

THIS DOCUMENT dated the *13th* day of *November* 2001

Between

MINISTER OF CONSERVATION
("the Grantor")

and

SOLID ENERGY NEW ZEALAND LIMITED
("the Concessionaire")

CONCESSION DOCUMENT
(Easement in Gross)



Department of Conservation
Te Papa Atawhai

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PARTIES:

1. **MINISTER OF CONSERVATION**, ("the Grantor")
2. **SOLID ENERGY NEW ZEALAND LIMITED** ("the Concessionaire")

BACKGROUND

- A. The Grantor manages the Conservation Area described in Item 1 of Schedule I as the Land.
- B. Section 17Q(1) of the Conservation Act 1987 authorises the Grantor to grant a Concession in respect of an Activity in a Conservation Area;
- 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 I.
- 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.

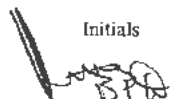
"Concession" has the same meaning as "concession" as defined in section 2 of the Conservation Act 1987.

"Concession Activity" means the use of the Easement Area for purposes of the Activity carried out by the Concessionaire and specified Item 3 of Schedule I.

"Concession Fee" means the amount specified in Item 7 of Schedule I and charged by the Grantor for the Concessionaire's right to carry out the Concession Activity on the Easement Area. It includes any variation in that amount following a Concession Fee Review.

"Concession Fee Payment Date" means the date specified in Item 9 of Schedule I on which each instalment of the Concession Fee falls due for payment.

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"Concession Fee Review" means a review of the Concession Fee determined in accordance with clause 7 of this Document.

"Concession Fee Review Date" means the date specified in Item 11 of Schedule I on which the Concession Fee Review occurs being at 3 year intervals calculated from the date of commencement of this Document.

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

"Conservation Area" has the same meaning as "Conservation area" in section 2 of the Conservation Act 1987.

"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 Document 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 either section 17Q of the Conservation Act 1987, section 59A of the Reserves Act 1977, or section 49 of the National Parks Act 1980.

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

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

"Land" means a conservation area, a Park or a Reserve, whichever is relevant in the context of this Document, being the area more particularly described in Item 1 of Schedule I.

"Park" means a national park constituted under the National Parks Act 1980.

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

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

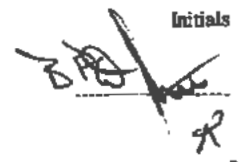
"Term" means the period of time specified in Item 4 of Schedule I during which this Document operates.

"Working Day" means the same as "working day" in section 2 of the Conservation Act 1987.

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 I 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);

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- (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 17Q of the Conservation Act 1987 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 I.

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 I.

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 terms and conditions the Grantor considers appropriate, including the matters referred to in clause 6.2.

5.0 CONCESSION FEE

5.1 The Concessionaire must pay to the Grantor in advance and in the manner directed by the Grantor the Concession Fee plus GST in the instalments and on the Concession Fee Payment Dates specified in Items 7, 8 and 9 of Schedule I.

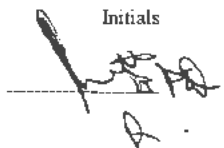
5.2 If the Concessionaire defaults in payment of the Concession Fee for 14 days after a Concession Fee Payment Date the Concessionaire is to pay interest on the unpaid Concession Fee from the Concession Fee Payment Date until the date of payment at the Penalty Interest Rate specified in Item 10 of Schedule I.

6.0 OTHER CHARGES

6.1 In addition to the Concession Fee 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

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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 even though this period may not expire until after the date of surrender.

6.3 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 whatever contribution the Grantor determines as specified in item 17 of Schedule I.

6.4 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 FEE REVIEW

7.1 The Grantor will review the Concession Fee on the Concession Fee Review Dates in the following manner:

- (a) the Grantor will 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 written notice to the Concessionaire.
- (b) subject to clause 7.1(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 written 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 7.2 (a) or (b).
- (d) if the Concessionaire does not give notice to the Grantor under clause 7.1 (c) the Concessionaire will be deemed to have accepted the Concession Fee specified in the Grantor's notice.
- (e) notwithstanding clause 7.1(b), the new Concession Fee so determined or accepted must not be less than the Concession Fee payable during year preceding the particular Concession Fee Review Date and will 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.

7.2 Immediately the Concessionaire gives notice to the Grantor under clause 7.1(c) the parties will endeavour to agree 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 written notice to the other requiring the new Concession Fee to be determined by arbitration; or, if the parties agree,
- (b) by registered valuers acting as experts and not as arbitrators as follows:
 - (i) each party will appoint a valuer and give written notice of the appointment to the other party within 14 days of the parties agreeing to determine the new Concession Fee by this means.

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- (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 will 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 Area.
- (vi) each party is to be given the opportunity to make written or verbal 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 will not be 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 provide how the costs of the determination are to be borne and is to be binding on the parties.
- (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 will establish the market value for the Concession Activity as at that date instead of the date fixed under clause 7.1 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 Date will take place in accordance with the date fixed in clause 7.1.

8.0 CONCESSION ACTIVITY

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

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

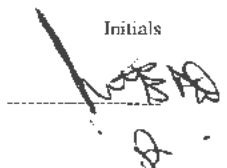
- (a) take out and maintain and pay all fees for all licences, permits, authorisations, consents (including resource consents under the provisions of the Resource Management Act 1991), and renewals (collectively "the Permissions") as may be necessary for the proper conduct of the Concession Activity;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

8.3 The rights and powers conferred on the Concessionaire by the provisions set out in Item 3 of Schedule I 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.

9.0 SUPPLY OF INFORMATION

9.1 At the Grantor's request the Concessionaire must supply the Grantor with a complete statement of audited financial accounts.

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9.2 Information supplied to the Grantor under clause 9.1 is subject to an obligation of confidence; but the parties acknowledge that such information may be subject to the provisions of the Official Information Act 1982 and the Privacy Act 1993.

10.0 COMPLIANCE

10.1 The Concessionaire will comply where relevant:

- (a) with the provisions of any conservation management strategy or conservation management plan as required by section 17W(7) of the Conservation Act 1987 pursuant to Part IIIA of the Conservation Act 1987 or Part IIA of the Reserves Act 1997 or any general policy statement or management plan under section 44 or 45 of the National Parks Act 1980, whichever is appropriate to the Easement Area, together with any amendment or review of any policy, strategy or plan whether approved before, on, or after the date on which this Document takes effect; and
- (b) with the Conservation Act 1987, the Reserves Act 1977 the National Parks Act 1980 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.

10.2 The Concessionaire must comply with all conditions imposed by the Grantor in granting this Document whether expressed or implied.

- 10.3
- (a) A breach or contravention by the Concessionaire of a relevant conservation management strategy, conservation management plan, management plan or general policy statement 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.

10.4 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 delete that part of the Easement Area from item 2 of Schedule I and any dispute as to whether or not the amount is unreasonable is to be determined in accordance with clause 29

11.0 STRUCTURES, FACILITIES AND LAND ALTERATIONS

11.1 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 (other than the power poles and lines as referred to in Schedule 1) without the prior written consent of the Grantor.

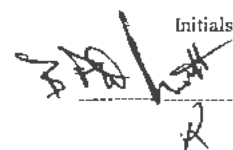
11.2 In giving approval under clause 11.1 the Grantor may, in the Grantor's sole and absolute discretion, impose any reasonable terms and conditions, including a review of the Concession Fee, as the Grantor considers appropriate under this clause; and may also decline the grant of such approval after 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 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.

11.5 The Concessionaire must not commence any work on the Easement Area until the Grantor has given its written approval.

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11.6 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.

11.7 The Concessionaire is to keep and maintain its structures and facilities on, or alterations to, the Easement Area in good repair.

12.0 INSURANCE OF STRUCTURES, FACILITIES AND LAND ALTERATIONS

12.1 At the request of the Grantor, the Concessionaire must at its own cost, cover any costs and expenses of demolition, removal of debris, clearance and re-instatement of the Easement Area.

12.2 The Concessionaire must provide the Grantor with a copy certificate of currency for the policy or policies of insurance on the execution of this Concession Document, on each renewal of the policy, or at the request of the Grantor.

13.0 CONCESSIONAIRE'S FURTHER OBLIGATIONS

13.1 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 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.

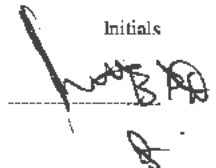
14.0 PROTECTION OF THE ENVIRONMENT

14.1 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.

14.2 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.

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- 14.3 The Concessionaire must make adequate provision for suitable sanitary facilities for the Easement Area if required 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.
- 14.4 The Concessionaire will keep all structures, facilities, 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.
- 14.5 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.
- 14.6 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.
- 14.7 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, agents, clients or invitees.
 - (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 Dangerous Goods Act 1974.
 - (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.
- 14.8 The Concessionaire must ensure that its employees, contractors, agents, clients and invitees do not carry out any acts prohibited under clause 14.
- 14.9 The Concessionaire must immediately report to the Grantor any act in contravention of clause 14 and wherever possible the names and addresses of any person carrying out such acts; and must provide the Grantor with details of the circumstances surrounding such incidents.
- 15.0 ADVERTISING**
- 15.1 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.
- 15.2 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.
- 16.0 EMPLOYMENT OF STAFF**
- 16.1 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.
- 16.2 The Concessionaire must provide the Grantor with evidence of the competency and qualifications of its employees if the Grantor so requests.
- 16.3 The Concessionaire must comply with all statutes relating to employment of staff.

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17.0 HEALTH AND SAFETY

17.1 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.

17.2 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.

17.3 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.

17.4 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.

17.5 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 17.5(a).

17.6 Receipt of the certified safety plan by the Grantor is not in any way to limit the obligations of the Concessionaire under clause 17 and is not to be construed as implying any responsibility or liability on the part of the Grantor.

18.0 TEMPORARY SUSPENSION

18.1 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.

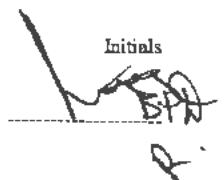
18.2 If, in the opinion of the Grantor, the activities of the Concessionaire, its employees, clients or invitees are having or may have an adverse effect on the environment and the Grantor is of the opinion that the effect can be avoided, remedied or mitigated to an extent satisfactory to the Grantor, the Grantor may suspend this Concession until the Concessionaire remedies, avoids or mitigates the adverse impact to the satisfaction of the Grantor.

18.3 The Grantor may suspend this Concession while it investigates any of the circumstances contemplated in clauses 18.1 and 18.2 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.

18.4 The word "investigates" in clause 18.3 includes the laying of charges and awaiting the decision of the Court.

18.5 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.

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18.6 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 18 including loss of profits.

19.0 ASSIGNMENT

19.1 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.

19.2 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.

19.3 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.

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

19.5 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.

20.0 CO-SITING

20.1 The Concessionaire will not allow Co-Siting on the Easement Area.

20.2 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.

20.3 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 20.3. The cost of the report is to be borne by the Concessionaire.

20.4 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.

21.0 TERMINATION

21.1 The Grantor may terminate this Concession by 60 days notice in writing to the Concessionaire if:

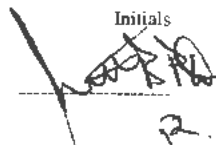
- (a) the Concession Fee or any other money payable to the Grantor under this Document is in arrears and unpaid for 14 days after any of the days appointed for payment whether it has been lawfully demanded or not; or
- (b)
 - (i) the Concessionaire breaches any terms of this Document; and
 - (ii) the 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

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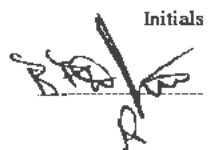
- (d) the Concessionaire is convicted of an offence, whether or not related to the Concession Activity, under the Conservation Act 1987 or any of the Acts listed in the First Schedule to that Act; or the Health and Safety in Employment Act 1982; or the Building Act 1991; or the Resource Management Act 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.
- 21.2 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.
- 21.3 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.
- 21.4 Immediately on termination, the Concessionaire must execute a surrender of this Document if the Grantor so requires it.
- 22.0 GRANTOR MAY REMEDY CONCESSIONAIRE'S DEFAULT**
- 22.1 The Grantor may elect to remedy at any time without notice any default by the Concessionaire under this Concession.
- 22.2 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.
- 23.0 GRANTOR'S DIRECTIONS**
- 23.1 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.
- 24.0 POWERS, RIGHTS AND AUTHORITIES**
- 24.1 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.
- 25.0 INDEMNITIES AND INSURANCE**
- 25.1 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.
- 25.2 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.
- 25.3 Without prejudice to or in any way limiting its liability under clause 25.1 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 12 of Schedule I; and

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- (ii) Forest and Rural Fires Act 1977 extension for a sum not less than the amount specified in Item 13 of Schedule I; and
- (b) statutory liability for the matters and amount specified in Item 14 of Schedule I; and
- (c) such other policy or policies of insurance against any other liability and for such other sums which the Grantor specifies in Item 15 of Schedule I, including those matters specified in clause 12.
- 25.4 With respect to clause 25.3, the Concessionaire must provide copy certificates of currency for the policies of insurance before commencing the Concession Activity, on each renewal of them and on the request of the Grantor.
- 25.5 (a) Without prejudice to any other provision of this Document the Concessionaire will indemnify the Grantor against all damage or loss resulting from any act or omission on the part of the Concessionaire or the Concessionaire's employees, agents, contractors, clients, or invitees;
- (b) The Concessionaire is to recompense the Grantor for all expenses incurred by the Grantor in making good any damage to the Easement Area or the property of the Grantor resulting from such act or omission.
- 25.6 (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 25.6(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.
- 25.7 Notwithstanding anything else in clause 25 the Grantor is not liable for any indirect or consequential loss howsoever caused.
- 26.0 ENVIRONMENTAL MONITORING AND LAND REHABILITATION**
- 26.1 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.
- 26.2 If the Grantor does not make a request under clause 26.1 the Concessionaire must, during the Term, pay to the Grantor the annual environmental monitoring contribution specified in Item 16 of Schedule I 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.
- 26.3 Subject to any conditions imposed by the Grantor and set out in Schedule II, 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.
- 27.0 EXPIRY OF EASEMENT**
- 27.1 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.
- 27.2 Subject to any conditions set out in Schedule II, at the expiry, surrender or termination of the Term the Concessionaire must remove all the Concessionaire's structures and facilities on the Easement Area unless the Grantor approves otherwise in writing.

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- 27.3 If the Concessionaire does not remove the structures and facilities as required by clause 27.2, 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.
- 27.4 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.
- 28.0 FORCE MAJEURE**
- 28.1 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.
- 28.2 If the delay or failure continues for at least 28 days either party will be entitled to terminate this Document by notice in writing.
- 29.0 DISPUTE RESOLUTION AND ARBITRATION**
- 29.1 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.
- 29.2 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.
- 29.3 All arbitration proceedings are to take place in New Zealand and to be governed by New Zealand law.
- 29.4 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.
- 29.5 The arbitrator must include in the arbitration award reasons for the determination.
- 30.0 NOTICES**
- 30.1 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 18 of Schedule I.
- 30.2 A notice given in accordance with clause 30.1 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.
- 31.0 COSTS**
- 31.1 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.
- 31.2 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:

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- (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.

32.0 RELATIONSHIP OF PARTIES

32.1 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 Grantor 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.

33.0 OFFENCES

33.1 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.

34.0 SEVERABILITY

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

35.0 ENTIRE UNDERSTANDING

35.1 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.

36.0 VARIATION

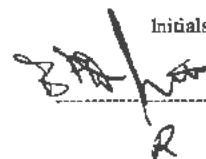
36.1 The provisions of section 17ZC of the Conservation Act 1987 apply to all variations sought by the Concessionaire and to any application for an extension to the Term.

36.2 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 Concession 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 Concession Activity permitted by this Document require more appropriate conditions

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

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37.0 REGISTRATION

37.1 The Grantor may register this Easement, at the expense of the Concessionaire, as provided by section 17ZA of the Conservation Act 1987.

Signed by : **REGINALD VICTOR KEMPER**
Community Relations Manager, West Coast for
and on behalf of the Minister of Conservation,
pursuant to a written delegation dated 29 October
1997 for an on behalf of the Minister of Conservation
pursuant to a written delegation in the presence of :

R. Kemper

Witness:

R. H. H. H. H.

Occupation:

Statutory Land Manager Officer

Address:

s.9(2)(a)

Habitat

Signed for and on behalf of **SOLID ENERGY NEW
ZEALAND LIMITED**
as Concessionaire
in the presence of:

Director

Witness:

s.9(2)(a)

Occupation:

Solicitor

Address:

Christchurch

s.9(2)(a)

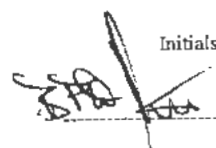
Director

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[Signature]
[Signature]
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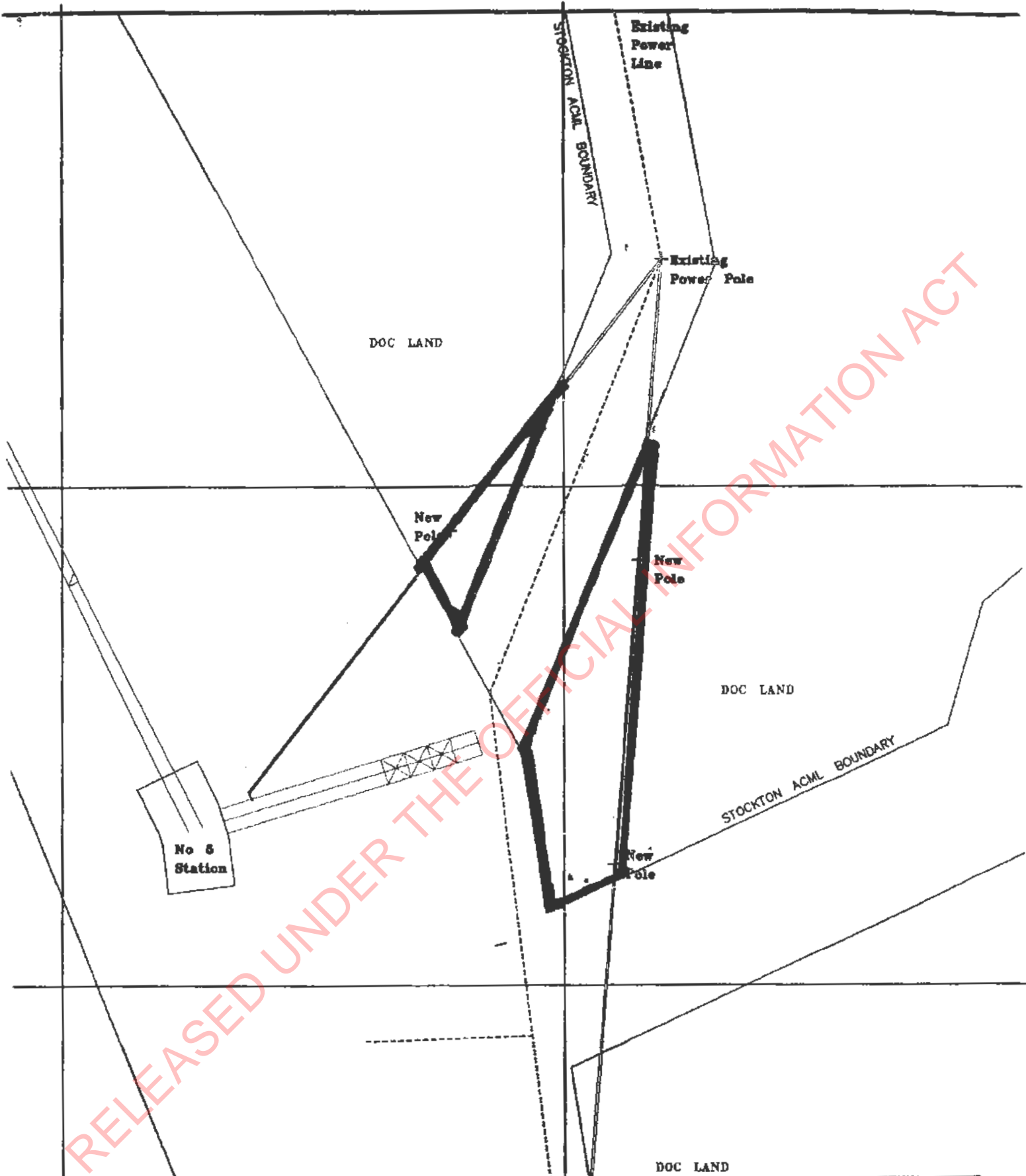
SCHEDULE I


1. **Land:** Conservation land Block II, Ngakawau Survey District as coloured red on the plan attached being 2450m²
2. **Easement Area:** The area of land which encompasses the positioning and occupation of the power poles and associated lines as shown on the plan attached marked "new poles" and the lines marked in green.
3. **Concession Activity:** The placement on and the occupation of the Easement Area by three power poles and associated 11,000 volt lines
4. **Term:** 30 years from 1 January 2001
5. **Renewal:** None
6. **Final Expiry Date:** 31 December 2031
7. **Concession Fee:** \$200.00 plus GST
8. **Concession Fee Instalments:** Yearly in advance
9. **Concession Fee Payment Date:** 1 January in each and every year
10. **Penalty Interest Rate:** 2% above Westpac Trust indicator rate (per annum)
11. **Concession Fee Review Date:** 3 yearly from 1 January 2001
12. **Public Liability General Indemnity Cover:**
Minimum of \$250,000
13. **Public Liability Forest & Rural Fire Act Extension:**
Minimum of \$100,000
14. **Statutory Liability** Nil
- 15(a) **Other Types of Insurance:** Nil
- 15(b) **Amounts Insured for Other Types of Insurances:** Nil
16. **Environmental Monitoring Contribution:** None
17. **Community Service contribution** None
18. **Address for Notices:**
- | | |
|--|--|
| <p>(a) Grantor: Community Relations Manager
Department of Conservation
Private Bag 701
HOKITIKA</p> | <p>Concessionaire: Solid Energy New Zealand Ltd
PO Box 346
WESTPORT</p> |
|--|--|

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RELEASED UNDER THE OFFICIAL INFORMATION ACT



 Department of Conservation Te Papa Atawhai		WEST COAST CONSERVANCY LICENCE PLAN	
BLOCK: II		SURVEY DISTRICT: NGAKAWAU	
SCALE: 1:1,000	AREA: 2450 m ²	DATE: 19/11/01	FILE/LICENCE NO:
MAP REF: L 28	PHOTO REF:		EAS 0069

RELEASED UNDER THE OFFICIAL INFORMATION ACT



PAC 11 04 19 ?

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**AGREEMENT TO THE CONSTRUCTION OF A ROAD
COAL MINING LICENCE 37 175 – GREYMOUTH COAL
OPERATING LTD**

Dated this 18th day of February 2000

1. Acting under delegated authority from the Minister of Conservation, the Executive Assistant to the Director General consented on 17 November 1993 to the grant of Coal Mining Licence 37 175 to Greymouth Coal Operating Ltd insofar as the licence related to land administered by the Department of Conservation.
2. Clause 5 a of the consent states "Except as provided for in this consent, the licensee shall not construct or maintain any roads, tracks, bridges, buildings and other works on the area without the prior written consent of the Regional Conservator"
3. On 29 October 1997 the licensee applied for approval, under Clause 5 a to construct a road over land administered by the Department for the carting of rock and coal from Dunollie to Rapahoe.
4. On 1 December 1999, the Community Relations Manager acting under delegated authority from the Minister of Conservation gave formal approval to the licensee to construct a road on or about the line coloured red on the plan attached on the following terms and conditions:
 - i) Plans and specifications of the road to be submitted by the Licensee to the Department's Area Manager at Greymouth for approval and the Area Manager to be notified prior to commencement of construction works in order that his staff can, if so desired, be on site to protect the Department's interests.
 - ii) Road width to be a maximum of 9 metres plus 2 metres either side for verges.
 - iii) Vegetation removal and the dumping of any spoil to be at sites designated by the Department's Area Manager.
 - iv) Licensee to join with the Department to develop and implement, at the Licensees cost, a kiwi management programme to minimise the risk to great spotted kiwis of the road and the traffic using it. This programme to include advocacy/signage as a means of reducing entry by dogs as well as limiting public use of the road. Signs to be placed at the bridges and the Greymouth Coal Offices and advocacy to be, for example, local media releases and "flyers" distributed to the local communities about the threats and the need to be vigilant.

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v) Licensee to institute an on going weed control programme along the entire length of the road.

vi) That when the road is no longer required by the Licensee or upon expiry of the Coal Mining Licence, whichever is the earlier, the Licensee is required at its cost to rehabilitate the roadway on terms and specifications to be agreed between the Department and the Licensee.

vii) Compensation for the privilege of having the road cross Departmentally controlled land to be paid by way of:-

a. an annual resource rental of \$2,900 per annum plus GST as from 1 January 2000 reviewable three yearly for the time frame envisaged in condition vi) above.

b. a one off payment of \$775 plus GST due as at 1 January 2000.

viii) That all costs associated with the processing of this application, including those arising from Departmental staff involvement in any of the conditions listed above to be met by the Applicant.

5. By way of letter of 13 December 1999 the Licensee accepted these terms and conditions, that acceptance now being confirmed by the parties execution and affixation to this agreement.

Signed by the Community Relations
Manager, Department of Conservation
Hokitika acting under delegated authority
From the Minister of Conservation
pursuant to Section 21(5) of the Coal
Mines Act 1975

[Signature]

Witness:

Occupation:

Address:

[Signature]
Conservation Officer
Hokitika.

The common seal of Greymouth Coal
Operations Limited was affixed in the
presence of:

Director:

Director:

s.9(2)(a)

[Signature] General Manager

Concession number: PAC 11 04 33 01 (WC-16811-OTH)

DATED 02 JUNE 2006

Between

MINISTER OF CONSERVATION
("the Grantor")

and

SOLID ENERGY NEW ZEALAND LIMITED
("the Concessionaire")

CONCESSION DOCUMENT
(Easement in Gross)



Department of Conservation
Te Papa Atawhai

THIS DOCUMENT is made this 2nd day of JUNE 2006

PARTIES:

1. **MINISTER OF CONSERVATION**, ("the Grantor")
2. **SOLID ENERGY NEW ZEALAND LIMITED**, ("the Concessionaire")

BACKGROUND

- A. The Grantor manages the Conservation Area described in Item 1 of Schedule 1 as the Land.
- B. Section 17Q(1) of the Conservation Act 1987 authorises the Grantor to grant a Concession in respect of an Activity in a Conservation Area;
- 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.

"**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 Item 3 of Schedule 1.

"**Concession Fee**" means the amount specified in Item 7 of Schedule 1 and charged by the Grantor for the Concessionaire's right to carry out the Concession Activity on the Land. It includes any variation in that amount following a Concession Fee Review.

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

"**Concession Fee Review**" means a review of the Concession Fee determined in accordance with clause 7 of this Document.

"**Concession Fee Review Date**" means the date specified in Item 11 of Schedule 1 on which the Concession Fee Review occurs being at 3 year intervals calculated from the date of commencement of this Document.

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

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

"**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.

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"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 either section 17Q of the Conservation Act 1987, section 59A of the Reserves Act 1977, or section 49 of the National Parks Act 1980.

"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 a Conservation Area, a Park, or a Reserve, whichever is relevant in the context of this Document, and is the area more particularly described in Item 1 of Schedule 1.

"Park" means a national park constituted under the National Parks Act 1980.

"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 Wellington.

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 17Q of the Conservation Act 1987 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 terms and conditions the Grantor considers appropriate, including the matters referred to in clause 6.2.

5.0 CONCESSION FEE

5.1 The Concessionaire must pay to the Grantor in advance and in the manner directed by the Grantor the Concession Fee plus GST in the instalments and on the Concession Fee Payment Dates specified in Items 7, 8 and 9 of Schedule 1.

5.2 If the Concessionaire defaults in payment of the Concession Fee for 14 days after a Concession Fee Payment Date 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 10 of Schedule 1.

6.0 OTHER CHARGES

- 6.1 In addition to the Concession Fee the Concessionaire must pay the following charges ("Other Charges") on demand and in the manner directed by the Grantor:
- (a) all rates, 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 in relation to the Easement Area;
 - (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 even though this period may not expire until after the date of surrender.
- 6.3 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 whatever contribution the Grantor determines as specified in Schedule 2.
- 6.4 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.
- 6.5 If, during the Term, the Site becomes rateable land, following any amendment to the Rating Powers Act 1988 or the introduction of a new Act in substitution for it and the Site's rateability is attributable to the Concession Activity, or if separate rates are levied under section 7 of the Rating Powers Act 1988 in respect of the Site and are attributable to the Concession Activity, the Concessionaire is to pay any rates which may be struck or levied and which are attributable to the Concession Activity; but both parties expressly

agree that such payment is not to constitute an acknowledgement of exclusive possession by the Concessionaire of the Easement Area.

7.0 CONCESSION FEE REVIEW

7.1 The Grantor will review the Concession Fee on the Concession Fee Review Dates in the following manner:

- (a) the Grantor will 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 written notice to the Concessionaire.
- (b) subject to clause 7.1(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 written 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 7.2 (a) or (b).
- (d) if the Concessionaire does not give notice to the Grantor under clause 7.1 (c) the Concessionaire will be deemed to have accepted the Concession Fee specified in the Grantor's notice.
- (e) notwithstanding clause 7.1(b), the new Concession Fee so determined or accepted must not be less than the Concession Fee payable during year preceding the particular Concession Fee Review Date and will 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.

7.2 Immediately the Concessionaire gives notice to the Grantor under clause 7.1(c) the parties will endeavour to agree 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 written notice to the other requiring the new Concession Fee to be determined by arbitration; or, if the parties agree,
- (b) by registered valuers acting as experts and not as arbitrators as follows:

- (i) each party will appoint a valuer and give written 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 will 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 Area.
 - (vi) each party is to be given the opportunity to make written or verbal 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 will not be 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 provide how the costs of the determination are to be borne and is to be binding on the parties.
- (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 will establish the market value for the Concession Activity as at that date instead of the date fixed under clause 7.1 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

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- (iii) each subsequent Concession Fee Review Date will take place in accordance with the date fixed in clause 7.1.

8.0 CONCESSION ACTIVITY

- 8.1 The Concessionaire is not to use the Easement Area for any purpose other than the Concession Activity.
- 8.2 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.
- 8.3 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.

9.0 SUPPLY OF INFORMATION

- 9.1 At the Grantor's request the Concessionaire must supply the Grantor with a complete statement of audited financial accounts.
- 9.2 Information supplied to the Grantor under clause 9.1 is subject to an obligation of confidence; but the parties acknowledge that such information may be subject to the provisions of the Official Information Act 1982 and the Privacy Act 1993.

10.0 COMPLIANCE

- 10.1 The Concessionaire will comply where relevant:
- (a) with the provisions of any conservation management strategy or conservation management plan as required by section 17W(7) of the Conservation Act 1987 pursuant to Part IIIA of the Conservation Act 1987 or Part IIA of the Reserves Act 1977 or any general policy statement or management plan under section 44 or 45 of the National Parks Act 1980, whichever is appropriate to the Easement Area, together with any amendment or review of any policy, strategy or plan whether approved before, on, or after the date on which this Document takes effect; and

- (b) with the Conservation Act 1987, the Reserves Act 1977 the National Parks Act 1980 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.
- 10.2 The Concessionaire must comply with all conditions imposed by the Grantor in granting this Document whether expressed or implied.
- 10.3 (a) A breach or contravention by the Concessionaire of a relevant conservation management strategy, conservation management plan, management plan or general policy statement in relation to the Easement Area 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.
- 10.4 If the Legislation requires the Grantor to spend money on its own structures, facilities or land alterations on the Easement Area, the Grantor may charge, in addition to the Concession Fee, an annual sum equal to 15% of the amount spent by the Grantor.
- 10.5 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 29

11.0 STRUCTURES, FACILITIES AND LAND ALTERATIONS

- 11.1 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.
- 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 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.
- 11.5 The Concessionaire must not commence any work on the Easement Area until the Grantor has given its written approval.
- 11.6 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.
- 11.7 The Concessionaire is to keep and maintain its structures and facilities on, or alterations to, the Easement Area in good repair.

12.0 INSURANCE OF STRUCTURES, FACILITIES AND LAND ALTERATIONS

- 12.1 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.
- 12.2 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.

13.0 CONCESSIONAIRE'S FURTHER OBLIGATIONS

- 13.1 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 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.

14.0 PROTECTION OF THE ENVIRONMENT

14.1 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.

14.2 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.

14.3 The Concessionaire must make adequate provision for suitable sanitary facilities for the Easement Area if required 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.

14.4 In relation to the Easement Area 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.

14.5 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.

- 14.6 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.
- 14.7 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, agents or clients;
 - (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 Dangerous Goods Act 1974;
 - (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.
- 14.8 The Concessionaire must ensure that its employees, contractors, agents, clients and invitees do not carry out any acts prohibited under clause 14.
- 14.9 The Concessionaire must immediately report to the Grantor any act in contravention of clause 14 and wherever possible the names and addresses of any person carrying out such acts; and must provide the Grantor with details of the circumstances surrounding such incidents.

15.0 ADVERTISING

- 15.1 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.
- 15.2 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.

16.0 EMPLOYMENT OF STAFF

- 16.1 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.

16.2 The Concessionaire must provide the Grantor with evidence of the competency and qualifications of its employees if the Grantor so requests.

16.3 The Concessionaire must comply with all statutes relating to employment of staff.

17.0 HEALTH AND SAFETY

17.1 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.

17.2 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.

17.3 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.

17.4 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.

17.5 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 17.5(a).

17.6 Receipt of the certified safety plan by the Grantor is not in any way to limit the obligations of the Concessionaire under clause 17 and is not to be construed as implying any responsibility or liability on the part of the Grantor.

18.0 TEMPORARY SUSPENSION

- 18.1 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, contractors, agents, clients or invitees.
- 18.2 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 in relation to the Easement Area 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.
- 18.3 The Grantor may suspend this Concession while it investigates any of the circumstances contemplated in clauses 18.1 and 18.2 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.
- 18.4 The word "investigates" in clause 18.3 includes the laying of charges and awaiting the decision of the Court.
- 18.5 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.
- 18.6 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 18 including loss of profits.

19.0 ASSIGNMENT

- 19.1 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.
- 19.2 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.
- 19.3 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

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is to procure from the transferee, or assignee a covenant to be bound by the terms and conditions of this Document.

- 19.4 The Concessionaire must pay the costs reasonably incurred by the Grantor incidental to any application for consent, whether or not such consent is granted.
- 19.5 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.

20.0 CO-SITING

- 20.1 (a) The Concessionaire will not allow Co-Siting on the Easement Area.
- 20.2 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.
- 20.3 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 20.2. The cost of the report is to be borne by the Concessionaire.
- 20.4 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.

21.0 TERMINATION

- 21.1 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 14 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) during the term of this Easement 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.
- 21.2 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.
- 21.3 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.
- 21.4 Immediately on termination, the Concessionaire must execute a surrender of this Document if the Grantor so requires it.

22.0 GRANTOR MAY REMEDY CONCESSIONAIRE'S DEFAULT

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

- 22.2 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.

23.0 GRANTOR'S DIRECTIONS

- 23.1 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.

24.0 POWERS, RIGHTS AND AUTHORITIES

- 24.1 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.

25.0 INDEMNITIES AND INSURANCE

- 25.1 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.

- 25.2 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.

- 25.3 Without prejudice to or in any way limiting its liability under clause 25.1 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 12 of Schedule 1; and
 - (ii) Forest and Rural Fires Act 1977 extension for a sum not less than the amount specified in Item 13 of Schedule 1; and
- (b) statutory liability for the matters and amount specified in Item 14 of Schedule 1; and

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- (c) such other policy or policies of insurance against any other liability and for such other sums which the Grantor specifies in Item 15 of Schedule 1, including those matters specified in clause 12.
- 25.4 With respect to clause 25.3 the Concessionaire must provide copy certificates of currency for the policies of insurance before commencing the Concession Activity and on each renewal of them.
- 25.5
 - (a) Without prejudice to any other provision of this Document the Concessionaire will indemnify the Grantor against all damage or loss resulting from any act or omission on the part of the Concessionaire or the Concessionaire's employees, agents, contractors, clients, or invitees, in relation to the Easement Area;
 - (b) The Concessionaire is to recompense the Grantor for all expenses incurred by the Grantor in making good any damage to the Land or the property of the Grantor resulting from such act or omission.
- 25.6
 - (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 25.6(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.
- 25.7 Notwithstanding anything else in clause 25 the Grantor is not liable for any indirect or consequential loss howsoever caused.

