lead and convey gas without interruption or impediment is limited to the extent required by any period of necessary renewal or repair of the easement facility.
- (3) The easement facility for the relevant easement is the easement facility laid or to be laid along the easement area in accordance with clause 10(1).

Rights and powers implied in all classes of easement

10 General rights

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

11 Repair, maintenance, and costs

- (1) If the 1 or more grantees have exclusive use of the easement facility, each grantee is responsible for arranging the repair and maintenance of the easement facility, and for the associated costs, so as to keep the facility in good order and to prevent it from becoming a danger or nuisance.
- (2) Deleted.
- (3) If the easement is in gross, the grantee bears the cost of all work done outside the burdened land.

- (4) The parties responsible for maintenance under subclause (1), or (5) (as the case may be) must meet any associated requirements of the relevant local authority.
- (5) Any repair or maintenance of the easement facility that is attributable solely to an act or omission by the grantor or the grantee must be promptly carried out by that grantor or grantee at their sole cost.
- (6) However, if the repair and maintenance of the easement facility is only partly attributable to an act or omission by the grantor or grantee,—
 - (a) that party must pay the portion of the costs of the repair and maintenance that is attributable to that act or omission; and
 - (b) the balance of those costs is payable in accordance with subclause (2).
- (7) The costs of any electricity used for the conveyance of water must be apportioned between users of the water in proportion to their usage of the water.

12 Rights of entry

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

13 Default

Deleted.

14 Disputes

Deleted.







100472-OTH. NZSki Limited. Contract. Lease and Licence and Easement. Remarkables Shadow Basin Lift - DOC-7398803

Final Audit Report

2023-09-05

Created:	2023-09-05
By:	9(2)(a)
Status:	Signed
Transaction ID:	CBJCHBCAABAAyn1TLzJlIz6KcTTEfuRBLLU5m8ekhRXYJ

"100472-OTH. NZSki Limited. Contract. Lease and Licence and Easement. Remarkables Shadow Basin Lift - DOC-7398803" History

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-  Document emailed to Sec 9(2)(a)
2023-09-05 - 11:49:35 PM GMT
-  Email viewed by Sec 9(2)(a)
2023-09-05 - 11:52:58 PM GMT- IP address: 202.124.110.18
-  Signer Sec 9(2)(a)
2023-09-05 - 11:55:50 PM GMT- IP address: 202.124.110.18
-  Document e-signed by Sec 9(2)(a)
Signature Date: 2023-09-05 - 11:55:52 PM GMT - Time Source: server- IP address: 202.124.110.18
-  Agreement completed.
2023-09-05 - 11:55:52 PM GMT

1998

Date:

BETWEEN MINISTER OF CONSERVATION

("the Grantor")

AND

THE MOUNT COOK GROUP
LIMITED

("the Grantee")

SKI-LIFT EASEMENT
THE RASTUS BURN RECREATION RESERVE

Meares Williams
Solicitors
Christchurch

me/minconservdd

9 1998

THIS DEED made the 3rd day of June 1998 **BETWEEN**
MINISTER OF CONSERVATION (hereinafter together with the Minister's
successors and assigns called "the Grantor") of the one part **AND THE MOUNT**
COOK GROUP LIMITED, a duly incorporated Company having its registered
office at Christchurch (hereinafter together with its successors and assigns called
"the Grantee") of the other part

WHEREAS

1. **HER MAJESTY THE QUEEN** is the owner of the Rastus Burn
Recreation Reserve a reserve for recreation purposes under the Reserves
Act 1977 subject however to such encumbrances, liens and interests as
are notified by memorandum underwritten or endorsed thereon in all
that piece of land situated in the Kawarau Survey District containing 700
hectares or thereabouts being parts Section 1 Block X Kawarau Survey
District and Sections 1 and 2 SO 22561 and being all the land comprised
and described in Certificate of Title Registered No. 8D/636 (Otago
Registry) (hereinafter called "the servient tenement").
2. **THE GRANTEE** is the Lessee of those pieces of land situated in the
Kawarau Survey District containing 10.5374 hectares or thereabouts
being Sections 1 and 2 SO 22561 and being all the land comprised and
described in Deed of Lease dated 30 August 1993 ("the Lease") and
being part of the land comprised and described in Certificate of Title
Registered No. 8D/636 (Otago Registry) (hereinafter called "the
Lease").
3. **THE GRANTOR** has agreed to convey and grant to the Grantee the
easement hereby created subject to the terms and conditions hereinafter
contained.

NOW THEREFORE in pursuance of the said agreement the Grantor, pursuant
to Section 48 of the Reserves Act 1977, **DOES HEREBY CONVEY AND**
GRANT to the Grantee as an easement in gross the full, free, uninterrupted and
unrestricted right, liberty and privilege for the Grantee and its servants, tenants,
agents, workmen, licensees and invitees (in common with any other person

lawfully entitled to so do) from time to time and at all times by day and night to to erect, use and operate ski-lifts in a free and unimpeded manner and following the stipulated course across those parts of the servient tenement shown as "SKI-LIFT EASEMENT" and marked with the letters "M", "N" and "P" on Survey Office Plan 22561 attached hereto, together with the full, free, uninterrupted and unrestricted right, liberty and privilege for the Grantee and its tenants (in common with any other person lawfully entitled to so do) for the purposes of the easement concerned:

- (a) To construct, repair and maintain ski-lifts;
- (b) To use and repair any existing pipes, pylons, wires or cables laid, erected or suspended and, where none exist, to erect pylons, to suspend wires or cables and to bury or have buried wires, pipes and cables;
- (c) To install safety, communication and telecommunication equipment;
- (d) To convey any type of fluid through cables or pipes;
- (e) To sink piles into the ground;
- (f) To clear debris and snow;
- (g) To drive or move motor vehicles;
- (h) To provide access to servants, agents and work people associated with the Grantee with any tools, implements, machinery, vehicles or equipment whatsoever in nature necessary for the purpose of carrying out any of the rights in the Sub-clauses above;
- (i) To provide access to the public to use the ski-lifts and to go, pass and re-pass on foot, skis, snowboards or any other recreational apparatus or device;

Over and along the land over which this easement is granted and created to the intent that the easement hereby created shall forever be an easement in gross for the term of the Lease (or any renewal, variation or extension thereof).

AND IT IS HEREBY AGREED AND DECLARED by and between the Grantor and the Grantee that:

1 The Grantee shall indemnify the Grantor against all and any action, claim, injury, damage or loss which may arise in any manner whatsoever from the creation of this easement.

2 The Grantor will not grant an easement to any other party over the areas "M", "N" and "P" on SO 22561 without the consent of the Grantee. If it is decided that an easement should be granted, the Grantor will consult with the Grantee for the purpose of ascertaining whether the Grantee requires any conditions to be imposed in any easement proposed to be granted. If the Grantor and the Grantee are unable to agree on the conditions to be imposed then the conditions in dispute shall be determined in the manner provided in Clause 4.

3 Liability of the Grantee the said The Mount Cook Group Limited under its covenants contained herein shall cease to have effect and shall absolutely determine on the assignment of this easement or on the assignment or termination of the Lease, but without prejudice to the Grantee the said The Mount Cook Group's Limited's liability for any breach of covenant arising prior to such assignment or termination.

4 If any dispute shall arise between the parties as to any act, matter or thing concerning the interpretation and operation of this Deed the parties shall use their best endeavours to enter into good faith negotiations in an attempt to resolve the dispute. Should agreement not be reached within twenty-one (21) working days (or such longer period as the parties agree upon) after the date upon which the dispute arises, then the dispute will be referred to mediation by a duly qualified

mediator (being a member of the Mediators' Institute or a member of LEADR) appointed if the parties cannot agree upon one by the President for the time being of the Otago District Law Society and in the event that such dispute is not capable of being resolved by mediation then the matter shall be resolved by arbitration in accordance with the provisions of the Arbitration Act 1996. If the Arbitration Act 1996 is used and the parties fail to agree on the person to be appointed as arbitrator, the appointment shall be made by the President for the time being of the Otago District Law Society.

5 The parties hereto agree that the Grantee shall have the right in future to require that the easements hereby created be registered against the title to the servient tenement, and the parties will obtain such consents and do such things as may be necessary to enable the easement to be registered against the title of the servient tenement.

SIGNED for and on behalf of the)
MINISTER OF CONSERVATION by)
 Ian Whitwell an officer of the Department)
 of Conservation pursuant to a designation)
 given to him by the Director-General of)
 Conservation and dated the 30th day of June)
 1989 in the presence of:)

I. R. H. Whitwell

Witness: *[Signature]*
 Occupation: *Partner*
 Address: *Smith*

SIGNED on behalf of)
THE MOUNT COOK GROUP LIMITED)
 by **Sec 9(2)(a)**)
)
)
)
)
 in the presence of:)

GRANT OF EASEMENTDATED 29th November 2001**PARTIES**

1. **THE COMMISSIONER OF CROWN LANDS** at Wellington ("the Grantor")
2. **THE MOUNT COOK GROUP LIMITED** (hereinafter together with its successors and permitted assigns called "the Grantee")

BACKGROUND

- A. The Grantee is the lessee pursuant to a Deed of Lease described in the First Schedule and wishes to have conveyed and granted to it an easement for foot and vehicle access.
- 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 Grantor's Land" on the terms and conditions set out in this Deed.

TERMS OF THIS DEED**1. DEFINITIONS AND INTERPRETATION****1.1 In this deed (including the Schedules)**

"Cone Peak Land" means the land described in the Second Schedule.

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

"Easement Land" means the Grantor's Land as set out in the First Schedule within which the Grantee may exercise the rights granted by this deed.

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

"Lease Land" means the land leased to the Grantee either:

- (a) Pursuant to the Deed of Lease described in the First Schedule and shall include any and all renewals, variations and extensions thereof; or
- (b) Pursuant to any lease granted to the Grantee or its successors or assigns in substitution for the Deed of Lease and relating as

nearly as possible to the same land as under the Deed of Lease and any renewals, variation or extensions thereof.

- 1.2 In the interpretation of this Deed unless the context otherwise requires:
 - 1.2.1 The headings and sub-headings appear as a matter of convenience and shall not affect the interpretation of this Deed.
 - 1.2.2 References to any statute, regulation or other statutory instrument or by-law shall be deemed to be references to the statute, regulation, instrument or by-law as from time to time amended and includes substitution provisions that substantially correspond to those referred to.
 - 1.2.3 The singular includes the plural and vice versa and words incorporating any gender shall include every gender.
 - 1.2.4 The terms and clauses of this Deed shall be deemed to be covenants to which Sections 64A (but excluding s64A(5)(b)) and 72 of the Property Law Act 1952 shall apply.

2. GRANT OF EASEMENT

- 2.1 Pursuant to Section 60 of the Land Act 1948, but subject to Clause 2.1.2 the Grantor grants to the Grantee forever the following easement:
 - 2.1.1 The full free uninterrupted and unrestricted right liberty and privilege for the Grantee (in common with the Grantor, the Grantor's tenants and any other person lawfully entitled so to do) from time to time and at all times by day and by night to go pass and re-pass on foot and with or without vehicles over and along the Grantor's land and to construct and form a carriageway for those purposes and to maintain, repair, upgrade (including installing or providing gutters, culverts, drains or bridges as required), resurface, grade, seal, survey or restore any such carriageway **TO THE INTENT** that the easement hereby created shall be an easement in gross forever.
 - 2.1.2 Notwithstanding Clauses 2.1 and 2.1.1, this easement shall cease and determine if the Grantee shall no longer lease the Lease Land, and in such case the provisions of Clause 10 shall apply.

3. CONSIDERATION

- 3.1 In consideration of the grant of easement in this Deed:
 - 3.1.1 The Grantee shall pay the Grantor a lump sum payment of \$1 (one dollar).

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

4. REGISTRATION

- 4.1 This easement may be registered pursuant to Section 60 of the Land Act 1948.

5. OBLIGATIONS OF THE GRANTEE

- 5.1 That the Grantee will allow the public at all times during daylight hours to have walking access over and along the Grantor's Land without payment of any fee.
- 5.2 That the Grantee will allow the public during daylight hours to drive or ride vehicles (including bicycles) over and along the Grantor's Land on payment of a reasonable fee for each vehicle to the Grantee but subject however to the following exceptions:
- 5.2.1 The Grantee shall have the authority to close the Grantor's Land for purposes of undertaking repairs or maintenance or where, in the opinion of the Grantee, the Grantor's Land is in a condition which is considered unsafe for use by vehicles.
- 5.2.2 All employees of the Grantor on official business or their authorised agents shall have the right of freedom of vehicle access at all times without payment of a fee.
- 5.2.3 All search and rescue personnel members of the Police and employees of the Queenstown Lakes District Council while on official business shall have the right of vehicle access at all times over and along the Grantor's Land without payment of a fee.
- 5.2.4 Subject to Clause 5 the Occupier or Owner (as those terms are defined under the Rating Powers Act 1988), Occupiers or Owners for the time being of the Cone Peak Land and their agents, servants, tenants, licensees, invitees and workmen shall have the right of vehicle access over and along the Grantor's Land, for the purpose of providing access to the Cone Peak Land only, at all times without payment of a fee.
- 5.3 Notwithstanding Clauses 5.1 and 5.2 above, the Grantee shall be entitled to restrict access to or use of the easement if in its sole discretion:
- 5.3.1 The weather or road conditions or visibility of the right of way are hazardous.

- 5.3.2 The vehicle for which entry is sought does not appear to be roadworthy or adequately equipped with chains and/or other appropriate safety equipment or requirements having regard to the weather, road conditions and all other factors reasonably likely to make the use of the road hazardous to such a vehicle and/or its occupants and/or other road users.
- 5.3.3 The skill, judgment, experience or condition of the driver of the vehicle or any passenger therein at any time when entry to or use of the easement is sought are inadequate for any reason or in any respect or do not allow the driver to be capable of proper control of the vehicle.
- 5.4 The reasonable fee referred to in 5.2 shall not be imposed unless it has been approved by the Grantor which approval shall not be unreasonably withheld. The fee shall be fixed from time to time having regard to the cost of repair, maintenance and administration of the easement and also be such as to afford the Grantee a reasonable return on its cost of establishing the road. In the event of the parties being unable to agree on what is a reasonable fee, the matter shall be determined in the manner provided in Clause 12.
- 5.5 The Grantee shall when on the Grantor's land (subject to Clause 2.1.1 of this Deed):
- 5.5.1 Wherever possible remain on the formed roads and tracks, and when on those roads or tracks comply with all traffic laws and regulations as are applicable to public roads.
- 5.5.2 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.
- 5.5.3 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 5.5.3) comply with all conditions that may be imposed from time to time by the Grantor or any lawful authority.
- 5.5.4 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.
- 5.5.5 The Grantee shall only enter onto the Grantor's Land pursuant to this Deed.
- 5.5.6 The Grantee shall, at its cost, repair to the reasonable satisfaction of the Grantor any part of the Grantor's Land

including the tracks, fences, gates, drains, buildings or other structures, which is or are damaged directly or indirectly by the Grantee.

- 5.6 The Grantee shall compensate the Grantor for any loss suffered by the Grantor resulting directly or indirectly from the actions of the Grantee.
- 5.7 The Grantee shall at all times in the exercise of the rights set out in this Deed not obstruct or hamper the Grantor, or any agents, employees and contractors of the Grantor, in their normal or reasonable use of the Grantor's Land.
- 5.8 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 or Clause 5 of this Deed on the Grantor's Land, or do any other thing which would affect the liability of the Grantor to use the Grantor's Land.
- 5.9 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.
- 5.10 The Grantee shall at all times use its best endeavours to keep the Easement Land clear of noxious weeds.
- 5.11 If at any time during the term of this easement any erosion or soil disturbance occurs which, in the opinion of the Commissioner is a direct or indirect result of the formation or maintenance of the easement, the Grantee on being notified by the Commissioner will, at the Grantee's expense and as soon as possible, re-vegetate the disturbed area to as near its original state as reasonably possible and in such manner and using such plant species as may be approved in each case by the Commissioner.
- 5.12 As between the Grantee and the Grantor, the Grantee will be solely responsible for maintaining the Grantor's Land to the satisfaction of the Grantor and the Queenstown-Lakes District Council but nothing herein shall prevent the Grantee from claiming from the Occupier or Owner for the time being of Cone Peak Land a fair proportion of the costs of repairing and maintaining the easement relating to use by them, their agents, servants, tenants, licensees, invitees and workmen for that part of the easement used by them and the Grantor agrees that if the Grantor shall in future grant an easement over the Grantor's Land to any party other than the Grantee the Grantor shall reserve to the Grantee a right to recover from the person or entity entitled to the benefit of such grant a fair proportion of the costs of repair and maintenance of the easement as aforesaid.
- 5.13 The Grantor will not grant an easement to any other party without the consent of the Grantee. If it is decided that an easement should be granted the Grantor will consult with the Grantee for the purposes of

ascertaining whether the Grantee requires any conditions to be imposed in any easement proposed to be granted. If the Grantor and the Grantee are unable to agree on the conditions to be imposed then the conditions in dispute shall be resolved using Clause 12.

- 5.14 The Grantee shall be responsible for using its best endeavours to prevent all structures, erected or placed on the Easement Land by the Grantee, from becoming a danger or a nuisance.

6. OWNERSHIP OF STRUCTURES

- 6.1 All structures 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.
- 6.2 The Grantee will, on the expiry of the term granted or sooner determination of the rights created by this Deed, remove all structures erected or placed on the Easement Land by the Grantee from the Easement Land within a reasonable period of time and will restore the Grantor's Land as nearly as possible to the condition that it was at the commencement of this Deed.
- 6.3 If the Grantee has not taken the steps set out in Clause 6.2 of this Deed, the Grantor may remove all such structures from the Easement Land and restore the Grantor's Land as nearly as possible to the condition that it was in at the commencement of this Deed and recover all costs incurred from the Grantee.

7. COSTS

- 7.1 The Grantee shall bear all reasonable costs and expenses (including the Grantor's legal costs) in relation to the preparation and enforcement of any provisions in this Deed.
- 7.2 The Grantee shall be solely responsible for the registration (if any) of this Deed and any associated costs.
- 7.3 All costs for the installation and maintenance of structures, and carrying out of associated works, permitted by this Deed shall be at the Grantee's cost.

8. INDEMNITY

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

by the Grantee of its obligations, undertakings or warranties contained or implied in this Deed.

- 8.2 That (without in any way limiting the liability of the Grantee under Clause 8.1 hereof) the Grantee shall forthwith take out and thereafter during the continuance of this easement keep on foot in the name of the Grantor and Grantee with some insurer to be approved by the Grantor a public liability insurance policy for \$500,000.00 whereby the Grantor shall during the term of this easement be indemnified against all actions, suits, claims, demands, proceedings, losses, damages, compensation, sums of money, costs, charges and expenses to which the Grantor shall or may be liable AND the Grantee will pay all premiums and other moneys payable in respect of such insurance as the same shall become due and payable and will produce to the Grantor such policy of insurance and the receipts for the premiums and other moneys payable thereunder within fourteen (14) days of the due date of such premiums and other moneys and if default shall be made in keeping the said policy on foot as aforesaid or in the event of the premiums or other moneys payable in respect thereof being unpaid or the receipts thereof or the policy not being produced to the Grantor it shall be lawful for but not obligatory on the Grantor to effect and maintain such insurance and to pay the said premium or other moneys or any of them and all moneys expended for such purposes shall be repaid by the Grantee to the Grantor on demand AND the Grantee will not do or omit or suffer to be done or omitted any act matter or thing whereby any such insurance may be vitiated or rendered voidable and will give true and particular information to the office or company with which the said insurance is effected of all matters and things the nondisclosure of which might in any way prejudice or effect the said policy of insurance or the payment of all or any moneys thereunder in the event of any claim being made against the Grantor as therein provided.

9. GRANTOR'S LIABILITY EXCLUDED

- 9.1 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, but nothing in this Clause 9.1 shall limit the rights of the Grantee to enforce the rights granted to it under this deed, or to recover the costs of doing so if necessary.

10. TERMINATION

- 10.1 The Grantor may terminate the rights created by this Deed if the Grantee materially 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 90 days or such other time provided the parties agree.

10.2 If the breach remains unrectified (or is unable to be rectified) then termination must be by written notice from the Grantor.

10.3 Upon termination (for whatever reason) of the grant of easement evidenced by this Deed all rights of the Grantee shall immediately cease (subject to Clause 6.2 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.

10.4 Upon termination the Grantee shall formally surrender the rights under this Deed and surrender the grant of easement.

11. ASSIGNMENT

11.1 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 (such consent not to be unreasonably withheld). Any such transfer, lease, assignment or licence shall be subject to the rights and obligations set out in this Deed (and any such other rights and obligations as the Grantor may require).

12. DISPUTES

12.1 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.

13. NOTICES

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

13.1.1 The Grantor's Address is set out in clause 2 of the First Schedule.

13.1.2 The Grantee's Address is set out in clause 4 of the First Schedule.

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

14. SEVERABILITY

14.1 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 or

SIGNED by *ROGER KENNETH McLEOD*

acting for and on behalf of
the Commissioner of Crown Lands
pursuant to a delegation under

section 41 of the State Sector Act 1988

in the presence of

BART VAN STRATUM

B. van Stratum

*Land Information NZ
Wellington*

SIGNED by
THE MOUNT COOK GROUP LTD

by its Directors

Sec 9(2)(a)



FIRST SCHEDULE

1. **GRANTOR'S LAND:** 22.75ha. being Section 1 SO 24060 Otago Land Registry

2. **GRANTOR'S ADDRESS:**

The Commissioner of Crown Lands
Land Information New Zealand
160 Lambton Quay
PO Box 5501
WELLINGTON

Attention:

3. **DEED OF LEASE:**

An estate of leasehold created by a Deed of Lease dated 30 August 1993 between Her Majesty the Queen and the Grantee containing certain rights of renewal as are set out herein, of all that piece of land situated in the Kawarau Survey District containing 10.5374 ha. more or less being Sections 1 and 2 SO 22561 and being part of the land described in Certificate of Title 8D/636 Otago Land Registry.

4. **GRANTEE'S ADDRESS:**

The Mount Cook Group Ltd
Level 18 Quay Tower
29 Customs Street West
Private Bag 92007
AUCKLAND

Attention: **Sec 9(2)(a)**

Sec 9(2)(a)

SECOND SCHEDULE

The Cone Peak Land means an estate of leasehold in lease of approximately 3463.0116 ha. more or less being Part Run 345C, Sections 1-6 Survey Office Plan 24738 Sections 1-5 Survey Office Plan 24739 and Lot 1 DP 22250 being all the land comprised and described in Certificate of Title 386/124, Otago Land Registry.

Released under the Official Information Act

SECTION 1
22.75ha.

BLK. II CONEBURN S. D.
PT. RUN 345C
S. D. 799

22560

BLK. XII
D.P. 17411
D.P. 17411
D.P. 16226

CONEBURN S. D.
COMPILED PLAN

LAND DISTRICT OTAGO
SURVEY BLK. & DIST. II, CONEBURN
NZMS 261 SH. F.41 RECORD MAP NO F41/2-4

Simplified Land Appellation

PLAN OF SECTION 1 BEING A SUBDN
OF PART RUN 345C

TERRITORIAL AUTHORITY (Queensdown Lakes District Council)
Surveyed by LUCY BORRELL & GREGG
Scale 1:5000 Date OCTOBER 1993

APPROVED AS TO LAYOUT
CHIEF SURVEYOR OF CROWN LANDS
MT. NICHOLAS

D.A.TUM
GEODETC 1969

Total Area 22.75 ha.

Compiled in C.L. 386/124

1. WILLIAM ROBERT LUCY, of QUEENSTOWN,
Registered Surveyor and holder of a valid practicing certificate for
who may act as a registered surveyor pursuant to section 25 of the
Survey Act 1980, hereby certify that this plan has been made from
surveys executed by me or under my direction, that both plan and
survey are correct and have been made in accordance with the Survey
Regulations 1982 or any regulations made in substitution thereof.
Dated at Queenstown, this 19th day of February 1994.

Field Book --- B --- Bureau Book --- A ---
Reference Plans C.D. 3, 789, 21982, 22560, 22561/
D.P. 1, 17411, 20495, 22560, 22561/
Examined A.H. Gale, Clerk

Approved as to Survey
26.1.94 Acting Chief Surveyor

Deposited this 19th day of 1994

District Land Registrar
SO 24060

GEOGRAPHICAL INFORMATION SYSTEM

Concession number: EAS 75

DATED

17/9/02

Between

MINISTER OF CONSERVATION
("the Grantor")

and

SOUTHERN ALPINE RESORT RECREATION LIMITED
("the Concessionaire")

CONCESSION DOCUMENT
(Easement in Gross)



Department of Conservation
Te Papa Atawhai

THIS DOCUMENT is made this day of 17/9/ 2002

PARTIES:

1. MINISTER OF CONSERVATION, ("the Grantor")
2. SOUTHERN ALPINE RESORT RECREATION LIMITED ("the Concessionaire")

BACKGROUND

- A. The Reserve described in Item 1 of Schedule 1 as the Land is vested in the Grantor.
- B. Section 59A of the Reserves Act 1977 authorises the Grantor, in accordance with Part IIIB of the Conservation Act 1987, to grant a Concession in respect of a Reserve vested in the Crown including a reserve vested in the Crown but controlled and managed by an administering body under any of sections 28, 29, 30, 35 and 36 of the Reserves Act 1977;
- C. The Concessionaire wishes to carry out the Concession Activity on the Easement Area subject to the terms and conditions of this Document.
- D. The Grantor has agreed to grant the Concessionaire an Easement in gross over that part of the Land specified as the Easement Area in Item 2 of Schedule 1.
- E. The Grantor is satisfied that the requirements of Part III B of the Conservation Act 1987 have been met.

OPERATIVE PARTS

TERMS AND CONDITIONS

1.0 DEFINITIONS AND INTERPRETATION

1.1 In this Document, unless the context otherwise requires:

"**Activity**" has the same meaning as "Activity" in section 2 of the Conservation Act 1987.

"**Background**" means the matters referred to under the heading 'Background' on p2 of this Document.

"**Compensation**" means the amount specified in item 8 of schedule 1 and required by the Grantor under Section 17X of the Conservation Act 1987 for any adverse effects of the Concession Activity on the Crown's or public's interest in the Easement Area.

"**Concession**" means a concession as defined in section 2 of the Conservation Act 1987.

"**Concession Activity**" means the use of the Land for purposes of the Activity carried out by the Concessionaire and specified in Item 3 of Schedule 1.

"**Compensation Payment Date**" means the date specified in Item 9 of Schedule 1 on which the Compensation falls due for payment.

"**Co-Site**" means the use of the Easement Area or the Concessionaire's facilities on the Easement Area by a third party for a purpose permitted by the Grantor; and "**Co-Sitee**" and "**Co-Siting**" have corresponding meanings.

"**Department**" means the Department of Conservation established by section 5 of the Conservation Act 1987.

"**Director-General**" means the Director-General of Conservation.

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

"**Easement**" means the Easement in gross granted under this Document by the Grantor to the Concessionaire under section 59A of the Reserves Act 1977.

"**Easement Area**" means the area of the Land specified in Item 2 of Schedule 1.

"**Final Expiry Date**" means the date specified in Item 6 of Schedule 1.

"**Land**" means the area more particularly described in Item 1 of Schedule 1.

"Penalty Interest Rate" means the rate specified in Item 10 of Schedule 1.

"Reserve" means a reserve vested in the Grantor under the Reserves Act 1977.

"Term" means the period of time specified in Item 4 of Schedule 1 during which this Document operates.

"Working Days" means days on which the registered banks are open for general banking business in Dunedin.

1.2 In this Document unless the context otherwise requires:

- (a) a reference to a party is a reference to a party to this Document and includes that party's successors in title;
- (b) schedules and annexures form part of this Document and have effect accordingly;
- (c) words appearing in this Document which also appear in Schedule 1 mean and include the details appearing after them in that Schedule;
- (d) a provision of this Document to be performed by two or more persons binds those persons jointly and severally;
- (e) a reference to a person includes an individual, a body corporate, an association of persons (whether corporate or not), a trust, or an agency of State or of the Crown (in each case whether or not having separate legal personality);
- (f) words in a singular number include the plural and vice versa;
- (g) words importing a gender include all other genders;
- (h) 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 Document;
- (i) where the Grantor's consent or approval is expressly required under a provision of this Document, the Concessionaire must seek the consent or approval of the Grantor for each separate occasion it is required notwithstanding that the Grantor has granted consent or approval for a like purpose on a prior occasion.

1.3 Words used in the Background to this Document have the same meaning given to them in clause 1.1.

2.0 GRANT OF EASEMENT IN GROSS

2.1 In exercise of the Grantor's powers under section 59A of the Reserves Act 1977 the Grantor **GRANTS** to the Concessionaire an **EASEMENT IN GROSS** to carry out the

Concession Activity on the Easement Area subject to the terms and conditions contained in this Document.

3.0 TERM

- 3.1 The Easement is for the Term specified in Item 4 of Schedule 1.
- 3.2 There is no automatic right of renewal of the Term.
- 3.3 The Term ends on the Final Expiry Date specified in Item 6 of Schedule 1.

4.0 SURRENDER OF DOCUMENT

- 4.1 If the Concessionaire wishes to terminate this Document before the expiry of the Term the Concessionaire must give the Grantor 3 months' notice in writing.
- 4.2 The Grantor must accept the Concessionaire's notice of termination but in doing so may impose whatever reasonable terms and conditions the Grantor considers appropriate, including the matters referred to in clause 6.2.

5.0 COMPENSATION

- 5.1 The Concessionaire must pay the Compensation specified in Item 7 of Schedule 1 to the Grantor on the Compensation Payment Date referred to in Item 8 of Schedule 1.
- 5.2 If the Concessionaire defaults in payment of the Compensation for 14 days after a Compensation Payment Date the Concessionaire is to pay interest on the unpaid Compensation from the Compensation Payment Date until the date of payment at the Penalty Interest Rate specified in Item 9 of Schedule 1.

6.0 OTHER CHARGES

- 6.1 In addition to the Compensation the Concessionaire must pay the following charges ("Other Charges") on demand and in the manner directed by the Grantor:
 - (a) levies, taxes, duties, assessments, charges and other outgoings which may be charged, levied or reasonably assessed or which may become payable in relation to the Easement Area, any structure or facility on the Easement Area, or the Concession Activity;
 - (b) all costs in relation to the supply of water, sewage, drainage and rubbish disposal which are not otherwise included in any charges or assessments made by any authority or by the Grantor;
 - (c) all costs incurred by the Grantor in providing an annual building warrant of fitness to a territorial authority, including costs paid to an independent qualified person

for a report establishing or re-establishing compliance with a compliance schedule. If work is required to a structure or facility of the Grantor's on the Easement Area in order to obtain a new building warrant of fitness, the Grantor is to pay the cost of the work subject to the Concessionaire's obligations under clause 10.

6.2 If the Concessionaire surrenders this Document with the consent of the Grantor, the Concessionaire will continue to be liable for and must pay to the Grantor on demand in respect of its occupation of and activity on the Easement Area all Other Charges which may be due for the current payment period i.e. the time between one payment period and the next even though this period may not expire until after the date of surrender.

6.3 The Concessionaire must pay all charges for electric power, water supply, geothermal energy, telephone rental and other utilities supplied to the Easement Area. The Grantor will not be liable for any cost incurred in re-establishing the supply of any of these utilities in the event of any of them becoming unavailable for any reason.

7.0 CONCESSION ACTIVITY

7.1 The Concessionaire is not to use the Easement Area for any purpose under this Document other than the Concession Activity.

7.2 The Concessionaire must, as a condition of this Document:

- (a) take out and maintain and pay all fees for all licences, permits, authorisations, consents (including resource consents under the provisions of the Resource Management Act 1991), and renewals (collectively "the Permissions") as may be necessary for the proper conduct of the Concession Activity;
- (b) not do or suffer to be done any act whereby these Permissions may be forfeited or suspended or refused.

7.3 The rights and powers conferred on the Concessionaire by the provisions set out in Item 3 of Schedule 1 are subject to the terms and conditions of this Document. In the event of a conflict between the provisions of Item 3 and the terms and conditions of this Document, the latter is to prevail.

8.0 COMPLIANCE

8.1 The Concessionaire will, in relation to the Land, comply where relevant:

- (a) with the provisions of any conservation management strategy or conservation management plan as required by Part IIA of the Reserves Act 1997 together with any amendment or review of any strategy or plan whether approved before, on, or after the date on which this Document takes effect; and

- (b) with the Reserves Act 1977 and any other statute, ordinance, regulation, bylaw, or other enactment (collectively the "Legislation") affecting or relating to the Easement Area or affecting or relating to the Concession Activity.
- 8.2 The Concessionaire must comply with all conditions imposed by the Grantor in granting this Document whether expressed or implied.
- 8.3 (a) A breach or contravention by the Concessionaire of a relevant conservation management strategy or conservation management plan, will be deemed to be a breach of this Document.
- (b) A breach or contravention by the Concessionaire of any Legislation affecting or relating to the Easement Area or affecting or relating to the Concession Activity will be deemed to be a breach of this Document.
- 8.4 If the Legislation requires the Grantor to spend an amount on structures, facilities or land alterations on the Easement Area which the Grantor considers unreasonable, the Grantor may determine this Easement and any dispute as to whether or not the amount is unreasonable is to be determined in accordance with clause 27. The Grantor will not terminate the Easement while a dispute is being resolved.

9.0 STRUCTURES, FACILITIES AND LAND ALTERATIONS

- 9.1 The Concessionaire must not erect or bring on to the Easement Area any structure, install any facility or alter the Easement Area in any way without the prior written consent of the Grantor.
- 9.2 In giving approval under clause 9.1 the Grantor may, in the Grantor's sole and absolute discretion, impose any reasonable terms and conditions, including a review of the Concession Fee, as the Grantor considers appropriate under this clause; and may also decline the grant of such approval after consideration of the relevant conservation and environmental issues.
- 9.3 The Concessionaire must pay to the Grantor all reasonable costs associated with applications for approval under this clause determined at the standard rates then applying in the Department for cost recovery of staff time and expenses.
- 9.4 The Concessionaire must, upon request by the Grantor, submit written engineering or building plans and details to the Grantor for approval before :
- (a) erecting or altering any structure on the Easement Area;
 - (b) bringing any structure on to the Easement Area;
 - (c) installing any facilities on the Easement Area; or
 - (d) altering the Easement Area in any way.

- 9.5 The Concessionaire must not commence any work on the Easement Area until the Grantor has given its written approval.
- 9.6 When undertaking any work under this clause the Concessionaire must comply with all statutory requirements including obtaining building consents and code compliance certificates under the Building Act 1991.
- 9.7 The Concessionaire is to keep and maintain its structures and facilities on, or alterations to, the Easement Area in good repair.

10.0 INSURANCE OF STRUCTURES, FACILITIES AND LAND ALTERATIONS

- 10.1 The Concessionaire must insure and keep insured with an insurer approved by the Grantor all structures, facilities and land alterations on the Easement Area in the joint names of the Grantor and Concessionaire for their respective interests to their full replacement value against loss or damage caused by fire, earthquake, fire consequent on earthquake, avalanche, flood, volcanic activity; and including indemnity insurance for the cost of demolition, removal of debris and clearance of the Easement Area.
- 10.2 The Concessionaire must provide the Grantor with a copy certificate of currency for the policy or policies of insurance before commencing the Concession Activity and on each renewal of the policy.

11.0 CONCESSIONAIRE'S FURTHER OBLIGATIONS

- 11.1 The Concessionaire must at the Concessionaire's expense:
- (a) take all steps necessary to control any pest, insect or rodent infestation occurring in or emanating from the Easement Area or any structure or facility on the Easement Area, and if required by the Grantor, engage a pest exterminator approved by the Grantor;
 - (b) comply strictly with the provisions of the Biosecurity Act 1993;
 - (c) comply with all requirements of any competent authority regarding sanitation and with all relevant bylaws and fire safety requirements;
 - (d) at all times display a copy of the relevant current building warrant of fitness under the Building Act 1991 showing the location of the compliance schedule in a place in each building (as defined in that Act) on the Easement Area to which users of the building have ready access;
 - (e) keep and maintain all building systems and any structure on the Easement Area and belonging to the Concessionaire in accordance with the requirements of any compliance schedule;

- (f) retain and make available to any territorial authority and any other person with a right to inspect any structures on the Easement Area under the Building Act 1991 a copy of the compliance schedule together with the written reports relating to compliance with the compliance schedule over the previous two year period.

12.0 PROTECTION OF THE ENVIRONMENT

12.1 Except as approved in writing by the Grantor the Concessionaire will not, whether by act or omission:

- (a) interfere with, remove, damage, or endanger the natural features, animals, plants, or historic resources on the Easement Area; or
- (b) bring any plants, animals, or firearms on to the Easement Area; or
- (c) deposit on the Easement Area debris, rubbish or other dangerous or unsightly matter, or contaminate any water body on the Easement Area; or
- (d) pile or store materials in any place on the Easement Area where it may obstruct the public or create a nuisance; or
- (e) conduct any noxious, noisome, dangerous or offensive activity on the Easement Area.

12.2 The Concessionaire will keep the Easement Area in a clean and tidy condition and free of weeds and all organisms specified as pests in a relevant pest management strategy.

12.3 The Concessionaire will keep all structures, facilities and land alterations and their surroundings in a clean and tidy condition. If reasonably required by the Grantor the Concessionaire will paint all structures and facilities in colours specified in writing by the Grantor and with paints of a type approved in writing by the Grantor.

12.4 If, during the Term, the Concessionaire removes a structure or facility from the Easement Area the Concessionaire will, unless the Grantor indicates otherwise in writing, repair and make good at its own expense all damage which may have been done by the removal and will leave the Easement Area in a clean and tidy condition.

12.5 Should the Concessionaire fail to repair and restore the damage within 6 months of the removal of a structure or facility or such further time as the Grantor may approve in writing, the Grantor may undertake whatever works and operations are necessary to effect the same and may recover from the Concessionaire any costs and expenses incurred in doing it as a debt due by the Concessionaire to the Grantor.

12.6 The Concessionaire must:

- (a) take all reasonable precautions to ensure no fire hazards arise from its carrying out of the Concession Activity or from any act or neglect of its employees, contractors, invitees or agents;
 - (b) not light or permit to be lit any fire on the Easement Area.
 - (c) not store or permit to be stored fuels or other combustible materials on the Easement Area without the written permission of the Grantor. In that event storage of fuels and combustible materials must be in accordance with the provisions of the Hazardous Substances and New Organisms Act 1996;
 - (d) comply with the Grantor's requirements for fire warning and safety equipment and for fire fighting equipment to be kept on the Easement Area at all times.
- 12.7 The Concessionaire must ensure that its employees, clients and invitees do not carry out any acts prohibited under clause 12.
- 12.8 The Concessionaire must immediately report to the Lessor any act in contravention of clause 12 and wherever possible the names and addresses of any person carrying out such acts; and must provide the Lessor with details of the circumstances surrounding such incidents.

13.0 ADVERTISING

- 13.1 The Concessionaire must not erect or display any signs or advertising on the Easement Area without the prior written approval of the Grantor. At the expiry or termination of this Concession the Concessionaire must remove all signs and advertising material and make good any damage caused by the removal.
- 13.2 If required by the Grantor, the Concessionaire must ensure that all its signs and advertising material specify that it is carrying out the Concession Activity under a Concession granted by the Grantor on land administered by the Department.

14.0 EMPLOYMENT OF STAFF

- 14.1 The Concessionaire must ensure that the Concession Activity is conducted at all times by a person or persons suitably trained and qualified to carry out the Concession Activity.
- 14.2 The Concessionaire must provide the Grantor with evidence of the competency and qualifications of its employees if the Grantor so requests.
- 14.3 The Concessionaire must comply with all statutes relating to employment of staff.

15.0 HEALTH AND SAFETY

- 15.1 The Concessionaire is to carry out the Concession Activity on the Easement Area in a safe and reliable manner and must comply with:
- (a) the Health and Safety in Employment Act 1992 and its regulations; and
 - (b) all other statutes, regulations and bylaws and all notices and requisitions of any competent authority relating to the conduct of the Concession Activity.
- 15.2 The Concessionaire must notify the Grantor of any natural events or activities on the Easement Area or the surrounding area which may endanger the public or the environment.
- 15.3 The Concessionaire must :
- (a) take all reasonable steps to protect the safety of all persons present on the Easement Area and must, where necessary, erect protective signposts warning the public of any dangers they may encounter as a result of the Concessionaire's operations;
 - (b) take all reasonable steps to eliminate any dangers to the public and must clearly and permanently mark any that remain and of which the Concessionaire is aware.
- 15.4 Before commencing the Concession Activity the Concessionaire must, if required by the Grantor, prepare a safety plan and have it audited by a suitably qualified person approved by the Grantor.
- 15.5 The Concessionaire must not commence the Concession Activity until:
- (a) the person appointed to audit the safety plan has certified the safety plan is suitable for the Concession Activity; and
 - (b) the Concessionaire supplies the Grantor with a copy of the safety plan certified under clause 15.5(a).
- 15.6 Receipt of the certified safety plan by the Grantor is not in any way to limit the obligations of the Concessionaire under clause 15 and is not to be construed as implying any responsibility or liability on the part of the Grantor.

16.0 TEMPORARY SUSPENSION

- 16.1 The Grantor may temporarily suspend this Document if, in the opinion of the Grantor, there is a temporary risk to public safety or the safety of the Department's staff or the safety of other Concessionaires whether from arising from natural events such as earthquake, land slip, volcanic activity, or flood or whether arising in any other way including the activities of the Concessionaire, its employees, clients or invitees.

- 16.2 If, in the opinion of the Grantor, the activities of the Concessionaire, its employees, clients or invitees are having or may have an adverse effect on the environment and the Grantor is of the opinion that the effect can be avoided, remedied or mitigated to an extent satisfactory to the Grantor, the Grantor may suspend this Concession until the Concessionaire remedies, avoids or mitigates the adverse impact to the satisfaction of the Grantor.
- 16.3 The Grantor may suspend this Concession while it investigates any of the circumstances contemplated in clauses 16.1 and 16.2 and also while it 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 of which it has become aware.
- 16.4 The word "investigates" in clause 16.3 includes the laying of charges and awaiting the decision of the Court.
- 16.5 During any period of temporary suspension the Concession Fee payable by the Concessionaire is to abate in fair proportion to the loss of use by the Concessionaire of the Easement Area.
- 16.6 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 clause 16 including loss of profits.

17.0 ASSIGNMENT

- 17.1 The Concessionaire is not to transfer, assign, mortgage or otherwise dispose of the Concessionaire's interest under this Document or any part of it without the prior written consent of the Grantor. The Grantor may in its discretion decline any application for consent under this clause, such consent not to be unreasonably withheld.
- 17.2 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 its discretion, decides otherwise.
- 17.3 If the Grantor gives consent under this clause the Concessionaire is to remain liable to observe and perform the terms and conditions of this Document throughout the Term and is to procure from the transferee, or assignee a covenant to be bound by the terms and conditions of this Document.
- 17.4 The Concessionaire must pay the costs reasonably incurred by the Grantor incidental to any application for consent, whether or not such consent is granted.
- 17.5 Any change in the shareholding of the Concessionaire altering the effective control of the Concessionaire will be deemed to be an assignment and will require the consent of the Grantor.

18.0 CO-SITING

- 18.1 (a) The Concessionaire will not allow Co-Siting on the Easement Area.
- 18.2 The Concessionaire must, if required by the Grantor, allow Co-Siting on the Easement Area except where the Concessionaire demonstrates to the reasonable satisfaction of the Grantor that such Co-Siting by the third party 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.
- 18.3 The Grantor will be entitled to require the Concessionaire to obtain a report prepared by an independent consultant acceptable to the Grantor, confirming the presence of either of the matters referred to in clause 18.3. The cost of the report is to be borne by the Concessionaire.
- 18.4 For the avoidance of doubt a Co-Sitee permitted on the Easement Area must enter into a separate agreement with the Grantor in terms of which the Co-Sitee will be required to pay a fee to the Grantor to conduct an Activity on the Easement Area. This separate agreement must not contain provisions which conflict with the Concessionaire's rights and obligations in relation to the Easement Area.

19.0 TERMINATION

- 19.1 The Grantor may terminate this Concession by 7 days notice in writing to the Concessionaire if:
- (a) the Concession Fee or any other money payable to the Grantor under this Document is in arrears and unpaid for 30 days after any of the days appointed for payment whether it has been lawfully demanded or not; or
 - (b) (i) the Concessionaire breaches any terms of this Document; and
(ii) the Grantor has notified the Concessionaire in writing of the breach; and
(iii) the Concessionaire does not rectify the breach within 7 days of receiving notification; or
 - (c) the Concessionaire ceases to conduct the Concession Activity or, in the reasonable opinion of the Grantor, the services provided by the Concessionaire are manifestly inadequate; or

- (d) the Concessionaire is convicted of an offence, whether or not related to the Concession Activity, under the Conservation Act 1987 or any of the Acts listed in the First Schedule to that Act; or the Health and Safety in Employment Act 1982; or the Building Act 1991; or the Resource Management Act 1991; or the Biosecurity Act 1993; or
- (e) the Concessionaire is dissolved; or enters into any composition with or assignment for the benefit of its creditors; or is adjudged bankrupt; or being a company, has a receiver appointed; or is put into liquidation; or is placed under statutory management; or has a petition for winding up presented against it; or is otherwise unable to pay its debts as they fall due; or the Concessionaire ceases to function or operate; or
- (f) there is, in the opinion of the Grantor, a permanent risk to public safety or the environment whether arising from the conduct of the Concession Activity or from natural causes 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 Document on the part of the Concessionaire.

19.2 If the Grantor terminates the Concession under this clause all rights of the Concessionaire are to cease absolutely; but the Concessionaire is not to be released from any liability to pay the Concession Fee or other monies up to the date of termination or for any breach of any term up to the date of termination.

19.3 The Grantor may exercise the right under this clause to terminate the Concession notwithstanding any prior waiver or failure to take action by the Grantor or any indulgence granted by the Grantor for any matter or default.

19.4 Immediately on termination, the Concessionaire must execute a surrender of this Document if the Grantor so requires it.

20.0 GRANTOR MAY REMEDY CONCESSIONAIRE'S DEFAULT

20.1 The Grantor may elect to remedy at any time without notice any default by the Concessionaire under this Concession.

20.2 The Concessionaire must pay to the Grantor forthwith on demand all reasonable costs and expenses incurred by the Grantor, including legal costs and expenses as between solicitor and client, in remedying such default.

21.0 GRANTOR'S DIRECTIONS

21.1 The Concessionaire must comply with all reasonable notices and directions of the Grantor concerning the activities conducted by the Concessionaire on the Easement Area or the conduct of any person on the Easement Area under the authority of this Document.

22.0 POWERS, RIGHTS AND AUTHORITIES

- 22.1 All powers, rights and authorities of the Grantor under this Document and any notice required to be given by the Grantor may be exercised and given by the Director-General or any officer, employee, or agent of the Director-General.

23.0 INDEMNITIES AND INSURANCE

- 23.1 The Concessionaire will indemnify and keep indemnified the Grantor against all claims made by any person in respect of any injury, loss, or damage, including fire, caused or suffered as a result of or arising out of any acts or omissions of the Concessionaire, its employees, agents, contractors, clients or invitees or otherwise caused as a consequence of its occupation of the Easement Area or as a result of its conduct of the Concession Activity on the Easement Area.
- 23.2 This indemnity is to continue after the expiry or other determination of this Document in respect of those acts or omissions occurring or arising before its expiry or determination.
- 23.3 Without prejudice to or in any way limiting its liability under clause 23.1 the Concessionaire must take out and keep in force during the Term:
- (a) a policy of public liability insurance against liability for loss, damage or injury from any one single accident or event arising out of the Concessionaire's use of the Easement Area or its conduct of the Concession Activity on the Easement Area and covering:
 - (i) general indemnity for a sum not less than the amount specified in Item 10 of Schedule 1; and
 - (ii) Forest and Rural Fires Act 1977 extension for a sum not less than the amount specified in Item 11 of Schedule 1; and
 - (b) statutory liability for the matters and amount specified in Item 12 of Schedule 1; and
 - (c) such other policy or policies of insurance against any other liability and for such other sums which the Lessor specifies in Item 13 of Schedule 1, including those matters specified in clause 10.
- 23.4 With respect to clause 23.3 the Concessionaire must provide copy certificates of currency for the policies of insurance before commencing the Concession Activity and on each renewal of them.
- 23.5 (a) The Grantor will not be liable and does not accept any responsibility for damage to or interference with the Concession Activity or to the structures or facilities on the Easement Area or any other indirect or consequential damage due to any

natural disaster, vandalism, sabotage, fire or exposure to the elements except where, subject to the clause 23.5(b), such damage or interference is caused by any wilful act or omission of the Grantor, its employees, agents or contractors;

- (b) Where the Grantor is found to be liable due to a wilful act or omission, the total extent of its liability is limited to \$1,000,000 in respect of the Concessionaire's structures and facilities.

23.6 Notwithstanding anything else in clause 23 the Grantor is not liable for any indirect or consequential loss howsoever caused.

24.0 ENVIRONMENTAL MONITORING AND LAND REHABILITATION

24.1 The Concessionaire must, during the Term, if the Grantor so requests in writing, design in consultation with the Grantor and undertake a programme to monitor and report on the environmental effects of the Concessionaire's use of and activities on the Easement Area.

24.2 If the Grantor does not make a request under clause 24.1 the Concessionaire must, during the Term, pay to the Grantor the annual environmental monitoring contribution specified in Item 14 of Schedule 1 to enable the Grantor to design and undertake a programme to monitor the environmental effects of the Concessionaire's use of and activities on the Easement Area.

24.3 Subject to any conditions imposed by the Grantor and set out in Schedule 2, at the expiry, surrender or termination of this Document, the Concessionaire must reinstate the Easement Area to its condition at the commencement of the Term and replant the Easement Area with indigenous vegetation of a similar abundance and diversity as at the commencement of the Term.

25.0 EXPIRY OF EASEMENT

25.1 If, on expiry of the Term, the future use of, or any operation on, the Easement Area is not authorised by the Grantor, the Concessionaire accepts that the Grantor will have no liability whatsoever for any costs incurred by the Concessionaire as a result of the expiry of this Document.

25.2 Subject to any conditions set out in Schedule 2, at the expiry, surrender or termination of the Term the Concessionaire must remove all the Concessionaire's structures and facilities on the Site unless the Grantor approves otherwise in writing.

25.3 If the Concessionaire does not remove the structures and facilities as required by clause 25.2, or as otherwise approved by the Grantor, the structures or facilities remaining on the Easement Area at the expiry, surrender or termination of this Document, will be deemed to be fixtures and property in them will vest absolutely in the Grantor.

- 25.4 In that case the Grantor will not be liable to pay compensation to the Concessionaire for the structures and facilities and may, at its option, remove or destroy or otherwise dispose of them, and recover the costs and expenses of their removal or destruction from the Concessionaire as a debt due to the Grantor.

26.0 **FORCE MAJEURE**

- 26.1 Neither party will be liable to the other party for any delay in performance, of or failure to perform, its obligations (other than a payment of money) under this Document as a result of any cause beyond its reasonable control.
- 26.2 If the delay or failure continues for at least 28 days either party will be entitled to terminate this Document by notice in writing.

27.0 **DISPUTE RESOLUTION AND ARBITRATION**

- 27.1 If a dispute arises between the parties in connection with this Document including without limitation the interpretation, validity, breach or termination of any of its provisions, the parties will, without prejudice to any other rights or entitlements they may have under this Document or otherwise, 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.
- 27.2 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 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.
- 27.3 All arbitration proceedings are to take place in New Zealand and to be governed by New Zealand law.
- 27.4 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.
- 27.5 The arbitrator must include in the arbitration award reasons for the determination.

28.0 NOTICES

- 28.1 Any notice to be given under this Document by one party to the other is to be in writing and made by personal delivery, by pre-paid post or by facsimile addressed to the receiving party at the address or facsimile number set out in Item 15 of Schedule 1.
- 28.2 A notice given in accordance with clause 28.1 will be deemed to have been received:
- (a) in the case of personal delivery, on the date of delivery;
 - (b) in the case of a letter, on the third working day after posting;
 - (c) in the case of facsimile, on the date of dispatch.

29.0 COSTS

- 29.1 The Concessionaire must pay the Grantor's legal costs and expenses of and incidental to preparing and executing this Document or any extension or variation of this Document.
- 29.2 The Concessionaire must pay in full immediately on demand all costs and fees (including but not limited to solicitors' costs and the fees of debt collecting agencies engaged by the Grantor) arising out of and associated with steps taken by the Grantor:
- (a) to enforce or attempt to enforce the Grantor's rights and powers under this Document if the Concessionaire is in breach or default;
 - (b) to recover outstanding money owed to the Grantor.

30.0 RELATIONSHIP OF PARTIES

- 30.1 Nothing expressed or implied in this Document shall be construed as:
- (a) constituting the parties as partners or joint venturers;
 - (b) conferring on the Concessionaire any right of exclusive occupation or use of the Easement Area;
 - (c) preventing the Lessor from granting similar concessions to other persons;
 - (d) derogating from the rights of the Grantor and the public to have access across the Easement Area.

31.0 OFFENCES

31.1 Where any breach of this Concession by the Concessionaire also constitutes an offence under the Conservation Act 1987 or any of the Acts listed in the First Schedule to that Act:

- (a) no waiver or failure to act by the Grantor under this Document is to preclude the Grantor from prosecuting the Concessionaire; and
- (b) no failure by the Grantor to prosecute the Concessionaire is to preclude the Grantor from exercising its remedies under this Document; and
- (c) any action of the Grantor in prosecuting the Concessionaire is not to preclude the Grantor from exercising its remedies under this Document.

32.0 SEVERABILITY

32.1 Any illegality, or invalidity or unenforceability of any provision in this Document is not to affect the legality, validity or enforceability of any other provisions.

33.0 ENTIRE UNDERSTANDING

33.1 Except as provided by legislation, this Document and any written variation agreed by the parties contain the entire understanding between the parties with reference to the subject matter of this Document and there is no other agreement, representation or warranty whether it is expressed or implied which in any way extends, defines or otherwise relates to the provisions of this Document.

34.0 VARIATION

34.1 The provisions of section 17ZC of the Conservation Act 1987 apply to all variations sought by the Concessionaire and to any application for an extension to the Term.

34.2 As provided by section 17ZC(3) of the Conservation Act 1987, the Grantor may vary any of the conditions of this Document if the variation is necessary:

- (a) to deal with significant adverse effects of the Activity that are not reasonably foreseeable at the time this Easement is granted; or
- (b) because the information made available to the Grantor by the Concessionaire for the purposes of the Concessionaire's application contained inaccuracies which materially influenced the decision to grant the easement and the effects of the Activity permitted by this Document require more appropriate conditions

34.3 The Concessionaire is to be bound by every such variation.

Signed by Anthony Christopher Eden

for and on behalf of
the Minister of Conservation
pursuant to a written delegation
in the presence of:

Signed by Duncan D C Smith

Sec 9(2)(a)

for and on behalf of
Southern Alpine Recreation Limited
In the presence of:

Sec 9(2)(a)

Sec 9(2)(a)

QUEENSTOWN

SCHEDULE 1

1. **Land:** That part of the Rastus Burn Recreation Reserve shown outlined in blue on the plan attached. *(see definition of Land in clause 1.1)*
2. **Easement Area:** The same as 'Land' above *(see definition of Easement Area in clause 1.1)*
3. **Concession Activity:** use as a ski tow for the purpose of conducting snow tubing *(see definition of Concession Activity in clause 1.1)*
4. **Term:** 15 years commencing on 22nd day of January 2001 *(see clause 3.1)*
5. **Renewal:** not applicable *(see clause 3.2)*
6. **Final Expiry Date:** 21 January 2016 *(see clause 3.3)*
7. **Compensation:** one peppercorn (if demanded) *(see clause 5.1)*
8. **Compensation Payment Date:** on or before the date specified on the invoice generated by the Grantor *(see clause 5.1)*
9. **Penalty Interest Rate:** *(see clause 5.2)*
Double the Grantor's bank's current highest 90 day bank bill buy rate
10. **Public Liability General Indemnity Cover:** *(see clause 23.3)*
for \$500,000
11. **Public Liability Forest & Rural Fire Act Extension:** *(see clause 23.3)*
for \$500,00
12. **Statutory Liability** *(see clause 23.3)*
for \$30,000
- 13(a) **Other Types of Insurance:** *(see clauses 10 & 23.3)*
for \$ not applicable
- 13(b) **Amounts Insured for Other Types of Insurances:** *(see clauses 10 & 23.3)*
for \$ not applicable
14. **Environmental Monitoring Contribution:** not applicable *(see clause 24.2)*

15. Address for Notices:

(see clause 28)

- | | | | | |
|-----|----------------|--|-----------------------------|---------------|
| (a) | Grantor | C/- Box 5244
DUNEDIN | 77 Stuart Street
DUNEDIN | (03) 4778 626 |
| (b) | Concessionaire | the address of the registered office of the Concessionaire | | |

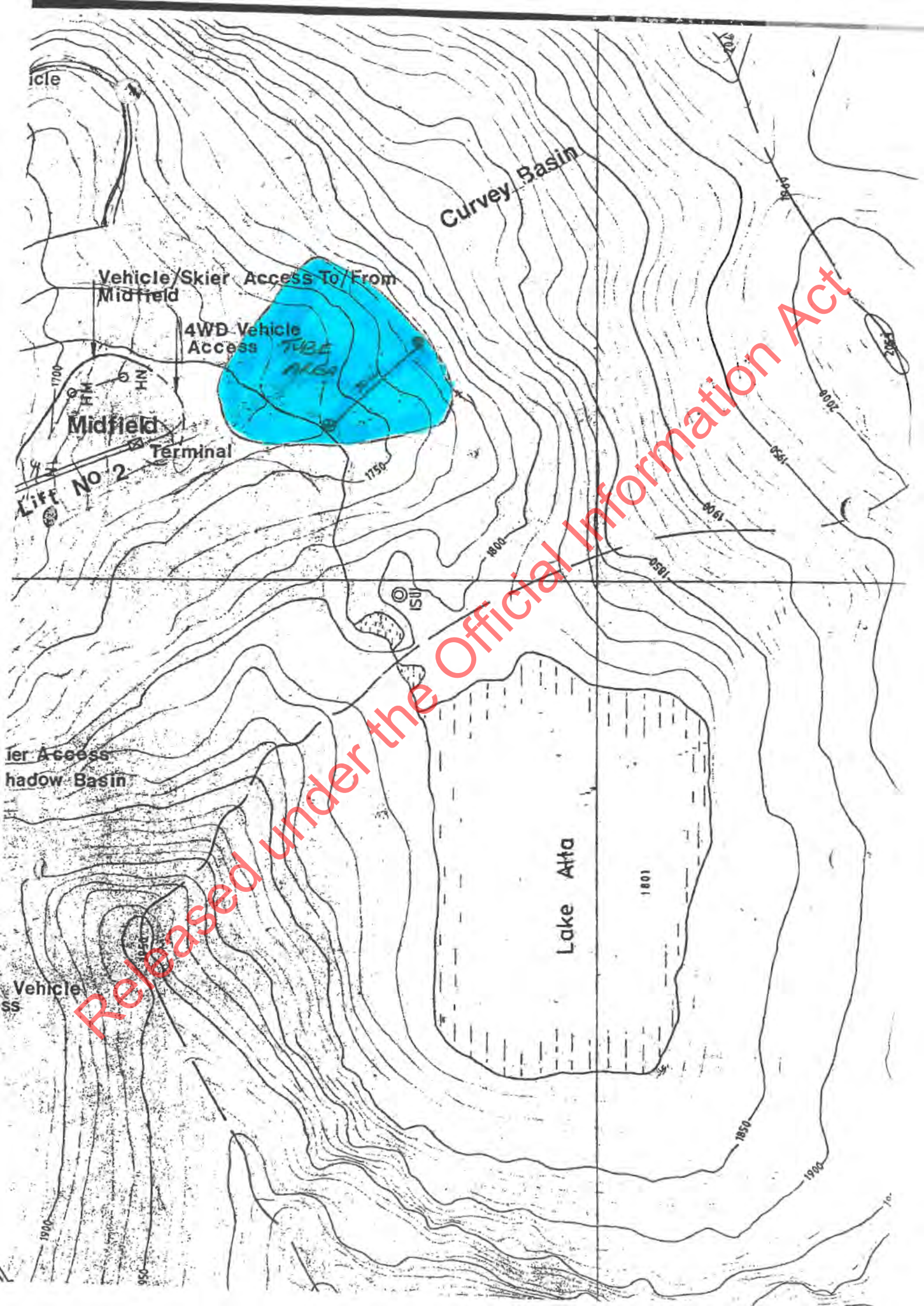
Sec 9(2)(a)

Released under the Official Information Act

SCHEDULE 2

Special Conditions

- 1 The Concessionaire shall indemnify the Grantor and Her Majesty the Queen against all and any action claim injury damage or loss which may arise as a result of the granting of this concession.
- 2 The Concessionaire shall undertake photo monitoring of the Land at the end of each ski season. The information shall be compiled in a report and forwarded to the Wakatipu Area Manager.
- 3 All equipment is to be removed at the end of each ski season and the Land restored as far as possible to its natural condition, to the satisfaction of the Grantor.
- 4 The Concessionaire shall consult with staff at the Wakatipu Area Office regarding the implementation of special conditions 2 and 3.
- 5 The Grantor reserves the right to apply restrictions on the operation of the Concession Activity or withdraw all or any part or parts of the Land from the concession if in the Grantor's opinion the activity concerned is having, or may have, an adverse effect on the physical or social environment and the effect cannot be avoided remedied or mitigated to an extent satisfactory to the Grantor.
- 6 The Grantor may send any officer of the Department of Conservation on the Activity authorised for the purpose of assessing the impact of the activity, and whether the terms and conditions of the Easement are being observed.