26.0 ENVIRONMENTAL MONITORING AND LAND REHABILITATION

- 26.1 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.
- 26.2 If the Grantor does not make a request under clause 26.1 the Concessionaire must, during the Term, pay to the Grantor the annual environmental monitoring contribution specified in Item 16 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.
- 26.3 Subject to any conditions imposed by the Grantor and set out in Schedule 3, 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.

27.0 EXPIRY OF EASEMENT

- 27.1 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.
- 27.2 Subject to any conditions set out in Schedule 3, at the expiry, surrender or termination of the Term the Concessionaire must remove all the Concessionaire's structures and facilities on the Easement Area unless the Grantor approves otherwise in writing.
- 27.3 If the Concessionaire does not remove the structures and facilities as required by clause 27.2, 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.
- 27.4 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.

28.0 FORCE MAJEURE

- 28.1 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.
- 28.2 If the delay or failure continues for at least 28 days either party will be entitled to terminate this Document by notice in writing.

29.0 DISPUTE RESOLUTION AND ARBITRATION

- 29.1 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.
- 29.2 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.

- 29.3 All arbitration proceedings are to take place in New Zealand and to be governed by New Zealand law.
- 29.4 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.
- 29.5 The arbitrator must include in the arbitration award reasons for the determination.

30.0 NOTICES

- 30.1 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 17 of Schedule 1.
- 30.2 A notice given in accordance with clause 30.1 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.

31.0 COSTS

- 31.1 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.
- 31.2 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.

32.0 RELATIONSHIP OF PARTIES

32.1 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 Grantor 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.

33.0 OFFENCES

33.1 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.

34.0 SEVERABILITY

34.1 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.

35.0 ENTIRE UNDERSTANDING

35.1 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.

36.0 VARIATION

36.1 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.

36.2 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:

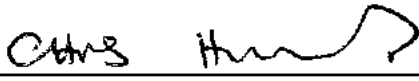
- (a) to deal with significant adverse effects of the Activity that are not reasonably foreseeable at the time this Easement is granted; or
- (b) because the information made available to the Grantor by the Concessionaire for the purposes of the Concessionaire's application contained inaccuracies which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

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

37.0 REGISTRATION

37.1 The Grantor may register this Easement, at the expense of the Concessionaire, as provided by section 17ZA of the Conservation Act 1987.

SIGNED by)
CHRISTOPHER RONALD HAMES)
HICKFORD, Community Relations)
Manager, West Coast, for and on behalf)
of the Minister of Conservation,)
(the Grantor) pursuant to a written)
delegation in the presence of:)


Community Relations Manager

Witness

Occupation: Conservation Officer

Address: Hokitika

SIGNED on behalf of
SOLID ENERGY NEW ZEALAND LIMITED
(as Concessionaire) by its Directors

Director

Director

in the presence of

Witness:

Occupation: Solicitor

Address: 28 Westminister street
Christchurch

SCHEDULE 1

1. **Land:** Crown Land – DOC Stewardship – Consunit L28069, L29005 (*see definition of Land in clause 1.1*)
2. **Easement Area:** All that area as delineated on attached plan containing 3.48ha approximately.
(*see definition of Easement Area in clause 1.1*)
3. **Concession Activity:** Easement in Gross over areas adjoining the Stockton Haul Road.
(*see definition of Concession Activity in clause 1.1*)
4. **Term:** 22 years commencing on 1 September 2005 (*see clause 3.1*)
5. **Renewal:** N/A (*see clause 3.2*)
6. **Final Expiry Date:** 31 August 2027 (*see clause 3.3*)
7. **Concession Fee:** \$N/A
Activity Management Fee: \$200.00 per annum + GST (*see clause 5.1*)
8. **Concession Fee Instalments:** Yearly in advance (*see clause 5.1*)
9. **Concession Fee Payment Date:** 1 September in each and every year (*see clause 5.1*)
10. **Penalty Interest Rate:** (*see clause 5.2*)
Double the Grantor's bank's current highest 90 day bank bill buy rate
11. **Concession Fee Review Date:** 31 August 2008 and at three yearly intervals thereafter.
(*see clause 7.1*)
12. **Public Liability General Indemnity Cover:** (*see clause 25.3*)
for \$2000,000.00 Two million dollars.
13. **Public Liability Forest & Rural Fire Act Extension:** (*see clause 25.3*)
for \$1000,000.00 One million dollars.
14. **Statutory Liability** (*see clause 25.3*)
for \$500,000.00 Five hundred thousand dollars.
- 15(a) **Other Types of Insurance:** (*see clauses 12 & 25.3*)
for \$ N/A
- 15(b) **Amounts Insured for Other Types of Insurances:** (*see clauses 12 & 25.3*)
for \$ N/A
16. **Environmental Monitoring Contribution:** N/A (*see clause 26.2*)

17. **Address for Notices:**

(see clause 30)

(a) Grantor

The Conservator
Department of Conservation
Sewell Street
Hokitika
Phone: (03) 755 8301
Fax: (03) 755 8425

(b) Concessionaire

Solid Energy New Zealand Limited
2 Show Place
P O Box 1303
Christchurch
Phone: (03) 353 0100
Fax: (03) 353 0116



Department of Conservation
Te Papa Atawhai

WEST COAST TAI POUTINI CONSERVANCY
CONCESSION PLAN

Easement - Solid Energy - Stockton Haul Road
Adjoining ACML 37 150-02

Total area: 3.48	Scale: 1:10,000	Photo Ref: Ortho SE 2005	PAC 11-04-33.01
Compiled: October 2005	Map Ref: L28	Area Office: Buller Kaitiaki	
Legal Description: Crown Land - DOC Stewardship - Consent L28068, L28065			

SCHEDULE 2

Community Service Contribution

N/A

RELEASED UNDER THE OFFICIAL INFORMATION ACT

SCHEDULE 3

Special Conditions

- 1) The Concessionaire shall undertake any revegetation of bare sites required using only locally sourced plant species consisting of a mix that are known to occur naturally adjacent to those sites.
- 2) Prior to undertaking any work on the proposed sediment ponds or work associated with improvements to existing ones, the Concessionaire shall provide information to the satisfaction of the Buller/*Kawatiri* Area Manager, detailing how it intends to ensure the protection of those areas surrounding the proposed sediment ponds from scouring or the impacts of excessive runoff.
- 3) With the approval of the Buller/*Kawatiri* Area Manager, the Concessionaire may increase the footprint of the road verge batters in order to stabilise these. Where this is required the area must be clearly marked and within the approved easement boundaries.
- 4) The Concessionaire shall obtain and follow the directions of the Buller/*Kawatiri* Area Manager in relation to weed control.
- 5) The Concessionaire shall not refuel or store lubricants on the site.
- 6) The Concessionaire shall remove all rubbish and maintain the site in tidy condition.
- 7) The Concessionaire shall comply with the provisions of the Resource Management Act 1991 at all times. This includes:
 - (i) obtaining and complying with all resource consents necessary to undertake the Concession Activity; and
 - (ii) complying with the provisions of all relevant regional and district plans, including any relevant permitted activities.

DEED OF VARIATION OF CONCESSION EASEMENT

This Deed dated the 15th day of August 2006

PARTIES

- (1) The Minister of Conservation ("the Grantor")
- (2) Solid Energy New Zealand Limited ("the Concessionaire")

WHEREAS

- (A) The Grantor and the Concessionaire are parties to a concession document dated 2 June 2006 over areas adjoining the Stockton Haul Road (PAC 11 04 33 01) ("the Concession Easement").
- (B) The parties wish to vary certain provisions of the Concession Easement.
- (C) The Concession Easement is varied in accordance with the provisions of this deed

COVENANTS

1. VARIATION OF CONCESSION EASEMENT

The Concession Easement is amended as follows:

- (a) Clause 2 of Schedule 1 is amended by the addition of the following: "together with all that area containing approximately 4.79ha as delineated on plan 11 04 33 01b attached hereto."

2. COMPLIANCE WITH EASEMENT

Except as provided by this deed, the Concessionaire and Grantor mutually covenant that they shall respectively comply with the obligations imposed on them under the Concession Easement as if those obligations had been repeated in full herein with such modification only as necessary to make them applicable to this deed.

3. CONFIRMATION

In all other respects the provisions of the Concession Easement are confirmed.

SIGNED for and on behalf of
The Minister of Conservation)
Pursuant to a written delegation)
By **Christopher Ronald Hames Hickford**)
Community Relations Manager)
West Coast Tai Poutini Conservancy)
in the presence of s.9(2)(a)

as 1/2

Witness:

Name: D. C. Sawman

Occupation: Conservation Officer

Address: Hokitika

SIGNED on behalf of)
Solid Energy New Zealand Limited)
as Concessionaire)
)

s.9(2)(a)

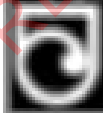
in the presence of s.9(2)(a)

Witness:

Name:

Occupation: Environmental Manager - Stockton

Address: s.9(2)(a) Westport



Department of Conservation
In Pursuit of Nature

**WEST COAST TAI POUTINI CONSERVANCY
CONCESSION PLAN**

**Essential Addition - Solid Energy - Wind Farm
Adjuncting ACMA 27 110-02**

Wind Farm & Wind Accession 11-06-33.01b	Scale: 1:50,000	Plan No: 11-06-33.01b
Completed July 2008	Map No: 11-06-33.01b	Area Office: Nelson

**PAC
11-06-33.01b**

Legal Description: Crown Land - 11-06-33.01b (Crown Land) (2008)

TYPE "A"



Department of Conservation
Te Papa Atawhai

Concession Number: WC-26733-OTH

Concession Document (Easement)

THIS EASEMENT is made this 22 day of JUNE 2000

PARTIES:

1. Minister of Conservation, (the Grantor)
2. Solid Energy New Zealand 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 Grantor manages the Conservation Area described in Schedule 1 as the Easement Land;
- E. Section 17Q(1) of the Conservation Act 1987 authorises the Grantor to grant a Concession in a Conservation Area;
- 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

In exercise of the Grantor's powers under section 17Q of the Conservation Act 1987 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
Christopher Ronald Hames Hickford *CAMPBELL AND ROBERTSON*
Community Relations Manager
West Coast Tai Poutini Conservancy

[Signature]
acting under delegated authority
in the presence of:

Witness Signature: *[Signature]*
Witness Name: DIANA CLENDON
Witness Occupation: CONCESSIONS OFFICER
Witness Address: HAKITIKA

An Authorised Signatory of
Solid Energy New Zealand Limited
in the presence of:

Witness Signature: *[Signature]*
Witness Name: *[Signature]*
Witness Occupation: REGIONAL ASSISTANT
Witness Address: 15 SHAWFLAW
CHRISTCHURCH

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

SCHEDULE 1

1.	Easement Land (Servient land - the land where the easement activity occurs) (Schedule 5)	As marked on the attached plan or map in Schedule 4 being: Land Status: Stewardship Land Area: 0.14ha Legal Description: Crown Land (under action) Map Reference: NZ Topo Map 50 REF: BR21
2.	Land (Dominant land - the land that benefits from the easement) (Schedule 5)	In Gross
3.	Concession Activity (clause 1)	(a) a right of way:
4.	Term (clause 2)	16 years and 10 months commencing on 1 June 2010
5.	Final Expiry Date (clause 2)	31 March 2027
6.	Concession Fee (clause 3)	a) Concession Management Fee: \$200 plus GST per annum b) Concession Activity Fee: \$250 plus GST per annum c) Concession Monitoring Fee: This will be based on standard Department charge out rates.
7.	Concession Fee Payment Date (clause 3)	Every 1 June, annually in advance
8.	Penalty Interest Rate (clause 3)	Double the Grantor's bank's highest 90 day bank bill buy rate
9.	Insurance (To be obtained by Concessionaire) (clauses 11 and 12)	A. <u>Types and amounts:</u> (i) Public Liability Insurance for: N/A (a) general indemnity for an amount no less than \$1,000,000; and (b) Forest and Rural Fires Act extension for an amount no less than \$500,000; and B. <u>Other Policies and amounts</u> is not required C. <u>Details of all policies:</u> (i) Insurance Company: Not required (ii) Policy number(s): Not required (iii) Date insurance effected: Not required (iv) Date insurance expires: Not required Certificates of Insurance Received: Not required
10.	Addresses for Notices (clause 20)	The Grantor's address is: The Conservator West Coast Tai Poutini Conservancy Department of Conservation Sewell St Hokitika Phone: 03 7569100 Fax: 03 7569188

		The Concessionaire's address in New Zealand is: Solid Energy New Zealand 2 Show Place Addington Christchurch Phone:033456000 Fax: 03 345 6016
11.	Registration of Easement (Schedule 6)	Is the easement to be registered with LINZ? No
12.	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 5 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 7 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 9 of Schedule 1; and a public liability forest and rural fire insurance for an amount not less than the sum specified in Item 9 of Schedule 1; and any other insurance specified in Item 9 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 10 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 a 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

9

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 6 and 7 of Schedule 2 of this easement.
2. The Concessionaire, and their agents or invitees, shall only use vehicles on the existing road formation of the easement land.
3. The Concessionaire shall not erect any gateways or restrict public access to the Easement Land in any way
4. The Concessionaire shall not undertake any work to widen or extend the road without permission from the Buller *Kawatiri* Area Manager.
5. The Concessionaire will ensure that the Easement Land is checked for the establishment of weeds annually and any weeds identified are controlled. The Concessionaire shall provide the Buller *Kawatiri* Area Manager with a list of the weeds established on the Easement Land.
6. Further to clause 6 of schedule 2 minor trimming of vegetation that encroaches into the existing site footprint can be undertaken by the Concessionaire. However, no woody vegetation greater than 50mm in diameter is to be cut as part of the trimming on the easement land.
7. Should any Powelliphanta snails or snail shells be found at the site the Concessionaire shall immediately notify the Department of Conservation.
8. Six months prior to the expiration of the easement a rehabilitation plan for the site shall be supplied to the Buller *Kawatiri* Area Manager for its approval. Once approved, rehabilitation of the site shall be undertaken to the standards required by the rehabilitation plan.

Concession Fee Review

9. In this document, unless the context other wise requires:

"Concession Fee" means the amount specified in Item 6 of Schedule I and charged by the Grantor for the Concessionaire's right to carry out the Concession Activity on the Easement Land. It includes any variation in that amount following a Concession Fee Review.

"Concession Fee Payment Date" means the dates specified in Item 8 of Schedule I on which each instalment of the Concession Fee falls due for payment.

"Concession Fee Review" means a review of the Concession Fee determined in accordance with schedule 1, clause 6 of this Document.

"Concession Fee Review Date" means the following date(s): 1 June 2013 and every third 1 June till the expiry of the Concession.

10. The Grantor will review the Concession Fee on the Concession Fee Review Dates in the following manner:

- (a) the Grantor will 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 11(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 12(a) or (b).
- (d) if the Concessionaire does not give notice to the Grantor under clause 11(c) the Concessionaire will be deemed to have accepted the Concession Fee specified in the Grantor's notice.
- (e) notwithstanding clause 11(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 will be the Concession Fee payable by the Concessionaire from the Concession Fee Review Date.
- (a) 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.

11. Immediately the Concessionaire gives notice to the Grantor under clause 12(c) the parties will 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 Dispute Resolution and Arbitration clause (Schedule 2, clause 19) or, if the parties agree,

(b) by registered valuers acting as experts and not as arbitrators as follows:

- (i) each party will 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 will 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 will not be 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 will establish the market value for the Concession Activity as at that date instead of the date fixed under clause 11 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 will take place in accordance with the procedure fixed in clause 11.



- 13 For the purposes of the Concessionaires obligations under special condition 6 the Concessionaire shall be exempted from the requirements of clause 5a schedule 2. Any contractor the Concessionaire engages to carry out the requirements of special condition 6 shall have the requisite skills and expertise.

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. FIFTH SCHEDULE PROPERTY LAW ACT 2007

Rights implied in easements of vehicular right of way

1. Right to pass and re-pass

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

2. Right to establish and maintain driveway

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

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

3. Right to have land restored after completion of work

- (1) This clause applies to a person bound by these covenants (person A) if a person entitled to enforce these covenants (person B) has undertaken work, in accordance with the right conferred by clause 2(a) or with an order of a court, on the land over which a right of way is granted.

- (2) Person A has the right, after the completion of the work, to have the land restored as far as possible to its former condition (except for the existence of the driveway).
- (3) That right of person A is subject to person B's right, in accordance with clause 2(d), to receive a reasonable contribution towards the cost of the work.

B. LAND TRANSFER REGULATIONS 2002

1. Interpretation

In this schedule, unless the context requires otherwise,—

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

easement facility,—

- (a) 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

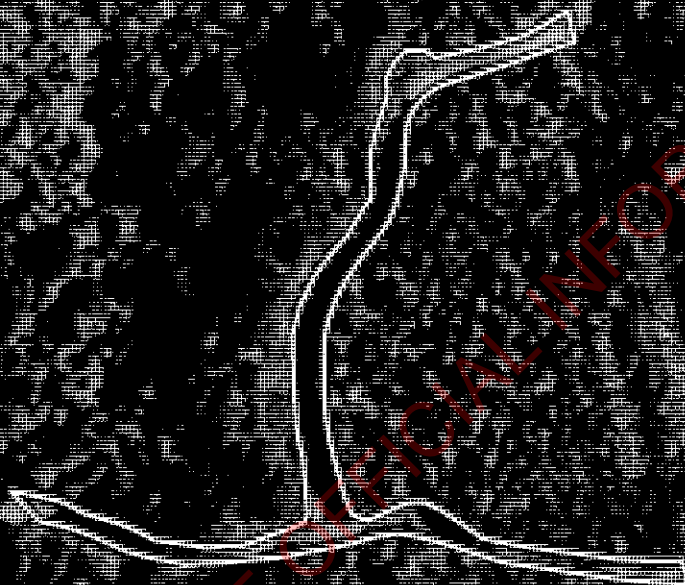
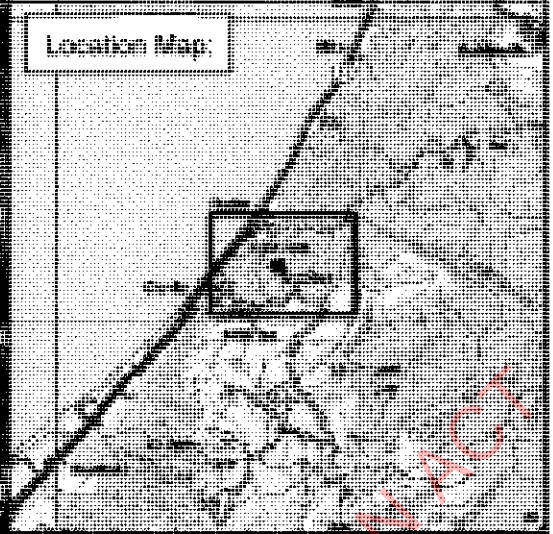
(b) the parties must promptly meet and in good faith try to resolve the dispute using informal dispute resolution techniques, which may include negotiation, mediation, independent expert appraisal, or any other dispute resolution technique that may be agreed by the parties; and

(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.

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Location Map:



----- CML boundary
 ===== Concession boundary

0 10 20 40 60
 Metres



Department of Conservation **WEST COAST TAI POUTINI CONSERVANCY**
Te Papa Ataturangi **CONCESSIONS PLAN**

Stockton - easement to power lines - Solid Energy

Total Area: 0.14 Ha	Scale (M): 1:1,500	Photo Ref: HNZ orthophoto (2007)	PAC-11-04-33-03
Date Compiled: 17/02/2010	NZTopo50 Map Ref: BR21	Area Office: Butler Kaurau	WC-26733-OTH
Status: Greenfield Area (0.30000) Legal Description: Green Land (under review)			Loc. Id: 26733

2.2



Variation of Concession Document

THIS DEED OF VARIATION OF A CONCESSION DOCUMENT is made this 11 day of August 2010

PARTIES:

1. **Minister of Conservation** (the Grantor)
2. **Solid Energy New Zealand Limited** (the Concessionaire)

BACKGROUND

- A. By a concession dated 2 June 2006, as varied by a deed of variation dated 15 August 2006 (the Concession) the Grantor granted an easement to the Concessionaire upon the terms and conditions expressed and implied in the Concession.
- B. The parties have agreed to vary the Concession, to increase the existing Easement Area for the purposes of road widening.

NOW BY THIS DEED the parties agree as follows:

1. Variation

With effect from the date of this Deed, the Concession is hereby varied as follows:

(a) Clause 1 of Schedule 1 ("Land") is deleted and replaced with the following:

"Crown Land (under action), Ngakawau Survey District, Crown Land: Stewardship Area (L28022, L28069, L29005) and Specially Protected Area (L28087)."

(b) Clause 2 of Schedule 1 ("Easement Area") is deleted and replaced with the following:

"All that area as coloured yellow (the current concession boundary of 4.7ha) and red (the additions to the concession boundary of 1.6ha) on the attached plan in Appendix 1, containing 6.3ha approximately."

(c) Clause 3 of Schedule 1 ("Concession Activity") is deleted and replaced with the following:

"Easement for rights of access and maintenance associated with the Stockton haul road (which lies outside the Concessionaire's Ancillary Coal Mining Licence 37 150 02), and associated activities including vehicle parking, machinery storage, drainage and sediment control structures, windrows and areas of road fill. In respect of the additions to the concession boundary, details of the Concession Activity are detailed in the table attached in Appendix 3."

(d) Clause 7 of Schedule 1 ("Concession Fee") is deleted and replaced with the following:

*"Concession Activity Fee: \$10,560 plus GST per annum;
Concession Management Fee: \$200 plus GST per annum."*

(e) Schedule 3 is amended by the addition of the following Special Conditions 8-26:

Boundaries of additions to concession boundary

8. The Concessionaire (which for the purposes of this Concession includes, as applicable, their contractors) must ensure that all boundaries of the additions to the concession boundary are clearly marked prior to works associated with the Concession Activity commencing and that all works remain

TH

within such boundaries. The prior written consent of the Buller *Kawatiri* Area Manager must be obtained for any increase beyond those boundaries.

Minimise Disturbance Footprint

9. In undertaking the Concession Activity the Concessionaire must use all reasonably practicable measures to minimise the disturbance footprint within the Easement Area.

Repo Track

10. The Concessionaire must ensure that public foot access to the Repo Valley Track is retained at all times.

Rehabilitation

11. The Concessionaire must re-vegetate, to a standard approved by the Buller *Kawatiri* Area Manager, all disturbed areas (existing or otherwise) that are not part of the road surface and drainage systems (e.g. batter slopes, windrows) with nursery seedlings or hydro-seeded as appropriate.
12. Such re-vegetation must be undertaken with locally sourced species consisting of a mix of species that naturally exist adjacent to the Easement Area.
13. Such re-vegetation must take place as soon as possible, or by the latest, within the first growing season following disturbance.
14. The Concessionaire must use all practicable measures to utilise vegetation and soil disturbed during the Concession Activity for use in rehabilitation of the Stockton mine site.
15. The Concessionaire must adopt direct-transfer techniques where practicable for the removal of any vegetation and soil from the additions to the concession boundary.

Weeds

16. The Concessionaire must ensure exotic weeds within the Easement Area are controlled as part of the ongoing weed control program at Stockton Mine.

Water discharge

17. The Concessionaire must ensure adequate sediment control measures are put in place to avoid sediment discharges into the Easement Area and adjacent public conservation land. Such measures must include, but not be limited to, utilisation of straw bales and silt fences.

Fauna

18. If *Powelliphanta* snails are found on the Easement Area the Concessionaire (including its contractors) must stop the Concession Activity immediately and forthwith contact the Buller *Kawatiri* Area Manager. The Concessionaire must not restart the Concession Activity at the location of the Easement Area without the prior written approval of the Buller *Kawatiri* Area Manager.

Historic

19. If any historic or archaeological artefacts or formations are found within the Easement Area, the Concessionaire must stop work associated with the Concession Activity immediately and contact the Buller *Kawatiri* Area Manager. The Concessionaire must not restart work at the location of the Easement Area without the prior written approval of the Buller *Kawatiri* Area Manager.
20. The Concessionaire must not remove or disturb any historic artefacts found in the Easement Area.
21. The Concessionaire must ensure the remnants of the electric Loco line are not affected during works associated the Concession Activity. In particular, the Concessionaire must ensure that no disturbance of the electric Loco line cutting or embankment occurs within the Easement Area marked 6 on the plans in Appendix 2. To ensure no such disturbance occurs, prior to commencing any works in area 6 the Concessionaire must mark the boundaries of the area and must obtain the prior written approval of the Buller *Kawatiri* Area Manager to undertake the works.

Monitoring fees

22. In addition to the Concession Fee payable under this Concession, the Concessionaire must pay the Department's standard charge-out rates for staff time and mileage required to monitor compliance with the conditions of this Concession and the effects of the Concession Activity.

Existing

rights

L & M Coal Limited

23. The Concessionaire acknowledges that L&M Coal Limited hold an exploration permit from the Minister of Energy and a minimum impact activity authorisation from the Grantor for part of the Easement Area.
24. To avoid any health and safety risks associated with the Concession Activity the Concessionaire must liaise with L&M Coal Limited prior to commencing, and if necessary, while carrying out the Concession Activity.

Hydro Developments Limited

25. The Concessionaire acknowledges that Hydro Developments Limited has submitted a land exchange application to the Grantor in respect of part of the Easement Area.
26. In the event that the land exchange by Hydro Developments Limited is approved, the Grantor may, by no less than 14 days written notice to the Concessionaire, terminate this Concession in respect of the additions to the concession boundary to the extent that those areas are affected by the land exchange application.

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

SIGNED on behalf of the Minister of Conservation by
Campbell David Robertson
Acting Community Relations Manager
West Coast Tai Poutini Conservancy
acting under delegated authority

in the presence of:

Witness Signature:

Witness Name: Tina P. P. P.

Witness Occupation: CR - Grants / SEM

Witness Address: Hokitika

A copy of the Instrument of Delegation may be inspected at the Director-General's office at 18-32 Manners Street, Wellington.

SIGNED by Solid Energy New Zealand Limited:

s.9(2)(a)

Director/Authorised Signatory

Name: 23/8/10 IAN HARVEY

in the presence of:

Witness Signature:

Witness Name:

Witness Occupation: Environmental planner

Witness Address:

Director/Authorised Signatory

Name:

in the presence of:

Witness Signature:

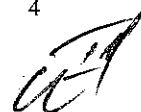
Witness Name:

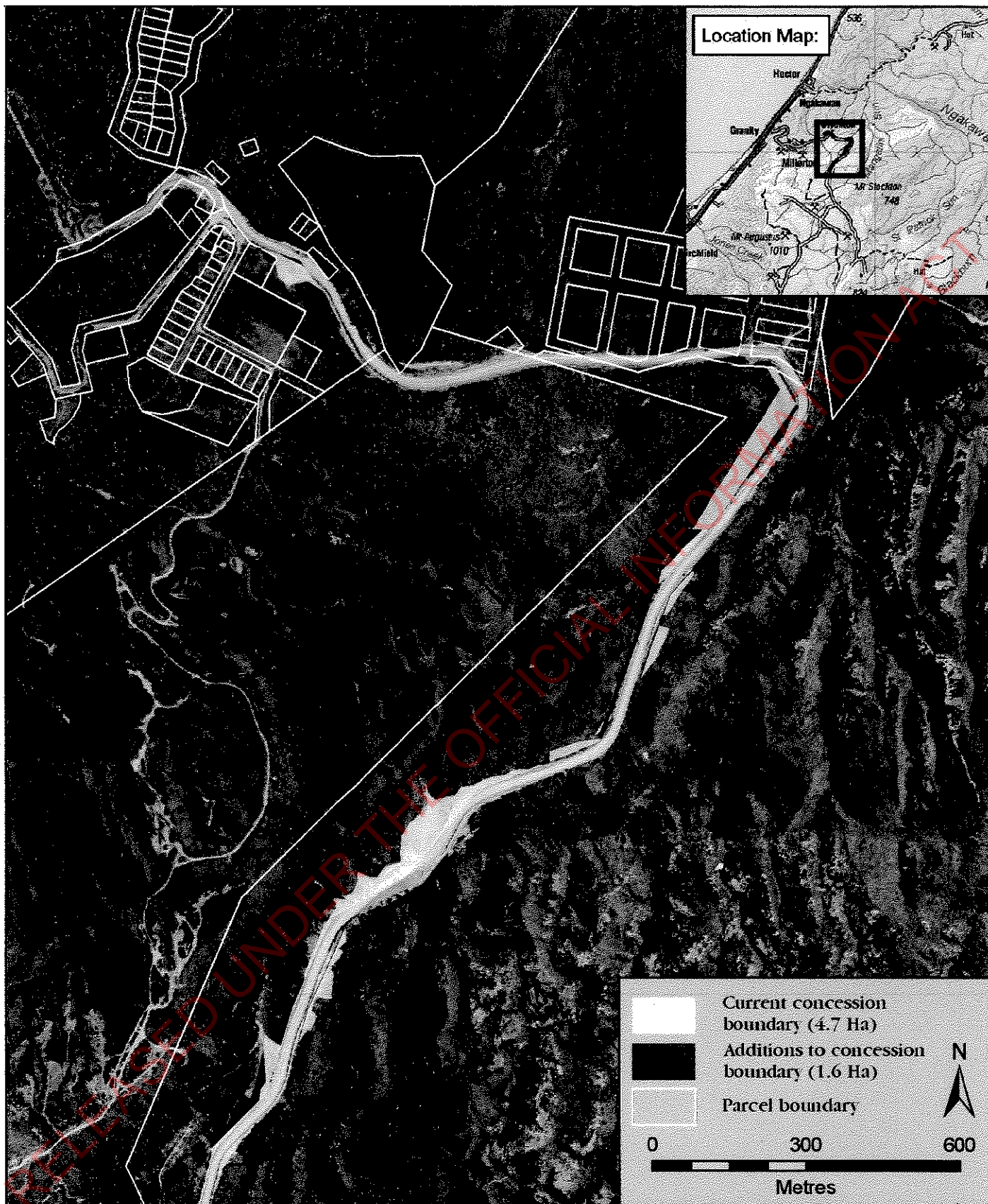
Witness Occupation:

Appendix 1

Easement Area (map)

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Department of Conservation **WEST COAST TAI POUTINI CONSERVANCY**
Te Papa Atawhai **CONCESSIONS PLAN**

Stockton - easement - Solid Energy NZ Ltd

Total Area: 6.3 Ha	Scale (A4): 1:10,000	Photo Ref: Solid Energy NZ Ltd 2007	PAC-11-04-33-01 WC-16811-OTH Loc. Id: 16357
Date Compiled: 13/05/2010	Topo50 Map Ref BR21	Area Office: Buller <i>Kawaitiri</i>	
Status: Stewardship Area (L28022, L28069, L29005) Specially Protected Area (L28087) Legal Description: Crown Land Block VII (under action) Ngakawau Survey District, Crown Land			

Handwritten signature/initials

Appendix 2

Indicative plans of Easement Area

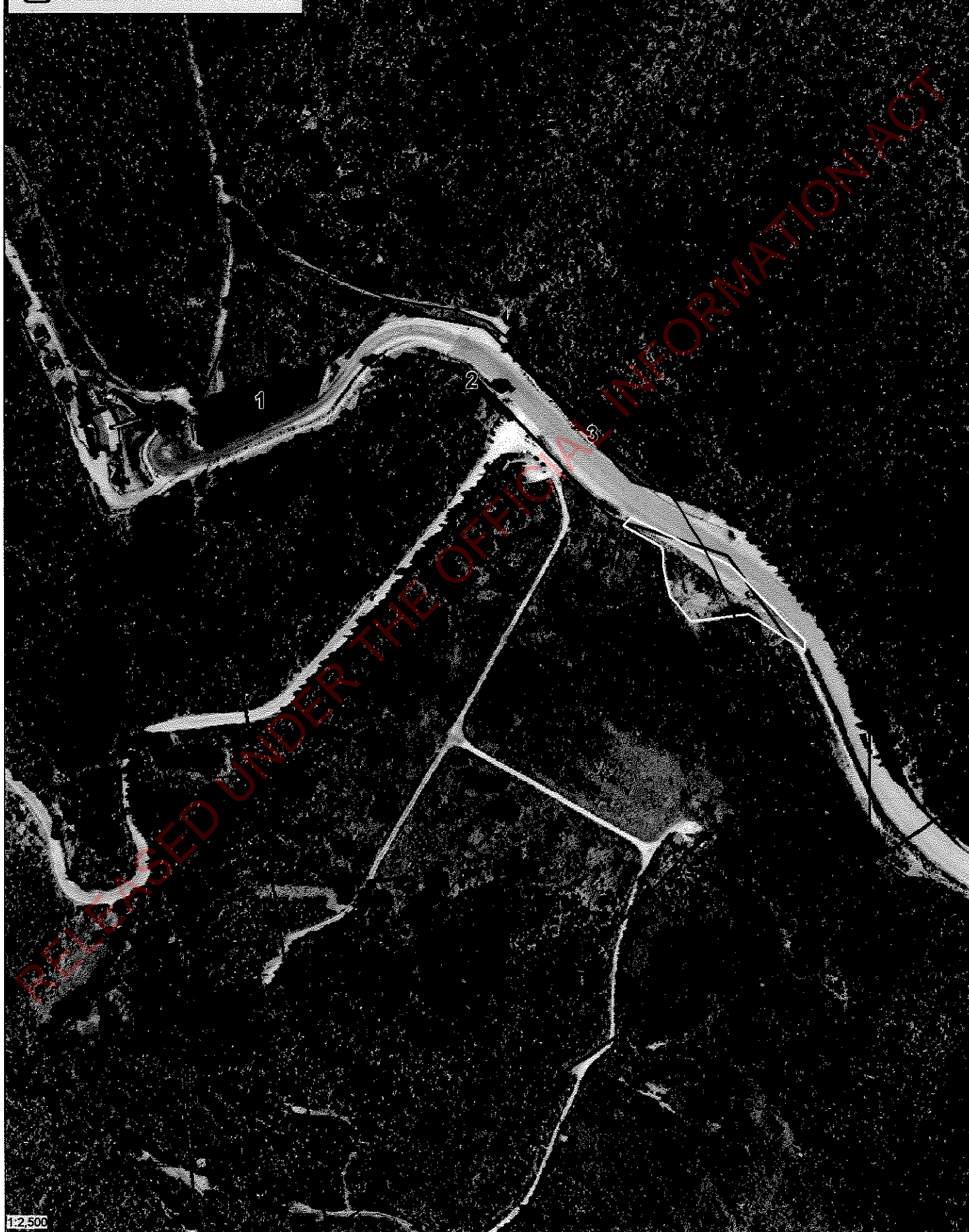
Note - Area 2 and parts of areas 4-7 are not on land administered by the Grantor and so are not included in the Easement Area (as per Appendix 1).

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Legend

- Electric loco line
- Currently covered by easement agreement
- Additional areas where easement required
- Areas easement can be removed
- CML / ACML boundary



UN

Legend

- Electric loco line
- Currently covered by easement agreement
- Additional areas where easement required
- Areas easement can be removed
- CML / ACML boundary



Legend

- Electric line line
- Currently covered by easement agreement
- Additional areas where easements required
- Areas easements can be removed
- Cell / Aerial boundary

Appendix 3

Concession Activity for additions to concession boundary

Note - Area 2 and parts of areas 4-7 are not on land administered by the Grantor and so are not included in the Easement Area (as per Appendix 1).

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Easement application regarding 2 to 5 Haul Road widening

These notes describe the extent of works within the easement application areas numbered 1 to 17 on the accompanying plan. It should be noted that most of the areas cover existing ground disturbance and that the only significant additional area required for the proposed new widening works is area 1 near the No.5 aerial station entrance. The existing road is only 10 metres wide at this point.

Area	Purpose	Extent and Description of Works, Environmental Impact and Controls
1	Road widening	<p>Extent: road to be widened approx 10m, disturbance area approx 15m wide</p> <p>Description: vegetation / soil removal, drill blast load and haul rock to fill within existing road alignment and excess to area within CML as backfill for new gravel stockpile area. Road formation widening with compacted sub-base and base course. Reconstruction of table drain.</p> <p>Impacts: vegetation / soil removal, all water discharge onto existing road area.</p> <p>Controls: standard vegetation / soil management methodology (i.e. recovery of material for reuse in rehabilitation elsewhere on the Plateau), existing silt ponds at No.5 station, crest of batter (5m strip) planted with seedlings at 7,000 plants / ha, batter hydro-seeded to immobilize sediment.</p>
2	Existing disturbance	
3	Existing disturbance	
4	Existing disturbance	
5	Existing disturbance	
6	Road widening	<p>Extent: area is required to provide access to 3m widening within current easement, only 1 to 2 metres width of additional disturbance within the additional easement area. This will provide machine access to the top of the batter.</p> <p>Description: vegetation / soil removal, drill and blast 3 – 4 m wide strip, load and haul to area within CML as backfill for new gravel stockpile area. Road formation widening with compacted sub-base and base course. Reconstruct table drain.</p> <p>Impacts: vegetation / soil removal, all water discharge onto existing road area.</p> <p>Controls: standard vegetation / soil management methodology (i.e. recovery of material for reuse in rehabilitation elsewhere on the Plateau), construction run-off managed with additional measures (straw bales, silt fences) within the road footprint.</p>
7	Existing disturbance	
8	Existing disturbance	
9	Road widening	<p>Extent: minor road widening of approximately 2 metres.</p> <p>Description: vegetation / soil removal, safety windrow reconstruction.</p> <p>Impacts: very minor vegetation / soil removal, small amount of run-off from construction area reports down-slope.</p> <p>Controls: standard vegetation / soil management methodology (i.e. recovery of material for reuse in rehabilitation elsewhere on the Plateau), construction run-off managed with additional measures (straw bales, silt fences) below construction area but within additional easement.</p>
10	Existing disturbance	
11	Road widening	Extent: minor widening approximately 2 to 3 metres.

Easement application regarding 2 to 5 Haul Road widening

		<p>Description: vegetation / soil removal, reconstruction of existing windrow on soil stripped area, extension of road pavement and reconstruction of shallow water table drain and outlets.</p> <p>Impacts: vegetation / soil removal, a generally flat, poorly drained area.</p> <p>Controls: standard vegetation / soil management methodology (i.e. recovery of material for reuse in rehabilitation elsewhere on the Plateau), construction run-off managed with additional measures (small ponds, straw bales, silt fences).</p>
12	Road widening	<p>Extent: a very small area required to link two pre-existing easement areas.</p> <p>Description: vegetation / soil removal, reconstruction of existing windrow on soil stripped area, extension of road pavement and reconstruction of shallow water table drain and outlets.</p> <p>Impacts: vegetation / soil removal, a generally flat, poorly drained area.</p> <p>Controls: standard vegetation / soil management methodology (i.e. recovery of material for reuse in rehabilitation elsewhere on the Plateau), construction run-off managed with additional measures (small ponds, straw bales, silt fences).</p>
13	Road widening	<p>Extent: as for area 12 above.</p> <p>Description: vegetation / soil removal, reconstruct existing windrow on soil stripped area, extend road pavement and reconstruct shallow water table drain and outlets.</p> <p>Impacts: vegetation / soil removal, a generally flat, poorly drained area.</p> <p>Controls: standard vegetation / soil management methodology (i.e. recovery of material for reuse in rehabilitation elsewhere on the Plateau), construction run-off managed with additional measures (small ponds, straw bales, silt fences).</p>
14	Existing disturbance	
15	Road widening	<p>Extent: road to be widened approximately 3 to 5 m, disturbance area up to 6m wide. An arrestor bed is to be constructed in this road section.</p> <p>Description: vegetation / soil removal, drill and trim blast rock batter, load and haul rock to fill within existing ACML south of area 17. Road formation widening with compacted sub-base and base course. Reconstruct table drain.</p> <p>Impacts: minor vegetation / soil removal, all water discharge onto existing road area.</p> <p>Controls: standard vegetation / soil management methodology (i.e. recovery of material for reuse in rehabilitation elsewhere on the Plateau), construction run-off managed with additional measures (small ponds, straw bales, silt fences), batter hydro-seeded in fill sections.</p>
16	Existing disturbance	
17	Road widening	<p>Extent: minor road widening 2 metres.</p> <p>Description: excavate existing windrow and part of fill and reconstruct to a steeper profile using CKD/granite mix.</p> <p>Impacts: avoid erosion of fill by road run-off.</p> <p>Controls: divert water table drain around excavation, hydro-seed windrow and fill batter.</p>

Dave Stone
Development Manager

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FILE COPY

ACCESS ARRANGEMENT

UNDER

CROWN MINERALS ACT 1991

Mining Permit 52-937

Solid Energy New Zealand Limited

RELEASED UNDER THE OFFICIAL INFORMATION ACT



ACCESS ARRANGEMENT

THIS AGREEMENT for an access arrangement pursuant to section 61 of the Crown Minerals Act 1991 dated 9th August 2011 between the **MINISTER OF CONSERVATION** (hereinafter together with the Minister's agents referred to as "the Minister") and **SOLID ENERGY NEW ZEALAND LIMITED** a duly incorporated company whose registered office is at 15 Show Place, Addington, Christchurch, New Zealand 8140 (hereinafter referred to as the "Permit holder").

WHEREAS

- (a) The Land described in the First Schedule is administered by the Department of Conservation pursuant to section 25 of the Conservation Act 1987 and the Minister is responsible for that Department;
- (b) The Permit holder has been granted a minerals permit (Mining Permit 52-937) by the Minister of Energy pursuant to section 25 of the Crown Minerals Act 1991 to undertake Mining and Mining Operations in and on the Land;
- (c) The Permit holder pursuant to section 59 of the Crown Minerals Act 1991 has requested from the Minister an access arrangement in respect of the Land described in the First Schedule to conduct Mining and Mining Operations.

IT IS AGREED between the Minister of the first part and the Permit holder of the second part that the Permit holder may enter the Land described in the First Schedule subject to the terms and conditions set out below and in the Second, Third, Fourth, and Fifth Schedules hereto:

1. INTERPRETATION

"Access Arrangement" means this agreement for an access arrangement.

"Access arrangement boundary" means the boundary of the Land defined in the First Schedule.

"Act" means the Crown Minerals Act 1991.

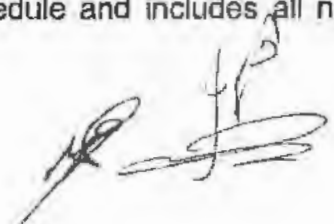
"Adverse impact" or "adverse effect" means an adverse effect on the Land based on the reasonable opinion of the Conservator.

"Conservator" means the person for the time being holding the office of Conservator for the West Coast Conservancy of the Department of Conservation and includes any person authorised by the Conservator to act on his or her behalf in respect of this agreement.

"Department" means the Department of Conservation.

"Historic resource" means a historic place within the meaning of the Historic Places Act 1993 and includes any interest in a historic resource.

"Land" means the land described in the First Schedule and includes all natural and historical features on the Land.



"Mining" and "Mining Operations" have the same meanings as defined in section 2 of the Crown Minerals Act 1991.

"Minister" means the Minister of Conservation.

"Mitigate" means to reduce or lessen the severity of adverse effects of mining on conservation values on the Land; and "mitigation" has a corresponding meaning.

"Natural resource" means plants and animals of all kinds; the air, water, and soil in or on which any plant or animal lives or may live; landscape and landform; geological features; systems of interacting living organisms, and their environment; and includes any interest in a natural resource.

"On" "in" relation to Land, includes on or under the surface of Land.

"Permit holder" includes the permit holder, its servants, agents, contractors and assignees.

"Threatened Species" refers to species classified in (Townsend, A.J.; de Lange, P.J.; Duffy, A.J.; Miskelly, C.M.; Molloy, J.; Norton, D.A. 2008 New Zealand Threat Classification System manual. Department of Conservation, Wellington.)

"Work Programme" or "Work Plan" means an annual work and rehabilitation plan (referred to in Conditions 9 – 20) which the Permit holder must submit annually to the Conservator for his/her approval and which is a precondition to the Permit holder carrying out any Mining or Mining Operations on the Land.

ASSIGNMENT

2. (a) The benefit of this Access Agreement is not to be assigned, transferred, or sublet by the Permit holder without the prior written consent of the Minister. The Minister's consent to an assignment, transfer, or sublease shall be at the Minister's discretion, and the Minister may require any assignee, transferee, or sub-lessee to enter into a deed of covenant with her/him whereby the assignee, transferee, or sub-lessee is bound by the terms of the Access Agreement as if it were a principal party to it.
- (b) The indemnities given by the Permit holder to the Minister under this Access Arrangement are intended to endure for the benefit of the Minister in perpetuity and the Permit holder hereby acknowledges and covenants accordingly.
- (c) If the Permit holder assigns transfers or sublets any rights granted by this Access Agreement it is to be a condition of any consent under this clause that the indemnities under this Access Arrangement continue to be the responsibility of the Permit holder.
- (d) If the Permit holder requests the Minister's agreement to a request for assignment of the benefit of this Access Arrangement, the Permit holder shall, in addition to any other information requested by the Minister, supply information

which demonstrates to the satisfaction of the Minister that the assignee has the appropriate technical skills and experience to carry out the proposed Mining and Mining Operations.

COMPENSATION

3. The Permit holder must pay to the Minister the following:
 - (a) Compensation at the time and in the manner as set out in the Fifth Schedule;
 - (b) Compensation which may become payable from time to time under section 76 of the Act.

ADMINISTRATION COSTS

4. Pursuant to section 76 of the Act the Permit holder will pay to the Conservator:
 - (a) The actual and reasonable costs to cover the administrative costs of processing this Access Arrangement.
 - (b) The actual and reasonable costs of administering this Access Arrangement.
 - (c) The actual and reasonable costs of monitoring compliance of the conditions in this Access Arrangement including all associated inspections of the Land by the Department.
5. The Permit holder must pay any actual and reasonable fees associated with provision of expert advice to the Conservator for the purposes of reviewing or approving plans or documents provided under this Access Arrangement.
6.
 - (a) All annual compensation amounts specified in the Fifth Schedule are to be annually reviewed for changes in Consumer Price Index (CPI), and adjusted accordingly.
 - (b) The Permit holder agrees to pay any adjustments under this Condition 6.

PRECONDITIONS BEFORE ENTRY TO LAND FOR MINING

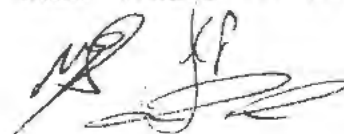
7. The Permit holder will not enter in or on to the Land for the purpose of commencing Mining and Mining Operations until:
 - (a) The documents referred to in Condition 13 have been supplied to the Conservator; and
 - (b) The Permit holder has submitted to the Conservator an Annual Work Plan in accordance with Condition 15; and



- (c) Any payments referred to in Conditions 4(a), 21, 27, 28 and 31 which are due and owing have been paid; and
- (d) The Conservator has approved the Work Plan required to be submitted by Condition 7(b) and has issued the Permit holder with an Authority to Enter and Operate as provided by Condition 14.
- (e) A breach or failure to comply with the requirements of the documents referred to in Condition 7(d), and approved by the Conservator, shall be deemed to be a breach of this Access Arrangement, and shall entitle the Minister or Conservator to exercise any rights or powers which arise from a breach of or failure to comply with the terms of this Access Arrangement.
- (f) The Permit holder has completed, and provided to the Conservator, a risk assessment of the Mining and Mining Operations using a suitably qualified independent third party nominated by the Conservator.

WORK PLAN

- 8. The first Work Plan must include as an annexure a report with detailed calculation of the amount of the insurances and guarantees or bonds or grants required by Conditions 25, 27 and 28.
- 9.
 - (a) The Permit holder will annually review the risk assessment required by Conditions 7(f) unless a longer review period is agreed with the Conservator.
 - (b) Such risk assessment and risk assessment reviews are to be conducted in conjunction with a suitably qualified independent third party nominated by the Conservator, and must make recommendations as to the extent of any further bonds or any changes to bonds quantum and/or framework of bonds and/or other assurances to address the outcomes of the risk assessment.
 - (c) Such framework may, at the Minister's discretion, include (without limitation) extending the term of the Access Agreement.
 - (d) The Permit holder agrees to be bound by any decision of the Minister to require the term of the Access Arrangement to be extended.
- 10.
 - (a) The Permit holder must pay, no later than the 20th of the month following the issue of any invoice, all fees properly payable by it under this Access Arrangement.
 - (b) The Permit holder is not to exercise any access under this Access Arrangement or embark upon any activity described in a Work Plan approved by the Conservator for which fees have been invoiced but have not been paid by the Permit holder.
- 11.
 - (a) The Work Plan submitted to the Conservator for approval must address each element of the proposed mine and must include all relevant information.



- (b) The Conservator may request such information as may be reasonable to enable him/her to make an informed decision regarding approval or non approval of the Work Plan.
- (c) The elements of the Mining and Mining Operations are listed in the Fourth Schedule.
- (d) The Conservator must not approve any Work Plan which is not in substantial conformity with the description of the Work Plan elements set out in the Fourth Schedule except that he or she may approve an increase in the area occupied by any one or more elements if the Minister's prior approval in writing has been obtained by him or her.
12. The Conservator may require the Permit holder to vary the proposed Annual Work Programme to ensure the Mining and Mining Operations comply with the conditions of this Access Arrangement. Where required by the Conservator the Permit holder will amend the proposed Annual Work Programme accordingly.
13. The Permit holder must seek an Authority to Enter and Operate from the Conservator. At the time of seeking an Authority to Enter and Operate, the Permit holder will submit to the Conservator:
- a) A copy of the insurance policies and the premium payment receipts and guarantees or bonds as required in Conditions 25, 27 and 28; and
 - b) A copy of the mining permit granted pursuant to section 25 of the Act; and
 - c) A copy of all resource consents and variations granted under the Resource Management Act 1991 and a copy of any reports that the Permit holder has been required to submit to the consent authority as a requirement of any resource consent relating to the mining permit.
14. Upon the Conservator being satisfied that the requirements of Conditions 7, 12, and 13 have been met, the Conservator will issue the Permit holder with a written "Authority to Enter and Operate" permitting the Permit holder to enter in or on to the Land to commence Mining and Mining Operations for a period of 12 months, unless the mining permit has a lesser term remaining.
15. Prior to the expiry of the first Authority to Enter and Operate, and each subsequent Authority to Enter and Operate thereafter, the Permit holder will submit to the Conservator for approval a further Annual Work Programme and any other plans or amended plans as required by Condition 7(b) and special Condition 4, and any other requirements of Conditions 7, 12, and 13 for the succeeding 12 month period (or a lesser period if considered appropriate by the Permit holder).
16. Except as permitted by the Conservator, the Permit holder will not after the expiry of an Authority to Enter and Operate, undertake any work prior to each subsequent Authority to Enter and Operate has been issued by the Conservator pursuant to Condition 14.



17. The Conservator will not unreasonably fail to grant a subsequent Authority to Enter and Operate where the Permit holder has supplied all the required documentation and made all the payments required by the Access Arrangement, and the further Annual Work Programme is consistent with the Project description contained in the application for this Access Arrangement and the conditions of this Access Arrangement.
18. Pending the granting of a subsequent Authority to Enter and Operate the Conservator may in his or her discretion, issue an interim Authority to Enter and Operate providing the documents and payments required by the Access Arrangement have been submitted.
19. Nothing in this Access Arrangement permits the Permit holder to undertake underground mining.

INDEMNITIES

20. The Permit holder will indemnify and keep indemnified the Minister against all claims by any person in respect of any injury, loss or damage (including fire damage) caused or suffered as a result of or arising out of any act or omission of the Permit holder, or otherwise caused as a result of the Mining or Mining Operations on the Land.
21. If due to the Permit holder's Mining or Mining Operations the Land or any part of it is assessed as rateable land under the Local Government (Rating) Act 2002, or any amendment to that Act, or the introduction of a new Act in substitution for it, the Permit holder is to pay any of the rates which may be struck in respect of the Land and/or the Mining or Mining Operations; but both parties expressly agree that such payment is not to constitute an acknowledgement of exclusive possession by the Permit holder of the Land.
22. The Minister will not be liable for and does not accept any responsibility for damage or interference to the Mining and Mining Operations, equipment, buildings or structures, held or erected on the Land due to any cause whatsoever including (without restriction) any acts or omissions by the Minister, their servants, agents, or contractors (other than acts or omissions arising from the wilful misconduct of the Minister, his servants, agents or contractors), natural disaster, vandalism, sabotage, fire, exposure to the elements or any other cause whatsoever.
23. The Permit holder will take all reasonable steps to protect the safety of persons present on the Land during Mining and Mining Operations and between work periods and will, when required by the Conservator, erect protective fencing or erect signposts warning the public of any dangers that may be encountered as a result of the Mining and Mining Operations. The Permit holder will take all reasonable steps to mitigate any dangers to the public and will clearly mark any that remain.
24. (a) Where the Permit holder, requests the Conservator (acting under delegated authority from the Minister) to close public access to the Land to ensure the safety of the public, employees, plant and equipment, the Conservator may do so if he or she considers it appropriate.



- (b) The Permit holder will give the Conservator reasonable notice of its request so that the Conservator can ensure that all reasonable steps are taken to ensure members of the public are made aware of the closure and the reasons for it.
- (c) The Permit holder will be responsible for the costs of ensuring that the public is made aware of the closure.

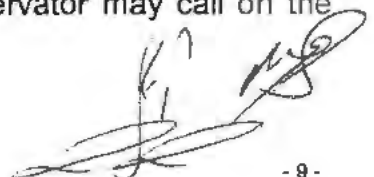
INSURANCE

- 25. (a) Prior to commencing Mining Operations the Permit holder must effect and maintain during the term of this Access Arrangement insurance covers for amounts of:
 - **General Third Party Liability (Public Liability) including coverage in respect of Forest & Rural Fires Act for a minimum of \$10,000,000 (ten million dollars)**
 - **Statutory Liability – for a minimum of \$5,000,000 (five million dollars)**
 - (b) The Conservator may request the Permit holder to alter any insurance required under this Access Arrangement, change or increase the types of insurance required under this Access Arrangement, extend the term of any insurance required under this Access Arrangement, or increase or decrease the amount of cover of any insurance required under this Access Arrangement. In doing so, the Conservator is to act reasonably and shall have regard to the risk assessment referred to in Condition 9, but is not bound by such risk assessment.
 - (c) All insurance cover required under this Access Arrangement must be in the joint names of the Minister and the Permit holder and must be with an insurance company approved by the Conservator, which approval will not unreasonably be withheld. The Conservator may require any reasonable amendment or change to any policy of insurance required under this Access Arrangement and the Permit holder will forthwith use its reasonable endeavours to arrange those amendments or changes required by the Conservator.
 - (d) In the event that any insurance cover required under this Access Arrangement is in the reasonable opinion of the Conservator unavailable, the Conservator may require a cash bond, or surety with a trading bank, insurance company or bond guarantor acceptable to the Conservator to provide assurances equivalent to that which would have been obtained had that cover been available.
26. The Permit holder must lodge with the Conservator copies of the renewal of or substitution for any insurance policies, receipts for payment of premiums, any variations to bonds and evidence that the bonds are in force.

BONDS



27. (a) Unless the bond is a cash bond, prior to entering in or on the Land, the Permit holder must provide as surety a trading bank, insurance company or bond guarantor who is acceptable to the Conservator. The surety must execute (in the case of two or more jointly and severally) in favour of the Minister a restoration guarantee or bond of a sum reasonably determined by the Conservator having regard to the calculation provided with each work plan in relation to the restoration of the disturbed area of the Land provided that the Conservator is not bound by such calculation. Subject to any increases under Condition 29, such guarantee or bond is to be initially set at **\$55,000.00 (fifty five thousand dollars)** for due and faithful performance by the Permit holder of the obligations under this Access Arrangement.
- (b) The restoration guarantee or bond shall be provided by the Permit holder for a minimum term of three years and shall commence from the date of the first Authority to Enter and Operate. The term of the restoration guarantee or bond shall be renewed for a minimum of a further three years or such other term as determined by the Conservator on each anniversary of the date of the first Authority to Enter and Operate.
- (c) The bond shall be in a form acceptable to the Conservator.
28. (a) In addition to the guarantee or bond required under Condition 27, the Permit holder will also, prior to entering into or onto the Land, provide to the Minister **a cash operating bond ("the cash operating bond") of \$50,000.00.**
- (b) The cash operating bond will be held by the Minister on trust until such time as all conditions of this Access Arrangement have been complied with notwithstanding the completion of the Permit holder's Mining or Mining Operations. Interest which is earned from the cash operating bond shall accrue to the Department and when the deposit is repaid to the Permit holder, the Permit holder shall be entitled to receive all interest (less resident withholding tax and any bank fees) together with the deposit sum unless the Department has had to use the deposit sum (or part of it) in remedying any non-compliance with this Access Arrangement.
29. The Conservator may require a variation to the guarantees or bonds required under Conditions 27 and 28, either by increasing or decreasing the amount of the guarantees or bonds, altering the structure or framework of the guarantees or bonds, or extending the term of the guarantees or bonds. In doing so, the Conservator is to have regard to the risk assessment referred to in Condition 7(f) but is not bound by such risk assessment.
30. (a) The guarantees or bonds required under Conditions 27 and 28 are not to expire and are to remain effective until such time as all conditions of the Access Arrangement have been complied with notwithstanding the completion of the Permit holder's Mining or Mining Operations.
- (b) In the event that the Permit holder breaches any condition or fails to carry out any condition of this Access Arrangement the Conservator may call on the

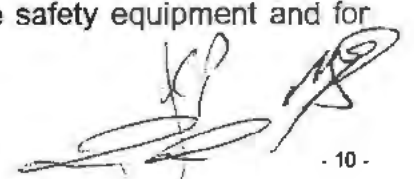


bonds entered into under Conditions 27 and 28 or any portion thereof to ensure compliance with the conditions of this Access Arrangement.

31. In addition to the bonds provided for under Conditions 27 and 28, and prior to the Department releasing the cash operating bond and restoration bond in accordance with special Condition 14, the Permit holder shall provide and maintain in favour of the Department a separate bond or bonds to cover:
 - (a) The estimated costs to achieve the completion criteria in accordance with the Fifth Schedule Condition 12.
 - (b) The estimated costs to complete the pest control in accordance with the Fifth Schedule Condition 13.
 - (c) The estimated costs of monitoring for and of any adverse effect and of measures taken to avoid or reduce any adverse effect which may become apparent after completion of closure of the Mining Operations on the Land in accordance with special Condition 14.
32. The bond quantum in Condition 31 shall be determined in accordance with Condition 9(b) and 7(f).
33. The quantum of bond or bonds in Condition 31 shall be reviewed and fixed annually by the Department on each anniversary of the first Authority to Enter and Operate, until the Permit holder settles the full quantity of the bond(s) referred to in this condition in an appropriate fund or other financial instrument as approved by the Conservator.
34. The cash operating bond shall be converted into a payment by the Permit holder to the Department of the required sum for Condition 32 at completion of closure of the mining operations on the Land.

FIRE PRECAUTIONS

35. The Permit holder will:
 - (a) Take all reasonable precautions to ensure no fire hazard arises from the Mining and Mining Operations;
 - (b) Not light any fire except by permit issued by the Conservator;
 - (c) Not store or permit to be stored fuels or other combustible materials on the Land without the prior written permission of the Conservator;
 - (d) Comply with the Conservator's requirements for fire safety equipment and for fire fighting equipment to be kept on the Land.



- (e) Have in place and annually update a Fire Control Management Plan to the Conservator's satisfaction.

PROTECTION OF THE ENVIRONMENT

36. The Permit holder will ensure that in respect of all Mining and Mining Operations under this Access Arrangement:
- (a) Environmental disturbance is minimised and land affected by Mining and Mining Operations is kept stable and free from erosion.
 - (b) There is no land disturbance other than that authorised under this Access Arrangement.
 - (c) All indigenous flora and fauna are protected except for disturbance authorised under this Access Arrangement.
 - (d) No debris, rubbish or other dangerous or unsightly matter will be deposited in or on the Land, or any pollution will occur of any water body, except as permitted by this Access Arrangement and any resource consent granted under the Resource Management Act 1991.
 - (e) There will be no destruction, damage or modification to any archaeological site in the area (as defined by the Historic Places Act 1993) without the authority of the New Zealand Historic Places Board of Trustees obtained under section 14 of that Act. The Permit holder must produce such authority to the Conservator.
 - (f) Any *protected New Zealand object*, or *taonga tūturu* (as defined by the Protected Objects Act 1975), or object of historic significance found in the area or on the Land shall be left *in situ*, and the Conservator and Secretary of Internal Affairs notified as soon as reasonably practicable.
 - (g) Every person under the Permit holder's control entering on to the Land complies with the provisions of this Condition (Condition 36).
37. In the event that there is an adverse impact to the Land, or adjoining land or natural resources administered or managed by the Minister, whether during or after completion of the Permit holder's Mining or Mining Operations, which is not permitted by this Access Arrangement or could not have reasonably been foreseen the Permit holder is to take all action necessary to mitigate or remedy those adverse impacts unless the Conservator considers otherwise. If the Permit holder fails to mitigate or remedy those adverse impacts to the Conservator's satisfaction, the Conservator may enter onto the Land or adjoining land to undertake any necessary action to do so and recover the costs of mitigating or remedying impacts from the Permit holder, including, without limitation, calling on any bonds.

SUPPLY OF INFORMATION



38. The Permit holder will lodge with the Conservator copies of the renewal of or substitution for any insurance policies including receipts for payment of premiums, any variations to bonds and evidence that the bonds are in force.
39. The Permit holder will provide to the Minister all information required from time to time by the Minister in respect of the use of the Land and any buildings or equipment thereon including any details concerning the Mining and Mining Operations and details concerning the numbers of people employed by the Permit holder or permitted or allowed by the Permit holder to come onto the Land.
40. The Permit holder will submit to the Minister a copy of any application lodged with The Ministry of Economic Development to vary the minerals permit(s) covering the Land including any application to transfer the mineral permit(s) to another person or party.
41. The Permit holder will apply for a variation to this Access Arrangement should it wish to undertake Mining or Mining Operations on any land managed or administered by the Minister within any variation to the minerals permit granted by the Ministry of Economic Development that is not already covered by this Access Arrangement.
42. Notwithstanding Condition 41 it will be at the Minister's discretion as to whether any variation applied for in accordance with Condition 41 is approved or not.

MONITORING

43. The Permit holder will allow the Conservator or any other person authorised by the Conservator to enter in or on to the Land at any time:
- (a) To inspect the Land or to consider approval of any Annual Work Programme or other plans, or to monitor compliance with the conditions of this Access Arrangement.
 - (b) To undertake any work necessary for the exercise of the Minister's functions and powers in respect of the Land provided that such work will not unnecessarily interfere with the Permit holder's rights under this Access Arrangement.
 - (c) Monitoring may include but is not limited to, the taking of soil and water samples, and the taking of a photographic record of activities occurring on the Land subject to the Access Arrangement.

TERM

44. Subject to Conditions 9(c) and (d), the term of this Access Arrangement will be for a period from the date of execution of this Access Arrangement until 31 March 2026, or for the term of Mining Permit 52-937, whichever is the lesser.

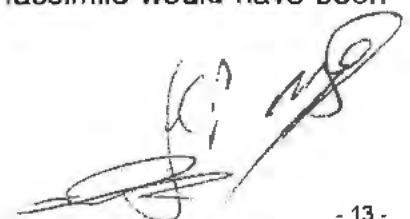
SUSPENSION OR TERMINATION



45. If the Permit holder becomes bankrupt, insolvent, or has a receiving order made against it or is wound up or otherwise ceases to function the Minister may terminate this Access Arrangement by notice in writing; or otherwise provide the option of a receiver, liquidator, or statutory manager carrying out the Access Arrangement subject to the provision of a guarantee for the due and faithful performance of the Access Arrangement up to an agreed amount. Such notice does not release the permit holder from liability in respect of any breach of this Access Arrangement prior to the termination of the Access Arrangement.
46. (a) If the Permit holder is in breach, or fails to observe any of the conditions contained herein or any approved Work Plan the Minister must give written notice to the permit holder specifying the default and requiring it to be remedied as soon as practicable but no greater than 40 working days. If the Permit holder fails to comply with such notice, then the Minister may by notice in writing suspend or terminate this Access Arrangement.
- (b) Suspension or termination will not release the Permit holder from liability in respect of any breach of this Access Arrangement.
47. (a) Upon suspension or termination or expiry of this Access Arrangement the Minister is not liable to pay any compensation whatsoever for any buildings, structures or improvements effected by the Permit holder.
- (b) The Permit holder may remove and, if requested by the Minister, must remove all such buildings, structures and improvements.
- (c) The Permit holder must repair and make good at its own expense all damage which may have been done by such removal and is to leave the Land in a clean and tidy condition for restoration as set out in this Access Arrangement or any approved Work Plan.
- (d) If the Permit holder fails to remove any buildings within a reasonable time of the request of the Minister the Minister may undertake the same and recover the costs from the Permit holder.
48. If no compensation payment as provided for in Conditions 3 or 6 is paid to the Minister by the Permit holder or if the Permit holder has not submitted to the Conservator the documents or Work Plan referred to in Conditions 7 and 13 hereof or both **within 2 years** of the signing of this Access Arrangement, this Access Arrangement will terminate and cease to have any effect.

NOTICES

49. Any notice required to be addressed by either party will in the absence of proof to the contrary be sent by ordinary post, email or by facsimile during normal business hours and will be deemed to have been received by the other party on such date and at such time upon which the ordinary post, email or facsimile would have been delivered.



50. The Minister's address, phone and fax number for service will be C/- The Conservator, The Department of Conservation, Private Bag 701, Hokitika; Ph (03) 756 9100; Fax (03) 756 9188, westcoast@doc.govt.nz
51. The Permit holder's phone number and address for service will be 03 345 6165, Solid Energy New Zealand Limited, 15 Show Place, Addington, Christchurch, New Zealand 8140.

VARIATIONS

52. The Parties acknowledge that:

- (a) If the Permit holder's proposed Mining or Mining Operations change in a way that any resource consents require a formal variation, the Minister may make any submissions on whether any consents or variations to consents should be or should not be granted by the relevant consent authorities; and
- (b) If the principal elements of the mine works as described in the Fourth Schedule to this Access Arrangement change, no further work may be undertaken on that principal element by the Permit holder until such time as the Minister has considered and made a decision upon any application from the Permit holder to vary the Access Arrangement and the Parties have entered into an agreement to vary the Access Arrangement. Nothing in this condition implies any obligation on the part of the Minister to agree to such variation.

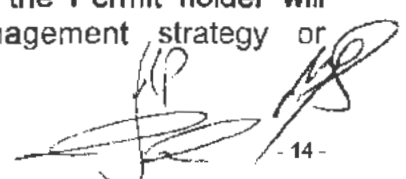
53. (a) The Permit holder must lodge with the Conservator any variations to the mining permit.
- (b) The Minister may vary this Access Arrangement or the Work Plan if he or she considers any variation to the mining permit makes it necessary to do so.

DISPUTE RESOLUTION

54. The parties agree to negotiate in good faith to resolve any differences which arise in connection with this Access Arrangement.
55. Failing resolution, any differences and disputes between the parties concerning this Access Arrangement, its interpretation, effect or implementation or any act or thing to be done in pursuant thereof (except as otherwise expressly provided) is to be referred to arbitration in New Zealand by a single arbitrator who is to be mutually agreed upon and, failing agreement, is to be appointed by the President of the New Zealand Law Society.

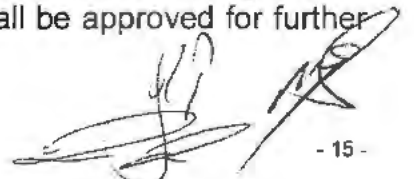
GENERAL

56. Except where inconsistent with this Access Arrangement, the Permit holder will comply with the provisions of any conservation management strategy or



conservation management plan pursuant to Part IIIA of the Conservation Act 1987, together with any amendment or review of any strategy or plan.

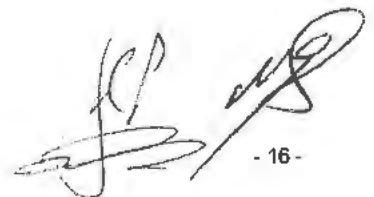
57. The Permit holder will at all times comply with all statutes, ordinances, regulations, by-laws or other enactments affecting or relating to the Land or affecting or relating to the Mining and Mining Operations including the Health and Safety Employment Act 1992, the Forest and Rural Fires Act 1977, the Hazardous Substances and New Organisms Act 1996, and the Conservation Act 1987 and all Acts included in its First Schedule.
58. Any failure by the Minister to exercise any right or power under this Access Arrangement does not operate as a waiver and the single or partial exercise of any right or power by the Minister does not preclude any other or further exercise of that or any other right or power by the Minister.
59. The Permit holder will not use any Land subject to this Access Arrangement for any purposes other than those specified in this Access Arrangement. Unless otherwise authorised by this Access Arrangement, or otherwise approved by the Conservator, the Permit holder will not erect, install or operate anything on the Land other than that described in the approved Annual Work Programme or any other approved plans submitted in accordance with Condition 7(b).
60. This Access Arrangement shall not remove any requirement for the Permit holder to obtain an authority under the Wildlife Act 1953 to disturb any wildlife on the Land.
61. The headings set out in this Access Arrangement have been inserted for convenience and will not in any way limit or govern the construction of this Access Arrangement.
62. Nothing in this Access Arrangement including Special Conditions in the Second Schedule and the provisions of the Third to Fifth Schedules will prevent the Minister from participating in any statutory process in respect to any matter relating to Mining and Mining Operations in or on the Land defined in this Access Arrangement.
63. If any conditions attached to any resource consent obtained by the Permit holder are in the opinion of the Minister inconsistent with this Access Arrangement the Minister may review the provisions of this Access Arrangement and this Access Arrangement may be varied accordingly.
64. If, in the opinion of the Conservator, the Mining Operations of the Permit holder are having, or may have an adverse impact on the natural, historic or cultural values of the Land, which are not permitted by this Access Arrangement and could not have reasonably been foreseen, the Conservator may either suspend the Access Arrangement until the Permit holder remedies or mitigates such adverse impacts to the extent satisfactory to the Conservator; or review the conditions of this Access Arrangement and impose any further conditions necessary to avoid, remedy or mitigate such adverse impacts.
65. The Permit holder shall have no expectation that any further Work Programme, Access Arrangement or Access Arrangement variation shall be approved for further



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Exploration, or Mining, or Mining Operations, if Mining Operations are approved under this Access Arrangement, or any Work Programme under this Access Arrangement.

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A handwritten signature in black ink, consisting of stylized initials and a surname, located in the bottom right corner of the page.

Signed for and on behalf of the
Minister of Conservation by:

Michael John Slater,
Conservator,
West Coast *Tai Poutini* Conservancy,
pursuant to a written delegation
from the Minister of Conservation
under the Crown Minerals Act 1991



In the presence of:

Witnessed by (signature):

s.9(2)(a)

Witness full name:

Allanah Kathleen TURNER

Witness address:

s.9(2)(a)

HOKITIKA

Witness occupation:

Personal Assistant

Signed on behalf of Solid Energy New Zealand Limited

by Director (signature)

s.9(2)(a)

Full name

Michelle S. R.

Address

6 / 32 Castle Street

Witnessed by (signature)

s.9(2)(a)

Witness full name

s.9(2)(a)

Witness address

Chr. Stenhouse

Witness occupation

Personal Assistant

AND

by Director (signature)	s.9(2)(a)
Full name	✓ John Palmer
Address	Nelson

Witnessed by (signature)	s.9(2)(a)
Witness full name	s.9(2)(a)
Witness address	Christchurch
Witness occupation	Executive Assistant

RELEASED UNDER THE OFFICIAL INFORMATION ACT

FIRST SCHEDULE

1. The Permit holder, subject to the conditions contained in this Access Arrangement, shall have access to that part of Crown Land Ngakawau Survey District that is described below as the Land and as indicated on the plan affixed hereto as Plan A.
2. The Land is approximately 22 hectares of public conservation land (Waimangaroa-Granity Conservation Area (K29003) Stewardship land) contained within Mining Permit 52-937.
3. The Land is located at the northern end of the Stockton Plateau approximately 6.5km south of Millerton being in and shown on the plan affixed hereto as Plan A.

RELEASED UNDER THE OFFICIAL INFORMATION ACT



SECOND SCHEDULE

SPECIAL CONDITIONS: SAFEGUARDS TO PROTECT CONSERVATION VALUES

NOTE: These conditions are in addition to the conditions in the main body of the Access Arrangement and do not in any way affect the generality of those conditions.