Curvey Basin

Vehicle/Skier Access To/From
Midfield

4WD Vehicle
Access

TUBE
AREA

Midfield

Terminal

Life No 2

Vehicle Access
Shadow Basin

Lake Alta

1801

Vehicle
Access



Department of Conservation
Te Papa Atawhai

Concession Number: OT-31854-SK1

Concession Document (Easement)

THIS EASEMENT is made this 5 day of September 2011

PARTIES:

1. Minister of Conservation (the Grantor)
2. NZSki Limited (the Concessionaire)

BACKGROUND

- A. The Department of Conservation *Te Papa Atawhai* has responsibility for protecting and promoting New Zealand's biodiversity and managing the use of New Zealand's historic and natural resources. Its goal is to be recognised as a world leader in the provision of responsive and cost effective conservation services.
- B. The Department's mission is "*To conserve New Zealand's natural and historic heritage for all to enjoy, now and in the future.*" Its vision is: "*New Zealand's natural and historic heritage is protected; people enjoy it and are involved with the Department in its conservation.*"
- C. In order to achieve its mission, vision and goals, and to carry out its functions, the Grantor from time to time grants concessions to carry out activities in Conservation Areas, National Parks, and Reserves.
- D. The Reserve described in Schedule 1 as the Easement Land is vested in the Grantor;
- E. Section 59A of the Reserves Act 1977 authorises the Grantor, in accordance with Part IIIB of the Conservation Act 1987, to grant a Concession in respect of a Reserve vested in the Crown including a reserve vested in the Crown but controlled and managed by an administering body under any of sections 28, 29, 30, 35 and 36 of the Reserves Act 1977;
- F. The Concessionaire wishes to carry out the Concession Activity on the Easement Land subject to the terms and conditions of this Document.
- G. The parties wish to record the terms and conditions of the Easement in this Document and its Schedules.

OPERATIVE PARTS

- H. In exercise of the Grantor's powers under section 59A of the Reserves Act 1977 the Grantor **GRANTS** to the Concessionaire an **EASEMENT** to carry out the Concession Activity on the Easement Land subject to the terms and conditions contained in this Document and its Schedules.

SIGNED on behalf of the Minister of Conservation by
Greg Lind – Wakatipu Area Manager acting under
delegated authority in the presence of:

Richard Kerswell (acting AM)

Witness Signature:

Witness Name:

Witness Occupation:

Witness Address:

John Robert
DOC Manager
1 Arthur Point Rd
Greendun

A copy of the Instrument of Delegation may be inspected at
the Department of Conservation at 18-22 Manners Street,
Wellington.

SIGNED by NZSki Limited by two of its directors:
Sec 9(2)(a)



SCHEDULE 1

1.	Easement Land (Servient land - the land where the easement activity occurs)	As marked on the attached plan or map in Schedule 4 being: Rastus Burn Recreation Reserve held under the Reserves Act 1977
2.	Land (Dominant land - the land that benefits from the easement) (Schedule 4)	Leasehold interest in Section 1 SO plan 22561
3.	Concession Activity (clause 1)	A right to convey water and locate snow-making infrastructure on the land
4.	Term and Final expiry date (clause 2)	To accord with the term of the existing ski field lease, expiring 28 February 2022, as outlined in the Deed of Lease dated 30 August 1993
5.	Concession Fee and payment date (clause 3)	Concession Fee is \$0 per annum on the basis of s17Y(2)(c) Conservation Act 1987
6.	Concession Fee Review Date(s) (clause 5)	Not applicable
7.	Insurance (clauses 11 and 12)	Covered by insurance required under concession lease PAC 13 06 42
8.	Penalty Interest Rate	0%
9.	Addresses for Notices (clause 20)	The Grantor's address is: Department of Conservation, 77 Stuart St, PO Box 5244, Dunedin The Concessionaire's address in New Zealand is: Level 2, Station Building, Duke St, P.O. Box 359 Queenstown
10.	Registration of Easement (Schedule 5)	Is the easement to be registered with LINZ? No
11.	Special Conditions (clause 24)	See Schedule 3

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

SCHEDULE 2

STANDARD CONDITIONS

Concession Activity

1. The Concessionaire is not to use the Easement Land for any purpose other than the Concession Activity.

Term

2. The easement is for the term specified in Item 4 of Schedule 1 with the Final Expiry Date as specified in Item 4 of Schedule 1.

Concession Fee

3. The Concessionaire must pay to the Grantor in advance and in the manner directed by the Grantor the Concession Fee plus GST on the Concession Fee Payment Dates specified in Item 5 of Schedule 1. If payment is not made 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 8 of Schedule 1.

Other Charges

4. The Concessionaire will pay all levies rates and other charges, including utility charges payable in respect of the Easement Land or the services provided to the Easement Land. Where the Grantor has paid such levies, rates or other charges the Concessionaire will on receipt of an invoice from the Grantor pay such sum to the Grantor within 14 days of receiving the invoice. If payment is not made within the 14 days then the Concessionaire is to pay interest on the unpaid sum from the date payment was due until the date of payment at the Penalty Interest Rate specified in Item 8 of Schedule 1.

Assignment

5. (a) If the easement is expressed as being in gross then the Concessionaire will not assign, or otherwise dispose of the Concessionaire's interest under this Document 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 other than the Concessionaire) without the prior written consent of the Grantor. The Grantor may in the Grantor's discretion decline any application for consent under this clause.
(b) 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.

- (c) If the Grantor gives consent under this clause the Concessionaire is to remain liable to observe and perform the terms and conditions of this Document throughout the Term and is to procure from the transferee, sub licensee, or assignee a covenant to be bound by the terms and conditions of this Document.
- (d) The Concessionaire must pay the costs reasonably incurred by the Grantor incidental to any application for consent, whether or not such consent is granted.
- (e) Any change in the shareholding of the Concessionaire altering the effective control of the Concessionaire will be deemed to be an assignment and will require the consent of the Grantor.

Protection of Environment

- 6. The Concessionaire will not cut down or damage any vegetation; or damage any natural feature or historic resource on the Easement Land; or light any fire on the Easement Land without the prior consent of the Grantor.
- 7. The Concessionaire will at its cost keep the easement facility (as defined in Schedule 5) now or hereafter upon the Easement Land, in good order, condition and repair and will keep the Easement Land in a clean and tidy condition and will not store hazardous materials on the Easement Land nor store other materials on the Easement Land where they may obstruct the public or create a nuisance

Structures

- 8. The Concessionaire will not erect, nor place any structures on, under or over the Easement Land without the prior consent of the Grantor.

Surrender

- 9. If the Concessionaire wishes to surrender this easement during the currency of the Term, then the Grantor may accept that surrender on such conditions as the Grantor considers appropriate, including a condition that the Concessionaire will be required to bear and pay any rates or levies payable under the easement, from the date of acceptance of the surrender, until the date at which the easement would have expired had surrender not been accepted or the end of the rating year, whichever is the sooner.

Indemnities and Insurance

- 10. The Concessionaire agrees to occupy and use the Easement 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 Easement Land.
- 11. The Concessionaire will keep the Grantor indemnified 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 in respect of:-

- (a) the neglect or careless use or misuse by the Concessionaire or persons under the control of the Concessionaire of the Easement Land or arising out of any faulty fixture or fitting of the Concessionaire;
 - (b) any accident or damage to property or any person arising from any occurrence in or near the Easement Land wholly or in part by reason of any act or omission by the Concessionaire or persons under the control of the Concessionaire.
12. Without prejudice to or in any way limiting its liability under clause 11 the Concessionaire at the Concessionaire's expense must effect and keep current in respect of the Easement Land and the Concessionaire's use of the Easement Land a policy of public risk insurance for an amount not less than the sum specified in Item 7 of Schedule 1; and a public liability forest and rural fire insurance for an amount not less than the sum specified in Item 7 of Schedule 1; and any other insurance specified in Item 7 of Schedule 1 with a substantial reputable insurer.

Health and Safety

13. The Concessionaire will exercise the rights granted by this easement in a safe and reliable manner and must comply with the Health and Safety in Employment Act 1992 and its regulations and all other provisions or requirements of any competent authority relating to the exercise of this easement.

Termination

14. If the Concessionaire breaches any of the conditions of this easement the Grantor may terminate this easement at any time in respect of the whole or any portion of the Easement Land upon the Grantor giving to the Concessionaire one calendar month's notice in writing of the Grantor's intention so to terminate this easement.
15. The Grantor may choose to remedy at any time without notice any default by the Concessionaire under this easement. Where that occurs, the Concessionaire must pay forthwith on demand all reasonable costs incurred by the Grantor in remedying such default.

Consent

16. Where the Grantor's consent or approval is expressly required under this easement 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.

Public access and closure

17. The Concessionaire acknowledges that the Easement Land is open to the public for access and that the Grantor may close public access during periods of high fire hazard.

Removal of Structures

18. Upon the expiration or sooner termination of this easement, either as to the whole or any part of the Easement Land, the Concessionaire is not entitled to compensation for any building, enclosure, fencing or other improvement carried out by the Concessionaire, but the Concessionaire may within such time as the Grantor determines and shall where the Grantor so requires (by notice in writing to the Concessionaire given within 20 working days of such expiration or termination), remove all such buildings, enclosures, fencing or other improvements making good at the Concessionaire's expense any damage caused by such removal and leaving the Easement Land in a clean and tidy condition.

Dispute Resolution

19. (a) If a dispute arises between the parties in connection with this easement the parties will, 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.
- (c) 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 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.
- (d) 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.
- (e) The arbitrator must include in the arbitration award reasons for the determination.

Notices

20. Any notice to be given under this document is to be in writing and made by personal delivery, fax or by pre paid post to the receiving party at the address or fax number specified in Item 9 of Schedule 1. Any such notice will 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 third working day after posting.

Costs

- 21. The Concessionaire must pay the Grantor's legal costs and expenses of and incidental to preparing and signing this Document or any extension or variation of it.
- 22. 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 Document including the right to recover outstanding money owed to the Grantor.

Statutory Implied Powers

- 23. The rights and powers implied in the relevant easements by the 5th 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 easement) apply to this easement **EXCEPT** to the extent set out in Schedule 3 of this easement.

Special Conditions

- 24. Special Conditions, if any, 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.

The Law

- 25. This Document shall be governed by New Zealand law.

Co-Siting

- 26. (a) In this clause "Co-Site" means the use of the Concessionaire's structures or facilities on the Easement Land by a third party for an activity; and "Co-Sitee" and "Co-Siting" have corresponding meanings.
- (b) The Concessionaire must, if directed by the Grantor, allow Co-Siting except when the Concessionaire demonstrates to the reasonable satisfaction of the Grantor that the Co-Siting by a third party:
 - (i) would impact on the ability of the Concessionaire to conduct its Concession Activity; or
 - (ii) would result in a substantial change to the Concession Activity carried out by the Concessionaire on the Easement Land.

- (c) The Grantor will be entitled to direct the Concessionaire to obtain at the Concessionaire's expense a report prepared by an independent consultant acceptable to the Grantor confirming the matters specified in clause 26(b)
- (d) For the avoidance of doubt, a Co-Sitee permitted on the Easement Land must enter into a separate agreement with the Grantor in terms of which the Co-Sitee will be required to pay a fee to the Grantor to conduct an Activity on the Easement Land. This separate agreement will not contain provisions that conflict with the Concessionaire's rights and obligations in relation to the Easement Land.

Released under the Official Information Act

SCHEDULE 3

SPECIAL CONDITIONS

1. The Right and Powers implied in easements under the 4th Schedule of the Land Transfer Regulations 2002 as set out in Schedule 5 of this document are varied as follows, the rights and powers in:
 - (a) Regulation 1 is amended by replacing the word, "grantee" with "Concessionaire."
 - (b) Regulation 6(3)(a) is amended by adding at the end the words, "after first obtaining the prior consent of the Grantor as required in clauses 6 and 7 of Schedule 2 of this easement."
 - (c) Regulation 10(1) (b) is amended by adding at the end the words, "after first obtaining the prior consent of the Grantor as required in clauses 6 and 7 of Schedule 2 of this easement."
 - (d) Regulation 11(2) is deleted and sub clause (4) is amended by deleting the reference to sub clause (2).
 - (e) Regulations 13 and 14 are deleted.
2. A briefing by one of DOC's employees to contractors and Concessionaire staff is to occur prior to easement establishment works commencing.
3. Machinery is only to enter and exit the work sites from the top and bottom of the proposed lines, or from existing roads. Machinery is not to disturb terrain which is not covered by this Concession.
4. Temporary diversion and trenching of streams is to be monitored on site by DOC staff in at least one location. The Concessionaire must advise the Wakatipu Area Manager of its intention to conduct this establishment work at least one week before this occurs ahead of time and arrange a suitable time with the Area Office. A specific plan for each stream crossing is to be made and approved by the Wakatipu Area Manager prior to implementation.
5. All removed vegetation is to be kept alive and viable for replanting immediately after the trench is backfilled. Revegetation priority is to be given to areas prone to erosion – e.g. areas around snow guns and on steeper slopes.
6. Trenches and all vehicle access must where possible avoid any wetlands. A specific plan for each wetland crossing will need to be made and approved by the Wakatipu Area Manager prior to implementation.
7. All work with explosives in the area must comply within all industry standards and best practice, including notification and signage to advise the public. Signage must be placed to sufficiently advise the public of the establishment works, and work sites must be appropriately closed off to public access.
8. Works will be monitored by the Grantor's contractor (Natural Solutions for Nature Ltd (NSFN)) at least once per week for the duration of the establishment works. All costs are to be borne by the Concessionaire.
9. All The works covered by this concession will be included in the long term monitoring programme of the entire ski-field site conducted by DOC in conjunction with NSFN.

10. The Concessionaire will monitor contractor progress as establishment works proceed at the sites and advise the Wakatipu Area Manager of any compliance concerns.

11. Any remediation highlighted by monitoring will be carried out as specified by the Grantor at the cost to of the Concessionaire.

12. All earthworks at the Sites covered by this Concession at this site for the 2011-12 season are to cease by May 1st 2012.

Released under the Official Information Act

SCHEDULE 4

Insert map or plan

Released under the Official Information Act

SCHEDULE 5

RIGHTS AND POWERS IMPLIED IN EASEMENTS

A. 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) in relation to a right to convey electric power or a right to convey telecommunications and computer media, means wires, cables (containing wire or other media conducting materials), towers, poles, transformers, switching gear, other equipment suitable for that purpose (whether above or under the ground), and anything in replacement or substitution:
- (b) in relation to a right to drain sewage, means pipes, conduits, pumps, tanks (with or without headwalls), manholes, valves, surface boxes, other equipment suitable for that purpose (whether above or under the ground), and anything in replacement or substitution:

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; and
- includes 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

(1) A right to convey water includes the right for the grantee in common with the grantor and other persons to whom the grantor may grant similar rights to take and convey water in free and unimpeded flow from the source of supply or point of entry through the easement facility and over the servient land to the dominant land.

(2) The right to take and convey water in free and unimpeded flow is limited to the extent required by any period of necessary cleansing, renewal, modification, or repair of the easement facility.

(3) The easement facility referred to in subclause (1) is the easement facility laid or to be laid along the stipulated course or stipulated area, as agreed by the grantor at the time of installation of the facility.

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

4. Right to drain water

Deleted as not relevant.

5. Right to drain sewage

Deleted as not relevant.

6. Rights of way

Deleted as not relevant.

7. Right to convey electricity

(1) A right to convey electricity 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 lead and convey electricity and electric impulses without interruption or impediment from the point of entry through the easement facility and over the servient land.

(2) The right to convey electricity without interruption or impediment is limited to the extent required by any period of necessary renewal or repair of the easement facility.

(3) The easement facility referred to in subclause (1) is the easement facility laid or to be laid along the stipulated course or stipulated area, as agreed by the grantor at the time of installation of the facility.

8. Right to convey telecommunications and computer media

Deleted as not relevant.

9. Right to convey gas

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) If the grantee (or grantees, if more than 1) and the grantor share the use of the easement facility, each of them is responsible equally for the repair and maintenance

of the easement facility, and for the associated costs, for the purposes set out in subclause (1).

(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



Concession Document Variation of Concession

Concession Number: 49957-SKI

This Deed of Variation of a Concession

is made this 20th day of October 2017

PARTIES:

Minister of Conservation (the Grantor)

NZSki Limited (the Concessionaire)

BACKGROUND

- A. By a Concession dated the 25th day of October 2016 the Grantor granted an easement to the Concessionaire upon the terms and conditions expressed and implied in the Concession.
- B. This Concession 49957-SKI was to replace easement Concession OT-34110-SKI (variation processed under separate cover) however, due to delays in progressing the laying of the water pipeline under the ground up to Lake Alta until summer 2017/18, the Concessionaire, in the interim, wished to retain the provision to lay the water pipeline above the ground in accordance with the Concession Activity described in Concession OT-34110-SKI.
- C. Accordingly, Concession 49957-SKI will not replace Concession OT-34110-SKI until an executed Deed of Surrender for Concession OT-34110-SKI is held by the Grantor.
- D. The parties have agreed to vary the Concession.

NOW BY THIS DEED the parties agree as follows:

1. Variation

As from the date of this Deed, the Concession is varied as follows:

- (a) Clause 24 in Schedule 3 is deleted and replaced with the following clause:

"Monitoring the effects of the increased water take

24. The Concessionaire, at its cost, is to undertake monitoring surveys of the integrity of the riparian margins, invertebrate habitats and landscape values of both Lake Alta and the Rastus Burn stream:

- (a) The monitoring survey programme is to be designed by a suitably qualified expert who has been pre-approved by the Grantor;
- (b) The survey is to be carried out three yearly after the winter season

commencing in the year 2019, for the duration of the Concession Term;

- (c) *The Concessionaire must report on the results of the survey in clause 24(b) of Schedule 3 by 1 December 2020 and thereafter three yearly, for the duration of the Concession Term;*
- (d) *If the water take level during the three yearly survey in clause 24(b) of Schedule 3 exceeds the recorded limits in the years 2013-2016, then the Grantor may require the Concessionaire to carry out monitoring surveys more frequently (to be no less than one year);*
- (e) *The Grantor will give notice in writing to the Concessionaire if the frequency of monitoring in accordance with clause 24(d) of Schedule 3 is to alter."*

2. Confirmation of other Concession Covenants

Except to the extent to which they are varied by this Deed the covenants, terms and conditions expressed and implied in the Concession continue to apply.

3. Costs

The Concessionaire will pay the costs of and incidental to the preparation and completion of this Deed.

Sec 9(2)(a)

SIGNED on behalf of the Minister of Conservation by **Geoff Owen, Operations Manager** acting under delegated authority

in the presence of:

Witness Signature

Witness Name: Nicole Kunzmann

Witness Occupation: DOC Ranger

Witness Address: DOC office, Arthurs Point

A copy of the Instrument of Delegation may be inspected at the Director-General's office at 18-22 Manners Street, Wellington.

SIGNED by **NZSki Limited** by Paul Anderson, Chief Executive Officer, having authority to enter into contracts

in the presence of:

Sec 9(2)(a)

Witness Signature Sec 9(2)(a)

Witness Name:

Witness Occupation: Office Manager

Witness Address: PO Box 359, Greenstone



Department of Conservation
Te Papa Atawhai

Concession Document Variation of Concession Document

Concession Number: PAC-13-06-42-04

This Deed of Variation of a Concession Document

is made this 5th day of November 2021

PARTIES:

Minister of Conservation (the Grantor)

NZSki Limited (the Grantee)

BACKGROUND

- A. By a Deed dated the 30th day of September 1999 (the Concession) the Grantor granted an easement to the Grantee for a right to convey electricity and telephonic communications over the Rastus Burn Recreation Reserve upon the terms and conditions expressed and implied in the Concession.
- B. The Concession was granted to The Mount Cook Group Limited and was assigned to NZSki Limited.
- C. The Grantee has applied to upgrade and replace ageing electricity infrastructure underground which requires an extension to the stipulated course in the Concession.
- D. The parties have agreed to vary the Concession.

NOW BY THIS DEED the parties agree as follows:

1. Variation

As from the date of this Deed, the Concession is varied as follows:

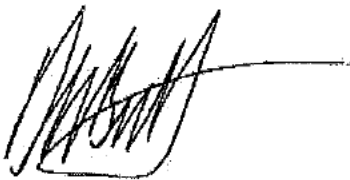

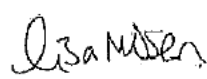

- (i) a new Schedule 1 (Fees) attached as Appendix 1 to this Deed is inserted in the Concession;
- (ii) a new Schedule 2 (Special Conditions) attached as Appendix 2 to this Deed is inserted in the Concession; and
- (iii) a new Schedule 3 (Map) attached as Appendix 3 to this Deed is inserted in the Concession to extend the stipulated course of the easement.

2. Confirmation of other Concession Covenants

- (a) Except to the extent to which they are varied by this Deed the covenants, terms and conditions expressed and implied in the Concession continue to apply.

3. Costs

- (a) The Grantee will pay the costs of and incidental to the preparation and completion of this Deed.

	<p>Sec 9(2)(a)</p> 
<p>SIGNED on behalf of the Minister of Conservation by David Butt, Operations Manager, Whakatipu-wai-Māori / Queenstown Office acting under delegated authority</p>	<p>SIGNED by NZSki Limited by Paul Anderson, Chief Executive Officer, having authority to enter into contracts</p>
<p>in the presence of:</p>	<p>in the presence of:</p>
	<p>Sec 9(2)(a)</p> 
<p>Witness Signature</p>	<p>Witness Signature</p>
<p>Witness Name: Lisa Nilsen</p>	<p>Witness Name:</p>
<p>Witness Occupation: Supervisor, DOC Community / Visitor Centre Teams</p>	<p>Witness Occupation</p>
<p>Witness Address: c/- Department of Conservation, 1 Arthurs Point Road, Queenstown</p>	<p><i>ski Area Manager The Remarkables Ski Area</i></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>	

APPENDIX 1**SCHEDULE 1**

1.	Concession Fee	Concession Activity Fee: \$1,600.00 plus GST per annum Concession Management Fee: \$250.00 plus GST per annum Environmental Premium Fee: \$160.00 plus GST per annum
2.	Concession Fee Payment Date	On or before the date specified on the invoice issued by the Grantor.
3.	Penalty Interest Rate	Double the current Official Cash Rate (OCR). <u>See Reserve Bank of New Zealand website</u> If the Grantee fails to make payment within 14 days of the Concession Fee Payment Date then the Grantee 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 this Item 3.
4.	Concession Fee Review Date(s)	Not Applicable

APPENDIX 2

SCHEDULE 2

SPECIAL CONDITIONS

STAGE 2: REPLACEMENT AND UPGRADING OF THE POWER SUPPLY UNDERGROUND ("EASEMENT FACILITY") TO SUPPLY THE REMARKABLES SKI AREA WITHIN THE RASTUS BURN RECREATION RESERVE AND DECOMMISSIONING AND REMOVAL OF 11 REDUNDANT ABOVEGROUND POWER POLES AND ASSOCIATED POWER CABLES.

Contractor selection

1. The Grantee must ensure that only contractors with a demonstrated ability in alpine earthworks and native vegetation restoration are used to establish the facility.

Hours of work

2. Establishment work associated with the facility must only take place between 7am to 6pm Monday to Friday, and 7am to 5pm on Saturday. Work may only take place on any Sunday, between the hours of 7am to 5pm, with the prior written approval of the Grantor, which must be sought in writing, no later 5pm on the previous Thursday, on a weekly basis.

Public access and safety

3. The Grantee must ensure the public is able to pass freely and safely through the Easement Land, whenever reasonably possible.
4. While work is being carried out on the facility the Grantee may temporarily limit public access to the extent necessary to avoid harm to the public, but only with prior written agreement of the Grantor. Suitable alternative access is to be provided.
5. The Grantee is to install signage for the duration of the facility establishment works, at its expense, advising the public as to the nature of the work.

Use of vehicles and helicopters

6. To install the easement facility and remove the redundant power poles and cables, the Grantee is authorised to use:
 - (a) vehicles; and
 - (b) helicopters using an existing Department of Conservation Concessionaire.

Control of surface runoff and silt

7. Suitable drainage, cut-outs and silt traps are to be installed to control new surface flows into lower areas of vegetation, wetlands and watercourses.
8. Where areas of surface or sub-surface drainage are unable to be avoided, suitable provision for maintaining their flow and quality is to be installed for instance by using coarse rock, geocloth, piping or silt traps.

Construction conditions (general)

9. The easement facility must be installed in the easement corridor as shown on the maps in Schedule 4 of approximately 3,212 m² (1,606m (long) x 2.0m (wide)).
10. Any vegetation removal and soil disturbance necessary to install and undertake the activity must be kept to a minimum.
11. All wetlands are to be avoided. The boundary of the wetland is to be located and defined with pegs and tape. There is to be at least a 5m buffer left from between the wetland boundary and the disturbance zone.
12. Any trenching across ephemeral watercourses shall be undertaken at a time when there is no flow in the watercourse. Any trenching across ephemeral watercourses shall be directly across the stream (i.e. at 90 degrees to the watercourse). The trenching should be undertaken in stages in order to minimise the time that indigenous vegetation is stored before replanting.
13. To prevent further spread of exotic plants along and from the cable alignment, the movement and stockpiling of spoil is to be managed to ensure that soil from locations of high weed abundance is not spread to areas where exotic plants are less abundant.
14. Wilding pine seedlings are to be removed from within 50m either side of the cable alignment. Control of exotic grass species (excluding browntop and sweet vernal) and plants of conservation concern (including any exotic woody plants) is to take place until the ground has stabilised and native vegetation and plantings have established or for 3 years following the planting (i.e. whichever is longer).
15. The surface of the ground must be reinstated in a tidy manner following the installation of the easement facility.
16. No alterations to the easement facility requiring earth disturbance must be undertaken without prior consent in writing of the Grantor.
17. The Grantee must ensure that all machinery, tools and equipment used in undertaking the Concession Activity is steamed cleaned and weed free prior to being taken onto the Easement Land.

18. The Grantee must ensure that all materials used in undertaking the Concession Activity are from a weed free source.

Completion of establishment works

19. The undergrounding of the power cable must be completed by the final expiry date of the easement (including advancement of re-vegetation).
20. The Grantee must advise the Grantor when all work to establish the easement facility has been completed.

Restoration work

Removal of redundant power poles and overhead cables

21. The Grantee must remove all 11 overhead power poles (as shown on the Schedule 4 map) and cables once the easement facility is fully operational.
22. Before removal of the 11 power poles, the Grantee must hold the appropriate Authority under the Wildlife Act 1953 for the catching, handling and incidental killing of lizards.
23. The power poles are to be cut off below ground level, removed from the site, and the ground remediated to the satisfaction of the Grantor.

Re-vegetation protocol

24. Unless the Grantor stipulates otherwise, the Grantee must act in accordance with clauses 26 and 27 in this Schedule 3 and with the "*Protocol for the rehabilitation of natural alpine environments following ski area development*" attached as Schedule 3A whenever it undertakes work which involves disturbance of the soil or the vegetation on the Land.
25. If there is a conflict between clause 26 or 27 in this Schedule 3 and the Protocol in Schedule 3A, clauses 26 and 27 prevail.

Removal and storage of vegetation

26. The Grantee must comply with the following requirements whenever it undertakes activities which disturb the vegetation, including the works associated with the easement facility:
 - (a) Vegetation is to be stripped and stored locally as construction progresses. It must be stripped and stored with enough surrounding soil and humus and in a manner that is likely to result in successful replanting and long-term survival.
 - (b) Stripping may be by machine or by hand, whichever will provide the best chance for success given the nature of the vegetation.
 - (c) Watering of vegetation material may be required, at the direction of the

Grantor or its nominated independent monitor, to ensure its survival while stored.

Re-vegetation

27. When re-vegetating disturbed areas, the Grantee must comply with the following conditions:
- (a) Vegetation is to be replanted using locally (within the Ecological District) sourced material, including that stripped and stored under clause 22(a) in this Schedule 3, as soon as possible following completion of works at individual sites such as individual tower sites or trenches. Follow-up maintenance of re-vegetated areas to enhance their chances of re-establishment must be undertaken prior to the end of the growing season;
 - (b) Where there is sufficient plant material and humus to allow survival, stripped material can be split. To supplement re-vegetation works split material may also be sourced from other areas in the Rastus Burn Recreation Reserve, provided it does not result in additional adverse ecological effects on the source areas;
 - (c) The revegetation planting should be concentrated in rocky areas i.e. areas of preferred lizard habitat, and at least 50% of the plantings should be in the areas of preferred lizard habitat. Planting should be of 4 species x 30 plants (i.e. a total of 120 plants), as per plant species listed in the Grantee's Lizard Management Plan, supplied on application and updated on 3 September 2021. Additional divaricating and fruit bearing plants should be utilised include snowberry (*Gaultheria depressa* var. *novae-novae-zelandiae* and corokia (*Corokia cotoneaster*). Note the matagouri, snowberry and corokia would have greatest survival at lower altitude areas;
 - (d) All manuka and large (i.e. taller than 1m tall) matagouri plants are to be avoided. Small matagouri plants are to be either relocated to a suitable adjacent site or stored and reinstated as soon as possible. Supplementary planting of snow tussock (*Chionochloa ridgii*) is to occur throughout the disturbed area to ensure there is no reduction in tussock cover following the works. The final tussock cover should not be less than 1 snow tussock per 2m² in open, steeper or rocky tussockland and 1 snow tussock per m² in denser, moister snow tussockland. Any supplementary planting is to occur in the season following the completion of the works;
 - (e) Appropriate methods (e.g. laying of Geotextile cloth) as agreed to by the Grantor must be used to protect areas where there has been insufficient planting by May 1st to prevent sediment wash/erosion. These are to be removed before revegetation works continue in the following spring;
 - (f) Plant spacing should be adequate to ensure revegetation of the site to a sufficient vegetation cover, with additional density detail as specified by

the independent monitor on site;

- (g) Nursery reared plants from appropriate eco-sourced seed may be used where there is insufficient existing vegetation available for transplanting. The rearing and planting of any plants that are to be brought on site must be to the satisfaction of the Grantor;
- (h) The seed of appropriate native species sourced from the Rastus Burn Recreation Reserve or similar location (from within the Ecological District) should be broadcast to promote vegetation growth in the rock areas, between transplanted/planted tussocks and to assist revegetation of fellfield areas;
- (i) Where there has been insufficient replanting by May 1st, any exposed topsoil must be managed to avoid erosion losses until replanting can be restarted in the following spring; and
- (j) All disturbed areas that have existing vegetation cover are to be re-vegetated.

Remediation of works

- 28. Where the Grantor identifies any requirement for remediation following monitoring or inspection, the remediation is to be carried out as specified by the Grantor at the Grantee's expense.

Suspension of works

- 29. The Grantor, at its sole discretion, may require all works to be suspended until suitable remediation is completed.

Satisfactory completion of re-vegetation works

- 30. The Grantor will determine when and whether any re-vegetation works have been completed and/or carried out satisfactorily.
- 31. The success of plantings referred to in clause 27(c) must be monitored to ensure appropriate survival rates. The restoration must achieve the survival of at least 100 plants for the initial 3-year establishment period. If survival is less additional planting shall be undertaken.

Other consents, approvals and assessments

- 32. This Concession does not replace, displace or supersede any other lawfully required consents, approvals and assessments from other agencies. This includes (but is not limited to) geotechnical, engineering, district and regional resource consents, and building consents. Copies of these approvals are to be provided to the Grantor prior to works commencing.

Accidental Discovery Protocol

33. The Grantee must take all reasonable care to avoid any archaeological values on the Land which includes (but is not limited to) historic sites and protected New Zealand objects on the Easement Land. In the event that archaeological sites or other features with heritage values are found during any approved earth disturbance work on the Easement Land:
- (a) Work must cease immediately until further notice and advice must be sought from the Grantor;
 - (b) If it is an archaeological site as defined by the Heritage New Zealand Pouhere Taonga Act 2014 then Heritage New Zealand must be contacted and its advice sought;
 - (c) If it is an archaeological site relating to Māori activity then local iwi must be contacted and their advice sought;
 - (d) If it is an artefact as defined by the Protected Objects Act 1975 then the Ministry for Culture and Heritage must be notified within 28 days;
 - (e) If it is human remains the New Zealand Police should also be notified;
 - (f) In the event of cessation of approved work because of discovery of potential historical artefact or archaeological site the Grantee must not recommence work until permitted to do so by the Grantor.

Fuels, hazardous materials, chemicals and waste

34. Any waste or rubbish must be disposed of in an approved manner off the Land at a Council approved site. Waste held on the Land prior to its removal must be stored in a manner so as to ensure it does not become a contaminant or is not blown by wind or present a potential hazard to wildlife.
35. In the event of any hazardous substance spill the Grantee must:
- (a) Take all practicable measures to stop the flow of the substances and prevent further contamination onto the Land or water;
 - (b) Immediately contain, collect and remove the hazardous substances and any contaminated material, and dispose of all such material in an appropriate manner / authorised facility;
 - (c) Notify the Grantor as soon as practicable;
 - (d) Undertake any remedial action to restore any damage to the soil; and
 - (e) Take all measures to prevent any reoccurrence.

Myrtle Rust Protocols

36. The Grantee must know the plants that are affected by myrtle rust and what the rust symptoms look like. This serious fungal disease only affects plants in the Myrtle (Myrtaceae) Family which includes pohutukawa, manuka, kanuka, and ramarama. See <https://www.mpi.govt.nz/protection-and-response/responding/alerts/myrtle-rust/>.
37. If the Grantee encounters suspected symptoms of myrtle rust, the Grantee must

not touch it and must take the following steps:

- (a) Call the MPI Exotic Pest and Disease Hotline immediately on 0800 80 99 66;
- (b) Take clear photos, including the whole plant, the whole affected leaf, and a close-up of the spores/affected areas of the plant;
- (c) Don't touch or try to collect samples as this may increase the spread of the disease;
- (d) If accidental contact with the affected plant or rust occurs, bag clothing and wash clothes, bags and shoes as soon as possible.

Monitoring and compliance

38. If the Grantor determines that compliance with the conditions of this Concession or the effects of Concession Activity should be monitored, the Grantee shall meet: either the full costs of any monitoring programme that is implemented; or, if the Grantor determines that the costs should be apportioned among several Grantees / Concessionaires who use the same locations, part of the costs of the monitoring programme. These costs will include the Department's standard charge-out rates for staff time and the mileage rates for vehicle use associated with the monitoring programme.

SCHEDULE 2A

PROTOCOL FOR THE REHABILITATION OF NATURAL ALPINE ENVIRONMENTS FOLLOWING SKI AREA DEVELOPMENT

Between

DEPARTMENT OF CONSERVATION ("DOC") and NZSKI LIMITED

1. Introduction

The protocol sets out practical means of achieving a high standard of environmental rehabilitation during and following development works at either Coronet Peak or The Remarkables Ski Areas. NZSki Limited will require its staff and contractors to act in accordance with the protocol.

The scope includes any work that results in any environmental disturbance including (not limited to) the indigenous vegetation, native fauna, soil, wetlands, streams, lakes and natural landforms of the ski area. Works may only be exempted from the protocol with prior agreement from DOC.

DOC staff will conduct regular monitoring to observe progress and assess effectiveness of the measures. This will include providing advice, troubleshooting unexpected problems, adjusting management approaches and, if necessary, require corrective action to ensure the objectives of the protocol are met.

2. Objectives of the protocol

To ensure that during the course of ski area developments there is a minimum of interference with the natural environment, and avoidance of disturbance to areas outside approved work areas;

To ensure that any indigenous vegetation disturbed by development is restored as near as possible to its original density and diversity, within the shortest practical timeframe;

To minimise the erosion and sedimentation of exposed soils (and soil among transplanted vegetation), optimising the longer term regeneration of indigenous vegetation through natural dispersal;

To otherwise replicate a high standard of natural appearance to any ground not occupied by permanent structures or required to regularly bear mechanised traffic; and

To establish a clear understanding between the staff and contractors of both the Department of Conservation (DOC) and NZSki Limited on the required standards for:

- Work site control measures;
- Removal and replacement of vegetation and top soil;
- Management of soil erosion and sediment control;
- Ongoing monitoring and maintenance of rehabilitated areas;
- Contracted monitoring; and
- DOC's ability to suspend works.

3. Work Site control measures:

- a. Only machinery operators with a demonstrated ability in low impact earthworks and vegetation rehabilitation in an alpine setting are to undertake construction;
- b. Prior to works NZSki Limited shall ensure that a briefing occurs between its staff, contractors and DOC to ensure a common understanding of how works will be conducted;
- c. NZSki Limited must minimise disturbing non target areas when accessing and working within development sites. If machinery is required to move off existing tracks the least damaging route must be used and any disturbed vegetation must be rehabilitated when works are completed;
- d. The risk of soil erosion over denuded areas must be carefully managed until rehabilitation works are undertaken and soil is no longer exposed;
- e. Works must be conducted to ensure no contaminants are discharged onto the land or into watercourses (directly or indirectly). All vehicles, machinery, equipment and aggregate material must be cleaned of weeds, seeds and soils before entering the works area. Refuelling must be undertaken on hard surfaces away from watercourses and vegetation.
- f. Sensitive natural features including streams, wetlands, tarns, lakes and rare habitats are not to be disturbed, either for development works or access to development sites. Where disturbance is unavoidable prior approval must be sought and additional environmental protection measures may be required;
- g. All development and rehabilitation works impacting the natural environment must be completed by the 1st May. Any unfinished work must be stabilised to prevent soil erosion until works can recommence.

4. Removal and replacement of vegetation and top soil:

- a. Vegetation must be carefully removed in a manner to minimise damage to both the above ground plant and to protect as much soil material around the roots as possible;
- b. The remaining topsoil must also be removed before excavation of rock material may commence. If not used quickly with the replanting of vegetation this topsoil may be stockpiled for later use;
- c. All vegetation removed should be quickly replanted into areas where works have already been completed. This will usually occur through progressive reinstatement on completed formations behind the main work "face";
- d. Priority for replanting shall be given to areas prone to erosion;
- e. Individual plants or clumps of vegetated material ("sod") shall be reinstated by careful use of a digger bucket. Spacing should be no greater than 1 metre, unless directed otherwise by DOC.

- f. Final positioning of transplanted vegetation and sods should be conducted by hand tools, with top soil packed around each plant or sod to maximise survivorship and to achieve a result that closely resembles the surrounding natural areas;
- g. When transplanted plants and sods are insufficient to cover the disturbed area additional vegetation may be sourced through splitting indigenous vegetation from adjacent areas. This should only be done where there is sufficient plant and humic material to allow survival of both 'parent' and 'split' plants.
- h. Nursery reared plants (usually tussocks) may also be used to supplement transplanted vegetation and sods. Only locally sourced seeds may be used to grow plants for the ski area. Nursery reared plants are susceptible to rapid die off and browsing and must be handled carefully as follows:
 - Fertiliser is to be placed in the root well prior to planting;
 - Plants must be well bedded to lessen risk of uprooting by feral animals; and
 - Plants may be treated with suitable chemicals to deter browsing by feral animals.
- i. Locally sourced seed of appropriate species may be broadcast to promote vegetation growth between transplanted vegetation and sods. Exotic seeds may be spread only with prior approval;
- j. Special care must be taken when replanting on steep slopes between 30 and 45 degrees:
 - Plants should be transplanted quickly, steep slopes require plants to be in the healthiest possible condition;
 - Indented troughs or depressions should be formed to create "bedding" for the tussocks or sods to be transplanted. Replanting should not occur on sheer surfaces;
 - Replanting should be as close together as practical, leaving little exposed ground;
 - Large heavy plants and sods should be staked for support where possible;
 - Steep slopes should be closely monitored and any plants or sods released from the slope quickly retrieved, split into smaller, lighter clumps and replanted back into the slope as described above;
 - Consideration should be provided to planting small nursery reared plants where possible;
 - Attempts at replanting vegetation on slopes steeper than 45 degrees should only proceed with prior approval;
- k. The vegetation removed at one site may be used at another development site within the ski area only with prior approval;

- l. If no areas are available for a quick reinstatement, vegetation may be temporarily stored in designated areas with prior agreement;
 - All handling of vegetation for longer term storage must be done with great care to minimise cumulative damage to plants;
 - Vegetation may only be stockpiled up to one metre high to avoid die off resulting from smothering and crushing; and
 - All vegetation temporarily stored must be watered when protracted dry conditions may impact on survivorship.
- m. If NZSki Limited expects to have a surplus of vegetation and/or topsoil at the end of works, this must be replanted /spread over other areas of rehabilitation, under direction from DOC.
- n. Any surplus rock material must not be stockpiled and/or spread over nearby terrain without prior approval.
- o. NZSki Limited will actively eradicate any noxious weeds from all development and rehabilitation areas; and
- p. No rock landscaping may be used as a substitute for vegetation unless by prior agreement.

5. Management of soil erosion and sediment control

- a. The surface of vehicle tracks, formed ski trails and any other disturbed ground without a cover of indigenous vegetation will be managed to improve water infiltration, minimise rilling and sheet erosion, reduce suspension of sediment and provide micro sites for wind borne seed to settle. Control measures include;
 - shaping / crowning the surface;
 - applying an appropriate gravel surface in problem areas;
 - forming of earth, rock or vegetation bunds;
 - Ripping or roughening soils perpendicular to the slope angle; and
 - Constructing water tables/swale drains to intercept and divert surface flows.
- b. Where the slope angle exceeds 30 degrees natural features such as rocks could be incorporated into the slope where this lends to the stability of the site; this would require prior approval from DOC and potentially the support of geotechnical experts. This solution would be considered on a site by site basis.
- c. Water tables/swales must have a catchment area no greater than 2,000m². Ski trails must have functioning swales no less than 60m apart. All water tables/swales must be clear of sediment and able to convey water.
- d. Water tables and swales must lead to an appropriately designed and armoured settlement pond to capture sediment so only clear water disperses into the surrounding landscape.

- These ponds must be large enough to 'settle' the flow and allow sediment to be deposited, particularly from heavy rainfall events. Precise dimensions will depend on the area and erosion potential of catchment above, however, these may be graduated areas 1m wide x 2m long x 1m deep. They should be armoured with rocks or surrounded by soil mounds and tussocks or geotextile materials.
 - Sediment captured by settlement ponds are to be redistributed to assist re-vegetation of disturbed areas, whether previous or planned earthworks e.g. used to fill gaps between transplanted tussocks or to improve the mineral soil content when planting nursery tussocks.
 - Settlement ponds must be maintained such that they provide a means of monitoring the effectiveness of control measures thereby assist adjusting management approaches to reduce the potential for recurrent erosion.
- e. To protect wetlands and wetland vegetation from sediment no surface water carrying sediment must be allowed to run into wetland areas. Settlement ponds must not exit onto wetland areas. Water tables and swales must be designed to maintain the hydrological integrity of adjacent seepages and wetlands.
- f. Areas requiring erosion control measures are to be prioritised based on the following criteria:
- Vulnerability to erosion (e.g. slopes > 20 degrees, unconsolidated soils, disturbed ground adjacent to compacted soils)
 - Saturated soils on cut faces where seepages have been intercepted,
 - Remediation of slips or slumped land and stabilisation of land to prevent further or repeated slope failures.
 - Settlement areas that require armouring or treatment in order to filter water,
 - Stabilisation works required to facilitate revegetation.
- g. Areas identified for erosion control and soil conservation work may vary from year to year as revegetation occurs and slope and soil stability is achieved.
- h. Significant developments will have a soil conservation and erosion control plan in place prior to the commencement of works. This plan will demonstrate how the objectives of this protocol will be achieved.

6. Ongoing monitoring and maintenance of the rehabilitated area

- a. The purpose of the monitoring is to assess the progress of rehabilitation and advise NZSki Limited how to prevent or minimise risks to re-growth becoming self sustaining;
- b. All development and rehabilitation works will be monitored at least once prior to the commencement of work and again at completion of works. Interim monitoring may be required, depending on the nature of work. Following completion, regular

monitoring will continue until DOC resolves, at its sole discretion, that the rehabilitation of the natural environment can progress unaided;

- c. Additional monitoring of erosion and sediment control measures will be made during or following significant periods of rainfall.
- d. Where monitoring establishes significant risks to rehabilitation, DOC will require NZSki Limited to take any reasonable steps to rectify the situation and return the area to its desired condition. Any additional work required will be carried out at the cost of NZSki Limited;
- e. In the event that an area is not rehabilitated following works, monitoring will continue until rehabilitation works have begun. Attention will be paid to preventing erosion during any lay period;
- f. DOC should reserve the right to recover the actual and reasonable costs of monitoring work.

7. **Contracted monitoring:**

DOC may contract monitoring to an external person/s. This approach not only provides time savings, but can also source specialist expertise on how to rehabilitate the sensitive alpine vegetation. This expertise is also vital to advise on appropriate remedial actions for any issues, and to provide expert input to planning processes. Contracted monitoring will take place as follows;

- a. The contractor is generally tasked to monitor the implementation of this protocol during any ski area development work that disturbs the natural environment;
- b. The monitor is to resolve any concerns of a routine nature directly with NZSki Limited. Issues should be referred to DOC when problems are recurrent, significant in scale, unconventional or if a mutual agreement cannot be reached;
- c. To advise both DOC and NZSki Limited whenever their action (or inaction) may present a problem for ski area environment, whether related to a specific development or any other activity;
- d. The monitor is to immediately advise DOC and NZSki Limited if unauthorised works may be occurring, of significant risks to the natural environment that warrant suspension of works, and of any concerns with geotechnical hazards and/or public safety;
- e. Monitoring visits are to be scheduled in consultation with NZSki Limited and DOC at a frequency of no more than once a week and no less than three times a summer (depending on nature of works over summer);
- f. If agreement on scheduling cannot be reached, DOC will make a final decision and notify NZSki Limited of when monitoring is to occur;
- g. A brief written report of each monitoring visit is to be forwarded to DoC and NZSki Limited in a timely manner. Reports should take a broad approach to assess overall performance, record agreements reached on site and highlight unresolved issues. Reports should take advantage of photo monitoring where possible;

- h. The time required for visits (and reports) are to be appropriate to the works in progress. The monitor is to notify and seek agreement from NZSki Limited on where the combined time required for site visits and reporting is likely to exceed 5 hours;
- i. Support tasks supplementary to monitoring and reporting (eg research and meetings) are to be agreed with DOC and NZSki Limited prior work occurring;
- j. The time spent on monitoring visits, reporting and support work will be billed directly to NZSki Limited at a rate equivalent to DOC's current hourly rate for field staff, plus GST. Disbursements are to be billed separately.
- k. All monitoring reports and discussions between the contractor, NZSki Limited and DOC will be subject to the Official Information Act 1982.

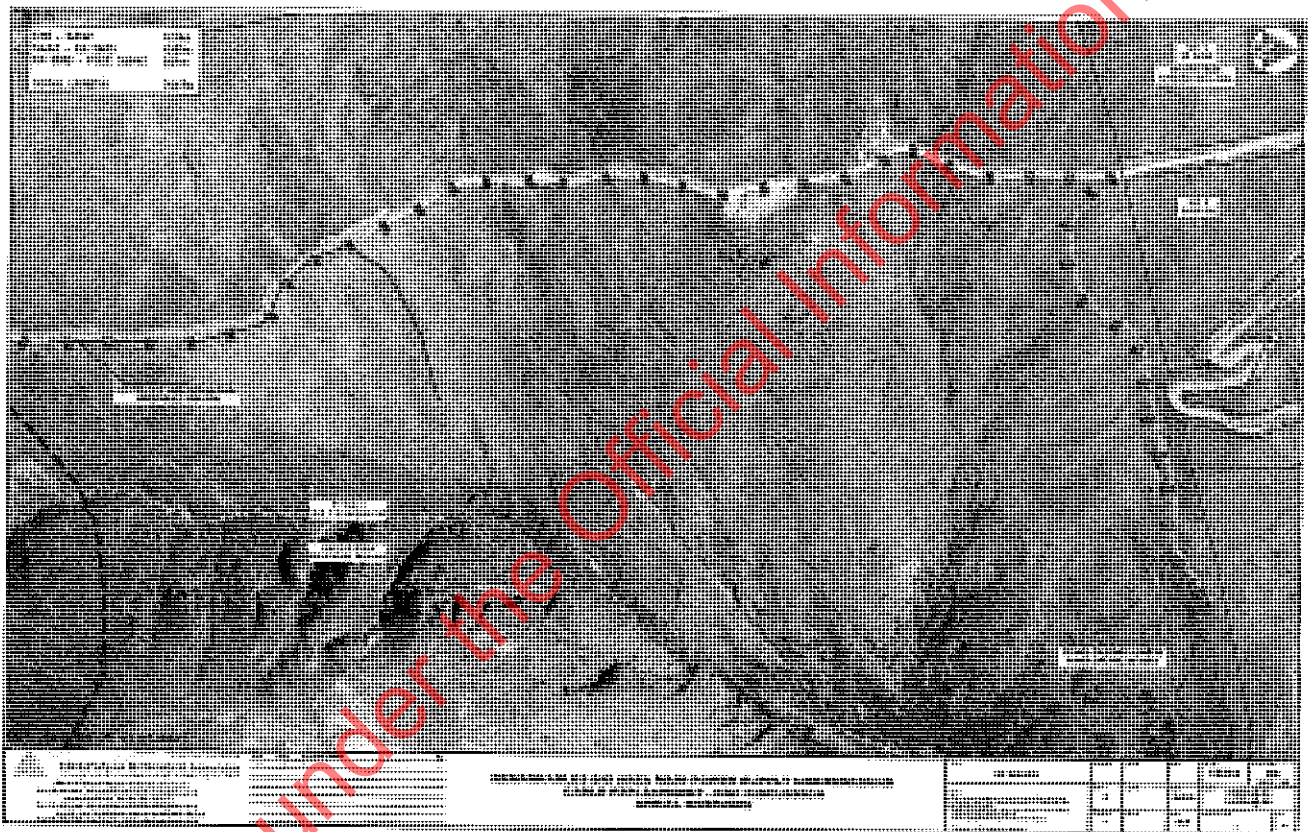
8. Right to suspend works

- a. DOC will, at its sole discretion, suspend any development work or activity should contracted monitoring, public feedback or DOCs own observations determine there are unexpected and/or significant impacts on the natural environment that are not being adequately rehabilitated.
- b. Any suspension shall remain in place until a response plan is agreed with NZSki Limited.

APPENDIX 3

SCHEDULE 3

Stage 2 - aerial map showing continuation of existing underground power supply cable (coloured blue) along road and branching off to tie into existing overhead powerline pole ID 36842 (new cabling shown coloured orange)



Building Landings: 1000 ft. long, 100 ft. wide

Building: 100 ft. long, 100 ft. wide

Building: 100 ft. long, 100 ft. wide

Building: 100 ft. long, 100 ft. wide

Official Information



Department of Conservation
Te Papa Atawhai

Concession Number: OT-27836-SKI

Concession Document (Licence)

THIS CONCESSION is made this ^{21st} day of November 2011

PARTIES:

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

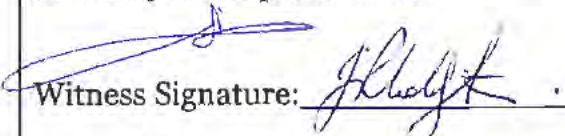
BACKGROUND

- 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 Department is under the control of the Grantor.
- C. The carrying out of these functions may result in the Grantor granting concessions to carry out activities on public conservation land.
- D. The Grantor administers the public conservation land described in Schedule 1 as the Land.
- E. The Conservation legislation applying to the Land authorises the Grantor to grant a concession over the Land.
- F. The Concessionaire wishes to carry out the Concession Activity on the Land subject to the terms and conditions of this Concession.
- G. The Concessionaire acknowledges that the land may be the subject of Treaty of Waitangi claims.
- H. The parties wish to record the terms and conditions of this Concession and its Schedules.

OPERATIVE PARTS

- I. In exercise of the Grantor's powers under the Conservation legislation the Grantor **GRANTS** to the Concessionaire a **LICENCE** to carry out the Concession Activity on the Land subject to the terms and conditions contained in this Concession and its Schedules.

SIGNED on behalf of the Minister of Conservation by **Greg Lind, Wakatipu Area Manager** acting under delegated authority in the presence of:

Witness Signature: 

Witness Name: JAMES CUNNINGHAM

Witness Occupation: CEO

Witness Address: 1 RAPLEY CLOSE,
QUEENSTOWN

A copy of the Instrument of Delegation may be inspected at the Director-General's office at 18-22 Manners Street, Wellington.

SIGNED by **NZSki ltd Limited** by its directors:

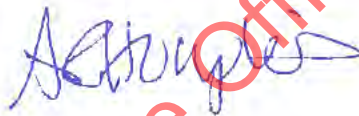
Sec 9(2)(a)



WITNESS NAME : ANNA HUMPHRIES

OCCUPATION : RANGER

ADDRESS : LARTRAK'S PT RD, CTR



SCHEDULE 1

1.	Land (clause 2)	As outlined in blue and marked "A" on the attached plan at schedule 4, described as part Coronet Peak Recreation Reserve, being an area of 1.2 hectares more or less
2.	Concession Activity (clause 2)	To develop and use the land as a winter bus and vehicle park
3.	Term (clause 3)	10 years commencing on 1 December 2011
4.	Renewal(s) (clause 3)	Not applicable
5.	Final Expiry Date (clause 3)	30 November 2021
6.	Concession Fee (clause 4)	Concession Activity Fee: 9(2)(j) [REDACTED] Concession Management Fee: Not applicable Annual Environmental Monitoring Contribution (clause 9): Not applicable Community Services Contribution (clause 6) Not applicable Total Payment per annum 9(2)(j) [REDACTED]
7.	Concession Fee Payment Instalments (clause 4)	Not applicable
8.	Concession Fee Payment Date(s) (clause 4)	By 20 January in each year
9.	Penalty Interest Rate (clause 4)	15% on overdue amounts
10.	Concession Fee Review Date(s) (clause 5)	1 December 2014, 1 December 2017, 1 December 2020

Concessionaire's initials

Grantor's initials

11.	Health and Safety (clause 13)	Not required
12.	Concessionaire Identification (clause 31)	Not required
13.	Insurance (To be obtained by Concessionaire) (clause 12)	To accord with existing ski field insurance policies in respect to the current lease for the ski-field.
14.	Addresses for Notices (clause 24)	The Grantor's address is: 77 Stuart St, Dunedin Phone: 477 0677
		The Concessionaire's address in New Zealand is: Queenstown Snow Centre Ground Level The Station Building Cnr Camp and Shotover Sts Queenstown 9300 Phone: 03 442 4620
15.	Guarantee (clause 29)	Not required
16.	Special Conditions (clause 34)	See Schedule 3

Note: The clause references are to the Grantors Standard Terms and Conditions of Licence set out in Schedule 2.

Note: Please initial each page of Schedule 1

Concessionaire's initials		Grantor's initials	
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SCHEDULE 2

STANDARD TERMS AND CONDITIONS OF LICENCE

1. Interpretation

- 1.1 Where the Grantor's consent or approval is expressly required under a provision of this Concession, the Concessionaire must seek the consent or approval of the Grantor for each separate occasion it is required notwithstanding that the Grantor has granted consent or approval for a like purpose on a prior occasion.
- 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.
- 1.3 Where this Concession requires the Grantor to exercise a discretion or give any approval or provides for any other actions by the Grantor, then the Grantor must act reasonably and within a reasonable time. When a consent is required under this Concession such consent must not be unreasonably withheld.
- 1.4 Where this Concession provides for approvals, directions, reports and consents to be given by one party to the other, those approvals, directions, reports and consents must be given by notice in writing and clause 24 is to apply.

2. What is being authorised?

- 2.1 The Concessionaire is only allowed to use the Land for the Concession Activity.
- 2.2 The Concessionaire must exercise reasonable skill, care and diligence in carrying out the Concession Activity, in accordance with standards of skill, care and diligence normally practised by suitably qualified and experienced people in carrying out such activities.
- 2.3 The Concessionaire must provide the Grantor with evidence of the competency and qualifications of its employees and contractors if the Grantor so requests.
- 2.4 The Concessionaire must not commence the Concession Activity until the Concessionaire has signed the Concession Document and returned one copy of this Document to the Grantor, as if it were a notice to be given under this Concession.

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 If there is a right of renewal then the Grantor at the Concessionaire's cost must renew the Term for a further period as set out in Item 4 of Schedule 1 provided the Concessionaire:
- (a) gives the Grantor at least three month's written notice before the end of the Term, which notice is to be irrevocable, of the Concessionaire's intention to renew this Concession; and
 - (b) at the time notice is given in accordance with this clause the Concessionaire is not in breach of this Concession.
- 3.3 The renewal is to be on the same terms and conditions expressed or implied in this Concession except that the Term of this Concession plus all further renewal terms is to expire on or before the Final Expiry Date.

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 and any other payment comprised in the Total Payment specified in Item 6 of Schedule 1 in the instalments and 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. When can the fee be reviewed?

- 5.1 The Grantor is to review the Concession Fee on the Concession Fee Review Dates in the following manner:
- (a) The Grantor must commence the review not earlier than 3 months before a Concession Fee Review Date and no later than 9 months following the Concession Fee Review Date by giving notice to the Concessionaire.
 - (b) Subject to clause 5.1(e) the notice must specify the Concession Fee which the Grantor considers to be the market value for the Concession Activity as at the Concession Fee Review Date having regard to the matters specified in section 17Y(2) of the Conservation Act 1987.
 - (c) If, within 28 days of receipt of the Grantor's notice, the Concessionaire gives notice to the Grantor that the Concessionaire disputes the proposed new Concession Fee, the new Concession Fee is to be determined in accordance with clause 5.2(a) or (b).
 - (d) If the Concessionaire does not give notice to the Grantor under clause 5.1(c) the Concessionaire is to be deemed to have accepted the Concession Fee specified in the Grantor's notice.

- (e) Notwithstanding clause 5.1(b) the new Concession Fee so determined or accepted must not be less than the Concession Fee payable during the year preceding the particular Concession Fee Review Date and is to be the Concession Fee payable by the Concessionaire from the Concession Fee Review Date.
- (f) Until determination of the new Concession Fee, the Concession Fee payable by the Concessionaire from the Concession Fee Review Date is to be the Concession Fee specified in the Grantor's notice. On determination of the new Concession Fee an adjustment is to be made and paid, either by the Grantor or by the Concessionaire, whichever is applicable.
- 5.2 Immediately the Concessionaire gives notice to the Grantor under clause 5.1(c) the parties are to endeavour to agree on a new Concession Fee. If the parties are unable to reach agreement within 28 days the new Concession Fee is to be determined either:
- (a) By one party giving notice to the other requiring the new Concession Fee to be determined by the Disputes clause (clause 22) or, if the parties agree,
- (b) by registered valuers acting as experts and not as arbitrators as follows:
- (i) Each party must appoint a valuer and give notice of the appointment to the other party within 14 days of the parties agreeing to determine the new Concession Fee by this means.
- (ii) If the party receiving a notice does not appoint a valuer within the 14 day period the valuer appointed by the other party is to determine the new Concession Fee and that valuer's determination is to be binding on both parties.
- (iii) Before commencing their determination the respective valuers must appoint an umpire who need not be a registered valuer.
- (iv) The valuers are to determine the new Concession Fee which they consider to be the market value for the Concession Activity as at the Concession Fee Review Date having regard to the matters specified in section 17Y(2) of the Conservation Act 1987 but in no case is the new Concession Fee to be less than the Concession Fee payable during the year preceding the particular Concession Fee Review Date. If they fail to agree the Concession Fee is to be determined by the umpire.
- (v) In determining the Concession Fee the valuers or umpire are to disregard the annual cost to the Concessionaire to maintain or provide access to the Land.

- (vi) Each party is to be given the opportunity to make written or oral representations or submissions to the valuers or the umpire subject to such reasonable time and other limits as the valuers or the umpire may prescribe.
- (vii) The valuers or the umpire must have regard to any such representations but are not bound by them.
- (c) The valuers or umpire must give written notice to the parties once they have determined the new Concession Fee. The notice is to be binding on the parties and is to provide how the costs of the determination are to be borne.
- (d)
 - (i) If a Concession Fee Review Date is postponed because of a moratorium imposed by law the Concession Fee Review is to take place at the date the moratorium is lifted or so soon afterwards as is practicable; and
 - (ii) the Concession Fee Review is to establish the market value for the Concession Activity as at that date instead of the date fixed under clause 5.1 having regard to the matters specified in section 17Y(2) of the Conservation Act 1987 but in no case is the new Concession Fee to be less than the Concession Fee payable during the year preceding the particular Concession Fee Review Date; and
 - (iii) each subsequent Concession Fee Review is to take place in accordance with the procedure fixed in clause 5.1.

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.
- 6.2 The Grantor is not liable for any cost incurred in re-establishing the supply of any utilities in the event of any of them becoming unavailable for any reason.
- 6.3 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.
- 6.4 Where the Grantor or Director-General has provided a community service, benefit or facility for the benefit of the Concessionaire under section 17ZH of the Conservation Act 1987, the Concessionaire must pay the Grantor the amount specified in Item 7 of Schedule 1 as part of the Total Payment specified in Item 6 of Schedule 1 on the Concession Fee Payment Dates specified in Item 8 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 If the Concessionaire is not a publicly listed company then 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 at its cost keep the Land in a clean and tidy condition and free of weeds and all organisms specified as pests in a relevant pest management strategy.
- 8.3 The Concessionaire must not store hazardous materials on the Land nor store other materials on the Land where they may obstruct the public or create a nuisance
- 8.4 If directed by the Grantor, the Concessionaire must take all steps necessary to control, or, at the Grantor's option, contribute to the cost of controlling any pest, insect or rodent infestation occurring in or emanating from the Land or any structure or facility on the Land, and if directed by the Grantor, engage a pest exterminator approved by the Grantor.
- 8.5 The Concessionaire must make adequate provision for suitable sanitary facilities for the Land if directed by the Grantor and for the

disposal of all refuse material and is to comply with the reasonable directions of the Grantor in regard to these matters.

- 8.6 The Concessionaire must keep all structures, facilities and land alterations and their surroundings in a clean and tidy condition. If reasonably directed by the Grantor the Concessionaire must paint all structures and facilities in colours approved by the Grantor and with paints of a type approved by the Grantor.
- 8.7 If, during the Term, the Concessionaire removes a structure or facility from the Land the Concessionaire must, unless the Grantor directs otherwise, repair and make good at its own expense all damage which may have been done by the removal and must leave the Land in a clean and tidy condition.
- 8.8 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. What about Environmental Monitoring?

- 9.1 The Concessionaire must, during the Term, if the Grantor so directs, design in consultation with the Grantor and undertake a programme to monitor and report on the environmental effects of the Concessionaire's use of the Land and conduct of the Concession Activity.
- 9.2 If the Grantor does not issue a direction under clause 9.1 the Concessionaire must, during the Term, pay to the Grantor the annual Environmental Monitoring Contribution specified in Item 6 of Schedule 1 to enable the Grantor to design and undertake a programme to monitor the environmental effects of the Concessionaire's use of the Land and conduct of the Concession Activity.

10. When can new structures be erected or land alterations occur?

- 10.1 The Concessionaire must not erect, alter or bring on to the Land any structure not authorised in Schedule 3 nor alter the Land in any way without the prior approval of the Grantor.
- 10.2 In giving approval under clause 10.1 the Grantor may, in the Grantor's sole and absolute discretion, impose any reasonable terms and conditions, including a review of the Concession Fee, as the Grantor considers appropriate under this clause; and may also decline the grant of such approval after consideration of the relevant conservation and environmental issues.
- 10.3 The Concessionaire must pay to the Grantor all costs associated with applications for approval under this clause determined at the standard rates then applying in the Department for cost recovery of staff time

and expenses.