OBLIGATION TO MINIMISE HARM TO THE ENVIRONMENT

1. The Permit holder shall implement all mitigation measures to prevent harm to the Land that may result from the construction, operation, or rehabilitation of the Mining and Mining Operations.
2. In the event of inconsistency, the Access Arrangement and Authority to Enter and Operate shall prevail over the application for Access Arrangement.

GENERAL MINE PLAN

3. Subject to these Special Conditions and approval of the current annual Work Plan, the Permit holder may undertake the following Mining Operations on the Land (as detailed in plans in the Fourth Schedule):
 - (a) Undertake opencast coal Mining within the area shown on the plans in the Fourth Schedule except as limited by the exclusion conditions contained in the Second Schedule, of this Access Arrangement;
 - (b) Construct (and use) the mine elements as stated in the Fourth Schedule to this Access Arrangement.

ANNUAL WORK PROGRAMME CONDITIONS

4. The Annual Work Programme must include:
 - (a) Detailed site plans showing the Mining permit boundary, Access Arrangement boundary, coal mining licence boundary, conservation land boundary and the location of existing and proposed Mining and Mining Operations for the next 12 months.
 - (b) A description of all Mining and Mining Operations, carried out in the previous 12 months.
 - (c) A detailed description of all Mining and Mining Operations, intended to be carried out in the next 12 months with an approximate timetable of events.
 - (d) A survey plan in adequate detail to determine the exact areas of existing disturbance, areas of rehabilitation, and areas of proposed further disturbance.



- (e) An annexure with detailed calculation of the amount of the insurances and guarantees or bonds or grants required by Conditions 25, and 27-30.
 - (f) Risk assessment and risk assessment reviews of the Permit holder's Mining and Mining Operations on the Land required by Conditions 7(f), and 9.
 - (g) Copy of the Closure and Rehabilitation Management Plan in accordance with special Condition 15.
 - (h) Copy of the Noise Management Plan in accordance with special Condition 31.
 - (i) Copy of the Emergency Response Plan in accordance with special Condition 32.
 - (j) Copy of the Water Management Plan in accordance with special Condition 34.
 - (k) Review of the environmental performance of the Mining Operations in accordance with Condition 3 of the Third Schedule.
 - (l) An explanation of any departure in the last 12 months from the previous Annual Work Plan.
 - (m) A summary of any complaints received and the corrective actions taken.
 - (n) A list of hazardous substances and potentially contaminating materials to be stored or used on the Land.
 - (o) Surface water results in accordance with special Condition 35.
 - (p) Any other information (plans and statutory documents) required by other conditions of this agreement or that is required by any resource consent held by the Permit holder relating to Mining and Mining Operations.
5. The Permit holder will undertake all work in accordance with the approved Annual Work Programme.
6. The Permit holder may, at any time, submit to the Conservator for approval an amended Annual Work Programme.

WORK PROGRAMME APPROVAL

7. The Permit holder notes and agrees that before granting Work Programme approvals the Conservator shall be clearly advised and provided with detailed descriptions of the nature of work and its location.
8. If requested by the Conservator the Permit holder must establish in the Work Programme that any proposed Mining Operation is necessary to accomplish the purpose or desired outcome of the Project. The Work Programme shall identify proposed contractors, and sub-contractors and describe their experience and technical



ability to carry out the proposed Mining and Mining Operations. Changes to contractors and sub-contractors shall be notified to, and approved by, the Conservator through a variation to the Work Programme.

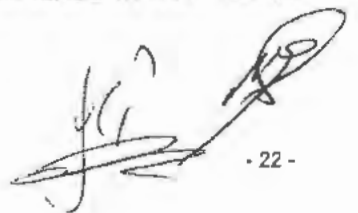
9. Where any party is required to take any steps in relation to a proposed or approved Work Plan they shall endeavour to do so without unreasonable delay.

EXCLUSION CONDITIONS

10. The Permit holder must avoid any adverse impact in any forested area of the Land which is not identified in the approved Work Plan as being necessary or essential for the Permit holder's Mining Operations.
11. The Permit holder must not undertake, allow or cause the following activities or effects on the Land:
- (a) take any dog or domestic animal or stock onto the Land except as expressly provided in this Access Arrangement;
 - (b) conduct onsite processing using any chemicals;
 - (c) store potentially acid generating material;
 - (d) discharge or allow the escape of any untreated surface water or ground water into the headwater tributaries of Herbert Stream, Whirlwind Stream, or Plover Stream;
 - (e) dispose of waste from human activity;
 - (f) disposal of reject or tailings from handling or processing coal;
 - (g) cause down slope mass movements or exacerbate the movement or stability of existing slips;
 - (h) use paint on vegetation for marking purposes;
 - (i) take rock, gravels, or vegetation from areas not affected by Mining and Mining Operations; and
 - (j) conduct surface drilling other than in accordance with special Condition 12(d).

CONDITIONS REQUIRING SPECIFIC APPROVAL

12. Subject to these special conditions and approval of the current Work Programme the Permit holder may, with the prior written approval of the Conservator:
- (a) use explosives.
 - (b) construct, upgrade or maintain any road.
 - (c) conduct vegetation removal and overburden stripping.
 - (d) drill holes from the surface to collect detailed information for the design of the highwall from the surface that would be disturbed by items listed in the Fourth Schedule; and



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- (e) erect/place on the Land any sheds, containers or similar structures.

CLOSURE AND REHABILITATION

13. Closure of the mining operations on the Land shall be achieved when special condition 14 is completed to the satisfaction of the Conservator.
14. The Permit Holder shall carry out rehabilitation progressively, that is, as soon as reasonably practicable following disturbance, and achieve the completion criteria so that ecosystems are self-sustaining in nature as described in this special condition for a minimum period of five years. Completion criteria are:

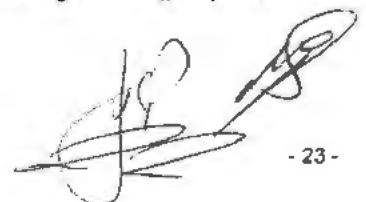
- (a) Major land form vegetation:
- (i) Highwall batter slopes (cut faces) shall have a bryophyte and native plant cover $\geq 50\%$ of the area of the slope.
 - (ii) Highwall bench slopes capable of being rehabilitated with native plants based on Note 1 of this special Condition (14) shall have a native plant cover $\geq 80\%$ of the area of the slope excluding table drains.
 - (iii) Shallow slopes less than 1 vertical: 2 horizontal which are not a highwall bench or batter slope shall have a mean native vascular plant or coarse wood debris of $\geq 90\%$ cover at $\geq 0.5\text{m}$ height or $\geq 75\%$ cover at $\geq 1\text{m}$ height.

Note 1: The Permit holder shall complete health and safety risk assessments as required to determine which benches can be safely rehabilitated with native plants, crushed granite and soil, and shall involve the Department in these risk assessments.

Note 2: *Juncus squarrosus* cover must be less than or equal to 1 percent cover, and visible flowering or seeding gorse and broom cover must be zero percent where on-going safe access is available for weed control based on health and safety risk assessments which involve the Department.

Note 3: Native plants are defined as those found on granite derived soils within the vicinity of the Land and individual plant species shall be approved by the Conservator prior to rehabilitation commencing.

- (b) Any storm water discharging from the Land shall not increase the receiving environment turbidity by more than 10 NTU 200m downstream from any discharge point in comparison with the turbidity of the stream 20 m upstream from the discharge point or create any change in colour or visual clarity of the stream.
- (c) A stable land form has been created.
- (d) Compliance with all other conditions of the Access Arrangement.
15. The Permit holder must provide to the Conservator for approval a Closure and Rehabilitation Management Plan for the Land prior to commencing Mining Operations and update this plan annually.



This plan must:

- (a) be prepared in consultation with the Department, and be submitted to build, to the maximum extent practicable, on the other management plans required under this Access Arrangement;
 - (b) address all aspects of rehabilitation and mine closure, including final land use assessment, rehabilitation objectives set out in special Condition 16, completion criteria set out in special Condition 14, rehabilitation monitoring, and include an evaluation of end land use options;
 - (c) include an environmental risk assessment demonstrating that the emplacements can be designed, managed and rehabilitated appropriately;
 - (d) detail the rehabilitation sequence for the Mining and Mining Operations in annual increments detailing areas to be prepared for rehabilitation and detailing the areas where the rehabilitation material will be sourced from;
 - (e) include storage locations and volumes of topsoil and woody material for rehabilitation, and areas to be used for vegetation direct transfer; and
 - (f) address water management steps required at mine closure including the dis-establishment of diversion drains, culverts and structures that will not remain after mine closure.
16. The Permit holder shall undertake rehabilitation to achieve an outcome in accordance with the following objectives:
- (a) In the short-term create stable landforms by establishing an exotic grass and native vegetation cover and erosion resistant surfaces that have physical and chemical characteristics that favour growth of sustainable native plant communities and manage runoff and sediment generation.
 - (b) In the medium to long term, establish ecosystems similar in plant and animal species diversity and functioning to undisturbed ecosystems on the eastern slopes of the Mount Frederick-Mount Augustus ridgeline that enable the constructed landforms to blend into the adjacent landscape and prevent erosion and sediment generation.
 - (c) Create streams with similar macro-invertebrate diversity to the undisturbed streams on the eastern slopes of the Mount Frederick-Mount Augustus ridgeline.
 - (d) Develop self-sustaining ecosystems.
17. The Permit holder is not to dump any waste rock or other material on any part of the Land which has not been prepared by stripping of all vegetation and organic material and soil.



18. All materials on the Land, including but limited to vegetation, trees, granite and soil, at all times remain the property of the Minister and shall be:
- (a) used for the purposes of restoration on the Land except where the Conservator confirms in writing to the Permit holder that they are not required for restoration purposes and are disposed of in accordance with section 28 of the Conservation Act 1987.
 - (b) Where merchantable and as directed by the Conservator the Permit Holder shall fell and stack merchantable logs so that they are safely and easily accessible with road logging trucks.
 - (c) The Permit holder shall allow access, without charge, across its Coal Mining Licence area adjoining the Land for the purpose of accessing and transporting from the Land any merchantable logs referred to in Special Condition 18(b) above.
19. Where the exception in Special Condition 18(a) above applies, and where any slash, granite and or soil is used by the Permit holder for its own purposes, including the restoration of the Permit holder's Coal Mining Licence area, the Permit holder shall pay compensation to the Minister in accordance with the conditions of the Fifth Schedule.
20. The Permit holder will ensure that as far as is practicable soil and direct transfer material sourced from the land will be used for rehabilitating the Land and that the Land will be given preference for the material over land outside the Access Arrangement.

PEST CONTROL

21. The Permit holder must prepare, fund and implement a pest and predator control programme to the satisfaction of the Conservator for the protection of great spotted kiwi and *Powelliphanta* snails in respect of the Land and surrounding catchments for a period of 30 years from the date of execution of this Access Arrangement. The Permit holder shall provide the predator control programme for approval by the Conservator before the first annual work programme is approved.

THREATENED SPECIES

22. The Permit holder shall not disturb any Great Spotted Kiwi on the Land unless otherwise approved by a separate Wildlife Act Authority. The Permit holder shall not undertake Mining or Mining Operations within the Great Spotted Kiwi breeding season during the months of July to February, inclusive, unless otherwise approved by the Conservator and a separate Wildlife Act Authority is obtained.
23. The Permit holder shall not disturb *Powelliphanta species* at any site on the Land other than in accordance with the Permit holder's Wildlife Act Authority. Prior to undertaking any mining or mining operations on the Land identified on Plan A of the First Schedule



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Snail surveys shall be undertaken by the Permit holder within the timeframes stipulated in the Permit holder's Wildlife Permit.

24. (a) The Permit holder must prepare and have approved by the Conservator a Contingency Plan prior to the commencement of Mining Operations to identify, protect and when necessary remove to a place of safety any indigenous fauna that are classified as being threatened species and which may be affected by the Permit holder's Mining Operations;
 - (b) The Permit holder shall ensure that the Contingency Plan will identify procedures to protect and/or remove any threatened fauna species that are discovered that are being adversely affected.
25. Notwithstanding any other conditions of this agreement the permit holder shall comply at all times with the Wildlife Act 1953.

WEED CONTROL

26. The Permit holder shall minimise the risk of the introduction of weed species onto the Land. Actions to effect this process are to include but are not limited to:
- (a) All earth moving machinery and other equipment which may be contaminated by weed seeds being cleaned using a water blaster before first going onto the Land for the Permit holder's Mining or Mining Operations.
 - (b) Any gravel, sand or other material used in road building or other construction is to be sourced from a weed free source.
27. The Permit holder must actively control weeds on the Land to the satisfaction of the Conservator which may include but is not limited to abseiling and aerial spraying.

LANDSCAPE AND NOISE

28. The Permit holder must prepare for the Minister's approval, a landscape plan detailing how the adverse visual impacts of the Mining, Mining Operations, and associated infrastructure will be safeguarded against.
29. The Permit holder must carry out all operations in such a manner as to minimise visual impacts. The Permit holder is to consult with the Conservator as to colour and design of facilities and services to assist in achieving the objectives of special Condition 28.
30. The Permit holder in carrying out operations within the Land, must:
- (a) ensure that air blast over pressure from blasting shall not exceed a peak sound pressure level of 120 dB(Lin Peak) at a distance of 100 metres for all blasting; and
 - (b) direct lighting onto Mining Operations and minimise light spillage onto adjacent

areas.

31. The Permit holder shall prepare and implement a Noise Management Plan to the satisfaction of the Conservator. This plan must:
- (a) be prepared in consultation with the Department, and be submitted to the Conservator prior to the first Authority to Enter and Operate and annually thereafter;
 - (b) describe the noise mitigation measures that would be implemented to ensure compliance with the relevant conditions of this Access Arrangement; and
 - (c) include a noise monitoring program that uses attended monitoring measures.

EMERGENCY RESPONSE PLAN

32. The Permit holder must prepare and have approved by the Conservator an Emergency Response Plan prior to commencing Mining Operations and annually thereafter to control the following risks:
- (a) fire including a fire prevention strategy;
 - (b) flood;
 - (c) earthquake;
 - (d) slope failure.
33. The Permit holder must demonstrate to the satisfaction of the Conservator the Permit holder's ability to successfully implement the Emergency Response Plan.

WATER MANAGEMENT PLAN

34. The Permit holder must prepare and implement a Water Management Plan to the satisfaction of the Conservator. This plan must be prepared in consultation with the Department and be submitted to the Conservator for approval prior to commencing Mining Operations and annually thereafter. The plan must include:
- (a) A Site Water Balance, which must include details of water management on site.
 - (b) A Stream Diversion Plan, which must include:
 - (i) the detailed design specifications for the stream relocations/rehabilitation;
 - (ii) a construction program for the stream relocations/rehabilitation, describing how the work would be staged, and integrated with Mining Operations;



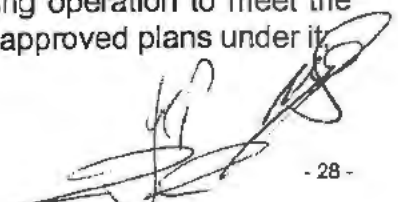
- (iii) water quality, ecological, hydrological and geomorphic performance and completion criteria for the stream relocations/ rehabilitation; and
 - (iv) a program to monitor and maintain the water quality, ecological, hydrological and geomorphic integrity of the stream relocations/rehabilitation.
- (c) An Erosion and Sediment Control Plan, which must:
 - (i) identify activities that could cause soil erosion or generate sediment;
 - (ii) describe measures to minimise soil erosion and the potential for the transport of sediment to downstream waters;
 - (iii) describe the location, function, and capacity of erosion and sediment control structures; and
 - (iv) describe what measures would be implemented to maintain the structures over time;
- (d) A Surface Water Management Plan, which must include:
 - (i) surface water and stream health impact assessment criteria including trigger levels for investigating any potentially adverse surface water impacts; and
 - (ii) a program to monitor and assess surface water quality, stream health, and channel stability.
- (e) A Groundwater Management Plan, which must include a program to monitor and assess groundwater inflows to Mining Operations and dewatering of the highwall.

SURFACE WATER MONITORING

- 35. The Permit holder will continue to undertake surface water quality monitoring in accordance with its existing resource consent WCRC RC10256 and any new consents granted that relate to the land, except where otherwise agreed with the Department.
- 36. The Permit holder shall comply with all water quality limits defined within the resource consents relating to the mining permit unless a more stringent limit is defined in the Access Arrangement.

OTHER INFORMATION REQUIRED

- 37. (a) The Permit holder must provide, where requested by the Conservator, certification:
 - (i) as to the adequacy of design of any engineering operation to meet the conditions of this Access Arrangement and any approved plans under it



- (ii) that the execution of any engineering element of the operation is in accordance with the design.
- (b) Such certification must be by an appropriately qualified engineer acceptable to the Conservator who is a member of the Institute of Professional Engineers of New Zealand.
- (b) The Permit holder must comply fully with the requirements of the Building Act 1991, and is to provide copies of all building consents, code compliance certificates, producer statements and other documents required, prepared, produced or issued under that Act to the Conservator. Without limitation to Conditions 20 - 24 of this Agreement, the Permit holder indemnifies the Minister fully in respect of any costs or liabilities that the Minister or the Department may suffer as a consequence of non-compliance with this special condition. The indemnity is to continue after expiry or other determination of this Access Arrangement, or any variation to it, in respect of those acts or omissions occurring or arising before the expiry or determination of it, or any variation of it.

HISTORIC SITES

38. Upon the discovery of any historical or archaeological object or artefact not authorised for destruction, damage or modification by the New Zealand Historic Places Trust, the Permit holder shall immediately cease Mining or Mining Operations and protect from damage any such object or artefact, and shall forthwith notify the Conservator. Conditions protecting the historical or archaeological object or artefact, shall be defined by the Conservator and/or the New Zealand Historic Places Trust, and must be adhered to by the Permit holder.
39. The Permit holder will be required to record the location and details of any historic site and object/artefact found on the Land. The Permit holder will protect from damage any historic site and object/artefact, and contact the Department on finding any such sites and objects/artefacts.

CULTURAL SITES

40. The Permit holder will be required to record the location and details of any cultural site and/or object/artefact found on the Land including Kōiwi Tangata (human bones) or Taonga (artefacts/middens). On finding such site or object/artefact the Permit holder will cease work immediately and contact the Department and Te Rūnanga o Ngāi Waewae Chairperson, Ph: s.9(2)(a) email: s.9(2)(a)

POUNAMU

41. The Permit holder acknowledges that pounamu (including all nephrite, semi-nephrite, bowenite and serpentine) is under the ownership of Te Rūnanga o Ngāi Tahu pursuant to the Ngāi Tahu (Pounamu Vesting) Act 1997.



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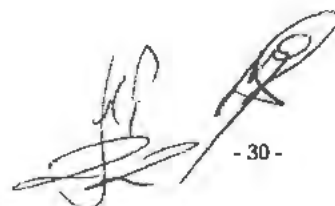
42. No pounamu may be removed or recovered by the Permit holder or its employees unless written authorisation is first entered into with Te Rūnanga o Ngāi Tahu. Where any pounamu is found by the Permit holder or its employees on the Land during the course of operations the Permit holder is required to immediately notify the Pounamu Manager, Te Rūnanga o Ngāi Tahu, Christchurch, Ph. 0800 Kai Tahu (0800 524 8248) and Te Rūnanga o Ngāti Waewae Chairperson, Ph. 0508 786 2642, email:

s.9(2)(a)

REMOVAL OF MATERIAL

43. At the completion of the Mining and Mining Operations the Permit holder will remove from the site all materials including rubbish, associated with the Mining Operation, unless the Conservator has given prior written approval for the item(s) to remain.

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THIRD SCHEDULE

ENVIRONMENTAL MANAGEMENT, REPORTING AND AUDITING

ENVIRONMENTAL MANAGEMENT STRATEGY

1. The Permit holder shall prepare and implement an Environmental Management Strategy to the satisfaction of the Conservator. The strategy must:
 - (a) be submitted to the Conservator for approval prior to commencement of Mining Operations;
 - (b) provide the strategic framework for environmental management;
 - (c) identify the statutory approvals that apply;
 - (d) describe the role, responsibility, authority and accountability of all key personnel involved in the environmental management of the Mining Operations;
 - (e) describe the procedures that would be implemented to:
 - (i) keep the local community and the Department informed about the operation and environmental performance of the Mining and Mining Operations;
 - (ii) receive, handle, respond to, and record complaints;
 - (iii) resolve any disputes that may arise during the course of the Mining and Mining Operations;
 - (iv) respond to any non-compliance;
 - (v) respond to emergencies; and
 - (f) include:
 - (i) copies of any plans approved under the conditions of this Access Arrangement; and
 - (ii) a clear plan depicting all the monitoring to be carried out.

MANAGEMENT PLAN REQUIREMENTS

2. The Permit holder shall ensure that the management plans required under this Access Arrangement include:
 - (a) detailed baseline data;
 - (b) a description of:
 - (i) the relevant Access Arrangement requirements;
 - (ii) any relevant limits or performance measures/criteria;
 - (iii) the specific performance indicators that are proposed to be used to judge the performance of, or guide the implementation of, the Mining and Mining Operations or any management measures;



- (c) a description of the measures that would be implemented to comply with the relevant Access Arrangement requirements and limits;
- (d) a program to monitor and report on the:
 - (i) impacts and environmental performance of the Mining and Mining Operations;
 - (ii) effectiveness of any management measures referred to in the Third Schedule Condition 2(c);
- (e) a contingency plan to manage any unpredicted impacts and their consequences;
- (f) a program to investigate and implement ways to improve the environmental performance of the Mining Operations over time;
- (g) a protocol for managing and reporting any:
 - (i) incidents;
 - (ii) complaints;
 - (iii) non-compliances with the conditions of this Access Arrangement; and
- (h) a protocol for periodic review of the plans required under the Access Arrangement.

ANNUAL REVIEW

3. Twelve months after granting of the first Authority to Enter and Operate, and annually thereafter, the Permit holder shall review the environmental performance of the Mining and Mining Operations to the satisfaction of the Conservator. This review must:
- (a) describe the works (including any rehabilitation) that were carried out in the past year, and the works that are proposed to be carried out over the next year;
 - (b) include a comprehensive review of the monitoring results and complaints records of the Mining Operations over the past year, which includes a comparison of these results against the:
 - (i) limits or conditions of the Access Arrangement;
 - (ii) monitoring results of previous years; and
 - (c) A description and analysis including root cause of any incidents that have arisen within the last 12 months, the steps taken to mitigate or remedy any material harm, and actions to prevent a reoccurrence of events which caused material harm.
 - (d) identify any trends in the monitoring data over the life of the Project;
 - (e) identify any discrepancies between the predicted and actual impacts of the Mining and Mining Operations, and analyse the potential cause of any significant discrepancies; and

- (f) describe what measures will be implemented over the next year to improve the environmental performance of the Mining and Mining Operations.

REVISION OF STRATEGIES, PLANS, AND PROGRAMMES

4. Within 3 months of:
- (a) the submission of an annual review under Condition 3 above;
 - (b) the submission of an incident report under Condition 6 below;
 - (c) the submission of an audit under Condition 8 below; and
 - (d) any modification to the conditions of this Access Arrangement, the Permit holder shall review, and if necessary revise, plans required under this Access Arrangement to the satisfaction of the Conservator.

INCIDENT REPORTING

5. The Permit holder shall notify the Conservator of any incident associated with the Mining and Mining Operations as soon as practicable after the Permit holder becomes aware of the incident.
6. Within 7 days of becoming aware of the incident, the Permit holder shall provide the Conservator with a detailed report on the incident and within 6 weeks of the incident provide the Conservator a report on the corrective actions taken to prevent the incident from occurring in the future.

INDEPENDENT ENVIRONMENTAL AUDIT

7. Twelve months after granting of the first Authority to Enter and Operate, and every 3 years thereafter, unless the Conservator directs otherwise, the Permit holder shall commission and pay the full cost of an Independent Environmental Audit of the Mining and Mining Operations. This audit must:
- (a) be conducted by a suitably qualified, experienced and independent team of experts whose appointment has been endorsed by the Conservator;
 - (b) include consultation with the Department;
 - (c) assess the environmental performance of the Mining and Mining Operations and whether it is complying with the Access Arrangement;
 - (d) review the adequacy of any approved strategies, plans or programs required under the Access Arrangement; and, if appropriate



- (e) recommend measures or actions to improve the environmental performance of the Mining and Mining Operations, and/or plan required under the Access Arrangement.
8. Within 6 weeks of the completion of this audit, or as otherwise agreed by the Conservator, the Permit holder shall submit a copy of the audit report to the Conservator, together with its response to any recommendations contained in the audit report.

RELEASED UNDER THE OFFICIAL INFORMATION ACT



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FOURTH SCHEDULE

LIST OF MINING ELEMENTS AND MINE PLANS;

A. SN5 HIGHWALL

Maximum vegetation disturbance area shall be 2.46 hectares.

B. SN6 HIGHWALL

Maximum vegetation disturbance area shall be 0.36 hectares.

C. SN13/14 HIGHWALL

Maximum vegetation disturbance area shall be 8.54 hectares.

D. BUFFER ZONE

Maximum 50 metre buffer zone surrounding each highwall, totalling 1.5 hectares for SN5, 3.02 hectares for SN6 and 6.12 hectares for SN13/14.

RELEASED UNDER THE OFFICIAL INFORMATION ACT



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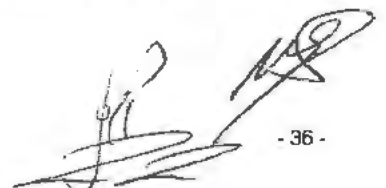
FIFTH SCHEDULE

COMPENSATION

1. The Permit Holder undertakes that it will prepare a subdivision plan in respect of the land described below and lodge such plan with the Buller District Council and Land Information New Zealand to enable the Permit Holder to transfer fee simple title to Her Majesty the Queen:
 - a. 20.13 hectares of land comprising part certificate of title NL19/138 (Section 51 Block II Kawatiri Survey), depicted as "Birchfield East Block" on the attached Plan B; and
 - b. 52.26 hectares of land comprising all certificate of title NL21/281 (Section 5 Block V Ngakawau Survey District) and part certificate of title NL13B/1143 (Section 7 Block VI Ngakawau Survey District), depicted as "Granity Wetland Block, Central" on the attached Plan B,

(Compensation Land).

2. All survey and legal costs incurred will be paid by the Permit Holder.
3. The Permit Holder will use its best endeavours to complete the subdivision and transfer of the Compensation Land within six months of commencement of Mining and Mining Operations on the Land, or such longer period of time as the Minister may otherwise agree.
4. In the event that the Permit Holder is unable to, or prevented from, completing the subdivision and transfer of the Compensation Land to her Majesty the Queen for reasons beyond the Permit Holder's control, the Permit Holder and the Minister shall enter into good faith negotiations to reach a mutually agreeable solution regarding the compensation payable by the Permit Holder pursuant to this Access Agreement.
5. The Permit Holder shall adequately fence off the Compensation Land from the balance of the Permit Holder's land using existing or new fencing to enclose the land from all sides and ensure that access openings made in the fence along any road or boundary shall be protected by a suitable cattle guard or other device to prevent stock entering the land.
6. The Permit Holder shall pay for any services to the boundary of the Compensation Land if required as a condition of the subdivision consent.
7. The Permit Holder shall pay for the construction of any road access to the Compensation Land, and the registration of any easement, right of way or other encumbrance in respect of such access, if required as a condition of the subdivision consent.
8. The Permit Holder shall, at its own expense, obtain a registered property valuation for the Compensation Land following subdivision and transfer to her Majesty the Queen.

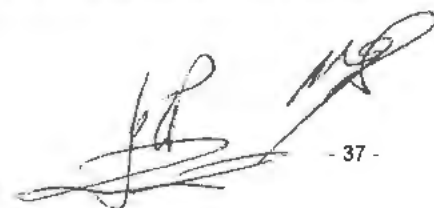


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9. The Permit Holder must prepare, fund and implement a pest control and habitat restoration programme in respect of the Compensation Land. The Permit Holder must provide a Pest Control and Habitat Restoration Management Plan to the Minister prior to commencing Mining Operations and update this plan annually.

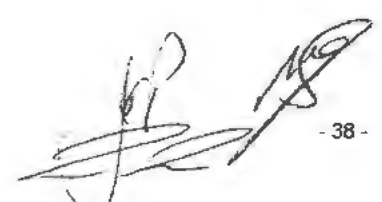
This plan must:

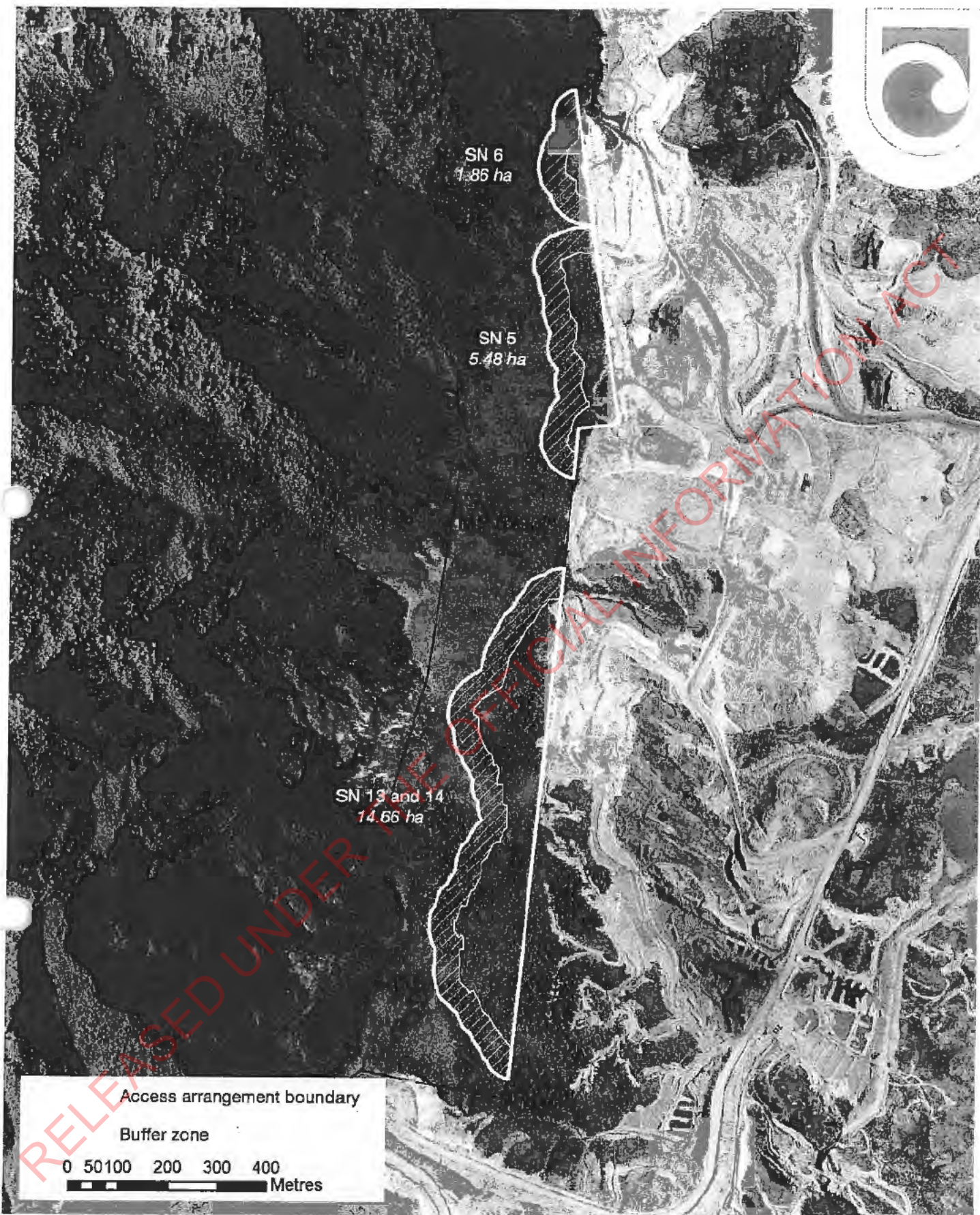
- (a) be prepared in consultation with the Department;
 - (b) address all completion criteria set out in Condition 10 of this Fifth Schedule, and rehabilitation monitoring; and
 - (c) detail the rehabilitation sequence in annual increments;
10. The Permit Holder must achieve vegetation completion criteria so that ecosystems are self-sustaining in nature as described in this condition for a minimum period of five years. The completion criteria are:
- (a) forest restoration areas shall have a native woody plant species cover of 75% at a height of 2 metres;
 - (b) wetland restoration areas shall have a native wetland plant species cover of 75% at a height of 1 metre;
 - (c) eradication of *Myriophyllum aquaticum* (Parrot's Feather); and
 - (d) control of *Lagarosiphon* (Oxygen weed);
 - (e) a self-sustaining extension of the open fresh water habitats.
11. The Permit Holder shall control stoats, rats and possums on the Compensation Land using ground based poisoning and trapping for a period of fifty years to the satisfaction of the Conservator. Possum density shall be continuously controlled to a residual trap catch index of less than 5%.
12. The Permit Holder shall pay the Minister nine dollars and fifty cents plus GST (if any) per square metre compensation for any vegetation disturbance on the Land resulting from Mining or Mining Operations greater than the 11.36 hectares of vegetation disturbance described in the Fourth Schedule (subject to any adjustments for inflation under clause 6 of this Access Arrangement).
13. (a) The Permit Holder shall supply to the Minister, as part of each annual work programme, annual estimated volumes of any material to be extracted and removed from the Land.
- (b) The Permit Holder shall pay the Minister fifty cents plus GST per bank cubic metre for any material removed from the Land for rehabilitation purposes on the Stockton Open Cast Mine subject to any adjustments for inflation under Clause 6 of this Access Arrangement.



- (c) On June 30 of each year the Permit Holder shall supply to the Minister a full record and account of all volumes of any material extracted and removed from the Land. The record and accounts to be supplied under this Condition 13(c) shall be subject to an audit by the Minister. The cost of such audit(s) shall be paid for by the Permit holder.
14. On June 30 of each year the Permit Holder shall supply to the Minister full details plus GST receipts of all costs incurred by the Permit Holder in complying with the Permit Holder's obligations set out in this Fifth Schedule.
15. All payments required by the Fifth Schedule Conditions 12 and 13 will be calculated following the Mining/Mining Operations in any approved work programme occurring.

RELEASED UNDER THE OFFICIAL INFORMATION ACT





Plan A Access Arrangement - Solid Energy No 2 South Cutback			Mining Permit 52937 File: PAM-11-07-52-937
Total area: 22 ha	Scale (A4): 10,000	Photo ref: Solid Energy (June 2006)	Department of Conservation <i>Te Papa Atūwhai</i>
Date compiled: 21/06/2011	Topo50 map ref: BR 21	Area Office: Buller <i>Kawatiri</i>	
Legal description: Crown Land Blk X (under action) Ngakawau S.D. and Crown Land (under action) S.O. Plan 9821 Status: Stewardship area (CU L29003)			

Map location: G:\GIS\Projects_2010\Community_Relations\195_Stockton No 2 South\



Plan B			Mining Permit 52937 File: PAM-11-07-52-937
Solid Energy No 2 South Cutback - compensation land			
Total area: 72.39 ha	Scale (A4): 25,000	Photo ref: Solid Energy (June 2006)	Department of Conservation <i>Te Papa Atahou</i>
Date compiled: 21/06/2011	Topo50 map ref: BR 21	Area Office: Buller <i>Kawatiri</i>	
Legal description: Granity Wetland Block - Sec 5 Blk V Ngakawau S.D., Sec 1 SO 12345 and Part of Section 7 Blk VI Ngakawau S.D. Birchfield East Block - Part of Section 51 Blk II Kawatiri S.D.			

Map location: G:\GIS\Projects_2010\Community_Relations\195_Stockton No 2 South\

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THIS AGREEMENT varying and modifying the access arrangement of 9 August 2011.

Date of execution of this variation 21 OCTOBER 2011.

Parties:

The **Minister of Conservation** (hereinafter together with the Minister's agents referred to as "the Minister")

and **Solid Energy New Zealand Limited** (herein after referred to as "the permit holder")

WHEREAS

- A. By an agreement for an access arrangement made pursuant to section 61 of the Crown Minerals Act 1991 on 9 August 2011 the Minister granted access to the public conservation land described in the First Schedule to that access arrangement on the terms and conditions set out in the access arrangement to the permit holder.
- B. This agreement varies and modifies the access arrangement.