- 10.4 The Concessionaire must, upon request by the Grantor, submit written engineering or building plans and details to the Grantor for approval before:
- (a) erecting new structure or altering any structure on the Land
 - (b) altering the Land in any way.
- 10.5 The Concessionaire must at all times where a building warrant of fitness under the Building Act 2004 is required display a copy of the relevant current certificate showing the location of the compliance schedule in a place in each building (as defined in that Act) on the Land to which users of the building have ready access.
- 10.6 The Concessionaire must keep and maintain all building systems and any structure on the Land in accordance with the, requirements of any compliance schedule.
- 10.7 The Concessionaire must retain and make available to any territorial authority and any other person with a right to inspect any structures on the Land under the Building Act 2004 a copy of the compliance schedule, together with the written reports relating to compliance with the compliance schedule over the previous two year period.

11. What about advertising?

- 11.1 The Concessionaire must not erect or display any signs or advertising on the Land without the prior approval of the Grantor. At the expiry or termination of this Concession the Concessionaire must remove all signs and advertising material and make good any damage caused by the removal.
- 11.2 If directed by the Grantor, the Concessionaire must ensure that all its advertising and promotional material specifies that it is carrying out the Concession Activity under a Concession granted by the Grantor on land administered by the Department.
- 11.3 If directed by the Grantor, the Concessionaire must include information in its advertising and promotional material which assists its clients to understand the features and values of the natural and historic resources of the Land and the surrounding area.
- 11.4 The Concessionaire is encouraged to obtain information from and have regard to the views of tangata whenua.

12. What are the liabilities and who insures?

- 12.1 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.

- 12.2 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.
- 12.3 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.
- 12.4 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.
- 12.5 Despite anything else in clause 12 the Concessionaire is not liable for any indirect or consequential damage or loss howsoever caused.
- 12.6 The Grantor is not liable and does not accept any responsibility for damage to or interference with the Land, the Concession Activity, or to any structures, equipment or facilities on the Land 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 12.7, such damage or interference is caused by any wilful act or omission of the Grantor, the Grantor's employees, agents or contractors.
- 12.7 Where the Grantor is found to be liable in accordance with clause 12.6, the total extent of the Grantor's liability is limited to \$1,000,000 in respect of the Concessionaire's structures, equipment and facilities.
- 12.8 Despite anything else in clause 12 the Grantor is not liable for any indirect or consequential damage or loss howsoever caused.
- 12.9 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 specified in Item 13 of Schedule 1 with a substantial and reputable insurer.
- 12.10 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 12.9. 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.
- 12.11 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.

13. What about Health and Safety?

- 13.1 The Concessionaire must exercise the rights granted by this Concession in a safe and reliable manner and must comply with the Health and Safety in Employment Act 1992 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.
- 13.2 Before commencing the Concession Activity the Concessionaire must, if required by Item 11 of Schedule 1:
- (a) prepare a safety plan;
 - (b) have it audited by a suitably qualified person approved by the Grantor and forward to the Grantor a certificate from the auditor certifying that the safety plan is suitable for the Concession Activity; and
 - (c) the Concessionaire must obtain from the auditor details as to when the safety plan is to be re-audited. The Concessionaire must comply with any such requirement to re-audit and forward a copy of the re-audit certificate to the Grantor within 5 working days of the certificate being issued.
- 13.3 If clause 13.2 applies then if the Concessionaire amends or replaces the safety plan then before the amendment or replacement plan takes effect the Concessionaire must comply with 13.2(b) and (c).
- 13.4 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.
- 13.5 Receipt of the safety plan/audit certificate by the Grantor is not in any way to limit the obligations of the Concessionaire under clause 13 and is not to be construed as implying any responsibility or liability on the part of the Grantor.
- 13.6 The Concessionaire must:
- (a) notify the Grantor of any natural events or activities on the Land or the surrounding area which may endanger the public or the environment;
 - (b) take all practicable steps to protect the safety of all persons present on the Land and must, where necessary, erect signposts warning the public of any dangers they may encounter as a result of the Concessionaire's operations;
 - (c) take all practicable steps to eliminate any dangers to the public and must clearly and permanently mark any that remain and of which the Concessionaire is aware;
 - (d) record and report to the Grantor all accidents involving serious harm within 24 hours of their occurrence and forward an investigation report within 3 days of the accident occurring;

- (e) ensure that all contracts between the Concessionaire and any contractors contain, at a minimum, the same requirements as clause 13;
- (f) be satisfied that facilities or equipment provided by the Grantor to enable the Concession Activity to be carried out meet the safety requirements of the Concessionaire;
- (g) not bring onto the Land or any land administered by the Department any dangerous or hazardous material or equipment which is not required for purposes of the Concession Activity; and if such material or equipment is required as part of the Concession Activity, the Concessionaire must take all practicable steps at all times to ensure that the material or equipment is treated with due and proper care.

14. What are the compliance obligations of the Concessionaire?

14.1 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 IIA 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 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, 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 or the National Parks Act 1980; 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; and
- (d) with all Department signs and notices placed on or affecting the Land; and
- (e) with all reasonable notices and directions of the Grantor concerning the Concession Activity on the Land.

14.2 The Concessionaire must comply with this Concession.

14.3 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 14.1(a) is deemed to be a breach of this Concession.

- 14.4 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.

15. What are the Grantor's rights to remedy defaults?

- 15.1 The Grantor may elect to remedy at any time, after giving notice, if practicable, any default by the Concessionaire under this Concession. 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.
- 15.2 The Concessionaire must pay to the Grantor forthwith on demand all reasonable costs and expenses incurred by the Grantor, including legal costs and expenses as between solicitor and client, in remedying such default. The Concessionaire is to pay interest on such costs and expenses if payment is not made within 14 day's of the Grantor's demand from the date of the demand until the date of payment at the Penalty Interest Rate specified in Item 12 of Schedule 1.

16. When can the Concession be suspended?

- 16.1 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.
- 16.2 If, in the Grantor's opinion, the activities of the Concessionaire are 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.
- 16.3 The Grantor may suspend the Concession for such period as the Grantor determines where the Concessionaire has breached any terms of this Concession.
- 16.4 The Grantor may suspend this Concession while the Grantor investigates any of the circumstances contemplated in clauses 16.1 and 16.2 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.
- 16.5 The word "investigates" in clause 16.4 includes the laying of charges and awaiting the decision of the Court.
- 16.6 During any period of temporary suspension arising under clauses 16.1 or 16.2 the Concession Fee payable by the Concessionaire is to abate in fair proportion to the loss of use by the Concessionaire of the Land.

- 16.7 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 16 including loss of profits.

17. When can the Concession be terminated?

- 17.1 The Grantor may terminate this Concession either in whole or in part:

- (a) by 14 days notice to the Concessionaire if the Concession Fee or any other money payable to the Grantor under this Concession is in arrears and unpaid for 14 days after any of the days appointed for payment whether it has been lawfully demanded or not; or
- (b) by 14 days notice to the Concessionaire or such sooner period as it appears necessary and reasonable to the Grantor if:
 - (i) the Concessionaire breaches any terms of this Concession and in the Grantor's sole opinion the breach is able to be rectified; and
 - (ii) the Grantor has notified the Concessionaire of the breach; and
 - (iii) the Concessionaire does not rectify the breach within 7 days of receiving notification; or such earlier time as specified by the Grantor; or
- (c) by notice in writing to the Concessionaire where the Concessionaire breaches any terms of this Concession and in the sole opinion of the Grantor the breach is not capable of being rectified; or
- (d) immediately by notice in writing to the Concessionaire where the Concessionaire breaches clauses 12.9 and 13; or
- (e) by notice in writing to the Concessionaire if the Concessionaire ceases to conduct the Concession Activity or, in the reasonable opinion of the Grantor, the conduct of the Concession Activity is manifestly inadequate; or
- (f) by notice in writing to the Concessionaire if the Concessionaire is convicted of an offence under the Conservation Act 1987 or any of the Acts listed in the First Schedule to that Act or any statute, ordinance, regulation, bylaw, or other enactment affecting or relating to the Land or which in the Grantor's sole opinion affects or relates to the Concession Activity; or
- (g) by notice in writing to the Concessionaire if the Concessionaire or the Guarantor is dissolved; or enters into any composition with or assignment for the benefit of its creditors; or is adjudged bankrupt; or being a company, has a receiver appointed; or is put into liquidation; or is placed under statutory management; or has a petition for winding up presented against it; or is otherwise unable to pay its debts as they fall due; or the estate or interest of the Concessionaire is

made subject to a Writ of Sale or charging order; or the Concessionaire ceases to function or operate; or

- (h) immediately if there is, in the opinion of the Grantor, a permanent risk to public safety or to the natural and historic resources of the Land whether arising from the conduct of the Concession Activity or from natural causes 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.

- 17.2 The Grantor may exercise its power to terminate under 17.1(h) without giving notice.
- 17.3 The Grantor may exercise the Grantor's right under this clause to terminate the Concession notwithstanding any prior waiver or failure to take action by the Grantor or any indulgence granted by the Grantor for any matter or default.
- 17.4 Termination of the Concession is not to prejudice or affect the accrued rights or claims and liabilities of the parties.

18. What happens on termination or expiry of the Concession?

- 18.1 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.
- 18.2 The Concessionaire may, with the Grantor's written consent, remove any specified structures and other 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 and other public conservation land affected by the removal in a clean and tidy condition.
- 18.3 The Concessionaire must, if the Grantor gives written notice, remove any specified structures and other 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 and other public conservation land affected by the removal in a clean and tidy condition and replant the Land with indigenous vegetation of a similar abundance and diversity as at the commencement of the Term. If before the expiry of the Term the Concessionaire makes an application for a further concession in respect of the same Concession Activity on the Land then the Grantor can not require such removal and reinstatement until such time as that concession application has been determined. If a new concession is granted then removal and reinstatement can not be required until the expiry or termination of the new concession.

19. When is the Grantor's consent required?

- 19.1 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.

20. Are there limitations on public access and closure?

- 20.1 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.

21. What about other concessions?

- 21.1 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.

22. How will disputes be resolved?

- 22.1 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.
- 22.2 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.
- 22.3 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.
- 22.4 The arbitrator must include in the arbitration award reasons for the determination.
- 22.5 Despite the existence of a dispute, each party must continue to perform its obligations under this Concession.

23. What about prosecution for offences?

23.1 Where any breach of this Concession by the Concessionaire also constitutes an offence under the Resource Management Act 1991, the Conservation Act 1987, or any of the Acts listed in the First Schedule to that Act:

- (a) no waiver or failure to act by the Grantor under this Concession is to preclude the Grantor from prosecuting the Concessionaire; and
- (b) no failure by the Grantor to prosecute the Concessionaire is to preclude the Grantor from exercising the Grantor's remedies under this Concession; and
- (c) any action of the Grantor in prosecuting the Concessionaire is not to preclude the Grantor from exercising the Grantor's remedies under this Concession.

24. How are notices sent and when are they received?

24.1 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 14 or 15 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, on the date receipt of the email is acknowledged by the addressee by return email or otherwise in writing.

24.2 If any party's details specified in Item 14 or 15 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.

25. What is the scope of the Concession?

25.1 Except as provided by legislation, this Concession and any written variation agreed by the parties contain the entire understanding between the parties with reference to the subject matter of this Concession and there is no other agreement, representation or warranty whether it is expressed or implied which in any way extends, defines or otherwise relates to the provisions of this Concession.

26. Can provisions be severed?

26.1 Any illegality, or invalidity or unenforceability of any provision in this Concession is not to affect the legality, validity or enforceability of any other provisions.

27. What about the payment of costs?

- 27.1 The Concessionaire must pay the Grantor's legal costs and expenses of and incidental to preparing and signing this Concession or any extension or variation of it.
- 27.2 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.

28. What is the relationship of parties?

- 28.1 Nothing expressed or implied in this Concession is to be construed as:
- (a) constituting the parties as partners or joint venturers;
 - (b) conferring on the Concessionaire any right of exclusive occupation or use of the Land;
 - (c) granting any exclusive estate or interest in the Land to the Concessionaire;
 - (d) affecting the rights of the Grantor and the public to have access across the Land.

29. What about a Guarantee?

- 29.1 Where the Grantor has in Item 15 of Schedule 1 required this Concession to be guaranteed by a third party the following clauses are to apply.
- 29.2 In consideration of the Grantor entering into this Concession at the Guarantor's request the Guarantor:
- (a) guarantees payment of the Concession Fee and the performance by the Concessionaire of the covenants in this Concession; and
 - (b) indemnifies the Grantor against any loss the Grantor might suffer should the Concession be lawfully disclaimed or abandoned by any liquidator, receiver or other persons.
- 29.3 The Guarantor covenants with the Grantor that:
- (a) no release, delay, or other indulgence given by the Grantor to the Concessionaire, to the Concessionaire's successors or assigns, or any other thing whereby the Guarantor would have been released had the Guarantor been merely a surety is to release, prejudice, or affect the liability of the Guarantor as a Guarantor or as indemnifier;
 - (b) as between the Guarantor and Grantor the Guarantor may, for all purposes, be treated as the Concessionaire and the Grantor is under no obligation to take proceedings against the Concessionaire before taking proceedings against the Guarantor;

- (c) the guarantee is for the benefit of and may be enforced by any person entitled for the time being to receive the Concession Fee;
- (d) any assignment of this Concession and any Concession Fee Review in accordance with this Concession are not to release the Guarantor from liability;
- (e) should there be more than one Guarantor the liability of each Guarantor under this Guarantee is to be joint and several.

30. What about Co-Siting?

- 30.1 In this clause "Co-Site" means the use of the Concessionaire's structures or facilities on the Land by a third party for an activity, and "Co-Sitee" and "Co-Siting" have corresponding meanings.
- 30.2 The Concessionaire must not allow Co-Siting on the Land without the prior written consent of the Grantor.
- 30.3 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 Land.
- 30.4 In addition, the Grantor must withhold consent if:
 - (a) the Co-Siting would result in a substantial change to the Concession Activity on the Land; or
 - (b) the Grantor considers the change to be detrimental to the environment of the Land.
- 30.5 Subject to clause 30.4 the Concessionaire must, if required by the Grantor, allow Co-Siting on the Land.
- 30.6 Where the Concessionaire maintains that Co-Siting by a third party on the Land would:
 - (a) detrimentally interfere physically or technically with the use by the Concessionaire of the Land; 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 Land; 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 30.6. 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 30.6.

- 30.7 If the independent consultant report rejects the Concessionaire's concerns, the Concessionaire may dispute this in accordance with the procedure set out in clause 22 of Schedule 2.
- 30.8 Where the Concessionaire is required under clause 30.5 to allow Co-Siting on the Land, the Concessionaire is, subject to clause 30.10 entitled to enter into commercial agreements with third parties for them to conduct an activity on the Land and to receive a reasonable fee from them for any agreed activity they intend to carry out on the Land. 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.
- 30.9 If the Concessionaire does not accept the Grantor's determination, the Concessionaire may dispute this in accordance with the procedure set out in clause 22 of Schedule 2.
- 30.10 For the avoidance of doubt, a Co-Sitee permitted on the Land 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 Land. This separate concession must not contain provisions that conflict with the Concessionaire's rights and obligations in relation to the Land.
- 30.11 The Grantor must not authorise the third party to commence work on the Land 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.

31. What about Identification cards?

- 31.1 Before commencing the Concession Activity the Concessionaire must, if required by the Grantor in Item 12 of Schedule 1, obtain Concessionaire Identification cards from the Grantor. The Grantor is to supply such cards to the Concessionaire on a cost recovery basis.
- 31.2 The Concessionaire and any person acting under the authority of the Concession must carry and display a Concession Identification card when carrying out the Concession Activity.

- 31.3 The Concessionaire must obtain sufficient cards to ensure all people acting under the authority of the Concession can carry and display such cards when undertaking the Concession Activity.
- 31.4 The Concessionaire may also access, use and/ or display the Grantor's "Approved Label". This right only exists once the Concessionaire agrees to comply with the Grantor's Approved Label terms and conditions and while the Concession remains operative. When the Concessionaire so requests the Grantor is to forward the Concessionaire an electronic link to the Approved Label. This electronic link is to contain the Approved Label terms and conditions.
- 31.5 The right under this clause 31.4 does not affect the obligation in this clause 31 to carry and display a Concession Identification card.

32. Which clauses survive termination?

- 32.1 Clauses 12 and 24 survive the termination of this Concession.

33. When can the conditions of the Concession be varied?

- 33.1 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 adverse effects resulting from the Concession Activity.
- 33.2 Nothing in clause 33.1 otherwise affects the Grantor's rights to vary the Concession under section 17ZC of the Conservation Act 1987.

34. Are there any Special Conditions?

- 34.1 Special conditions are specified in Schedule 3.

35. The Law

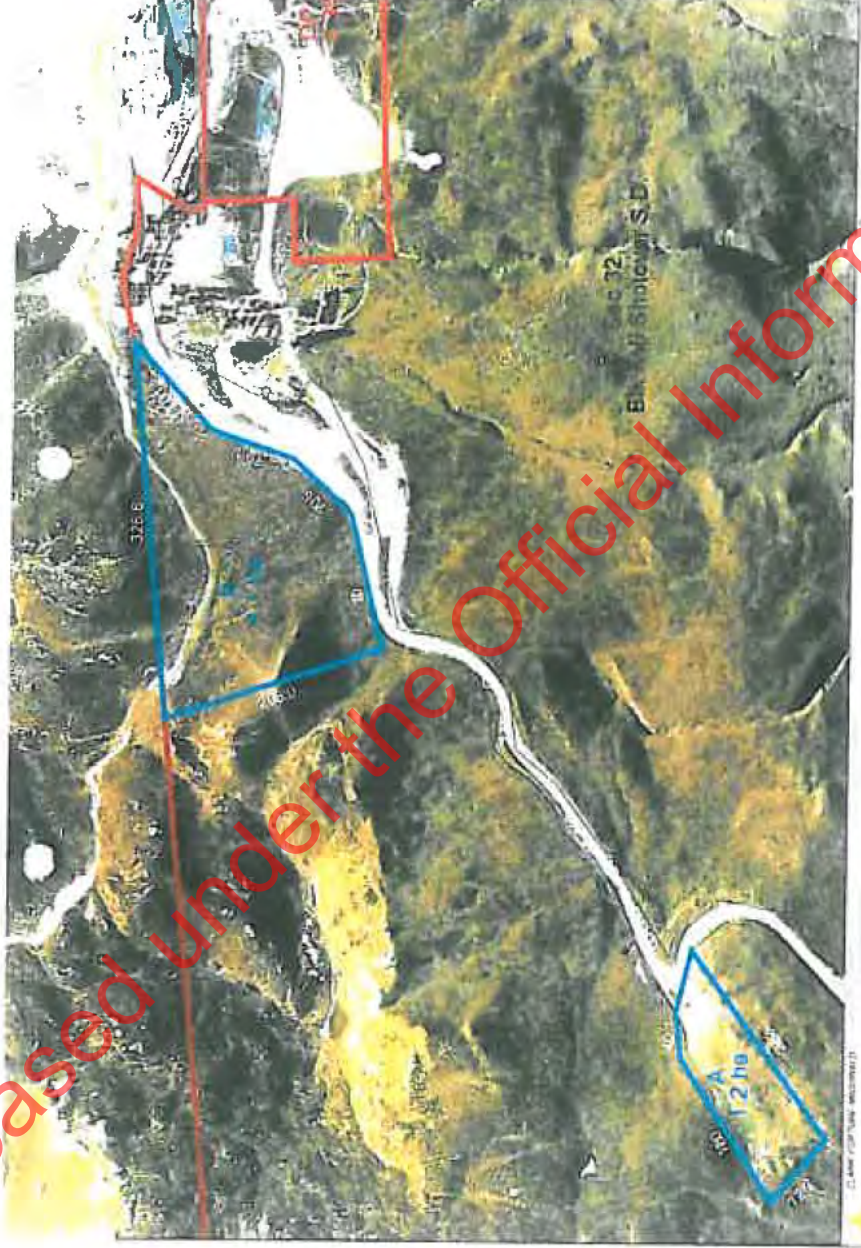
This Concession is to be governed by, and interpreted in accordance with the laws of New Zealand

SCHEDULE 3

SPECIAL CONDITIONS

1. The Concessionaire is requested to consult the relevant Papatipu Runanga if they wish to use Ngāi Tahu cultural information. If the Concessionaire wishes to use the Tōpuni or statutory acknowledgement information contained in schedules 14-108 of the Ngāi Tahu Claims Settlement Act 1998, or any Department produced interpretative material in respect to Ngāi Tahu cultural information, they are requested to notify the relevant Papatipu Runanga, as a matter of courtesy. Contact details of the Papatipu Runanga can be obtained from the Grantor's Office in Dunedin.
2. The Concessionaire must submit a final development plan to the Wakatipu Area Manager for approval prior to any establishment works commencing on the Land. This shall detail all engineering and landscaping plans.
3. At the completion of works both the site and the surrounding reserve land are to be left clean and tidy. This includes the removal or surplus ski are equipment that has been stored or unearthed at this location.
4. The completed bus-park shall be made available by the Concessionaire to other transport operators and for public car-parking at reasonable access times determined by NZSki Ltd.
5. The Grantor may inspect the Land to assess the impact of the Concession Activity, and compliance with the terms and conditions of the concession at any time. Staff time and expenses associated with this clause is fully cost-recoverable at current staff hourly charge out rates.

SCHEDULE 4



Released under the Official Information Act



Concession Document (General Licence)

Concession Number: 40335-SKI

THIS CONCESSION is made this 19th day of March 2015

PARTIES:

Minister of Conservation (the Grantor)

NZSki 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 Department is under the control of the Grantor.
- C.** The carrying out of these functions may result in the Grantor granting concessions to carry out activities on public conservation land.
- D.** The Grantor administers the public conservation land described in Schedule 1 as the Land.
- E.** The Conservation legislation applying to the Land authorises the Grantor to grant a concession over the Land.
- F.** The Concessionaire wishes to carry out the Concession Activity on the Land subject to the terms and conditions of this Concession.
- G.** The Concessionaire acknowledges that the land may be the subject of Treaty of Waitangi claims.
- H.** The parties wish to record the terms and conditions of this Concession and its Schedules.
- I.** This Concession records the fact that:
 - a.** The Concessionaire holds an easement in gross for a right of way for vehicle and motor vehicle access dated 9 June 1999 (the "1999 Easement") over the existing access road within the Rastus Burn Recreation Reserve;
 - b.** The Concessionaire intends to construct a carpark which will require cut and fill either side of the access road and will otherwise affect the existing access road;
 - c.** The parties agree to amend the conditions of the 1999 Easement in respect of those portions of land which lie within the area covered by this Concession and to do so in accordance with the terms and conditions herein.

OPERATIVE PARTS

- J.** In exercise of the Grantor's powers under the Conservation legislation the Grantor **GRANTS** to the Concessionaire a **LICENCE** to carry out the Concession Activity on the Land subject to the terms and conditions contained in this Concession and its Schedules.

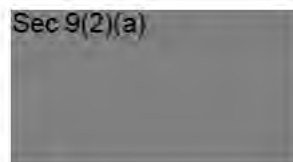
<p><u>A. Wallace</u></p> <p>SIGNED on behalf of the Minister of Conservation by Annie Wallace Acting Director Conservation Partnerships South and Eastern South Island acting under delegated authority</p> <p>in the presence of:</p> <p><u>V. Crosbie</u></p> <p>Witness Signature</p> <p>Witness Name: <u>Vicki Crosbie</u></p> <p>Witness Occupation: <u>Permissions Advisor</u></p> <p>Witness Address: <u>Dunedin</u></p>	<p>SIGNED for NZSki Limited by:</p> <p>Director <u>Sec 9(2)(a)</u></p> <p>Name <u>JOHN STRATTON DAVIES</u></p> <p>AND</p> <p>SIGNED for NZSki Limited by:</p> <p>Director</p> <p>Name</p>
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Released under the Official Information Act

SCHEDULE 1

1.	Land (clause 2)	Those parts of the Rastus Burn Recreation Reserve as shown within the area identified by blue hatching and which is labelled "License Area" in the plans contained in Schedule 6.
2.	Concession Activity (clause 2)	Construction, operation and maintenance of a carpark and bus turning area in accordance with MWH report recommendations and CFM design plans attached in Schedule 4.
3.	Term (clause 3)	7 years commencing on 1 March 2015
4.	Renewal(s) (clause 3)	Nil
5.	Final Expiry Date (clause 3)	28 February 2022
6.	Concession Fee (clause 4)	<p>Activity Fee: For this concession, there will be no fees charged in addition to the rent that is required in accordance with the Deed of Lease dated 30 August 1993 or such successor or replacement.</p> <p>Management Fee: Not applicable, as above under activity fee</p> <p>Environmental Monitoring Fee (clause 9) Not applicable</p> <p>Community Services Contribution (clause 6) Not applicable</p>
7.	Concession Fee Payment Instalments (clause 4)	Not applicable
8.	Concession Fee Payment Date(s) (clause 4)	Not applicable
9.	Penalty Interest Rate (clause 15.2)	Double the current Official Cash Rate (OCR). See Reserve Bank of New Zealand website
10.	Concession Fee Review Date(s) (clause 5)	Not applicable

11.	Health and Safety (clause 13)	Audited Safety Plan: Required
12.	Concessionaire Identification (clause 31)	Not required
13.	Insurance (To be obtained by Concessionaire) (clause 12)	Types and amounts: Public Liability Insurance for: (a) General indemnity for an amount no less than \$1,000,000.00; and (b) Forest and Rural Fires Act extension for an amount no less than \$250,000.00; and (c) Third party vehicle liability for an amount no less than \$500,000.00.
14.	Addresses for Notices (clause 24)	The Grantor's address for notices is: Department of Conservation Conservation House 77 Lower Stuart Street Dunedin 9016 Phone: 03 477 0677 Email: permissionsdunedin@doc.govt.nz Postal Address: PO Box 5244 Moray Place Dunedin 9058
		The Concessionaire's address in New Zealand is: Remarkables Ski Area Queenstown Snow Centre Ground Level The Station Building Cnr Camp and Shotover Sts Queenstown 9348 New Zealand Phone: 03 442 4620
15.	Guarantee (clause 29)	Not required



16.	Special Conditions (clause 34)	See Schedule 3
17.	Processing Fee (clause 4)	To be advised and invoiced at the end of the process.

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

Note: Please initial each page of Schedule 1

Released under the Official Information Act

Sec 9(2)(a)

SCHEDULE 2

STANDARD TERMS AND CONDITIONS OF LICENCE

1. Interpretation

- 1.1 Where the Grantor's consent or approval is expressly required under a provision of this Concession, the Concessionaire must seek the consent or approval of the Grantor for each separate occasion it is required notwithstanding that the Grantor has granted consent or approval for a like purpose on a prior occasion.
- 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.
- 1.3 Where this Concession requires the Grantor to exercise a discretion or give any approval or provides for any other actions by the Grantor, then the Grantor must act reasonably and within a reasonable time. When a consent is required under this Concession such consent must not be unreasonably withheld.
- 1.4 Where this Concession provides for approvals, directions, reports and consents to be given by one party to the other, those approvals, directions, reports and consents must be given by notice in writing and clause 24 is to apply.

2. What is being authorised?

- 2.1 The Concessionaire is only allowed to use the Land for the Concession Activity.
- 2.2 The Concessionaire must exercise reasonable skill, care and diligence in carrying out the Concession Activity, in accordance with standards of skill, care and diligence normally practised by suitably qualified and experienced people in carrying out such activities.
- 2.3 The Concessionaire must provide the Grantor with evidence of the competency and qualifications of its employees and contractors if the Grantor so requests.
- 2.4 The Concessionaire must not commence the Concession Activity until the Concessionaire has signed the Concession Document and returned one copy of this Document to the Grantor, as if it were a notice to be given under this Concession.

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 If there is a right of renewal then the Grantor at the Concessionaire's cost must renew the Term for a further period as set out in Item 4 of Schedule 1 provided the Concessionaire:
 - (a) gives the Grantor at least three month's written notice before the end of the Term, which notice is to be irrevocable, of the Concessionaire's

intention to renew this Concession; and

- (b) at the time notice is given in accordance with this clause the Concessionaire is not in breach of this Concession.

3.3 The renewal is to be on the same terms and conditions expressed or implied in this Concession except that the Term of this Concession plus all further renewal terms is to expire on or before the Final Expiry Date.

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

4.1 The Concessionaire must pay the Processing Fee (Item 17 of Schedule 1) to the Grantor in the manner directed by the Grantor. Except where the Grantor's written consent has been given, the Concessionaire cannot commence the Concession Activity until the Processing Fee has been paid.

4.2 The Concessionaire must pay to the Grantor in the manner directed by the Grantor the Concession Fee and any other payment comprised in the Total Payment specified in Item 6 of Schedule 1 in the instalments and on the Concession Fee Payment Date specified in Items 7, and 8 of Schedule 1.

4.3 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 fee be reviewed?

5.1 The Grantor is to review the Concession Fee on the Concession Fee Review Dates in the following manner:

- (a) The Grantor must commence the review not earlier than 3 months before a Concession Fee Review Date and no later than 9 months following the Concession Fee Review Date by giving notice to the Concessionaire.
- (b) Subject to clause 5.1(e) the notice must specify the Concession Fee which the Grantor considers to be the market value for the Concession Activity as at the Concession Fee Review Date having regard to the matters specified in section 17Y(2) of the Conservation Act 1987.
- (c) If, within 28 days of receipt of the Grantor's notice, the Concessionaire gives notice to the Grantor that the Concessionaire disputes the proposed new Concession Fee, the new Concession Fee is to be determined in accordance with clause 5.2(a) or (b).
- (d) If the Concessionaire does not give notice to the Grantor under clause 5.1(c) the Concessionaire is to be deemed to have accepted the Concession Fee specified in the Grantor's notice.
- (e) Notwithstanding clause 5.1(b) the new Concession Fee so determined or accepted must not be less than the Concession Fee payable during the year preceding the particular Concession Fee Review Date and is to be the Concession Fee payable by the Concessionaire from the Concession Fee Review Date.
- (f) Until determination of the new Concession Fee, the Concession Fee payable by the Concessionaire from the Concession Fee Review Date is to be the Concession Fee specified in the Grantor's notice. On determination of the new Concession Fee an adjustment is to be made

and paid, either by the Grantor or by the Concessionaire, whichever is applicable.

5.2 Immediately the Concessionaire gives notice to the Grantor under clause 5.1(c) the parties are to endeavour to agree on a new Concession Fee. If the parties are unable to reach agreement within 28 days the new Concession Fee is to be determined either:

- (a) By one party giving notice to the other requiring the new Concession Fee to be determined by the Disputes clause (clause 22) or, if the parties agree,
- (b) by registered valuers acting as experts and not as arbitrators as follows:
 - (i) Each party must appoint a valuer and give notice of the appointment to the other party within 14 days of the parties agreeing to determine the new Concession Fee by this means.
 - (ii) If the party receiving a notice does not appoint a valuer within the 14 day period the valuer appointed by the other party is to determine the new Concession Fee and that valuer's determination is to be binding on both parties.
 - (iii) Before commencing their determination the respective valuers must appoint an umpire who need not be a registered valuer.
 - (iv) The valuers are to determine the new Concession Fee which they consider to be the market value for the Concession Activity as at the Concession Fee Review Date having regard to the matters specified in section 17Y(2) of the Conservation Act 1987 but in no case is the new Concession Fee to be less than the Concession Fee payable during the year preceding the particular Concession Fee Review Date. If they fail to agree the Concession Fee is to be determined by the umpire.
 - (v) In determining the Concession Fee the valuers or umpire are to disregard the annual cost to the Concessionaire to maintain or provide access to the Land.
 - (vi) Each party is to be given the opportunity to make written or oral representations or submissions to the valuers or the umpire subject to such reasonable time and other limits as the valuers or the umpire may prescribe.
 - (vii) The valuers or the umpire must have regard to any such representations but are not bound by them.
- (c) The valuers or umpire must give written notice to the parties once they have determined the new Concession Fee. The notice is to be binding on the parties and is to provide how the costs of the determination are to be borne.
- (d)
 - (i) If a Concession Fee Review Date is postponed because of a moratorium imposed by law the Concession Fee Review is to take place at the date the moratorium is lifted or so soon afterwards as is practicable; and
 - (ii) the Concession Fee Review is to establish the market value for the Concession Activity as at that date instead of the date fixed under clause 5.1 having regard to the matters specified in section 17Y(2) of the Conservation Act 1987 but in no case

is the new Concession Fee to be less than the Concession Fee payable during the year preceding the particular Concession Fee Review Date; and

- (iii) each subsequent Concession Fee Review is to take place in accordance with the procedure fixed in clause 5.1.

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.
- 6.2 The Grantor is not liable for any cost incurred in re-establishing the supply of any utilities in the event of any of them becoming unavailable for any reason.
- 6.3 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.
- 6.4 Where the Grantor or Director-General has provided a community service, benefit or facility for the benefit of the Concessionaire under section 17ZH of the Conservation Act 1987, the Concessionaire must pay the Grantor the amount specified in Item 7 of Schedule 1 as part of the Total Payment specified in Item 6 of Schedule 1 on the Concession Fee Payment Dates specified in Item 8 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 If the Concessionaire is not a publicly listed company then 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 Save to the extent provided for by the concession Activity, 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 at its cost keep the Land in a clean and tidy condition and free of weeds and all organisms specified as pests in a relevant pest management strategy.
- 8.3 The Concessionaire must not store hazardous materials on the Land nor store other materials on the Land where they may obstruct the public or create a nuisance
- 8.4 If directed by the Grantor, the Concessionaire must take all steps necessary to control, or, at the Grantor's option, contribute to the cost of controlling any pest, insect or rodent infestation occurring in or emanating from the Land or any structure or facility on the Land, and if directed by the Grantor, engage a pest exterminator approved by the Grantor.
- 8.5 The Concessionaire must make adequate provision for suitable sanitary facilities for the Land if directed by the Grantor and for the disposal of all refuse material and is to comply with the reasonable directions of the Grantor in regard to these matters.
- 8.6 The Concessionaire must keep all structures, facilities and land alterations and their surroundings in a clean and tidy condition. If reasonably directed by the Grantor the Concessionaire must paint all structures and facilities in colours approved by the Grantor and with paints of a type approved by the Grantor.
- 8.7 If, during the Term, the Concessionaire removes a structure or facility from the Land the Concessionaire must, unless the Grantor directs otherwise, repair and make good at its own expense all damage which may have been done by the removal and must leave the Land in a clean and tidy condition.
- 8.8 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. What about Environmental Monitoring?

- 9.1 The Concessionaire must, during the Term, if the Grantor so directs, design in consultation with the Grantor and undertake a programme to monitor and report on the environmental effects of the Concessionaire's use of the Land and conduct of the Concession Activity.
- 9.2 If the Grantor does not issue a direction under clause 9.1 the Concessionaire must, during the Term, pay to the Grantor the annual Environmental Monitoring Contribution specified in Item 6 of Schedule 1 to enable the Grantor to design and undertake a programme to monitor the environmental effects of the Concessionaire's use of the Land and conduct of the Concession Activity.

10. When can new structures be erected or land alterations occur?

- 10.1 The Concessionaire must not erect, alter or bring on to the Land any structure not authorised in Schedule 3 nor alter the Land in any way without the prior approval of the Grantor.
- 10.2 In giving approval under clause 10.1 the Grantor may, in the Grantor's sole and absolute discretion, impose any reasonable terms and conditions, including a review of the Concession Fee, as the Grantor considers appropriate under this clause; and may also decline the grant of such approval after consideration of the relevant conservation and environmental issues.
- 10.3 The Concessionaire must pay to the Grantor all costs associated with applications for approval under this clause determined at the standard rates then applying in the Department for cost recovery of staff time and expenses.
- 10.4 The Concessionaire must, upon request by the Grantor, submit written engineering or building plans and details to the Grantor for approval before:
 - (a) erecting new structure or altering any structure on the Land
 - (b) altering the Land in any way.
- 10.5 The Concessionaire must at all times where a building warrant of fitness under the Building Act 2004 is required display a copy of the relevant current certificate showing the location of the compliance schedule in a place in each building (as defined in that Act) on the Land to which users of the building have ready access.
- 10.6 The Concessionaire must keep and maintain all building systems and any structure on the Land in accordance with the, requirements of any compliance schedule.
- 10.7 The Concessionaire must retain and make available to any territorial authority and any other person with a right to inspect any structures on the Land under the Building Act 2004 a copy of the compliance schedule, together with the written reports relating to compliance with the compliance schedule over the previous two year period.

11. What about advertising?

- 11.1 The Concessionaire must not erect or display any signs or advertising on the Land without the prior approval of the Grantor. At the expiry or termination of this Concession the Concessionaire must remove all signs and advertising material and make good any damage caused by the removal.
- 11.2 If directed by the Grantor, the Concessionaire must ensure that all its advertising and promotional material specifies that it is carrying out the Concession Activity under a Concession granted by the Grantor on land administered by the Department.
- 11.3 If directed by the Grantor, the Concessionaire must include information in its advertising and promotional material which assists its clients to understand the features and values of the natural and historic resources of the Land and the surrounding area.
- 11.4 The Concessionaire is encouraged to obtain information from and have regard to the views of tangata whenua.

12. What are the liabilities and who insures?

- 12.1 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.
- 12.2 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.
- 12.3 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.
- 12.4 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.
- 12.5 Despite anything else in clause 12 the Concessionaire is not liable for any indirect or consequential damage or loss howsoever caused.
- 12.6 The Grantor is not liable and does not accept any responsibility for damage to or interference with the Land, the Concession Activity, or to any structures, equipment or facilities on the Land 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 12.7, such damage or interference is caused by any wilful act or omission of the Grantor, the Grantor's employees, agents or contractors.
- 12.7 Where the Grantor is found to be liable in accordance with clause 12.6, the total extent of the Grantor's liability is limited to \$1,000,000 in respect of the Concessionaire's structures, equipment and facilities.
- 12.8 Despite anything else in clause 12 the Grantor is not liable for any indirect or consequential damage or loss howsoever caused.
- 12.9 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 specified in Item 13 of Schedule 1 with a substantial and reputable insurer.
- 12.10 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 12.9. 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.
- 12.11 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.

13. What about Health and Safety?

- 13.1 The Concessionaire must exercise the rights granted by this Concession in a safe and reliable manner and must comply with the Health and Safety in Employment Act 1992 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.
- 13.2 Before commencing the Concession Activity the Concessionaire must, where the Concessionaire has Qualmark or Outdoorsmark certification, provide the Grantor with a copy of that certification.
- 13.3 If the Concessionaire does not hold Qualmark or Outdoorsmark certification then before commencing the Concession Activity the Concessionaire must, if required by Item 11 of Schedule 1:
- (a) prepare a safety plan;
 - (b) have it audited by a suitably qualified person approved by the Grantor; and forward to the Grantor a certificate from the auditor certifying that the safety plan is suitable for the Concession Activity; and
 - (c) the Concessionaire must obtain from the auditor details as to when the safety plan is to be re-audited. The Concessionaire must comply with any such requirement to re-audit and forward a copy of the re-audit certificate to the Grantor within 5 working days of the certificate being issued.
- 13.4 For any Concession Activity that is subject to the Health and Safety in Employment (Adventure Activities) Regulations 2011, proof of registration with WorkSafe New Zealand will satisfy the Grantor's requirement under clause 13.3(b).
- 13.4 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.
- 13.5 Receipt of the safety plan/audit certificate by the Grantor is not in any way to limit the obligations of the Concessionaire under clause 13 and is not to be construed as implying any responsibility or liability on the part of the Grantor.
- 13.6 The Concessionaire must:
- (a) notify the Grantor of any natural events or activities on the Land or the surrounding area which may endanger the public or the environment;
 - (b) take all practicable steps to protect the safety of all persons present on the Land and must, where necessary, erect signposts warning the public of any dangers they may encounter as a result of the Concessionaire's operations;
 - (c) take all practicable steps to eliminate any dangers to the public and must clearly and permanently mark any that remain and of which the Concessionaire is aware;

- (d) record and report to the Grantor all accidents involving serious harm within 24 hours of their occurrence and forward an investigation report within 3 days of the accident occurring;
- (e) ensure that all contracts between the Concessionaire and any contractors contain, at a minimum, the same requirements as clause 13;
- (f) be satisfied that facilities or equipment provided by the Grantor to enable the Concession Activity to be carried out meet the safety requirements of the Concessionaire;
- (g) not bring onto the Land or any land administered by the Department any dangerous or hazardous material or equipment which is not required for purposes of the Concession Activity; and if such material or equipment is required as part of the Concession Activity, the Concessionaire must take all practicable steps at all times to ensure that the material or equipment is treated with due and proper care.

14. What are the compliance obligations of the Concessionaire?

14.1 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 IIA 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 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, 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 or the National Parks Act 1980; 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; and
- (d) with all Department signs and notices placed on or affecting the Land; and
- (e) with all reasonable notices and directions of the Grantor concerning the Concession Activity on the Land.

14.2 The Concessionaire must comply with this Concession.

14.3 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 14.1(a) is deemed to be a breach of this Concession.

14.4 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.

15. What are the Grantor's rights to remedy defaults?

- 15.1 The Grantor may elect to remedy at any time, after giving notice, if practicable, any default by the Concessionaire under this Concession. 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.
- 15.2 The Concessionaire must pay to the Grantor forthwith on demand all reasonable costs and expenses incurred by the Grantor, including legal costs and expenses as between solicitor and client, in remedying such default. The Concessionaire is to pay interest on such costs and expenses if payment is not made within 14 days of the Grantor's demand from the date of the demand until the date of payment at the Penalty Interest Rate specified in Item 9 of Schedule 1.

16. When can the Concession be suspended?

- 16.1 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.
- 16.2 If, in the Grantor's opinion, the activities of the Concessionaire are 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.
- 16.3 The Grantor may suspend the Concession for such period as the Grantor determines where the Concessionaire has breached any terms of this Concession.
- 16.4 The Grantor may suspend this Concession while the Grantor investigates any of the circumstances contemplated in clauses 16.1 and 16.2 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.
- 16.5 The word "investigates" in clause 16.4 includes the laying of charges and awaiting the decision of the Court.
- 16.6 During any period of temporary suspension arising under clauses 16.1 or 16.2 the Concession Fee payable by the Concessionaire is to abate in fair proportion to the loss of use by the Concessionaire of the Land.
- 16.7 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 16 including loss of profits.

17. When can the Concession be terminated?

- 17.1 The Grantor may terminate this Concession either in whole or in part:
 - (a) by 14 days notice to the Concessionaire if the Concession Fee or any other money payable to the Grantor under this Concession is in

- arrears and unpaid for 14 days after any of the days appointed for payment whether it has been lawfully demanded or not; or
- (b) by 14 days notice to the Concessionaire or such sooner period as it appears necessary and reasonable to the Grantor if.
 - (i) the Concessionaire breaches any terms of this Concession and in the Grantor's sole opinion the breach is able to be rectified; and
 - (ii) the Grantor has notified the Concessionaire of the breach; and
 - (iii) the Concessionaire does not rectify the breach within 7 days of receiving notification; or such earlier time as specified by the Grantor; or
 - (c) by notice in writing to the Concessionaire where the Concessionaire breaches any terms of this Concession and in the sole opinion of the Grantor the breach is not capable of being rectified; or
 - (d) immediately by notice in writing to the Concessionaire where the Concessionaire breaches clauses 12.9 and 13; or
 - (e) by notice in writing to the Concessionaire if the Concessionaire ceases to conduct the Concession Activity or, in the reasonable opinion of the Grantor, the conduct of the Concession Activity is manifestly inadequate; or
 - (f) by notice in writing to the Concessionaire if the Concessionaire is convicted of an offence under the Conservation Act 1987 or any of the Acts listed in the First Schedule to that Act or any statute, ordinance, regulation, bylaw, or other enactment affecting or relating to the Land or which in the Grantor's sole opinion affects or relates to the Concession Activity; or
 - (g) by notice in writing to the Concessionaire if the Concessionaire or the Guarantor is dissolved; or enters into any composition with or assignment for the benefit of its creditors; or is adjudged bankrupt; or being a company, has a receiver appointed; or is put into liquidation; or is placed under statutory management; or has a petition for winding up presented against it; or is otherwise unable to pay its debts as they fall due; or the estate or interest of the Concessionaire is made subject to a Writ of Sale or charging order; or the Concessionaire ceases to function or operate; or
 - (h) immediately if there is, in the opinion of the Grantor, a permanent risk to public safety or to the natural and historic resources of the Land whether arising from the conduct of the Concession Activity or from natural causes 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.
- 17.2 The Grantor may exercise its power to terminate under 17.1(h) without giving notice.
- 17.3 The Grantor may exercise the Grantor's right under this clause to terminate the Concession notwithstanding any prior waiver or failure to take action by the Grantor or any indulgence granted by the Grantor for any matter or default.

- 17.4 Termination of the Concession is not to prejudice or affect the accrued rights or claims and liabilities of the parties.

18. What happens on termination or expiry of the Concession?

- 18.1 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.
- 18.2 The Concessionaire may, with the Grantor's written consent, remove any specified structures and other 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 and other public conservation land affected by the removal in a clean and tidy condition.
- 18.3 The Concessionaire must, if the Grantor gives written notice, remove any specified structures and other 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 and other public conservation land affected by the removal in a clean and tidy condition and replant the Land with indigenous vegetation of a similar abundance and diversity as at the commencement of the Term. If before the expiry of the Term the Concessionaire makes an application for a further concession in respect of the same Concession Activity on the Land then the Grantor can not require such removal and reinstatement until such time as that concession application has been determined. If a new concession is granted then removal and reinstatement can not be required until the expiry or termination of the new concession.

19. When is the Grantor's consent required?

- 19.1 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.

20. Are there limitations on public access and closure?

- 20.1 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.
- 20.2 The Concessionaire acknowledges that the Grantor (together with the Grantor's employees, agents and contractors or representatives) will also have unrestricted access to and use the Land.

21. What about other concessions?

- 21.1 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 undertake construction of, or to perform maintenance upon, the carparks identified on the plans attached in Schedule 4.

22. How will disputes be resolved?

- 22.1 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.
- 22.2 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.
- 22.3 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.
- 22.4 The arbitrator must include in the arbitration award reasons for the determination.
- 22.5 Despite the existence of a dispute, each party must continue to perform its obligations under this Concession.

23. What about prosecution for offences?

- 23.1 Where any breach of this Concession by the Concessionaire also constitutes an offence under the Resource Management Act 1991, the Conservation Act 1987, or any of the Acts listed in the First Schedule to that Act:
- (a) no waiver or failure to act by the Grantor under this Concession is to preclude the Grantor from prosecuting the Concessionaire; and
 - (b) no failure by the Grantor to prosecute the Concessionaire is to preclude the Grantor from exercising the Grantor's remedies under this Concession; and
 - (c) any action of the Grantor in prosecuting the Concessionaire is not to preclude the Grantor from exercising the Grantor's remedies under this Concession.

24. How are notices sent and when are they received?

- 24.1 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 14 or 15 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, on the date receipt of the email is acknowledged by the addressee by return email or otherwise in writing.

24.2 If any party's details specified in Item 14 or 15 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.

25. What is the scope of the Concession?

25.1 Except as provided by legislation, this Concession and any written variation agreed by the parties contain the entire understanding between the parties with reference to the subject matter of this Concession and there is no other agreement, representation or warranty whether it is expressed or implied which in any way extends, defines or otherwise relates to the provisions of this Concession.

26. Can provisions be severed?

26.1 Any illegality, or invalidity or unenforceability of any provision in this Concession is not to affect the legality, validity or enforceability of any other provisions.

27. What about the payment of costs?

27.1 The Concessionaire must pay the Grantor's legal costs and expenses of and incidental to preparing and signing this Concession or any extension or variation of it.

27.2 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.

28. What is the relationship of parties?

28.1 Nothing expressed or implied in this Concession is to be construed as:

- (a) constituting the parties as partners or joint venturers;
- (b) conferring on the Concessionaire any right of exclusive occupation or use of the Land;
- (c) granting any exclusive estate or interest in the Land to the Concessionaire;
- (d) affecting the rights of the Grantor and the public to have access across the Land.

29. What about a Guarantee?

29.1 Where the Grantor has in Item 15 of Schedule 1 required this Concession to be guaranteed by a third party the following clauses are to apply.

29.2 In consideration of the Grantor entering into this Concession at the Guarantor's request the Guarantor:

- (a) guarantees payment of the Concession Fee and the performance by the Concessionaire of the covenants in this Concession; and
- (b) indemnifies the Grantor against any loss the Grantor might suffer should the Concession be lawfully disclaimed or abandoned by any liquidator, receiver or other persons.

29.3 The Guarantor covenants with the Grantor that:

- (a) no release, delay, or other indulgence given by the Grantor to the Concessionaire, to the Concessionaire's successors or assigns, or any other thing whereby the Guarantor would have been released had the Guarantor been merely a surety is to release, prejudice, or affect the liability of the Guarantor as a Guarantor or as indemnifier;
- (b) as between the Guarantor and Grantor the Guarantor may, for all purposes, be treated as the Concessionaire and the Grantor is under no obligation to take proceedings against the Concessionaire before taking proceedings against the Guarantor;
- (c) the guarantee is for the benefit of and may be enforced by any person entitled for the time being to receive the Concession Fee;
- (d) any assignment of this Concession and any Concession Fee Review in accordance with this Concession are not to release the Guarantor from liability;
- (e) should there be more than one Guarantor the liability of each Guarantor under this Guarantee is to be joint and several.

30. What about Co-Siting?

- 30.1 In this clause "Co-Site" means the use of the Concessionaire's structures or facilities on the Land by a third party for an activity; and "Co-Sitee" and "Co-Siting" have corresponding meanings.
- 30.2 The Concessionaire must not allow Co-Siting on the Land without the prior written consent of the Grantor.
- 30.3 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 Land.
- 30.4 In addition, the Grantor must withhold consent if:
 - (a) the Co-Siting would result in a substantial change to the Concession Activity on the Land; or
 - (b) the Grantor considers the change to be detrimental to the environment of the Land.
- 30.5 Subject to clause 30.4 the Concessionaire must, if required by the Grantor, allow Co-Siting on the Land.

31. What about Identification cards?

- 31.1 Before commencing the Concession Activity the Concessionaire must, if required by the Grantor in Item 12 of Schedule 1, obtain Concessionaire Identification cards from the Grantor. The Grantor is to supply such cards to the Concessionaire on a cost recovery basis.
- 31.2 The Concessionaire and any person acting under the authority of the Concession must carry and display a Concession Identification card when carrying out the Concession Activity.

31.3 The Concessionaire must obtain sufficient cards to ensure all people acting under the authority of the Concession can carry and display such cards when undertaking the Concession Activity.

31.4 The Concessionaire may also access, use and/or display the Grantor's "Approved Label". This right only exists once the Concessionaire agrees to comply with the Grantor's Approved Label terms and conditions and while the Concession remains operative. When the Concessionaire so requests the Grantor is to forward the Concessionaire an electronic link to the Approved Label. This electronic link is to contain the Approved Label terms and conditions.

31.5 The right under this clause 31.4 does not affect the obligation in this clause 31 to carry and display a Concession Identification card.

32. Which clauses survive termination?

32.1 Clauses 12 and 24 survive the termination of this Concession.

33. When can the conditions of the Concession be varied?

33.1 The Grantor may, within 1 month of the anniversary of the grant of the Concession, after first consulting with the Concessionaire, vary any condition of this Concession to make the condition more effective in addressing adverse effects resulting from the Concession Activity.

33.2 Nothing in clause 33.1 otherwise affects the Grantor's rights to vary the Concession under section 17ZC of the Conservation Act 1987.

34. Are there any Special Conditions?

34.1 Special conditions are specified in Schedule 3.

35. The Law

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

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SCHEDULE 3

SPECIAL CONDITIONS

1. The Concessionaire must adhere to;
 - a. The MWH report recommendations dated 5th Feb 2015 "Excavations for Proposed Car Park on The Remarkables Road", which appears in Schedule 4; and
 - b. The CFM design plans attached in Schedule 4.
2. The Concessionaire must rehabilitate all disturbance to the natural environment resulting from the development works and, in particular:
 - a. The Concessionaire must rehabilitate the entirety of the new road batters (cut and fill). Any shortfall from transplanted vegetation must be met through split vegetation sourced from adjacent areas. Priority should be given to the upper section of the cut batter and the lower section of the fill batter; and
 - b. The remaining shortfall is to be planted with nursery reared tussocks. The area will be measured and the number of nursery tussocks required calculated (at 1 tussock per m²). The Concessionaire is to plant these tussocks over exposed ground in the following summer.
3. The Concessionaire will conduct all rehabilitation works according to the rehabilitation protocol, which appears in Schedule 5. **Sec 9(2)**
4. The Concessionaire must ensure that access ^{across} to the Land by the public and other concessionaires (if any) is maintained during the construction phase and whenever maintenance is performed as part of the Concession Activity, subject to suitable measures being put in place to protect safety.
 - a. Where the interests of safety require that access be constrained, the Grantor must be consulted and her approval obtained before any steps are taken which would impede access ^{across} to the Land. **Sec 9(2)**
 - b. Where changes to access are approved by the Grantor in accordance with 5.(a) above, it will be the Concessionaire's responsibility to publicly notify those changes at the Concessionaire's expense.
 - c. Clear signage advising the public of the nature of works approved by this license is to be installed at the expense of the Concessionaire.
5. Any requirements for fill material that cannot be sourced as already described may be sourced from another location but only with prior agreement from the Grantor.
6. At the conclusion of development works the Land must be left clean of all machinery, rubbish and any other materials brought onto the land for the development works.
7. As Built survey plans of the licence area, identifying all construction areas including the Carpark, Bus Turning Area and road alignment are to be provided within six (6) months of the completion of construction at the expense of the Concessionaire.
8. An easement in gross dated 9 June 1999 between the Minister of Conservation and the Mount Cook Group Limited grants the Concessionaire a right of way for vehicle and motor vehicle access across part of the Rastus Burn Recreation Reserve subject

to conditions (the "1999 Easement"). The Concessionaire intends to undertake works in pursuance of this License which will result in the following:

- (a) During the construction phase parts of the 1999 Easement corridor will be subject to construction activity including re-levelling, fill removal or fill addition and vegetation removal and replanting.
 - (b) Upon completion of the construction works parts of the 1999 Easement corridor will be occupied by newly formed carparking and will be used for carparking and bus turning and be subject to the conditions of this licence relating to the carpark.
 - (c) Upon completion of the construction works parts of the access road will be realigned so as to avoid the newly constructed carparking area and will no longer sit within the 1999 Easement corridor.
12. The conditions of the 1999 Easement, so far as they relate to those parts of the easement corridor which are subject to this Licence, are varied to incorporate the conditions of this Licence, in particular, clauses 20.1 and 20.2 of Schedule 2 and Special Condition 4 above. *If there is any inconsistency between this Licence and the 1999 Easement, the 1999 Easement will prevail.*
13. Once the construction work provided for by this License is completed the Concessionaire will realign the path of the 1999 Easement corridor to reflect the altered location of the access road and the newly formed carparking areas and any ancillary construction works. In furtherance of that requirement, and for the avoidance of doubt, the Concessionaire will be required to take all reasonable steps to:
- (a) Survey a new easement corridor ensuring that the new corridor's width remains unchanged as compared with the 1999 Easement and more accurately reflects the new location of the access road;
 - (b) Enter into any agreement necessary to give effect to the alteration in the 1999 Easement's location including entering into any Deeds with the Grantor that the Grantor may reasonably require;
 - (c) Relinquish those parts of the 1999 Easement which fall outside the new easement's corridor; and
 - (d) Complete the above requirements within 6 months of commencing the Concession Activity.

Sec 9(2)(a)

In respect to Ngāi Tahu

9. The Concessionaire is requested to consult the relevant Papatipu Runanga (shown in the table below) if they wish to use Ngāi Tahu cultural information. If the Concessionaire wishes to use the Tōpuni or statutory acknowledgement information contained in schedules 14-108 of the Ngāi Tahu Claims Settlement Act 1998, or any Department produced interpretative material in respect to Ngāi Tahu cultural information, they are requested to notify the relevant Papatipu Runanga, as a matter of courtesy.

Ngāi Tahu – Papatipu Rūnanga Mailing/Contact List

(or refer to www.ngaitahu.iwi.nz for updated information)

Oraka-Aparima Rūnanga 175 Palmerston Street RIVERTON 9822 office@orakaaparima.org.nz	Awarua Rūnanga P O Box 19 BLUFF 9842 info@awarua.org.nz
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Waihopai Rūnaka
P O Box 7017
INVERCARGILL 9812
info@waihopai.org.nz

Te Rūnanga o Ōtākou
Tamatea Road
RD 2
Otakou
DUNEDIN 9077
office@tro.org.nz

Te Rūnanga o Moeraki
Moeraki RD 2
Palmerston
OTAGO 9482
moeraki.runanga@xtra.co.nz

Hokonui Rūnaka
P O Box 114
GORE 9740
hokonui@xtra.co.nz

Kati Huirapa Rūnaka ki Puketeraki
C/- Post Office
KARITANE 9471
admin@puketeraki.co.nz

Office of Te Rūnanga o Ngāi Tahu
(Attention: 9(2)(a))
PO Box 13-046
CHRISTCHURCH 8141
Sec 9(2)(a)

10. The Concessionaire must, as far as practicable, attend any workshops held by the Department for the purpose of providing information to concessionaires, which is to include the Ngāi Tahu values associated with Tōpuni areas.
11. The Concessionaire must ensure any persons employed by the Concessionaire are requested to recognise and provide for Ngāi Tahu values in the conduct of their activities.

Didymo

12. The Concessionaire must comply and ensure its clients comply with the Ministry for Primary Industry (MPI)'s "Check, Clean, Dry" cleaning methods to prevent the spread of didymo (*Didymosphenia geminata*) and other freshwater pests when moving between waterways. "Check, Clean, Dry" cleaning methods can be found at <http://www.biosecurity.govt.nz/cleaning>. The Concessionaire must regularly check this website and update their precautions accordingly.
13. The Concessionaire must take all reasonable care to avoid any archaeological values on the Land which includes (not limited to) historic sites and protected New Zealand objects on the Land. In the event that archaeological sites or other features with heritage values are found during any approved earth disturbance work on the Land:
 - (i) Work shall cease immediately until further notice and advice shall be sought from the Grantor;
 - (ii) If it is an archaeological site under the definition of the Historic Places Act then Heritage New Zealand shall be contacted and their advice also sought;
 - (iii) If it is an archaeological site relating to Māori activity then the Papatipu Rūnanga shall be contacted and their advice sought;
 - (iv) If artefacts are found as defined by the Protected Objects Act then the Ministry for Culture and Heritage shall be notified within 28 days;
 - (v) Where human remains are found the NZ Police should also be notified;

- (vi) In the event of cessation of approved work because of discovery of potential historical artefact or archaeological site the Concessionaire shall not recommence work until permitted to do so by the Grantor.

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SCHEDULE 4

MWH GEOTECHNICAL REPORT DATED 5 FEBRUARY 2015 AND REVISED CLARK
FORTUNE MCDONALD AND ASSOCIATES DESIGN PLANS (Drawing No 06_01 –
06_10)

Released under the Official Information Act

05 February 2015

NZ Ski Limited
PO Box 359
QUEENSTOWN 9300

Attention: Sec 9(2)(a)

Dear Sir

Excavations for Proposed Car Park on The Remarkables Road

The purpose of this letter is to provide specific engineering input into the proposed car park on the Remarkables Ski Area road. This letter is intended to provide engineering advice on the following issues:

- Slope angles
- maximum cut heights
- fill depth
- global stability
- ground water
- natural water channels
- earthworks control measures

Background

NZ Ski proposes to develop additional parking area alongside the Remarkables Ski area access road.

The car park location has been selected on the basis of its geometry and its proximity to the ski area. In the proposed location the road is level, the formation is near its widest and there is capacity to fill on the downhill side to increase the formation width. Above this location is an identified slip. It is not desirable to excavate a significant quantity of material from the toe of this slip because of the risk of instability and the presence of ground water. This consideration limits the quantity of cut to fill material available and suitable fill material will need to be imported from a suitable location. It has been identified that suitable fill material could be won from the existing road cut immediately north of the proposed car park area.

A diagram of the location is shown below:

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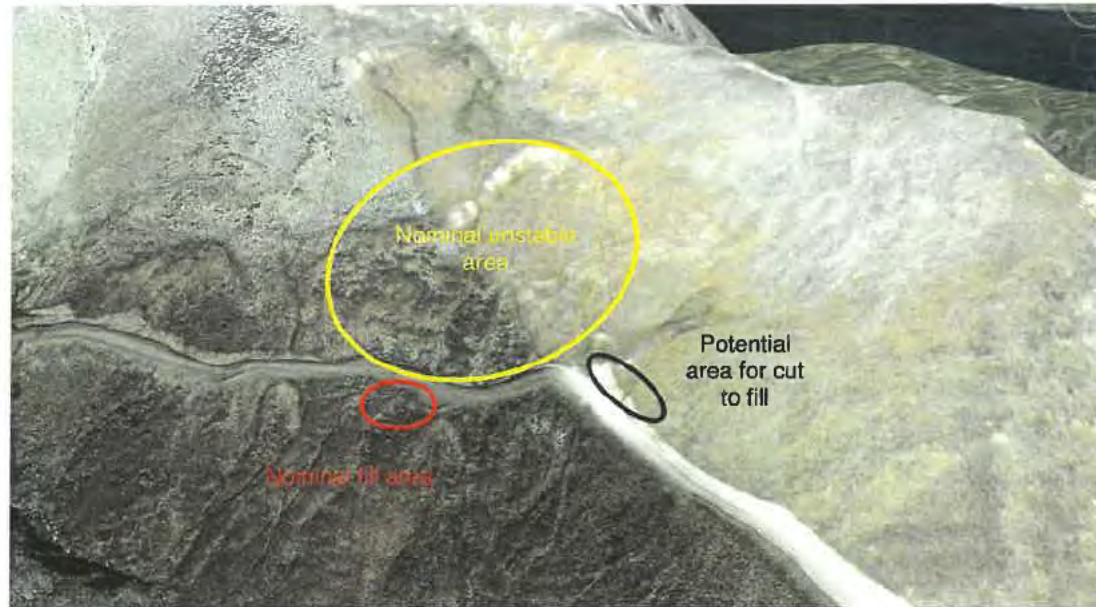


Figure 1 Diagram of the proposed locations

The area viewed from the below on the road is shown in the figure below:



Figure 2 Site location viewed from the road below

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Site inspection of cut to fill area

The proposed cut to fill area is immediately north of the proposed car park site.

No signs of significant slope instability were observed in this area. The cut to fill area is also free from incised water channels and obvious discharges of ground water.

Both colluvium and fractured rock are exposed in the existing cut batter in the cut to fill area. This is shown in the panoramas below

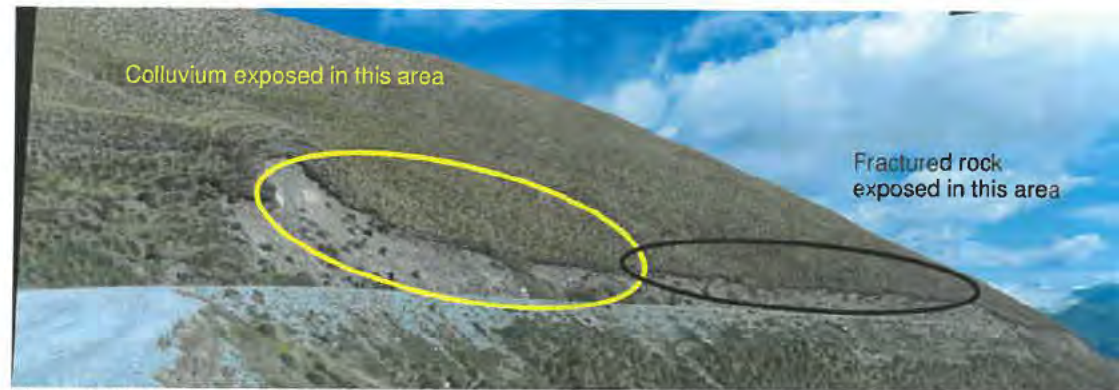


Figure 3 Site Cut to fill area viewed from proposed car park location

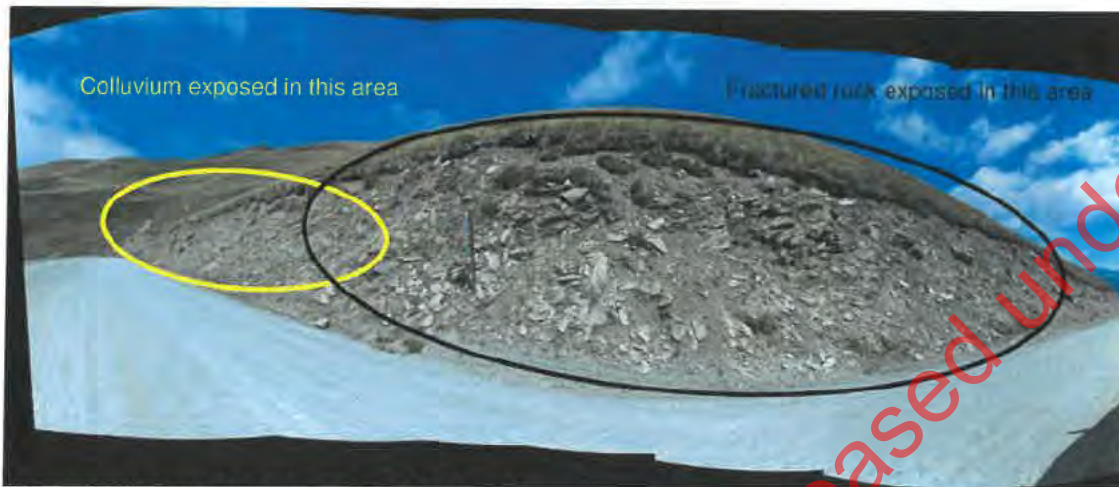


Figure 4 180 degree panorama of Cut to fill area

Colluvium Stability

The slope of the existing cut batters in colluvium was measured along the road in a number of locations. The stable cut batters are at a slope of around 37 degrees. This cut angle is considered to be structurally adequate with a risk of slope failure consistent with other colluvium slopes along the road. There is a risk of erosion with an unprotected cut batter at this angle and re-vegetation is recommended above around 10m. In addition concentrated surface water discharges onto unprotected cut slopes higher than around 10m should be avoided



Figure 4 Colluvium cut slope angle

Fractured Rock Stability

The existing cut batters in the fractured rock along the road were measured in a number of locations. The existing cut batters vary between vertical and 45 degrees depending on the competence of the rock exposed. In the area considered for cut to fill the rock is heavily fractured but the schistosity dips in a favourable direction parallel to the road. In this location we consider that a cut batter of 45 degrees will be of comparable stability to other cut batters along the road.



Figure 5 Existing fractured rock stable angle of around 45 degrees

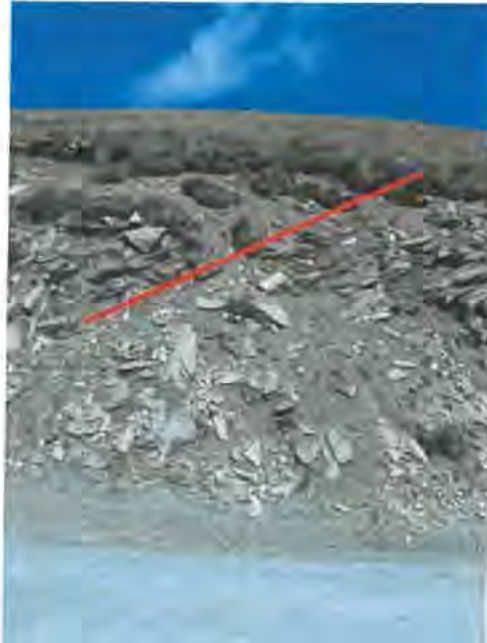


Figure 6 Favourable dip angle of schistosity exposed along the existing cut

Cut Slope Recommendations

Cut Slope in granular soil at toe of Slip

We recommend a design cut batter of around 34 degrees (1.5 h :1v) for the cut slopes within the toe of the slip area. This slope will need to be assessed as excavation proceeds to confirm the suitability of the ground conditions as issues such as ingress of ground water and saturation of the soil will have an effect on the stability of the cut slope. If significant ground water is intersected during the excavation alteration to the cut slope or some form of structural support may be required. Typical support may include post and rail retaining fences or surface treatment with gabion facing.

Cut Slope in cut to fill area colluvium

We recommend a design cut batter of around 37 degrees (1.33 h :1v) for the cut slopes within the granular, dry colluvium. This slope will need to be assessed as excavation proceeds, and alteration to the cut slope may be necessary if the conditions vary from the assumptions in this report. This slope will require a degree of protection from erosion and the replacement of the existing tussock cover in the top section, higher than around 10m, of the cut batter is recommended to reduce the risk of erosion. Any concentrated surface water discharges should be directed around cut slopes to minimise erosion.

Cut slope in shattered rock

We recommend a design cut batter of 45 degrees (1. h :1v) for the cut slopes within the shattered rock exposed. Reinstatement of the existing vegetation will minimise the generation of sediment from the excavation.

Control of Surface Water above cut slopes

No significant incised surface water channels above the proposed cut to fill area were detected. It appears that during rainfall the surface water flow in the area is sheet flow rather than concentrated in significant channels. It appears that adequate re-vegetation with the existing tussock will be adequate to prevent erosion of the cut surface. No major erosion of the existing cut slopes in the area was observed, and thus re-vegetation of the extension of this cut slope is considered an appropriate mechanism to minimise erosion.

Cut Slope Height Recommendations

Because the cut slopes recommended are around the angle of repose of the materials, the recommended slopes are expected to have mass movement stability similar to the natural surrounding slopes. This does not mean the risk of slope failure is zero as there are significant areas slipping along the road, but the overall stability from mass movement will not be significantly affected by the cut proposed. For this reason cut benches are not recommended.

The cut slopes proposed are by definition steeper than the surrounding slopes and are thus there is an increased risk of erosion. Thus erosion protection is the primary factor in the stability of the slopes and re-vegetation of the slopes with replaced existing species is a significant element in maintaining the stable batter.

Fill Depth on the Down Side of the Car Park

Provided that the filling and earthworks operation is carried out in accordance with TNZ F1 specification for earthworks there is no technical reason to limit the fill depth. In particular the fill material should be keyed by benches into the existing country and the topsoil must be removed. Any discharges of ground water behind or beneath the fill should be collected and piped away to prevent water pressure building up behind the fill. TNZ F1 specified issues such as undercutting and replacement of unsuitable subgrade.

In some locations along the road existing fill slopes are up to 43 degrees. Down slope batters of around 40 degrees may be side cast material as a result of grading over time, but fill slopes of this grade are not recommended. It is not considered safe to achieve adequate compaction of a fill slope of this batter and to achieve this slope overfilling and subsequent excavation is likely to be required. A fill slope of 35 degrees maximum (1.5h :1v) is recommended.

Suitable water control measures will be required above the fill slope batters to prevent surface water being directed onto the fill slope and potentially causing erosion. Such measures will involve falling the surface of the formation to the water table and away from the cut slope. We recommend that the water table direct water flow around the fill batter.



Figure 7 existing fill slope batter of around 40 degrees.

Sediment Control

Sediment may result from both the cut slopes and the fill batters prior to the establishment of ground cover or when fine material from the surface is mobilised. In addition the fill area, after stripping and during the filling operation, is a potential source of sediment.

Sediment from slopes above the road formation

The storm water and resulting sediment from the cut slopes, and the completed car park surface will be directed into the existing water tables. This flow within the water tables can be managed with sediment fences and geotextile filters prior to draining across culverts. The initial first flush will contain most of the fine sediment runoff,

Sediment from slopes below the road formation

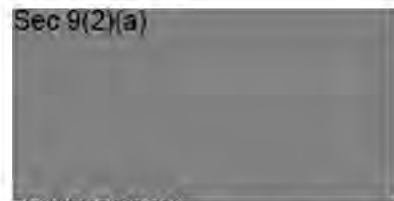
The cut and fill areas on the downhill side of the works can be managed by localised redirection of surface flow. Sediment control measures for these areas typically involve the following elements:

- preventing concentration of storm water from the works area flowing onto steep cut and fill slopes to minimise erosion
- preventing surface flow from above by directing flows into the water table on the uphill side of the road and directing this around the fill area
- implementing sediment capture pits to slow flow velocity and to provide volume to capture sediment before filtering or other capture
- directing filtered surface runoff to areas of surface sheet flow to prevent erosion and to gain some residual treatment from existing vegetation and overland flow

We trust that this report adequately addresses your requirements at this stage. Please do not hesitate to contact the undersigned should you require further elaboration on any of the points in this letter.

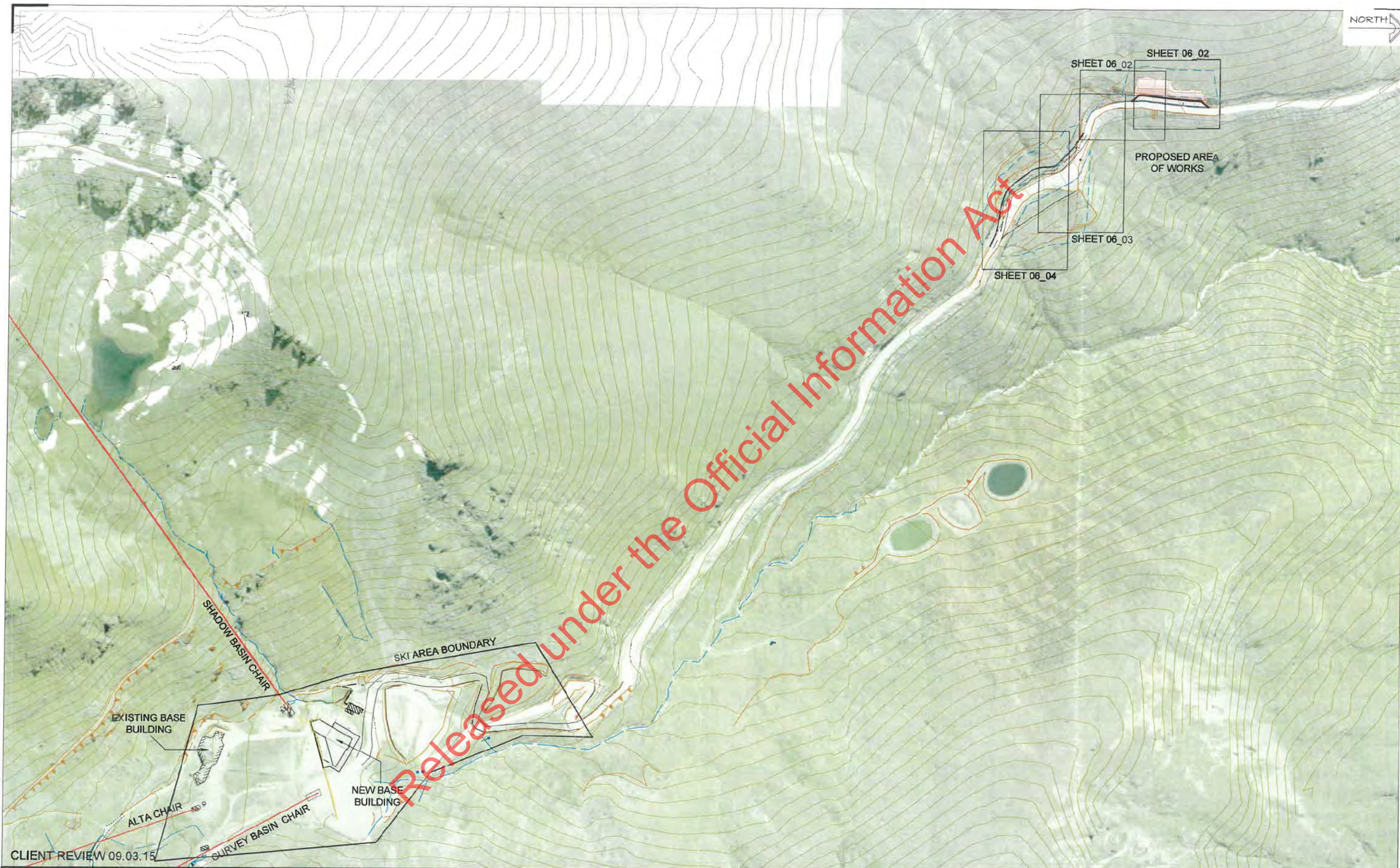
Yours sincerely

Sec 9(2)(a)



Civil Engineer
MWH New Zealand Limited

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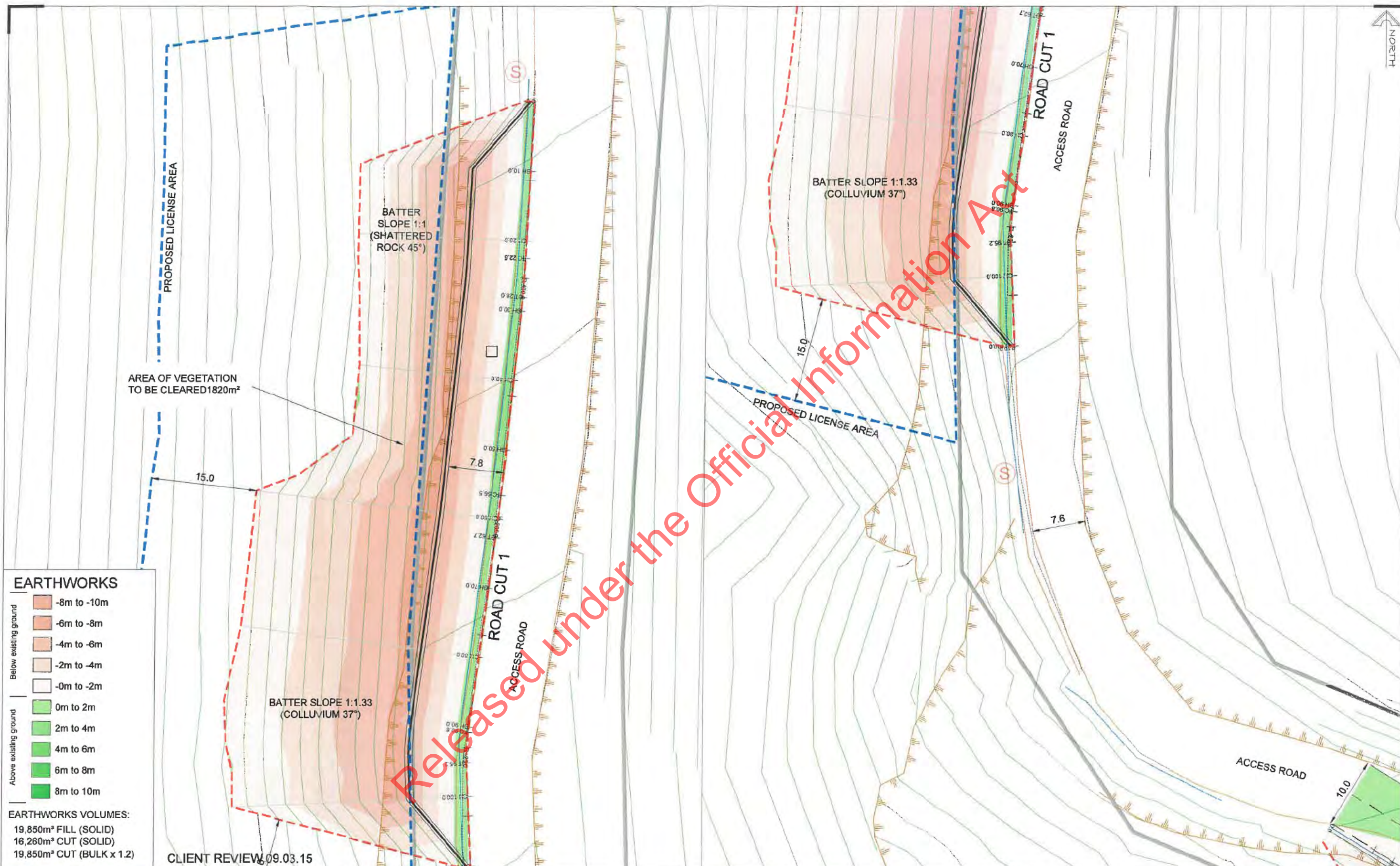
CLIENT REVIEW 09.03.15

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Rev.	Date	Revision Details	JK
A	18.02.15	Change Road Cut 1 Alignment	JK
B	09.03.15	Add Proposed License Area	JK

REMARKABLES SKI FIELD LOCATION OF PROPOSED EARTHWORKS

Client	Surveyed	Signed	Date	Job No.	Drawing No.
NZSKI LTD	FM	Signed	11.09.14	11711	06_01
Drawn	Signed	Date	Scale		
JK	Signed	21.10.14	1:2500 @ A1 1:5000 @ A3		
Designed	Signed	Date	Datum & Level	Rev.	
JK	Signed	21.10.14	NZMG & MSL	B	



EARTHWORKS

- Below existing ground
- 8m to -10m
- 6m to -8m
- 4m to -6m
- 2m to -4m
- 0m to -2m
- Above existing ground
- 0m to 2m
- 2m to 4m
- 4m to 6m
- 6m to 8m
- 8m to 10m

EARTHWORKS VOLUMES:
 19,850m³ FILL (SOLID)
 16,260m³ CUT (SOLID)
 19,850m³ CUT (BULK x 1.2)

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Rev.	Date	Revision Details	By
A	18.02.15	Change Road Cut 1 Alignment	JK
B	09.03.15	Add Proposed License Area	JK

REMARKABLES SKI FIELD EARTHWORKS DESIGN FOR CAR PARK & BUS TURN AROUND

Client	NZSKI LTD	Surveyed	Signed	Date	11.09.14	Job No.	11711	Drawing No.	06_02
		Drawn	Signed	Date	21.10.14	Scale	1:250 @ A1 1:500 @ A3		
		Designed	Signed	Date	21.10.14	Datum & Level	NZMG & MSL	Rev.	B

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HORIZ CURVE DATA

VERT GEOMETRY GRADE (%)
VERT GRADE LENGTH (m)
VERT CURVE LENGTH (m)

DATUM R.L.1417.00

DEPTH	C.L. FINISHED LEVEL	EXISTING G.L.	CHAINAGE
0.00	1467.46	1467.46	0.00
10.00	1468.12	1468.12	10.00
20.00	1468.78	1468.78	20.00
25.27	1469.17	1469.17	25.27
30.00	1469.45	1469.45	30.00
30.41	1469.47	1469.47	30.41
30.57	1469.48	1469.48	30.57
40.00	1470.04	1470.04	40.00
50.00	1470.63	1470.63	50.00
59.63	1471.22	1471.22	59.63
60.00	1471.24	1471.24	60.00
60.75	1471.28	1471.28	60.75
60.88	1471.29	1471.29	60.88
70.00	1471.81	1471.81	70.00
80.00	1472.38	1472.38	80.00
88.83	1472.81	1472.81	88.83
90.00	1472.87	1472.87	90.00
93.04	1473.01	1473.01	93.04
100.00	1473.36	1473.36	100.00
110.00	1473.87	1473.87	110.00

LONGSECTION - ROAD CUT 1
A1 HORIZ SCALE 1 : 500
A1 VERT SCALE 1 : 500

HORIZ CURVE DATA

VERT GEOMETRY GRADE (%)
VERT GRADE LENGTH (m)
VERT CURVE LENGTH (m)

DATUM R.L.1412.00

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10.00	1470.14	1470.14	10.00
20.00	1466.90	1471.80	20.00
30.00	1463.49	1471.74	30.00
32.77	1463.13	1471.72	32.77
36.98	1463.73	1471.69	36.98
40.00	1464.35	1471.68	40.00
44.48	1464.77	1471.67	44.48
50.00	1465.09	1471.68	50.00
51.98	1464.75	1471.69	51.98
60.00	1463.05	1471.73	60.00
70.00	1464.11	1471.78	70.00
73.33	1464.71	1471.79	73.33
80.00	1465.82	1471.87	80.00
83.33	1466.27	1471.94	83.33
90.00	1467.16	1472.15	90.00
93.33	1467.56	1472.28	93.33
100.00	1468.37	1472.57	100.00
110.00	1470.34	1473.01	110.00
120.00	1472.52	1473.45	120.00
121.77	1472.84	1473.53	121.77
130.00	1473.29	1473.89	130.00
130.62	1473.91	1473.91	130.62

LONGSECTION - ROAD FILL 3
A1 HORIZ SCALE 1 : 500
A1 VERT SCALE 1 : 500

HORIZ CURVE DATA

VERT GEOMETRY GRADE (%)
VERT GRADE LENGTH (m)
VERT CURVE LENGTH (m)

DATUM R.L.1422.00

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18.64	1476.79	1473.40	18.64
20.00	1476.70	1473.36	20.00
30.00	1475.25	1473.03	30.00
36.90	1477.36	1472.83	36.90
40.00	1478.80	1472.77	40.00
46.10	1480.45	1472.67	46.10
50.00	1480.57	1472.58	50.00
56.10	1479.83	1472.60	56.10
60.00	1478.58	1472.64	60.00
63.76	1477.44	1472.67	63.76
70.00	1476.09	1472.74	70.00
80.00	1475.59	1472.84	80.00
87.08	1476.79	1472.91	87.08
90.00	1476.02	1472.94	90.00
100.00	1476.46	1473.04	100.00
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140.24	1476.70	1473.44	140.24
150.00	1475.39	1473.53	150.00
160.00	1474.40	1473.63	160.00
164.53	1474.81	1473.68	164.53
170.00	1475.10	1473.73	170.00
180.00	1475.73	1473.83	180.00
182.77	1475.83	1473.86	182.77
189.46	1475.11	1473.93	189.46
190.00	1475.05	1473.93	190.00
197.66	1474.61	1474.04	197.66
200.00	1474.61	1474.04	200.00
207.49	1473.95	1474.14	207.49
209.66	1473.87	1474.17	209.66
210.00	1473.86	1474.17	210.00
220.00	1474.11	1474.32	220.00

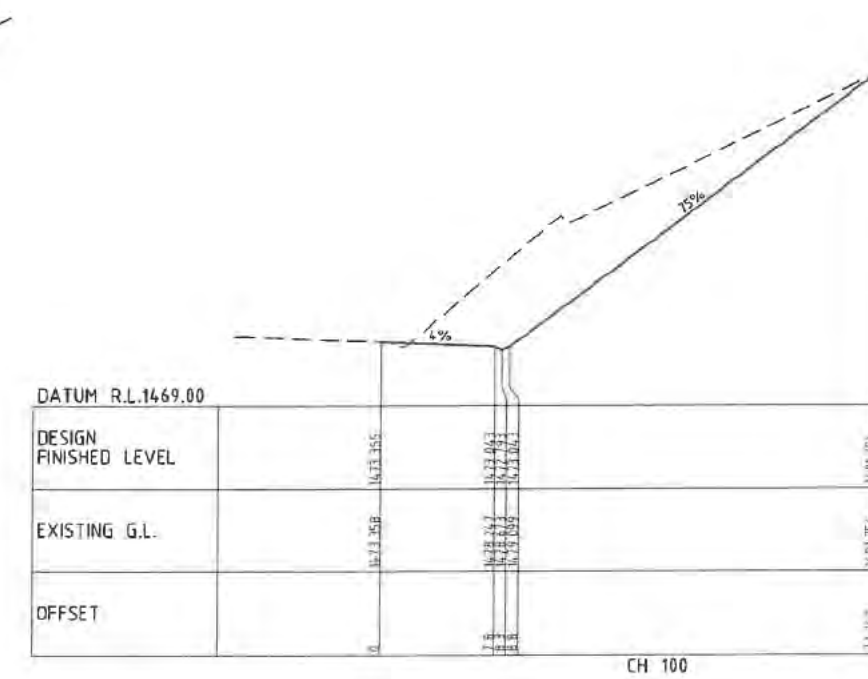
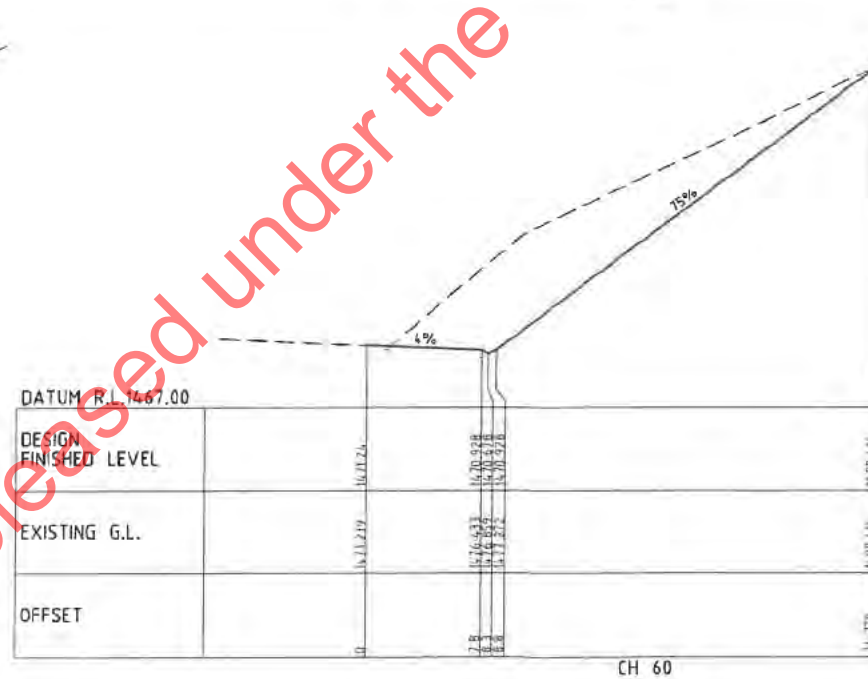
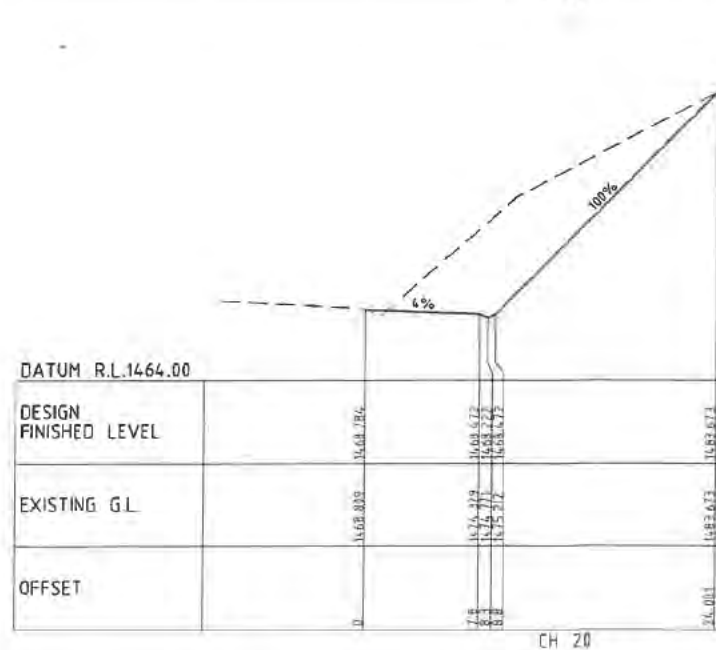
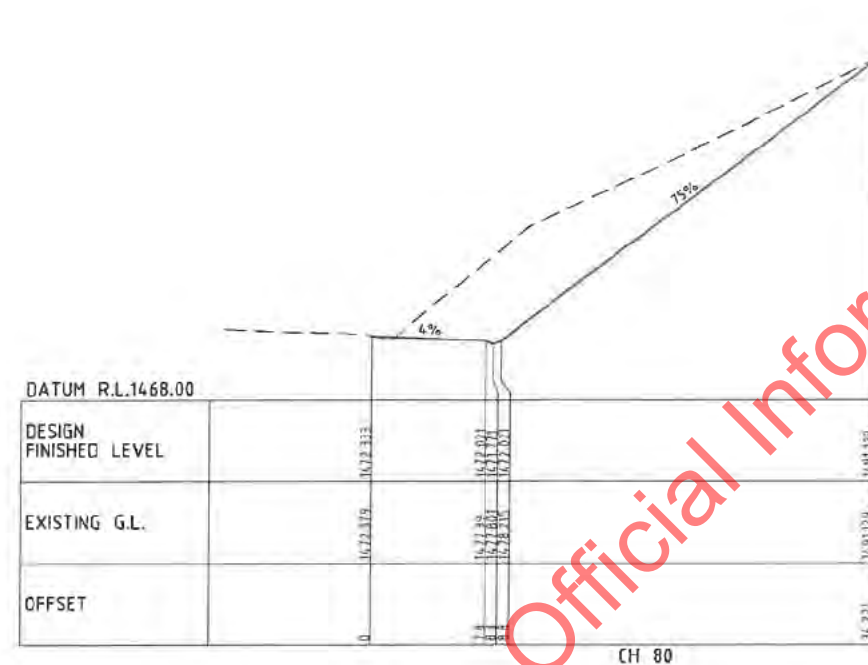
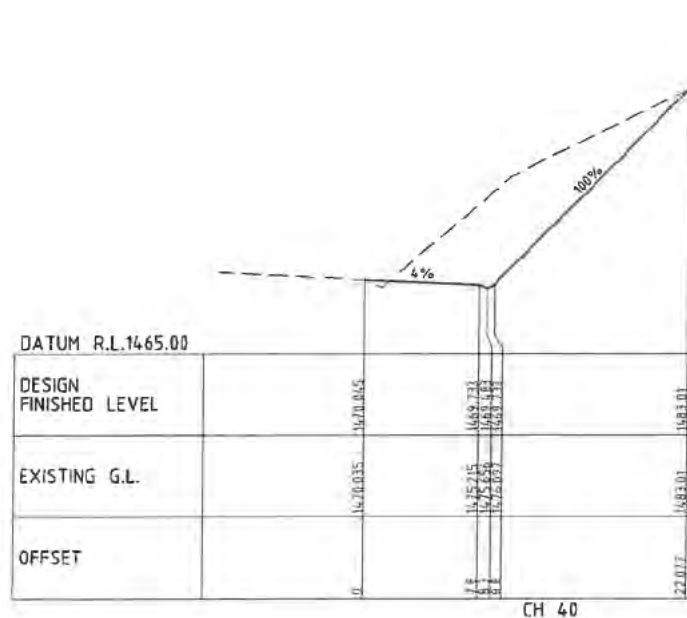
LONGSECTION - ROAD CUT 2
A1 HORIZ SCALE 1 : 500
A1 VERT SCALE 1 : 500

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REMARKABLES SKI FIELD ROAD LONGSECTIONS

Client: NZSKI LTD
Surveyed: FM
Signed: JK
Date: 11.09.14
Job No: 11711 06_05
Scale: 1:500 @ A1
1:1000 @ A3
Datum & Level: NZMG & MSL
Rev: A

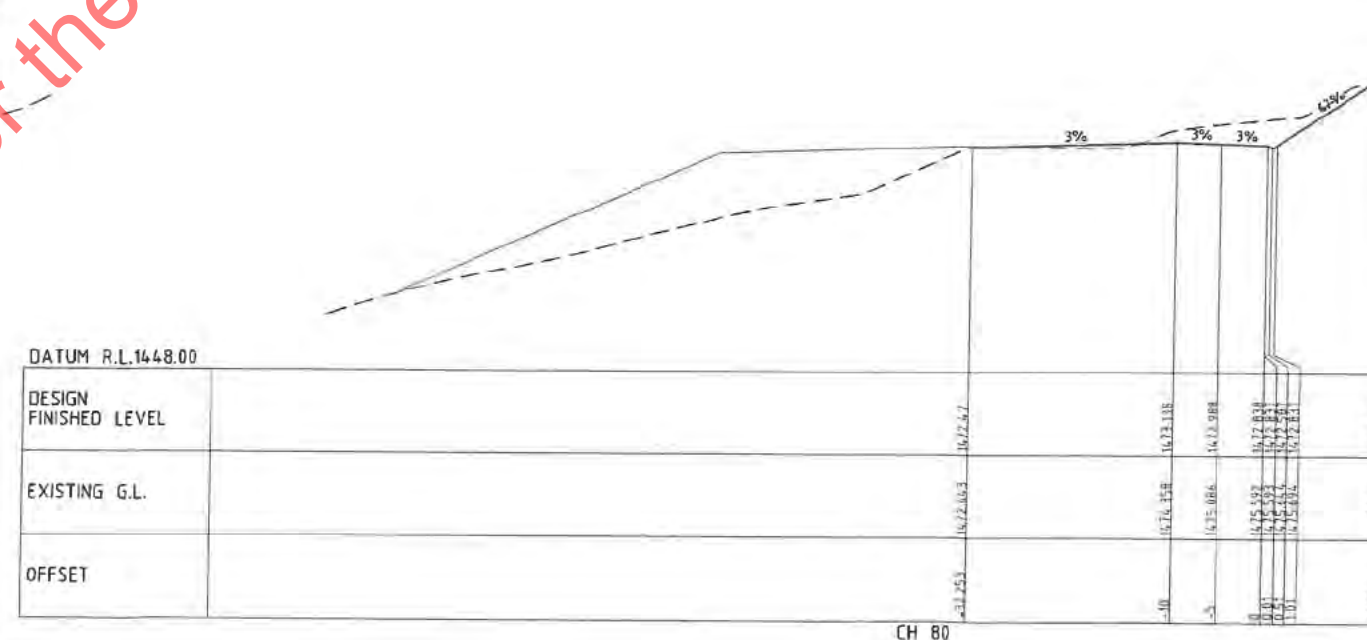
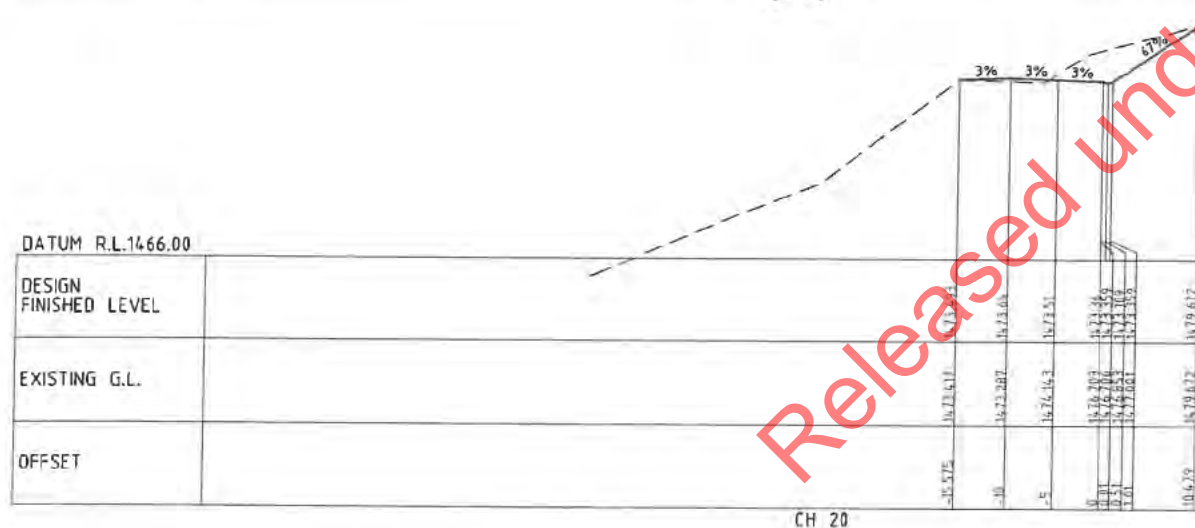
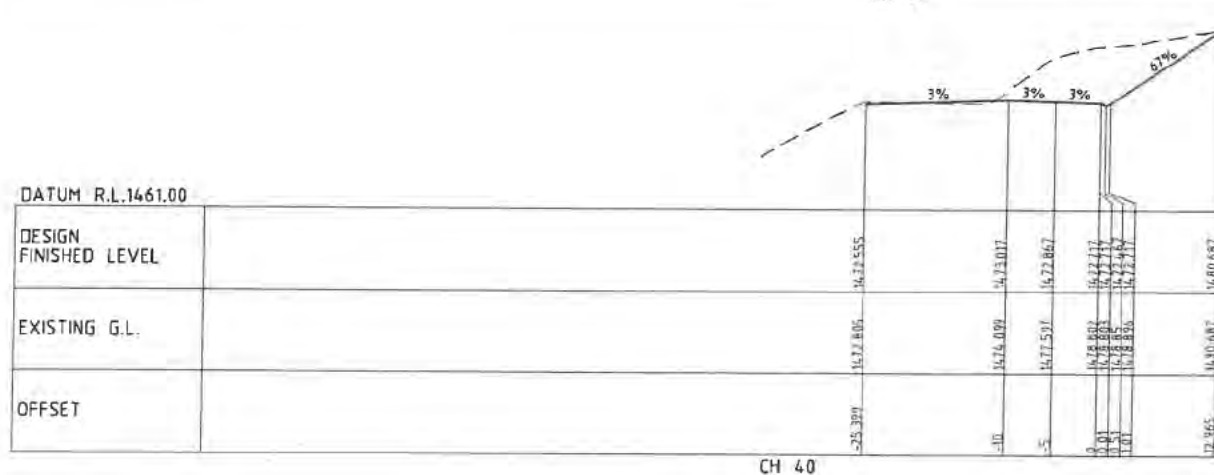
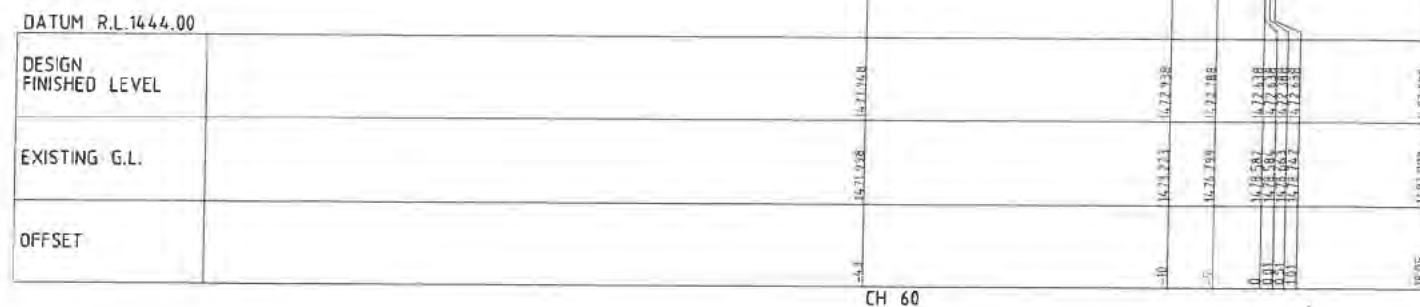


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REMARKABLES SKI FIELD ROAD CUT 1 CROSS SECTIONS

Client: NZSKI LTD
 Surveyed: Signed: FM
 Drawn: Signed: JK
 Designed: Signed: JK
 Date: 11.09.14
 Date: 21.10.14
 Date: 21.10.14
 Job No: 11711
 Scale: 1:250 @ A1
 Scale: 1:500 @ A3
 Datum & Level: NZMG & MSL
 Rev: A



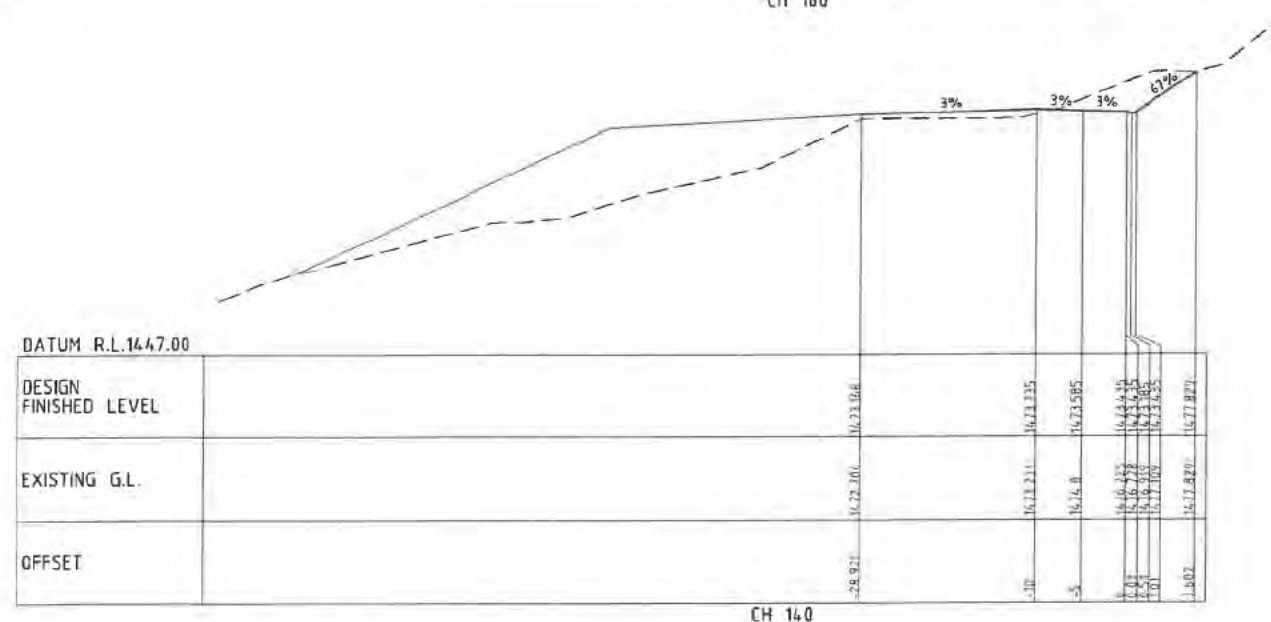
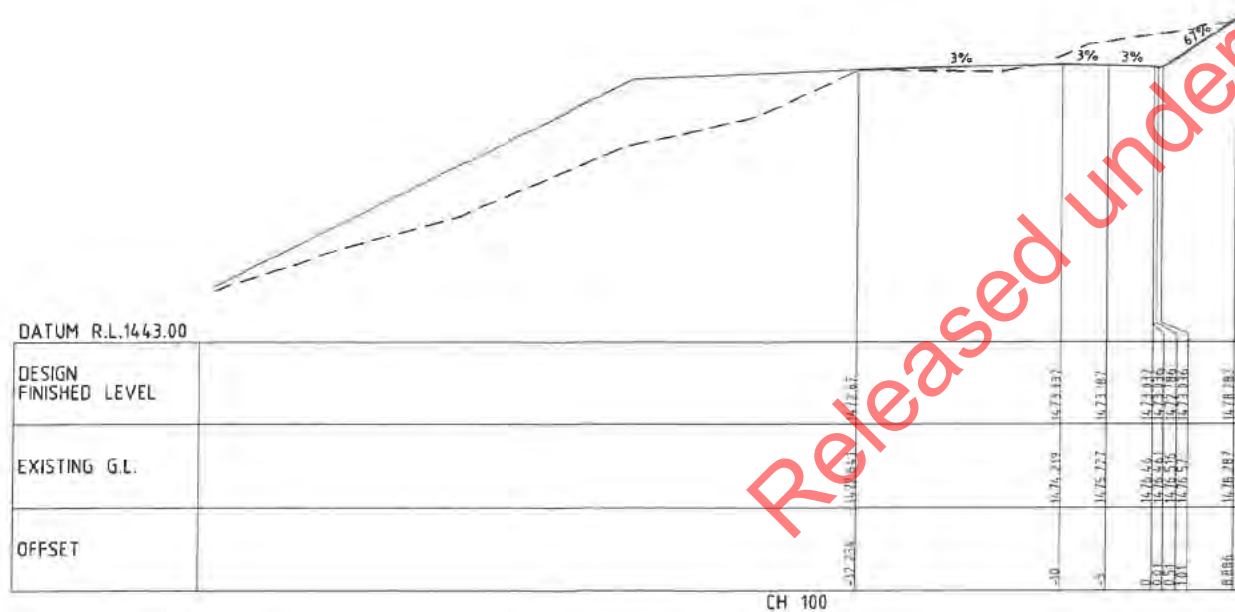
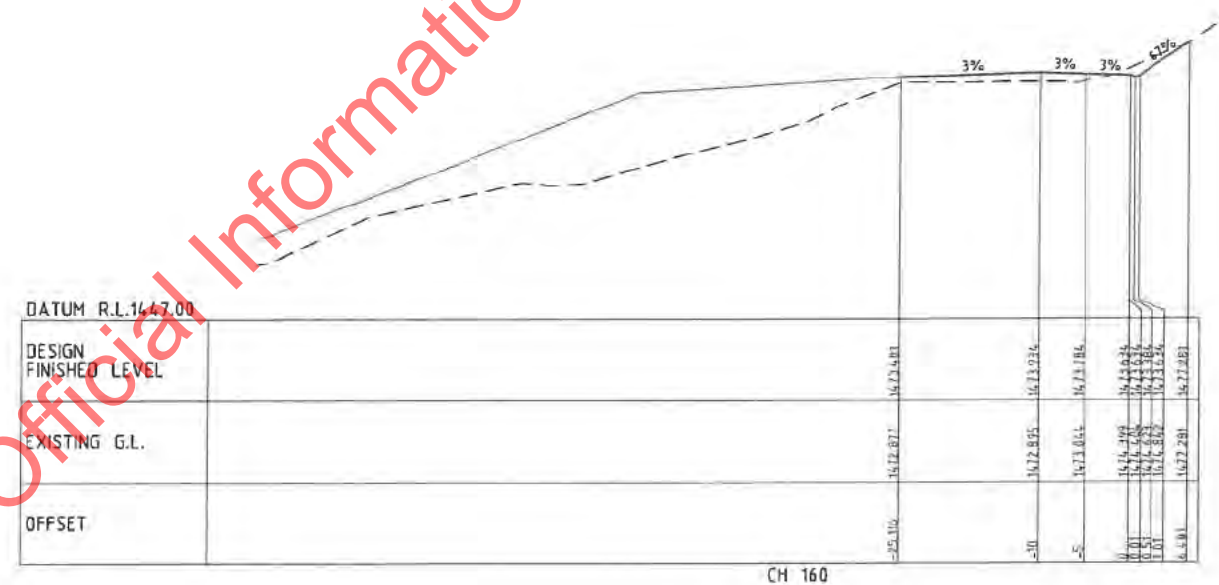
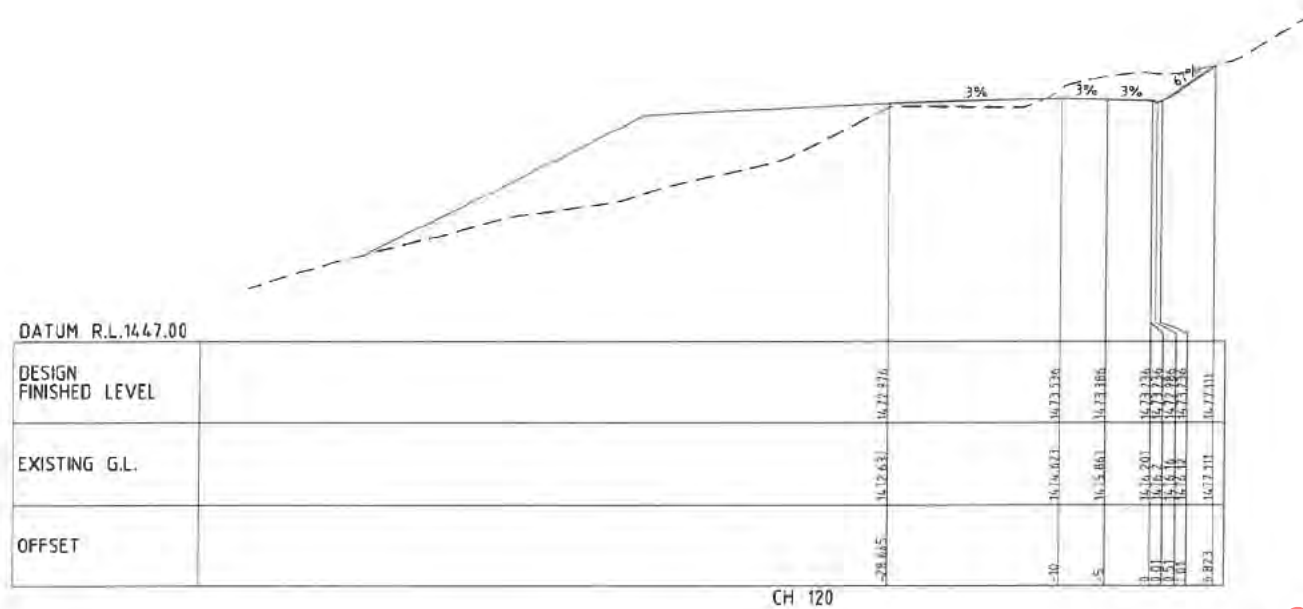
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REMARKABLES SKI FIELD ROAD CUT 2 (SHEET 1 OF 3) CROSS SECTIONS

Client	Surveyed	Signed	Date	Job No.	Drawing No.
NZSKI LTD	FM	JK	11.09.14	11711	06_07
	Drawn	Signed	Date	Scale	
	JK	JK	21.10.14	1:400 @ A1	
	Designed	Signed	Date	Datum & Level	Rev.
	JK	JK	21.10.14	NZMG & MSL	-



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REMARKABLES SKI FIELD ROAD CUT 2 (SHEET 2 OF 3) CROSS SECTIONS

Client: **NZSKI LTD**
 Surved: **FM** Signed: **JK** Date: **11.09.14** Job No.: **11711** Drawing No.: **06_08**
 Drawn: **JK** Signed: **JK** Date: **21.10.14** Scale: **1:400 @ A1**
 Designed: **JK** Signed: **JK** Date: **21.10.14** Datum & Level: **NZMG & MSL** Rev: **-**

DATUM R.L.1467.00

DESIGN
FINISHED LEVEL

EXISTING G.L.

OFFSET

CH 220

DATUM R.L.1446.00

DESIGN
FINISHED LEVEL

EXISTING G.L.

OFFSET

CH 200

DATUM R.L.1449.00

DESIGN
FINISHED LEVEL

EXISTING G.L.

OFFSET

CH 180

DATUM R.L.1469.00

DESIGN
FINISHED LEVEL

EXISTING G.L.

OFFSET

CH 226.277

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REMARKABLES SKI FIELD ROAD CUT 2 (SHEET 3 OF 3) CROSS SECTIONS

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FM	Signed	11.09.14	11711	06_09
Drawn	Signed	Date	Scale	
JK	Signed	21.10.14	1:400 @ A1	
			1:800 @ A3	
Designed	Signed	Date	Datum & Level	Rev.
JK	Signed	21.10.14	NZMG & MSL	-

DATUM R.L.1448.00		
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EXISTING G.L.	1450.611	1468.000
OFFSET	-10.874	0

CH 60

DATUM R.L.1458.00		
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OFFSET	-11.869	0

CH 120

DATUM R.L.1443.00		
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EXISTING G.L.		1466.351
OFFSET	-44.625	0

CH 40

DATUM R.L.1454.00		
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OFFSET	-30.411	0

CH 100


DATUM R.L.1445.00		
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EXISTING G.L.	1451.388	1468.808
OFFSET	-16.875	0

CH 20

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DESIGN FINISHED LEVEL	1459.411	1471.871
EXISTING G.L.	1459.411	1468.071
OFFSET	-26.379	0

CH 80

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REMARKABLES SKI FIELD ROAD FILL 3 CROSS SECTIONS

Client
NZSKI LTD

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FM		11.09.14	11711	06_10
Drawn	Signed	Date	Scale	
JK		21.10.14	1:400 @ A1	
Designed	Signed	Date	Datum & Level	Rev.
JK		21.10.14	NZMG & MSL	-

SCHEDULE 5

PROTOCOL FOR THE REHABILITATION OF THE NATURAL ALPINE ENVIRONMENT FOLLOWING SKI AREA DEVELOPMENT WORKS; DEPARTMENT OF CONSERVATION and NZSKI LTD.

1. Introduction

This protocol sets out the measures required to avoid, remedy or mitigate any adverse environmental effects from NZSki's development of their commercial ski areas. Typical examples include the installation of lifts, construction of buildings, modification of natural terrain for skier friendly trails, excavations of utility trenches, formation of access roads and benching of public car parking areas. Any works that disturb the natural environment including indigenous vegetation (both tussocks and other alpine plants), soil, wetlands, water courses and natural landscapes will be subject to this protocol, unless agreed otherwise.

The protocol sets out practical means of achieving a high standard of environmental rehabilitation during and following development works. The protocol establishes a clear understanding between the staff and contractors of both the Department of Conservation (DOC) and NZSki on how operational standards for:

- Work site control measures;
- Removal and replacement of vegetation and top soil;
- Ongoing monitoring and maintenance of rehabilitated areas;
- Contracted monitoring; and
- DOC's ability to suspend works.

2. Objectives of the protocol

- a. To ensure that during the course of any ski area development there is a minimum of interference with the natural environment;
- b. To ensure that any indigenous vegetation disturbed by development is restored as near as possible to its original density and diversity, within the shortest practical timeframe;
- c. To otherwise replicate a high standard of natural appearance to any ground not occupied by structures or required to regularly bear mechanised traffic.

3. Method of Implementation

NZSki will require its staff and contractors to act in accordance with the protocol. DOC staff will conduct regular monitoring to observe progress, provide advice, troubleshoot unexpected problems and, if necessary, require corrective action to ensure the objectives of the protocol are met.

4. Work Site control measures:

- a. Only machinery operators with a demonstrated ability in low impact earthworks and vegetation rehabilitation in an alpine setting are to undertake construction;
- b. Prior to works NZSki shall ensure that a briefing occurs between its staff, contractors and DOC to ensure a common understanding of how works will be conducted;

- c. NZSki must minimise disturbing non target areas when accessing and working within development sites. If machinery is required to move off existing tracks the least damaging route must be used and any disturbed vegetation must be rehabilitated when works are completed;
- d. The risk of soil erosion over denuded areas must be carefully managed until rehabilitation works are undertaken and soil is no longer exposed;
- e. Works must be conducted to ensure no contaminants are discharged onto the land or into watercourses (directly or indirectly). All vehicles, machinery, equipment and aggregate material must be cleaned of weeds, seeds and soils before entering the works area. Refuelling must be undertaken on hard surfaces away from watercourses and vegetation;
- f. Sensitive natural features including streams, wetlands, tarns, lakes and rare habitats are not to be disturbed, either for development works or access to development sites. Where disturbance is unavoidable prior approval must be sought and additional environmental protection measures may be required;
- g. All development and rehabilitation works impacting the natural environment must be completed by the 1st May. Any unfinished work must be stabilised to prevent soil erosion until works can recommence.

5. Transplanting of vegetation:

- a. Vegetation must be carefully removed in a manner to minimise damage to both the above ground plant and to protect as much soil material around the roots as possible;
- b. The remaining topsoil must also be removed before excavation of rock material may commence. If not used quickly with the replanting of vegetation this topsoil may be stockpiled for later use;
- c. All vegetation removed should be quickly replanted into areas where works have already been completed. This will usually occur through progressive reinstatement on completed formations behind the main work "face";
- d. Priority for replanting shall be given to areas prone to erosion;
- e. Individual plants or clumps of vegetated material ("sod") shall be reinstated by careful use of a digger bucket. Spacing should be no greater than 1 metre, unless directed otherwise by DOC;
- f. Final positioning of transplanted vegetation and sods should be conducted by hand tools, with top soil packed around each plant or sod to maximise survivorship and to achieve a result that closely resembles the surrounding natural areas;
- g. When transplanted plants and sods are insufficient to cover the disturbed area additional vegetation may be sourced through splitting indigenous vegetation from adjacent areas. This should only be done where there is sufficient plant and humic material to allow survival of both 'parent' and 'split' plants;
- h. Nursery reared plants (usually tussocks) may also be used to supplement transplanted vegetation and sods. Only locally sourced seeds may be used to grow plants for the ski area. Nursery reared plants are susceptible to rapid die off and browsing and must be handled carefully as follows:

- i. Fertiliser is to be placed in the root well prior to planting;
 - ii. Plants must be well bedded to lessen risk of uprooting by feral animals;
 - iii. Plants may be treated with suitable chemicals to deter browsing by feral animals.
- i. Locally sourced seed of appropriate species may be broadcast to promote vegetation growth between transplanted vegetation and sods. Exotic seeds may be spread only with prior approval;
- j. Special care must be taken when replanting on steep slopes between 30 and 45 degrees:
 - i. Plants should be transplanted quickly, steep slopes require plants to be in the healthiest possible condition;
 - ii. Indented troughs or depressions should be formed to create "bedding" for the tussocks or sods to be transplanted. Replanting should not occur on sheer surfaces;
 - iii. Replanting should be as close together as practical, leaving little exposed ground;
 - iv. Large heavy plants and sods should be staked for support where possible;
 - v. Steep slopes should be closely monitored and any plants or sods released from the slope quickly retrieved, split into smaller, lighter clumps and replanted back into the slope as described above;
 - vi. Consideration should be provided to planting small nursery reared plants where possible;
 - vii. Attempts at replanting vegetation on slopes steeper than 45 degrees should only proceed with prior approval.
- k. The vegetation removed at one site may be used at another development site within the ski area only with prior approval;
- l. If no areas are available for a quick reinstatement, vegetation may be temporarily stored in designated areas with prior agreement;
 - i. All handling of vegetation for longer term storage must be done with great care to minimise cumulative damage to plants;
 - ii. Vegetation may only be stockpiled up to one metre high to avoid die off resulting from smothering and crushing;
 - iii. All vegetation temporarily stored must be watered when protracted dry conditions may impact on survivorship.
- m. If NZSki expects to have a surplus of vegetation and/or topsoil at the end of works, this must be replanted /spread over other areas of rehabilitation, under direction from DOC;
- n. Any surplus rock material must not be stockpiled and/or spread over nearby terrain without prior approval;

- o. NZSki will actively eradicate any noxious weeds from all development and rehabilitation areas;
- p. No rock landscaping may be used as a substitute for vegetation unless by prior agreement.

6. Ongoing monitoring and maintenance of the rehabilitated area

- a. The purpose of the monitoring is to assess the progress of rehabilitation and advise NZSki how to prevent or minimise risks to re-growth becoming self sustaining;
- b. All development and rehabilitation works will be monitored at least once prior to the commencement of work and again at completion of works. Interim monitoring may be required, depending on the nature of work. Following completion, regular monitoring will continue until DOC resolves, at its sole discretion, that the rehabilitation of the natural environment can progress unaided;
- c. Where monitoring establishes significant risks to rehabilitation, DOC will require NZSki to take any reasonable steps to rectify the situation and return the area to its desired condition. Any additional work required will be carried out at the cost of NZSki;
- d. In the event that an area is not rehabilitated following works, monitoring will continue until rehabilitation works have begun. Attention will be paid to preventing erosion during any lay period;
- e. DOC should reserve the right to recover the actual and reasonable costs of monitoring work.

7. Contracted monitoring:

DOC may contract monitoring to an external person/s. This approach not only provides time savings, but can also source specialist expertise on how to rehabilitate the sensitive alpine vegetation. This expertise is also vital to advise on appropriate remedial actions for any issues, and to provide expert input to planning processes. Contracted monitoring will take place as follows:

- a. The contractor is generally tasked to monitor the implementation of this protocol during any ski area development work that disturbs the natural environment;
- b. The monitor is to resolve any concerns of a routine nature directly with NZSki. Issues should be referred to DOC when problems are recurrent, significant in scale, unconventional or if a mutual agreement cannot be reached;
- c. To advise both DOC and NZSki whenever their action (or inaction) may present a problem for ski area environment, whether related to a specific development or any other activity;
- d. The monitor is to immediately advise DOC and NZSki if unauthorised works may be occurring, of significant risks to the natural environment that warrant suspension of works, and of any concerns with geotechnical hazards and/or public safety;

- e. Monitoring visits are to be scheduled in consultation with NZSki and DOC at a frequency of no more than once a week and no less than three times a summer (depending on nature of works over summer);
- f. If agreement on scheduling cannot be reached, DOC will make a final decision and notify NZSki of when monitoring is to occur;
- g. A brief written report of each monitoring visit is to be forwarded to DoC and NZSki in a timely manner. Reports should take a broad approach to assess overall performance, record agreements reached on site and highlight unresolved issues. Reports should take advantage of photo monitoring where possible;
- h. The time required for visits (and reports) are to be appropriate to the works in progress. The monitor is to notify and seek agreement from NZSki on where the combined time required for site visits and reporting is likely to exceed 5 hours;
- i. Support tasks supplementary to monitoring and reporting (e.g. research and meetings) are to be agreed with DOC and NZSki prior work occurring;
- j. The time spent on monitoring visits, reporting and support work will be billed directly to NZSki at a rate equivalent to DOC's current hourly rate for field staff, plus gst. Disbursements are to be billed separately;
- k. All monitoring reports and discussions between the contractor, NZSki and DOC will be kept confidential.