The parties hereby AGREE as follows:

Variations of Existing Conditions

1. That Conditions 7(c), 8, 13(a), 29, 30(a) and 30(b) are hereby amended by deleting reference to condition 28.
2. That Condition 25(c) is hereby deleted and a new Condition 25(c) is inserted as follows:

"All insurance cover required under this Access Arrangement must note the Minister as an interested party and must be with an insurance company approved by the Conservator, which approval will not unreasonably be withheld. The Conservator may require any reasonable amendment or change to any policy of insurance required under this Access Arrangement and the Permit holder will forthwith use its reasonable endeavours to arrange those amendments or changes required by the Conservator."
3. That Conditions 27(a) is hereby deleted and a new Condition 27(a) is inserted as follows:

M *CH*

"Unless the bond is a cash bond, prior to entering in or on the Land, the Permit holder must provide as surety a trading bank, insurance company or bond guarantor who is acceptable to the Conservator. The surety must execute (in the case of two or more jointly and severally) in favour of the Minister a:

- (i) restoration guarantee or bond that, subject to conditions 28(a) and 29, is to be set at **\$105,000.00 (one hundred and five thousand dollars)** for due and faithful performance by the Permit holder of the obligations under this Access Arrangement;
- (ii) restoration guarantee or bond that, subject to condition 29, is set at **\$903,000.00 (nine hundred and three thousand dollars)** for pest control work and habitat restoration required, under condition 9 of the Fifth Schedule of this Access Arrangement, to be carried out by the Permit holder and on that land described in condition 1 of the Fifth Schedule."

4. That Conditions 28 (a) is hereby deleted and a new Condition 28 (a) is inserted as follows:

"The restoration guarantee or bond required in condition 27(a)(i) shall be a sum reasonably determined by the Conservator having regard to the calculation provided with each work plan in relation to the restoration of the disturbed area of the Land provided the Conservator is not bound by that calculation."

5. That Conditions 28 (b) is hereby deleted and a new Condition 28 (b) is inserted as follows:

"The restoration guarantee or bond required in condition 27(a)(ii) will be held by the Minister until such time as all conditions of this Access Arrangement have been complied with notwithstanding the completion of the Permit holder's Mining or Mining Operations."

6. That Condition 31 is hereby deleted and a new Condition 31 is inserted as follows:

"Prior to the Department releasing the restoration bonds in accordance with Condition 30(a), the Permit holder shall provide and maintain in favour of the Department a separate cash bond or bonds to cover the estimated costs of monitoring for and of any adverse effects and of measures taken to avoid or reduce any adverse effects which may become apparent after completion of closure of the Mining Operations on the Land in accordance with special Condition 14."

7. That Condition 34 is hereby deleted and a new Condition 34 is inserted as follows:

"The cash bond required under Condition 31 shall be converted into a payment by the Permit holder to the Department of the required sum for Condition 32 at completion of closure of the mining operations on the Land."

 
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Confirmation of other Conditions

Except to the extent to which they are varied by this Variation the terms and conditions expressed and implied in the Access Arrangement continue to apply.

Signed for and on behalf of
the Minister of Conservation
by Christopher Ronald Hames Hickford,
Community Relations Manager,
West Coast Conservancy,
pursuant to a written delegation
from the Minister of Conservation
under the Crown Minerals Act 1991

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)
)
)
)

CRH

in the presence of

s.9(2)(a)

Witness:

Shaun Carl Thomson

Occupation:

Public Servant

Address:

111 Brickfield Rd, Hokitika.

Signed by Solid Energy New Zealand Limited:
(the permit holder)

By:

s.9(2)(a)

(Director) CEO

(Director)

in the presence of

s.9(2)(a)

Witness:

Occupation:

Executive Assistant

Address:

Christchurch

ACCESS ARRANGEMENT SECOND VARIATION

THIS SECOND AGREEMENT varies and consolidates the Access Arrangement dated 05 October 2005 and varied 17 March 2008 for Mining Permit 41810.

Date of execution of this variation ²⁵16th day of ^{MAY}June 2017. 

Parties:

The Minister of Conservation (hereinafter together with the Minister's agents referred to as "the Minister")

and

SOLID ENERGY NEW ZEALAND LIMITED (hereinafter referred to as the "Permit holder"). *(Subject to Deed of Company Arrangement)* 

WHEREAS

- (a) By an agreement for an Access Arrangement ("the Access Arrangement") made pursuant to section 61 of the Crown Minerals Act 1991 on 5 October 2005 the Minister's delegated authority granted access to the public conservation land described in the First Schedule to that Access Arrangement on the terms and conditions set out in the Access Arrangement to the Permit holder for Minerals Permit 41810.
- (b) The Access Arrangement was varied on 17 March 2008.
- (c) This agreement further varies and consolidates the Access Arrangement dated 5 October 2005 and the subsequent variations to it; and
- (d) By and agreement for an Access Arrangement ("the Access Arrangement") made pursuant to section 61 of the Crown Minerals Act 1991 on 26 April 2005 the Minister's delegated authority granted access to the public conservation land described in the First Schedule to that Access Arrangement on the terms and conditions set out in the Access Arrangement to the Permit holder for Minerals Permit 41810.
- (e) The Access Arrangement was varied on 1 June 2006 and 30 April 2007.
- (f) This agreement further varies and consolidates the Access Arrangement dated 26 April 2005 and the subsequent variations to it.

The parties hereby AGREE as follows:

VARIATION AND CONSOLIDATION OF EXISTING CONDITIONS

1. That the Access Arrangement documents and subsequent variations are further varied and consolidated into one document as follows:

ACCESS ARRANGEMENT

THIS AGREEMENT for an Access arrangement pursuant to section 61 of the Crown Minerals Act 1991 dated _____ between the Minister of Conservation (hereinafter together with the Minister's agents referred to as "the Minister") and **SOLID ENERGY NEW ZEALAND LIMITED** (hereinafter referred to as the "Permit holder").

WHEREAS

- (a) The Land described in the First Schedule is administered by the Department of Conservation pursuant to various relevant sections of the Conservation Act 1987 and the Minister is responsible for that Department;
- (b) The Permit holder has been granted a minerals permit (Mining Permit 41810) by the Minister of Energy and Resources pursuant to section 25 of the Crown Minerals Act 1991 to undertake mining and Mining and Mining operations in and on the Land;
- (c) The Permit holder pursuant to section 59 of the Crown Minerals Act 1991 has requested from the Minister an Access arrangement in respect of the Land described in the First Schedule to conduct mining and Mining and Mining operations.

IT IS AGREED between the Minister of the first part and the Permit holder of the second part that the Permit holder may enter the Land described in the First Schedule subject to the terms and conditions set out below and in the Second Schedule hereto:

1. INTERPRETATION

"Access arrangement" means this agreement for an access arrangement.

"Act" means the Crown Minerals Act 1991.

"Annual Work Programme" and "Work Programme" means the Work Programme referred to in Condition 6(b).

"Department" means the Department of Conservation.

"Land" means the land described in the First Schedule.

"Minister" means the Minister of Conservation and includes his or her delegate, the Director-General, and his or her authorised officers (including the Operations

Director, Operations Manager, Permissions and Land Director and Permission and Land Manager), employees, agents or contractors.

"Mining" and "Mining and Mining operations" have the same meanings as defined in section 2 of the Crown Minerals Act 1991.

"Permit holder" includes the Permit holder, its servants, agents, contractors and assignees.

ASSIGNMENT

2. The Permit holder must not assign, transfer or sublet any rights herein granted or any part thereof without the prior written consent of the Minister.

COMPENSATION

3. Pursuant to section 76 of the Act, the Permit holder must pay the Minister the following compensation for the intrusion of industrial operations in public conservation land:
 - (a) For the Southern Haul Road, a one-off payment of **\$5000 + GST**. The Minister acknowledges that at the time of this variation this **\$5000 + GST** payment has been made.
 - (b) For the Millerton Haul Road, an annual payment of **\$500 + GST**.
 - (c) For disturbance relating to the construction of the mine water pipeline and the erection of electricity lines, the Permit holder will pay the Minister a one-off payment of **\$9,900 + GST**. The Minister acknowledges that at the time of this variation this **\$9,900 + GST** payment has been made.

COMPENSATION FOR ANY UNAUTHORISED DISTURBANCE

3A.

All compensation amounts are to be annually reviewed for changes in Consumer Price Index (CPI) and adjusted accordingly. Compensation will be paid by the Permit holder upon receiving an invoice from the Department or at the time of presentation of an Annual Work Programme, prior to commencing of Mining and Mining Operations, with 3(b) being paid in arrears. All compensation is payable into a Department of Conservation administered trust account for conservation purposes in the Western South Island Region.

ADMINISTRATION COSTS

4. Pursuant to section 76 of the Act the Permit holder will also pay to the Minister:
 - a) All actual and reasonable costs to cover the administrative costs of processing this Access Arrangement; and
 - b) The actual and reasonable costs of administering this Access Arrangement; and
 - c) The actual and reasonable costs of monitoring compliance of the conditions in this Access Arrangement including all associated inspections of the Land by the Department.
5. The Permit holder must pay the Minister a Management Fee of \$250.00 + GST per annum for administration and file management associated with the mining and mining operations and/or management of this Access Arrangement.

PRECONDITIONS BEFORE ENTRY TO LAND FOR MINING

6. The Permit holder must not enter in or on to the Land for the purpose of commencing Mining and Mining operations until:
 - (a) The documents referred to in Condition 8 have been supplied to the Minister; and
 - (b) The Permit holder has submitted to the Minister an Annual Work Plan in accordance with Condition 53; and
 - (c) Any payments referred to in Conditions 3, 4, 5, 15 and 19 which are due and owing have been paid; and
 - (d) The Minister has approved the plans required to be submitted by Condition 6(b) and has issued the Permit holder an Authority to Enter and Operate as provided by Condition 9.
7. The Minister may require the Permit holder to vary the proposed Annual Work Plan to ensure the Mining and Mining operations are not inconsistent with the conditions of this Access arrangement. Where required by the Minister the Permit holder will amend the proposed Annual Work Programme accordingly.
8. The Permit holder must seek an Authority to Enter and Operate from the Minister. At the time of seeking an Authority to Enter and Operate, the Permit holder will submit to the Minister:
 - (a) A copy of the insurance policies and the premium payment receipts as required in Condition 18 and 19; and

- (b) A copy of the mining permit granted pursuant to section 25 of the Act; and
- (c) A copy of all resource consents granted under the Resource Management Act 1991, and a copy of any reports that the Permit holder has been required to submit to the consent authority as a requirement of any resource consent relating to the mining permit.
9. Upon the Minister being satisfied that the requirements of Conditions 6, 7 and 8 have been met, the Minister will issue the Permit holder with a written "Authority to Enter and Operate" permitting the Permit holder to enter in or on to the Land to commence Mining and Mining operations for a period of 12 months, unless the mining permit has a lesser term remaining.
- 9A. A breach or failure to comply with the requirements of the documents referred to in Condition 6(d), and approved by the Minister, shall be deemed to be a breach of this Access Arrangement, and shall entitle the Minister to exercise any rights or powers which arise from a breach of or failure to comply with the terms of this Access Arrangement.
10. Prior to the expiry of the first Authority to Enter and Operate, and each subsequent Authority to Enter and Operate thereafter, the Permit holder must submit to the Minister for approval a further Annual Work Programme and any other plans or amended plans as required by Condition 6(b) and any other requirements of Conditions 6, 7 and 8 for the succeeding 12 month period (or a lesser period if considered appropriate by the Permit holder).
11. Except as permitted by the Minister, the Permit holder must not after the expiry of an Authority to Enter and Operate, undertake any work prior to each subsequent Authority to Enter and Operate has been issued by the Minister pursuant to Condition 9.
12. The Minister will not unreasonably fail to grant a subsequent Authority to Enter and Operate where the Permit holder has supplied all the required documentation and made all the payments required by Condition 6, and the further Annual Work Programme is consistent with the project description contained in the application for this Access arrangement and the conditions of this Access arrangement.
13. Pending the granting of a subsequent Authority to Enter and Operate the Minister may in his or her discretion, issue an interim Authority to Enter and Operate providing the documents and payments required by Condition 6 have been submitted.

INDEMNITIES

14. The Permit holder must indemnify and keep indemnified the Minister against all claims by any person in respect of any injury, loss or damage (including fire damage) caused or suffered as a result of or arising out of any act or omission

of the Permit holder, or otherwise caused as a result of the Mining and Mining and Mining operations on the Land.

15. If due to the Permit holder's mining or mining operations the Land or any part of it is assessed as rateable land under the Local Government (Rating) Act 2002, or any amendment to that Act, or the introduction of a new Act in substitution for it, the Permit holder is to pay any of the rates which may be struck in respect of the Land and/or the Mining and Mining operations; but both parties expressly agree that such payment is not to constitute an acknowledgement of exclusive possession by the Permit holder of the Land.
16. The Minister will not be liable for and does not accept any responsibility for damage or interference to the Mining and Mining operations, equipment, buildings or structures, held or erected on the Land due to any cause whatsoever including (without restriction) any acts or omissions by the Minister, their servants, agents, or contractors (other than acts or omissions arising from the wilful misconduct of the Minister, his servants, agents or contractors), natural disaster, vandalism, sabotage, fire, exposure to the elements or any other cause whatsoever.
17. The Permit holder must take all reasonable steps to protect the safety of persons present on the Land during Mining and Mining operations and between work periods and will, when required by the Minister, erect protective fencing or erect signposts warning the public of any dangers that may be encountered as a result of the Mining and Mining operations. The Permit holder must take all reasonable steps to mitigate any dangers to the public and will clearly mark any that remain.
 - (a) Where the Permit holder, to ensure the safety of the public, employees, plant and equipment, requests the Minister (acting under delegated authority from the Minister) to close public access to the Land the Minister may do so if he or she considers it appropriate.
 - (b) The Permit holder will give the Minister reasonable notice of its request so that the Minister can ensure that all reasonable steps are taken to ensure members of the public are made aware of the closure and the reasons for it.
 - (c) The Permit holder will be responsible for the costs of ensuring that the public is made aware of the closure.

INSURANCE

18. Prior to commencing Mining and Mining operations the Permit holder must effect and maintain during the term of this access arrangement insurance cover on terms acceptable to the Minister for an amount of **\$1,000,000.00** for public liability, **\$500,000.00** for third party vehicle and for a further amount of **\$500,000.00** for any costs arising out of any necessary action to put out or contain any fire caused by the Mining and Mining operations whether negligently or otherwise and which may extend beyond the Land to the adjoining Land

whether held by the Minister or otherwise. The Minister may from time to time require the cover of any insurance to be increased to such an amount as considered reasonably necessary.

BONDS

19. Prior to commencing Mining and Mining operations the Permit holder must provide a bond to ensure compliance by the Permit holder with the conditions of this agreement. The bond will be in a form approved by the Minister and the initial bond will not be less than **\$23,760.00**.
20. Notwithstanding Condition 19 the Minister may during consideration of any Annual Work Programme or variation to any Annual Work Programme require the bond amount to be increased/decreased.
21. The bond or bonds will not be released and will remain effective until such time as all conditions of this agreement have been complied with, notwithstanding the completion of Mining and Mining operations. In the event that there is an adverse effect to the Land and its natural resources whether during or after the completion of the Mining and Mining operations which is not permitted by this agreement and could not have reasonably been foreseen, the Permit holder will take all action necessary to mitigate or remedy those adverse effects. If the Permit holder fails to mitigate or remedy those adverse effects to the Minister's satisfaction, the Minister may undertake any necessary action to do so and recover the costs associated with undertaking the work by calling on the bond or bonds.
22. If the Permit holder breaches any condition of this Access arrangement the Minister may call on the bond or bonds, or any portion thereof to ensure compliance with the condition of this Access arrangement.

FIRE PRECAUTIONS

23. The Permit holder must:
 - (a) Take all reasonable precautions to ensure no fire hazard arises from the Mining and Mining operations;
 - (b) Not light any fire except by permit issued by the Minister;
 - (c) Not store or permit to be stored fuels or other combustible materials on the Land without the prior written permission of the Minister;
 - (d) Comply with the Ministers' requirements for fire safety equipment and for fire fighting equipment to be kept on the Land.

PROTECTION OF THE ENVIRONMENT

24. The Permit holder must ensure that in respect of all Mining and Mining operations under this Access arrangement:

- (a) Environmental disturbance is minimised and Land affected by Mining and Mining operations is kept stable and free from erosion.
- (b) There is no land disturbance other than that authorised under this Access arrangement.
- (c) All indigenous flora and fauna are protected except for disturbance authorised under this access arrangement.
- (d) No debris, rubbish or other dangerous or unsightly matter will be deposited in or on the Land, or any pollution will occur of any water body, except as permitted by this Access arrangement and any resource consent granted under the Resource Management Act 1991.
- (e) There will be no destruction, damage or modification to any archaeological site in the area (as defined by the Heritage New Zealand Pouhere Taonga Act 2014) without the authority of the Heritage New Zealand Pouhere Taonga Board of Trustees obtained under section 48 of that Act. The Permit holder must produce any such authority to the Minister.
- (f) Any *protected New Zealand object*, or *taonga tūturu* (as defined by the Protected Objects Act 1975), or object of historic significance found in the area or on the Land shall be left *in situ*, and the Minister and Secretary of Internal Affairs notified as soon as reasonably practicable
- (g) Every person under the Permit holder's control entering on to the Land complies with the provisions of this condition (Condition 24).

SUPPLY OF INFORMATION

- 25. The Permit holder must lodge with the Minister copies of the renewal of or substitution for any insurance policies including receipts for payment of premiums, any variations to bonds and evidence that the bonds are in force.
- 26. The Permit holder must provide to the Minister all information required from time to time by the Minister in respect of the use of the Land and any buildings or equipment thereon including any details concerning the Mining and Mining operations and details concerning the numbers of people employed by the Permit holder or permitted or allowed by the Permit holder to come onto the Land.
- 27. The Permit holder must submit to the Minister a copy of any application lodged with the Ministry of Business, Innovation and Employment to vary the minerals permit covering the Land including any application to transfer the mining permit to another person or party.
- 28. The Permit holder must apply for a variation to this Access arrangement should it wish to undertake mining or mining activities on any land managed or

administered by the Minister within any variation to the minerals permit granted by the Ministry of Business, Innovation and Employment that is not already covered by this Access arrangement.

29. Notwithstanding Condition 28 it will be at the Minister's discretion as to whether any variation applied for in accordance with Condition 28 is approved or not.

MONITORING

30. The Permit holder must allow the Minister or any other person authorised by the Minister to enter in or on to the Land at any time:
- (a) To inspect the Land or to consider approval of any Annual Work Programme or other plans, or to monitor compliance with the conditions of this Access arrangement.
 - (b) To undertake any work necessary for the exercise of the Minister's functions and powers in respect of the Land provided that such work will not interfere with the Permit holder's rights under this Access arrangement.
31. Monitoring may include but is not limited to, the taking of soil and water samples, and the taking of a photographic record of activities occurring on the Land subject to the Access arrangement.

BANKRUPTCY OR INSOLVENCY

32. If the Permit holder will become bankrupt or insolvent or have a receiving order made against it or compound with its creditors or being a corporation or company commence to be wound up or carry on its business under a receiver for the benefit of creditors or any of them the Minister may either:
- (a) Terminate this Access arrangement forthwith by notice in writing to the Permit holder or to the receiver or liquidator or to any person in whom the Access arrangement may become vested; or
 - (b) Give such receiver or liquidator or other person the option of continuing the Access arrangement subject to the provision of a guarantee for the due and faithful performance of the Access arrangement up to an amount to be agreed.

TERM

33. The term of this Access arrangement for MP 41810 will be from the date of execution of this Access arrangement until 04 October 2025, or for the term of Mining Permit 41810, whichever is the lesser.

BREACH OF CONDITIONS

34. Subject to Condition 32 if the Permit holder becomes bankrupt, insolvent, or has a receiving order made against it or is wound up or otherwise ceases to function, the Minister may terminate this Access arrangement by notice in writing. Such notice will not release the Permit holder from liability in respect of any breach of this Access arrangement prior to the termination of the Access arrangement.
35. If the Permit holder is in breach, or fails to observe any of the conditions contained herein or the requirements of any approved Annual Work Programme or any other approved plan, then the Minister may by notice in writing terminate this Access arrangement.
36. Notwithstanding Conditions 34 and 35, termination of this Access arrangement will not release the Permit holder from liability in respect of any breach of this Access arrangement.
37. Upon termination or expiry of this Access arrangement the Minister will not be liable to pay any compensation whatsoever for any buildings, structures or improvements erected by the Permit holder. If requested by the Minister the Permit holder will remove all such buildings and structures and improvements. The Permit holder will repair at its own expense all damage which may have been done by such removal and will leave the Land in a clean and tidy condition for restoration as set out herein. If the Permit holder fails to remove any buildings within a reasonable time of the request of the Minister, the Minister may undertake this work and recover the costs from the Permit holder.

MISCELLANEOUS

38. If the Permit holder has:
 - (a) Not paid any compensation payment as provided by Condition 3; or
 - (b) Not submitted an Annual Work Programme to the Minister -

Within two years of the date of execution of this Access arrangement, this Access arrangement will terminate and cease to have any effect.

39. Any notice required to be addressed by either party will in the absence of proof to the contrary be sent by ordinary post or by facsimile during normal business hours and will be deemed to have been received by the other party on such date and at such time upon which the ordinary post or facsimile would have been delivered.
40. The Minister's address, phone and fax number for service will be C/- The Manager, The Department of Conservation, Private Bag 701, Hokitika; Ph (03) 756 9100; Fax 03 756 9188; Email permissionshokitika@doc.govt.nz.

41. The Permit holder's phone number and address for service will be Solid Energy N.Z Ltd, 15 Show Place, Addington, Christchurch 8024, P O Box 1303, Christchurch 8140, New Zealand. Phone (03) 345 6000.

DISPUTE RESOLUTION

42. The parties agree to negotiate in good faith to resolve any differences which arise in connection with this Access arrangement.
43. Failing resolution in accordance with Condition 42, any differences and disputes between the parties concerning this Access arrangement, its interpretation, effect or implementation or any act or thing to be done in pursuant thereof (except as otherwise expressly provided) is to be referred to arbitration in New Zealand by a single arbitrator who is to be mutually agreed upon and, failing agreement, are to be appointed by the President of the New Zealand Law Society.

GENERAL

44. Except where inconsistent with this Access arrangement, the Permit holder will comply with the provisions of any conservation management strategy or conservation management plan pursuant to Part IIIA of the Conservation Act 1987, together with any amendment or review of any strategy or plan.
45. The Permit holder must at all times comply with all statutes, ordinances, regulations, by-laws or other enactments affecting or relating to the Land or affecting or relating to the Mining and Mining operations including the Health and Safety in Employment Act 1992, the Forest and Rural Fires Act 1977, the Hazardous Substances and New Organisms Act 1996, and the Conservation Act 1987 and all Acts included in its First Schedule.
46. The Permit holder must comply with all conditions contained in this Access Arrangement and within three working days of a request in writing by the Minister supply the Minister with such evidence.
47. A breach or contravention by the Permit holder of any legislation affecting or relating to the Land or affecting or relating to the Mining and Mining operations will be deemed to be a breach of this Access Arrangement.
48. The Permit holder must only operate within the boundaries of the Land.
49. The Permit holder must not use any Land subject to this Access arrangement for any purposes other than those specified in this Access arrangement. Unless otherwise authorised by this Access arrangement, or otherwise approved by the Minister, the Permit holder will not erect, install or operate anything on the Land other than that described in the approved Annual Work Programme or any other approved plans submitted in accordance with Condition 6(b).

50. The headings set out in this Access arrangement have been inserted for convenience and will not in any way limit or govern the construction of this Access arrangement.
51. Nothing in this access arrangement including Special Conditions in the Second Schedule will prevent the Minister from participating in any statutory process in respect to any matter relating to Mining and Mining operations in or on the Land defined in this Access arrangement.
52. If any conditions attached to any resource consent obtained by the Permit holder are in the opinion of the Minister inconsistent with this Access arrangement the Minister may review the provisions of this Access arrangement and this Access arrangement may be varied accordingly.
53. If, in the opinion of the Minister, the Mining and Mining operations of the Permit holder its directors, employees, servants, agents, contractors, assignees or Tributer are having, or may have an adverse effect on the environment and the Minister is of the opinion that the effect can be avoided, remedied or mitigated to an extent satisfactory to the Minister, the Minister may suspend the Access Arrangement until the Permit holder remedies avoids or mitigated the adverse impact to the satisfaction of the Minister.
54. The Minister may suspend the Access Arrangement while the Minister or any other enforcement agency investigates any of the circumstances contemplated in Condition 53. The Minister may also suspend this Access Arrangement while the Minister or any other enforcement agency investigates any:
- a) Potential breach of the terms and conditions of this Access Arrangement; or
 - b) Possible offence by the Permit holder, its directors, employees, servants, agents, contractors, assignees or Tributer under the Crown Minerals Act 1991; Conservation Act 1987, or any of the Acts listed in First Schedule of that Act; or
 - c) Possible offence by the Permit holder, its directors, employees, servants, agents, contractors, assignees or Tributer under the other Act relevant to the Mining and Mining operations.
55. The Minister may suspend this Access Arrangement for such period as the Minister determines where the Minister is of the opinion the Permit holder has breached any term of this Access Arrangement.
56. If, in the opinion of the Minister, the Mining and Mining operations of the Permit holder or its Tributer are having, or may have an adverse effect on the natural, historic or cultural values of the Land, which are not permitted by this Access Arrangement and could not have reasonably been foreseen, the Minister may:

- a) Suspend the Access Arrangement until the Permit holder remedies or mitigates such adverse effects to extent satisfactory to the Minister; and/or
 - b) Review the conditions of this Access Arrangement and impose any further conditions necessary to avoid, remedy or mitigate such adverse effects; and/or
 - c) Call on the Bond required under condition 19 or any portion thereof to ensure such adverse effects which have occurred are remedied or mitigated.
57. Any temporary suspension may, at the sole option of the Minister be either in whole or in part, and be either immediate or after such time as the Minister allows. Advice of such suspension may be given to the Permit holder wither verbally (followed by a written confirmation as soon as is reasonably practicable) or by notice in writing.
58. During any period of suspension all Mining or Mining operations on the Land must cease, other than activities necessary for the purposes of saving or protecting life or health, or preventing serious damage to property or avoiding and actual or likely adverse effect on the environment. The Permit holder will remain responsible for the health and safety, and the environmental protection of the Land, and will continue to have access to the land for these purposes during the term any suspension, subject to any directions issued by the Minister. The Permit holder will remain liable for all fees and payments requires to be paid under this Access Arrangement during the term of any suspension.
59. The Minister will not be liable to the Permit holder for any losses sustained by the Permit holder by reason of the suspension of the Access Arrangement under Condition 53 to 56 including loss of profits or consequential loss.
60. The Permit holder must pay in full immediately and on demand all costs and fees (including solicitor's costs and fees of debt collection agencies engaged by the Minister) arising out of and associated with steps taken by the Minister to enforce or attempt to enforce the Minister's right and powers under this Access Arrangement including the right to recover outstanding money owed to the Minister.
61. Any failure by the Minister to exercise any right or power under this Access Arrangement does not operate as a waiver and the single or partial exercise of any right or power by the Minister does not preclude any other or further exercise of that or any other right or power by the Minister

Signed for and on behalf of
the Minister of Conservation
by **Robert Dickson**
Operations Manager
Buller District Office
Department of Conservation,
pursuant to a written delegation
from the Minister of
Conservation under
the Crown Minerals Act 1991

[Signature]

in the presence of

s.9(2)(a)

Allannah Turner

Personal Assistant

HORITIKA

Signed by **SOLID ENERGY NEW ZEALAND LIMITED**

(the Permit holder)

(Subject to Deed of Company Arrangement)

By:

s.9(2)(a)

Director

Authorised Signatory (CEO)

Director

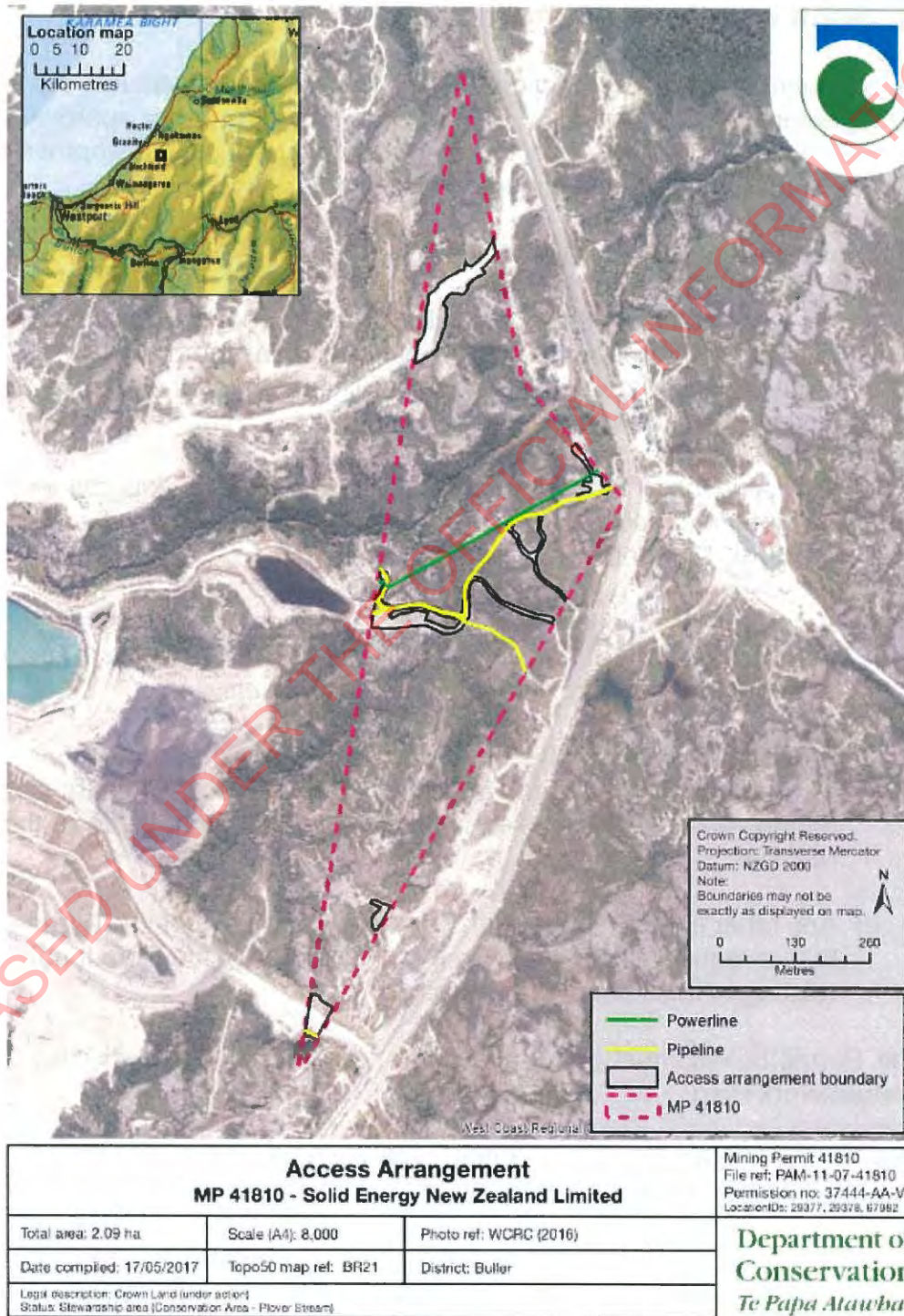
in the presence of

s.9(2)(a)

ROBERT JOHN PAGE
SOLICITOR
CHRISTCHURCH

FIRST SCHEDULE

The Permit holder, subject to the conditions contained in this Access arrangement, will have access to 2.09ha of public conservation land contained within Mining Permit 41810 located in the Stockton Plateau and identified on the plan attached to the First Schedule of this Access Arrangement.



SECOND SCHEDULE

SPECIAL CONDITIONS: ACCESS ARRANGEMENT FOR MINING PERMIT 41 810

NOTE: These conditions are in addition to the conditions in the main body of the access arrangement and do not in any way affect the generality of those conditions.

ANNUAL WORK PROGRAMME CONDITIONS

62. Before undertaking any Mining or Mining operations under this Access arrangement, the Permit holder will submit to the Minister for approval the first Annual Work Programme and therefore annually submit for approval a new Work Programme for the succeeding 12-month period.

The Annual Work Programme will include:

- a) A recent aerial photograph or plan at an appropriate scale showing the Mining permit boundary and the conservation land boundary and the location of all proposed Mining and Mining operations for the forthcoming 12 months.
- b) A description of all Mining related activities including operations, mitigation measures, monitoring and reporting carries out in the previous 12 months.
- c) A detailed description of all Mining operations, mitigation measures, monitoring and reporting intended to be carried out in the 12 next months with an approximate timetable of events.
- d) A description and analysis of any unexpected adverse effects on the environment that has arisen as a result of activities within the last 12 months and the steps taken to mitigate or remedy any effects that resulted.
- e) Any other information required by other conditions of this agreement or that is required by any resource consent held by the Permit holder relating to this Mining operation.

63. The Permit holder must undertake all work in accordance with the approved Annual Work Plan.
64. The Permit holder may, at any time, submit to the Minister for approval an amended Annual Work Programme.

OTHER CONDITIONS

Stormwater

65. The Permit holder must control on-site stormwater runoff to comply with the requirements of the Resource Management Act 1991 at all times.

Rehabilitation

66. The Permit holder must submit to the Minister for approval a Rehabilitation Plan no less than 6 months prior to either, this agreement expiring, or the Permit holder no longer requiring use of the Land, whichever occurs first. The Rehabilitation Plan must include:
- (a) A description of how the Land will be recontoured, and the final lay of the Land.
 - (b) A description of the plant species to be planted and the number of plants proposed to be planted.
 - (c) A description of stormwater flow paths from the final Land contour, and how whether or not any measures are proposed to treat the stormwater.
 - (c) Measures proposed to control weeds, and proposed monitoring frequencies of the site to assess whether or not any weed invasion has occurred post use of the Land.
67. That the power line and pipeline structures must be removed when they are no longer required or at the expiry of this Access arrangement and the area rehabilitated. This is to include reshaping of the land, the spreading of soil or non-acid forming overburden material as a rooting medium to a minimum of 10cm deep on disturbed areas, and the planting of native species suitable to the plateau environment.

Dogs

68. The Permit holder must not take any dog or other domestic animal on to the Land unless written approval from the Minister has been obtained.

Weed and Pest Control

69. The Permit holder must ensure that all plant and equipment to be used for Mining and Mining operations on the Land permitted for by this Access arrangement are as far as practicable, clean and free of any exotic weed and seed material prior to entry on to the Land; and
70. The Permit holder must ensure that areas adjacent to the road (Millerton haul road) will have ongoing weed control, and will comply with any reasonable

direction of the Minister regarding such weed control, throughout the term of the access arrangement.

Removal of Material

71. The Permit holder must not store or dump any materials on the Land, unless the Minister has given prior written approval for the item(s) to be present.

Berms

72. The construction of berms must be to the minimum size required to fulfil their safety purposes and where possible will avoid areas of existing indigenous vegetation.

Historic sites

73. That sites containing remains of previous mining in the area be avoided as far as practicable.
74. Upon the discovery of any historical or archaeological object or artefact not authorised for destruction, damage or modification by Heritage New Zealand Pouhere Taonga, the Permit holder shall immediately cease Mining or Mining operations and protect from damage any such object or artefact, and shall forthwith notify the Minister. Conditions protecting the historical or archaeological object or artefact, shall be defined by the Minister and/or Heritage New Zealand Pouhere Taonga, and must be adhered to by the Permit holder.
75. The Permit holder will be required to record the location and details of any historic site and object/artefact found on, in or under the Land. The Permit holder will protect from damage any historic site and object/artefact, and contact the Department on finding any such sites and objects/artefacts.

Storage and Structures

76. The Permit holder must not erect/place on the Land any sheds, containers or similar structures unless the prior written approval from the Minister has been obtained.

Didymo

77. The Permit holder must comply with all guidelines and notices put out by Biosecurity New Zealand regarding measures to avoid spreading the pest organism *Didymosphenia geminata* and any other pest organism identifies during the term of this Access Arrangement. Refer to www.biosecurity.govt.nz

Cultural Sites

78. The Permit holder will be required to record the location and details of any cultural site and/or object/artefact found on, in or under the Land including

Koiwi Tangata (human bones) or Toanga (artefacts/middens). On finding such site or object/artefact the Permit holder will cease work immediately and contact:

(a) the Department; and

(b) Te Rūnanga o Ngāti Waewae Chairperson, Ph. 0508 786 2642, email: s.9(2)(a) and/or

(c) Tumuaki, Te Runanga o Makaawhio, Level 1, 99 Revell St, PO Box 225, Hokitika 7842, Ph 03 755 7885, Fax 03 755 6885.

RELEASED UNDER THE OFFICIAL INFORMATION ACT



Wildlife Act Authority for wildlife on non-public conservation land

Authorisation Number: 59847-FAU

THIS AUTHORITY is made this 27th day of July 2017

PARTIES:

The Director-General of Conservation and where required the Minister of Conservation (the Grantor)
AND

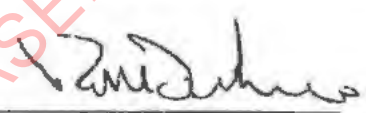
BT Mining Limited (the Authority Holder)

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 Conservation 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 under the Conservation legislation the Grantor **AUTHORISES** the Authority Holder under Section 53 of the Wildlife Act 1953 together with the right to exercise this Authority on the Land subject to the terms and conditions contained in this Authority and its Schedules.


SIGNED on behalf of the Grantor by Robert DICKSON, Operations Manager, Westport acting under delegated authority

in the presence of:

s.9(2)(a)

Witness Signature

SIGNED by BT Mining Limited by

s.9(2)(a)

Jason HUNGERFORD CRAIG JOHN
Director PILCHER

s.9(2)(a)

Richard John TACON
Director

Witness Name: <u>Penelope Davis</u>	<div data-bbox="837 246 1129 407" style="background-color: black; color: red; font-size: small;">s.9(2)(a)</div>
Witness Occupation: <u>Administration</u>	Andrew Van TALLJANCICH Director <div data-bbox="890 436 981 470" style="background-color: black; color: red; font-size: small;">s.9(2)(a)</div>
Witness Address: <u>Westport</u>	<div data-bbox="810 474 1236 560" style="background-color: black;"></div> Russell Lee Scott MIDDLETON Director <div data-bbox="938 571 1029 604" style="background-color: black; color: red; font-size: small;">s.9(2)(a)</div>
	<div data-bbox="837 609 1177 716" style="background-color: black;"></div> Milan Daniel TALLJANCICH Director

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><u>Part 1 - Protected wildlife to which this Authority applies</u></p> <ul style="list-style-type: none"> a. Great spotted kiwi, rorua, (<i>Apteryx haastii</i>) b. Native lizards c. Giant weta (<i>Deinacrida</i> sp.), stag beetles (<i>Geodorcus</i> sp.), land snails (<i>Powelliphanta patrickensis</i>) d. Other protected invertebrates e. Other protected species <p>("Protected Wildlife")</p> <p><u>Part 2 - Works</u></p> <p>2.1 This Authority allows for the Authorised activities to be undertaken during the removal of vegetation, soil, substrate and/or bedrock in the Authorised Site.</p> <p>("the Works")</p> <p><u>Part 3 - Authorised Activities</u></p> <p>3.1 Searching, capture and handling of <i>P. patrickensis</i> snails for the purposes of snail recovery, translocation, re-location and monitoring.</p> <p>3.2 Surveying, capture and handling of rorua for the purposes of monitoring and where appropriate, translocation of eggs, chicks and adults.</p> <p>3.3 Handling, capture and translocation of native lizards incidentally encountered during the Works.</p> <p>3.4 Handling, capture and translocation of giant weta incidentally encountered during the Works.</p> <p>3.5 Incidental disturbance and killing of the Protected wildlife during the Works, where the Protected wildlife still remain.</p> <p>("the Authorised Activities")</p>
2.	<p>The Land (Schedule 2, clause 2)</p>	<p>The area of Mining Permit 41-515 as indicated on the Attached map (map ID 23550)</p> <p>Crown Land: SO 161, Section 3 SO 14927, Section 1 SO 14250 of Block X Kawatiri Survey District.</p>
3.	<p>Personnel authorised to undertake the Authorised Activity (Schedule 2, clause 3)</p>	<ul style="list-style-type: none"> 1. For snail searches and handling, all field staff must be trained and directed by experienced snail surveyors approved by the West Coast Tai Poutini Conservator. 2. For rorua, all field staff undertaking those parts of Authorised activities that involve the disturbing,

		handling, marking or translocation of any roeroa at any life stage must be approved by the West Coast Tai Poutini Conservator.
4.	Term (Schedule 2, clause 4)	Commencing on and including 1 August 2017 and ending on and including 28 February 2022
5.	Authority Holder's address for notices (Schedule 2, clause 8)	The Authority Holders address in New Zealand is: Level 12 Willeston Street Wellington 6011 New Zealand Phone: 027 587 8852 Email: s.9(2)(a)
6.	Grantor's address for notices	The Grantor's address for all correspondence is: permissionshamilton@doc.govt.nz Level 3 73 Rostrevor Street Hamilton 3240

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 The Authority Holder must contact the Department of Conservation's local liaison or Area Manager prior to carrying out the Authorised Activity in the Area or provide a detailed itinerary prior to undertaking the activity.

2.3 The Authority Holder and Authorised Personnel must carry a copy of this Authority with them at all times while carrying out the Authorised Activity.

2.4 Unless expressly authorised by the Grantor in writing, the Authority Holder must not donate, sell or otherwise transfer to any third party any material, including any genetic material, or any material propagated or cloned from such material, collected under this Authority. Notwithstanding the preceding constraint, the Authority Holder may publish authorised research results.

2.5 The Authority Holder must lodge holotype specimens and a voucher specimen with a recognised national collection any taxon, which is new to science. The Authority Holder must immediately notify the Grantor of any such finds.

3. Who is authorised?

3.1 Only the Authority Holder and the Authorised Personnel described in Schedule 1, Item 3 may be involved in carrying 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 and requisitions of any competent authority relating to the conduct of the Authorised Activity. Without limitation, this includes the Conservation Act and the Acts listed in the First Schedule of that Act and the Health and Safety in Employment Act.

7.2 The Authority Holder must comply with all reasonable notices and directions of the Grantor relating to the conduct of the Authorised Activity.

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 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, the Grantor must give the Authority Holder 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

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, fax, 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 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.

10.2 If the Authorised Holder's details specified in Schedule 1, Item 5 change then the Authorised Holder must notify the Grantor within 5 working days of such change.

11. What about the payment of costs?

11.1 The Authorised 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. Are there any Special Conditions?

12.1 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.

SCHEDULE 3

SPECIAL CONDITIONS

1. Use of materials/future use/disposal.

All material collected remains the property of the Crown. The Authority Holder must comply with any reasonable request from the Grantor for access to any collected material.

The Authority Holder must store any surplus material until such time as the Authority Holder has consulted with the Grantor and the Grantor has issued a direction relating to the future use and/or ultimate disposal of such material.

2. Progress/final reports

If the Grantor so requests, the Authority Holder must keep the Grantor and Te Runanga o Ngati Waewae informed on the progress of these Authorised Activities. Upon completion of the Activities, the Authority Holder must forward a copy of the research findings, reports and publications to the Grantor. The Authority Holder acknowledges that the Grantor may provide copies of these findings to Te Runanga o Ngati Waewae.

Contact details for Te Runanga o Ngati Waewae: s.9(2)(a)

3. Reporting requirements

- a. The Authority Holder must report on all surveys for rorua, *Powelliphanta*, lizards and giant weta to the Grantors, Buller *Kawatiri* Area Office for surveys in that area annually on 30 August each year for all survey work undertaken up to 30 June of each year

The information provided must include:

- survey area/location (including a map)
- general description of the vegetation in the survey area
- size of area surveyed
- dates and times of survey
- location of transects/survey tracks
- total time spent on the survey
- personnel involved (the number of people involved and the names of personnel)
- number of rorua, *Powelliphanta*, lizards and giant weta found and the GPS coordinates for each of these including the new location of relocated individuals
- weather conditions during the survey

- b. The Authority Holder must provide a report to the Buller *Kawatiri* Area Office of any translocations of kiwi, chicks or eggs undertaken under this Authority at the time of the translocation.

4. Collection methods and holding conditions

A. *Powelliphanta patrickensis*

Context: *P. patrickensis* snails are known to occur in parts of and adjacent to the Authorised Site. The Works are likely to impact on the snails and their populations through killing and damage to individuals, and habitat disturbance and destruction.

Conditions: The Authorised Activities set out in schedule 1, item 1, part 3 and 3.1

- A1. Actions to avoid, remedy and mitigate direct effects on *P. patrickensis* from the Works must be undertaken as described in the Cypress Mine *Powelliphanta patrickensis* Management Plan ('the *P. patrickensis* Management Plan'). The *P. patrickensis* Management Plan is limited to and must detail the following actions with regard to *P. patrickensis*: snail recovery from the area of the Works, translocation to destination areas, re-location of snails into the rehabilitated mine area and monitoring.
- A2. The *P. patrickensis* Management Plan must only be implemented by the Authority Holder once it has been approved by the West Coast Tai Poutini Conservator. The Authority Holder must comply, at all times, with the approved *P. patrickensis* Management Plan. Any breach by the Authority Holder of the approved *P. patrickensis* Management Plan shall be deemed a breach of this Authority.
- A3. The West Coast Tai Poutini Conservator may vary the *P. patrickensis* Management Plan. Any such variation shall be limited to those actions listed in condition A1 above.

B. *P. patrickensis* habitat protection

Context: Due to the unknown success of translocations, habitat protection is required to minimise the impacts on *P. patrickensis* by the Works, as specified in the following conditions.

Conditions

- B1. All Works must be located in already disturbed areas, where practical.
- B2. The footprint of all the Works must be kept to the absolute minimum required.
- B3. Habitat degradation in areas adjacent to the Works caused by the Works must be minimised (for example, sediment run-off, spread of dust and debris and introduction of weed species). The methods to minimise habitat degradation in adjacent areas must include control of weeds.
- B4. Field staff must minimise trampling of habitat in areas adjacent to the Works by walking on bare ground or rock, where practical.

C. Rorua

Context: Rorua are known to be present in parts of and adjacent to the Authorised Site. Rorua are territorial and sensitive to disturbance. The Works cannot feasibly avoid rorua territories or the rorua breeding season; consequently, some individual rorua will lose a proportion of their territory and any nests within and immediately adjacent to the sites being disturbed may be abandoned or destroyed, resulting in the loss of eggs and very young chicks.

Conditions: The Authorised Activities set out in schedule 1, item 1, part 3 and 3.2

- C1. Actions to avoid, remedy and mitigate effects on rorua from the Works must be undertaken as described in the Cypress Mine Kiwi Management Plan ('the Kiwi Management Plan'). The Kiwi Management Plan is limited to and must detail the following actions with regard

to roroa: surveying, monitoring, capture, handling and translocation of eggs, chicks and adults.

- C2. The actions in the Kiwi Management Plan must meet the standards outlined in the:
- Kiwi Best Practice Manual
 - National BNZ Operation Nest Egg (ONE) best practice protocols as documented in the Egg Candling Course
 - National BNZ Operation Nest Egg (ONE) Translocation Plan for Kiwi
 - Great spotted kiwi from Cypress Mine to Rotoiti Mainland Island Proposal (McLennan, 2011)
 - Other actions as approved and as directed by the West Coast *Tai Poutini* Conservator.
- C3. The Kiwi Management Plan must only be implemented by the Authority Holder once it has been approved by the West Coast *Tai Poutini* Conservator. The Authority Holder must comply, at all times, with the approved Kiwi Management Plan. Any breach by the Authority Holder of the Approved Kiwi Management Plan shall be deemed a breach of this Authority.
- C4. The West Coast *Tai Poutini* Conservator may vary the Kiwi Management Plan. Any such variation shall be limited to those actions listed in condition C1 and C2 above.
- C5. All roroa survey, monitoring and management techniques that result in significant disturbance of birds such as capture and handling must occur during March to May to avoid the breeding season. Any such disturbance that is required during the breeding season must occur only with the permission of the West Coast *Tai Poutini* Conservator.
- C6. Any reference to roroa chicks under 550g is varied to refer to chicks under 850g. and are to be treated under the conditions in the Authority referring to "chicks".

D. Lizards

Context: Upwards of four native species of lizard are known from the general Stockton/Ngakawau/Waimangaroa region and are possibly present in the Authorised Site. Any lizards present would be affected by habitat loss or could be injured or crushed.

Conditions: The Authorised Activities set out in schedule 1, item 1, part 3 and 3.3

- D1. Any lizard encountered in habitats that are to be disturbed by the Works shall be captured and transferred out of harms way.
- D2. Lizards must be searched for in those habitat 'hotspots' that shall be disturbed by the Works that are the most likely to hold lizards and where lizards are most easily found and captured. These habitat 'hotspots' include rock jumbles, scree, other areas where lizards are known to occur and areas where lizards have been encountered in the past.
- D3. Artificial retreats may be established to increase the likelihood of lizards being detected and captured.
- D4. The search method and intensity for the area to be disturbed must be agreed in consultation with the West Coast *Tai Poutini* Conservator.
- D5. Handling must be kept to an absolute minimum and all lizards must be treated carefully to minimise stress during capture and handling.
- D6. The hands of lizard surveyors must be clean and free from contaminants such as insect

repellent, sunscreen and fuel.

- D7. Two litre containers with perforated lids that allow airflow but not the animal to escape shall be used to transport all lizards. The containers shall be clean and contain damp litter 60mm deep collected from where the lizard was located. A maximum of one lizard shall be placed in each container. The container must be kept cool at all times.
- D8. With the exception of lizards sent away for identification, all lizards shall be released as soon as practical following capture and on the same day as they were captured in areas of comparable habitat, at least 500m but no more than 1000m from the edge of the disturbed area.
- D9. Any lizard captured that is not obviously able to be identified to species level shall be forwarded to the Buller *Kawatiri* Area Office on the same day of capture for identification.
- D10. Should any lizard die, the specimen should be retained, stored in a refrigerator and forwarded to the Buller *Kawatiri* Area Office at the earliest opportunity.

E. Giant weta and Protected invertebrates

Context: The invertebrate fauna of the Stockton-Denniston Plateaux is not well understood. Giant weta (*Deinacrida* sp.) and stag beetles (*Geodorcus*) could be present in parts of the area. These would be at risk of habitat loss and of being injured or crushed by the Works.

Conditions: The Authorised Activities set out in schedule 1, item 1, part 3, 3.4 and 3.5

- E1. Any protected invertebrates found during the Works must be captured and forwarded to the Buller *Kawatiri* Area Office within 24 hours for identification. Giant weta must be housed individually in containers labelled with the capture location coordinates and date.
- E2. All protected invertebrates must be handled carefully, with hands free from contaminants (insect repellent, sunscreen and fuel). Handling must be kept to an absolute minimum.
- E3. Two litre containers with perforated lids that allow airflow but not the animal to escape must be used to transport giant weta and other protected invertebrates. The containers must be clean and contain damp litter 60mm deep (collected from where the invertebrate was located). Containers must be kept cool at all times.
- E4. When requested by the Department of Conservation, the captured invertebrates must be collected from the Buller *Kawatiri* Area Office and released at a translocation site as directed.
- E5. All due care must be taken to minimise stress to protected invertebrates during capture and handling. Should any protected invertebrates die, the specimen should be retained, stored in a refrigerator and forwarded to the Buller *Kawatiri* Area Office at the earliest opportunity.

F. Protected Species Translocation via Vegetation Direct Transfer

Context: Vegetation Direct Transfer (VDT) represents a form of translocation for all relatively immobile animals present in the material. *Powelliphanta* snails are known to survive the VDT process and this is likely also to be the case for lizards and giant weta. The conditions for VDT aim to maintain, as much as practical, existing biogeographic and genetic patterns of the animal populations.

Conditions: The Authorised Activities set out in schedule 1, item 1, part 3 and 3.1

- F1. All VDT material must be placed on a suitable rehabilitation surface on the Stockton

Plateau as close as possible to the source location.

- F2. VDT material must not be placed within 1km of currently known *Powelliphanta augusta* habitat and should be placed south of Fly Creek as much as possible.

5. Public Information

If approached by members of the public while carrying out the Authorised Activity, the Authority Holder must provide an appropriate explanation why the Authorised Activity is taking place.

RELEASED UNDER THE OFFICIAL INFORMATION ACT



Wildlife Act Authority for wildlife on non-public conservation land

Authorisation Number: 59849-FAU

THIS AUTHORITY is made this 27th day of July 2017

PARTIES:

The Director-General of Conservation and where required the Minister of Conservation (the Grantor)
AND

RT Mining Limited (the Authority Holder)

BACKGROUND:

- A. The Director General of Conservation is empowered to issue authorisations under the Wildlife Act 1953.
- B. The Authority Holder wishes to exercise the authorisation on the Land subject to the terms and conditions of this Authority.

OPERATIVE PARTS

In exercise of the Grantor's powers under the Conservation legislation 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.

SIGNED on behalf of the Grantor by Robert DICKSON, Operations Manager, Westport acting under delegated authority

in the presence of:

s.9(2)(a)

Witness Signature

Penelope Davis

Witness Name:

Witness

Occupation: Administration

SIGNED by RT Mining Limited by

s.9(2)(a)

~~Jason HUNGERFORD~~ CRAIG JOHN PILCHER
Director

s.9(2)(a)

Richard John TACON
Director

s.9(2)(a)

Andrew Ivan TALBANCHIK
Director

<p>Witness Address: <u>Westport</u></p>	<p>s.9(2)(a)</p> <p>Milan Daniel TALLJANCICH Director</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>	

s.9(2)(a)

Russell Lee Scott MIDDLETON
Director

RELEASED UNDER THE OFFICIAL INFORMATION ACT

SCHEDULE 1

1.	Authorised activity (including the species, any approved quantities and collection methods). (Schedule 2, clause 2)	Renewal of permit 31586 to disturb or kill wildlife associated with proposed vegetation clearance associated with a mining permit in the Upper Waimangaroa valley. Vegetation clearance is proposed in relation to pedestrian access tracks, up to 10 pump sites, over-ground water pipes between adjacent streams and drill sites and drill sites - up to 100 sites. The previous permit expired on 30 th September 2014.
2.	The Land (Schedule 2, clause 2)	Upper Waimangaroa Valley
3.	Personnel authorised to undertake the Authorised Activity (Schedule 2, clause 3)	Authority Holder
4.	Term (Schedule 2, clause 4)	Commencing on and including 1 August 2017 and ending on and including 31 December 2025
5.	Authority Holder's address for notices (Schedule 2, clause 8)	The Authority Holders' address in New Zealand is: Level 12 Willeston Street Wellington 6011 New Zealand Phone: 027 587 8852 Email: s 9(2)(a)
6.	Grantor's address for notices	The Grantor's address for all correspondence is. permissionshamilton@doc.govt.nz Level 3 73 Rostrevor Street Hamilton 3240

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 in the Location(s) described in Schedule 1, Item 2.
- 2.2 The Authority Holder must advise the Department of Conservation's local District Partnership Manager(s) one week prior to carrying out the Authorised Activity in the District, when the Authority Holder intends to carry out the Authorised Activity.
- 2.3 The Authority Holder must obtain land owner approval before exercising this Authority.
- 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 Unless expressly authorised by the Grantor in writing, the Authority Holder must not donate, sell or otherwise transfer to any third party any material, including any genetic material, or any material propagated or cloned from such material, collected under this Authority. Notwithstanding the preceding constraint, the Authority Holder may publish authorised research results.
- 2.6 The Authority Holder must lodge holotype specimens and a voucher specimen with a recognised national collection any taxon, which is new to science. The Authority Holder must immediately notify the Grantor of any such finds.

3. Who is authorised?

- 3.1 Only the Authority Holder and the Authorised Personnel described in Schedule 1, Item 3 may be involved in carrying 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 liabilities?

- 5.1 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.

5.2 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.

5.3 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.

6. What about compliance with legislation and Grantor's notices and directions?

6.1 The Authority Holder must comply with all statutes, bylaws and regulations, and all notices and requisitions of any competent Authority relating to the conduct of the Authorised Activity. Without limitation, this includes the Conservation Act and the Acts listed in the First Schedule of that Act and the Health and Safety in Employment Act.

6.2 The Authority Holder must comply with all reasonable notices and directions of the Grantor relating to the conduct of the Authorised Activity.

7. When can the Authority be terminated?

7.1 The Grantor may terminate this Authority at any time in respect of the whole or any part of 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.

7.2 If the Grantor intends to terminate this Authority in whole or in part, the Grantor must give the Authority Holder 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 in the circumstances.

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

8.1 Any notice to be given under this Authority by the Grantor is to be in writing and made by personal delivery, fax, 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 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.

8.2 If the Authorised Holder's details specified in Schedule 1, Item 5 change then the Authorised Holder must notify the Grantor within 5 working days of such change.

9. What about the payment of costs?

9.1 The Authorised 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.

10. Are there any Special Conditions?

10.1 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.

RELEASED UNDER THE OFFICIAL INFORMATION ACT

SCHEDULE 3

SPECIAL CONDITIONS

Property of the Crown

1. All material collected remains the property of the Crown. This includes any dead wildlife, live wildlife, any parts thereof and any eggs or progeny of the wildlife. This includes any genetic material and any replicated genetic material. The Authority Holder must comply with any reasonable request from the Grantor for access to any collected material.

Private land

2. This Authority does not confer any right of access over any private land; or public conservation land leased by the Grantor (unless specified in the Authorised Activity). Any arrangements necessary for access over private land or leased land are the responsibility of the Authority Holder. In granting this Authority the Grantor does not warrant that such access can be obtained.

Death of wildlife associated with activities covered by the authority

3. All wildlife handled during the Authorised Activity must be handled using accepted best practice and as carefully as possible, but if any Threatened, At Risk or Data Deficient species (see NZ Threat Classification System and Lists: <http://intranet/our-work/biodiversity-and-natural-heritage/threatened-species/nz-threat-classification-system/>) should die, the body must be sent to Massey University Wildlife Post Mortem Service for necropsy, along with details of the animal's history.
4. The Authority Holder shall:
 - Ensure that the body is to be chilled if it can be delivered within 24 hours, or frozen if longer than 24 hours to delivery.
 - Ensure appropriate measures are taken to minimise further deaths.
 - Inform the Grantor and discuss whether it is necessary to halt all further handling until full investigations of death(s) occur.
 - Pay for any costs incurred in investigation of the death of any Threatened, At Risk or Data Deficient species.

Euthanasia

5. The Authority Holder shall not euthanize any wildlife unless the Authority Holder:
 - Consults with the Captive Management Co-ordinator (as applicable) and obtains the consent of the Grantor; or
 - Obtains the recommendation of a veterinarian where euthanasia is on animal welfare grounds; or
 - Carries out the euthanasia under direction from the Grantor and in consultation with the Captive Management Co-ordinator (as applicable).

Transportation of any Wildlife

6. Transport of wildlife must comply with the Animal Welfare (Transport within New Zealand) Code of Welfare 2011 (see <http://www.biosecurity.govt.nz/animal-welfare/codes/transport-within-nz/>).

Didymo

7. The Authority Holder must 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

Authority Holder must regularly check this website and update their precautions accordingly.

Notification of drilling

8. The Authority Holder shall notify the Northern West Coast Conservation Partnerships Manager at least one month prior to the drilling programme commencing, shown on a map and with GPS locations provided.

Reports and Results

9. The Authority Holder must report on all surveys for roroa, *Powelliphanta* sp., lizards and protected invertebrates to the Northern West Coast District Conservation Partnerships Manager for surveys in that area annually on 31 August each year, for all survey work undertaken up to 30 June of each year.

The information provided must include:

- survey area/location (including a map)
 - general description of the vegetation in the survey area
 - size of area surveyed
 - dates and times of survey
 - location of transects of survey tracks
 - total time spent on the survey
 - personnel involved (the number of people involved and the names of personnel)
 - number of roroa, *Powelliphanta* sp., lizards and protected invertebrates found and the GPS coordinates for each of these including the new location of relocated individuals
 - weather conditions during the survey
10. The Authority Holder must provide a report to the Northern West Coast District Conservation Partnerships Manager of any translocations of kiwi, chicks or eggs undertaken under this Authority at the time of the translocation.

Snail Conditions

Searching for snails

11. A diurnal search may be undertaken at any sites where the Works take place.
12. Except where habitat is to be destroyed, all searching must minimise damage to the vegetation cover. At the completion of the search, all the litter and vegetation that has been pushed aside must be carefully returned to where it came from.
13. Travel through search areas and adjacent areas must minimise trampling by such means as avoiding standing on sensitive vegetation and where the option exists, walking on bare rock surfaces.

Handling and transporting snails

14. Any live snails and snail eggs found during searching or incidentally during the Works must be captured for translocation to a destination area.
15. All snails must be handled carefully by staff, with hands free from contaminants (e.g. fuel). Handling must be kept to an absolute minimum.
16. Two litre containers with perforated lids that allow airflow but not the animal to escape must be used to transport snails. The containers must be clean and contain damp litter

60mm deep (collected from where the snail was located). For purposes of translocation, a maximum of eight snails must be placed in an upright position (i.e. apex skyward) in each container.

17. If *Powelliphanta* eggs are found during searches, these must be collected in a manner that minimises damage, such as using a sterilized teaspoon, and placed in a container containing damp litter collected from where the eggs were located. Only one clutch of eggs must be stored in any container.
18. Containers with snails or eggs must be kept cool at all times.

Releasing snails

19. The destination area for the live snails and eggs must be in known *P. patrickensis* habitat, as confirmed by the presence of *P. patrickensis* in the area prior to translocations, and as close as possible to the source location, but have a buffer distance of at least 50m from the edge of any habitat disturbance. All live snails and eggs found must be released as soon as practical following capture, and always on the same day as they were captured.
20. Snails must be released individually and in an upright position (i.e. apex skyward) into likely snail resting places (e.g., under damp litter or moss).
21. Releases must not occur when the ground is frozen or covered in snow.

Collecting snail shells

22. All empty snail shells found must be placed in plastic bags labelled with the search block/drill hole number, GPS location of the centre point of the site and date, and provided to the Northern West Coast District Office within one week of collection. Snail shells do not require individual bags but shall be grouped together according to site.

P. patrickensis habitat protection

23. All Works must be located on already disturbed areas wherever practical. In addition, for drill sites, preference must be given to bare rock over vegetated areas and to areas with sparse or low vegetation over areas with dense or tall vegetation.
24. The impact footprint of all Works must be kept to the absolute minimum required. Staff must minimise trampling of habitat by walking on bare ground or rock where possible.
25. At the completion of the Works, all gear and debris must be removed. All holes must be filled or plugged and any soil, vegetation and cut vegetation removed for the works must be spread back over disturbed areas. This does not include areas that are known to be further disturbed within one year.
26. Habitat degradation to areas adjacent to the Works caused by the Works (for example, sediment run-off, spread of dust and debris and introduction of weed species) must be minimised. The methods to minimise habitat degradation must include control of weeds.
27. All sites that were weed-free prior to the Works commencing (as assessed by personnel approved by the Grantor) must be visited 12 months later to monitor for the presence of weeds. If any weed species are present, the Authority Holder must commence a programme of weed control until weeds are eradicated. This does not include areas that are known to be further disturbed within one year. The results from the weed

assessment and monitoring and activities and results of any subsequent weed control programme shall be included in the report to the Grantor required under condition 8.

28. If Powelliphanta snails are found on any drill sites work is to stop immediately and the Department contacted.

P. patrickensis monitoring

29. All plots established under expired permit 31586 must be monitored annually and the monitoring must take place in May. The Grantor must be informed at least 2 months prior to the planned monitoring date, in order that the Grantor's own *P. patrickensis* monitoring conducted elsewhere can also be undertaken.
30. Shells collected on the plots must be forwarded to the Northern West Coast District Office within one month of collection.
31. The results of the snail monitoring shall be included in the report to the Grantor required by condition 8.

Rorua

32. Unless otherwise stated in this authorisation, all kiwi work authorised by this authority must be undertaken using the standards outlined in the Kiwi Best Practice Manual (Robertson & Colbourne 2003).
33. Rorua may be surveyed, monitored and managed using dog survey and standard Bank of New Zealand Operation Nest Egg ("BNZONE") protocol.
34. Only personnel approved by the Grantor based on qualification and experience must be authorised to undertake rorua dog survey and egg and chick recovery.
35. Grantor approval of dog teams must be dependent on the dog and handler being fully certified through the Department's species dog certification process and on the dog and handler's ability for the task.
36. Grantor approval of rorua surveyors must be dependent on people having sufficient experience of surveying for rorua.
37. Grantor approval of personnel to collect and transport eggs and young must be dependant on people having attended the 'Egg candling for BNZ Operation Nest Egg' course and/or sufficient experience of egg and chick 'lifts'.
38. A minimum of one dog survey for nesting rorua must be completed per breeding season, prior to any works commencing that have the potential to disturb birds, at sites where the habitat is capable of providing roosting habitat for rorua. The dog survey over the site must be conducted in a systematic way so as to meet the objective of determining areas used by rorua and of identifying any roost sites. These searches should include a buffer area of 50 m of adjoining habitat to ensure any birds nesting close to the site are also located.
39. All surveys must include a buffer area out to a distance of 50m from all the edges of the site to be disturbed.
40. All burrows detected in the survey must be physically marked and mapped in such a way that they can be easily relocated and all rorua sign detected, including positive scent, probe marks, footprints, roosting and nesting birds must be recorded.

41. Every burrow detected in the dog survey must be checked for nesting activity by rorua surveyors as close as possible to, but no more than two weeks prior to any works commencing.
42. Where exceptional circumstances exist and on agreement of the Grantor, the two week maximum specified at 41 above may be varied.
43. Personnel approved by the Grantor for the collection of kiwi chicks and eggs must be present on dog and people surveys of rorua and be prepared to immediately gather eggs or young chicks if Condition 45 below is met.
44. If a rorua and/or rorua nest or shelter is found within any area to be disturbed by any Works, the location of the proposed disturbance must, where practical, be moved at least 40m.

Egg and chick collection and translocation

45. Where the area proposed to be disturbed cannot be moved at least 50m away from rorua or rorua nests, all rorua eggs and chicks up to 850g in weight to be affected by the Works, included in a buffer of 50m, must be recovered if it is assessed by the approved egg/chick collector that the risk of birds abandoning the nest is greater than the risks to eggs and chicks from collection and translocation. Where doubt exists, the Authority Holder must contact the Grantor who must determine whether eggs and/or chicks are to be recovered.
46. All rorua eggs and chicks recovered must be recovered and transported as per BNZONE protocol (Colbourne et al. 2005).
47. As soon as possible after recovery and within a maximum time as directed by the Grantor, the Authority Holder must deliver rorua eggs or chicks to Willowbank Wildlife Reserve.
48. The Authority Holder must make contact with Willowbank Wildlife Reserve at least a week prior and then again, one day prior to survey work being undertaken to ensure arrangements are in place for any eggs or chicks recovered.
49. The release location of any juvenile rorua resulting from any such recoveries must be determined by the Grantor.

All adult and juvenile birds

50. All other rorua detected in burrows immediately prior to habitat disturbance, that are directly in harms way, must be either disturbed/encouraged to move out of the area and shepherded to safe ground.

Lizards

51. Any lizards found in the course of actions authorised in this Authority must be captured and forwarded to the Northern West Coast District Office within 24 hours for identification. Lizards must be housed individually in containers labelled with the capture location coordinates and date.
52. All lizards must be handled carefully, with hands free from contaminants (e.g. fuel). Handling must be kept to an absolute minimum.

53. Two litre containers with perforated lids that allow airflow but not the animal to escape must be used to transport lizards. The containers must be clean and contain damp litter 60mm deep (collected from where the lizard was located). Containers must be kept cool at all times.
54. When requested by the Department, the captured lizards must be collected from the Northern West Coast District Office and released at a translocation site as directed.
55. All due care must be taken to minimise stress to lizards during capture and handling. Should any lizard die, the specimen should be retained, stored in a refrigerator and forwarded to the Northern West Coast District Office at the earliest opportunity.
56. With the exception of lizards sent away for identification, all lizards shall be released as soon as practical following capture and on the same day as they were captured in areas of comparable habitat, at least 500m but no more than 1000m from the edge of the disturbed area.

Weta

Capture and handling

57. Any *Deinacrida* sp. weta found in the course of actions authorised in this Authority must be captured and forwarded to the Northern West Coast District Office within 24 hours for identification. Weta must be housed individually in containers labelled with the capture location coordinates and date.
58. All *Deinacrida* sp. weta must be handled carefully, with hands free from contaminants (e.g. fuel). Handling must be kept to an absolute minimum.
59. Two litre containers with perforated lids that allow airflow but not the animal to escape must be used to transport *Deinacrida* sp. weta. The containers must be clean and contain damp litter 60mm deep (collected from where the lizard was located). Containers must be kept cool at all times.
60. When requested by the Department, the captured *Deinacrida* sp. weta must be collected from the North West Coast District Office and released at a translocation site as directed.
61. All due care must be taken to minimise stress to *Deinacrida* sp. weta during capture and handling. Should any weta die, the specimen should be retained, stored in a refrigerator and forwarded to the North West Coast District Office at the earliest opportunity.

Revocation clause

62. The Grantor may at any time revoke this Authority, or may at any time review/and or vary the conditions pertaining to this authority if any conditions contained in this Authority are breached or for any other reason that the Grantor may decide.

Variations

63. The Authority Holder may apply for variations to the Authority; this must be done by contacting the Permissions team where the original authorisation was processed.



Department of Conservation
Te Papa Atawhai

Wildlife Act Authority for wildlife on non-public conservation land

Authorisation Number: 59848-FAU

THIS AUTHORITY is made this 28th day of August 2017

PARTIES:

The Minister of Conservation And The Minister of Energy and Resources (the Grantors)

AND

BT Mining Limited (the Authority Holder)

BACKGROUND:

- A. The Director-General of Conservation is empowered to issue authorisations under the Wildlife Act 1953.
- B. The Authority Holder wishes to exercise the authorisation issued under the Wildlife Act 1953 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 71 of the Wildlife Act 1953, subject to the terms and conditions contained in this Authority and its Schedules.

SIGNED by The Minister of Conservation.

The Honourable Maggie Barry

in the presence of:

Witness Signature

Witness Name: Kayla Kingdon-Bell

Witness Occupation: Private Secretary

SIGNED by The Minister of Energy and Resources.

The Honourable Judith Collins

in the presence of:

S.9(2)(a)

Witness Signature

Witness Name: JULIE JONES

Witness Occupation: DEPT SECRETARY

<p>Witness Address: <u>Office of Hon Maggie Barry,</u> <u>Parliament Buildings, Wellington 6160</u></p>	<p>Witness Address: <u>OFFICE OF</u> <u>THE JUDITH REEDS</u> <u>PARLIAMENT BUILDINGS</u></p>
	<p>SIGNED by RT Mining Limited by s.9(2)(a) [Redacted]</p> <p><u>Craig John Pilcher</u> Tyson HENDERSON Director s.9(2)(a) [Redacted]</p> <p><u>Richard John TACON</u> Director s.9(2)(a) [Redacted]</p> <p><u>Andrew Ivan TALJANCICH</u> Director s.9(2)(a) [Redacted]</p> <p><u>Milan Daniel TALJANCICH</u> Director</p>
<p>A copy of the Instrument of Delegation may be inspected at the Director-General's office at <u>18-32 Manners Street, Wellington.</u></p>	<p>s.9(2)(a) [Redacted]</p>

RUSSEL LEE SCOTT MIDDLETON
Director

SCHEDULE 1

1.	<p>Authorised activity (including the species, any approved quantities and collection methods). (Schedule 2, clause 2)</p>	<p>Part 1 - Protected wildlife to which this Authority applies</p> <ul style="list-style-type: none"> - Powelliphanta patrickensis snail - Great Spotted Kiwi, roroa, (Apteryx haastii) - Native lizards - Giant weta (Deinacrida sp.) - Other protected bird species <p>("Protected Wildlife")</p> <p>Part 2 - Works</p> <p>This Authority allows for the Authorised activities to be undertaken during the removal of vegetation, soil, substrate and/or bedrock in the Authorised Site.</p> <p>("the Works")</p> <p>Part 3 - Authorised activities</p> <p>3.1 Searching, capture and handling of P. patrickensis snails for the purposes of snail recovery, translocation, re-location and monitoring.</p> <p>3.2 Surveying, capture and handling of roroa for the purposes of monitoring and where appropriate, translocation of eggs, chicks and adults.</p> <p>3.3 Handling, capture and translocation of native lizards incidentally encountered during the Works.</p> <p>3.4 Handling, capture and translocation of giant weta incidentally encountered during the Works.</p> <p>3.5 Incidental disturbance and killing of the Protected wildlife during the Works, where the Protected wildlife still remain.</p> <p>("the Authorised activities")</p>
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Part 4 - Reporting Requirements

4.1 Annual Report

The Authority Holder must report to the Grantors, Buller *Kawatiri* Area Office for surveys in that area annually on 31 August each year, for all survey work undertaken up to 30 June of each year. The report shall contain the following information:

Powelliphanta

A. A report on all search and translocation actions and incidental finds. Information on snail searches must include a map of the search areas, size of areas, total time spent searching (person hours), dates and times of searches, names of personnel involved and a search results spreadsheet listing the locations of all shells, live snails and eggs found. Information on translocations must include a map relating translocation and source areas, dates of capture and transfer, a spreadsheet listing the locations of all snails and eggs translocated and a description of the habitats in the source and translocation areas. Information on incidental finds must include a spreadsheet listing the date and capture and translocation locations of all live snails and eggs found. Shape files for maps and electronic copies of the spreadsheets listing capture and translocation locations must be provided.