8. Right to suspend works

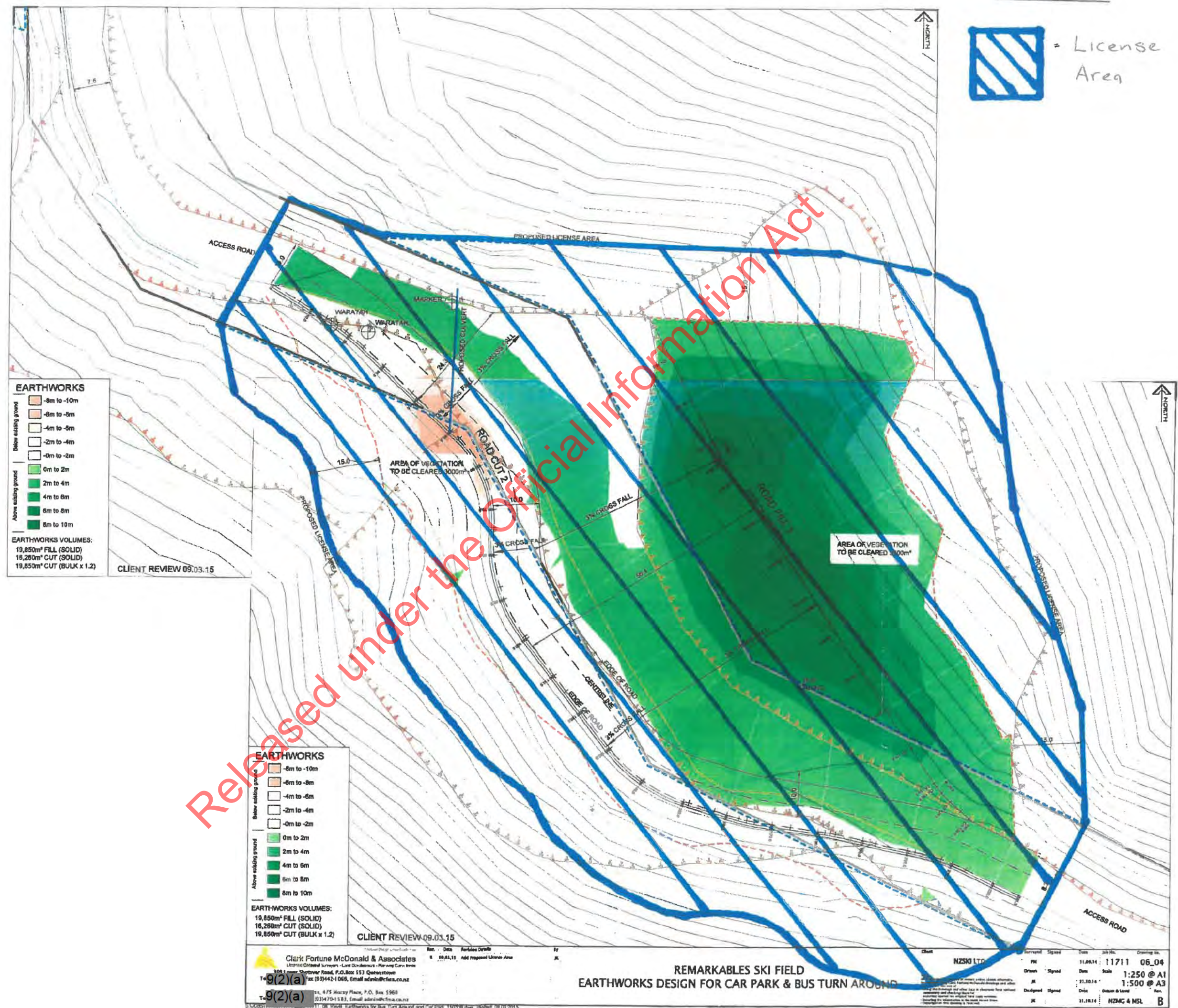
- a. DOC will, at its sole discretion, suspend any development work or activity should contracted monitoring, public feedback or DOCs own observations determine there are unexpected and/or significant impacts on the natural environment that are not being adequately rehabilitated;
- b. Any suspension shall remain in place until a response plan is agreed with NZSki.

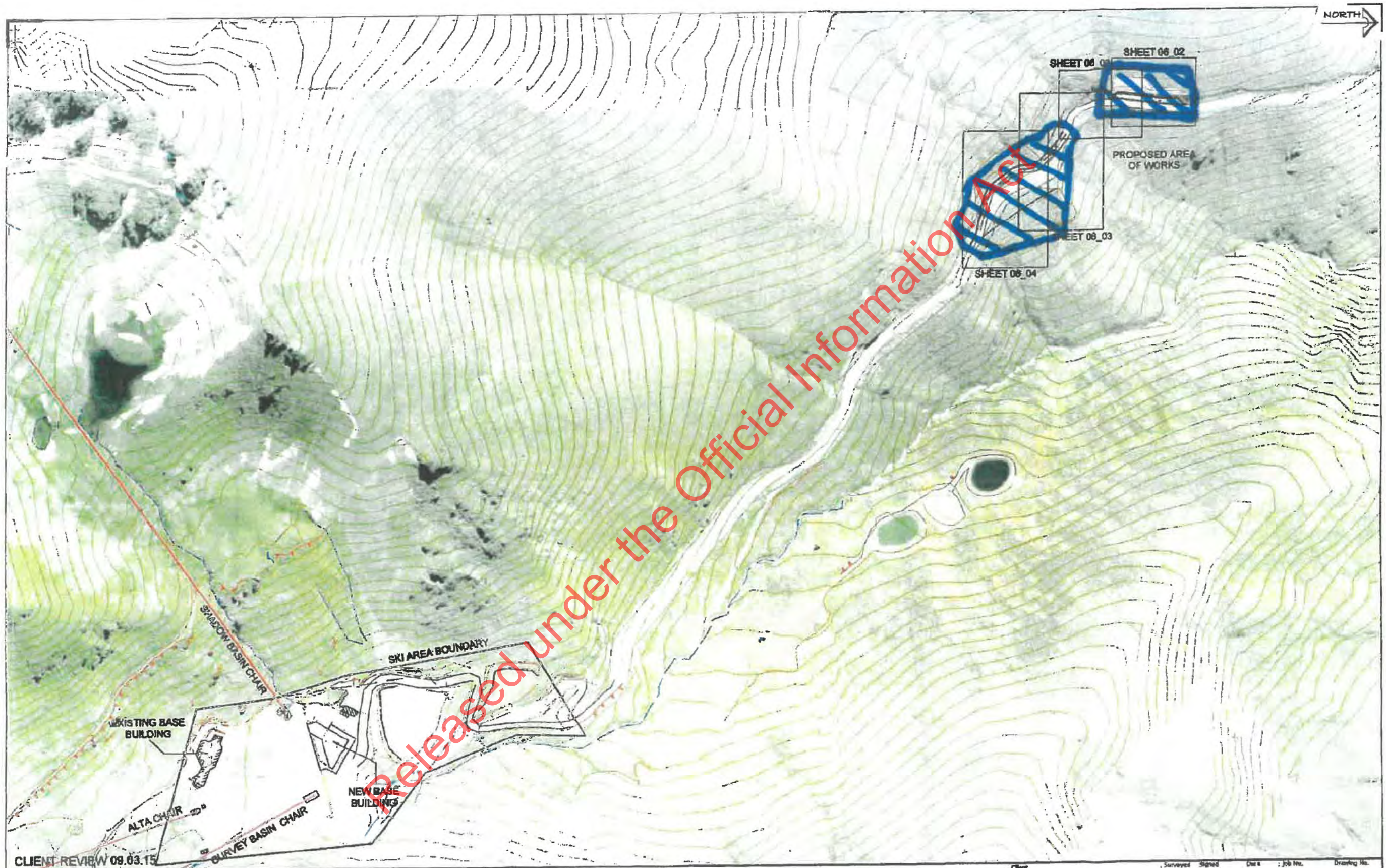
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SCHEDULE 6

LICENCE AREA SHOWN AS BLUE HATCHING AND LABELLED "LICENSE AREA"

Released under the Official Information Act





CLIENT REVIEW 09.03.15

Clark Fortune McDonald & Associates
 Licensed Civil Engineer - Land Development - Planning Consultants
 9(2)(a) [Redacted] Cover Road, P.O. Box 553 Queenstown
 Tel: 9(2)(a) [Redacted] Fax: (03) 442-1066, Email: admin@cfma.co.nz
 Shop 2, Orion House, 475 Moray Place, P.O. Box 5960
 Tel: 9(2)(a) [Redacted] Fax: (03) 470-1563, Email: admin@cfma.co.nz

Rev.	Date	Revision Details	JK
A	18.02.15	Change Road Cut 1 Alignment	JK
B	09.03.15	Add Proposed License Area	JK

REMARKABLES SKI FIELD LOCATION OF PROPOSED EARTHWORKS

Client	Surveyed	Drawn	Checked	Date	Job No.	Drawing No.
NZSKI LTD	PM	JK	JK	11.08.14	11711	06_01
	Drawn	Signad		Date	Scale	1:2500 @ A1
	JK			21.10.14	1:5000 @ A3	
	Checked	Signad		Date	Datum & Level	NZMG & MSL
	JK			21.10.14		B

Notes:
 All dimensions shown are to centre unless otherwise stated.
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 ensure they are the latest and copy versions.
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KEY

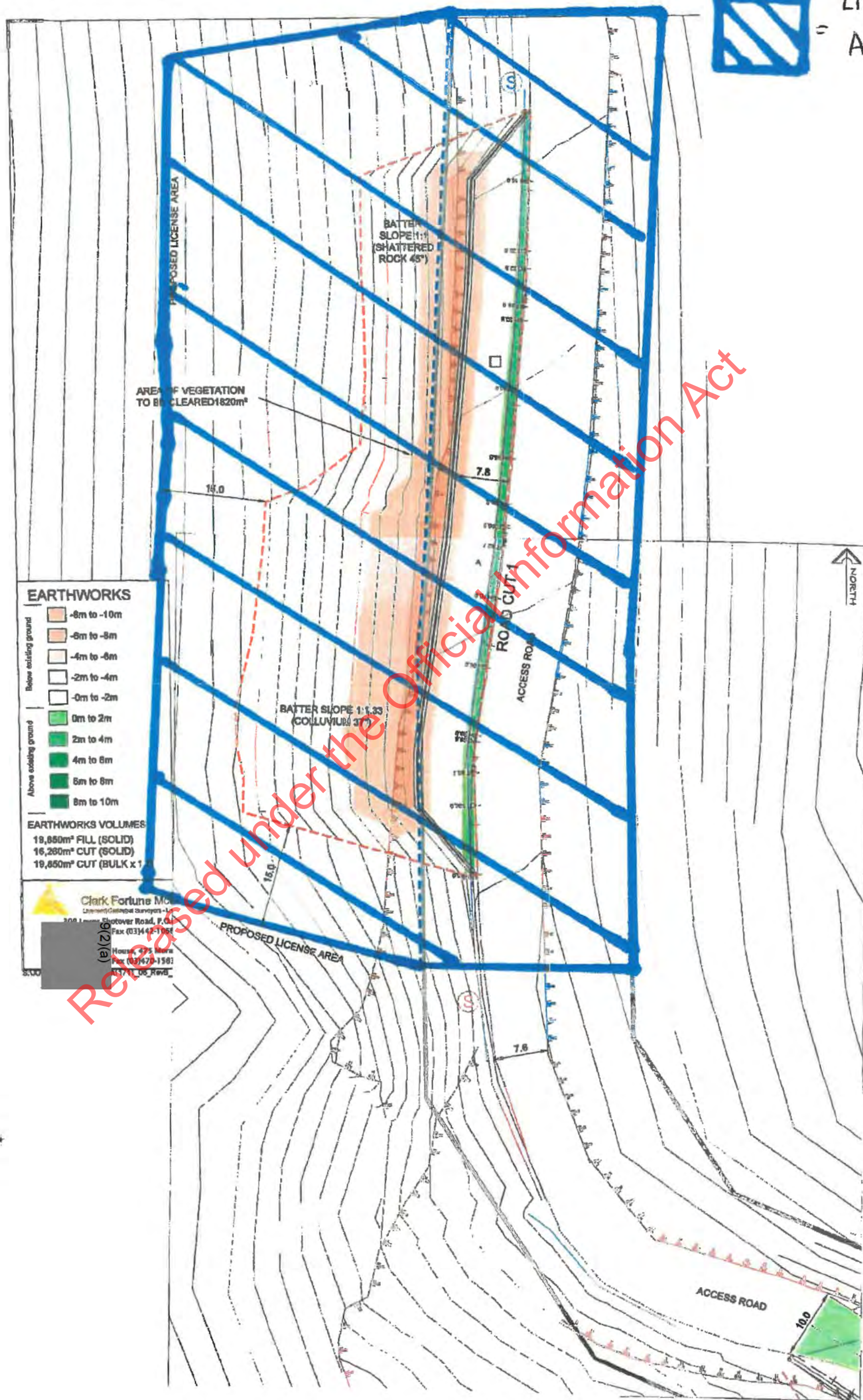


= License Area

KEY



License
= Area





Department of Conservation
Te Papa Atawhai

Concession Document (Lease)

Concession Number: OT-34108-SKI

Concession Document (Lease)

THIS LEASE is made this 10 day of August 2015

PARTIES:

1. **Minister of Conservation** (the Grantor)
2. **NZSki 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 Department is under the control of the Grantor.
- C. The carrying out of these functions may result in the Grantor granting concessions to carry out activities on public conservation land.
- D. The Grantor administers public conservation lands described in Schedule 1 as the Land.
- E. The Conservation legislation applying to the Land authorises the Grantor to grant a concession over the Land.
- F. The Concessionaire wishes to carry out the Concession Activity on the Land subject to the terms and conditions of this Concession.
- G. The Concessionaire acknowledges that the land may be the subject of Treaty of Waitangi claims.
- H. The parties wish to record the terms and conditions of this Concession and its Schedules.

OPERATIVE PARTS

- I. In exercise of the Grantor's powers under the Conservation legislation the Grantor **GRANTS** to the Concessionaire a **LEASE** to carry out the Concession Activity on the Land subject to the terms and conditions contained in this Concession and its Schedules

SIGNED on behalf of the Minister of Conservation by



Greg Lind - Conservation Partnerships Manager Wakatipu

acting under delegated authority in the presence of:

Witness Signature:

Witness Name:

Witness Occupation:

Witness Address:

A copy of the Instrument of Delegation may be inspected at the Department of Conservation at 18-22 Manners Street, Wellington.

SIGNED by NZSki Limited by:

Sec 9(2)(a)

Director

Name:

Director

Name:

CEO

Paul Anderson

Released under the Official Information Act

SCHEDULE 1

1.	Land (clause 2)	Rastus Burn Recreation Reserve – the lease area (2.57 hectares) and boundaries as shown on the plan attached in Schedule 4
2.	Concession Activity within the lease boundaries (existing and new lease areas) (clause 2)	Realignment of a section of the access road as shown on the plan attached in Schedule 4 Car parking and redevelopment and expansion of the car parking areas to provide further car parks. Development of surface conveyors areas as shown on the plan attached in Schedule 4 Realignment of the course of the Rastusburn into an underground culvert beneath the car parks as shown on the plan attached in Schedule 4
3.	Term (clause 4)	30 years commencing on 1 May 2013
4.	Renewal(s) (clause 4)	None
5.	Final Expiry Date (clause 4)	30 April 2043
6.	Concession Fee (clause 5)	Annual Activity fee For this concession, there will be no fees charged in addition to the rent that is required in accordance with the Deed of Lease dated 30 August 1993 or such successor or replacement of that lease as may exist from time to time Annual Administration fee Not applicable Environmental Monitoring Fee As specified in special condition 19 and 23 Schedule 3
7.	Environmental Monitoring Contribution (clause 10)	Not required (see Environmental Monitoring Fee in clause 6 above)
8.	Community Services Contribution (clause 7)	Not required
9.	Total payment to be made per annum (clause 5)	Not applicable
10.	Total payment instalment(s)	Not applicable

	(clause 5)	
11.	Concession Payment Date(s) (clause 5)	Fee Not applicable
12.	Penalty Interest Rate (clause 5)	Not applicable
13	Concession Fee Review Date(s) (clause 6)	Not applicable
14.	Insurance (To be obtained by Concessionaire) (clause 13)	Types and amounts: Public Liability Insurance for: (a) General indemnity for an amount no less than \$1,000,000.00; and (b) Forest and Rural Fires Act extension for an amount no less than \$250,000.00; and Other insurances as necessary Subject to review on each Concession Fee Review Date
15.	Health and Safety (clause 14)	Audited Safety Plan: Required
16	Concessionaire Identification (Clause 32)	Not Required
17.	Addresses for Notices (clause 25)	The Grantor's address is: Department of Conservation 77 Stuart Street Dunedin PO Box 5244 Dunedin 9058 Phone: 03 477 0677 Fax: 03 477 8626
		The Concessionaire's address in New Zealand is: Queenstown Snow Centre Ground Level The Station Building Cnr Camp and Shotover Sts Queenstown 9300

		PO Box 359 Queenstown 9348 Phone: 03 4424620 Fax: 03 442 4619
18.	Guarantee (clause 30)	Not required
19.	Special Conditions (clause 35)	See Schedule 3

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

SCHEDULE 2

STANDARD TERMS AND CONDITIONS OF LEASE

1. Interpretation

- 1.1 Where the Grantor's consent or approval is expressly required under a provision of this Concession, the Concessionaire must seek the consent or approval of the Grantor for each separate occasion it is required notwithstanding that the Grantor has granted consent or approval for a like purpose on a prior occasion.
- 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.
- 1.3 Where this Concession requires the Grantor to exercise a discretion or give any approval or provides for any other actions by the Grantor, then the Grantor must act reasonably and within a reasonable time. When a consent is required under this Concession such consent must not be unreasonably withheld.
- 1.4 Where this Concession provides for approvals, directions, reports and consents to be given by one party to the other, those approvals, directions, reports and consents must be given by notice in writing and clause 25 is to apply.
- 1.5 The covenants and powers contained in Part 2 of Schedule 3 of the Property Law Act 2007 are not to be implied in this Concession and are expressly negated.

2. What is being authorised?

- 2.1 The Concessionaire is only allowed to use the Land for the Concession Activity.
- 2.2 The Concessionaire must exercise reasonable skill, care and diligence in carrying out the Concession Activity, in accordance with standards of skill, care and diligence normally practised by suitably qualified and experienced people in carrying out such activities.
- 2.3 The Concessionaire must provide the Grantor with evidence of the competency and qualifications of its employees and contractors if the Grantor so requests.
- 2.4 The Concessionaire must not commence the Concession Activity until the Concessionaire has signed the Concession Document and returned one copy of this Document to the Grantor, as if it were a notice to be given under this Concession.

3. What about quiet enjoyment?

- 3.1 The Concessionaire, while paying the Concession Fee and performing and observing the terms and conditions of this Concession, is entitled peaceably to hold and enjoy the Land and any structures and facilities of the Grantor without hindrance or interruption by Grantor or by any person or persons claiming under the Grantor until the expiration or earlier termination of this Concession.

- 3.2 Provided reasonable notice has been given to the Concessionaire the Grantor, its employees and contractors may enter the Land to inspect the Land and facilities, to carry out repairs and to monitor compliance with this Concession.

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

- 4.1 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.
- 4.2 If there is a right of renewal then the Grantor at the Concessionaire's cost must renew the Term for a further period as set out in Item 4 of Schedule 1 provided the Concessionaire:
- (a) gives the Grantor at least three month's written notice before the end of the Term, which notice is to be irrevocable, of the Concessionaire's intention to renew this Concession; and
 - (b) at the time notice is given in accordance with this clause the Concessionaire is not in breach of this Concession.
- 4.3 The renewal is to be on the same terms and conditions expressed or implied in this Concession except that the Term of this Concession plus all further renewal terms is to expire on or before the Final Expiry Date.

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

- 5.1 The Concessionaire must pay the Processing Fee (Item 20 of Schedule 1) to the Grantor in the manner directed by the Grantor. Except where the Grantor's written consent has been given, the Concessionaire cannot commence the Concession Activity until the Processing Fee has been paid.
- 5.2 The Concessionaire must pay to the Grantor in the manner directed by the Grantor the Concession Fee and any other payment comprised in the Total Payment specified in Item 9 of Schedule 1 in the instalments and on the Concession Fee Payment Date specified in Items 10, and 11 of Schedule 1.
- 5.3 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 12 of Schedule 1.

6. When can the fee be reviewed?

- 6.1 The Grantor is to review the Concession Fee on the Concession Fee Review Dates in the following manner:
- (a) The Grantor must commence the review not earlier than 3 months before a Concession Fee Review Date and no later than 9 months following the Concession Fee Review Date by giving notice to the Concessionaire.
 - (b) Subject to clause 6.1(e) the notice must specify the Concession Fee which the Grantor considers to be the market value for the Concession Activity as at the Concession Fee Review Date having regard to the matters specified in section 17Y(2) of the Conservation Act 1987.
 - (c) If, within 28 days of receipt of the Grantor's notice, the Concessionaire gives notice to the Grantor that the Concessionaire disputes the proposed new

Concession Fee, the new Concession Fee is to be determined in accordance with clause 6.2(a) or (b).

- (d) If the Concessionaire does not give notice to the Grantor under clause 6.1(c) the Concessionaire is to be deemed to have accepted the Concession Fee specified in the Grantor's notice.
- (e) Notwithstanding clause 6.1(b) the new Concession Fee so determined or accepted must not be less than the Concession Fee payable during the year preceding the particular Concession Fee Review Date and is to be the Concession Fee payable by the Concessionaire from the Concession Fee Review Date.
- (f) Until determination of the new Concession Fee, the Concession Fee payable by the Concessionaire from the Concession Fee Review Date is to be the Concession Fee specified in the Grantor's notice. On determination of the new Concession Fee an adjustment is to be made and paid, either by the Grantor or by the Concessionaire, whichever is applicable.

6.2 Immediately the Concessionaire gives notice to the Grantor under clause 6.1(c) the parties are to endeavour to agree on a new Concession Fee. If the parties are unable to reach agreement within 28 days the new Concession Fee is to be determined either:

- (a) By one party giving notice to the other requiring the new Concession Fee to be determined by the Disputes clause (clause 23) or, if the parties agree,
- (b) by registered valuers acting as experts and not as arbitrators as follows:
 - (i) Each party must appoint a valuer and give notice of the appointment to the other party within 14 days of the parties agreeing to determine the new Concession Fee by this means.
 - (ii) If the party receiving a notice does not appoint a valuer within the 14 day period the valuer appointed by the other party is to determine the new Concession Fee and that valuer's determination is to be binding on both parties.
 - (iii) Before commencing their determination the respective valuers must appoint an umpire who need not be a registered valuer.
 - (iv) The valuers are to determine the new Concession Fee which they consider to be the market value for the Concession Activity as at the Concession Fee Review Date having regard to the matters specified in section 17Y(2) of the Conservation Act 1987 but in no case is the new Concession Fee to be less than the Concession Fee payable during the year preceding the particular Concession Fee Review Date. If they fail to agree the Concession Fee is to be determined by the umpire.
 - (v) In determining the Concession Fee the valuers or umpire are to disregard the annual cost to the Concessionaire to maintain or provide access to the Land.
 - (vi) Each party is to be given the opportunity to make written or oral representations or submissions to the valuers or the umpire subject to such reasonable time and other limits as the valuers or the umpire may prescribe.
 - (vii) The valuers or the umpire must have regard to any such representations but are not bound by them.

- (c) The valuers or umpire must give written notice to the parties once they have determined the new Concession Fee. The notice is to be binding on the parties and is to provide how the costs of the determination are to be borne.
- (d) If a Concession Fee Review Date is postponed because of a moratorium imposed by law the Concession Fee Review is to take place at the date the moratorium is lifted or so soon afterwards as is practicable; and
 - (i) the Concession Fee Review is to establish the market value for the Concession Activity as at that date instead of the date fixed under clause 6.1 having regard to the matters specified in section 17Y(2) of the Conservation Act 1987 but in no case is the new Concession Fee to be less than the Concession Fee payable during the year preceding the particular Concession Fee Review Date; and
 - (ii) each subsequent Concession Fee Review is to take place in accordance with the procedure fixed in clause 6.1.

7. Are there any other charges?

- 7.1 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.
- 7.2 The Grantor is not liable for any cost incurred in re-establishing the supply of any utilities in the event of any of them becoming unavailable for any reason.
- 7.3 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 12 of Schedule 1.
- 7.4 Where the Grantor or Director-General has provided a community service, benefit or facility for the benefit of the Concessionaire under section 17ZH of the Conservation Act 1987, the Concessionaire must pay the Grantor the amount specified in Item 8 of Schedule 1 as part of the Total Payment specified in Item 9 of Schedule 1 on the Concession Fee Payment Dates specified in Item 11 of Schedule 1.

8. When can the Concession be assigned?

- 8.1 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.
- 8.2 The Grantor may in the Grantor's discretion decline any application for consent under clause 8.1.
- 8.3 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.

- 8.4 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.
- 8.5 The Concessionaire must pay the costs reasonably incurred by the Grantor incidental to any application for consent, whether or not such consent is granted.
- 8.6 If the Concessionaire is not a publicly listed company then 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.

9. What are the obligations to protect the environment?

- 9.1 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.
- 9.2 The Concessionaire must at its cost keep the Land in a clean and tidy condition and free of weeds and all organisms specified as pests in a relevant pest management strategy.
- 9.3 The Concessionaire must not store hazardous materials on the Land nor store other materials on the Land where they may obstruct the public or create a nuisance.
- 9.4 If directed by the Grantor, the Concessionaire must take all steps necessary to control, or, at the Grantor's option, contribute to the cost of controlling any pest, insect or rodent infestation occurring in or emanating from the Land or any structure or facility on the Land, and if directed by the Grantor, engage a pest exterminator approved by the Grantor.
- 9.5 The Concessionaire must make adequate provision for suitable sanitary facilities for the Land if directed by the Grantor and for the disposal of all refuse material and is to comply with the reasonable directions of the Grantor in regard to these matters.
- 9.6 The Concessionaire must keep all structures, facilities and land alterations and their surroundings in a clean and tidy condition. If reasonably directed by the Grantor the Concessionaire must paint all structures and facilities in colours approved by the Grantor and with paints of a type approved by the Grantor.
- 9.7 If, during the Term, the Concessionaire removes a structure or facility from the Land the Concessionaire must, unless the Grantor directs otherwise, repair and make good at its own expense all damage which may have been done by the removal and must leave the Land in a clean and tidy condition.
- 9.8 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.

10. What about Environmental Monitoring?

- 10.1 The Concessionaire must, during the Term, if the Grantor so directs, design in consultation with the Grantor and undertake a programme to monitor and report on the environmental effects of the Concessionaire's use of the Land and conduct of the Concession Activity.
- 10.2 If the Grantor does not issue a direction under clause 10.1 the Concessionaire must, during the Term, pay to the Grantor the annual Environmental Monitoring Contribution specified in Item 7 of Schedule 1 to enable the Grantor to design and undertake a programme to monitor the environmental effects of the Concessionaire's use of the Land and conduct of the Concession Activity.
11. **When can new structures be erected or land alterations occur?**
 - 11.1 The Concessionaire must not erect, alter or bring on to the Land any structure not authorised in Schedule 3 nor alter the Land in any way without the prior approval of the Grantor.
 - 11.2 In giving approval under clause 11.1 the Grantor may, in the Grantor's sole and absolute discretion, impose any reasonable terms and conditions, including a review of the Concession Fee, as the Grantor considers appropriate under this clause; and may also decline the grant of such approval after consideration of the relevant conservation and environmental issues.
 - 11.3 The Concessionaire must pay to the Grantor all costs associated with applications for approval under this clause determined at the standard rates then applying in the Department for cost recovery of staff time and expenses.
 - 11.4 The Concessionaire must, upon request by the Grantor, submit written engineering or building plans and details to the Grantor for approval before:
 - (a) erecting new structure or altering any structure on the Land;
 - (b) altering the Land in any way.
 - 11.5 The Concessionaire must at all times where a building warrant of fitness under the Building Act 2004 is required display a copy of the relevant current certificate showing the location of the compliance schedule in a place in each building (as defined in that Act) on the Land to which users of the building have ready access.
 - 11.6 The Concessionaire must keep and maintain all building systems and any structure on the Land in accordance with the, requirements of any compliance schedule.
 - 11.7 The Concessionaire must retain and make available to any territorial authority and any other person with a right to inspect any structures on the Land under the Building Act 2004 a copy of the compliance schedule, together with the written reports relating to compliance with the compliance schedule over the previous two year period.
12. **What about advertising?**
 - 12.1 The Concessionaire must not erect or display any signs or advertising on the Land without the prior approval of the Grantor. At the expiry or termination of this Concession the Concessionaire must remove all signs and advertising material and make good any damage caused by the removal.

- 12.2 If directed by the Grantor, the Concessionaire must ensure that all its advertising and promotional material specifies that it is carrying out the Concession Activity under a Concession granted by the Grantor on land administered by the Department.
- 12.3 If directed by the Grantor, the Concessionaire must include information in its advertising and promotional material which assists its clients to understand the features and values of the natural and historic resources of the Land and the surrounding area.
- 12.4 The Concessionaire is encouraged to obtain information from and have regard to the views of tangata whenua.

13. What are the liabilities and who insures?

- 13.1 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.
- 13.2 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.
- 13.3 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.
- 13.4 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.
- 13.5 Despite anything else in clause 13 the Concessionaire is not liable for any indirect or consequential damage or loss howsoever caused.
- 13.6 The Grantor is not liable and does not accept any responsibility for damage to or interference with the Land, the Concession Activity, or to any structures, equipment or facilities on the Land 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 13.7, such damage or interference is caused by any wilful act or omission of the Grantor, the Grantor's employees, agents or contractors.
- 13.7 Where the Grantor is found to be liable in accordance with clause 13.6, the total extent of the Grantor's liability is limited to \$1,000,000 in respect of the Concessionaire's structures, equipment and facilities.
- 13.8 Despite anything else in clause 13 the Grantor is not liable for any indirect or consequential damage or loss howsoever caused.
- 13.9 Without prejudice to or in any way limiting its liability under this clause 13 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 14 of Schedule 1 with a substantial and reputable insurer.

- 13.10 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 13.9. 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.
- 13.11 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.

14. What about Health and Safety?

- 14.1 The Concessionaire must exercise the rights granted by this Concession in a safe and reliable manner and must comply with the Health and Safety in Employment Act 1992 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 15 of Schedule 1), and with any safety directions of the Grantor.
- 14.2 Before commencing the Concession Activity the Concessionaire must, where the Concessionaire has Qualmark or Outdoorsmark certification, provide the Grantor with a copy of that certification.
- 14.3 If the Concessionaire does not hold Qualmark or Outdoorsmark certification then before commencing the Concession Activity the Concessionaire must, if required by Item 15 of Schedule 1:
- (a) prepare a safety plan; and
 - (b) have it audited by a suitably qualified person approved by the Grantor; and forward to the Grantor a certificate from the auditor certifying that the safety plan is suitable for the Concession Activity; and
 - (c) the Concessionaire must obtain from the auditor details as to when the safety plan is to be re-audited. The Concessionaire must comply with any such requirement to re-audit and forward a copy of the re-audit certificate to the Grantor within 5 working days of the certificate being issued.
- 14.4 For any Concession Activity that is subject to the Health and Safety in Employment (Adventure Activities) Regulations 2011, proof of registration with WorkSafe New Zealand will satisfy the Grantor's requirement under clause 14.3(b).
- 14.3 If clause 14.2 applies then if the Concessionaire amends or replaces the safety plan then before the amendment or replacement plan takes effect the Concessionaire must comply with 14.3(b) and (c).
- 14.4 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.
- 14.5 Receipt of the certified safety plan by the Grantor is not in any way to limit the obligations of the Concessionaire under clause 14 and is not to be construed as implying any responsibility or liability on the part of the Grantor.

14.6 The Concessionaire must:

- (a) notify the Grantor of any natural events or activities on the Land or the surrounding area which may endanger the public or the environment;
- (b) take all practicable steps to protect the safety of all persons present on the Land and must, where necessary, erect signposts warning the public of any dangers they may encounter as a result of the Concessionaire's operations;
- (c) take all practicable steps to eliminate any dangers to the public and must clearly and permanently mark any that remain and of which the Concessionaire is aware;
- (d) record and report to the Grantor all accidents involving serious harm within 24 hours of their occurrence and forward an investigation report within 3 days of the accident occurring;
- (e) ensure that all contracts between the Concessionaire and any contractors contain, at a minimum, the same requirements as clause 14;
- (f) be satisfied that facilities or equipment provided by the Grantor to enable the Concession Activity to be carried out meet the safety requirements of the Concessionaire;
- (g) not bring onto the Land or any land administered by the Department any dangerous or hazardous material or equipment which is not required for purposes of the Concession Activity, and if such material or equipment is required as part of the Concession Activity, the Concessionaire must take all practicable steps at all times to ensure that the material or equipment is treated with due and proper care.

15. What are the compliance obligations of the Concessionaire?

15.1 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 IIA 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 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, 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 or the National Parks Act 1980; 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; and
- (d) with all Department signs and notices placed on or affecting the Land; and
- (e) with all reasonable notices and directions of the Grantor concerning the Concession Activity on the Land.

- 15.2 The Concessionaire must comply with this Concession.
- 15.3 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 15.1.(a) is deemed to be a breach of this Concession.
- 15.4 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.
- 15.5 If the Legislation requires the Grantor to spend money on the Grantor's own structures, facilities or land alterations on the Land, the Grantor may charge, in addition to the Concession Fee, an annual sum equal to 15% per annum of the amount spent by the Grantor.
- 15.6 If the Legislation requires the Grantor to spend money on structures, facilities or land alterations on the Land which the Grantor considers unreasonable, the Grantor may determine this Lease and any dispute as to whether or not the amount is unreasonable is to be determined in accordance with clause 23.
- 16. What if the Grantor's structures or facilities are damaged or destroyed?**
- 16.1 If the Grantor's structures or facilities or any portion of them are totally destroyed or so damaged:
- (a) as to render them untenable, the Lease is to terminate at once; or
 - (b) as, in the reasonable opinion of the Grantor, to require demolition or reconstruction, the Grantor may, within 3 months of the date of damage or destruction, give the Concessionaire 1 month's notice to terminate and a fair proportion of the Concession Fee and Other Charges is to cease to be payable according to the nature and extent of the damage.
- 16.2 Any termination under clause 16.1 is to be without prejudice to the rights of either party against the other.
- 16.3 If the Grantor's structures or facilities or any portion of them are damaged but not so as to render the premises untenable and:
- (a) the Grantor's policy or policies of insurance have not been invalidated or payment of the policy monies refused in consequence of some act or default of the Concessionaire; and
 - (b) all the necessary permits and consents are obtainable; and
 - (c) the Grantor has not exercised the right to terminate under clause 16.1,
- the Grantor must, with all reasonable speed, apply all insurance money received by the Grantor in respect of the damage towards repairing the damage or reinstating the structures or facilities; but the Grantor is not liable to spend any sum of money greater than the amount of the insurance money received.
- 16.4 Any repair or reinstatement may be carried out by the Grantor using such materials and form of construction and according to such plan as the Grantor thinks fit and is to be sufficient so long as it is reasonably adequate for the Concessionaire's use of the Land for the Concession Activity.

16.5 Until the completion of the repairs or reinstatement a fair proportion of the Concession Fee and other charges is to cease to be payable according to the nature and extent of the damage.

16.6 If any necessary permit or consent is not obtainable or the insurance money received by the Grantor is inadequate for the repair or reinstatement, the Term is at once to terminate but without prejudice to the rights of either party against the other.

17. What are the Grantor's rights to remedy defaults?

17.1 The Grantor may elect to remedy at any time, after giving notice, if practicable, any default by the Concessionaire under this Concession. 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.

17.2 The Concessionaire must pay to the Grantor forthwith on demand all reasonable costs and expenses incurred by the Grantor, including legal costs and expenses as between solicitor and client, in remedying such default. The Concessionaire is to pay interest on such costs and expenses if payment is not made within 14 day's of the Grantor's demand from the date of the demand until the date of payment at the Penalty Interest Rate specified in Item 12 of Schedule 1.

18. When can the Concession be suspended?

18.1 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.

18.2 If, in the Grantor's opinion, the activities of the Concessionaire are 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.

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

18.4 The Grantor may suspend this Concession while the Grantor investigates any of the circumstances contemplated in clauses 18.1 and 18.2 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.

18.5 The word "investigates" in clause 18.4 includes the laying of charges and awaiting the decision of the Court.

18.6 During any period of temporary suspension arising under clauses 18.1 or 18.2 the Concession Fee payable by the Concessionaire is to abate in fair proportion to the loss of use by the Concessionaire of the Land.

- 18.7 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 18 including loss of profits.

19. When can the Concession be terminated?

- 19.1 The Grantor may terminate this Concession either in whole or in part:

- (a) by 14 days notice to the Concessionaire if the Concession Fee or any other money payable to the Grantor under this Concession is in arrears and unpaid for 10 working days after any of the days appointed for payment whether it has been lawfully demanded or not; or
- (b) by 14 days notice to the Concessionaire or such sooner period as it appears necessary and reasonable to the Grantor if.
 - (i) the Concessionaire breaches any terms of this Concession and in the Grantor's sole opinion the breach is able to be rectified; and
 - (ii) the Grantor has notified the Concessionaire of the breach; and
 - (iii) the Concessionaire does not rectify the breach within 7 days of receiving notification; or such earlier time as specified by the Grantor; or
- (c) by notice in writing to the Concessionaire where the Concessionaire breaches any terms of this Concession and in the sole opinion of the Grantor the breach is not capable of being rectified; or
- (d) immediately by notice in writing to the Concessionaire where the Concessionaire breaches clauses 13.9 and 14; or
- (e) by notice in writing to the Concessionaire if the Concessionaire ceases to conduct the Concession Activity or, in the reasonable opinion of the Grantor, the conduct of the Concession Activity is manifestly inadequate; or
- (f) by notice in writing to the Concessionaire if the Concessionaire is convicted of an offence under the Conservation Act 1987 or any of the Acts listed in the First Schedule to that Act or any statute, ordinance, regulation, bylaw, or other enactment affecting or relating to the Land or which in the Grantor's sole opinion affects or relates to the Concession Activity; or
- (g) by notice in writing to the Concessionaire if the Concessionaire or the Grantor is dissolved; or enters into any composition with or assignment for the benefit of its creditors; or is adjudged bankrupt; or being a company, has a receiver appointed; or is put into liquidation; or is placed under statutory management; or has a petition for winding up presented against it; or is otherwise unable to pay its debts as they fall due; or the estate or interest of the Concessionaire is made subject to a Writ of Sale or charging order; or the Concessionaire ceases to function or operate; or
- (h) immediately if there is, in the opinion of the Grantor, a permanent risk to public safety or to the natural and historic resources of the Land whether arising from the conduct of the Concession Activity or from natural causes 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.

- 19.2 The Grantor may exercise its power to terminate under 19.1(h) without giving notice.

19.3 The Grantor may exercise the Grantor's right under this clause to terminate the Concession notwithstanding any prior waiver or failure to take action by the Grantor or any indulgence granted by the Grantor for any matter or default.

19.4 Termination of the Concession is not to prejudice or affect the accrued rights or claims and liabilities of the parties.

20. What happens on termination or expiry of the Concession?

20.1 If the Grantor permits the Concessionaire to remain in occupation of the Land after the expiry or earlier termination of the Term, (which permission may be oral or in writing), the occupation is to be on the basis:

- (a) of a monthly tenancy only, terminable by 1 month's notice by either party; and
- (b) at the Concession Fee then payable; and
- (c) otherwise on the same terms and conditions, as they would apply to a monthly tenancy, as expressed or implied in this Concession.

20.2 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.

20.3 The Concessionaire may, with the Grantor's written consent, remove any specified structures and other 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 and other public conservation land affected by the removal in a clean and tidy condition.

20.4 The Concessionaire must, if the Grantor gives written notice, remove any specified structures and other 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 and other public conservation land affected by the removal in a clean and tidy condition and replant the Land with indigenous vegetation of a similar abundance and diversity as at the commencement of the Term. If before the expiry of the Term the Concessionaire makes an application for a further concession in respect of the same Concession Activity on the Land then the Grantor cannot require such removal and reinstatement until such time as that concession application has been determined. If a new concession is granted then removal and reinstatement cannot be required until the expiry or termination of the new concession.

21. When is the Grantor's consent required?

21.1 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.

22. What about other concessions?

22.1 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.

23. How will disputes be resolved?

- 23.1 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.
- 23.2 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.
- 23.3 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.
- 23.4 The arbitrator must include in the arbitration award reasons for the determination.
- 23.5 Despite the existence of a dispute, each party must continue to perform its obligations under this Concession.

24. What about prosecution for offences?

- 24.1 Where any breach of this Concession by the Concessionaire also constitutes an offence under the Resource Management Act 1991, the Conservation Act 1987, or any of the Acts listed in the First Schedule to that Act:
 - (a) no waiver or failure to act by the Grantor under this Concession is to preclude the Grantor from prosecuting the Concessionaire; and
 - (b) no failure by the Grantor to prosecute the Concessionaire is to preclude the Grantor from exercising the Grantor's remedies under this Concession; and
 - (c) any action of the Grantor in prosecuting the Concessionaire is not to preclude the Grantor from exercising the Grantor's remedies under this Concession.

25. How are notices sent and when are they received?

- 25.1 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 17 or 18 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, on the date receipt of the email is acknowledged by the addressee by return email or otherwise in writing.

25.2 If any party's details specified in Item 17 or 18 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.

26. What is the scope of the Concession?

26.1 Except as provided by legislation, this Concession and any written variation agreed by the parties contain the entire understanding between the parties with reference to the subject matter of this Concession and there is no other agreement, representation or warranty whether it is expressed or implied which in any way extends, defines or otherwise relates to the provisions of this Concession.

27. Can provisions be severed?

27.1 Any illegality, or invalidity or unenforceability of any provision in this Concession is not to affect the legality, validity or enforceability of any other provisions.

28. What about the payment of costs?

28.1 The Concessionaire must pay the Grantor's legal costs and expenses of and incidental to preparing and signing this Concession or any extension or variation of it.

28.2 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.

29. What is the relationship of parties?

29.1 Nothing expressed or implied in this Concession is to be construed as constituting the parties as partners or joint venturers.

30. What about a Guarantee?

30.1 Where the Grantor has in Item 18 of Schedule 1 required this Concession to be guaranteed by a third party the following clauses are to apply.

30.2 In consideration of the Grantor entering into this Concession at the Guarantor's request the Guarantor:

- (a) guarantees payment of the Concession Fee and the performance by the Concessionaire of the covenants in this Concession; and
- (b) indemnifies the Grantor against any loss the Grantor might suffer should the Concession be lawfully disclaimed or abandoned by any liquidator, receiver or other persons.

30.3 The Guarantor covenants with the Grantor that:

- (a) no release, delay, or other indulgence given by the Grantor to the Concessionaire, to the Concessionaire's successors or assigns, or any other thing whereby the Guarantor would have been released had the Guarantor

been merely a surety is to release, prejudice, or affect the liability of the Guarantor as a Guarantor or as indemnifier;

- (b) as between the Guarantor and Grantor the Guarantor may, for all purposes, be treated as the Concessionaire and the Grantor is under no obligation to take proceedings against the Concessionaire before taking proceedings against the Guarantor;
- (c) the guarantee is for the benefit of and may be enforced by any person entitled for the time being to receive the Concession Fee;
- (d) any assignment of this Concession and any Concession Fee Review in accordance with this Concession are not to release the Guarantor from liability;
- (e) should there be more than one Guarantor the liability of each Guarantor under this Guarantee is to be joint and several.

31. What about Co-Siting?

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

31.2 The Concessionaire must not allow Co-Siting on the Land without the prior written consent of the Grantor.

31.3 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 Land.

31.4 In addition, the Grantor must withhold consent if:

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

31.5 Subject to clause 31.4 the Concessionaire must, if required by the Grantor, allow Co-Siting on the Land.

31.6 Where the Concessionaire maintains that Co-Siting by a third party on the Land would:

- (a) detrimentally interfere physically or technically with the use by the Concessionaire of the Land; 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 Land; 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 31.6. 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 31.6.

- 31.7 If the independent consultant report rejects the Concessionaire's concerns, the Concessionaire may dispute this in accordance with the procedure set out in clause 23 of Schedule 2.
- 31.8 Where the Concessionaire is required under clause 31.5 to allow Co-Siting on the Land, the Concessionaire is, subject to clause 31.10 entitled to enter into commercial agreements with third parties for them to conduct an activity on the Land and to receive a reasonable fee from them for any agreed activity they intend to carry out on the Land. 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.
- 31.9 If the Concessionaire does not accept the Grantor's determination, the Concessionaire may dispute this in accordance with the procedure set out in clause 23 of Schedule 2.
- 31.10 For the avoidance of doubt, a Co-Sitee permitted on the Land 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 Land. This separate concession must not contain provisions that conflict with the Concessionaire's rights and obligations in relation to the Land.
- 31.11 The Grantor must not authorise the third party to commence work on the Land 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.

32. What about Identification cards?

- 32.1 Before commencing the Concession Activity the Concessionaire must, if required by the Grantor in Item 16 of Schedule 1, obtain Concessionaire Identification cards from the Grantor. The Grantor is to supply such cards to the Concessionaire on a cost recovery basis.
- 32.2 The Concessionaire and any person acting under the authority of the Concession must carry and display a Concession Identification card when carrying out the Concession Activity.
- 32.3 The Concessionaire must obtain sufficient cards to ensure all people acting under the authority of the Concession can carry and display such cards when undertaking the Concession Activity.

33. What about registering the Concession?

33.1 The Grantor is not required to do any act or thing to enable this Concession to be registered and the Concessionaire must not register a caveat in respect of the Concessionaire's interest under this Concession.

33.2 Nevertheless, if the Concessionaire wishes to register this Concession under the Land Transfer Act 1952, the Grantor must take all such steps as are necessary to enable a certificate of title to issue in respect of the land against which this Concession may be registered subject to the Concessionaire being responsible for and bearing all costs of and incidental to any survey necessary to enable such issue of title and all costs incurred by the Grantor in enabling such an issue of title and in having this Lease re-executed by the parties in a form suitable for registration.

34. Which clauses survive termination?

34.1 Clauses 13 and 25 survive the termination of this Concession.

35. Are there any Special Conditions?

35.1 Special conditions are specified in Schedule 3.

36. The Law

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

SCHEDULE 3

SPECIAL CONDITIONS

SPECIAL CONDITIONS

Completion dates

1. All establishment works must be completed by 1st May.
2. All revegetation works should be completed by 1st May to the satisfaction of the Grantor (see special condition 15).

Contractor Briefing

3. A briefing by the Grantor or its monitoring contractor is to be made to the Concessionaire and its contractors prior to establishment works commencing.

Use of machinery

4. Machinery must not disturb other public conservation land or reserve that not addressed in this concession.

Access Road

5. The Concessionaire must ensure that public access to the Rastus Burn Recreation Reserve and Remarkables Conservation Area is maintained, subject to suitable safety measures (signs/barriers etc) being put in place to protect public safety during the construction phase.

Construction phase

6. All establishment works must be performed in accordance with the plans and methods forming part of the Concessionaires' application.
7. All necessary consents, permits or authorisations must be obtained by the Concessionaire from the relevant territorial or regional authority. The Grantor may require copies of such consents, permits or authorisations.
8. Any excavated material surplus to requirements must be disposed of in a manner agreed with the Grantor prior to disposal. This may include methods such as completely removing from the site or using as fill in other areas of the ski-field.
9. Any material required that cannot be supplied by the cut and fill methods described in the application must be sourced from an agreed location with the Grantor prior to being used. This could include material being sourced from or adjacent to the reserve.

10. Appropriate safety measures must be put in place (warning signs, barriers) to protect the safety of the public that might be in the area.

Revegetation of construction area

11. Consultation with the Grantor will occur prior to establishment works. Vegetation must be removed from all areas that will be worked, and either replaced or transplanted to an adjoining area, to the satisfaction of the Grantor.
12. Prior to the establishment works and in respect to any vegetation required to be removed, stored and replanted after establishment works, the Concessionaire must (at the discretion of the Grantor):
 - a. Water this removed vegetation to ensure its survival while stored,
 - b. Where there is sufficient plant material and humus to allow survival, stripped material can be split. To supplement re-vegetation works split material may also be sourced from other areas in the Rastus Burn Recreation Reserve.
13. The Concessionaire must conduct a revegetation/establishment program (in consultation with the Grantor) that includes the following requirements:
 - a. Priority for replanting shall be given to areas prone to erosion – eg. batters and steeper trail angles,
 - b. Areas worked where no vegetation exists to transplant or replant, must be planted using appropriate nursery stock plants,
 - c. The seed of appropriate species should be broadcast to promote vegetation growth in the rock walls and between transplanted/planted tussocks,
 - d. Plant spacing is to be at a density as specified by the independent monitor on site.
14. The establishment works resulting in the re-alignment of the road will result in a short section of the old road (the sharp S bend) being no longer being required. The Concessionaire must either add material to cover this and re-establish to tussock and associated species over time, or restore it to resemble the scree/boulder fields in the area (which ever will be the easier option to achieve).
15. To mitigate the risk of long term visual impacts, prior to development commencing NZSKI must supply a landscape plan that describes how the neighbouring tussock and scree landscape will be re-created around the new road and car park developments. The plan must also detail how replanted vegetation will be maintained on an ongoing basis.
16. Where erosion problems make revegetation unsuccessful (or incomplete by 1st May) the Concessionaire must (at the discretion of the Grantor):
 - a. Where there has been insufficient replanting by May 1st, any exposed topsoil must be managed to avoid erosion losses until replanting can be restarted in the following spring
 - b. Any vegetation die-back or poor growth areas identified by the Grantor with its monitoring must be rectified by the Concessionaire as directed by the Grantor within the timeframe for completion specified by the Grantor.
 - c. The Grantor will consider the Concessionaires revegetation requirements complete when vegetation cover is sufficient to prevent significant loss of soil and vegetation by water and wind erosion.

17. Re-vegetation Protocol

- a. The existing re-vegetation protocol must be updated to ensure it reflects both the extra requirements of this new project and the ongoing requirements of any concurrent re-vegetation actions.
- b. The protocol must set standards for re-vegetation actions, timeframes for achievement of goals and processes for remedying problems as they arise.
- c. The reviewed protocol must be approved by the Grantor prior to this project commencing.

Use of Explosives

18. Any use of explosives must be conducted following all industry standards and best practice.

Monitoring of establishment works

19. Establishment and revegetation works will be monitored by the Grantor or its contractor. Monitoring should be conducted regularly, to the satisfaction of the Grantor. All costs associated with inspections are recoverable from the Concessionaire.
20. The Grantor at its discretion may suspend the establishment works should monitoring reveal that unforeseen effects are occurring.
21. All revegetation growth will be monitored as part of the on-going inspections by the Grantor and the Grantor's contractor.

Culvert Construction

22. For the culverting of the Rastus Burn and Shadow Basin streams, the concessionaire must prepare an environmental management plan that includes the following:
 - a. A requirement that no contaminants are discharged into the stream or onto land in such a position or circumstances where those contaminants run off into the stream.
 - b. A requirement that works take place when the stream is in low flow, and works halted in times of higher flow.
 - c. A requirement that as much of the work as possible is carried out without the need for machinery entering the dry bed of the stream.
 - d. A requirement that all machinery is clean and well maintained and that refuelling is to be done away from the stream.
 - e. That prior to works commencing, that NZSKI must provide an engineering report for approval that details the new culvert's design and flood protection measures.

Cost recovery of inspections

23. The Grantor reserves the right to recover the actual and reasonable costs of site inspections including the costs of any consultants engaged to monitor the works.

Sec 9(2)(a)

SCHEDULE 4

Plan or map

Released under the Official Information Act

Concession number: PAC1306-42

Alta snow making
water pipes/hydrants.
DT-18422-SK1

DATED 5 December 2003

Between

MINISTER OF CONSERVATION
("the Grantor")

and

SOUTHERN ALPINE RECREATION LIMITED
("the Concessionaire")

CONCESSION DOCUMENT
(Easement in Gross)



Department of Conservation
Te Papa Atawhai

THIS DOCUMENT is made this day of 2003

PARTIES:

1. **MINISTER OF CONSERVATION**, ("the Grantor")
2. **SOUTHERN ALPINE RECREATION LIMITED** ("the Concessionaire")

BACKGROUND

- A. The Reserve described in Item 1 of Schedule 1 as the Land is vested in the Grantor.
- B. Section 59A of the Reserves Act 1977 authorises the Grantor, in accordance with Part IIIB of the Conservation Act 1987, to grant a Concession in respect of a Reserve vested in the Crown including a reserve vested in the Crown but controlled and managed by an administering body under any of sections 28, 29, 30, 35 and 36 of the Reserves Act 1977;
- C. The Concessionaire wishes to carry out the Concession Activity on the Easement Area subject to the terms and conditions of this Document.
- D. The Grantor has agreed to grant the Concessionaire an Easement in gross over that part of the Land specified as the Easement Area in Item 2 of Schedule 1.
- E. The Grantor is satisfied that the requirements of Part III B of the Conservation Act 1987 have been met

OPERATIVE PARTS

TERMS AND CONDITIONS

1.0 DEFINITIONS AND INTERPRETATION

1.1 In this Document, unless the context otherwise requires:

"**Activity**" has the same meaning as "Activity" in section 2 of the Conservation Act 1987.

"**Background**" means the matters referred to under the heading 'Background' on p2 of this Document.

"**Compensation**" means the amount specified in item 8 of schedule 1 and required by the Grantor under Section 17X of the Conservation Act 1987 for any adverse effects of the Concession Activity on the Crown's or public's interest in the Easement Area.

"**Concession**" means a concession as defined in section 2 of the Conservation Act 1987.

"**Concession Activity**" means the use of the Land for purposes of the Activity carried out by the Concessionaire and specified in Item 3 of Schedule 1.

"**Compensation Payment Date**" means the date specified in Item 9 of Schedule 1 on which the Compensation falls due for payment.

"**Co-Site**" means the use of the Easement Area or the Concessionaire's facilities on the Easement Area by a third party for a purpose permitted by the Grantor; and "**Co-Sitee**" and "**Co-Siting**" have corresponding meanings.

"**Department**" means the Department of Conservation established by section 5 of the Conservation Act 1987.

"**Director-General**" means the Director-General of Conservation.

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

"**Easement**" means the Easement in gross granted under this Document by the Grantor to the Concessionaire under section 59A of the Reserves Act 1977.

"**Easement Area**" means the area of the Land specified in Item 2 of Schedule 1.

"**Final Expiry Date**" means the date specified in Item 6 of Schedule 1.

"**Land**" means the area more particularly described in Item 1 of Schedule 1.

"Lease" means the Deed of Lease dated 30 August 1993 and Ski Field Lift Easement (Rastus Burn Recreation Reserve) dated 9 June 1999.

"Penalty Interest Rate" means the rate specified in Item 10 of Schedule 1.

"Reserve" means a reserve vested in the Grantor under the Reserves Act 1977.

"Term" means the period of time specified in Item 4 of Schedule 1 during which this Document operates.

"Working Days" means days on which the registered banks are open for general banking business in Dunedin.

1.2 In this Document unless the context otherwise requires:

- (a) a reference to a party is a reference to a party to this Document and includes that party's successors in title;
- (b) schedules and annexures form part of this Document and have effect accordingly;
- (c) words appearing in this Document which also appear in Schedule 1 mean and include the details appearing after them in that Schedule;
- (d) a provision of this Document to be performed by two or more persons binds those persons jointly and severally;
- (e) a reference to a person includes an individual, a body corporate, an association of persons (whether corporate or not), a trust, or an agency of State or of the Crown (in each case whether or not having separate legal personality);
- (f) words in a singular number include the plural and vice versa;
- (g) words importing a gender include all other genders;
- (h) 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 Document;
- (i) where the Grantor's consent or approval is expressly required under a provision of this Document, the Concessionaire must seek the consent or approval of the Grantor for each separate occasion it is required notwithstanding that the Grantor has granted consent or approval for a like purpose on a prior occasion.

1.3 Words used in the Background to this Document have the same meaning given to them in clause 1.1.

2.0 GRANT OF EASEMENT IN GROSS

- 2.1 In exercise of the Grantor's powers under section 59A of the Reserves Act 1977 the Grantor **GRANTS** to the Concessionaire an **EASEMENT IN GROSS** to carry out the Concession Activity on the Easement Area subject to the terms and conditions contained in this Document.

3.0 TERM

- 3.1 The Easement is for the Term specified in Item 4 of Schedule 1.

- 3.2 There is no automatic right of renewal of the Term.

- 3.3 The Term ends on the Final Expiry Date specified in Item 6 of Schedule 1.

4.0 SURRENDER OF DOCUMENT

- 4.1 If the Concessionaire wishes to terminate this Document before the expiry of the Term the Concessionaire must give the Grantor 3 months' notice in writing.

- 4.2 The Grantor must accept the Concessionaire's notice of termination but in doing so may impose whatever reasonable terms and conditions the Grantor considers appropriate, including the matters referred to in clause 6.2.

5.0 COMPENSATION

- 5.1 The Concessionaire must pay the Compensation specified in Item 7 of Schedule 1 to the Grantor on the Compensation Payment Date referred to in Item 8 of Schedule 1.

- 5.2 If the Concessionaire defaults in payment of the Compensation for 14 days after a Compensation Payment Date the Concessionaire is to pay interest on the unpaid Compensation from the Compensation Payment Date until the date of payment at the Penalty Interest Rate specified in Item 9 of Schedule 1.

6.0 OTHER CHARGES

- 6.1 In addition to the Compensation the Concessionaire must pay the following charges ("Other Charges") on demand and in the manner directed by the Grantor:

- (a) levies, taxes, duties, assessments, charges and other outgoings which may be charged, levied or reasonably assessed or which may become payable in relation to the Easement Area, any structure or facility on the Easement Area, or the Concession Activity;
- (b) all costs in relation to the supply of water, sewage, drainage and rubbish disposal which are not otherwise included in any charges or assessments made by any authority or by the Grantor;

- (c) all costs incurred by the Grantor in providing an annual building warrant of fitness to a territorial authority, including costs paid to an independent qualified person for a report establishing or re-establishing compliance with a compliance schedule. If work is required to a structure or facility of the Grantor's on the Easement Area in order to obtain a new building warrant of fitness, the Grantor is to pay the cost of the work subject to the Concessionaire's obligations under clause 10.

6.2 If the Concessionaire surrenders this Document with the consent of the Grantor, the Concessionaire will continue to be liable for and must pay to the Grantor on demand in respect of its occupation of and activity on the Easement Area all Other Charges which may be due for the current payment period i.e. the time between one payment period and the next even though this period may not expire until after the date of surrender.

6.3 The Concessionaire must pay all charges for electric power, water supply, geothermal energy, telephone rental and other utilities supplied to the Easement Area. The Grantor will not be liable for any cost incurred in re-establishing the supply of any of these utilities in the event of any of them becoming unavailable for any reason.

7.0 CONCESSION ACTIVITY

7.1 The Concessionaire is not to use the Easement Area for any purpose under this Document other than the Concession Activity.

7.2 The Concessionaire must, as a condition of this Document:

- (a) take out and maintain and pay all fees for all licences, permits, authorisations, consents (including resource consents under the provisions of the Resource Management Act 1991), and renewals (collectively "the Permissions") as may be necessary for the proper conduct of the Concession Activity;
- (b) not do or suffer to be done any act whereby these Permissions may be forfeited or suspended or refused.

7.3 The rights and powers conferred on the Concessionaire by the provisions set out in Item 3 of Schedule 1 are subject to the terms and conditions of this Document. In the event of a conflict between the provisions of Item 3 and the terms and conditions of this Document, the latter is to prevail.

8.0 COMPLIANCE

8.1 The Concessionaire will, in relation to the Land, comply where relevant:

- (a) with the provisions of any conservation management strategy or conservation management plan as required by Part IIA of the Reserves Act 1997 together with any amendment or review of any strategy or plan whether approved before, on, or after the date on which this Document takes effect; and

- (b) with the Reserves Act 1977 and any other statute, ordinance, regulation, bylaw, or other enactment (collectively the "Legislation") affecting or relating to the Easement Area or affecting or relating to the Concession Activity.
- 8.2 The Concessionaire must comply with all conditions imposed by the Grantor in granting this Document whether expressed or implied.
- 8.3 (a) A breach or contravention by the Concessionaire of a relevant conservation management strategy or conservation management plan, will be deemed to be a breach of this Document.
- (b) A breach or contravention by the Concessionaire of any Legislation affecting or relating to the Easement Area or affecting or relating to the Concession Activity will be deemed to be a breach of this Document.
- 8.4 If the Legislation requires the Grantor to spend an amount on structures, facilities or land alterations on the Easement Area which the Grantor considers unreasonable, the Grantor may determine this Easement and any dispute as to whether or not the amount is unreasonable is to be determined in accordance with clause 27. The Grantor will not terminate the Easement while a dispute is being resolved.

9.0 STRUCTURES, FACILITIES AND LAND ALTERATIONS

- 9.1 The Concessionaire must not erect or bring on to the Easement Area any structure, install any facility or alter the Easement Area in any way without the prior written consent of the Grantor.
- 9.2 In giving approval under clause 9.1 the Grantor may, in the Grantor's sole and absolute discretion, impose any reasonable terms and conditions, including a review of the Concession Fee, as the Grantor considers appropriate under this clause; and may also decline the grant of such approval after consideration of the relevant conservation and environmental issues.
- 9.3 The Concessionaire must pay to the Grantor all reasonable costs associated with applications for approval under this clause determined at the standard rates then applying in the Department for cost recovery of staff time and expenses.
- 9.4 The Concessionaire must, upon request by the Grantor, submit written engineering or building plans and details to the Grantor for approval before :
 - (a) erecting or altering any structure on the Easement Area;
 - (b) bringing any structure on to the Easement Area;
 - (c) installing any facilities on the Easement Area; or

(d) altering the Easement Area in any way.

9.5 The Concessionaire must not commence any work on the Easement Area until the Grantor has given its written approval.

9.6 When undertaking any work under this clause the Concessionaire must comply with all statutory requirements including obtaining building consents and code compliance certificates under the Building Act 1991.

9.7 The Concessionaire is to keep and maintain its structures and facilities on, or alterations to, the Easement Area in good repair.