Rorua

B. A report on all survey, monitoring and management actions taken in regards to rorua including methods, results obtained and supported by maps and shape files. The report must detail the number of times rorua were either encouraged to move away or transferred away from areas being disturbed, and the locations they were transferred to.

Lizard and Giant weta

C. A report on all finds including date and location of capture and translocation sites and names of personnel involved.

4.2 Progress Reports

The Authority Holder must report to the Buller

		Kawatiri Area Office as roroa work progresses such that the Department of Conservation is kept up to date of any issues that occur and as to the number of birds being monitored, handled and translocated. This to include each time any roroa eggs or chicks are moved from the wild to a facility or between facilities as part of BNZ Operation Nest Egg.
2.	The Land (Schedule 2, clause 2)	The Authorised site is shown in Fig. 1. <u>Conditions</u> 4.1 In the area labelled as "Destination Area", only Authorised activities 3.1 and 3.2 must be undertaken.
3.	Personnel authorised to undertake the Authorised Activity (Schedule 2, clause 3)	Field staff: 1. For snail searches and handling, all field staff must be trained and directed by experienced snail surveyors approved by the West Coast Tai Poutini Conservator. 2. For roroa, all field staff undertaking those parts of Authorised activities that involve the disturbing, handling, marking or translocation of any roroa at any life stage must be approved by the West Coast Tai Poutini Conservator.
4.	Term (Schedule 2, clause 4)	Commencing on and including 1 August 2017 and ending on and including 28 February 2022
5.	Authority Holder's address for notices (Schedule 2, clause 8)	The Authority Holder's address in New Zealand is: Level 12 Willeston Street Wellington 6011 New Zealand Phone: 027 587 8852 Email: s.9(2)(a) [REDACTED]
6.	Grantors' address for notices	The Grantors' address for all correspondence is: Level 3 73 Rostrevor Street Hamilton 3240 Email: permissionshamilton@doc.govt.nz

SCHEDULE 2

General

1. While conducting the authorised activity, the Authority Holder must carry a copy of this Authority with them at all times.
2. The Authority Holder must comply with the terms and conditions contained in this Authority at all times.
3. The Authority Holder must comply with all statutes, bylaws and regulations, and all notices and requisitions of any competent Authority relating to the conduct of the Authorised Activities, including the Health and Safety at Work Act 2015.
4. The Authority Holder must indemnify the Grantors against all claims by any person in respect of any injury, loss or damage (including fire damage) caused by or arising out of any act or omission of the Authority Holder, its servants, agents, contractors, clients or invitees, or otherwise caused as a consequence of its conduct of the Authorised Activities.
5. The Authority Holder must not transfer, sublet, assign or otherwise dispose of the interest granted by this Authority. Only field staff described in Schedule 1, Item 1 of this Authority must be involved in carrying out the Authorised Activities.
6. The Grantors may at any time review any conditions of this Authority by written notice to the Authority Holder.
7. The Authority Holder acknowledges that the West Coast *Tai Poutini* Conservator, Department of Conservation may provide copies of any findings to Te Runanga o Ngati Waewae.

Compliance monitoring

8. The Authority Holder must notify the Buller *Kawatiri* Area Office one week prior to commencing the Authorised Activity to enable Department staff to be on site and monitor the activities authorised by this Authority.
9. The Authority Holder must pay fair and reasonable costs of any Department of Conservation staff time and mileage required to monitor compliance with this Authority, to investigate any alleged breaches of the terms and conditions of this Authority.
10. If the Authority Holder breaches any of the terms of this Authority, the West Coast *Tai Poutini* Conservator, Department of Conservation, must give notice in writing to the Authority Holder to remedy the breach and, unless the Authority Holder remedies such breach or breaches within six weeks, the West Coast *Tai Poutini* Conservator, Department of Conservation, may, on one month calendar notice in writing following expiry of the six week period, terminate this Authority.

Spread of invasive species

11. The Authority Holder must comply with all guidelines and notices put out by Biosecurity New Zealand regarding measures to avoid spreading the pest organism *Didymosphenia geminata* (refer to www.biosecurity.govt.nz/didymo).

12. All catch bags must be cleaned with a viricide such as Trigene, Virkon or other similar viricide after use.

13. To prevent the spread of invasive weeds, particularly *Juncus squarrosus*, into the Authorised Site, all machinery, helicopters, equipment, footwear and clothing must be free of weed seeds, plant fragments and mud.

Note – Context statements are for information purposes only and do not derogate from this authorisation.

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SCHEDULE 3

Authorised research / collection methods

A. *Powelliphanta patrickensis*

Context: *P. patrickensis* snails are known to occur in parts of and adjacent to the Authorised Site. The Works are likely to impact on the snails and their populations through killing and damage to individuals, and habitat disturbance and destruction.

Conditions

- A1. Actions to avoid, remedy and mitigate effects on *P. patrickensis* from the Works must be undertaken as described in the Cypress Mine *Powelliphanta patrickensis* Management Plan ('the *P. patrickensis* Management Plan'). The *P. patrickensis* Management Plan is limited to and must detail the following actions with regard to *P. patrickensis*: snail recovery from the area of the Works, translocation to destination areas, re-location of snails into the rehabilitated mine area and monitoring.
- A2. The *P. patrickensis* Management Plan must only be implemented by the Authority Holder once it has been approved by the West Coast *Tai Poutini* Conservator. The Authority Holder must comply, at all times, with the approved *P. patrickensis* Management Plan. Any breach by the Authority Holder of the approved *P. patrickensis* Management Plan shall be deemed a breach of this Authority.
- A3. The West Coast *Tai Poutini* Conservator may vary the *P. patrickensis* Management Plan. Any such variation shall be limited to those actions listed in condition A1 above.
- A4. The destination area for snails translocated must be in the marked 'Destination area' shown in Fig. 1 below.

B. *P. patrickensis* habitat protection

Conditions

- B1. All Works must be located in already disturbed areas, where practical.
- B2. The footprint of all the Works must be kept to the absolute minimum required.
- B3. Habitat degradation in areas adjacent to the Works caused by the Works must be minimised (for example, sediment run-off, spread of dust and debris, and introduction of weed species). The methods to minimise habitat degradation in adjacent areas must include control of weeds.
- B4. Field staff must minimise trampling of habitat in areas adjacent to the Works by walking on bare ground or rock, where practical.

C. *Rorua*

Context: *Rorua* are known to be present in parts of and adjacent to the Authorised Site. *Rorua* are territorial and sensitive to disturbance. The Works cannot feasibly avoid *rorua* territories or the *rorua* breeding season; consequently some individual *rorua* will lose a proportion of their territory and any nests within and immediately adjacent to the sites being disturbed may be abandoned or destroyed, resulting in the loss of eggs and

very young chicks.

Conditions

- C1. Actions to avoid, remedy and mitigate effects on rorua from the Works must be undertaken as described in the Cypress Mine Kiwi Management Plan ('the Kiwi Management Plan'). The Kiwi Management Plan is limited to and must detail the following actions with regard to rorua: surveying, monitoring, capture, handling and translocation of eggs, chicks and adults.
- C2. The actions in the Kiwi Management Plan must meet the standards outlined in the:
- Kiwi Best Practice Manual
 - National BNZ Operation Nest Egg (ONE) best practice protocols as documented in the Egg Candling Course
 - National BNZ Operation Nest Egg (ONE) Translocation Plan for Kiwi
 - Great spotted kiwi from Cypress Mine to Rotoiti Mainland Island Proposal (McLennan, 2011)
- C3. The Kiwi Management Plan must only be implemented by the Authority Holder once it has been approved by the West Coast *Tai Poutini* Conservator. The Authority Holder must comply, at all times, with the approved Kiwi Management Plan. Any breach by the Authority Holder of the Kiwi Management Plan shall be deemed a breach of this Authority.
- C4. The West Coast *Tai Poutini* Conservator may vary the Kiwi Management Plan. Any such variation shall be limited to those actions listed in condition C1 above.
- C5. All rorua survey, monitoring and management techniques that result in significant disturbance of birds such as capture and handling must occur outside of the breeding season. Any such disturbance that is required during the breeding season must occur only with the permission of the West Coast *Tai Poutini* Conservator.
- C6. Any reference to rorua chicks under 550g is varied to refer to chicks under 850g and are to be treated under the conditions in the Authority referring to "chicks".

D. Lizards

Context: Upwards of four native species of lizard are known from the general Stockton/Ngakawau/Waimangaroa region and are possibly present in the Authorised Site. Any lizards present would be affected by habitat loss or could be injured or crushed.

Conditions

- D1. Any lizards found incidentally during the Works must be captured and forwarded to the Buller *Kawatiri* Area Office within 24 hours for identification. Lizards must be housed individually in containers labelled with the capture location coordinates and date.
- D2. All lizards must be handled carefully, with hands free from contaminants (e.g. fuel). Handling must be kept to an absolute minimum.
- D3. Two litre containers with perforated lids that allow airflow but not the animal to

escape must be used to transport lizards. The containers must be clean and contain damp litter 60mm deep (collected from where the lizard was located). Containers must be kept cool at all times.

- D4. When requested by the Department of Conservation, the captured lizards must be collected from the Buller *Kawatiri* Area Office and released at a translocation site as directed.
- D5. All due care must be taken to minimise stress to lizards during capture and handling. Should any lizard die, the specimen should be retained, stored in a refrigerator and forwarded to the Buller *Kawatiri* Area Office at the earliest opportunity.
- D6. With the exception of lizards sent away for identification, all lizards shall be released as soon as practical following capture and on the same day as they were captured in areas of comparable habitat, at least 500m but no more than 1000m from the edge of the disturbed area.

E. Giant weta

Context: The invertebrate fauna of the Stockton-Denniston Plateaux is not well understood. Giant weta (*Deinacrida* sp.) could be present in parts of the area. These would be at risk of habitat loss and of being injured or crushed by the Works.

Conditions

- E1. Any giant weta found during the Works must be captured and forwarded to the Buller *Kawatiri* Area Office within 24 hours for identification. Giant weta must be housed individually in containers labelled with the capture location coordinates and date.
- E2. All giant weta must be handled carefully, with hands free from contaminants (e.g. fuel). Handling must be kept to an absolute minimum.
- E3. Two litre containers with perforated lids that allow airflow but not the animal to escape must be used to transport giant weta. The containers must be clean and contain damp litter 60mm deep (collected from where the weta was located). Containers must be kept cool at all times.
- E4. When requested by the Department of Conservation, the captured giant weta must be collected from the Buller *Kawatiri* Area Office and released at a translocation site as directed.
- E5. All due care must be taken to minimise stress to giant weta during capture and handling. Should any giant weta die, the specimen should be retained, stored in a refrigerator and forwarded to the Buller *Kawatiri* Area Office at the earliest opportunity.

F. Vegetation Direct Transfer

Context: Vegetation Direct Transfer ('VDT') represents a form of translocation for all relatively immobile animals present in the material. *Powelliphanta* snails are known to survive the VDT process, and this is likely also to be the case for lizards and giant weta. The conditions for VDT aim to maintain, as much as practical, existing biogeographic and genetic patterns of the animal populations.

Conditions

- F1. All VDT material must be placed on a suitable rehabilitation surface on the Stockton Plateau as close as possible to the source location.
- F2. VDT material must not be placed within 1km of currently known *Powelliphanta augusta* habitat, and should be placed south of Fly Creek as much as possible.

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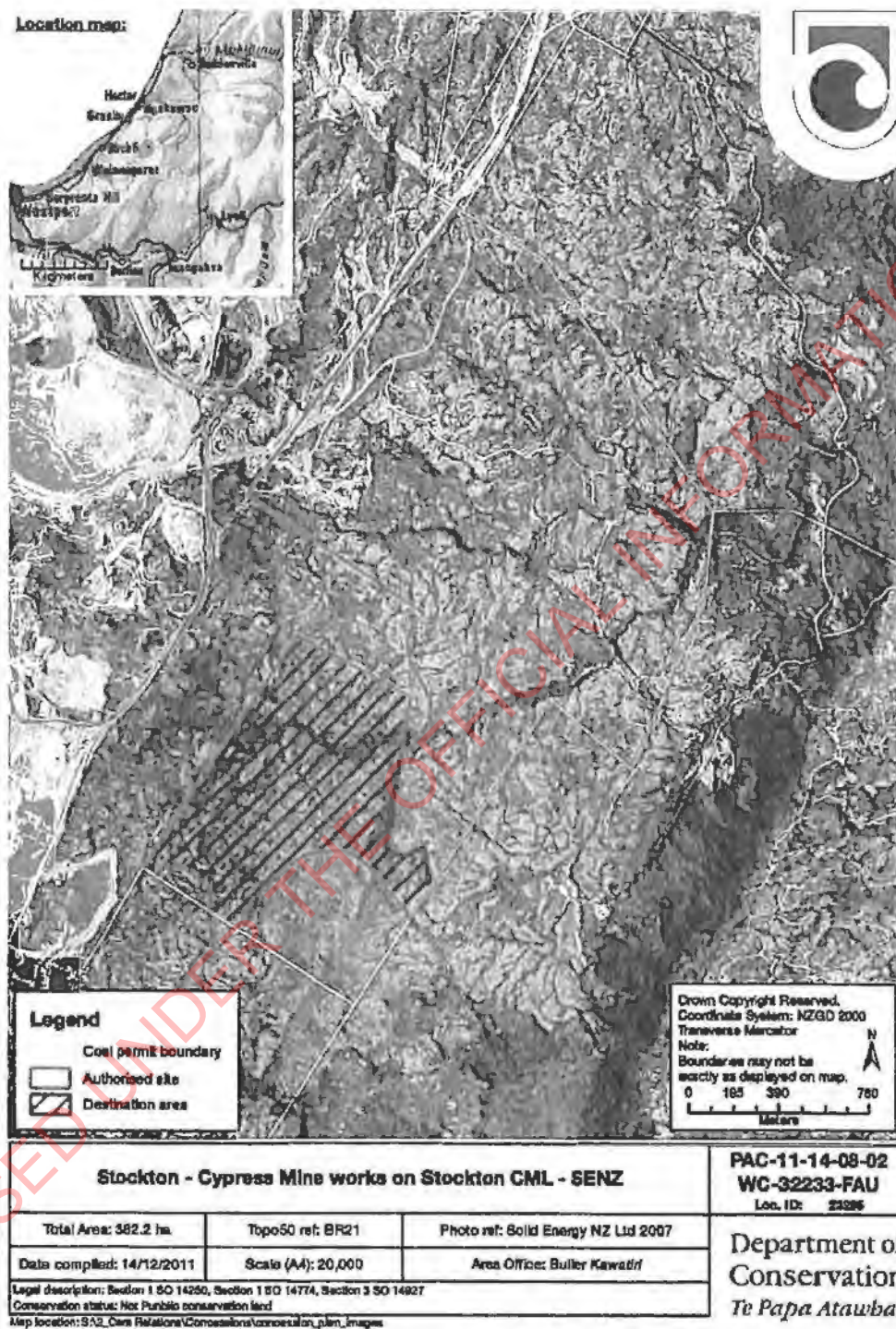


Figure 1 – Authorised site.

**SECTION 71 WILDLIFE AUTHORISATION FOR ROCKIES AND MILLERTON MINE ON
STOCKTON CML**

ATTACHMENT TWO

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Department of Conservation
Te Papa Ataturu

Wildlife Act Authority for wildlife on non-public conservation land

Authorisation Number: 59850-FAU

THIS AUTHORITY is made this 29th day of August 2017

PARTIES:

The Minister of Conservation And The Minister of Energy and Resources (the Grantors)
AND

BT Mining Limited (the Authority Holder)

BACKGROUND

- A. The Minister 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 Conservation 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 under the Conservation legislation the Grantor **AUTHORISES** the Authority Holder under Sections 53 and 71 of the Wildlife Act 1953 together with the right to exercise this Authority on the Land subject to the terms and conditions contained in this Authority and its Schedules.

SIGNED by The Minister of Conservation.

The Honourable Maggie Barry

in the presence of:

s.9(2)(a)

Witness Signature

SIGNED by The Minister of Energy and Resources.

The Honourable Judith Collins

in the presence of:

s.9(2)(a)

Witness Signature

<p>Witness Name: <u>Kayla Kingdom-Bebb</u></p> <p>Witness Occupation: <u>Private Secretary</u></p> <p>Witness Address: <u>Office of Hon Muggie Barry, Parliament Buildings, Wellington 6160</u></p>	<p>Witness Name: <u>JULIE JOHNSTON</u></p> <p>Witness Occupation: <u>PRESS SECRETARY</u></p> <p>Witness Address: <u>OFFICE OF HOW JUDITH COLLINS, PARLIAMENT BUILDINGS, WELLINGTON 6160</u></p> <p>SIGNED by <u>PT Limited</u> Limited by s.9(2)(a)</p> <p><u>Craig John Pilcher</u> James HONGKONG Director</p> <p>s.9(2)(a)</p> <p><u>Richard John TACON</u> Director</p> <p>s.9(2)(a)</p> <p><u>Andrew Ivan TALIJANCICH</u> Director</p> <p>s.9(2)(a)</p> <p><u>Milan Daniel TALIJANCICH</u> Director</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>s.9(2)(a)</p>
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Russell Lee Scott Middleton
Director

SCHEDULE 1

7.	<p>Authorised activity (including the species, any approved quantities and collection methods). (Schedule 2, clause 2)</p>	<p>Part 1 - Protected wildlife to which this Authority applies</p> <ul style="list-style-type: none"> - <i>Powelliphanta</i> sp. land snails - Great spotted kiwi, roroa, (<i>Apteryx haastii</i>) - Native lizards - Giant weta (<i>Deinacrida</i> sp.) - Other protected wildlife <p>("Protected Wildlife")</p> <p>Part 2 - Works This Authority allows for the Authorised Activities to be undertaken during the removal of vegetation, soil, substrate and/or bedrock in the Authorised Site ("the Land").</p> <p>("the Works")</p> <p>Part 3 - Authorised Activities</p> <p>3.1 Surveying, capture and handling of roroa for the purposes of monitoring and where appropriate, translocation of eggs, chicks and adults.</p> <p>3.2 Surveying, handling, capture and translocation of native lizards incidentally encountered during the Works.</p> <p>3.3 Surveying, handling, capture and translocation of giant weta, <i>Powelliphanta</i> sp., and other protected invertebrates, incidentally encountered during the Works.</p> <p>3.4 Incidental disturbance and killing of the Protected wildlife during the Works, where the Protected wildlife still remain.</p> <p>("the Authorised Activities")</p>
8.	<p>The Land (Schedule 2, clause 2)</p>	<p>Stockton CML as indicated on the Attached map 23521. being Section 1 SO 14250</p> <p>("Approved Site")</p>
9.	<p>Personnel authorised to undertake the Authorised Activity (Schedule 2, clause 3)</p>	<p>1. For snail searches and handling, all field staff must be trained and directed by experienced snail surveyors approved by the West Coast Tai Poutini Conservator.</p> <p>3. For roroa, all field staff undertaking those parts of the Authorised Activities that involve the disturbing, handling, marking or translocation of</p>

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		any rooia at any life stage must be approved by the West Coast <i>Tai Poutini</i> Conservator. 4. For all other wildlife (3.2 - 3.4); Other staff and contractors of Solid Energy Limited and approved by the West Coast <i>Tai Poutini</i> Conservator.
10.	Term (Schedule 2, clause 4)	Commencing on and including 1 August 2017 and ending on and including 31 July 2022.
11.	Authority Holder's address for notices (Schedule 2, clause 8)	The Authority Holder's address in New Zealand is: Level 12 Willeston Street Wellington 6011 New Zealand Phone: 027 587 8852 Email: s 9(2)(a)
12.	Grantors' address for notices	The Grantors' address for all correspondence is: Level 3 73 Rostrevor Street Hamilton 3240 Email: permissionshamilton@doc.govt.nz

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 The Authority Holder must contact the Department of Conservation's Buller *Kawatiri* Area Manager or liaison prior to carrying out the Authorised Activity in the Area.

2.3 The Authority Holder and Authorised Personnel must carry a copy of this Authority with them at all times while carrying out the Authorised Activity.

2.4 Unless expressly authorised by the Grantors in writing, the Authority Holder must not donate, sell or otherwise transfer to any third party any material, including any genetic material, or any material propagated or cloned from such material, collected under this Authority. Notwithstanding the preceding constraint, the Authority Holder may publish authorised research results.

3. Who is authorised?

3.1 Only the Authority Holder and the Authorised Personnel described in Schedule 1, Item 3 may be involved in carrying out the Authorised Activity, unless otherwise agreed in writing by the Grantors.

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 Grantors.
- 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 Grantors and the Grantors' 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 Grantors against all claims, actions, losses and expenses of any nature which the Grantors may suffer or incur or for which the Grantors 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 Grantors' notices and directions?

- 7.1 The Authority Holder must comply with all statutes, bylaws and regulations, and all notices and requisitions of any competent authority relating to the conduct of the Authorised Activity. Without limitation, this includes the Conservation Act and the Acts listed in the First Schedule of that Act and the Health and Safety at Work Act 2015.
- 7.2 The Authority Holder must comply with all reasonable notices and directions of the Grantors relating to the conduct of the Authorised Activity.

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 Grantors 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 Grantors may terminate this Authority at any time in respect of the whole or any part of the Land if:

- (a) The Authority Holder breaches any of the conditions of this Authority; or
- (b) in the Grantors' opinion, the carrying out of the Authorised Activity causes or is likely to cause any unforeseen or unacceptable effects

9.2 If the Grantors intend to terminate this Authority, the Grantors must give the Authority Holder either:

- (a) one calendar month's notice in writing; or
- (b) such other time period which in the sole opinion of the Grantors appears reasonable and necessary

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

10.1 Any notice to be given under this Authority by the Grantors is to be in writing and made by personal delivery, fax, 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 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.

10.2 If the Authorised Holder's details specified in Schedule 1, Item 5 change then the Authorised Holder must notify the Grantors within 5 working days of such change.

11. What about the payment of costs?

11.1 The Authorised 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. Are there any Special Conditions?

- 12.1 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.

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SCHEDULE 3

SPECIAL CONDITIONS

1. Use of materials/future use/disposal.

All material collected remains the property of the Crown. The Authority Holder must comply with any reasonable request from the Grantors for access to any collected material.

The Authority Holder must store any surplus material until such time as the Authority Holder has consulted with the Grantors and the Grantors have issued a direction relating to the future use and/or ultimate disposal of such material.

2. Progress/final reports

If the Grantors so request, the Authority Holder must keep the Grantors and Te Runanga o Ngati Waewae as listed below, informed on the progress of this activity. Upon completion of the activity, the Authority Holder must forward a copy of the findings, reports and publications to the Grantors. The Authority Holder acknowledges that the Grantors may provide copies of these findings to Te Runanga o Ngati Waewae.

Contact details for Ngati Waewae: s.9(2)(a)

3. Reporting requirements

The Authority Holder must report on all surveys for kiwi, *Powelliphanta*, protected invertebrates, lizards and other protected bird species to the Buller Kawatiri Area Office liaison for surveys and work in that area up until 30 June each year.

The information provided must include:

- survey area/location (including a map)
- general description of the vegetation in the survey area
- size of area surveyed
- dates and times of survey
- location of transects/survey tracks
- total time spent on the survey
- personnel involved (the number of people involved and the names of personnel)
- number of kiwi, *Powelliphanta*, protected invertebrates, lizards and other protected bird species found, and the GPS coordinates for each of these
- weather conditions during the survey

4. Collection methods and Holding conditions.

***Powelliphanta* sp. snails**

Context: *Powelliphanta* sp. snails may be present in parts of and adjacent to the Authorised Site. If present, the Works would impact on the snails and their populations through killing and damage to individuals, and habitat disturbance and destruction.

A. Incidental finds of snails

- A1. If any live *Powelliphanta* snails, eggs or recent (not sub-fossil) shells are detected, any land disturbance in the Authorised Site, likely to result in the killing or damage of any *Powelliphanta* snails, eggs or non sub fossil shells, must cease immediately and the Department of Conservation must be contacted.
- A2. Any *Powelliphanta* must be handled only in a manner approved by, and at the direction of the West Coast *Tai Poutini* Conservator.

Rorua

Context: Rorua are present in the Rockies Mine footprint and although they are probably not resident in the Millerton Mine footprint, peripheral parts of the Authorised Site may be used by birds with territories in adjacent areas and birds may move into the area over the course of mining.

Rorua are territorial and sensitive to disturbance. The Works cannot feasibly avoid rorua territories or the rorua breeding season; consequently some individual rorua will lose all or a proportion of their territory and any nests within and immediately adjacent to the sites being disturbed may be abandoned or destroyed, resulting in the loss of eggs and very young chicks.

To enable actions to be taken to avoid, remedy and mitigate these effects to rorua it is necessary to survey to determine the rorua present in the area prior to and throughout the course of mining, and to then monitor these birds to determine their territories relative to mining and where they are likely to be disturbed, their breeding state.

Once this knowledge has been gained, then the options of *ex-situ* management (transfer of resident birds and /or salvage and transfer of nest contents and juvenile birds) or *in-situ* management (management of disturbance to avoid direct harm to birds remaining in the area) need to be considered and directions provided by the West Coast *Tai Poutini* Conservator to the Authority Holder.

B. Rorua – Generic conditions

Conditions

- B1. Unless otherwise stated in this Authority, all rorua work must be undertaken using the standards outlined in the following documents:
- Kiwi Best Practice Manual (Robertson & Colbourne 2003).
 - National BNZ Operation Nest Egg (ONE) best practice protocols as documented in the Egg Candling Course
 - BNZONETM National Translocation Proposal 2010 – 2019 (Colbourne and Haige 2011)
 - Great spotted kiwi from Cypress Mine to Rotoiti Mainland Island Translocation Proposal (McLennan, 2011)
 - Other standards as directed by the West Coast *Tai Poutini* Conservator in response to survey and monitoring results.
- B2. Only personnel approved by the West Coast *Tai Poutini* Conservator based on training and experience are authorised to undertake rorua dog survey and egg and chick recovery.
- B3. West Coast *Tai Poutini* Conservator approval of personnel to collect and transport

eggs and young must be dependent on people having attended the 'Egg candling for BNZ Operation Nest Egg' course and/or sufficient experience of egg and chick 'lifts'.

- B4. Any rorua survey, monitoring and management techniques causing disturbance which is required during the breeding season must occur only with the permission of the West Coast *Tai Poutini* Conservator.

C. Rorua - Survey and Monitoring Conditions

- C1. Rorua that have territories either partly or completely within the Authorised Site must be fitted with transmitters to allow the mapping of their home range and estimation of territory relative to disturbance prior to mining and for the timely monitoring of their whereabouts and breeding state for the duration of the Works.
- C2. Listening and dog surveys must be conducted annually of all areas due for mining in that year to confirm as far as possible that all rorua present are known and have transmitters attached.
- C3. Transmitters must be removed within 12 months of fitting if they are no longer required, or replaced within 12 months of fitting if further location monitoring, territory information or nest detection is required.
- C4. Rorua must be caught using a kiwi survey dog and handlers and/or by using taped calls to attract the birds during the night.
- C5. Diagnostic transmitters must be used for monitoring rorua. In the breeding season, where information on the breeding state of a bird is required, these transmitters must be monitored at a minimum of fortnightly with a lead in of at least eight weeks.
- C6. The best type of transmitter to be used to monitor rorua over the life of this Authority may change due to improvements in technology. The Authority Holder must contact the West Coast *Tai Poutini* Conservator annually prior to each transmitter change (February- June) to confirm the transmitter best practice, including transmitter type and recommended monitoring frequency to effectively provide the information required.

D. Rorua - Managing disturbance of nests and young chicks

Conditions

- D1. Where the area proposed to be disturbed will include a rorua nest, or where nests are encountered and disturbed in the course of survey and monitoring, and the risk of rorua abandoning the nest is deemed greater than the risks to eggs and chicks from collection and translocation by persons approved by the West Coast *Tai Poutini* Conservator, then all rorua eggs and chicks up to 850g must be recovered as per BNZONE best practice protocols (BNZONE Candling course guidelines) and as specified in the approved BNZONE[™] National Translocation Proposal 2010 - 2019 (Colbourne and Halge [docdm 622455]).
- D2. Where doubt exists regarding the vulnerability of a nest and the need for it to be harvested, the Authority Holder must contact the West Coast *Tai Poutini* Conservator who must determine whether eggs and/or chicks are to be recovered.

D3. As soon as possible after recovery and within the same day, the Authority Holder must deliver rorua eggs or chicks to a facility directed by the West Coast *Tai Poutini* Conservator. The Authority Holder must make contact with the specified facility at least a week prior and then again, one day prior to survey work being undertaken to ensure arrangements are in place for any eggs or chicks recovered.

D4. The release location of any juvenile rorua resulting from any such recoveries must be as determined by the West Coast *Tai Poutini* Conservator in consultation with Te Runanga o Ngati Waewae and the Authority Holder.

E. Rorua – Managing disturbance of adult and juvenile birds

Conditions

E1. Transmitters on resident rorua must be monitored for at least eight weeks prior to mining disturbance, both diurnally to determine roost location and breeding state and nocturnally to determine home range, such that the territories of all resident birds can be reliably mapped.

E2. Based on the monitoring information provided by E1, the West Coast *Tai Poutini* Conservator will decide if individual birds will remain on site or be translocated to another location out of harm's way. This decision will be made according to the following guidelines:

- All decisions on the fate of individual birds will be discussed between Te Runanga o Ngati Waewae, Department of Conservation, the Authority Holder and appropriate experts. Final decision on the management of individual birds will be made by the West Coast *Tai Poutini* Conservator as informed by ongoing consultation, the latest monitoring information and mine progress.
- Any juvenile rorua found in a territory will be managed in the same way as for adult rorua in that territory.
- Any subsequent decisions will use information gained through review and consultation on the outcome of the management of individual rorua.

E3. Where reliable territory information is not available for an individual rorua, the West Coast *Tai Poutini* Conservator will make a less informed decision based on the guidelines in E1, however where practicable one of the possible outcomes may be that further monitoring be undertaken.

E4. All translocations of affected rorua will be undertaken in accordance with the West Coast *Tai Poutini* Conservator approved "Great spotted kiwi from Cypress Mine to Rotoiti Mainland Island translocation Proposal (McLennan, 2011)".

E5. All affected rorua that are not translocated off site will be monitored with transmitters such that their location is known in relation to habitat disturbance.

E6. Before any new areas of mine are stripped of vegetation, the area to be stripped will be searched for rorua using radio telemetry. This search will take place at the start of each day to detect any birds that have strayed into the area overnight.

E7. Any rorua that are identified as being directly in harm's way will be either encouraged to move out of the area and shepherded to safe ground or be captured and transferred to a known roost out of harm's way. The method to be used will depend on the situation and be at the discretion of approved field staff.

E8. Where it is determined that ro-roa will be uplifted and moved to a safe roost site, best practice for capture and transfer must be used. At all times, the handling of ro-roa will be kept to a minimum and they must be released within an hour of capture.

E9. Where it is determined that birds will be encouraged to move out of harm's way and in the event of a ro-roa eluding capture, all approaches must be made in such a way that the ro-roa flees in the appropriate direction (i.e. away from the imminent mine development).

F. Lizards

Context: Upwards of four native species of lizard are known from the general Stockton/Ngakawau/Waimangaroa region and are possibly present in the Authorised Site. Any lizards present would be affected by habitat loss or could be injured or crushed.

Conditions

F1. Any lizard encountered in habitats that are to be disturbed by the Works shall be captured and transferred out of harm's way.

F2. Lizards must be searched for in those habitat 'hotspots' that shall be disturbed by the Works that are the most likely to hold lizards and where lizards are most easily found and captured. These habitat 'hotspots' include rock jumbles, scree, other areas where lizards are known to occur and areas where lizards have been encountered in the past.

F3. Artificial retreats may be established to increase the likelihood of lizards being detected and captured.

F4. The search intensity for lizards over the area to be disturbed will be at the Authority Holders discretion.

F5. Handling must be kept to an absolute minimum and all lizards must be treated carefully to minimise stress during capture and handling. The hands of lizard surveyors must be clean and free from contaminants such as insect repellent, sunscreen and fuel.

F6. Two litre containers with perforated lids that allow airflow but not the animal to escape shall be used to transport all lizards. The containers shall be clean and contain damp litter at least 60mm deep collected from where the lizard was located. A maximum of one lizard shall be placed in each container. The containers must be kept cool at all times.

F7. With the exception of lizards sent away for identification, all lizards shall be released as soon as practical following capture, and on the same day as they were captured in areas of comparable habitat, at least 500m but no more than 1000m from the edge of the disturbed area and not off the Stockton Plateau.

F8. Any lizard captured that is not obviously able to be identified to species level shall be forwarded to the Buller *Kawatiri* Area Office on the same day of capture for

identification.

- F9. Should any lizard die, the specimen should be retained, stored in a refrigerator and forwarded to the Buller *Kawatiri* Area Office at the earliest opportunity.

G. Giant weta and other protected invertebrates

Context: The invertebrate fauna of the Stockton-Denniston Plateau is not well understood. Giant weta (*Deinacrida* sp.) and stag beetles (*Geodorcus* sp.) could be present in parts of the area. These would be at risk of habitat loss and of being injured or crushed by the Works.

Conditions

- G1. Any giant weta found during the Works must be captured and forwarded to the Buller *Kawatiri* Area Office within 24 hours for identification. Giant weta must be housed individually in containers labelled with the capture location coordinates and date.
- G2. All protected invertebrates must be handled carefully, handling must be kept to an absolute minimum and all lizards must be treated carefully to minimise stress during capture and handling. The hands of lizard surveyors must be clean and free from contaminants such as insect repellent, sunscreen and fuel.
- G3. Two litre containers with perforated lids that allow airflow but not the animal to escape must be used to transport protected invertebrates. The containers must be clean and contain damp litter at least 60mm deep (collected from where the invertebrate was located). The containers must be kept cool at all times.
- G4. When requested by the Department of Conservation, the captured invertebrate must be collected from the Buller *Kawatiri* Area Office and released at a translocation site as directed.
- G5. All due care must be taken to minimise stress to protected invertebrates during capture and handling. Should any protected invertebrates die, the specimen should be retained, stored in a refrigerator and forwarded to the Buller *Kawatiri* Area Office at the earliest opportunity.