10.0 INSURANCE OF STRUCTURES, FACILITIES AND LAND ALTERATIONS

10.1 The Concessionaire must insure and keep insured with an insurer approved by the Grantor all structures, facilities and land alterations on the Easement Area in the joint names of the Grantor and Concessionaire for their respective interests to their full replacement value against loss or damage caused by fire, earthquake, fire consequent on earthquake, avalanche, flood, volcanic activity; and including indemnity insurance for the cost of demolition, removal of debris and clearance of the Easement Area.

10.2 The Concessionaire must provide the Grantor with a copy certificate of currency for the policy or policies of insurance before commencing the Concession Activity and on each renewal of the policy.

11.0 CONCESSIONAIRE'S FURTHER OBLIGATIONS

11.1 The Concessionaire must at the Concessionaire's expense:

- (a) take all steps necessary to control any pest, insect or rodent infestation occurring in or emanating from the Easement Area or any structure or facility on the Easement Area, and if required by the Grantor, engage a pest exterminator approved by the Grantor;
- (b) comply strictly with the provisions of the Biosecurity Act 1993;
- (c) comply with all requirements of any competent authority regarding sanitation and with all relevant bylaws and fire safety requirements;
- (d) at all times display a copy of the relevant current building warrant of fitness under the Building Act 1991 showing the location of the compliance schedule in a place in each building (as defined in that Act) on the Easement Area to which users of the building have ready access;

- (e) keep and maintain all building systems and any structure on the Easement Area and belonging to the Concessionaire in accordance with the requirements of any compliance schedule;
- (f) retain and make available to any territorial authority and any other person with a right to inspect any structures on the Easement Area under the Building Act 1991 a copy of the compliance schedule together with the written reports relating to compliance with the compliance schedule over the previous two year period.

12.0 PROTECTION OF THE ENVIRONMENT

12.1 Except as approved in writing by the Grantor the Concessionaire will not, whether by act or omission:

- (a) interfere with, remove, damage, or endanger the natural features, animals, plants, or historic resources on the Easement Area; or
- (b) bring any plants, animals, or firearms on to the Easement Area; or
- (c) deposit on the Easement Area debris, rubbish or other dangerous or unsightly matter, or contaminate any water body on the Easement Area; or
- (d) pile or store materials in any place on the Easement Area where it may obstruct the public or create a nuisance; or
- (e) conduct any noxious, noisome, dangerous or offensive activity on the Easement Area.

12.2 The Concessionaire will keep the Easement Area in a clean and tidy condition and free of weeds and all organisms specified as pests in a relevant pest management strategy.

12.3 The Concessionaire will keep all structures, facilities and land alterations and their surroundings in a clean and tidy condition. If reasonably required by the Grantor the Concessionaire will paint all structures and facilities in colours specified in writing by the Grantor and with paints of a type approved in writing by the Grantor.

12.4 If, during the Term, the Concessionaire removes a structure or facility from the Easement Area the Concessionaire will, unless the Grantor indicates otherwise in writing, repair and make good at its own expense all damage which may have been done by the removal and will leave the Easement Area in a clean and tidy condition.

12.5 Should the Concessionaire fail to repair and restore the damage within 6 months of the removal of a structure or facility or such further time as the Grantor may approve in writing, the Grantor may undertake whatever works and operations are necessary to effect the same and may recover from the Concessionaire any costs and expenses incurred in doing it as a debt due by the Concessionaire to the Grantor.

12.6 The Concessionaire must:

- (a) take all reasonable precautions to ensure no fire hazards arise from its carrying out of the Concession Activity or from any act or neglect of its employees, contractors, invitees or agents;
- (b) not light or permit to be lit any fire on the Easement Area.
- (c) not store or permit to be stored fuels or other combustible materials on the Easement Area without the written permission of the Grantor. In that event storage of fuels and combustible materials must be in accordance with the provisions of the Hazardous Substances and New Organisms Act 1996;
- (d) comply with the Grantor's requirements for fire warning and safety equipment and for fire fighting equipment to be kept on the Easement Area at all times.

12.7 The Concessionaire must ensure that its employees, clients and invitees do not carry out any acts prohibited under clause 12.

12.8 The Concessionaire must immediately report to the Lessor any act in contravention of clause 12 and wherever possible the names and addresses of any person carrying out such acts; and must provide the Lessor with details of the circumstances surrounding such incidents.

13.0 ADVERTISING

13.1 The Concessionaire must not erect or display any signs or advertising on the Easement Area without the prior written approval of the Grantor. At the expiry or termination of this Concession the Concessionaire must remove all signs and advertising material and make good any damage caused by the removal.

13.2 If required by the Grantor, the Concessionaire must ensure that all its signs and advertising material specify that it is carrying out the Concession Activity under a Concession granted by the Grantor on land administered by the Department.

14.0 EMPLOYMENT OF STAFF

14.1 The Concessionaire must ensure that the Concession Activity is conducted at all times by a person or persons suitably trained and qualified to carry out the Concession Activity.

14.2 The Concessionaire must provide the Grantor with evidence of the competency and qualifications of its employees if the Grantor so requests.

14.3 The Concessionaire must comply with all statutes relating to employment of staff.

15.0 HEALTH AND SAFETY

15.1 The Concessionaire is to carry out the Concession Activity on the Easement Area in a safe and reliable manner and must comply with:

- (a) the Health and Safety in Employment Act 1992 and its regulations; and
- (b) all other statutes, regulations and bylaws and all notices and requisitions of any competent authority relating to the conduct of the Concession Activity.

15.2 The Concessionaire must notify the Grantor of any natural events or activities on the Easement Area or the surrounding area which may endanger the public or the environment.

15.3 The Concessionaire must :

- (a) take all reasonable steps to protect the safety of all persons present on the Easement Area and must, where necessary, erect protective signposts warning the public of any dangers they may encounter as a result of the Concessionaire's operations;
- (b) take all reasonable steps to eliminate any dangers to the public and must clearly and permanently mark any that remain and of which the Concessionaire is aware.

15.4 Before commencing the Concession Activity the Concessionaire must, if required by the Grantor, prepare a safety plan and have it audited by a suitably qualified person approved by the Grantor.

15.5 The Concessionaire must not commence the Concession Activity until:

- (a) the person appointed to audit the safety plan has certified the safety plan is suitable for the Concession Activity; and
- (b) the Concessionaire supplies the Grantor with a copy of the safety plan certified under clause 15.5(a).

15.6 Receipt of the certified safety plan by the Grantor is not in any way to limit the obligations of the Concessionaire under clause 15 and is not to be construed as implying any responsibility or liability on the part of the Grantor.

16.0 TEMPORARY SUSPENSION

16.1 The Grantor may temporarily suspend this Document if, in the opinion of the Grantor, there is a temporary risk to public safety or the safety of the Department's staff or the safety of other Concessionaires whether from arising from natural events such as

earthquake, land slip, volcanic activity, or flood or whether arising in any other way including the activities of the Concessionaire, its employees, clients or invitees.

- 16.2 If, in the opinion of the Grantor, the activities of the Concessionaire, its employees, clients or invitees are having or may have an adverse effect on the environment and the Grantor is of the opinion that the effect can be avoided, remedied or mitigated to an extent satisfactory to the Grantor, the Grantor may suspend this Concession until the Concessionaire remedies, avoids or mitigates the adverse impact to the satisfaction of the Grantor.
- 16.3 The Grantor may suspend this Concession while it investigates any of the circumstances contemplated in clauses 16.1 and 16.2 and also while it 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 of which it has become aware.
- 16.4 The word "investigates" in clause 16.3 includes the laying of charges and awaiting the decision of the Court.
- 16.5 During any period of temporary suspension the Concession Fee payable by the Concessionaire is to abate in fair proportion to the loss of use by the Concessionaire of the Easement Area.
- 16.6 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 clause 16 including loss of profits.

17.0 ASSIGNMENT

- 17.1 The Concessionaire is not to transfer, assign, mortgage or otherwise dispose of the Concessionaire's interest under this Document or any part of it without the prior written consent of the Grantor. The Grantor may in its discretion decline any application for consent under this clause, such consent not to be unreasonably withheld.
- 17.2 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 its discretion, decides otherwise.
- 17.3 If the Grantor gives consent under this clause the Concessionaire is to remain liable to observe and perform the terms and conditions of this Document throughout the Term and is to procure from the transferee, or assignee a covenant to be bound by the terms and conditions of this Document.
- 17.4 The Concessionaire must pay the costs reasonably incurred by the Grantor incidental to any application for consent, whether or not such consent is granted.

- 17.5 Any change in the shareholding of the Concessionaire altering the effective control of the Concessionaire will be deemed to be an assignment and will require the consent of the Grantor.

18.0 CO-SITING

- 18.1 (a) The Concessionaire will not allow Co-Siting on the Easement Area.
- 18.2 The Concessionaire must, if required by the Grantor, allow Co-Siting on the Easement Area except where the Concessionaire demonstrates to the reasonable satisfaction of the Grantor that such Co-Siting by the third party 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.
- 18.3 The Grantor will be entitled to require the Concessionaire to obtain a report prepared by an independent consultant acceptable to the Grantor, confirming the presence of either of the matters referred to in clause 18.3. The cost of the report is to be borne by the Concessionaire.
- 18.4 For the avoidance of doubt a Co-Sitee permitted on the Easement Area must enter into a separate agreement with the Grantor in terms of which the Co-Sitee will be required to pay a fee to the Grantor to conduct an Activity on the Easement Area. This separate agreement must not contain provisions which conflict with the Concessionaire's rights and obligations in relation to the Easement Area.

19.0 TERMINATION

- 19.1 The Grantor may terminate this Concession by 7 days notice in writing to the Concessionaire if:
- (a) the Concession Fee or any other money payable to the Grantor under this Document is in arrears and unpaid for 30 days after any of the days appointed for payment whether it has been lawfully demanded or not; or
 - (b)
 - (i) the Concessionaire breaches any terms of this Document; and
 - (ii) the Grantor has notified the Concessionaire in writing of the breach; and
 - (iii) the Concessionaire does not rectify the breach within 7 days of receiving notification; or

- (c) the Concessionaire ceases to conduct the Concession Activity or, in the reasonable opinion of the Grantor, the services provided by the Concessionaire are manifestly inadequate; or
- (d) the Concessionaire is convicted of an offence, whether or not related to the Concession Activity, under the Conservation Act 1987 or any of the Acts listed in the First Schedule to that Act; or the Health and Safety in Employment Act 1982; or the Building Act 1991; or the Resource Management Act 1991; or the Biosecurity Act 1993; or
- (e) the Concessionaire is dissolved; or enters into any composition with or assignment for the benefit of its creditors; or is adjudged bankrupt; or being a company, has a receiver appointed; or is put into liquidation; or is placed under statutory management; or has a petition for winding up presented against it; or is otherwise unable to pay its debts as they fall due; or the Concessionaire ceases to function or operate; or
- (f) there is, in the opinion of the Grantor, a permanent risk to public safety or the environment whether arising from the conduct of the Concession Activity or from natural causes 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 Document on the part of the Concessionaire.

19.2 If the Grantor terminates the Concession under this clause all rights of the Concessionaire are to cease absolutely; but the Concessionaire is not to be released from any liability to pay the Concession Fee or other monies up to the date of termination or for any breach of any term up to the date of termination.

19.3 The Grantor may exercise the right under this clause to terminate the Concession notwithstanding any prior waiver or failure to take action by the Grantor or any indulgence granted by the Grantor for any matter or default.

19.4 Immediately on termination, the Concessionaire must execute a surrender of this Document if the Grantor so requires it.

20.0 GRANTOR MAY REMEDY CONCESSIONAIRE'S DEFAULT

20.1 The Grantor may elect to remedy at any time without notice any default by the Concessionaire under this Concession.

20.2 The Concessionaire must pay to the Grantor forthwith on demand all reasonable costs and expenses incurred by the Grantor, including legal costs and expenses as between solicitor and client, in remedying such default.

21.0 GRANTOR'S DIRECTIONS

- 21.1 The Concessionaire must comply with all reasonable notices and directions of the Grantor concerning the activities conducted by the Concessionaire on the Easement Area or the conduct of any person on the Easement Area under the authority of this Document.

22.0 POWERS, RIGHTS AND AUTHORITIES

- 22.1 All powers, rights and authorities of the Grantor under this Document and any notice required to be given by the Grantor may be exercised and given by the Director-General or any officer, employee, or agent of the Director-General.

23.0 INDEMNITIES AND INSURANCE

- 23.1 The Concessionaire will indemnify and keep indemnified the Grantor against all claims made by any person in respect of any injury, loss, or damage, including fire, caused or suffered as a result of or arising out of any acts or omissions of the Concessionaire, its employees, agents, contractors, clients or invitees or otherwise caused as a consequence of its occupation of the Easement Area or as a result of its conduct of the Concession Activity on the Easement Area.
- 23.2 This indemnity is to continue after the expiry or other determination of this Document in respect of those acts or omissions occurring or arising before its expiry or determination.
- 23.3 Without prejudice to or in any way limiting its liability under clause 23.1 the Concessionaire must take out and keep in force during the Term:
- (a) a policy of public liability insurance against liability for loss, damage or injury from any one single accident or event arising out of the Concessionaire's use of the Easement Area or its conduct of the Concession Activity on the Easement Area and covering:
 - (i) general indemnity for a sum not less than the amount specified in Item 10 of Schedule 1; and
 - (ii) Forest and Rural Fires Act 1977 extension for a sum not less than the amount specified in Item 11 of Schedule 1; and
 - (b) statutory liability for the matters and amount specified in Item 12 of Schedule 1; and
 - (c) such other policy or policies of insurance against any other liability and for such other sums which the Lessor specifies in Item 13 of Schedule 1, including those matters specified in clause 10.
- 23.4 With respect to clause 23.3 the Concessionaire must provide copy certificates of currency for the policies of insurance before commencing the Concession Activity and on each renewal of them.

- 23.5 (a) The Grantor will not be liable and does not accept any responsibility for damage to or interference with the Concession Activity or to the structures or facilities on the Easement Area or any other indirect or consequential damage due to any natural disaster, vandalism, sabotage, fire or exposure to the elements except where, subject to the clause 23.5(b), such damage or interference is caused by any wilful act or omission of the Grantor, its employees, agents or contractors;
- (b) Where the Grantor is found to be liable due to a wilful act or omission, the total extent of its liability is limited to \$1,000,000 in respect of the Concessionaire's structures and facilities.

23.6 Notwithstanding anything else in clause 23 the Grantor is not liable for any indirect or consequential loss howsoever caused.

24.0 ENVIRONMENTAL MONITORING AND LAND REHABILITATION

- 24.1 The Concessionaire must, during the Term, if the Grantor so requests in writing, design in consultation with the Grantor and undertake a programme to monitor and report on the environmental effects of the Concessionaire's use of and activities on the Easement Area.
- 24.2 If the Grantor does not make a request under clause 24.1 the Concessionaire must, during the Term, pay to the Grantor the annual environmental monitoring contribution specified in Item 14 of Schedule 1 to enable the Grantor to design and undertake a programme to monitor the environmental effects of the Concessionaire's use of and activities on the Easement Area.
- 24.3 Subject to any conditions imposed by the Grantor and set out in Schedule 2, at the expiry, surrender or termination of this Document, the Concessionaire must reinstate the Easement Area to its condition at the commencement of the Term and replant the Easement Area with indigenous vegetation of a similar abundance and diversity as at the commencement of the Term.

25.0 EXPIRY OF EASEMENT

- 25.1 If, on expiry of the Term, the future use of, or any operation on, the Easement Area is not authorised by the Grantor, the Concessionaire accepts that the Grantor will have no liability whatsoever for any costs incurred by the Concessionaire as a result of the expiry of this Document.
- 25.2 Subject to any conditions set out in Schedule 2, at the expiry, surrender or termination of the Term the Concessionaire must remove all the Concessionaire's structures and facilities on the Site unless the Grantor approves otherwise in writing.
- 25.3 If the Concessionaire does not remove the structures and facilities as required by clause 25.2, or as otherwise approved by the Grantor, the structures or facilities remaining on the

Easement Area at the expiry, surrender or termination of this Document, will be deemed to be fixtures and property in them will vest absolutely in the Grantor.

- 25.4 In that case the Grantor will not be liable to pay compensation to the Concessionaire for the structures and facilities and may, at its option, remove or destroy or otherwise dispose of them, and recover the costs and expenses of their removal or destruction from the Concessionaire as a debt due to the Grantor.

26.0 **FORCE MAJEURE**

- 26.1 Neither party will be liable to the other party for any delay in performance, of or failure to perform, its obligations (other than a payment of money) under this Document as a result of any cause beyond its reasonable control.
- 26.2 If the delay or failure continues for at least 28 days either party will be entitled to terminate this Document by notice in writing.

27.0 **DISPUTE RESOLUTION AND ARBITRATION**

- 27.1 If a dispute arises between the parties in connection with this Document including without limitation the interpretation, validity, breach or termination of any of its provisions, the parties will, without prejudice to any other rights or entitlements they may have under this Document or otherwise, 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.
- 27.2 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 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.
- 27.3 All arbitration proceedings are to take place in New Zealand and to be governed by New Zealand law.
- 27.4 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.
- 27.5 The arbitrator must include in the arbitration award reasons for the determination.

28.0 NOTICES

- 28.1 Any notice to be given under this Document by one party to the other is to be in writing and made by personal delivery, by pre-paid post or by facsimile addressed to the receiving party at the address or facsimile number set out in Item 15 of Schedule 1.
- 28.2 A notice given in accordance with clause 28.1 will be deemed to have been received:
- (a) in the case of personal delivery, on the date of delivery;
 - (b) in the case of a letter, on the third working day after posting;
 - (c) in the case of facsimile, on the date of dispatch.

29.0 COSTS

- 29.1 The Concessionaire must pay the Grantor's legal costs and expenses of and incidental to preparing and executing this Document or any extension or variation of this Document.
- 29.2 The Concessionaire must pay in full immediately on demand all costs and fees (including but not limited to solicitors' costs and the fees of debt collecting agencies engaged by the Grantor) arising out of and associated with steps taken by the Grantor:
- (a) to enforce or attempt to enforce the Grantor's rights and powers under this Document if the Concessionaire is in breach or default;
 - (b) to recover outstanding money owed to the Grantor.

30.0 RELATIONSHIP OF PARTIES

- 30.1 Nothing expressed or implied in this Document shall be construed as:
- (a) constituting the parties as partners or joint venturers;
 - (b) conferring on the Concessionaire any right of exclusive occupation or use of the Easement Area;
 - (c) preventing the Lessor from granting similar concessions to other persons;
 - (d) derogating from the rights of the Grantor and the public to have access across the Easement Area.

31.0 OFFENCES

31.1 Where any breach of this Concession by the Concessionaire also constitutes an offence under the Conservation Act 1987 or any of the Acts listed in the First Schedule to that Act:

- (a) no waiver or failure to act by the Grantor under this Document is to preclude the Grantor from prosecuting the Concessionaire; and
- (b) no failure by the Grantor to prosecute the Concessionaire is to preclude the Grantor from exercising its remedies under this Document; and
- (c) any action of the Grantor in prosecuting the Concessionaire is not to preclude the Grantor from exercising its remedies under this Document.

32.0 SEVERABILITY

32.1 Any illegality, or invalidity or unenforceability of any provision in this Document is not to affect the legality, validity or enforceability of any other provisions.

33.0 ENTIRE UNDERSTANDING

33.1 Except as provided by legislation, this Document and any written variation agreed by the parties contain the entire understanding between the parties with reference to the subject matter of this Document and there is no other agreement, representation or warranty whether it is expressed or implied which in any way extends, defines or otherwise relates to the provisions of this Document.

34.0 VARIATION

34.1 The provisions of section 17ZC of the Conservation Act 1987 apply to all variations sought by the Concessionaire and to any application for an extension to the Term.

34.2 As provided by section 17ZC(3) of the Conservation Act 1987, the Grantor may vary any of the conditions of this Document if the variation is necessary:

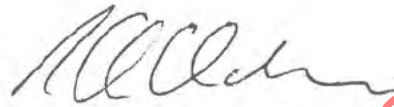
- (a) to deal with significant adverse effects of the Activity that are not reasonably foreseeable at the time this Easement is granted; or
- (b) because the information made available to the Grantor by the Concessionaire for the purposes of the Concessionaire's application contained inaccuracies which materially influenced the decision to grant the easement and the effects of the Activity permitted by this Document require more appropriate conditions

34.3 The Concessionaire is to be bound by every such variation.

Signed by Jeffrey Edward Connell



for and on behalf of
the Minister of Conservation
pursuant to a written delegation
in the presence of:



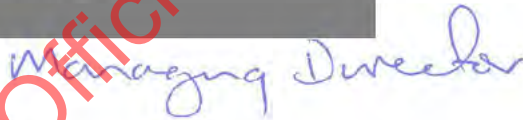
Sec 9(2)(a)

Signed by

Sec 9(2)(a)

For and behalf of
Southern Alpine Recreation Limited
In the presence of

Sec 9(2)(a)



HAMISH MCCROSTIE

REMARKABLES SKI AREA MANAGER

SCHEDULE 1

1. **Land:** That part of the Rastus Burn Recreation Reserve shown outlined in blue on the plan attached. *(see definition of Land in clause 1.1)*
2. **Easement Area:** The same as 'Land' above *(see definition of Easement Area in clause 1.1)*
3. **Concession Activity:** to be used for snowmaking pipes, cabling and hydrants *(see definition of Concession Activity in clause 1.1)*
4. **Term:** To run with the term of the lease *(see clause 3.1)*
5. **Renewal:** not applicable *(see clause 3.2)*
6. **Final Expiry Date:** As per lease *(see clause 3.3)*
7. **Compensation:** one peppercorn (if demanded) *(see clause 5.1)*
8. **Compensation Payment Date:** on or before the date specified on the invoice generated by the Grantor *(see clause 5.1)*
9. **Penalty Interest Rate:** *(see clause 5.2)*
Double the Grantor's bank's current highest 90 day bank bill buy rate
10. **Public Liability General Indemnity Cover:** *(see clause 23.3)*
for \$500,000
11. **Public Liability Forest & Rural Fire Act Extension:** *(see clause 23.3)*
for \$500,00
12. **Statutory Liability** *(see clause 23.3)*
for \$30,000
- 13(a) **Other Types of Insurance:** *(see clauses 10 & 23.3)*
for \$ not applicable
- 13(b) **Amounts Insured for Other Types of Insurances:** *(see clauses 10 & 23.3)*
for \$ not applicable
14. **Environmental Monitoring Contribution:** not applicable *(see clause 24.2)*

15. Address for Notices:

(see clause 28)

- | | | | | |
|-----|----------------|---|-----------------------------|---------------|
| (a) | Grantor | C/- Box 5244
DUNEDIN | 77 Stuart Street
DUNEDIN | (03) 4778 626 |
| (b) | Concessionaire | the address of the registered office of the Concessionaire
Sec 9(2)(a) | | |

Released under the Official Information Act

SCHEDULE 2

Special Conditions

1. The concessionaire must consult with the Area Manager in Wakatipu prior to the commencement of works to arrange site inspections, monitoring of the works, rehabilitation of the site, site safety and any other appropriate requirements.
2. The concessionaire must be rehabilitate all land affected by the works and the easement under the supervision of John Baker of Home Creek Nursery.
3. The concessionaire must not impede public access into the reserve and adjoining conservation areas.
4. The concessionaire must prepare a site safety plan which will include measures to be implemented on the site with respect to public safety and appropriate signage to be placed in the public car parks informing the public of the work.
5. The concessionaire must indemnify the Grantor, the Director General of Conservation, the Department of Conservation's employees and Her Majesty the Queen against all and any action, claim, injury, damage, or loss which may arise as a result of the granting of this work.
6. The concessionaire must comply with all of the conditions in the Deed of Lease dated 30 August 1993 and Ski Field Lift Easement (Rastus Burn Recreation Reserve) dated 9 June 1999 with respect to the proposed works.
7. The concessionaire must fully reimburse the Grantor for all Department of Conservation staff time involved with site inspections/monitoring.

Sugar Bowl snow making
structures.

Concession number: PAC1306-42

DT-17632-074

DATED 3 April 2006

Between

MINISTER OF CONSERVATION
("the Grantor")

and

SOUTHERN ALPINE RECREATION LIMITED
("the Concessionaire")

CONCESSION DOCUMENT
(Easement in Gross)



Department of Conservation
Te Papa Atawhai

THIS DOCUMENT is made this day of 2006

PARTIES:

1. **MINISTER OF CONSERVATION**, ("the Grantor")
2. **SOUTHERN ALPINE RECREATION LIMITED** ("the Concessionaire")

BACKGROUND

- A. The Reserve described in Item 1 of Schedule 1 as the Land is vested in the Grantor.
- B. Section 59A of the Reserves Act 1977 authorises the Grantor, in accordance with Part IIIB of the Conservation Act 1987, to grant a Concession in respect of a Reserve vested in the Crown including a reserve vested in the Crown but controlled and managed by an administering body under any of sections 28, 29, 30, 35 and 36 of the Reserves Act 1977;
- C. The Concessionaire wishes to carry out the Concession Activity on the Easement Area subject to the terms and conditions of this Document.
- D. The Grantor has agreed to grant the Concessionaire an Easement in gross over that part of the Land specified as the Easement Area in Item 2 of Schedule 1.
- E. The Grantor is satisfied that the requirements of Part III B of the Conservation Act 1987 have been met.

OPERATIVE PARTS

TERMS AND CONDITIONS

1.0 DEFINITIONS AND INTERPRETATION

1.1 In this Document, unless the context otherwise requires:

"**Activity**" has the same meaning as "Activity" in section 2 of the Conservation Act 1987.

"**Background**" means the matters referred to under the heading 'Background' on p2 of this Document.

"**Compensation**" means the amount specified in item 8 of schedule 1 and required by the Grantor under Section 17X of the Conservation Act 1987 for any adverse effects of the Concession Activity on the Crown's or public's interest in the Easement Area.

"**Concession**" means a concession as defined in section 2 of the Conservation Act 1987.

"**Concession Activity**" means the use of the Land for purposes of the Activity carried out by the Concessionaire and specified in Item 3 of Schedule 1.

"**Compensation Payment Date**" means the date specified in Item 9 of Schedule 1 on which the Compensation falls due for payment.

"**Co-Site**" means the use of the Easement Area or the Concessionaire's facilities on the Easement Area by a third party for a purpose permitted by the Grantor; and "**Co-Sitee**" and "**Co-Siting**" have corresponding meanings.

"**Department**" means the Department of Conservation established by section 5 of the Conservation Act 1987.

"**Director-General**" means the Director-General of Conservation.

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

"**Easement**" means the Easement in gross granted under this Document by the Grantor to the Concessionaire under section 59A of the Reserves Act 1977.

"**Easement Area**" means the area of the Land specified in Item 2 of Schedule 1.

"**Final Expiry Date**" means the date specified in Item 6 of Schedule 1.

"**Land**" means the area more particularly described in Item 1 of Schedule 1.

"Penalty Interest Rate" means the rate specified in Item 10 of Schedule 1.

"Reserve" means a reserve vested in the Grantor under the Reserves Act 1977.

"Term" means the period of time specified in Item 4 of Schedule 1 during which this Document operates.

"Working Days" means days on which the registered banks are open for general banking business in Dunedin.

1.2 In this Document unless the context otherwise requires:

- (a) a reference to a party is a reference to a party to this Document and includes that party's successors in title;
- (b) schedules and annexures form part of this Document and have effect accordingly;
- (c) words appearing in this Document which also appear in Schedule 1 mean and include the details appearing after them in that Schedule;
- (d) a provision of this Document to be performed by two or more persons binds those persons jointly and severally;
- (e) a reference to a person includes an individual, a body corporate, an association of persons (whether corporate or not), a trust, or an agency of State or of the Crown (in each case whether or not having separate legal personality);
- (f) words in a singular number include the plural and vice versa;
- (g) words importing a gender include all other genders;
- (h) 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 Document;
- (i) where the Grantor's consent or approval is expressly required under a provision of this Document, the Concessionaire must seek the consent or approval of the Grantor for each separate occasion it is required notwithstanding that the Grantor has granted consent or approval for a like purpose on a prior occasion.

1.3 Words used in the Background to this Document have the same meaning given to them in clause 1.1.

2.0 GRANT OF EASEMENT IN GROSS

2.1 In exercise of the Grantor's powers under section 59A of the Reserves Act 1977 the Grantor **GRANTS** to the Concessionaire an **EASEMENT IN GROSS** to carry out the

Concession Activity on the Easement Area subject to the terms and conditions contained in this Document.

3.0 TERM

- 3.1 The Easement is for the Term specified in Item 4 of Schedule 1.
- 3.2 There is no automatic right of renewal of the Term.
- 3.3 The Term ends on the Final Expiry Date specified in Item 6 of Schedule 1.

4.0 SURRENDER OF DOCUMENT

- 4.1 If the Concessionaire wishes to terminate this Document before the expiry of the Term the Concessionaire must give the Grantor 3 months' notice in writing.
- 4.2 The Grantor must accept the Concessionaire's notice of termination but in doing so may impose whatever reasonable terms and conditions the Grantor considers appropriate, including the matters referred to in clause 6.2.

5.0 COMPENSATION

- 5.1 The Concessionaire must pay the Compensation specified in Item 7 of Schedule 1 to the Grantor on the Compensation Payment Date referred to in Item 8 of Schedule 1.
- 5.2 If the Concessionaire defaults in payment of the Compensation for 14 days after a Compensation Payment Date the Concessionaire is to pay interest on the unpaid Compensation from the Compensation Payment Date until the date of payment at the Penalty Interest Rate specified in Item 9 of Schedule 1.

6.0 OTHER CHARGES

- 6.1 In addition to the Compensation the Concessionaire must pay the following charges ("Other Charges") on demand and in the manner directed by the Grantor:
 - (a) levies, taxes, duties, assessments, charges and other outgoings which may be charged, levied or reasonably assessed or which may become payable in relation to the Easement Area, any structure or facility on the Easement Area, or the Concession Activity;
 - (b) all costs in relation to the supply of water, sewage, drainage and rubbish disposal which are not otherwise included in any charges or assessments made by any authority or by the Grantor;
 - (c) all costs incurred by the Grantor in providing an annual building warrant of fitness to a territorial authority, including costs paid to an independent qualified person

for a report establishing or re-establishing compliance with a compliance schedule. If work is required to a structure or facility of the Grantor's on the Easement Area in order to obtain a new building warrant of fitness, the Grantor is to pay the cost of the work subject to the Concessionaire's obligations under clause 10.

6.2 If the Concessionaire surrenders this Document with the consent of the Grantor, the Concessionaire will continue to be liable for and must pay to the Grantor on demand in respect of its occupation of and activity on the Easement Area all Other Charges which may be due for the current payment period i.e. the time between one payment period and the next even though this period may not expire until after the date of surrender.

6.3 The Concessionaire must pay all charges for electric power, water supply, geothermal energy, telephone rental and other utilities supplied to the Easement Area. The Grantor will not be liable for any cost incurred in re-establishing the supply of any of these utilities in the event of any of them becoming unavailable for any reason.

7.0 CONCESSION ACTIVITY

7.1 The Concessionaire is not to use the Easement Area for any purpose under this Document other than the Concession Activity.

7.2 The Concessionaire must, as a condition of this Document:

- (a) take out and maintain and pay all fees for all licences, permits, authorisations, consents (including resource consents under the provisions of the Resource Management Act 1991), and renewals (collectively "the Permissions") as may be necessary for the proper conduct of the Concession Activity;
- (b) not do or suffer to be done any act whereby these Permissions may be forfeited or suspended or refused.

7.3 The rights and powers conferred on the Concessionaire by the provisions set out in Item 3 of Schedule 1 are subject to the terms and conditions of this Document. In the event of a conflict between the provisions of Item 3 and the terms and conditions of this Document, the latter is to prevail.

8.0 COMPLIANCE

8.1 The Concessionaire will, in relation to the Land, comply where relevant:

- (a) with the provisions of any conservation management strategy or conservation management plan as required by Part IIA of the Reserves Act 1997 together with any amendment or review of any strategy or plan whether approved before, on, or after the date on which this Document takes effect; and

- (b) with the Reserves Act 1977 and any other statute, ordinance, regulation, bylaw, or other enactment (collectively the "Legislation") affecting or relating to the Easement Area or affecting or relating to the Concession Activity.
- 8.2 The Concessionaire must comply with all conditions imposed by the Grantor in granting this Document whether expressed or implied.
- 8.3 (a) A breach or contravention by the Concessionaire of a relevant conservation management strategy or conservation management plan, will be deemed to be a breach of this Document.
- (b) A breach or contravention by the Concessionaire of any Legislation affecting or relating to the Easement Area or affecting or relating to the Concession Activity will be deemed to be a breach of this Document.
- 8.4 If the Legislation requires the Grantor to spend an amount on structures, facilities or land alterations on the Easement Area which the Grantor considers unreasonable, the Grantor may determine this Easement and any dispute as to whether or not the amount is unreasonable is to be determined in accordance with clause 27. The Grantor will not terminate the Easement while a dispute is being resolved.

9.0 STRUCTURES, FACILITIES AND LAND ALTERATIONS

- 9.1 The Concessionaire must not erect or bring on to the Easement Area any structure, install any facility or alter the Easement Area in any way without the prior written consent of the Grantor.
- 9.2 In giving approval under clause 9.1 the Grantor may, in the Grantor's sole and absolute discretion, impose any reasonable terms and conditions, including a review of the Concession Fee, as the Grantor considers appropriate under this clause; and may also decline the grant of such approval after consideration of the relevant conservation and environmental issues.
- 9.3 The Concessionaire must pay to the Grantor all reasonable costs associated with applications for approval under this clause determined at the standard rates then applying in the Department for cost recovery of staff time and expenses.
- 9.4 The Concessionaire must, upon request by the Grantor, submit written engineering or building plans and details to the Grantor for approval before :
 - (a) erecting or altering any structure on the Easement Area;
 - (b) bringing any structure on to the Easement Area;
 - (c) installing any facilities on the Easement Area; or
 - (d) altering the Easement Area in any way.

- 9.5 The Concessionaire must not commence any work on the Easement Area until the Grantor has given its written approval.
- 9.6 When undertaking any work under this clause the Concessionaire must comply with all statutory requirements including obtaining building consents and code compliance certificates under the Building Act 1991.
- 9.7 The Concessionaire is to keep and maintain its structures and facilities on, or alterations to, the Easement Area in good repair.

10.0 INSURANCE OF STRUCTURES, FACILITIES AND LAND ALTERATIONS

- 10.1 The Concessionaire must insure and keep insured with an insurer approved by the Grantor all structures, facilities and land alterations on the Easement Area in the joint names of the Grantor and Concessionaire for their respective interests to their full replacement value against loss or damage caused by fire, earthquake, fire consequent on earthquake, avalanche, flood, volcanic activity; and including indemnity insurance for the cost of demolition, removal of debris and clearance of the Easement Area.
- 10.2 The Concessionaire must provide the Grantor with a copy certificate of currency for the policy or policies of insurance before commencing the Concession Activity and on each renewal of the policy.

11.0 CONCESSIONAIRE'S FURTHER OBLIGATIONS

- 11.1 The Concessionaire must at the Concessionaire's expense:
- (a) take all steps necessary to control any pest, insect or rodent infestation occurring in or emanating from the Easement Area or any structure or facility on the Easement Area, and if required by the Grantor, engage a pest exterminator approved by the Grantor;
 - (b) comply strictly with the provisions of the Biosecurity Act 1993;
 - (c) comply with all requirements of any competent authority regarding sanitation and with all relevant bylaws and fire safety requirements;
 - (d) at all times display a copy of the relevant current building warrant of fitness under the Building Act 1991 showing the location of the compliance schedule in a place in each building (as defined in that Act) on the Easement Area to which users of the building have ready access;
 - (e) keep and maintain all building systems and any structure on the Easement Area and belonging to the Concessionaire in accordance with the requirements of any compliance schedule;

- (f) retain and make available to any territorial authority and any other person with a right to inspect any structures on the Easement Area under the Building Act 1991 a copy of the compliance schedule together with the written reports relating to compliance with the compliance schedule over the previous two year period.

12.0 PROTECTION OF THE ENVIRONMENT

12.1 Except as approved in writing by the Grantor the Concessionaire will not, whether by act or omission:

- (a) interfere with, remove, damage, or endanger the natural features, animals, plants, or historic resources on the Easement Area; or
- (b) bring any plants, animals, or firearms on to the Easement Area; or
- (c) deposit on the Easement Area debris, rubbish or other dangerous or unsightly matter, or contaminate any water body on the Easement Area; or
- (d) pile or store materials in any place on the Easement Area where it may obstruct the public or create a nuisance; or
- (e) conduct any noxious, noisome, dangerous or offensive activity on the Easement Area.

12.2 The Concessionaire will keep the Easement Area in a clean and tidy condition and free of weeds and all organisms specified as pests in a relevant pest management strategy.

12.3 The Concessionaire will keep all structures, facilities and land alterations and their surroundings in a clean and tidy condition. If reasonably required by the Grantor the Concessionaire will paint all structures and facilities in colours specified in writing by the Grantor and with paints of a type approved in writing by the Grantor.

12.4 If, during the Term, the Concessionaire removes a structure or facility from the Easement Area the Concessionaire will, unless the Grantor indicates otherwise in writing, repair and make good at its own expense all damage which may have been done by the removal and will leave the Easement Area in a clean and tidy condition.

12.5 Should the Concessionaire fail to repair and restore the damage within 6 months of the removal of a structure or facility or such further time as the Grantor may approve in writing, the Grantor may undertake whatever works and operations are necessary to effect the same and may recover from the Concessionaire any costs and expenses incurred in doing it as a debt due by the Concessionaire to the Grantor.

12.6 The Concessionaire must:

- (a) take all reasonable precautions to ensure no fire hazards arise from its carrying out of the Concession Activity or from any act or neglect of its employees, contractors, invitees or agents;
- (b) not light or permit to be lit any fire on the Easement Area.
- (c) not store or permit to be stored fuels or other combustible materials on the Easement Area without the written permission of the Grantor. In that event storage of fuels and combustible materials must be in accordance with the provisions of the Hazardous Substances and New Organisms Act 1996;
- (d) comply with the Grantor's requirements for fire warning and safety equipment and for fire fighting equipment to be kept on the Easement Area at all times.

12.7 The Concessionaire must ensure that its employees, clients and invitees do not carry out any acts prohibited under clause 12.

12.8 The Concessionaire must immediately report to the Lessor any act in contravention of clause 12 and wherever possible the names and addresses of any person carrying out such acts; and must provide the Lessor with details of the circumstances surrounding such incidents.

13.0 ADVERTISING

13.1 The Concessionaire must not erect or display any signs or advertising on the Easement Area without the prior written approval of the Grantor. At the expiry or termination of this Concession the Concessionaire must remove all signs and advertising material and make good any damage caused by the removal.

13.2 If required by the Grantor, the Concessionaire must ensure that all its signs and advertising material specify that it is carrying out the Concession Activity under a Concession granted by the Grantor on land administered by the Department.

14.0 EMPLOYMENT OF STAFF

14.1 The Concessionaire must ensure that the Concession Activity is conducted at all times by a person or persons suitably trained and qualified to carry out the Concession Activity.

14.2 The Concessionaire must provide the Grantor with evidence of the competency and qualifications of its employees if the Grantor so requests.

14.3 The Concessionaire must comply with all statutes relating to employment of staff.

15.0 HEALTH AND SAFETY

- 15.1 The Concessionaire is to carry out the Concession Activity on the Easement Area in a safe and reliable manner and must comply with:
- (a) the Health and Safety in Employment Act 1992 and its regulations; and
 - (b) all other statutes, regulations and bylaws and all notices and requisitions of any competent authority relating to the conduct of the Concession Activity.
- 15.2 The Concessionaire must notify the Grantor of any natural events or activities on the Easement Area or the surrounding area which may endanger the public or the environment.
- 15.3 The Concessionaire must :
- (a) take all reasonable steps to protect the safety of all persons present on the Easement Area and must, where necessary, erect protective signposts warning the public of any dangers they may encounter as a result of the Concessionaire's operations;
 - (b) take all reasonable steps to eliminate any dangers to the public and must clearly and permanently mark any that remain and of which the Concessionaire is aware.
- 15.4 Before commencing the Concession Activity the Concessionaire must, if required by the Grantor, prepare a safety plan and have it audited by a suitably qualified person approved by the Grantor.
- 15.5 The Concessionaire must not commence the Concession Activity until:
- (a) the person appointed to audit the safety plan has certified the safety plan is suitable for the Concession Activity; and
 - (b) the Concessionaire supplies the Grantor with a copy of the safety plan certified under clause 15.5(a).
- 15.6 Receipt of the certified safety plan by the Grantor is not in any way to limit the obligations of the Concessionaire under clause 15 and is not to be construed as implying any responsibility or liability on the part of the Grantor.

16.0 TEMPORARY SUSPENSION

- 16.1 The Grantor may temporarily suspend this Document if, in the opinion of the Grantor, there is a temporary risk to public safety or the safety of the Department's staff or the safety of other Concessionaires whether from arising from natural events such as earthquake, land slip, volcanic activity, or flood or whether arising in any other way including the activities of the Concessionaire, its employees, clients or invitees.

- 16.2 If, in the opinion of the Grantor, the activities of the Concessionaire, its employees, clients or invitees are having or may have an adverse effect on the environment and the Grantor is of the opinion that the effect can be avoided, remedied or mitigated to an extent satisfactory to the Grantor, the Grantor may suspend this Concession until the Concessionaire remedies, avoids or mitigates the adverse impact to the satisfaction of the Grantor.
- 16.3 The Grantor may suspend this Concession while it investigates any of the circumstances contemplated in clauses 16.1 and 16.2 and also while it 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 of which it has become aware.
- 16.4 The word "investigates" in clause 16.3 includes the laying of charges and awaiting the decision of the Court.
- 16.5 During any period of temporary suspension the Concession Fee payable by the Concessionaire is to abate in fair proportion to the loss of use by the Concessionaire of the Easement Area.
- 16.6 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 clause 16 including loss of profits.

17.0 ASSIGNMENT

- 17.1 The Concessionaire is not to transfer, assign, mortgage or otherwise dispose of the Concessionaire's interest under this Document or any part of it without the prior written consent of the Grantor. The Grantor may in its discretion decline any application for consent under this clause, such consent not to be unreasonably withheld.
- 17.2 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 its discretion, decides otherwise.
- 17.3 If the Grantor gives consent under this clause the Concessionaire is to remain liable to observe and perform the terms and conditions of this Document throughout the Term and is to procure from the transferee, or assignee a covenant to be bound by the terms and conditions of this Document.
- 17.4 The Concessionaire must pay the costs reasonably incurred by the Grantor incidental to any application for consent, whether or not such consent is granted.
- 17.5 Any change in the shareholding of the Concessionaire altering the effective control of the Concessionaire will be deemed to be an assignment and will require the consent of the Grantor.

18.0 CO-SITING

- 18.1 (a) The Concessionaire will not allow Co-Siting on the Easement Area.
- 18.2 The Concessionaire must, if required by the Grantor, allow Co-Siting on the Easement Area except where the Concessionaire demonstrates to the reasonable satisfaction of the Grantor that such Co-Siting by the third party 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.
- 18.3 The Grantor will be entitled to require the Concessionaire to obtain a report prepared by an independent consultant acceptable to the Grantor, confirming the presence of either of the matters referred to in clause 18.3. The cost of the report is to be borne by the Concessionaire.
- 18.4 For the avoidance of doubt a Co-Sitee permitted on the Easement Area must enter into a separate agreement with the Grantor in terms of which the Co-Sitee will be required to pay a fee to the Grantor to conduct an Activity on the Easement Area. This separate agreement must not contain provisions which conflict with the Concessionaire's rights and obligations in relation to the Easement Area.

19.0 TERMINATION

- 19.1 The Grantor may terminate this Concession by 7 days notice in writing to the Concessionaire if:
- (a) the Concession Fee or any other money payable to the Grantor under this Document is in arrears and unpaid for 30 days after any of the days appointed for payment whether it has been lawfully demanded or not; or
 - (b)
 - (i) the Concessionaire breaches any terms of this Document; and
 - (ii) the Grantor has notified the Concessionaire in writing of the breach; and
 - (iii) the Concessionaire does not rectify the breach within 7 days of receiving notification; or
 - (c) the Concessionaire ceases to conduct the Concession Activity or, in the reasonable opinion of the Grantor, the services provided by the Concessionaire are manifestly inadequate; or

- (d) the Concessionaire is convicted of an offence, whether or not related to the Concession Activity, under the Conservation Act 1987 or any of the Acts listed in the First Schedule to that Act; or the Health and Safety in Employment Act 1982; or the Building Act 1991; or the Resource Management Act 1991; or the Biosecurity Act 1993; or
 - (e) the Concessionaire is dissolved; or enters into any composition with or assignment for the benefit of its creditors; or is adjudged bankrupt; or being a company, has a receiver appointed; or is put into liquidation; or is placed under statutory management; or has a petition for winding up presented against it; or is otherwise unable to pay its debts as they fall due; or the Concessionaire ceases to function or operate; or
 - (f) there is, in the opinion of the Grantor, a permanent risk to public safety or the environment whether arising from the conduct of the Concession Activity or from natural causes 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 Document on the part of the Concessionaire.
- 19.2 If the Grantor terminates the Concession under this clause all rights of the Concessionaire are to cease absolutely; but the Concessionaire is not to be released from any liability to pay the Concession Fee or other monies up to the date of termination or for any breach of any term up to the date of termination.
- 19.3 The Grantor may exercise the right under this clause to terminate the Concession notwithstanding any prior waiver or failure to take action by the Grantor or any indulgence granted by the Grantor for any matter or default.
- 19.4 Immediately on termination, the Concessionaire must execute a surrender of this Document if the Grantor so requires it.

20.0 GRANTOR MAY REMEDY CONCESSIONAIRE'S DEFAULT

- 20.1 The Grantor may elect to remedy at any time without notice any default by the Concessionaire under this Concession.
- 20.2 The Concessionaire must pay to the Grantor forthwith on demand all reasonable costs and expenses incurred by the Grantor, including legal costs and expenses as between solicitor and client, in remedying such default.

21.0 GRANTOR'S DIRECTIONS

- 21.1 The Concessionaire must comply with all reasonable notices and directions of the Grantor concerning the activities conducted by the Concessionaire on the Easement Area or the conduct of any person on the Easement Area under the authority of this Document.

22.0 POWERS, RIGHTS AND AUTHORITIES

- 22.1 All powers, rights and authorities of the Grantor under this Document and any notice required to be given by the Grantor may be exercised and given by the Director-General or any officer, employee, or agent of the Director-General.

23.0 INDEMNITIES AND INSURANCE

- 23.1 The Concessionaire will indemnify and keep indemnified the Grantor against all claims made by any person in respect of any injury, loss, or damage, including fire, caused or suffered as a result of or arising out of any acts or omissions of the Concessionaire, its employees, agents, contractors, clients or invitees or otherwise caused as a consequence of its occupation of the Easement Area or as a result of its conduct of the Concession Activity on the Easement Area.
- 23.2 This indemnity is to continue after the expiry or other determination of this Document in respect of those acts or omissions occurring or arising before its expiry or determination.
- 23.3 Without prejudice to or in any way limiting its liability under clause 23.1 the Concessionaire must take out and keep in force during the Term:
- (a) a policy of public liability insurance against liability for loss, damage or injury from any one single accident or event arising out of the Concessionaire's use of the Easement Area or its conduct of the Concession Activity on the Easement Area and covering:
 - (i) general indemnity for a sum not less than the amount specified in Item 10 of Schedule 1; and
 - (ii) Forest and Rural Fires Act 1977 extension for a sum not less than the amount specified in Item 11 of Schedule 1; and
 - (b) statutory liability for the matters and amount specified in Item 12 of Schedule 1; and
 - (c) such other policy or policies of insurance against any other liability and for such other sums which the Lessor specifies in Item 13 of Schedule 1, including those matters specified in clause 10.
- 23.4 With respect to clause 23.3 the Concessionaire must provide copy certificates of currency for the policies of insurance before commencing the Concession Activity and on each renewal of them.
- 23.5 (a) The Grantor will not be liable and does not accept any responsibility for damage to or interference with the Concession Activity or to the structures or facilities on the Easement Area or any other indirect or consequential damage due to any

natural disaster, vandalism, sabotage, fire or exposure to the elements except where, subject to the clause 23.5(b), such damage or interference is caused by any wilful act or omission of the Grantor, its employees, agents or contractors;

- (b) Where the Grantor is found to be liable due to a wilful act or omission, the total extent of its liability is limited to \$1,000,000 in respect of the Concessionaire's structures and facilities.

23.6 Notwithstanding anything else in clause 23 the Grantor is not liable for any indirect or consequential loss howsoever caused.

24.0 ENVIRONMENTAL MONITORING AND LAND REHABILITATION

24.1 The Concessionaire must, during the Term, if the Grantor so requests in writing, design in consultation with the Grantor and undertake a programme to monitor and report on the environmental effects of the Concessionaire's use of and activities on the Easement Area.

24.2 If the Grantor does not make a request under clause 24.1 the Concessionaire must, during the Term, pay to the Grantor the annual environmental monitoring contribution specified in Item 14 of Schedule 1 to enable the Grantor to design and undertake a programme to monitor the environmental effects of the Concessionaire's use of and activities on the Easement Area.

24.3 Subject to any conditions imposed by the Grantor and set out in Schedule 2, at the expiry, surrender or termination of this Document, the Concessionaire must reinstate the Easement Area to its condition at the commencement of the Term and replant the Easement Area with indigenous vegetation of a similar abundance and diversity as at the commencement of the Term.

25.0 EXPIRY OF EASEMENT

25.1 If, on expiry of the Term, the future use of, or any operation on, the Easement Area is not authorised by the Grantor, the Concessionaire accepts that the Grantor will have no liability whatsoever for any costs incurred by the Concessionaire as a result of the expiry of this Document.

25.2 Subject to any conditions set out in Schedule 2, at the expiry, surrender or termination of the Term the Concessionaire must remove all the Concessionaire's structures and facilities on the Site unless the Grantor approves otherwise in writing.

25.3 If the Concessionaire does not remove the structures and facilities as required by clause 25.2, or as otherwise approved by the Grantor, the structures or facilities remaining on the Easement Area at the expiry, surrender or termination of this Document, will be deemed to be fixtures and property in them will vest absolutely in the Grantor.

- 25.4 In that case the Grantor will not be liable to pay compensation to the Concessionaire for the structures and facilities and may, at its option, remove or destroy or otherwise dispose of them, and recover the costs and expenses of their removal or destruction from the Concessionaire as a debt due to the Grantor.

26.0 **FORCE MAJEURE**

- 26.1 Neither party will be liable to the other party for any delay in performance, of or failure to perform, its obligations (other than a payment of money) under this Document as a result of any cause beyond its reasonable control.
- 26.2 If the delay or failure continues for at least 28 days either party will be entitled to terminate this Document by notice in writing.

27.0 **DISPUTE RESOLUTION AND ARBITRATION**

- 27.1 If a dispute arises between the parties in connection with this Document including without limitation the interpretation, validity, breach or termination of any of its provisions, the parties will, without prejudice to any other rights or entitlements they may have under this Document or otherwise, 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.
- 27.2 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 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.
- 27.3 All arbitration proceedings are to take place in New Zealand and to be governed by New Zealand law.
- 27.4 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.
- 27.5 The arbitrator must include in the arbitration award reasons for the determination.

28.0 NOTICES

- 28.1 Any notice to be given under this Document by one party to the other is to be in writing and made by personal delivery, by pre-paid post or by facsimile addressed to the receiving party at the address or facsimile number set out in Item 15 of Schedule 1.
- 28.2 A notice given in accordance with clause 28.1 will be deemed to have been received:
- (a) in the case of personal delivery, on the date of delivery;
 - (b) in the case of a letter, on the third working day after posting;
 - (c) in the case of facsimile, on the date of dispatch.

29.0 COSTS

- 29.1 The Concessionaire must pay the Grantor's legal costs and expenses of and incidental to preparing and executing this Document or any extension or variation of this Document.
- 29.2 The Concessionaire must pay in full immediately on demand all costs and fees (including but not limited to solicitors' costs and the fees of debt collecting agencies engaged by the Grantor) arising out of and associated with steps taken by the Grantor:
- (a) to enforce or attempt to enforce the Grantor's rights and powers under this Document if the Concessionaire is in breach or default;
 - (b) to recover outstanding money owed to the Grantor.

30.0 RELATIONSHIP OF PARTIES

- 30.1 Nothing expressed or implied in this Document shall be construed as:
- (a) constituting the parties as partners or joint venturers;
 - (b) conferring on the Concessionaire any right of exclusive occupation or use of the Easement Area;
 - (c) preventing the Lessor from granting similar concessions to other persons;
 - (d) derogating from the rights of the Grantor and the public to have access across the Easement Area.

31.0 OFFENCES

31.1 Where any breach of this Concession by the Concessionaire also constitutes an offence under the Conservation Act 1987 or any of the Acts listed in the First Schedule to that Act:

- (a) no waiver or failure to act by the Grantor under this Document is to preclude the Grantor from prosecuting the Concessionaire; and
- (b) no failure by the Grantor to prosecute the Concessionaire is to preclude the Grantor from exercising its remedies under this Document; and
- (c) any action of the Grantor in prosecuting the Concessionaire is not to preclude the Grantor from exercising its remedies under this Document.

32.0 SEVERABILITY

32.1 Any illegality, or invalidity or unenforceability of any provision in this Document is not to affect the legality, validity or enforceability of any other provisions.

33.0 ENTIRE UNDERSTANDING

33.1 Except as provided by legislation, this Document and any written variation agreed by the parties contain the entire understanding between the parties with reference to the subject matter of this Document and there is no other agreement, representation or warranty whether it is expressed or implied which in any way extends, defines or otherwise relates to the provisions of this Document.

34.0 VARIATION

34.1 The provisions of section 17ZC of the Conservation Act 1987 apply to all variations sought by the Concessionaire and to any application for an extension to the Term.

34.2 As provided by section 17ZC(3) of the Conservation Act 1987, the Grantor may vary any of the conditions of this Document if the variation is necessary:

- (a) to deal with significant adverse effects of the Activity that are not reasonably foreseeable at the time this Easement is granted; or
- (b) because the information made available to the Grantor by the Concessionaire for the purposes of the Concessionaire's application contained inaccuracies which materially influenced the decision to grant the easement and the effects of the Activity permitted by this Document require more appropriate conditions

34.3 The Concessionaire is to be bound by every such variation.



Signed by Greg Lind
Wakatipu Area Manager

for and on behalf of
the **Minister of Conservation**
pursuant to a written delegation
in the presence of :

Mary-Anne Cameron

M.A. Cameron
Ranger
Queenstown.

Sec 9(2)(a)

Signed by

For and behalf of
Southern Alpine Recreation Limited
In the presence of

Sec 9(2)(a)

Managing Director

Sec 9(2)(a)

Hannah McCosker
Manager
The Remarkables.

SCHEDULE 1

1. **Land:** That part of the Rastus Burn Recreation Reserve on the ski field know as the Alta Blue Trail, Fall Line, Lower Cross Fall, Gotham, Water Race and Castaway Trails (*see definition of Land in clause 1.1*)
2. **Easement Area:** The same as 'Land' above
(*see definition of Easement Area in clause 1.1*)
3. **Concession Activity:** to be used for snowmaking pipes, cabling and hydrants
(*see definition of Concession Activity in clause 1.1*)
4. **Term:** To run with the term of the lease (*see clause 3.1*)
5. **Renewal:** not applicable (*see clause 3.2*)
6. **Final Expiry Date:** As per lease (*see clause 3.3*)
7. **Compensation:** one peppercorn (if demanded) (*see clause 5.1*)
8. **Compensation Payment Date:** on or before the date specified on the invoice generated by the Grantor (*see clause 5.1*)
9. **Penalty Interest Rate:** (*see clause 5.2*)
Double the Grantor's bank's current highest 90 day bank bill buy rate
10. **Public Liability General Indemnity Cover:** (*see clause 23.3*)
As per lease
11. **Public Liability Forest & Rural Fire Act Extension:** (*see clause 23.3*)
As per lease
12. **Statutory Liability** (*see clause 23.3*)
As per lease
- 13(a) **Other Types of Insurance:** (*see clauses 10 & 23.3*)
for \$ not applicable
- 13(b) **Amounts Insured for Other Types of Insurances:** (*see clauses 10 & 23.3*)
for \$ not applicable
14. **Environmental Monitoring Contribution:** not applicable (*see clause 24.2*)

15. Address for Notices:

(see clause 28)

- | | | | | |
|-----|----------------|--|-----------------------------|---------------|
| (a) | Grantor | C/- Box 5244
DUNEDIN | 77 Stuart Street
DUNEDIN | (03) 4778 626 |
| (b) | Concessionaire | the address of the registered office of the Concessionaire | | |

Sec 9(2)(a)

Released under the Official Information Act

SCHEDULE 2

Special Conditions

1. The works shall be carried out as described in the application and plans submitted with the application dated 11 November 2005.
2. The concessionaire must prepare a site safety plan which will include measures to be implemented on the site with respect to public safety and appropriate signage to be placed in the public car parks informing the public of the work.
3. The concessionaire must comply with all of the conditions in the Deed of Lease dated 30 August 1993 and Ski Field Lift Easement (Rastus Burn Recreation Reserve) dated 9 June 1999 with respect to the proposed works.
3. SAR shall not impede public access into the reserve while work is being undertaken unless for identified safety reasons.
4. A halt to the works programme may be called by the department or department representative, in consultation with SAR, if weather conditions are causing unacceptable damage on the site or if the method of operation needs to be adjusted or if any unacceptable level of disturbance is being created by the methods employed.
5. That if any changes are to be made to the plans and specifications approved by the department SAR shall apply to the department for approval of the changes prior to implementation. This includes any changes to earthwork specifications.
6. SAR shall exercise due care and responsibility to minimise the potential for leakage or spillage of fuels and or lubricants and or any substance that could be spilled. Spillage shall be cleaned up immediately and contaminated material taken to an approved disposal site. Any spillage shall be reported to the department.
7. All waste materials are to be removed from the site to the satisfaction of the department or representative. This includes all materials no matter what size the object is.
8. SAR will ensure that ALL contractors are aware of the Contractor Environmental and Re-vegetation specifications as shown in the application and that these are followed at all times.
9. SAR will reinstate and restore all areas affected by the works, including the establishment and working areas to a condition at least equal to that at the commencement of the works. This work will be done in strict accordance with the SITE RESTORATION PROTOCOL as

attached in *Schedule 1*. The protocol may be varied each year to accommodate different stages of works.

10. In order to monitor the impact of the applicants work on the land, and to ensure that appropriate methods are being used to minimise these impacts and that all required reinstatement and restoration works and mitigation methods are undertaken, a monitoring system will be set up between the department or department representative and SAR. Details of this are attached in *Schedule 2*. The monitoring system may be varied each year to accommodate different stages of works. SAR will cover all costs associated with monitoring.
11. All costs attributable to the preparation and subsequent management of this application which the department incurs will be paid by the applicant on a cost recovery basis.
12. No earthworks shall be initiated if there is not enough supplementary planting material available in stock. No earthworks requiring reinstatement or restoration shall be carried out past *1 April*. The Area Manger may at his discretion approve further works after this date.
13. On-going restoration work of previous approved works, including the Turquoise trail re-vegetation works and the Remarkable Ski Field Road re-vegetation works, must not be hindered due to the approval of these new works.
14. All aspects of the project must meet any regulatory requirements of the Regional and District Authorities.

SCHEDULE 1

**SITE RESTORATION PROTOCOL BETWEEN SOUTHERN ALPINE
RECREATION AND DEPARTMENT OF CONSERVATION**

1. Introduction

This protocol sets out the restoration measures required in order to avoid, remedy or mitigate the adverse effects of the works associated with construction of the proposed snowmaking reticulation network and the Gotham Run trail modifications. These works involve significant earthworks affecting mainly tussock grassland vegetation.

The protocol provides a practical means of achieving agreed environmental outcomes in an area of ecological and scenic importance. The protocols and code of practice provide for:

- Work site control measures.
- Vegetation and top soil removal.
- Vegetation and top soil stockpiling (storage).
- Work site re-planting and restoration.
- Ongoing maintenance of restoration planting areas.

2. Objective of the Protocol

The objective of this protocol is to ensure:

- I. a clear understanding is maintained between the Department of Conservation and SAR staff and contractors on the standards to be applied to works involving soil and/or vegetation disturbance; and
- II. that the vegetation cover uplifted to allow earthworks to take place is restored as near as possible to its original density and diversity across the affected sites, at the conclusion of a three year maintenance period.

3. Method of Implementation

The primary method of implementation of the protocol will be through the code of practice to be adopted by the parties and as specified below.

The protocol will be used to inform Department of Conservation (DOC) staff; to ensure that they are aware of its requirements and consequent code of practice implementation measures.

SAR will require its staff and contractors to act in accordance with the protocol and implement it through the works contract. DOC staff or an environmental monitor

appointed by the department will be on-site at appropriate times for works inspection and to provide advice to the appointed staff and contractor(s).

4. Code of Practice

- 4.1 The following code of practice reflects an understanding between SAR and DOC with regard to how the works can best be undertaken to minimise the effects on the vegetation and how these disturbed sites should be appropriately restored in recognition of the high natural and scenic values of the area.

The purpose of the code of practice is to set operational standards that will minimise the impacts on the environment from the works undertaken and to rehabilitate work sites to a high standard ensuring the shortest possible time to vegetation cover recuperation and establishment.

4.2 Vegetation Clearance

- 4.2.1 Where possible only contractors experienced at working in the ski field [alpine] environment shall be used. The contractor will have a proven record of working in highly natural environments and will have a high regard and sensitivity towards achieving quality finished and landscaped works that reinstate the land to a condition as close as possible to its original state and that replicates the surrounding natural environment.
- 4.2.2 Prior to the contractor starting works at the site the Concessionaire shall ensure that an onsite briefing takes place between the jointly appointed environmental monitor and the contractor(s). The purpose of the meeting is to ensure that all parties have a common understanding of the construction zone, the areas for vegetation stockpiling and storage, and a clear understanding for the standards expected for the earthworks (including stream crossings), the removal of, and re-instatement of, vegetation and topsoil cover.
- 4.2.3 The contractor must remove the vegetation layer with the prime focus being to minimise the damage to the plants and to maximise the likelihood that whole plants remain in tact, including sufficient root material to ensure plant survival.
- 4.2.4 All vegetation within the construction zones affected by the proposed works will be carefully stockpiled in designated areas (delineated with advice from the environmental officer). The vegetation shall be stockpiled with care and to a height of no more than one metre to avoid crushing, smothering and die-off.
- 4.2.5 All vegetation cleared and carefully stockpiled must be watered properly and in accordance with the environmental monitor's instructions if it is to be stockpiled for more than a week.
- 4.2.6 Any surplus plants and turf will be removed from the site in consultation with the DOC representative. Where possible these plants should be sent to a nursery for potting and storage. These plants can then be used for future programmes of work in that ski area.

4.3 Replanting Measures

- 4.3.1 Vegetation stockpiled as a result of the construction works will be carefully lifted by digger and progressively re-instated on the completed trench, trail, cut or batter formations behind the digger.
- 4.3.2 Re-instatement of the vegetation and topsoil layer along the construction zone (trench, trail, cut or batter formations) is to be undertaken in such a way as to minimise the time between initial disturbance and removal of the vegetation/topsoil layer to replacement of this layer over the completed works.
- 4.3.3 Plant survival depends on careful operation of the digger operator to ensure that as much of the root structure of the affected plants remains intact when each section of the works is initially excavated and subsequently replaced.
- 4.3.4 Stockpiled vegetation shall be progressively replanted across exposed areas of soil. The individual plants or sections of vegetation material ("sod") shall be reinstated over the completed works by careful use of the digger bucket and then positioned in place by hand, with soil packed around each plant or "sod" of vegetation to maximise the opportunity for the vegetation to survive and to achieve a result that closely resembles the surrounding natural areas.
- 4.3.5 It is accepted that aspects of the reinstatement work required to ensure the best possible survival rate of the removed vegetation and quality natural landscaping will be labour intensive. Staff must be employed to "hand-place" and landscape the final reinstatement works to ensure a quality natural finish and the best survival of the removed/replaced plants.
- 4.3.6 If the weather remains hot and dry through the period in which the works are being undertaken and if the environmental monitor determines that plant survival is being seriously jeopardised by the dry conditions, and that watering of the plants will significantly improve the success and survival of the re-planted vegetation, then SAR will make its best endeavours to follow the instructions of the monitor to water the required areas of works.

4.4 Monitoring

- 4.4.1 The affected areas shall be monitored over the duration of the works and over the maintenance period, spanning three years following completion of construction. The purpose of the monitoring is to assess the degree of re-instatement of the vegetation cover and to detect whether any noxious weed species have been accidentally introduced to the area.
- 4.4.2 Photo monitoring plots shall be set up at 10 representative sites over the 2006 work areas. These sites should represent:
- the various plant community types found throughout the construction zone
 - the various aspects and slope gradients present
 - a range of work areas within the construction zone

- 4.4.3 The photo monitoring methodology and sites will be set up by the Concessionaire and environmental monitor in consultation with DOC and shall be monitored for no less than the three year maintenance period prescribed in 4.5 "Aftercare".

4.5 Aftercare

- 4.5.1 An aftercare period of three years will be established for the areas affected by these works.
- 4.5.2 Should die-back be observed in the re-planted areas during monitoring, any dead plants shall be re-placed with locally sourced genetic stock, over the course of the maintenance period and during the best time for planting in that environment.
- 4.5.3 All necessary steps shall be taken to eradicate any noxious weeds that appear during the maintenance period.

SCHEDULE 2

MONITORING SYSTEM PROPOSED FOR REMARKABLES SKI FIELD SUMMER WORKS PROGRAMME 2006

The following outlines the appropriate monitoring system as requested by the department in *Condition 11* of the Application for works at The Remarkables, Southern Alpine Recreation Ltd 2005.

1.0 Introduction

1.1 A monitoring system will be set up between an environmental monitoring officer (either from the department or a person delegated to this role by the department) and the Concessionaire in order to ensure that department conditions of approval [including the site restoration protocol and code of practice] are being met and adhered to during each stage of the works and that no unauthorised works are taking place. There are two identified components to the 2006 summer works:

1. installation of snowmaking infrastructure including underground pipes and control systems; and
2. ski trail development at the Easy Out/Gotham trail junction

2.0 Specific aspects of the 2006 monitoring programme.

2.1 Site visits

- a) Initial site visit prior to the works starting to brief the contractors and SAR staff on the objectives methodology contained within the Restoration Protocol and Code of Practice and to identify the work procedures, timing, restoration methods, and any no go zones.
- b) Intermediate stage visit for each stage of the works to make sure that all work is in line with approvals and to set up photo monitoring points.
- c) Completion site visit to look at the result of each stage of the works and to identify future requirements.
- d) Future requirements will be monitored as part of the annual monitoring programme between the department and SAR.
- e) The monitoring officer will be contacted at any point where there is any doubt about the construction zone boundaries, the methods of site restoration/rehabilitation or if alternative methods of restoration/rehabilitation are thought to offer a better solution.

2.2 Progress Reports and Photos

Progress reports will be provided to the monitoring officer by SAR (in a form to be agreed between the monitoring officer and SAR representative – i.e. phone calls, emails, written reports) as an important means to measure success of developments and progress towards satisfying the conditions of approval. Photos will be taken at regular intervals and will accompany the progress reports as necessary. Photo points should be mapped

and shown in relation to the works. Each photo should be labelled with date; location; activity / situation; photo orientation.

The regularity of these reports can be discussed between SAR and the monitoring officer. The reports will be a means of identifying if additional site visits are required.

2.3 Works monitoring book.

All site visits will be recorded in a works monitoring book. This will record –

- Date
- Duration of visit
- DOC staff member or delegated monitoring officer involved
- Company staff member (s) involved
- Any company contractor representative involved
- Area (s) visited
- Any notes on specific works
- Any unauthorised works noted
- Any new work that department requires – time frame
- What time (by the unit of an hour or part) that needs to be charged for
- Travel time

3. Estimate of monitoring costs.

Time charge and cost recovery for monitoring of this project will apply, the table below is the departmental schedule of fees that apply.

Area Staff	\$75.00 plus GST per hour
Delegated Monitor	\$80.00 plus GST per hour <i>(estimate only. SAR and DOC may agree on an environmental monitoring contractor with the required experience and expertise a lower rate)</i>
Travel	\$1.45 c plus GST per kilometre

4. Estimate of site visits and monitoring hours

It is estimated that a minimum of 4 site visits will be required to monitor the 2006 summer works. Hours reviewing the progress reports will also be required. Monitoring costs will be met by the applicant.

Wildlife Act Authority for wildlife located on public conservation land

Authorisation Number: 112632-FAU

THIS AUTHORITY is made this 9 day of February 2024

PARTIES:

The Director-General of Conservation and where required the Minister of Conservation (the Grantor)

AND

NZSKI Limited (the Authority Holder)

BACKGROUND

- A.** The Director-General of Conservation is empowered to issue authorisations under the Wildlife Act 1953.
- B.** Where the authorisation applies to wildlife located on public conservation land a further authorisation is required, depending upon the legislation applying to the public conservation land, from either the Director-General of Conservation or the Minister of Conservation.
- C.** The Authority Holder wishes to exercise the authorisation issued under the Wildlife Act 1953 and where applicable the authorisation issued under the relevant legislation applying to the public conservation land subject to the terms and conditions of this Authority.

OPERATIVE PARTS

In exercise of the Grantor's powers the Grantor:

AUTHORISES the Authority Holder under Section 53 of the Wildlife Act 1953 subject to the terms and conditions contained in this Authority and its Schedules.

PERMITS the Authority Holder pursuant to section 38 and Part 3B of the Conservation Act 1987

PERMITS the Authority Holder pursuant to sections 50 and 59A of the Reserves Act 1977 subject to the terms and conditions contained in this Authority and its Schedules.



SIGNED on behalf of the Grantor by David Butt
Operations Manager, Queenstown District Office
acting under delegated authority in the presence of:



Witness Signature

Witness Name: Mark Lukaszewicz

Witness Occupation: Operations Support Officer

Witness Address: Cavells Building, 1 Arthurs Point Road, Arthurs Point 9371

A copy of the Instrument of Delegation may be inspected at the Director-General's office at
18-32 Manners Street, Wellington.

SCHEDULE 1

1.	<p>Authorised activity (including the species, any approved quantities and collection methods) (Schedule 2, clause 2)</p>	<p>a. Activity –</p> <ol style="list-style-type: none"> To catch alive and liberate the absolutely protected wildlife referred to under Schedule 4 of this Authority for the purpose of species preservation To kill the absolutely protected wildlife listed under Schedule 4 of this Authority for the purpose of <ol style="list-style-type: none"> being unable to remove the wildlife from earthworks within the works footprint subject to Schedule 3.4 euthanising to relieve the suffering of injured wildlife not killed by earthworks subject to Schedule 3.8 <p>b. Purpose–</p> <ol style="list-style-type: none"> for the purpose of ensuring, through appropriate conditions, that a proposal is undertaken in a way that ensures the long-term viability of protected wildlife present at the site, when construction is underway <p>c. Quantity –</p> <ol style="list-style-type: none"> catch alive – as required kill – as required <p>d. Method –</p> <ol style="list-style-type: none"> catch alive – by hand or via Gee Minnow traps
2.	<p>The Land (Schedule 2, clause 2)</p>	<p>Public Conservation Land: Rastus Burn Recreation Reserve as per the map under Schedule 5 of this Authority and subject to Schedule 3.18-19 The release site of salvaged lizards is Rastus Burn Recreation Reserve subject to schedule 3.10.</p>
3.	<p>Personnel authorised to undertake the Authorised Activity (Schedule 2, clause 3)</p>	<p>Sec 9(2)(a) [REDACTED] [REDACTED] [REDACTED] [REDACTED]</p>
4.	<p>Term (Schedule 2, clause 4)</p>	<p>Commencing on and including 8 February 2024 and ending on and including 8 February 2027</p>
5.	<p>Authority Holder's address for notices (Schedule 2, clause 8)</p>	<p>The Authority Holder's address in New Zealand is: Level 2 The Station Camp Street Queenstown 9305 Email: Sec 9(2)(a) [REDACTED]</p>
6.	<p>Grantor's address for notices</p>	<p>The Grantor's address for all correspondence is: Permissions Team</p>

		Level 4 73 Rostrevor Street Hamilton, 3204 Email: permissionshamilton@doc.govt.nz
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Released under the Official Information Act

SCHEDULE 2

STANDARD TERMS AND CONDITIONS OF THE AUTHORITY

1. Interpretation

1.1 The Authority Holder is responsible for the acts and omissions of its employees, contractors or, agents. The Authority Holder is liable under this Authority for any breach of the terms of the Authority by its employees, contractors or agents as if the breach had been committed by the Authority Holder.

1.2 Where obligations bind more than one person, those obligations bind those persons jointly and separately.

2. What is being authorised?

2.1 The Authority Holder is only allowed to carry out the Authorised Activity on the Land described in Schedule 1, Item 2.

2.2 Any arrangements necessary for access over private land or leased land are the responsibility of the Authority Holder. In granting this authorisation the Grantor does not warrant that such access can be obtained.

2.3 The Authority Holder must advise **the Department of Conservation's local** Operations Manager(s) prior to carrying out the Authorised Activity in the District (where possible, one week prior), when the Authority Holder intends to carry out the Authorised Activity.

2.4 The Authority Holder and Authorised Personnel must carry a copy of this Authority with them at all times while carrying out the Authorised Activity.

2.5 The Authority Holder must comply with any reasonable request from the Grantor for access to any wildlife.

2.6 The Authority Holder may publish authorised research results.

2.7 The Authority Holder must immediately notify the Grantor of any taxa found which are new to science. In addition, the Authority Holder must lodge holotype specimens and a voucher specimen of any new taxa with a recognised national collection.

3. Who is authorised?

3.1 Only the Authority Holder and the Authorised Personnel described in Schedule 1, Item 3 are authorised to carry out the Authorised Activity, unless otherwise agreed in writing by the Grantor.

4. How long is the Authority for - the Term?

4.1 This Authority commences and ends on the dates set out in Schedule 1, Item 4.

5. What are the obligations to protect the environment?

5.1 The Authority Holder must not cut down or damage any vegetation; or damage any natural feature or historic resource on any public conservation land being part of the

- Land; or light any fire on such public conservation land; or erect any structure such public conservation land without the prior consent of the Grantor.
- 5.2 **The Authority Holder must ensure that it adheres to the international “Leave No Trace” Principles at all times (www.leavenotrace.org.nz).**
- 5.3 The Authority Holder must not bury:
- (a) any toilet waste within 50 metres of a water source on any public conservation land being part of 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.
6. What are the liabilities?
- 6.1 **The Authority Holder agrees to exercise the Authority at the Authority Holder’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 arising from the Authority Holder’s exercise of the Authorised Activity.**
- 6.2 The Authority Holder 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 Authority Holder’s exercise of the Authorised Activity.**
- 6.3 This indemnity is to continue after the expiry or termination of this Authority in respect of any acts or omissions occurring or arising before its expiry or termination.
7. **What about compliance with legislation and Grantor’s notices and directions?**
- 7.1 The Authority Holder must comply with all statutes, bylaws and regulations, and all notices, directions and requisitions of the Grantor and any competent authority relating to the conduct of the Authorised Activity. Without limitation, this includes the Conservation Act 1987 and the Acts listed in the First Schedule of that Act and all applicable health and safety legislation and regulation.
8. Are there limitations on public access and closure?
- 8.1 The Authority Holder acknowledges that the public conservation land being part of the Land is open to the public for access and that the Grantor may close public access to that public conservation land during periods of high fire hazard or for reasons of public safety or emergency.
9. When can the Authority be terminated?
- 9.1 The Grantor may terminate this Authority at any time in respect of the whole or any part of the Land, and/or the whole or any part of the Authorised Activity if:
- (a) the Authority Holder breaches any of the conditions of this Authority; or
 - (b) **in the Grantor’s opinion, the carrying out of the Authorised Activity causes or is likely to cause any unforeseen or unacceptable effects.**

- 9.2 If the Grantor intends to terminate this Authority in whole or in part, the Grantor must give the Authority Holder such prior notice as, in the sole opinion of the Grantor, appears reasonable and necessary in the circumstances.
10. How are notices sent and when are they received?
 - 10.1 Any notice to be given under this Authority by the Grantor is to be in writing and made by personal delivery, by pre-paid post or email to the Authority Holder at the address, fax number or email address specified in Schedule 1, Item 5. Any such notice is to be deemed to have been received:
 - (a) in the case of personal delivery, on the date of delivery;
 - (b) in the case of post, on the 3rd working day after posting;
 - (c) in the case of email, on the date receipt of the email is acknowledged by the addressee by return email or otherwise in writing.
 - 10.2 If the Authority **Holder's details specified in Schedule 1, Item 5 change then the** Authority Holder must notify the Grantor within 5 working days of such change.
11. What about the payment of costs?
 - 11.1 The Authority Holder must pay the standard Department of Conservation charge-out rates for any staff time and mileage required to monitor compliance with this Authority and to investigate any alleged breaches of the terms and conditions of it.
12. Biosecurity
 - 12.1 The Authority Holder must take all precautions to ensure weeds and non-target species are not introduced to the Land; this includes ensuring that all tyres, footwear, gaiters, packs and equipment used by the Authority Holder, its staff and clients are cleaned and checked for pests before entering the Land.
13. Are there any Special Conditions?
 - 13.1 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 will prevail.
14. Can the Authority be varied?
 - 14.1 The Authority Holder may apply to the Grantor for variations to this Authority.

SCHEDULE 3

SPECIAL CONDITIONS

1. Ownership of absolutely protected wildlife

1.1 This Authorisation gives the Authority Holder the right to catch alive, liberate and kill absolutely protected wildlife in accordance with the terms and conditions of the Authorisation, but the wildlife remains the property of the Crown. This includes any dead wildlife, live wildlife, any parts thereof, any eggs or progeny of the wildlife, genetic material and any replicated genetic material.

1.2 Unless expressly authorised by the Grantor in writing, the Authority Holder must not donate, sell or otherwise transfer to any third party any wildlife, material, including any genetic material, or any material propagated or cloned from such material, collected under this Authority.

2. Adhere to approved application and lizard management plan

2.1 The Authorised Activity must be undertaken in accordance with the Lizard Management Plan attached to Schedule 6 of this Authority.

2.2 Any subsequent amendments made to the Lizard Management Plan by *Lizard Expert NZ* must be satisfactory to the grantor and will form a Part of Authority once accepted.

2.3 Notwithstanding Schedule 3.2.2, if there is a conflict between the Lizard Management Plan and the terms and conditions of this Authority, the terms and conditions of this Authority prevail.

2.3 The Authority Holder is responsible for the acts and omissions of its employees, contractors, or agents. The Authority Holder is liable under this Authority for any breach of the terms of the Authority by its employees, contractors or agents as if the breach had been committed by the Authority Holder

3. Mitigation Conditions

3.1 The Authority Holder is only permitted to release wildlife that are listed in Schedule 4 using methods described in the lizard management plan referred to under Schedule 3.2.

4. Killing wildlife

4.1 The Authority Holder is permitted to kill wildlife provided reasonable efforts have been made to meet all of the terms and conditions expressed and implied in this Authority.

5. Salvage relocation and habitat enhancement

5.1 The Authority Holder must perform actions as set out in the contingencies/adaptive management sections of the Lizard Management Plan to ensure adequate mitigation of effects has been achieved.

5.2 The Grantor must be contacted immediately (queenstown@doc.govt.nz) for further advice if wildlife other than those listed in Schedule 4 are located within the footprint of the development or within the release site. A separate application to kill non-authorized species will be required.

5.3 The Authority Holder must follow the Key Principles for lizard salvage and transfer in New Zealand: [Key principles for lizard salvage and transfer in New Zealand \(doc.govt.nz\)](#)

6. Lizard capture and handling

- 6.1 Lizards must only be handled by Authorised Personnel named under Schedule 1.3.
- 6.2 Lizard capture, handling and relocation should be undertaken between September and April, in temperatures of 12.8 degrees – 30.0 degrees centigrade, when lizards are active, as advised by a suitably experienced herpetologist.
- 6.3 Capture and handling of lizards must involve only techniques that minimise the risk of infection or injury to the animal.
- 6.4 Capture and handling methods shall follow those described in the Herpetofauna inventory and monitoring toolbox <http://www.doc.govt.nz/our-work/biodiversity-inventory-and-monitoring/herpetofauna/>
- 6.5 The Authority Holder must ensure all live capture traps are covered to protect lizards from exposure and minimise stress. Damp leaf litter or other material must be provided to reduce desiccation risk and the bottom of the pit-fall trap must be perforated to allow drainage of water.
- 6.6 Authority Holder must ensure all live capture traps, (e.g., G-minnow traps), are checked at least every 24 hours.
- 6.7 The Authority Holder must sterilise any instruments that come in contact with the lizards and/or are used to collect or measure lizards between each location. A separate holding bag must be used for each animal. All gear should be thoroughly cleaned and dried between sites.
- 6.8 The Authority Holder must ensure lizards are temporarily held individually in a suitable container (e.g., breathable cloth bag) and held out of direct sunlight to minimise the risk of overheating, stress and death.

7. Death of wildlife associated with salvage activities

- 7.1 If any lizards should die during the authorised activities of catch, transfer or liberate, the Authority Holder must:
 - a. inform the Grantor (queenstown@doc.govt.nz) within 24 hours, chill the body if it can be delivered within 72 hours, or freeze the body if delivery will take longer than 72 hours; and
 - b. send the body to Massey University Wildlife Post Mortem Service for necropsy along **with details of the animal's history; and**
 - c. pay for any costs incurred in investigation of the death of any lizard; and
 - d. if required by the Grantor, cease the Authorised Activity for a period determined by the Grantor.

8. Euthanasia

- 8.1 If any lizards are found injured as part of the Authorised Activity, the Authority Holder shall contact Authorised Personnel listed under Schedule 1(3) to get advice on management of the lizard. The Authority Holder is authorised to euthanise injured lizard(s) on recommendation of the Authorised Personnel listed under Schedule 1(3) or a veterinarian.

9. Lizard Salvage Reporting

9.1 A report is to be submitted in writing to the DOC Operations Manager, Queenstown District Office at queenstown@doc.govt.nz and permissionshamilton@doc.govt.nz within three months of the salvage being completed, summarising outcomes in accordance with the Lizard Management Plan. The report must include:

- a. the permission number; and
- b. the species and number of any animals collected and released; and
- c. the GPS location (or a detailed map) of the collection point(s) and release point(s); and
- d. results of all surveys, monitoring or research; and
- e. description of how the Lizard Management Plan was implemented including any difficulties encountered with capture and handling, how release sites were assessed, post release monitoring and what contingency actions were required.

9.2 Completed Amphibian and Reptile Distribution System (ARDS) cards for all herpetofauna sightings and captures (<http://www.doc.govt.nz/conservation/native-animals/reptiles-and-frogs/species-information/herpetofauna-data-collection/ards-card/>) must be sent to Herpetofauna, Department of Conservation, National Office, PO Box 10420 Wellington 6143 or herpetofauna@doc.govt.nz.

9.3 If required in writing by the Grantor, the Authority Holder must make such improvements to techniques (including catching, handling, releasing, preserving and storing), and take such other steps as directed by the Grantor

10. Miscellaneous

10.1 The Authority Holder must only catch alive and kill the wildlife within the works footprint identified in the concession 100472-OTH.

10.2 The Authority Holder must only liberate the wildlife outside of the works footprint identified in concession 100472-OTH as specified in the Lizard Management Plan or by a suitably qualified and experienced herpetologist.

SCHEDULE 4 – authorised species

Common name	Scientific name
1. McCann's skink	<i>Oligosoma maccanni</i>
2. Pallid Skink	<i>Oligosoma pluvialis</i>

Released under the Official Information Act

OUT

-25.0 m
-14.2 m
-12.0 m
-10.0 m
-8.0 m
-6.0 m
-4.0 m
-2.0 m
0.0 m
2.0 m
4.0 m
6.0 m
8.0 m
10.0 m
12.0 m
14.0 m
16.0 m
18.0 m
20.0 m
22.0 m
24.0 m
25.0 m

FILL

Legend

- Proposed Brownsiding
- Waharoa
- Existing Contour - Major
- Earthworks Extents
- Proposed LUL Alignment
- Proposed Tower (Oppokhai)
- Stream

Section 10
Block V
Coneburn SD

**The Remarkables
Shadow Basin Works - Coordinated Site Plan
Overall - Cut and Fill Depths**

Southern Land
Development (2018/01/18/18/18)

CSNZ

nzski

Official Information Act



SCHEDULE 6
Lizard Management Plan

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Shadow Basin, The Remarkables

Adaptive Lizard Management Plan for Pallid skink

December 2023

Sec 9(2)(a)



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1. Executive Summary

The Remarkables Ski Area (RSA) has resource consent and Department of Conservation concessions to carry out earthworks within the Department of Conservation administered Rastus Burn Recreation Reserve on the northern end of the Remarkables (Kawarau) Mountain Range (Figure 1). During works and associated ecology work a skink was sighted and subsequently confirmed to be pallid skink. Liaison with DOC following the discovery has led to the development of this adaptive Lizard Management Plan that sets out actions and a timeline to achieve the Lizard Management Plan (LMP) goal; namely, to provide an overall protective benefit to skinks in the Shadow Basin and beyond both ahead of, during and following the completion of scheduled works, works that are already well underway. A second lizard species has now been confirmed from the Shadow Basin: McCann's skink. This more recent finding justifies the adaptive management approach adopted in this LMP for managing *all lizard values* of the Shadow Basin beginning with pallid skink but including other species in future iterations. Given works over the Shadow Basin are well underway, this LMP has a heavy bias towards compensation.

2. Background to the Project

RSA is utilised by NZSki Limited pursuant to a lease agreement with the Department of Conservation and associated Concessions. Over the 2023/2024 season, RSA plan to carry out a variety of infrastructure projects over the Shadow Basin including replacing an existing lift system (towers, top and base stations and associated trail development and trenching works for buried lift utilities); altering and extend the existing road access and trenching works for snowmaking. No LMP is currently in place for these works as lizard surveys carried out to date had failed to detect lizards over the areas affected (surveys carried out by Wildlands). By default, therefore, lizard management over the Shadow Basin was triggered by accidental discovery of lizards in November 2023 and then again in December 2023 when works were well underway. An adaptive approach to lizard management is, therefore, taken in this LMP.

Ecological Context

The Shadow Basin is commonly referred to as part of The Remarkables Ski Area (RSA) and is contained within the Department of Conservation administered Rastus Burn Recreation Reserve on the northern end of the Remarkables (Kawarau) Mountain Range (Figure 1). RSA is in the head waters of the Rastus Burn Stream. Lake Alta, a 13.9-hectare alpine lake at 1,800 metres asl in part feeds the Rastus Burn Stream which flows through the Rastus Burn Recreation Reserve. Vegetation cover throughout the Rastus Burn headwaters changes significantly due to altitudinal succession. At the lower altitudes the vegetation cover largely comprises tall tussock grassland interspersed with alpine wetlands and cushion fields ascending into areas of rock field.

The ski area commences at approximately 1600 metres asl and access to the site is obtained from the Queenstown-Kingston Highway via a 13km long access road which is now largely

sealed. The RSA is typical of the Queenstown Lakes District Council's Ski Area Sub-Zone with developed ski runs, operational chairlifts and other infrastructure including the existing car parking, maintenance building, medical building, bottom lift stations, RSA base building and snow making equipment.

However, the locality retains a highly natural character due to the surrounds of this mountain cirque (e.g., see Figures 2 & 3). Double Cone overshadows RSA from the south at 2,319 metres asl.

6(c)



Figure 1: Boundary of The Remarkables concession area – in yellow. Faint red lines represent existing chair lifts lines, and the location of pallid skinks is indicated in blue.

6(c)



Figure 2: View across the so-called Shadow Basin looking 6(c) Pallid skinks located in the area shaded blue.

Resource Consent & Concession Conditions

The Department of Conservation Lease, Licence and Easement Consent document refers to -
“The Concessionaire must ensure that if a lizard is seen or found (alive or dead),
then the Department of Conservation is to be contacted to provide guidance

on the next steps, including whether a Wildlife Act Authority is required.”

3. Proposed Works over the Shadow Basin

An approved project currently underway which includes the **replacement of a 38-year-old fixed grip quad chair lift** running up through the center of Shadow Basin, installation of a 6-seat detachable chair lift, snow making line, road access and trail extension to an already existing trail network within Shadow Basin. The chairlift construction takes a slightly different line to the existing chair lift and the top station sits at 1995m asl. The trail work involves the construction of a 30m wide trail 355m long connecting the unload of the new chair lift with the exiting trail network within Shadow Basin.

Construction of the replacement lift system involves earthworks for new trail development, earthworks for construction of top and bottom stations and tower foundations, and earthworks trenching for buried lift utilities and snowmaking. There will be approximately 3 ha of earthworks and indigenous vegetation/indigenous fauna habitat clearance associated with this project (see Appendix 1).

The top station earthworks will include cutting into the north face and below the ridge line at an elevation of 1,995m asl. Egress away from the unload of the lift requires two trails to be created, Calypso Trail will lead snow users northwest down towards the existing trail network and the existing Shadow Basin chairlift top station, and Cushion Trail will skirt around and to the east from the unload for a length of 183m.

Snowmaking infrastructure is proposed to support the ski trails from the top station of the chair lift down the length of Calypso Trail, with short extensions down Sunrise face and mid steep trails, all largely within the footprint of the trail earthworks. There will be approximately 3 ha of earthworks and indigenous vegetation/indigenous fauna habitat clearance associated with this project (see Appendix 2).

It is also proposed to **alter and extend the existing road access** within Shadow Basin to enable secure loads and safe access to and from the proposed top station for construction and ongoing maintenance beyond the construction period. This will be achieved through the deposition of cut to fill material as part of the proposed trail works. Cut to fill balances on site for the top station excavation, ski trail and road access earthworks. There will be approximately 3 ha of earthworks and indigenous vegetation/indigenous fauna habitat clearance associated with this project (see Appendix 1).

Machinery used for the development includes 2 x 20t diggers, 1 x 45t digger, 1 x 50t digger, 2 x 30t 6-wheel dump truck. Primarily construction is of a cut to fill nature utilizing material at the site by relocating it from directly above to directly below the area a digger has reached over. The duration of a piece of machinery operating in any one position would be

no more than one day, but to move through a section of 50m+ may take 3 to 4 days depending on the extent of works to completion in any one area.

Disturbance of the unmodified terrain includes vegetation removal and relocation, rock uplifting and relocation, beneath the surface there is more fine material than anticipated which will mix with rock as it is moved to create the access road through the selected terrain. Vegetation consists of Macra Tussock, Alpine grasses, rock shards, cushion fields on the fringes of tussock cover between those plants and wetlands.

Rehabilitation of the road access may also adversely impact on lizards.

4. Goal of this LMP

The goal of this LMP is to provide an overall protective benefit to lizards of the Shadow Basin both ahead of, during and following the completion of scheduled works that are already underway. This will be achieved through adaptive management of lizard populations in the Shadow Basin using this LMP (and revisions of it), as an appropriate mechanism to communicate and document actions and progress towards achieving the goal. This version of the LMP, as requested by DOC, focusses solely on pallid skink but future versions will cover *all lizards* of the Shadow Basin.

This LMP stands alone and seeks to manage adverse effects on lizard values independently of any other actions relating to the project. That said, some actions designed primarily as mitigation for the loss and disturbance of indigenous vegetation will provide an incidental benefit to lizards. For example, ecological work to transplant sensitive flora has resulted in two incidental sightings of lizards in the Shadow Basin.

5. Lizard Populations of the Shadow Basin

While carrying out a pre-works ecological survey (in line with approved conditions set out by The Department of Conservation) lizards were detected within ^{6(c)} [REDACTED]. Following this and to determine the community that may be within the designated area 100 gee's minnow traps were set by ^{9(2)(a)} [REDACTED] to capture possible resident lizards (using best practice trapping). Over a three-day period in late November 2023 ^{6(c)} [REDACTED]. Without DNA testing the species is considered to be the Pallid skink, *Oligosoma pluvialis* (identified by ^{9(2)(a)} [REDACTED]; see cover page of this LMP) which is nationally at risk declining according to DOC. Conditions over that 72hr period were mainly clear skies, during the day, cooler nights but temps during the day reaching 13 degrees. The traps were removed on the 3rd day due to incoming cold southerlies. The environment they were located in has ^{6(c)} [REDACTED]. Schist rock covers the ground under vegetation in places (Figure 3).

The lizard community identified as the Pallid Skink appears to have a settled community
6(c)

The flora where the lizards have been identified includes 6(c). The geology of the area is basement metamorphic rocks which is typically schist that is well foliated psammitic and pelitic with incipient segregation: minor greenschist and metachert. Quartz veins common. (GNS, 2022). Species include *Chionochloa macra*, blue tussock *Plantago lanigera*, *Carex penalpina*, *Viola cunninhamii*, *Carex Wakatipu*, *Myrsine nummularia*, *Rouulia subsericea* and *Rytidosperma pumilum*.



Figure 3: View looking 6(c) showing the location of pallid skinks (blue shaded area).

6(c)



Figure 4: Outline of the RSA and concession boundary in the Shadow Basin and location of the pallid skink population detected.

6(c)



Figure 5: Typical habitat for pallid skink in the Shadow Basin.

Significance of habitat

The presence of the At-Risk pallid skink qualifies the Shadow Basin as a significant fauna habitat under the Proposed Otago Regional Policy Statement 2021 (Otago RPS) and the DOC guidelines for Assessing Significant Ecological Values¹.

6. Actual and potential effects of Works in the Shadow Basin

Adverse effects, as detailed here are expected, should no minimisation, mitigation or remediation actions be carried out (but see Section 7). For adverse effects, a mix of actual and potential effects are included in this section, along with temporary and permanent effects.

Geographic Area of Assessment

For this effects assessment, the geographic scale for 'local population' significance of effect is within the Queenstown Lakes District Council's Ski Area Sub-Zone (the so-called 'point of impact').

¹ Davis, C. M., Head, N., Myers, S. C., & Moore, S. H. (2016). Department of Conservation guidelines for assessing significant ecological values. Publishing Team, Department of Conservation.

Definition of effect

Effect is not defined under the Wildlife Act (1953), or indeed the Conservation Act (1987). For this LMP, 'effect' takes the broad definition provided in Section 3 of the RMA (1991).

Population & Individual Effects

Actual and potential population and individual effects of the Shadow Basin works on pallid skinks are as follows:

1. Adverse effect of displacement of lizards from existing habitat, and habitat directly adjacent to the works area, during works and rehabilitation of the disturbed footprint. I anticipate that noise, dust, and vibration will be the mechanism that leads to any lizard displacement. This LMP rates this effect as having a low significance for pallid skinks both locally and nationally (M. Tocher pers. comm. December 2023).
2. Adverse effect of injury/death through direct contact with construction machinery and increased foot and vehicle traffic during work and rehabilitation of the disturbed footprint. This LMP rates this effect as having a moderate significance for pallid skinks locally and a low significance nationally (M. Tocher pers. comm. December 2023).

Overall and in the absence of lizard management, it is estimated that ≥ 50 pallid skinks could be affected by adverse effects of the Shadow Basin works (M. Tocher pers. comm. December 2023).

Habitat Effects

Actual and potential habitat effects of the Shadow Basin works are as follows:

1. Adverse effects of loss of habitat of lizards from existing habitat, and any habitat directly adjacent to the works areas that may be incidentally affected (e.g., vehicle turning effects). This LMP rates this effect as having a moderate significance for pallid skinks locally and a low significance nationally (M. Tocher pers. comm. December 2023).

The disturbance of the surface material and vegetation is only temporary, and lizards do like to live on the fringes of tussock cover amongst rock shards verging on the shorter vegetation around the fringes of wetlands. No disturbance is occurring within 11m of wetlands, all vegetation is being carefully relocated (tussock) where possible to assist in the recovery of vegetation over the entire length of the development as soon as possible. Notwithstanding this comment, it is estimated that a maximum of will be impacted during construction works in the Shadow Basin.

Significance of effects – Wildlife Act (1953)

Under the Wildlife Act (1953) all indigenous New Zealand lizards are absolutely protected and, therefore, all effects on indigenous lizards and their habitats are considered significant (as per the DOC 'Guidelines and model for producing management plans for New Zealand lizards').

7. Opportunities to Avoid/Minimise Adverse Effects on Pallid Skinks

Minimising Effects

Avoidance/Minimalization includes constant review through the construction phase to minimize the footprint of actual works, review prior to machinery establishment extent of works required, placement of excess material (relocated off site), minimal movements of vegetation on site, establishing and following an agreed path, staying within pegs and minimizing the amount of travelling along chosen paths.

All lift and tower locations, trail development and snowmaking has been planned to have the least impact possible to existing vegetation whether it be cushion field, fell fields, alpine grasses or tussock by nature. Wherever possible NZSki will replant indigenous vegetation either by storing and replanting back in the original area at earthworks completion, or by removing from the area and replanting in suitable alternative habitats within the ski area, in consultation with DoC and ecologists and in accordance with agreed and proven rehabilitation protocols.

In consultation with ecologists, NZSki has made modifications to its concept top station location, tower locations and ski trail earthworks plan in order to minimise impact on the indigenous biodiversity. The ski trail earthworks have also been planned to avoid all Regionally Significant Wetland areas.

Careful attention is constantly being taken to minimize the extent of works during the construction of the road through previously unmodified terrain and of the nature that lizards and other fauna may be affected. Consideration is constantly being reviewed on the completed/finished earthworks to resemble terrain that was previously undisturbed.

Rock shards in the form of veins are relocated to sites they previously settled in, the balance of tussock cover, rock insertions with fringes of lower ground cover (cushion/fell fields) are placed with the aid of digger bucket picking up as much sod/soil medium at the same time to minimize the vegetation route system, therefore minimal disturbance to the growing plant. All of this to assist in creating the environment that was present previous to any ground disturbance and familiarization to the lizard population.

All of the above is in line with the "Protocols for the rehabilitation of natural alpine environments following ski area development" which were developed between DoC and NZSki Ltd.

The disturbance corridor when trenching and installing the snow making system, which takes in pallid skink habitat, will be minimised. The outcome is to then return the ground cover and landscape to as near as achievable its original state as soon as possible.

Our intention is to minimize the amount of travel in areas known to have resident lizards (informed by a planned 10-day survey, January 2024) and to minimize the extent of time in or around those areas.

8. Mitigation

Lizard survey- Shadow Basin

Before the end of January 2024, a comprehensive lizard survey (walk-through and trapping) will be carried out over the Shadow Basin to document lizard species present and their habitat use. This survey is expected to take 10-days of fine weather and will be carried out by a highly experienced herpetologist (9(2)(a) [REDACTED]).

Pallid skink salvage

Once habitat associations have been confirmed, pallid skinks will be salvaged from habitats they occupy, or are thought to occupy, ahead of works. As per best practice, release areas will be subject to predator control and monitoring ahead of and after release to support establishing skinks. Predator control measures include a proposed line (ring fence) of 50 traps circling the area where the community resides initially then moving out with a wider scope over the next few summer periods. The winter period May through October the area is covered in snow, so trapping is very limited, but as soon as the snow recedes traps are set up for as longer period as possible on an annual basis.

Existing Predator Control

There is already an active Predator control programme in place at The Remarkables. All up 93 traps are in place in different locations below the base of the ski area (1,600m asl) to prevent uphill travel of predators such as stoats, weasels, possums, feral cats, rodents and hedgehogs. Traps are monitored weekly and maintained throughout the year.

We currently have 93 traps monitored weekly which have been on site for the last 5 years, predominantly at lower elevations (700m down to 300m asl). These were originally set up from Lake Alta back to the base facility (1600m – 1850m asl) but with limited activity were positioned lower to be more effective at the time. During this period total captures are as follows:

Possums	176
Hedgehogs	83
Mustelids	82
Rats	40
Other	54

9. Remediation/Rehabilitation

Remediation/Rehabilitation includes accurate and timely placement of finished ground works to minimise disturbed areas of the lizard environment. Resetting the vegetation, ideally in single movements from pick up to placement and as per the Revegetation and rehabilitation protocols in place between DoC and The Remarkables Ski Area.

A survey is proposed to be carried out one- and three-years post development to assess the lizard population going forward, how it has reestablished in the modified environment and whether further measures are required to be actioned to improve the re-establishment of the animals.

10. Anticipated Residual Effects

It is anticipated that there will be highly significant residual adverse effects once the avoidance, remediation and mitigation measures described above have been implemented for pallid skink (M. Tocher pers. comm., December 2023). Residual effects will occur as it is not expected that all skinks will evade death or injury but where possible actions by staff and contractors will minimize any loss of the populations while providing an environment on completion that allows quick recovery of any loss to the population through the development.

Compensation

To address residual effects, including those effects already occurring because of works described in Section 3 of this LMP, NZSki are preparing a comprehensive compensation package that will address all residual effects. The package will be developed in full collaboration with the Department of Conservation and will ensure an overall protective benefit for lizard species of the Remarkables. For example, NZSki will initiate and provide only support for a conservation project in the Remarkables, and if possible, within a nearby DOC Ecosystem Management Unit (EMU) (or Species Management Unit, SMU, as the case maybe).

11. Contingency Mitigation

As an adaptive LMP, Contingency mitigation will be detailed in future versions and will be informed by the planned lizard survey.

12. Incidental discovery

Pallid skinks were found incidentally in November 2023 during consented works operating under an existing DOC concession. Should any lizards other than pallid skink be detected during activities over the Shadow Basin, DoC has requested to be informed immediately to coordinate appropriate management actions. For example, a sighting of a second species, McCann's skink, was made in December 2023 in the Shadow Basin; management of this

species, and any others detected through survey (see Section 8) or through activities underway in the basin, will be managed through the final LMP for the Shadow Basin, the drafting of which is underway.

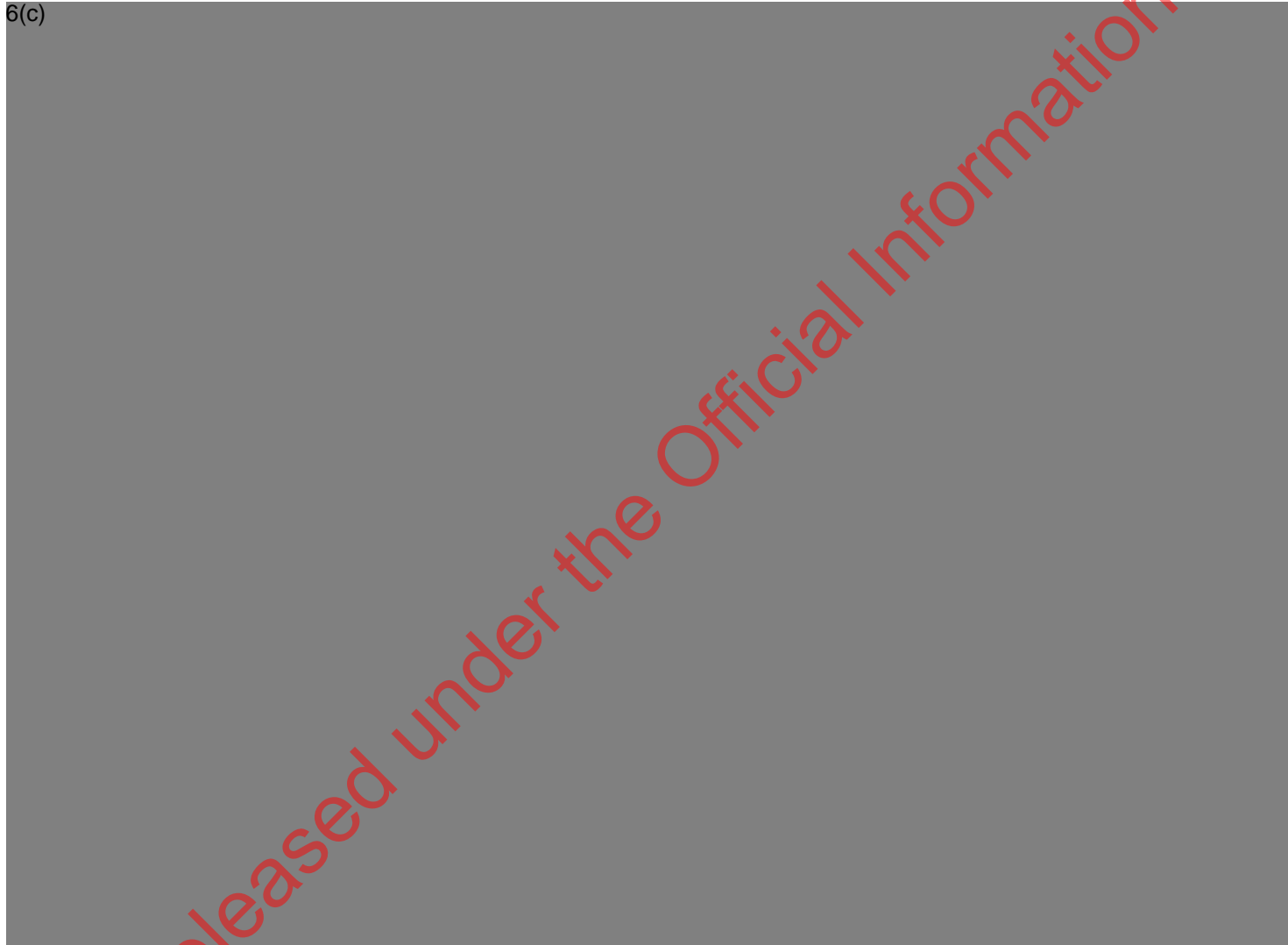
13. Reporting

Following the completion of all lizard management carried out under this plan and any revisions of it, a management report will be prepared by a suitably qualified herpetologist detailing all actions undertaken with supporting maps, photographs, and recommendations for the Shadow Basin. The completed report will be submitted to DoC. Results from predator trapping (kills) and pest tracking will also be included in the report.

Released under the Official Information Act

Appendix 1 – Maps of Consented Shadow Basin Development (excludes snow trenching works)

6(c)



Appendix 2 – Maps of Earthworks relating to trenching works for snow making

Enclosed as a separate document. Any reference to the proposed and consented snow making installation is illustrated by thin blue lines with blue circles/squares which represent snow making pit and gun locations along the line.

Specifically Sheets E302, E303, E304, E305, E306 and E308 within “The Remarkables Shadow Basin Works – Coordinated Plan Access – Cut and Fill Depths” drawings.

Released under the Official Information Act



Department of Conservation
Te Papa Atawhai

Concession Document (Easement C)

Concession Number: OT-34109-SKI

Concession Document (Deed of Easement)

THIS EASEMENT is made this 10 day of August 2015

PARTIES:

1. **Minister of Conservation**, (the Grantor)
2. **NZSki 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 Department is under the control of the Grantor.
- C. The carrying out of these functions may result in the Grantor granting concessions to carry out activities on public conservation land.
- D. The Grantor administers public conservation lands described in Schedule 1 as the Easement Land.
- E. The Conservation legislation applying to the Easement Land authorises the Grantor to grant a concession over the Easement Land.
- F. The Concessionaire wishes to carry out the Concession Activity on the Easement Land subject to the terms and conditions of this Concession.
- G. The Concessionaire acknowledges that the Easement Land may be the subject of Treaty of Waitangi claims.
- H. The parties wish to record the terms and conditions of this Concession and its Schedules.

OPERATIVE PARTS

- I. In exercise of the Grantor's powers under the Conservation legislation the Grantor **GRANTS** to the Concessionaire an **EASEMENT** to carry out the Concession Activity on the Easement Land subject to the terms and conditions contained in this Concession and its Schedules

SIGNED on behalf of the Minister of Conservation by



Greg Lind - Conservation Partnerships Manager Wakatipu

acting under delegated authority in the presence of:

Witness Signature: 

Witness Name: Chris Harkness

Witness Occupation: Partnerships Project

Witness Address: DOC Headquarters

1 Arthur's Court, Queenstown

A copy of the Instrument of Delegation may be inspected at the Department of Conservation at 18-22 Manners Street, Wellington.

SIGNED by NZSki Limited by:

9(2)(a)



Director

CEO
Rene Anderson

Director

Released under the Official Information Act

SCHEDULE 1

1.	Easement Land (Schedule 4)	Rastus Burn Recreation Reserve
2.	Land (Schedule 4)	Is the easement in gross? Yes
3.	Concession Activity (clause 2)	(a) a right to construct and operate snowmaking equipment: (b) a right to construct and operate a chairlift, called the Curvy Basin chairlift: (c) a right to construct and operate snow trails down the Curvy Basin:
4.	Term (clause 3)	30 years commencing on 1 May 2013
5.	Final Expiry Date (clause 3)	30 April 2043
6.	Concession Fee (clause 4)	Activity fee For this concession, there will be no fees charged in addition to the rent that is required in accordance with the Deed of Lease dated 30 August 1993 or such successor or replacement of that lease as may exist from time to time Administration fee Not applicable Environmental Monitoring Fee As specified in special condition 3 and 17 Schedule 3
7.	Concession Fee Payment Dates (clause 4)	Not applicable
8.	Penalty Interest Rate (clause 4)	Not applicable
9.	Concession Fee Review Date(s) (clause 5)	Not applicable
10.	Insurance (To be obtained by	Types and amounts:

9(2)(a)

Concessionaire's Initials

Grantor's Initials

	Concessionaire) (clause 11)	Public Liability Insurance for: (a) General indemnity for an amount no less than \$1,000,000.00; and (b) Forest and Rural Fires Act extension for an amount no less than \$250,000.00; and Other insurances as necessary Subject to review on each Concession Fee Review Date
11.	Addresses Notices (clause 20)	for The Grantor's address is: Department of Conservation 77 Stuart Street Dunedin PO Box 5244 Dunedin 9058 Phone: 03 477 0677 Fax: 03 477 8626
		The Concessionaire's address in New Zealand is: Queenstown Snow Centre Ground Level The Station Building Cnr Camp and Shotover Sts Queenstown 9300 PO Box 359 Queenstown 9348 Phone: 03 4424620 Fax: 03 442 4619
12.	Registration Easement (Schedule 6)	of Is the easement to be registered with LINZ? At the concessionaires discretion during the term of this easement If yes, then the following applies: When the Concessionaire wishes the Easement to be registered then the Concessionaire must at its expense prepare an Easement Instrument in the form attached as Schedule 6, arrange for any necessary survey and register the document. The Grantor, if satisfied the Easement Instrument implements this easement must sign the document.
13	Special Conditions (clause 24)	See Schedule 3

9(2)(a)


Concessionaire's initials

Grantor's initials

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

Note: Please initial each page of Schedule 1

Released under the Official Information Act

Concessionaire's initials	9(2)(a)	Grantor's initials	
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SCHEDULE 2

STANDARD CONDITIONS

1. Interpretation

- 1.1 The Concessionaire is responsible for the acts and omissions of its employees, contractors, agents, clients and invitees (excluding other members of the public accessing the Easement 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.
- 1.2 Where this Concession requires the Grantor to exercise a discretion or give any approval or provides for any other actions by the Grantor, then the Grantor must act reasonably and within a reasonable time. When a consent is required under this Concession such consent must not be unreasonably withheld.

2. What is being authorised?

- 2.1 The Concessionaire is only allowed to use the Easement Land for the Concession Activity.
- 2.2 The Concessionaire must not commence the Concession Activity until the Concessionaire has signed the Concession Document and returned one copy of this Document to the Grantor, as if it were a notice to be given under this Concession.

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

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

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

- 4.1 The Concessionaire must pay the Processing Fee (Item 14 of Schedule 1) to the Grantor in the manner directed by the Grantor. Except where the Grantor's written consent has been given, the Concessionaire cannot commence the Concession Activity until the Processing Fee has been paid.
- 4.2 The Concessionaire must pay to the Grantor in the manner directed by the Grantor the Concession Fee plus GST on the Concession Fee Payment Dates specified in Items 6, and 7 of Schedule 1.
- 4.3 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 8 of Schedule 1.

5. When can the fee be reviewed?

- 5.1 The Grantor is to review the Concession Fee on the Concession Fee Review Dates in the following manner:

- (a) The Grantor must commence the review not earlier than 3 months before a Concession Fee Review Date and no later than 9 months following the Concession Fee Review Date by giving notice to the Concessionaire.
 - (b) Subject to clause 5.1(e) the notice must specify the Concession Fee which the Grantor considers to be the market value for the Concession Activity as at the Concession Fee Review Date having regard to the matters specified in section 17Y(2) of the Conservation Act 1987.
 - (c) If, within 28 days of receipt of the Grantor's notice, the Concessionaire gives notice to the Grantor that the Concessionaire disputes the proposed new Concession Fee the new Concession Fee is to be determined in accordance with clause 5.2(a) or (b).
 - (d) If the Concessionaire does not give notice to the Grantor under clause 5.1(c) the Concessionaire is to be deemed to have accepted the Concession Fee specified in the Grantor's notice.
 - (e) Notwithstanding clause 5.1(b) the new Concession Fee so determined or accepted must not be less than the Concession Fee payable during the year preceding the particular Concession Fee Review Date and is to be the Concession Fee payable by the Concessionaire from the Concession Fee Review Date.
 - (f) Until determination of the new Concession Fee, the Concession Fee payable by the Concessionaire from the Concession Fee Review Date is to be the Concession Fee specified in the Grantor's notice. On determination of the new Concession Fee an adjustment is to be made and paid, either by the Grantor or by the Concessionaire, whichever is applicable.
- 5.2 Immediately the Concessionaire gives notice to the Grantor under clause 5.1(c) the parties are to endeavour to agree on a new Concession Fee. If the parties are unable to reach agreement within 28 days the new Concession Fee is to be determined either:
- (a) By one party giving notice to the other requiring the new Concession Fee to be determined by the Disputes clause (clause 19) or, if the parties agree,
 - (b) by registered valuers acting as experts and not as arbitrators as follows:
 - (i) Each party must appoint a valuer and give notice of the appointment to the other party within 14 days of the parties agreeing to determine the new Concession Fee by this means.
 - (ii) If the party receiving a notice does not appoint a valuer within the 14 day period the valuer appointed by the other party is to determine the new Concession Fee and that valuer's determination is to be binding on both parties.
 - (iii) Before commencing their determination the respective valuers must appoint an umpire who need not be a registered valuer.
 - (iv) The valuers are to determine the new Concession Fee which they consider to be the market value for the Concession Activity as at the Concession Fee Review Date having regard

to the matters specified in section 17Y (2) of the Conservation Act 1987 but in no case is the new Concession Fee to be less than the Concession Fee payable during the year preceding the particular Concession Fee Review Date. If they fail to agree the Concession Fee is to be determined by the umpire.

- (v) In determining the Concession Fee the valuers or umpire are to disregard the annual cost to the Concessionaire to maintain or provide access to the Easement Land.
 - (vi) Each party is to be given the opportunity to make written or oral representations or submissions to the valuers or the umpire subject to such reasonable time and other limits as the valuers or the umpire may prescribe.
 - (vii) The valuers or the umpire must have regard to any such representations but are not bound by them.
- (c) The valuers or umpire must give written notice to the parties once they have determined the new Concession Fee. The notice is to be binding on the parties and is to provide how the costs of the determination are to be borne.
- (d) (i) If a Concession Fee Review Date is postponed because of a moratorium imposed by law the Concession Fee Review is to take place at the date the moratorium is lifted or so soon afterwards as is practicable; and
- (ii) the Concession Fee Review is to establish the market value for the Concession Activity as at that date instead of the date fixed under clause 5.1 having regard to the matters specified in section 17Y(2) of the Conservation Act 1987 but in no case is the new Concession Fee to be less than the Concession Fee payable during the year preceding the particular Concession Fee Review Date; and
- (iii) each subsequent Concession Fee Review is to take place in accordance with the procedure fixed in clause 5.1

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

7. When can the Concession be assigned?

- 7.1 If in Item 2 of Schedule 1 the easement is expressed as being in gross 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 If the Concessionaire is not a publicly listed company 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 Easement Land; or light any fire on the Easement Land without the prior consent of the Grantor.
- 8.2 The Concessionaire must at its cost keep the easement facility (as defined in Schedule 5) now or hereafter upon the Easement Land, in good order, condition and repair and must keep the Easement Land in a clean and tidy condition and must not store hazardous materials on the Easement Land nor store other materials on the Easement Land where they may obstruct the public or create a nuisance.

9. When can structures be erected?

- 9.1 The Concessionaire must not erect, nor place any structures on, under or over the Easement Land without the prior 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 Easement 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 Easement 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 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.
- 11.5 Despite anything else in clause 11 the Concessionaire is not liable for any indirect or consequential damage or loss howsoever caused.
- 11.6 The Grantor is not liable and does not accept any responsibility for damage to or interference with the Easement Land, the Concession Activity, or to any structures, equipment or facilities on the Easement Land 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 11.7, such damage or interference is caused by any wilful act or omission of the Grantor, the Grantor's employees, agents or contractors.
- 11.7 Where the Grantor is found to be liable in accordance with clause 11.6, the total extent of the Grantor's liability is limited to \$1,000,000 in respect of the Concessionaire's structures, equipment and facilities.
- 11.8 Despite anything else in clause 11 the Grantor is not liable for any indirect or consequential damage or loss howsoever caused.
- 11.9 Without prejudice to or in any way limiting its liability under this clause 11 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.
- 11.10 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 11.9 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.
- 11.11 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.

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 in Employment Act 1992 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.

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 IIA 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 Easement 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, Wildlife Act 1953 and any other statute, ordinance, regulation, bylaw, or other enactment (collectively the "Legislation") affecting or relating to the Easement 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 or the National Parks Act 1980; and
- (c) with all notices and requisitions of any competent authority affecting or relating to the Easement Land or affecting or relating to the conduct of the Concession Activity; and
- (d) with all Department signs and notices placed on or affecting the Easement Land

- 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 Easement Land or affecting or relating to the Concession Activity is deemed to be a breach of this Concession.

14. When can the Concession be terminated?

- 14.1 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 Land. Before so terminating the Grantor must give the Concessionaire either:

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

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

of the Grantor's intention so to terminate this Concession. 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.

- 14.2 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.

15. What happens on termination or expiry of the Concession?

- 15.1 On expiry or termination of this Concession, either as to all or part of the Easement Land, the Concessionaire is not entitled to compensation for any structures or other improvements placed or carried out by the Concessionaire on the Easement Land.
- 15.2 The Concessionaire may, with the Grantor's written consent, remove any specified structures and other improvements on the Easement 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 Easement Land and other public conservation land affected by the removal in a clean and tidy condition.
- 15.3 The Concessionaire must, if the Grantor gives written notice, remove any specified structures and other improvements on the Easement 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 Easement Land and other public conservation land affected by the removal in a clean and tidy condition and replant the Easement Land with indigenous vegetation of a similar abundance and diversity as at the commencement of the Term. If before the expiry of the Term the Concessionaire makes an application for a further concession in respect of the same Concession Activity on the Easement Land then the Grantor can not require such removal and reinstatement until such time as that concession application has been determined. If a new concession is granted then removal and reinstatement can not be required until the expiry or termination of the new concession.

16. When is the Grantor's consent required?

- 16.1 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.

17. Are there limitations on public access and closure?

- 17.1 The Concessionaire acknowledges that the Easement 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.

18. What about other concessions?

- 18.1 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.

19. How will disputes be resolved?

- 19.1 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.
- 19.2 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.
- 19.3 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.
- 19.4 The arbitrator must include in the arbitration award reasons for the determination.
- 19.5 Despite the existence of a dispute, each party must continue to perform its obligations under this Concession.

20. How are notices sent and when are they received?

- 20.1 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 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 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, on the date receipt of the email is acknowledged by the addressee by return email or otherwise in writing.
- 20.2 If either party's details specified in Item 11 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.

21. What about the payment of costs?

- 21.1 The Concessionaire must pay the Grantor's legal costs and expenses of and incidental to preparing and signing this Concession or any extension or variation of it.
- 21.2 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.

22. What about the powers implied by statute?

- 22.1 The rights and powers implied in the relevant easements by the 5th 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 easement) apply to this easement **EXCEPT** to the extent set out in Schedule 3 of this easement.

23. What about Co-Siting?

- 23.1 In this clause "Co-Site" means the use of the Concessionaire's structures or facilities on the Easement Land by a third party for an activity; and "Co-Sitee" and "Co-Siting" have corresponding meanings.
- 23.2 The Concessionaire must not allow Co-Siting on the Easement Land without the prior written consent of the Grantor.
- 23.3 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 Land.
- 23.4 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 Land; or
 - (b) the Grantor considers the change to be detrimental to the environment of the Easement Land.
- 23.5 Subject to clause 23.4 the Concessionaire must, if required by the Grantor, allow Co- Siting on the Easement Land.
- 23.6 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 Land; 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 Land; 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 23.6. 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 23.6.

23.7 If the independent consultant report rejects the Concessionaire's concerns, the Concessionaire may dispute this in accordance with the procedure set out in clause 19 of Schedule 2.

23.8 Where the Concessionaire is required under clause 23.5 to allow Co-Sitting on the Easement Land, the Concessionaire is, subject to clause 23.10 entitled to enter into commercial agreements with third parties for them to conduct an activity on the Easement Land and to receive a reasonable fee from them for any agreed activity they intend to carry out on the Easement Land. 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.

23.9 If the Concessionaire does not accept the Grantor's determination, the Concessionaire may dispute this in accordance with the procedure set out in clause 19 of Schedule 2.

23.10 For the avoidance of doubt, a Co-Sitee permitted on the Easement Land 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 Land. This separate concession must not contain provisions that conflict with the Concessionaire's rights and obligations in relation to the Easement Land.

23.11 The Grantor must not authorise the third party to commence work on the Easement Land 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.

24. Are there any 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. The rights implied in easements of vehicular right of way in the 5th Schedule of the Property Law Act 2007 as set out in Schedule 5 of this document are amended by:
 - (a) replacing the word, "grantee" with "Concessionaire"; and
 - (b) adding to Clause 2(a) the words, "after first obtaining the prior consent of the Grantor as required in clauses 7 and 8 of Schedule 2 of this easement."
2. The Right and Powers implied in easements under the 4th Schedule of the Land Transfer Regulations 2002 as set out in Schedule 5 of this document are varied as follows, the rights and powers in:
 - (a) Regulation 1 is amended by replacing the word, "grantee" with "Concessionaire"
 - (b) Regulation 6(3)(a) is amended by adding at the end the words, "after first obtaining the prior consent of the Grantor as required in clauses 7 and 8 of Schedule 2 of this easement."
 - (c) Regulation 10(1) (b) is amended by adding at the end the words, "after first obtaining the prior consent of the Grantor as required in clauses 7 and 8 of Schedule 2 of this easement."
 - (d) Regulation 11(2) is deleted and sub clause (4) is amended by deleting the reference to sub clause (2).
 - (e) Regulations 13 and 14 are deleted.

Additional costs requirements

3. The Concessionaire is to be responsible for:
 - (a) the reasonable cost of and incidental to the Grantor's on site visits or monitoring prior to, during and after construction as required to confirm the Concessionaire's compliance with the conditions contained herein and;
 - (b) the reasonable costs of the Grantor's Quality Conservation Management (QCM) standards/safety inspections of the improvements to the Easement Land Area

Design plans for key facilities

4. Final design plans are to be approved by the Grantor prior to any works commencing. This includes detailed specifications for both lift terminals and their surrounds; the sites of the lift towers, the line of snowmaking piping, vehicle crossings and snowmaking lines across the Rastus Burn; the widening of the ford near the Sugar Basin lift and a final cut and fill survey of all earthworks.

5. Construction plans for sensitive sites

Construction plans for sensitive sites are to be approved by the Grantor prior to any works commencing. These sites are the length of the Rastus Burn, the top

lift terminal, the ford near Sugar Bowl lift and whenever snowmaking pipelines and new trails bisect natural drainage channels (surface or subsurface). The concessionaire must consult with the independent monitor prior to presenting plans to the Grantor for approval.

6. Other consents, approvals and assessments

This concession approval will not supersede any other lawfully required consents, approvals and assessments from other agencies. This includes (but is not limited to) geotechnical, engineering, district and regional resource consents, and building consents. Copies of these approvals are to be provided to the Grantor prior to works commencing.

7. Contractor selection

Only contractors with a demonstrated ability in alpine earthworks and restoration are to be used.

8. Vehicle access

- a. All machinery is to enter and exit work sites from the proposed trail or from existing roads, whichever is closer. Except for access to new lift tower sites, machinery is not to disturb terrain not part of this proposal, for example, by short-cutting across undisturbed terrain due to its proximity to the road.
- b. Vehicle crossings over surface and subsurface waterways are to be undertaken as per clause 1) and 2) above.

9. Fuel

Vehicle fuelling and storage is to take place only in designated areas established by the concessionaire's staff in consultation with DOC staff.

10. Avoidance of Wetlands

- a. Wetlands are to be avoided where possible. Where areas of surface or sub-surface drainage are unable to be avoided, suitable provision for maintaining their flow and quality is to be installed eg. coarse rock, geocloth, piping, silt traps.
- b. If construction debris falls into non target wetland areas this must be reported to the Grantor and immediately remediated.

11. Control of surface runoff and silt

Suitable drainage, cut-outs and silt traps are to be installed to control new surface flows into lower areas of vegetation, wetlands and watercourses.

12. Public Access and Safety

- a. The public is to be able to pass freely and safely through the area, particularly the walking track to Lake Alta, whenever possible.
- b. When this access is required to be temporarily restricted, it is to have prior agreement of the Grantor, is to be publicly advertised by the concessionaire at their expense, and suitable alternative access is to be provided.
- c. Signage advising the public as to the nature of the work is to be installed at the expense of the concessionaire.

13. Removal and storage of vegetation

- a. Vegetation is to be stripped and stored locally as construction progresses. It must be stripped with enough surrounding soil and humus to allow for successful storage and replanting survival.

- b. Stripping may be by machine or by hand, whichever will provide the best chance for success given the nature of the vegetation.
- c. Watering of this material may be required, at the direction of the Grantor or its nominated Monitor, to ensure its survival while stored.

14. Re-vegetation

- a. Vegetation is to be replanted as soon as possible following completion of works at individual sites ie. individual tower sites, trenches, access ways and batters. Re-vegetation planning must include follow up maintenance of re-vegetated areas prior to the end of the growing season.
- b. Where there is sufficient plant material and humus to allow survival, stripped material can be split. To supplement re-vegetation works split material may also be sourced from other areas in the Rastus Burn Recreation Reserve.
- c. Plant spacing is to be at a density as specified by the independent monitor on site.
- d. Where there has been insufficient replanting by May 1st, any exposed topsoil must be managed to avoid erosion losses until replanting can be restarted in the following spring.
- e. To intensify re-vegetation of tussocks, nursery reared plants must be used where there is insufficient existing vegetation available for transplanting. The rearing and planting of any plants to be brought on site must be to the satisfaction of the Grantor.
- f. The seed of appropriate species should be broadcast to promote vegetation growth in the rock walls and between transplanted/planted tussocks.
- g. Completion of re-vegetation works will be at the discretion of the Grantor.

15. Re-vegetation Protocol

- a. The existing re-vegetation protocol must be updated to ensure it reflects both the extra requirements of this new project and the ongoing requirements of any concurrent re-vegetation actions.
- b. The protocol must set standards for re-vegetation actions, timeframes for achievement of goals and processes for remedying problems as they arise.
- c. The reviewed protocol must be approved by the Grantor prior to this project commencing.

16. Construction timeframes

- a. Prior to the commencement of each stage of development, the concessionaire must submit a plan of works to the Grantor and the independent monitor. This information is to include a timeline of what works will undertaken during that stage, the machinery to be used and the expected monitoring requirements.
- b. A briefing must be provided by the independent monitor to contractors and the concessionaire prior to each key construction stage.
- c. All works are to be completed by May 1st each year.

- d. Should the concessionaire desire construction be staged over two or more years the project plan is to account for remediation measures for unfinished works that may become redundant due to changing circumstances.

17. Monitoring

- a. Monitoring of silt control, disturbance of wetlands, re-vegetation and all works at sensitive sites is to occur by an independent monitor (agreed to by the Grantor and the concessionaire). Monitoring should be conducted regularly, to the satisfaction of the Grantor. All costs are to be at the expense of the concessionaire. Reports are to be provided to both parties.
- b. Any approved works to install a vehicle crossing over and for trenching of pipes across the Rastus Burn are to be conducted in the presence of both the concessionaire and the Grantor.
- c. Monitoring of other works may be conducted by Grantor as required by the Grantor. All costs are to be at the expense of the concessionaire.
- d. Geotechnical monitoring of works is to be conducted as per the Geotechnical Assessment of Effects submitted with the application. In particular, earthworks should be assessed during construction by a suitably qualified geotechnical engineer or engineering geologist to confirm the nature of the underlying materials and, if appropriate, to advise on the requirement and extent of any remedial measures. All costs are to be at the expense of the concessionaire.
- e. All works will be included in the annual monitoring conducted by the Grantor in conjunction with ongoing independent monitoring.

18. Remediation of works

Any remediation highlighted by monitoring will be carried out as specified by the Grantor at the cost to the concessionaire.

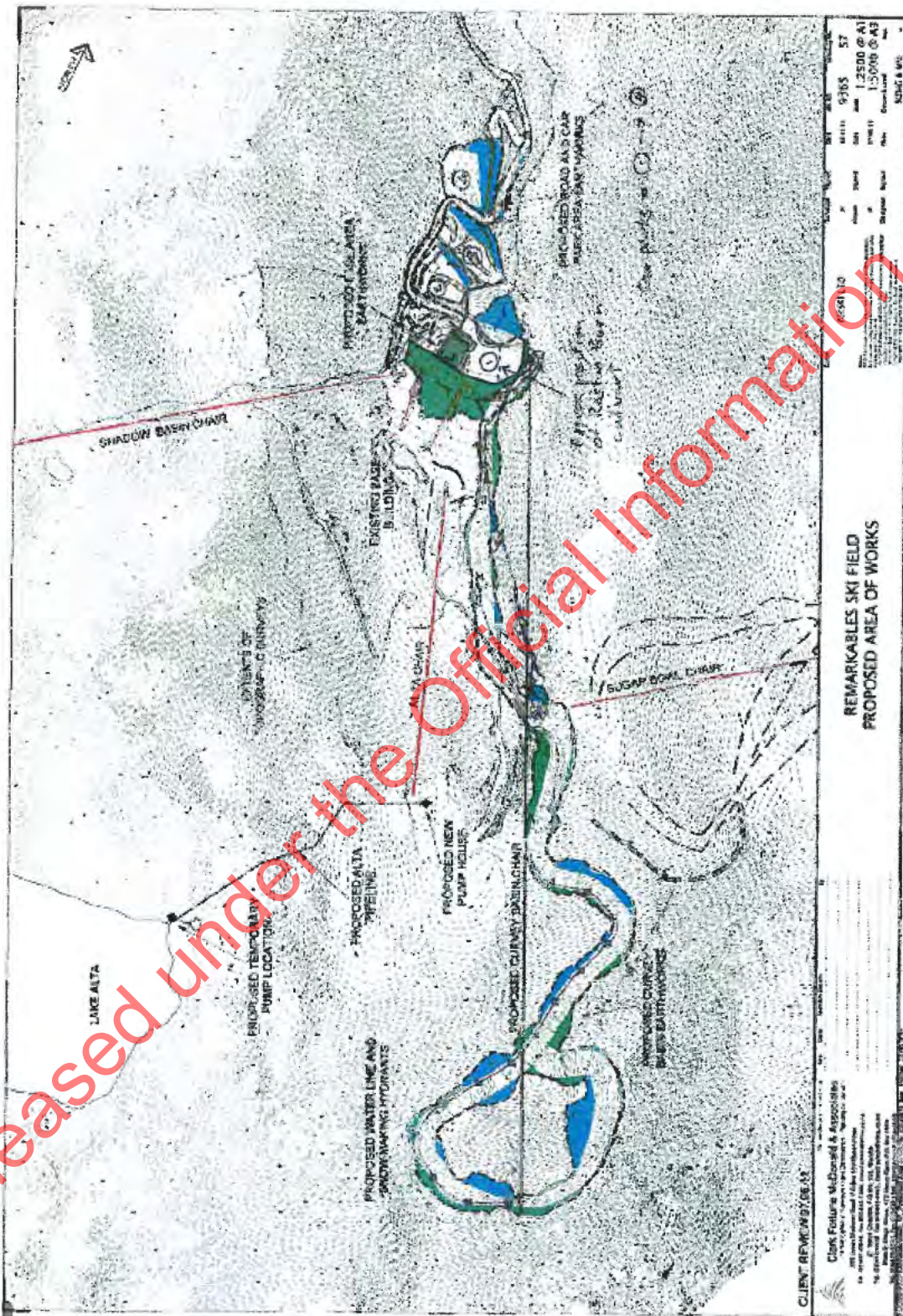
19. Suspension of works

The Grantor, at its sole discretion, may require all works to be suspended until suitable remediation is provided.

20. Satisfactory Completion of works

Final completion of revegetation and any other remedial works will be at the discretion of the Grantor.

SCHEDULE 4 – plan showing the location of the new structures



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

Concessions - Contract - Easement type C OT-34109-SKI - DOC-2541019

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

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; and
- includes 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

- 1. A right to convey water includes the right for the grantee in common with the grantor and other persons to whom the grantor may grant similar rights to take and convey water in free and unimpeded flow from the source of supply or point of entry through the easement facility and over the servient land to the dominant land.
- 2. The right to take and convey water in free and unimpeded flow is limited to the extent required by any period of necessary cleansing, renewal, modification, or repair of the easement facility.
- 3. The easement facility referred to in sub clause (1) is the easement facility laid or to be laid along the stipulated course or stipulated area, as agreed by the grantor at the time of installation of the facility.
- 4. The grantor must not do and must not allow to be done anything on the servient land that may cause the purity or flow of water in the water supply system to be diminished or polluted.

4. Right to drain water

- 1. A right to drain water includes the right for the grantee in common with the grantor and other persons to whom the grantor may grant similar rights to convey water (whether sourced from rain, springs, soakage, or seepage) in any quantity from the dominant land through the easement facility and over the servient land.

2. The right to drain water is limited to the extent required by any period of necessary cleansing, renewal, modification, or repair of the easement facility.
3. The easement facility referred to in sub clause (1) is the easement facility laid or to be laid along the stipulated course or stipulated area, as agreed by the grantor at the time of installation of the facility.

5. Right to drain sewage

1. A right to drain sewage includes the right for the grantee in common with the grantor and other persons to whom the grantor may grant similar rights to drain, discharge, and convey sewage and other waste material and waste fluids through the easement facility and over the servient land.
2. The right to drain, discharge, and convey sewage and other waste material and waste fluids is limited to the extent required by any period of necessary cleansing, renewal, modification, or repair of the easement facility.
3. The easement facility referred to in sub clause (1) is the easement facility laid or to be laid along the stipulated course or stipulated area, as agreed by the grantor at the time of installation of the facility.

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

1. A right to convey electricity 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 lead and convey electricity and electric impulses without interruption or impediment from the point of entry through the easement facility and over the servient land.

2. The right to convey electricity without interruption or impediment is limited to the extent required by any period of necessary renewal or repair of the easement facility.

3. The easement facility referred to in subclause (1) is the easement facility laid or to be laid along the stipulated course or stipulated area, as agreed by the grantor at the time of installation of the facility.

8. Right to convey telecommunications and computer media

1. A right to convey telecommunications and computer media 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 lead and convey telecommunications and computer media without interruption or impediment from the point of entry through the easement facility and over the servient land.

2. The right to convey telecommunications and computer media without interruption or impediment is limited to the extent required by any period of necessary renewal or repair of the easement facility.

3. The easement facility referred to in subclause (1) is the easement facility laid or to be laid along the stipulated course or stipulated area, as agreed by the grantor at the time of installation of the facility.

9. Right to convey gas

1. A right to convey gas 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 lead and convey gas without interruption or impediment from the point of entry through the easement facility and over the servient land.

2. The right to lead and convey gas without interruption or impediment is limited to the extent required by any period of necessary renewal or repair of the easement facility.

3. The easement facility referred to in subclause (1) is the easement facility laid or to be laid along the stipulated course or stipulated area, as agreed by the grantor at the time of installation of the facility.

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. If the grantee (or grantees, if more than 1) and the grantor share the use of the easement facility, each of them is responsible equally for the repair and maintenance of the easement facility, and for the associated costs, for the purposes set out in subclause (1).
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

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

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

14. Disputes

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

- (a) the party initiating the dispute must provide full written particulars of the dispute to the other party; and
- (b) the parties must promptly meet and in good faith try to resolve the dispute using informal dispute resolution techniques, which may include negotiation, mediation, independent expert appraisal, or any other dispute resolution technique that may be agreed by the parties; and
- (c) if the dispute is not resolved within 14 working days of the written particulars being given (or any longer period agreed by the parties),—
 - (i) the dispute must be referred to arbitration in accordance with the Arbitration Act 1996; and
 - (ii) the arbitration must be conducted by a single arbitrator to be agreed on by the parties or, failing agreement, to be appointed by the President of the New Zealand Law Society.

Easement instrument	Dated		Page		of	
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SCHEDULE 6

EASEMENT INSTRUMENT TO GRANT EASEMENT

Sections 90A Land Transfer Act 1952

Land registration district

--

BARCODE

--

Grantor
underlined

Surname must be

<u>Her Majesty the Queen</u> (acting through the Minister of Conservation)
--

Concessionaire (Grantee)
underlined

Surname must be

--

Grant of easement

<p>The Grantor, being the registered proprietor of the servient tenement(s) set out in Schedule A, grants to the Grantee (and, if so stated, in gross) the easement(s) set out in Schedule A, with the rights and powers or provisions set out in Annexure Schedule 2. for the period commencing on and including (INSERT DATE) and expiring on and including (INSERT DATE)</p>
--

Schedule A Continue in additional Annexure Schedule if required

	Purpose (nature and extent) of easement,
<p>Select one or more of the following:</p> <p>(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.</p>	

Easements rights and powers (including terms, covenants, and conditions)

<p>The implied rights and powers are [varied] by the provisions set out in Annexure Schedule 1</p> <p>Unless otherwise provided below, the rights and powers implied in specific classes of easement are those prescribed by the Land Transfer Regulations 2002 and/or the Fifth Schedule of the Property Law Act 2007</p>

Annexure Schedule 1

1. The rights to establish and maintain the driveway set out in Clause 2(a) of the Fifth Schedule to the Property Law Act 2007 is amended by adding at the end the words, "after first obtaining the prior consent of the Grantor."
2. The right to establish and repair the driveway set out in Clause 6(3) (a) of Schedule 4 of the Land Transfer Regulations 2002 is amended by adding at the end the words, "after first obtaining the prior consent of the Grantor."
3. The general right implied in all easements by Clause 10(1) (b) of Schedule 4 of the Land Transfer Regulations 2002 to install the easement facility is amended by adding at the end the words, "after first obtaining the prior consent of the Grantor."
4. The general right implied in all easements by Clause 11 of Schedule 4 of the Land Transfer Regulations 2002 to repair the easement facility is amended by deleting Regulation 11(2) and sub clause (4) is amended by deleting the reference to sub clause (2).
5. The general right implied in all easements by Clause 13 of Schedule 4 of the Land Transfer Regulations 2002 in relation to default is negated.
6. The general right implied in all easements by Clause 14 of Schedule 4 of the Land Transfer Regulations 2002 in relation to disputes is negated.
7. The within easement is also subject to the following terms and conditions set out in the Sub Schedules below

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

SUB SCHEDULE 2

STANDARD CONDITIONS

1. Interpretation

- 1.1 The Concessionaire is responsible for the acts and omissions of its employees, contractors, agents, clients and invitees (excluding other members of the public accessing the Easement 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.
- 1.2 Where this Concession requires the Grantor to exercise a discretion or give any approval or provides for any other actions by the Grantor, then the Grantor must act reasonably and within a reasonable time. When a consent is required under this Concession such consent must not be unreasonably withheld.

2. What is being authorised?

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

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

- 3.1 This Concession commences on the date specified in Item 2 of Schedule 1 and ends on the Final Expiry Date specified in Item 3 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 Dates specified in Items 4, and 5 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 6 of Schedule 1.

5. When can the fee be reviewed?

- 5.1 The Grantor is to review the Concession Fee on the Concession Fee Review Dates in the following manner:
- (a) The Grantor must commence the review not earlier than 3 months before a Concession Fee Review Date and no later than 9 months following the Concession Fee Review Date by giving notice to the Concessionaire.
 - (b) Subject to clause 5.1(c) the notice must specify the Concession Fee which the Grantor considers to be the market value for the Concession Activity as at the Concession Fee Review Date having

regard to the matters specified in section 17Y(2) of the Conservation Act 1987.

- (c) If, within 28 days of receipt of the Grantor's notice, the Concessionaire gives notice to the Grantor that the Concessionaire disputes the proposed new Concession Fee the new Concession Fee is to be determined in accordance with clause 5.2(a) or (b).
- (d) If the Concessionaire does not give notice to the Grantor under clause 5.1(c) the Concessionaire is to be deemed to have accepted the Concession Fee specified in the Grantor's notice.
- (e) Notwithstanding clause 5.1(b) the new Concession Fee so determined or accepted must not be less than the Concession Fee payable during the year preceding the particular Concession Fee Review Date and is to be the Concession Fee payable by the Concessionaire from the Concession Fee Review Date.
- (f) Until determination of the new Concession Fee, the Concession Fee payable by the Concessionaire from the Concession Fee Review Date is to be the Concession Fee specified in the Grantor's notice. On determination of the new Concession Fee an adjustment is to be made and paid, either by the Grantor or by the Concessionaire, whichever is applicable.

5.2 Immediately the Concessionaire gives notice to the Grantor under clause 5.1(c) the parties are to endeavour to agree on a new Concession Fee. If the parties are unable to reach agreement within 28 days the new Concession Fee is to be determined either:

- (a) By one party giving notice to the other requiring the new Concession Fee to be determined by the Disputes clause (clause 19) or, if the parties agree,
- (b) by registered valuers acting as experts and not as arbitrators as follows:
 - (ii) Each party must appoint a valuer and give notice of the appointment to the other party within 14 days of the parties agreeing to determine the new Concession Fee by this means.
 - (iii) If the party receiving a notice does not appoint a valuer within the 14 day period the valuer appointed by the other party is to determine the new Concession Fee and that valuer's determination is to be binding on both parties.
 - (iv) Before commencing their determination the respective valuers must appoint an umpire who need not be a registered valuer.
 - (v) The valuers are to determine the new Concession Fee which they consider to be the market value for the Concession Activity as at the Concession Fee Review Date having regard to the matters specified in section 17Y (2) of the Conservation Act 1987 but in no case is the new Concession Fee to be less than the Concession Fee payable during the year preceding the particular Concession Fee Review Date. If they fail to agree the Concession Fee is to be determined by the umpire.

- (vi) In determining the Concession Fee the valuers or umpire are to disregard the annual cost to the Concessionaire to maintain or provide access to the Easement Land.
 - (vii) Each party is to be given the opportunity to make written or oral representations or submissions to the valuers or the umpire subject to such reasonable time and other limits as the valuers or the umpire may prescribe.
 - (viii) The valuers or the umpire must have regard to any such representations but are not bound by them.
- (c) The valuers or umpire must give written notice to the parties once they have determined the new Concession Fee. The notice is to be binding on the parties and is to provide how the costs of the determination are to be borne.
- (d) (i) If a Concession Fee Review Date is postponed because of a moratorium imposed by law the Concession Fee Review is to take place at the date the moratorium is lifted or so soon afterwards as is practicable; and
- (ii) the Concession Fee Review is to establish the market value for the Concession Activity as at that date instead of the date fixed under clause 5.1 having regard to the matters specified in section 17Y(2) of the Conservation Act 1987 but in no case is the new Concession Fee to be less than the Concession Fee payable during the year preceding the particular Concession Fee Review Date; and
- (iii) each subsequent Concession Fee Review is to take place in accordance with the procedure fixed in clause 5.1

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 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.
- 6.2 The Grantor is not liable for any cost incurred in re-establishing the supply of any utilities in the event of any of them becoming unavailable for any reason.
- 6.3 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 6 of Schedule 1.

7. When can the Concession be assigned?

7.1 If in Schedule A the easement is expressed as being in gross 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 If the Concessionaire is not a publicly listed company 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 Easement Land; or light any fire on the Easement Land without the prior consent of the Grantor.

8.2 The Concessionaire must at its cost keep the easement facility (as defined in the Land Transfer Regulations 2002) now or hereafter upon the Easement Land, in good order, condition and repair and must keep the Easement Land in a clean and tidy condition and must not store hazardous materials on the Easement Land nor store other materials on the Easement Land where they may obstruct the public or create a nuisance.

9. When can structures be erected?

9.1 The Concessionaire must not erect, nor place any structures on, under or over the Easement Land without the prior 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 Easement 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 Easement 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 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.
- 11.5 Despite anything else in clause 11 the Concessionaire is not liable for any indirect or consequential damage or loss howsoever caused.
- 11.6 The Grantor is not liable and does not accept any responsibility for damage to or interference with the Easement Land, the Concession Activity, or to any structures, equipment or facilities on the Easement Land 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 11.7, such damage or interference is caused by any wilful act or omission of the Grantor, the Grantor's employees, agents or contractors.
- 11.7 Where the Grantor is found to be liable in accordance with clause 11.6, the total extent of the Grantor's liability is limited to \$1,000,000 in respect of the Concessionaire's structures, equipment and facilities.
- 11.8 Despite anything else in clause 11 the Grantor is not liable for any indirect or consequential damage or loss howsoever caused.
- 11.9 Without prejudice to or in any way limiting its liability under this clause 11 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 7 of Schedule 1 with a substantial and reputable insurer.
- 11.10 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 11.9 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.
- 11.11 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.

12. What about Health and Safety?

- 12.2 The Concessionaire must exercise the rights granted by this Concession in a safe and reliable manner and must comply with the Health and Safety in Employment Act 1992 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.

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 IIA 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 Easement 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, Wildlife Act 1953 and any other statute, ordinance, regulation, bylaw, or other enactment (collectively the "Legislation") affecting or relating to the Easement 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 or the National Parks Act 1980; and
- (c) with all notices and requisitions of any competent authority affecting or relating to the Easement Land or affecting or relating to the conduct of the Concession Activity; and
- (d) with all Department signs and notices placed on or affecting the Easement Land

- 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 Easement Land or affecting or relating to the Concession Activity is deemed to be a breach of this Concession.

14. When can the Concession be terminated?

- 14.1 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 Land. Before so terminating the Grantor must give the Concessionaire either:

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

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

of the Grantor's intention so to terminate this Concession. 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.

- 14.2 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.

15. What happens on termination or expiry of the Concession?

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

- 15.2 The Concessionaire may, with the Grantor's written consent, remove any specified structures and other improvements on the Easement 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 Easement Land and other public conservation land affected by the removal in a clean and tidy condition.

- 15.3 The Concessionaire must, if the Grantor gives written notice, remove any specified structures and other improvements on the Easement 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 Easement Land and other public conservation land affected by the removal in a clean and tidy condition and replant the Easement Land with indigenous vegetation of a similar abundance and diversity as at the commencement of the Term. If before the expiry of the Term the Concessionaire makes an application for a further concession in respect of the same Concession Activity on the Easement Land then the Grantor can not require such removal and reinstatement until such time as that concession application has been determined. If a new concession is granted then removal and reinstatement can not be required until the expiry or termination of the new concession.

16. When is the Grantor's consent required?

- 16.1 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.

17. Are there limitations on public access and closure?

- 17.1 The Concessionaire acknowledges that the Easement 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.

18. What about other concessions?

- 18.1 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.

19. How will disputes be resolved?

- 19.1 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.
- 19.2 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.
- 19.3 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.
- 19.4 The arbitrator must include in the arbitration award reasons for the determination.
- 19.5 Despite the existence of a dispute, each party must continue to perform its obligations under this Concession.

20. How are notices sent and when are they received?

- 20.1 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 8 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, on the date receipt of the email is acknowledged by the addressee by return email or otherwise in writing.
- 20.2 If either party's details specified in Item 8 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.

21. What about the payment of costs?

21.1 The Concessionaire must pay the Grantor's legal costs and expenses of and incidental to preparing and signing this Concession or any extension or variation of it.

21.2 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.

22. What about the powers implied by statute?

22.2 The rights and powers implied in the relevant easements by the 5th Schedule to the Property Law Act 2007 and the Fourth Schedule to the Land Transfer Regulations 2002 apply to this easement **EXCEPT** to the extent set out in Annexure Schedule 1 of this easement.

23. What about Co-Siting?

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

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

23.3 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 Land.

23.4 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 Land; or

(b) the Grantor considers the change to be detrimental to the environment of the Easement Land.

23.5 Subject to clause 23.4 the Concessionaire must, if required by the Grantor, allow Co- Siting on the Easement Land.

23.6 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 Land; 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 Land; 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 23.6. 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 23.6.

23.7 If the independent consultant report rejects the Concessionaire's concerns, the Concessionaire may dispute this in accordance with the procedure set out in clause 19 of Sub Schedule 2.

23.8 Where the Concessionaire is required under clause 23.5 to allow Co-Siting on the Easement Land, the Concessionaire is, subject to clause 23.10 entitled to enter into commercial agreements with third parties for them to conduct an activity on the Easement Land and to receive a reasonable fee from them for any agreed activity they intend to carry out on the Easement Land. 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.

23.9 If the Concessionaire does not accept the Grantor's determination, the Concessionaire may dispute this in accordance with the procedure set out in clause 19 of Sub Schedule 2.

23.10 For the avoidance of doubt, a Co-Sitee permitted on the Easement Land 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 Land. This separate concession must not contain provisions that conflict with the Concessionaire's rights and obligations in relation to the Easement Land.

23.11 The Grantor must not authorise the third party to commence work on the Easement Land 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.

24. Are there any Special Conditions?

24.1 Special conditions are specified in Schedule 3. If there is a conflict between this Sub Schedule 2 and the Special Conditions in Sub 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.

Easement instrument

Dated

Page

of

Released under the Official Information Act

SUB SCHEDULE 3

SPECIAL CONDITIONS

(insert any special conditions)

Released under the Official Information Act

Remarkables ski field Easements

Released under the Official Information Act

11/17
17.2.88
K01030000

Approved as to Survey *Arthur J. Allen*
10/16/88
Chief Survey
Deposited this _____ day of _____ 19____

Examined By A. J. Brown Correct Ce. Fisher

Printed at QUEENSTOWN this 22nd day
of January 1888 Signature *Henry*

of the survey. At a focus group survey held and panel data were taken from surveys conducted by us or under my direction, that both plan a survey are correct and have been made in accordance with the Survey

1. ALBAHAI NOEL GREG
Registered Surveyor and holder of an annual practicing certificate for the year 2021 as a registered surveyor pursuant to section 7

continued on p. 636

Total Area 10.5374 ha.

UAIUM: Geodetic 1949
ORIGIN OF COORDINATES
M: Nicholas 700 000 N
300 000 E

SECS. 1 & 2 being part of Sec. 1
Bik. X Kawerau S.D.

DEPT OF CONSERVATION

L. haasiana

Approval as to layout

10

SKULFT
(K)

RIGHT
30°
136°
51' 20"

TO CONVE
05-20-
303

333 000 £

00-22-00*
00-22-00*
00-22-00*

70. EASE

137719
0.578
0.58
0.57

TOE

000 N

Approvals

FORMER DESCRIPTION
SECS. 1 & 2, being part of Sec. 1
Blk. X Kawarau S.D.

DATUM: Geodetic 1949
ORIGIN OF COORDINATES
Mt. Nicholas 700000 N 300000 E

Total Area 10-5376 ha

Computed in REC. RES. (See 1980 P 1873)
G.N. 538546 (CT 80/638)

L. ALSTON NOL. GREIG

I, the undersigned, being a registered surveyor, do hereby certify that this plan has been made from a survey conducted by me or under my direction, that the plan and survey are correct and have been made in accordance with the Survey Regulations 1972, or any regulations made in substitution thereof, and that I am a duly qualified surveyor.

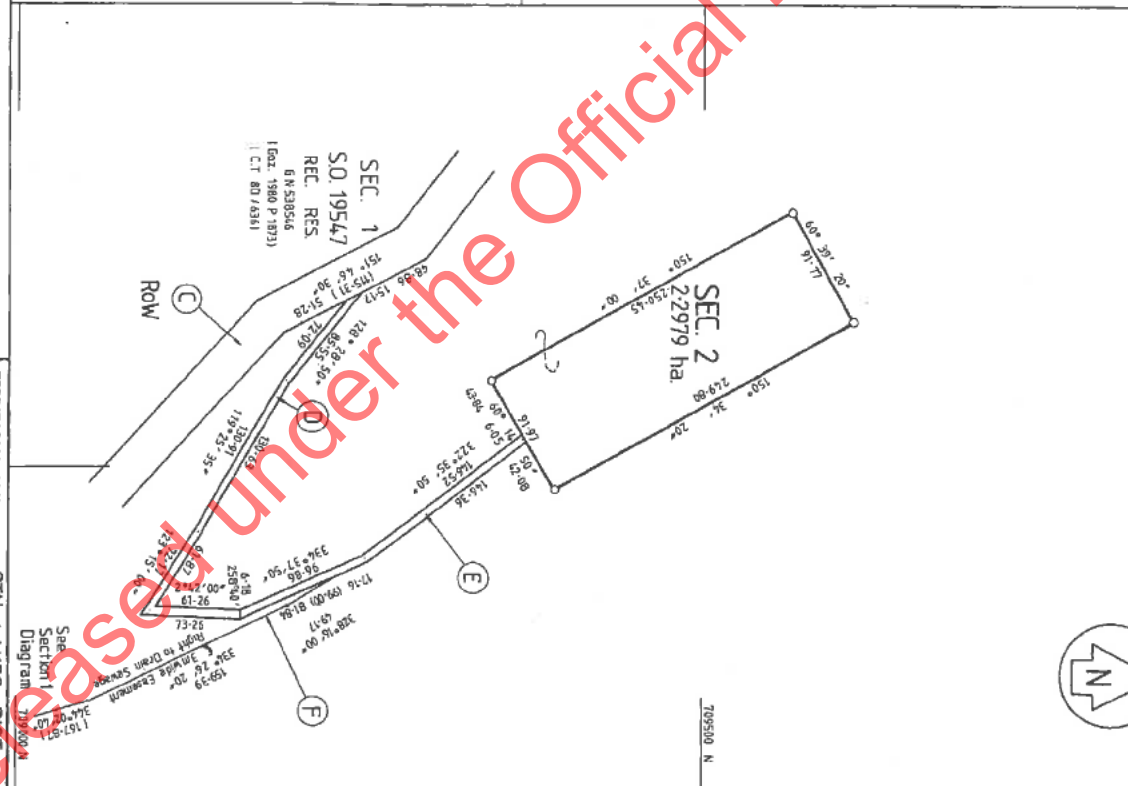
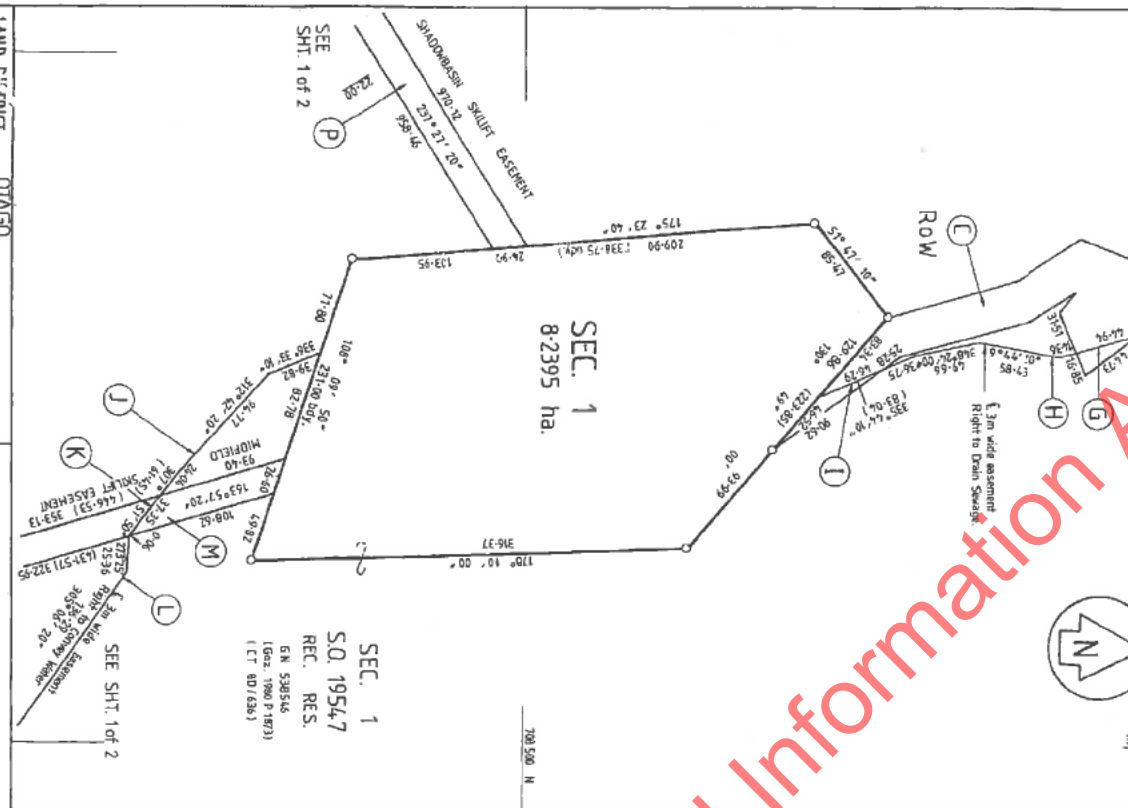
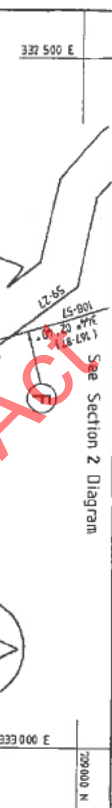
Field Book 2350 A/14-77 Trench Road 244, a 134-138
Reference Plans 50's 799, 79547 & 22560

Examined and approved by me, the Registrar, on this day of 1986

Approved as to Survey
10/6/88
Chief Surveyor

Deposited this day of 1986

District Land Registrar
SO 22561



LAND FRICT OIAO
SURVEY BLK. & DIST. X KAWARAU
NZMS 261 SHIT F 4.1 RECORD MAP No. 3-4

DIAGRAM SHEET
TERRITORIAL AUTHORITY QTN LAKES DIST.
Surveyed by LUCY, BORRELL & GREIG
Scale 1:2500 Date NOV 1986

Revised 10-2-88
Title Sheet 2 of 2

Date:

1999

BETWEEN MINISTER OF CONSERVATION

("the Grantor")

AND

THE MOUNT COOK GROUP
LIMITED

("the Grantee")

EASEMENT – RIGHT TO CONVEY
ELECTRICITY AND TELEPHONIC
COMMUNICATIONS – RASTAS BURN
RECREATION RESERVE

Meares Williams
Solicitors
Christchurch

mearesmt

THIS DEED made this 30th day of August 1999

BETWEEN THE MINISTER OF CONSERVATION (hereinafter together with his successors and assigns called "the Grantor") of the one part

AND THE MOUNT COOK GROUP LIMITED a duly incorporated company having its registered office at Christchurch (hereinafter together with its successors and assigns called "the Grantee") of the other part

WHEREAS

1. HER MAJESTY THE QUEEN is the owner of the Rastus Burn Recreation Reserve a reserve for recreation purposes under the Reserves Act 1977 subject however to such encumbrances liens and interests as are notified by memorandum underwritten or endorsed hereon in all that piece of land situated in the Kawarau Survey District containing 700 hectares be the same a little more or less being parts Section 1 Block X Kawarau Survey District and Sections 1 and 2 SO 22561 and being all the land comprised and described in Certificate of Title Register No. 8D/636 (Otago Registry) (hereinafter called "the servient tenement")
2. THE Grantee is the lessee of those pieces of land situated in the Kawarau Survey District containing 10.5374 hectares be the same a little more or less being Sections 1 and 2 SO 22561 and being all the land comprised and described in Deed of Lease dated 30 August 1993 of part of the land comprised and described in Certificate of Title Register No. 8D/636 (Otago Registry) (hereinafter called "the Lease")

3. THE Grantor has agreed to convey and grant to the Grantee the easement hereby created subject to the terms and conditions hereinafter contained.

NOW THEREFORE in pursuance of the said agreement the Grantor pursuant to Section 59A of the Reserves Act 1977 DOES HEREBY CONVEY AND GRANT to the Grantee as an easement in gross:

- (a) the full free uninterrupted and unrestricted right liberty and privilege for the Grantee and its tenants (in common with any other person lawfully entitled so to do) from time to time and at all times to convey, take, lead, and transmit electric power and energy and telephonic communications in any quantities along the stipulated course under those parts of the servient tenement coloured red on the Plan attached and under or over those parts of the servient tenement marked "M", "N" and "P" on SO 22561.
- (b) The full free uninterrupted and unrestricted right liberty and privilege for the Grantee and its tenants (in common with any other person lawfully entitled so to do) for the purposes of the easement concerned –
- (i) To use any line of pipes, cables or wires already laid on the stipulated course or any pipe or pipes, wire or wires, cable or cables in replacement or in substitution for all or any of those pipes, wires or cables;
- (ii) Where no such line of pipes exists, to lay, place, and maintain, or to have laid, placed, and maintained, a line of pipes, wires or cables of a sufficient internal diameter and of suitable material for the purpose under or over (as the case may be) the surface of

the land over which the easement is granted or created and along the line defined for the purpose;

- (iii) In order to construct or maintain the efficiency of any such pipe, wire or cable line the full free uninterrupted and unrestricted right, liberty and privilege for the Grantee its tenants, servants, agents and workmen with any tools, implements, machinery, vehicles or equipment of whatsoever nature necessary for the purpose to enter upon such part of the servient tenement and by such route as is reasonable in the circumstances and to remain there for any reasonable time for the purpose of laying, inspecting, cleansing, repairing, maintaining and renewing the pipe, wire or cable line or any part thereof and of opening up the soil of that land to such extent as may be necessary and reasonable in that regard subject to the conditions that as little disturbance as possible is caused to the surface of the land of the Grantor and that the surface is restored as nearly as possible to its original condition and any other damage done by reason of the aforesaid operations is repaired;

TO THE INTENT that the easement hereby created shall be an easement in gross for the term of the Lease (and any renewal variation or extension thereof)

AND IT IS HEREBY AGREED AND DECLARED by and between the Grantor and the Grantee

1. THAT the Grantee shall indemnify the Grantor against all and any action claim injury damage or loss which may arise in any manner whatsoever from the creation of this easement.

2. THAT if any repair replacement or maintenance of the easement shall become necessary by reason of the negligence or wilful actions of either party then that party shall bear the whole cost of such repair, replacement or maintenance.
3. LIABILITY of the Grantee the said The Mount Cook Group Limited under its covenants contained herein shall cease to have effect and shall absolutely determine on the assignment of this easement or on the assignment or termination of the Lease but without prejudice to the Grantee the said The Mount Cook Group Limited's liability for any breach of covenant arising prior to such assignment or termination.
4. IF any dispute shall arise between the parties as to any act, matter or thing concerning the interpretation and operation of this Deed the parties shall use their best endeavours to enter into good faith negotiations in an attempt to resolve the dispute. Should agreement not be reached within twenty-one working days (or such longer period or the parties agree upon) after the date upon which the dispute arises then the dispute will be referred to mediation by a duly qualified mediator (being a member of the Mediator's Institute or a member of LEADR) appointed, if the parties cannot agree upon one by the president for the time being of the Otago District Law Society, and in the event that such dispute is not capable of being resolved by mediation then the matter shall be resolved by arbitration in accordance with the provisions of the Arbitration Act 1996. If the Arbitration Act 1996 is used and the parties fail to agree on the person to be appointed as arbitrator the appointment shall be made by the President for the time being of the Otago District Law Society.

5. **THE** parties hereto agree that the Grantee shall have the right in future to require that the easements hereby created be registered against the title to the servient tenement, and the parties will obtain such consents and do such things as may be necessary to enable the easements to be registered against the title of the servient tenement.

DATED the 30th day of September 1999

SIGNED for and on behalf of the
MINISTER OF CONSERVATION by
 Ian Whitwell an officer of the Department
 of Conservation pursuant to a designation
 given to him by the Director-General of
 Conservation and dated the 24th day of
 September 1999 in the presence of:

Witness:

Occupation:

Address:

SIGNED on behalf of
THE MOUNT COOK GROUP LIMITED
 LAWRENCE F. JOCKAN
 DIRECTOR

9(2)(a)

in the presence of:

JOHN A. GRIBBLE
 DIRECTOR

Released under the Official Information Act

MINISTER OF CONSERVATION

TO

THE MOUNT COOK GROUP LIMITED

DEED - RIGHT OF WAY FOR VEHICLE
AND MOTOR VEHICLE ACCESS

Solicitor
Department of Conservation
DUNEDIN

THIS DEED made this 2nd day of June 1999 between the **MINISTER OF CONSERVATION** (hereinafter together with his successors and assigns called "the Grantor") of the one part and **THE MOUNT COOK GROUP LIMITED** a duly incorporated company having its registered office at Christchurch (hereinafter (except as provided in covenant 4) together with its successors and assigns called "the Grantee") of the other part

WHEREAS

- 1 **HER MAJESTY THE QUEEN** is the owner of the Rastus Burn Recreation Reserve a reserve for recreation purposes under the Reserves Act 1977 subject however to such encumbrances liens and interests as are notified by memorandum underwritten or endorsed hereon in all that piece of land situated in the Kawarau Survey District containing 700 hectares be the same a little more or less being Sections 1 and 2 SO Plan 22561 and Parts Section 1 Block X Kawarau Survey District and being all the land comprised and described in Certificate of Title Register No. 8D/636 (Otago Registry) (hereinafter called "the servient tenement")
- 2 The Grantee is the lessee of those pieces of land situated in the Kawarau Survey District containing 10.5374 hectares be the same a little more or less being Sections 1 and 2 SO 22561 and being all the land comprised and described in Deed of Lease dated 30 August 1993 of part of the land comprised and described in Certificate of Title Register No. 8D/636 (Otago Registry) (hereinafter called "the lease")
- 3 The Grantor has agreed to convey and grant to the Grantee the easement hereby created subject to the terms and conditions hereinafter contained

NOW THEREFORE in pursuance of the said agreement the Grantor pursuant to Section 48 of the Reserves Act 1977 **DOES HEREBY CONVEY AND GRANT** to the Grantee as an easement in gross the full free uninterrupted and unrestricted right liberty and privilege for the Grantee its servants tenants agents workmen licensees and invitees (in common with the Grantor her tenants and any other person lawfully entitled so to do) from time to time and at all times by day and by night to go pass and repass with or without vehicles and motor vehicles over and along those parts of the servient tenement shown "RIGHT OF WAY" and marked with the letter "C" "D" "E" "G" and "I" on SO Plan 22561

TO THE INTENT that the easement hereby created shall be an easement in gross for the term of the Lease (and any renewal variation or extension thereof)

AND IT IS HEREBY AGREED AND DECLARED by and between the Grantor and the Grantee

- 1 **THE** Grantee shall indemnify the Grantor against all and any action claim injury damage or loss which may arise in any manner whatsoever from the creation of this easement.
- 2 (a) That the Grantee will allow the public during daylight hours to drive or ride vehicles and motor vehicles over and along the servient tenement on payment of a reasonable fee for

each vehicle and motor vehicle to the Grantee but subject however to the following exceptions:

- (i) The Grantee shall have the authority to close the servient tenement for purposes of undertaking repairs or maintenance or where in the opinion of the Grantee the servient tenement is in a condition which is considered unsafe for use by vehicles and motor vehicles.
 - (ii) All employees of the Department of Conservation on official business or their authorised agents shall have the right of freedom of vehicle and motor vehicle access at all times without payment of a fee.
 - (iii) All search and rescue personnel members of the Police and employees of the Queenstown Lakes District Council while on official business shall have the right of vehicle and motor vehicle access at all times over and along the servient tenement without payment of a fee.
 - (iv) The Occupier or Owner (as those terms are defined under the Rating Powers Act 1988) Occupiers or Owners for the time being of the land known as Cone Peak Station and their agents servants tenants licensees invitees and workmen shall have the right of vehicle and motor vehicle access over and along the servient tenement for the purpose of providing access to the farm property known as Cone Peak Station at all times without payment of a fee.
- (b) The Grantee shall be entitled to restrict access to or use of the easement if in its sole discretion:
- (i) the weather or road conditions or visibility of the right of way are hazardous or if
 - (ii) the vehicle or motor vehicle for which entry is sought does not appear to be roadworthy or adequately equipped with chains and/or other appropriate safety equipment or requirements having regard to the weather road conditions and all other factors reasonably likely to make the use of the road hazardous to such a vehicle or motor vehicle and/or its occupants and/or other road users or if
 - (iii) the skill judgement experience or condition of the driver of the vehicle or motor vehicle or any passenger therein at any time when entry to or use of the easement is sought are inadequate for any reason or in any respect or do not allow the driver to be capable of proper control of the vehicle or motor vehicle
- (c) The reasonable fee referred to in 2(a) shall not be imposed unless it has been approved by the Grantor which approval shall not be unreasonably withheld. The fee shall be fixed having regard to the cost of repair maintenance and administration of the easement and also be such as to afford the Grantee a reasonable return on its cost of establishing the road. In the event of the parties being unable to agree on what is a reasonable fee the matter shall be determined in the manner provided in clause 5.

3 **THE** Grantor will not grant an easement to any other party over the areas marked "C" "G" "D" "E" and "I" on SO 22561 without the consent of the Grantee. If it is decided that an easement should be granted the Grantor will consult with the Grantee for the purpose of ascertaining whether the

Grantee requires any conditions to be imposed in any easement proposed to be granted. If the Grantor and the Grantee are unable to agree on the conditions to be imposed then the conditions in dispute shall be determined in the manner provided in clause 5.

4 **LIABILITY** of the Grantee the said The Mount Cook Group Limited under its covenants contained herein shall cease to have effect and shall absolutely determine on the assignment of this easement or on the assignment or termination of the Lease, but without prejudice to the Grantee the said The Mount Cook Group Limited's liability for any breach of covenant arising prior to such assignment or termination.

5 **IF** any dispute shall arise between the parties as to any act matter or thing concerning the interpretation and operation of this Deed the parties shall use their best endeavours to enter into good faith negotiations in an attempt to resolve the dispute. Should agreement not be reached within twenty-one working days (or such longer period or the parties agree upon) after the date upon which the dispute arises then the dispute will be referred to mediation by a duly qualified mediator (being a member of the Mediator's Institute or a member of LEADR) appointed if the parties cannot agree upon one by the President for the time being of the Otago District Law Society and in the event that such dispute is not capable of being resolved by mediation then the matter shall be resolved by arbitration in accordance with the provisions of the Arbitration 1996. If the Arbitration Act 1996 is used and the parties fail to agree on the person to be appointed as arbitrator the appointment shall be made by the President for the time being of the Otago District Law Society.

6 **THE** parties hereto agree that the Grantee shall have the right in future to require that the easement hereby created be registered against the title to the servient tenement, and the parties will obtain such consents and do such things as may be necessary to enable the easement to be registered against the title of the servient tenement.

DATED the _____ day of _____ 1999-

SIGNED for and on behalf of the
MINISTER OF CONSERVATION by
 Ian Whitwell an officer of the Department
 of Conservation pursuant to a
 designation given to him by the Director-
 General of Conservation and dated the
 30th day of June 1989 in the presence of:

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I. R. H. McNamee

Witness:

[Signature]

Occupation:

Inspector

Address:

Dunedin

SIGNED on behalf of THE MOUNT
COOK GROUP LIMITED by

)
)

9(2)(a)

9(2)(a)

in the presence of:

Released under the Official Information Act

MINISTER OF CONSERVATION

TO

THE MOUNT COOK GROUP LIMITED

DEED – RIGHT TO CONVEY SEWAGE

Released under the Official Information Act

Solicitor
Department of Conservation
DUNEDIN

THIS DEED made this 9th day of June 1999 between the **MINISTER OF CONSERVATION** (hereinafter together with his successors and assigns called "the Grantor") of the one part and **THE MOUNT COOK GROUP LIMITED** a duly incorporated company having its registered office at Christchurch (hereinafter (except as provided in covenant 3) together with its successors and assigns called "the Grantee") of the other part

WHEREAS

- 1 **HER MAJESTY THE QUEEN** is the owner of the Rastus Burn Recreation Reserve a reserve for recreation purposes under the Reserves Act 1977 subject however to such encumbrances liens and interests as are notified by memorandum underwritten or endorsed hereon in all that piece of land situated in the Kawarau Survey District containing 700 hectares be the same a little more or less being parts Section 1 Block X Kawarau Survey District and Sections 1 and 2 SO 22561 and being all the land comprised and described in Certificate of Title Register No. 8D/636 (Otago Registry) (hereinafter called "the servient tenement")
- 2 **THE** Grantee is the lessee of those pieces of land situated in the Kawarau Survey District containing 10.5374 hectares be the same a little more or less being Sections 1 and 2 SO 22561 and being all the land comprised and described in Deed of Lease dated 30 August 1993 of part of the land comprised and described in Certificate of Title Register No. 8D/636 (Otago Registry) (hereinafter called "the lease")
- 3 **THE** Grantor has agreed to convey and grant to the Grantee the easement hereby created subject to the terms and conditions hereinafter contained

NOW THEREFORE in pursuance of the said agreement the Grantor pursuant to Section 48 of the Reserves Act 1977 **DOES HEREBY CONVEY AND GRANT** to the Grantee as an easement in gross

- (a) the full free uninterrupted and unrestricted right liberty and privilege for the Grantee and its tenants (in common with any other person lawfully entitled so to do) from time to time and at all times to drain discharge or convey sewage and other waste material and fluid in any quantities along the stipulated course across that part of the servient tenement marked with the letters "E" "F" "G" "H" and "I" on Survey Office Plan 22561
- (b) The full free uninterrupted and unrestricted right liberty and privilege for the Grantee and its tenants (in common with any other person lawfully entitled so to do) for the purposes of the easement concerned-
 - i To use any line of pipes already laid on the stipulated course or any pipe or pipes in replacement or in substitution for all or any of those pipes:

- ii Where no such line of pipes exists, to lay, place, and maintain, or to have laid, placed, and maintained, a line of pipes of a sufficient internal diameter and of suitable material for the purpose under or over the surface (as the parties decide) of the land over which the easement is granted or created and along the line defined for the purpose where such a line has been so defined:
- iii In order to construct or maintain the efficiency of any such pipe line the full free uninterrupted and unrestricted right liberty and privilege for the Grantee its tenants servants agents and workmen with any tools implements machinery vehicles or equipment of whatsoever nature necessary for the purpose to enter upon such part of the servient tenement and by such route as is reasonable in the circumstances and to remain there for any reasonable time for the purpose of inspecting cleansing repairing maintaining and renewing the pipe line or any part thereof and of opening up the soil of that land to such extent as may be necessary and reasonable in that regard subject to the conditions that as little disturbance as possible is caused to the surface of the land of the Grantor and that the surface is restored as nearly as possible to its original condition and any other damage done by reason of the aforesaid operations is repaired.

TO THE INTENT that the easement hereby created shall forever be an easement in gross for the term of the lease (and any renewal variation or extension thereof)

AND IT IS HEREBY AGREED AND DECLARED by and between the Grantor and the Grantee

1 **THAT** the Grantee shall indemnify the Grantor against all and any action claim injury damage or loss which may arise in any manner whatsoever from the creation of this easement.

2 **THAT** if any repair replacement or maintenance of the easement shall become necessary by reason of the negligence or wilful actions of either party then that party shall bear the whole cost of such repair replacement or maintenance.

3 **LIABILITY** of the Grantee the said The Mount Cook Group Limited under its covenants contained herein shall cease to have effect and shall absolutely determine on the assignment of this easement or on the assignment or termination of the Lease but without prejudice to the Grantee the said The Mount Cook Group Limited's liability for any breach of covenant arising prior to such assignment or termination.

4 **IF** any dispute shall arise between the parties as to any act matter or thing concerning the interpretation and operation of this Deed the parties shall use their best endeavours to enter into good faith negotiations in an attempt to resolve the dispute. Should agreement not be reached within twenty-one working days (or such longer period or the parties agree upon) after the date upon which the dispute arises then the dispute will be referred to mediation by a duly qualified mediator (being a member of the Mediator's Institute or a member of LEADR) appointed if the

parties cannot agree upon one by the President for the time being of the Otago District Law Society and in the event that such dispute is not capable of being resolved by mediation then the matter shall be resolved by arbitration in accordance with the provisions of the Arbitration 1996. If the Arbitration Act 1996 is used and the parties fail to agree on the person to be appointed as arbitrator the appointment shall be made by the President for the time being of the Otago District Law Society.

5 THE parties hereto agree that the Grantee shall have the right in future to require that the easement hereby created be registered against the title to the servient tenement, and the parties will obtain such consents and do such things as may be necessary to enable the easement to be registered against the title to the servient tenement.

DATED the _____ day of _____ 19____

SIGNED for and on behalf of the
MINISTER OF CONSERVATION by
Ian Whitwell an officer of the Department
of Conservation pursuant to a
designation given to him by the Director-
General of Conservation and dated the
30th day of June 1989 in the presence of:

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)

I. H. Whitwell

Witness:

[Signature]

Occupation:

Lawyer

Address:

Dunedin

SIGNED on behalf of THE MOUNT
COOK GROUP LIMITED by

)
)

9(2)(a)

9(2)(a)

in the presence of:

MINISTER OF CONSERVATION

TO

THE MOUNT COOK GROUP LIMITED

DEED – RIGHT TO CONVEY WATER

Solicitor
Department of Conservation
DUNEDIN

THIS DEED made this 9th day of June 1999 between the **MINISTER OF CONSERVATION** (hereinafter together with his successors and assigns called "the Grantor") of the one part and **THE MOUNT COOK GROUP LIMITED** a duly incorporated company having its registered office at Christchurch (hereinafter (except as provided in covenant 3) together with its successors and assigns called "the Grantee") of the other part

WHEREAS

- 1 **HER MAJESTY THE QUEEN** is the owner of the Rastus Burn Recreation Reserve a reserve for recreation purposes under the Reserves Act 1977 subject however to such encumbrances liens and interests as are notified by memorandum underwritten or endorsed hereon in all that piece of land situated in the Kawarau Survey District containing 700 hectares be the same a little more or less being Parts Section 1 Block X Kawarau Survey District and Sections 1 and 2 SO 22561 and being all the land comprised and described in Certificate of Title Register No. 8D/636 (Otago Registry)
- 2 The Grantee is the lessee of all those pieces of land situated in the Kawarau Survey District containing 10.5374 hectares be the same a little more or less being Sections 1 and 2 SO 22561 and being all the land comprised and described in Deed of Lease dated 30 August 1993 of part of the land comprised and described in Certificate of Title Register No. 8D/636 (Otago Registry) (hereinafter called "the lease")
- 3 The Grantor has agreed to convey and grant to the Grantee the easement hereby created subject to the terms and conditions hereinafter contained

NOW THEREFORE in pursuance of the said agreement the Grantor pursuant to Section 48 of the Reserves Act 1977 **DOES HEREBY CONVEY AND GRANT** to the Grantee as an easement in gross (so far as the Grantor lawfully may do so)

- a The full free uninterrupted and unrestricted right liberty and privilege for the Grantee and its tenants from time to time and at all times to take convey and lead water in a free and unimpeded flow (except when the flow is halted for any reasonable period necessary for essential repairs) and in any quantity consistent with the rights of other persons having the same or similar rights from the source of supply or point of entry as the case may be and following the stipulated course across that part of the servient tenement shown "RIGHT TO CONVEY WATER" and marked with the letters "J" "K" and "L" on Survey Office Plan 22561
- b The full free uninterrupted and unrestricted right liberty and privilege for the Grantee and its tenants (in common with any other person lawfully entitled so to do) for the purposes of the easement concerned-

enter into good faith negotiations in an attempt to resolve the dispute. Should agreement not be reached within twenty-one working days (or such longer period or the parties agree upon) after the date upon which the dispute arises then the dispute will be referred to mediation by a duly qualified mediator (being a member of the Mediator's Institute or a member of LEADR) appointed if the parties cannot agree upon one by the President for the time being of the Otago District Law Society and in the event that such dispute is not capable of being resolved by mediation then the matter shall be resolved by arbitration in accordance with the provisions of the Arbitration 1996. If the Arbitration Act 1996 is used and the parties fail to agree on the person to be appointed as arbitrator the appointment shall be made by the President for the time being of the Otago District Law Society.

- 5 **THE** parties hereto agree that the Grantee shall have the right in future to require that the easement hereby created be registered against the title to the servient tenement, and the parties will obtain such consents and do such things as may be necessary to enable the easement to be registered against the title to the servient tenement.

DATED the _____ day of _____ 19____

SIGNED for and on behalf of the)
MINISTER OF CONSERVATION by)
Ian Whitwell an officer of the Department)
of Conservation pursuant to a)
designation given to him by the Director)
General of Conservation and dated the)
30th day of June 1989 in the presence of:)

I. R. H. Whitwell

Witness: *[Signature]*

Occupation: *[Signature]*

Address: *[Signature]*

SIGNED on behalf of **THE MOUNT**)
COOK GROUP LIMITED by)
9(2)(a))

9(2)(a)

in the presence of:

Date:

1998

BETWEEN MINISTER OF CONSERVATION

("the Grantor")

AND THE MOUNT COOK GROUP
LIMITED

("the Grantee")

SKI-LIFT EASEMENT
THE RASTUS BURN RECREATION RESERVE

Meares Williams
Solicitors
Christchurch

mc/minconservdd

9 1998

THIS DEED made the 9th day of June 1998 BETWEEN
MINISTER OF CONSERVATION (hereinafter together with the Minister's
successors and assigns called "the Grantor") of the one part AND THE MOUNT
COOK GROUP LIMITED, a duly incorporated Company having its registered
office at Christchurch (hereinafter together with its successors and assigns called
"the Grantee") of the other part

WHEREAS

1. HER MAJESTY THE QUEEN is the owner of the Rastus Burn
Recreation Reserve a reserve for recreation purposes under the Reserves
Act 1977 subject however to such encumbrances, liens and interests as
are notified by memorandum underwritten or endorsed thereon in all
that piece of land situated in the Kawarau Survey District containing 700
hectares or thereabouts being parts Section 1 Block X Kawarau Survey
District and Sections 1 and 2 SO 22561 and being all the land comprised
and described in Certificate of Title Registered No. 8D/636 (Otago
Registry) (hereinafter called "the servient tenement").
2. THE GRANTEE is the Lessee of those pieces of land situated in the
Kawarau Survey District containing 10.5374 hectares or thereabouts
being Sections 1 and 2 SO 22561 and being all the land comprised and
described in Deed of Lease dated 30 August 1993 ("the Lease") and
being part of the land comprised and described in Certificate of Title
Registered No. 8D/636 (Otago Registry) (hereinafter called "the
Lease").
3. THE GRANTOR has agreed to convey and grant to the Grantee the
easement hereby created subject to the terms and conditions hereinafter
contained.

NOW THEREFORE in pursuance of the said agreement the Grantor, pursuant
to Section 48 of the Reserves Act 1977, DOES HEREBY CONVEY AND
GRANT to the Grantee as an easement in gross the full, free, uninterrupted and
unrestricted right, liberty and privilege for the Grantee and its servants, tenants,
agents, workmen, licensees and invitees (in common with any other person

lawfully entitled to so do) from time to time and at all times by day and night to to erect, use and operate ski-lifts in a free and unimpeded manner and following the stipulated course across those parts of the servient tenement shown as "SKI-LIFT EASEMENT" and marked with the letters "M", "N" and "P" on Survey Office Plan 22561 attached hereto, together with the full, free, uninterrupted and unrestricted right, liberty and privilege for the Grantee and its tenants (in common with any other person lawfully entitled to so do) for the purposes of the easement concerned:

- (a) To construct, repair and maintain ski-lifts;
- (b) To use and repair any existing pipes, pylons, wires or cables laid, erected or suspended and, where none exist, to erect pylons, to suspend wires or cables and to bury or have buried wires, pipes and cables;
- (c) To install safety, communication and telecommunication equipment;
- (d) To convey any type of fluid through cables or pipes;
- (e) To sink piles into the ground;
- (f) To clear debris and snow;
- (g) To drive or move motor vehicles;
- (h) To provide access to servants, agents and work people associated with the Grantee with any tools, implements, machinery, vehicles or equipment whatsoever in nature necessary for the purpose of carrying out any of the rights in the Sub-clauses above;
- (i) To provide access to the public to use the ski-lifts and to go, pass and re-pass on foot, skis, snowboards or any other recreational apparatus or device;

Over and along the land over which this easement is granted and created to the intent that the easement hereby created shall forever be an easement in gross for the term of the Lease (or any renewal, variation or extension thereof).

AND IT IS HEREBY AGREED AND DECLARED by and between the Grantor and the Grantee that:

1 The Grantee shall indemnify the Grantor against all and any action, claim, injury, damage or loss which may arise in any manner whatsoever from the creation of this easement.

2 The Grantor will not grant an easement to any other party over the areas "M", "N" and "P" on SO 22561 without the consent of the Grantee. If it is decided that an easement should be granted, the Grantor will consult with the Grantee for the purpose of ascertaining whether the Grantee requires any conditions to be imposed in any easement proposed to be granted. If the Grantor and the Grantee are unable to agree on the conditions to be imposed then the conditions in dispute shall be determined in the manner provided in Clause 4.

3 Liability of the Grantee the said The Mount Cook Group Limited under its covenants contained herein shall cease to have effect and shall absolutely determine on the assignment of this easement or on the assignment or termination of the Lease, but without prejudice to the Grantee the said The Mount Cook Group's Limited's liability for any breach of covenant arising prior to such assignment or termination.

4 If any dispute shall arise between the parties as to any act, matter or thing concerning the interpretation and operation of this Deed the parties shall use their best endeavours to enter into good faith negotiations in an attempt to resolve the dispute. Should agreement not be reached within twenty-one (21) working days (or such longer period as the parties agree upon) after the date upon which the dispute arises, then the dispute will be referred to mediation by a duly qualified

mediator (being a member of the Mediators' Institute or a member of LEADR) appointed if the parties cannot agree upon one by the President for the time being of the Otago District Law Society and in the event that such dispute is not capable of being resolved by mediation then the matter shall be resolved by arbitration in accordance with the provisions of the Arbitration Act 1996. If the Arbitration Act 1996 is used and the parties fail to agree on the person to be appointed as arbitrator, the appointment shall be made by the President for the time being of the Otago District Law Society.

5 The parties hereto agree that the Grantee shall have the right in future to require that the easements hereby created be registered against the title to the servient tenement, and the parties will obtain such consents and do such things as may be necessary to enable the easement to be registered against the title of the servient tenement.

SIGNED for and on behalf of the)
MINISTER OF CONSERVATION by)
 Ian Whitwell an officer of the Department)
 of Conservation pursuant to a designation)
 given to him by the Director-General of)
 Conservation and dated the 30th day of June)
 1989 in the presence of:)

I. R. H. Whitwell

Witness: *[Signature]*
 Occupation: *Referee*
 Address: *Imperial*

SIGNED on behalf of)
THE MOUNT COOK GROUP LIMITED)
 by 9(2)(a))
)
 9(2)(a))
)
 in the presence of:)