RELEASED UNDER THE OFFICIAL INFORMATION ACT

DEED OF ASSIGNMENT

SOLID ENERGY NEW ZEALAND LIMITED (SUBJECT TO DEED OF
COMPANY ARRANGEMENT)

BT MINING LIMITED

HER MAJESTY THE QUEEN



Simpson Grierson

Barristers & Solicitors
Auckland, Wellington & Christchurch
New Zealand
www.simpsongrierson.com

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DEED DATED

31 August

2017

PARTIES

1. **SOLID ENERGY NEW ZEALAND LIMITED (SUBJECT TO DEED OF COMPANY ARRANGEMENT)**, a company incorporated in New Zealand (company number 329045) (**Assignor**)
2. **BT MINING LIMITED**, a company incorporated in New Zealand (company number 6110867) (**Assignee**)
3. **HER MAJESTY THE QUEEN**, acting by and through the Minister of Conservation (**the Minister**)

BACKGROUND

- A. The Assignor and the Assignee are parties to the Sale Agreement. Under the terms of the Sale Agreement, the Assignor has agreed to sell certain of its business and assets and the Assignee has agreed to acquire those assets and to take an assignment of the Agreements.
- B. The Minister has agreed to the assignment by the Assignor of the Agreements to the Assignee on the terms set out in this deed. The Assignee has agreed to take an assignment of the Agreements and be bound by the terms of the Agreements from the Operative Time.
- C. The parties agree to the assignment of the Agreements on the terms of this deed.

THIS DEED RECORDS THAT:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions: In this deed, unless the context indicates otherwise:

Agreement means the Agreements between the Assignor and the Minister set out in the Schedule to this Deed;

Closing has the meaning given to that term in the Sale Agreement;

Operative Time means the time of Closing of the sale and purchase of assets in accordance with the Sale Agreement;

Sale Agreement means the agreement for sale and purchase of business and assets between the Assignor and the Assignee dated 29 October 2016.

1.2 Interpretation: In this deed, unless the context indicates otherwise:

(a) **Defined Expressions:** expressions defined in the main body of this deed have the defined meaning throughout this deed, including the background;

(b) **Headings:** clause and other headings are for ease of reference only and will not affect this deed's interpretation;

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- (c) **Parties:** references to any **party** include that party's executors, administrators, successors and permitted assigns;
- (d) **Persons:** references to a **person** include an individual, company, corporation, partnership, firm, joint venture, association, trust, unincorporated body of persons, governmental or other regulatory body, authority or entity, in each case whether or not having a separate legal identity;
- (e) **Plural and Singular:** references to the singular include the plural and vice versa;
- (f) **Clauses/Schedules/Attachments:** references to clauses, schedules and attachments are to clauses in, and the schedules and attachments to, this deed. Each such schedule and attachment forms part of this deed;
- (g) **Statutory Provisions:** references to any statutory provision are to statutory provisions in force in New Zealand and include any statutory provision which amends or replaces it, and any by-law, regulation, order, statutory instrument, determination or subordinate legislation made under it;
- (h) **Negative Obligations:** any obligation not to do anything includes an obligation not to suffer, permit or cause that thing to be done;
- (i) **Inclusive Expressions:** the term **includes** or **including** (or any similar expression) is deemed to be followed by the words **without limitation**;
- (j) **Documents:** references to any document (however described) are references to that document as modified, novated, supplemented, varied or replaced from time to time and in any form, whether on paper or in an electronic form;
- (k) **Discharge and Release:** references to **discharge** and **release** mean the unconditional, irrevocable and full discharge and release; and
- (l) **Obligations and Liabilities:** references to **obligations** and **liabilities** mean all obligations and liabilities, actual and contingent.

2. ASSIGNMENT, COVENANT WITH THE MINISTER AND COSTS

2.1 Assignment: Subject to the terms and conditions of this deed, with effect from the Operative Time:

- (a) **Assignment:** the Assignor assigns to the Assignee all its rights, title and interest in the Agreements; and
- (b) **Assignee's Agreement:** the Assignee agrees to take an assignment from the Assignor of all of the Assignor's rights, title and interest in the Agreements and will:
 - (i) enjoy all the rights and benefits of the Assignor under the Agreements; and

- (ii) comply with and perform all of the obligations and liabilities of the Assignor under the Agreements,

which arise from the Operative Time.

2.2 Consent of the Minister: Subject to the terms set out in this deed, the Minister consents to the assignment by the Assignor of its rights, title and interest in the Agreements to the Assignee.

2.3 Assignee's Covenant with the Minister: The Assignee covenants with the Minister that the Assignee will at all times from the Operative Time:

(a) **Pay All Fees:** pay all fees and other money payable under the Agreements at the times and in the manner provided by the Agreements; and

(b) **Observe Covenants:** observe and perform all of the Assignor's covenants contained or implied in the Agreements.

2.4 Costs: The Assignor will reimburse the Minister for its reasonable costs incurred in connection with its entry into this deed.

2.5 Notice: Promptly following Closing of the Sale Agreement, the Assignor will give the Minister a signed copy of this deed together with notice of the date and time at which the Operative Time occurred.

3. NO KNOWN CLAIMS

3.1 Against the Minister: The Assignor confirms to the Minister and to the Assignee that, as at the date of this deed, it is not aware of any matter, fact or circumstance which is or may be likely to give rise to a claim being made against the Minister by it under the Agreements.

3.2 Against the Assignor: The Minister confirms to the Assignor and to the Assignee that, as at the date of this deed, it is not aware of any matter, fact or circumstance which is or may be likely to give rise to a claim being made against the Assignor by it under the Agreements.

4. GENERAL

4.1 Costs: Unless otherwise stated in this deed, each party will bear its own costs and expenses in connection with the negotiation, preparation and implementation of this deed.

4.2 Partial Invalidity: If any provision of this deed is or becomes invalid or unenforceable, that provision will be deemed deleted from this deed. The invalidity or unenforceability of that provision will not affect the other provisions of this deed, all of which will remain in full force and effect to the extent permitted by law, subject to any modifications made necessary by the deletion of the invalid or unenforceable provision.

4.3 Further Assurances: Each party will do all things and execute all documents reasonably required to give effect to the provisions and intent of this deed.

- 4.4 Waiver:** Any waiver by a party of any of its rights or remedies under this deed will be effective only if it is recorded in writing and signed by a duly authorised senior representative of that party. If the waiver relates to a breach of any provision of this deed, this will not (unless stated otherwise) operate as a waiver of any other breach of that provision. No waiver of any breach, or failure to enforce any provision, of this deed at any time by either party will in any way affect limit or waive that party's right to subsequently require strict compliance with this deed.
- 4.5 Counterparts:** This deed may be signed in counterparts. All executed counterparts will together constitute one document.
- 4.6 Copies:** Any copy of this deed that is received by facsimile or via email in PDF or other document reproduction format (including any copy of any document evidencing a party's signature to this deed) may be relied on by any party and presented in evidence in any legal proceedings as though it were an original copy of this deed. This deed may be entered into on the basis of an exchange of facsimile, PDF or other document reproduction format (in which case each party will promptly deliver an original signed by it to every other party).
- 4.7 Amendment:** No amendment to this deed will be effective unless it is in writing and signed by a duly authorised senior representative of each party.
- 4.8 Assignment:** No party will assign or otherwise transfer any of its rights or obligations under this deed to any other person.
- 4.9 Notices:** For the purposes of the provisions of the Agreements relating to the service of notice and other communications, the address, facsimile and telephone numbers and relevant person or office holder of the Assignee are set out below:
- | | |
|------------|---|
| Address: | Level 12, 1 Willaston Street, Wellington 6011
PO Box 5963, Lambton Quay, Wellington 6145 |
| Facsimile: | +64 4 974 5218 |
| Attention: | Richard Tacon |
- 4.10 Governing Law and Jurisdiction:** This deed is governed by the laws of New Zealand. The parties submit to the exclusive jurisdiction of the New Zealand courts in respect of all matters relating to this deed.



EXECUTED AND DELIVERED AS A DEED

SIGNED on behalf of **SOLID ENERGY NEW ZEALAND LIMITED (SUBJECT TO DEED OF COMPANY ARRANGEMENT)**

by: s.9(2)(a)

Signature of director / authorised signatory

Anthony Charles King

Name of director / authorised signatory

Signature of director / authorised signatory

Name of director / authorised signatory

Witness:

s.9(2)(a)

Signature of witness

Full name of witness

ROBERT JOHN PAGE
SOLICITOR

Occupation of witness

CHRISTCHURCH

Address of witness

SIGNED on behalf of **BT MINING LIMITED**

by:

Signature of director / authorised signatory

Signature of director / authorised signatory

Name of director / authorised signatory

Name of director / authorised signatory

Witness:

Signature of witness

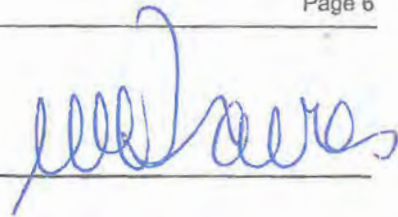
Full name of witness

Occupation of witness

Address of witness

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SIGNED for on behalf of THE MINISTER
OF CONSERVATION by:



Mark Davies,
Director, Operations,
Western South Island,
Pursuant to a written delegation from the
Minister of Conservation under the Crown
Minerals Act 1991

In the presence of:

Witness:*



Signature of witness

CARL ANDREW MCGUINNESS

Full name of witness

DIRECTOR OPERATIONS PLANNING

Occupation of witness

WELLINGTON

Address of witness



SCHEDULE

AGREEMENTS

1. Between Solid Energy New Zealand Limited and Department of Conservation – Concession 38682-OTH relating to Public conservation land surrounding Solid Energy's Mining Block at RW 1 and RW 13 dated 15 April 2014;
2. Between Solid Energy New Zealand Limited and Department of Conservation – Concession 36979-OTH relating to Conservation land at Plover Stream dated 20 September 2013;
3. Between Solid Energy New Zealand Limited and Department of Conservation – Concession 26733-OTH relating to Stewardship Land dated 22 June 2010;
4. Between Solid Energy New Zealand Limited and Department of Conservation – Concession 16811-OTH relating to DOC Stewardship Land cons unit L28069 and L29005 dated 2 June 2006, first variation on 15 August 2006 and second variation on 11 August 2010;
5. Between Solid Energy New Zealand Limited and Department of Conservation – Concession 34066-OTH relating to land at the Stockton Plateau dated 2 July 2012 and Variation of Concession 34066-OTH dated 30 January 2014;
6. Between Solid Energy New Zealand Limited and Department of Conservation – Low Impact, Research and Collection Permit 31220-RES relating to land at Mangatini Stream dated 24 May 2013; and

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Concession Document (Permit)

Concession Number: 67930-OTH

THIS CONCESSION is made this 5th day of September 2018

PARTIES:

Minister of Conservation (the Grantor)

BT Mining 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 **PERMIT** to carry out the Concession Activity on the Land subject to the terms and conditions contained in this Concession and its Schedules.

<p><u>J. Brennan</u></p> <p>SIGNED on behalf of the Minister of Conservation by Judith Brennan, Permissions and Land Manager, Hokitika Shared Service Centre acting under delegated authority</p> <p>in the presence of:</p> <p><u>s.9(2)(a)</u></p> <p>Witness Signature <u>Iona Pollard</u></p> <p>Witness Name <u>Permissions Advisor</u></p> <p>Witness Occupation <u>Sewell St Hokitika</u></p> <p>Witness Address</p> <p>A copy of the Instrument of Delegation may be inspected at the Director General's office at 18-22 Manners Street, Wellington.</p>	<p><u>s.9(2)(a)</u></p> <p>SIGNED for BT Mining Limited by:</p> <p><u>RUSSELL MIDDLETON</u></p> <p>Print Director Name</p> <p>AND</p> <p><u>s.9(2)(a)</u></p> <p>SIGNED for BT Mining Limited by:</p> <p><u>Richard John Tacon</u></p> <p>Print Director Name</p> <p>Name <u>WITNESS</u></p> <p><u>s.9(2)(a)</u></p> <p><u>LEVEL 12 WILLESTON ST</u> <u>WELLINGTON</u></p> <p><u>GENERAL MANAGER HSEC</u></p> <p><u>s.9(2)(a)</u></p>
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SCHEDULE 1

1.	Land (clause 2)	As marked on the attached plan or map in Schedule 4 being: Physical Description/Common Name: Waimangaroa - Granity Land Status: Conservation Area - Waimangaroa - Granity Area: 150 ha Legal Description: Crown Land SO Plan 9821
2.	Concession Activity (clause 2)	Fly rock deposition from R13 & RW1 Blocks (Rockies Blocks), Stockton – more specifically set out in Schedule 3.
3.	Term (clause 3)	10 years commencing on 1 June 2018
4.	Renewal(s) (clause 3)	None
5.	Final Expiry Date (clause 3)	31 May 2028
6.	Concession Fee (clause 4)	<p>a. Annual Activity Fee: \$750.00 per annum plus GST</p> <p>b. Annual Management Fee: \$250.00 per annum plus GST</p> <p>c. Monitoring Fee Current standard department charge-out rates for staff time and mileage required to monitor the effects of the concession activity and compliance with concession conditions.</p>
7.	Annual Environmental Monitoring Fee (clause 9)	Not Required
8.	Community Services Contribution (clause 6)	Not Required
9.	Total payment to be made per annum (clause 4)	\$950.00 per annum plus GST (comprising: Annual Activity Fee (Item 6); and Annual Management Fee (Item 6), Environment Monitoring Contribution (Item 7) and Community Services Contribution (Item 8))
10.	Concession Fee Payment Date(s) (clause 4)	<p>a. 31 May each year the concession is in force</p> <p>b. 31 May each year the concession is in force</p> <p>c. One receipt of Invoice</p>
11.	Penalty Interest Rate (clause 4)	Double the current Official Cash Rate (OCR). See Reserve Bank of New Zealand website
12.	Concession Review	1 June 2021 and three yearly thereafter

	Date(s) (clause 5)	
13.	Health and Safety (clause 13)	Audited Safety Plan: Not required
14.	Concessionaire Identification (clause 31)	Not required
15.	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 Subject to review on each Concession Fee Review Date
16.	Addresses for Notices (clause 24)	The Grantor's address is: The Permissions and Land Manager Hokitika Shared Service Centre Department of Conservation 10 Sewell St Private Bag 701 Hokitika 7810 Hokitika 7842 Phone: 03 7569100 Email: permissionshokitika@doc.govt.nz
		The Concessionaire's address in New Zealand is: Level 12 1 Willeston Street Wellington 6145 New Zealand Phone: s 9(2)(a) Email: s 9(2)(a)
17.	Special Conditions (clause 34)	See Schedule 3
18.	Processing Fee (clause 4)	\$995 + GST

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

SCHEDULE 2

STANDARD TERMS AND CONDITIONS OF PERMIT

1. Interpretation

- 1.1 In this Concession unless the context otherwise requires "Structures" means chattels of any description.
- 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 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 19 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 9 of Schedule 1 in the instalments and on the Concession Fee Payment Date specified in Items 10 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 11 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 11 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 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 10 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 17F, 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 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.
- 8.4 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.
- 8.5 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.
- 8.6 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.
- 8.7 The Concessionaire must ensure that it adheres to the international "Leave No Trace" Principles at all times (www.leavenotrace.org.nz).
- 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 Fee 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.

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.

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.

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- 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 15 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 days 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 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 13 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 Qnalmark 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 at Work (Adventure Activities) Regulations 2016, proof of registration with WorkSafe New Zealand will satisfy the Grantor's requirement under clause 13.3(b).
- 13.5 Receipt of the safety plan/auditor 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.
- 13.5 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 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 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.

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 16 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 16 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 17 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 and the Grantor's Approved Label?

31.1 Before commencing the Concession Activity the Concessionaire must, if required by the Grantor in Item 14 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

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

SCHEDULE 3

SPECIAL CONDITIONS

Rock deposition

1. The Concessionaire must undertake all measures practicable to avoid depositing rock material onto public conservation land.
2. Where rock deposition is unavoidable, the Concessionaire is only permitted to deposit rock within the Concession boundary, as shown on the map attached as Schedule 4.
3. Notwithstanding Special Condition 1, if a rock deposition event occurs, the Concessionaire must promptly investigate the event and inform the Department in writing as soon as practicable (refer Item 17 in Schedule 1 for physical/email address).
4. If requested by the Grantor, the Concessionaire must take action to remedy or mitigate any adverse effect caused by a rock deposition event as a result of blasting.
5. The Concessionaire must maintain a register for all aspects of all rock fall events in relation to this Concession. The register must detail the date, time and type of event, cause of the event, and the action taken by the Concessionaire in response to the event. Upon request, the Concessionaire must provide the Department with a copy of the Register.

Blast Management Plan

6. The Concessionaire must comply with the Blast Management Deed attached as Schedule 5 for the duration of the Concession. The Deed is intended to manage the health and safety issues posed to staff working at Rockies Mine (located within the Concession boundary) as a result of the Concession Activity.
7. The Concessionaire must advise the Department of any amendments to the Plan.
 -
8. The Concessionaire must provide West Coast Regional Council with a copy of the Blast Management Plan prior to operations commencing.

Monitoring

9. The Concessionaire must allow Department staff, or any consultant engaged by the Department, access to the Land from Stockton Mine.

Rehabilitation Plan

10. Prior to the completion of mining the Concessionaire must submit to the Department a Rehabilitation Plan containing details of the rehabilitation proposed for the ridgeline. The purpose of the Plan is to satisfy the Department that there will be no instability issues associated with the ridgeline following expiry of the Concession.



Concession Document (Permit)

Concession Number: 99374-OTH

THIS CONCESSION is made this 20th day of May 2022

PARTIES:

Minister of Conservation (the Grantor)

BT Mining 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 **PERMIT** 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 Dave Johnstone, National Transaction Centre Manager, acting under delegated authority

in the presence of:

Witness Signature

s.9(2)(a)

Witness Name:

Roberta Noon

Witness Occupation:

National Transaction Centre Advisor

Witness Address:

PO Box 5244

Dunedin 9054

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

s.9(2)(a)

SIGNED for BT Mining Limited by:
Director (please print name)

RICHARD TACON

AND

s.9(2)(a)

SIGNED for BT Mining Limited by:
Director (please print name)

RUSSELL MIDDLETON

SCHEDULE 1

1.	Land (clause 2)	As marked on the attached map in Schedule 4 being: Physical Description/Common Name: Stockton Plateau Land Status: Conservation Area – Waimangaroa - Gravity Area: 226 hectares Legal Description: Crown Land SO Plan 9821 Map Reference: Refer to Schedule 4
2.	Concession Activity (clause 2)	Re-issue of WC-34066-OTH. The unintended and unavoidable deposition of incidental rocks on public conservation land from explosion activities associated with mining activities on adjacent land. Specifically in No.2 and Mount Augustus Block within Coal Mining License 31105. Flyrock deposition from No.2 & Mount Augustus Blocks, Stockton. Term: ten years. – more specifically set out in Schedule 3.
3.	Term (clause 3)	Ten (10) years commencing on 1 August 2022
4.	Renewal(s) (clause 3)	None
5.	Final Expiry Date (clause 3)	31 July 2032
6.	Concession Fee (clause 4)	a) Annual Activity Fee: \$3,200.00 plus GST per annum b) Rock Deposition Fee: \$20,000 plus GST for any 'medium impact event'. c) Annual Management Fee: \$250.00 plus GST per annum
7.	Annual Environmental Monitoring Fee (clause 9)	Current standard department charge-out rates for staff time and mileage required to monitor the effects of the concession activity and compliance with concession conditions apply
8.	Community Services Contribution (clause 6)	Not required

9.	Total payment to be made per annum (clause 4)	As per Item 6
10.	Concession Fee Payment Date(s) (clause 4)	a) + c) Annually as specified on invoice b) Following any "medium impact event"
11.	Penalty Interest Rate (clause 4)	Double the current Official Cash Rate (OCR). See Reserve Bank of New Zealand website
12.	Concession Review Date(s) (clause 5)	1 August 2025, 1 August 2028, 1 August 2031
13.	Health and Safety (clause 13)	Not required
14.	Concessionaire Identification (clause 31)	Not required
15.	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) Third party vehicle liability for an amount no less than \$500,000.00.
16.	Addresses for Notices (clause 24)	The Grantor's address is: National Transaction Centre Level 1 John Wickliffe House 265 Princes Street Dunedin 9016 Email: transactioncentre@doc.govt.nz
		The Concessionaire's address in New Zealand is: BT Mining Ltd PO Box 250 Westport 7866 Phone: 03 788 9300 Email: s.9(2)(a)
17.	Special Conditions (clause 34)	See Schedule 3

18.	Processing Fee (clause 4)	\$995.00 plus GST
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Note: The clause references are to the Grantor's Standard Terms and Conditions of Permit set out in Schedule 2.

RELEASED UNDER THE OFFICIAL INFORMATION ACT

SCHEDULE 2

STANDARD TERMS AND CONDITIONS OF PERMIT

1. Interpretation

- 1.1 In this Concession unless the context otherwise requires "Structures" means chattels of any description.
- 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 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 19 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 9 of Schedule 1 in the instalments and on the Concession Fee Payment Date specified in Items 10 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 11 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 11 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 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 10 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 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.
- 8.4 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.
- 8.5 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.
- 8.6 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.
- 8.7 The Concessionaire must ensure that it adheres to the international "Leave No Trace" Principles at all times (www.leavenotrace.org.nz).
- 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 Fee 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.

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.

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 15 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 days 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 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 13 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 at Work (Adventure Activities) Regulations 2016, proof of registration with WorkSafe New Zealand will satisfy the Grantor's requirement under clause 13.3(b).
- 13.5 Receipt of the safety plan/auditor 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.
- 13.5 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, Climate Change Response Act 2002 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 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 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.

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 16 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 16 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 17 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 and the Grantor's Approved Label?

- 31.1 Before commencing the Concession Activity the Concessionaire must, if required by the Grantor in Item 14 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. If there is a conflict between this Schedule 2 and the Special Conditions in Schedule 3, the Special Conditions shall prevail.

35. The Law

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

SCHEDULE 3

SPECIAL CONDITIONS

Climate Change Considerations

1. 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.
2. 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.
3. The Grantor may review and amend the conditions of this Concession to reflect climate change-related legislation and government or Departmental policy and those conditions ("Revised Conditions") may, amongst other things, require the Concessionaire to measure, manage and reduce the greenhouse gas emissions of the Concession Activity.
4. Before amending the conditions of this Concession in accordance with clause 3, 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.
5. 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 4 or any later date specified in the Revised Conditions.

In respect of Ngāi Tahu

6. The Concessionaire is requested to consult the relevant Papatipu Runanga (<http://ngaitahu.iwi.nz/contact/contact-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 Rūnanga, as a matter of courtesy.
7. 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.
8. 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 / Freshwater Pests

9. 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 - <https://www.mpi.govt.nz/travel-and-recreation/outdoor-activities/check-clean-dry/>. The Concessionaire must regularly check this website and update their precautions accordingly.

Myrtle Rust Protocols

10. The Concessionaire 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/>.
11. If the Concessionaire encounters suspected symptoms of myrtle rust, the Concessionaire 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.

Rock Deposition

12. The Concessionaire must undertake all measures practicable to avoid depositing rock material onto public conservation land
13. Where rock deposition is unavoidable, the Concessionaire is only permitted to deposit rock within the Concession boundary, as shown on the map attached as Schedule 4
14. Notwithstanding Special Condition 1, if a rock deposition event occurs, the Concessionaire must promptly investigate the event and inform the local District Office Operations Manager in writing as soon as practicable.
15. If requested by the Grantor, the Concessionaire must take action to remedy or mitigate any adverse effect caused by a rock deposition event as a result of blasting.
16. The Concessionaire must maintain a register for all aspects of all rock fall events in relation to this Concession. The register must detail the date, time and type of event, cause of event and the action taken by the Concessionaire in response to the event. Upon request, the Concessionaire must provide the Department with a copy of the register.

Monitoring

17. The Concessionaire must allow Departmental staff, or any consultant engaged by the Department, access to the Land from Stockton Mine in order to undertake monitoring of this concession.
18. The Concessionaire must submit a monitoring report annually on the anniversary of the commencement of the Concession detailing all rock deposition events during the preceding year. As a minimum the report must:
 - a) Summarise all data collected as a required under the conditions of this Concession, including graphical presentation and statistical summations of monitoring data, and critically analyse the information in terms of compliance and effects on conservation values;
 - b) Compare results obtained over the reporting period with the results obtained during previous reporting periods;
 - c) Report and discuss any operational difficulties, changes or improvements undertaken at the operation;
 - d) Report and discuss any measures adopted to remedy problems relating to rock deposition events;
 - e) List any maintenance works undertaken, proposed or required to ensure compliance with the conditions of the Concession;
 - f) Make recommendations on potential improvements to the monitoring programme;
 - g) Satisfy any other reporting criteria listed in this Concession

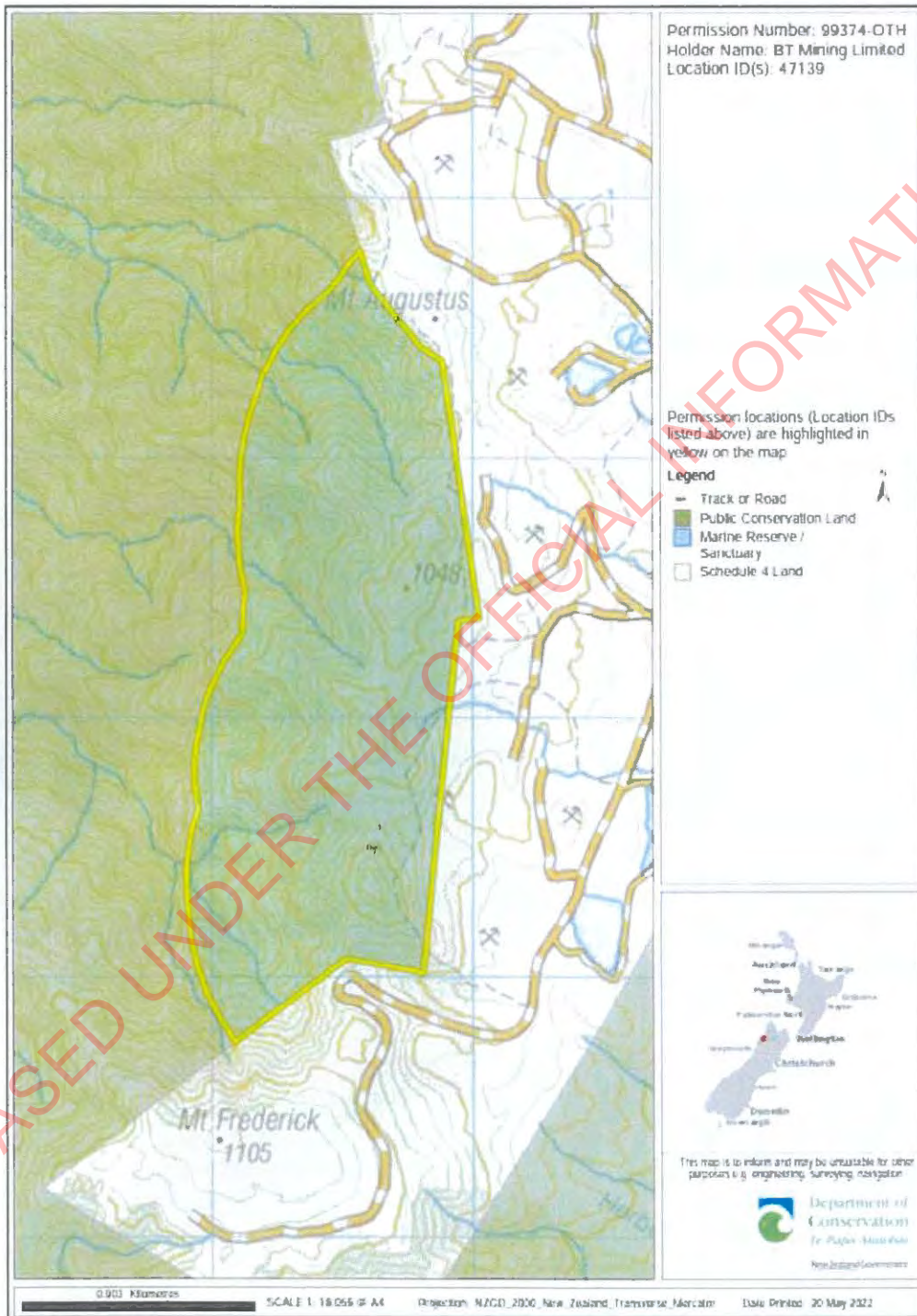
Monitoring Equipment

19. Monitoring equipment may occupy space on the land. Where monitoring equipment is no longer required or located on the Land and upon expiry of the Concession, equipment must be removed as soon as practicable.
20. The Concessionaire must take all measures practicable to ensure that disturbance to the Land is kept to a minimum.

Monitoring Equipment

21. Prior to the competition of mining, the Concessionaire must submit a rehabilitation plan detailing the rehabilitation proposed for the ridgeline. The purpose of the plan is to satisfy the Department that there will be no instability issues associated with the ridgeline after the expiry of the Concession.

SCHEDULE 4



Concession Document (Easement)

Concession Number: 111267-OTH

THIS CONCESSION is made this 15th day of November 2023

PARTIES:

Minister of Conservation (the Grantor)

BT Mining 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 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.

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, including its Schedules.

If decision maker is signing by way of electronic signature, use this option



SIGNED on behalf of the Minister of Conservation by Anna Ginnaw, Statutory Processes (System Transactions) acting under delegated authority

in the presence of:

s.9(2)(a)

Witness Signature

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

SIGNED for BT Mining Limited by:

s.9(2)(a)

General Manager of Mining
manager, stockton

NAME: BARAY WALKER

Authorised Signatory of BT Mining Limited

In the presence of:

s.9(2)(a)

Witness Signature

Witness name: Paul Adams

Witness Occupation: Mine Manager

Witness Address: 62 Alma Road

RD 2
WESTPORT

SCHEDULE 1

1.	Easement Land (Schedule 4)	As marked on the attached plan or map in Schedule 4 being: Physical Description/Common Name: Fly Creek Mine Road within Conservation Area – Plover Stream Land Status: Stewardship Area (Conservation Unit L29005) Area: 1.4 ha Legal Description: Conservation Area – Plover Stream Map Reference: Location ID 20211
2.	Land (Schedule 4)	Is the easement in gross? Yes
3.	Concession Activity (clause 2)	(a) a right of way: for the purpose of vehicles, excluding all vehicles hauling coal.
4.	Term (clause 3)	10 years commencing on 01 June 2024
5.	Final Expiry Date (clause 3)	31 May 2034
6.	Concession Fee (clause 4)	Concession Activity Fee: \$12,778.00 per annum plus GST Concession Management Fee: \$250.00 per annum plus GST Monitoring Fee: Standard Departmental charge-out rates for staff time and mileage required to monitor the effects of the concession activity and compliance with concession conditions.
7.	Concession Fee Payment Date (clause 4)	As specified on the invoice
8.	Penalty Interest Rate (clause 4)	Double the current Official Cash Rate (OCR). See Reserve Bank of New Zealand website
9.	Concession Fee Review Date(s) (clause 5)	01 June 2027, 01 June 2030, 01 June 2033
10.	Insurance (To be obtained by	Types and amounts: Public Liability Insurance for general indemnity for an

	Concessionaire) (clause 11)	amount no less than \$1,000,000.00 and Third party vehicle liability for an amount no less than \$500,000.00.
11.	Addresses for Notices (clause 20)	The Grantor's address is: National Transaction Centre Ōtepoti Dunedin Service Centre Level 1, John Wickliffe House 265 Princes Street Dunedin 9016 Phone: 03 477 0677 Email: Transactioncentre@doc.govt.nz Permissions Email: PermissionsHokitika@doc.govt.nz
		The Concessionaire's address in New Zealand is: Stockton Road Stockton 7866 New Zealand Phone: 03 788 9300 Email: BT Mining Environmental Superintendent – s.9(2)(a) [REDACTED]
12.	Special Conditions (clause 25)	See Schedule 3
13.	Processing Fee (clause 4)	\$995.00 plus GST

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

SCHEDULE 2

STANDARD TERMS AND CONDITIONS

1. Interpretation

- 1.1 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 13 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 Date 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 Date in Item 9 of Schedule 1 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.
 - (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 in accordance with clause 5.2 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 in accordance with 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 the valuers 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) 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 the following applies:
 - (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 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
 - (ii) 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 The Concessionaire must not transfer, sublease, 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 under clause 7.1:
- (a) decline any application for consent; or
 - (b) grant consent subject to such conditions as the Grantor thinks fit.
- 7.3 Sections 17S to 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, without the prior consent of the Grantor:
- (a) cut down or damage any vegetation; or
 - (b) damage any natural feature or historic resource on the Easement Land; or
 - (c) light any fire on the Easement Land.
- 8.2 The Concessionaire must, at its cost:
- (a) keep the easement facility (as defined in Schedule 5) now or hereafter upon the Easement Land, in good order, condition and repair; and
 - (b) must keep the Easement Land in a clean and tidy condition.
- 8.3 The Concessionaire 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, agents and contractors) 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 days' 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 at Work Act 2015 and its regulations and all other provisions or requirements of any competent authority relating to the exercise of this Concession. The Concessionaire must comply with any safety directions of the Grantor.

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, Climate Change Response Act 2002 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 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.

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, by pre-paid post or email to the receiving party at the address, or email address specified in Item 11 of Schedule 1. Any such notice is to be deemed to have been received:

- (a) in the case of personal delivery, on the date of delivery;
- (b) in the case of post, on the 3rd working day after posting;
- (c) in the case of email,
 - (i) if sent between the hours of 9am and 5pm on a working day, at the time of transmission; or
 - (ii) if subclause (i) does not apply, at 9am on the working day most immediately after the time of sending.

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

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

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 this 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 this 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. Jointly and severally liable

- 24.1 In the event that this Concession is held by multiple Concessionaire's, they will be jointly and severally liable.

25. Are there any Special Conditions?

- 25.1 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.

26. The Law

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

SCHEDULE 3

SPECIAL CONDITIONS

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

Climate change considerations

2. 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.
3. 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.
4. The Grantor may review and amend the conditions of this Concession to reflect climate change-related legislation and government or Departmental policy and those conditions (“Revised Conditions”) may, amongst other things, require the Concessionaire to measure, manage and reduce the greenhouse gas emissions of the Concession Activity.
5. Before amending the conditions of this Concession in accordance with clause 4, 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.

6. 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 5 or any later date specified in the Revised Conditions.

Fuels, hazardous materials, chemicals and waste

7. Any waste or rubbish must be disposed of in an approved manner off the Easement Land at a Council approved site. Waste held on the Easement 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.
8. 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 Easement 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

9. The Concessionaire 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/>.
10. If the Concessionaire encounters suspected symptoms of myrtle rust, the Concessionaire 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.

Didymo

11. The Concessionaire must 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 - www.mpi.govt.nz/travel-and-recreation/outdoor-activities/check-clean-dry/. The Concessionaire must regularly check this website and update their precautions accordingly.

Other Special Conditions

12. The Concessionaire shall comply with the provisions of the Resource Management Act 1991, or any replacement Act, at all times. This includes:
 - (a) Obtaining and complying with all resource consents necessary to undertake the Concession Activity; and
 - (b) Complying with the provisions of all relevant regional and district plans, including any relevant permitted activities.
13. The Concessionaire and their agents or invitees shall not use vehicles on land other than the existing road formation.
14. The Concessionaire shall maintain the Easement Land, including culverts, bridges, and access points to ford crossings, to the satisfaction of the Buller *Kawatirti* Operations Manager, and the road and any maintenance must remain within the present footprint.
15. The Concessionaire must not undertake any work to widen or extend the road.
16. All waterway crossings for light vehicles on the Easement land must use culverts and bridges.
17. The Concessionaire shall not erect any gateways or restrict public access to the Easement Land in any way.
18. The Concessionaire shall ensure that all its vehicles are maintained to a level which ensures no oil leaks occur while crossing waterways and they have exhaust systems approved to COF standards.
19. The Concessionaire shall not refuel or lubricate machinery or vehicles in the Easement Land and shall not store fuel on the Easement Land.
20. The Concessionaire must ensure that dust control methods are used including:
 - (a) Regularly maintaining and resurfacing the road; and
 - (b) Avoiding or minimising vehicle use during dry or windy conditions; and
 - (c) Carrying out visual inspections of the site in conjunction with monitoring of weather conditions to determine dust control requirements and to ensure that dust suppression measures are being followed; and
 - (d) Spraying by water truck if necessary.
21. The Concessionaire must ensure that storm water, erosion, and sediment management control measures are applied to the Fly Creek Mine Road upgrades, which follow the Concessionaire's *Earthworks and Sediment Control Plan*, as submitted to the Buller *Kawatirti* Operations Manager. This plan must cover:
 - (a) Control of run-on water; and
 - (b) Separation of 'clean' from 'dirty' water; and
 - (c) Protection of the land surface from erosion; and
 - (d) Prevention of sediment from leaving the site.
22. The Concessionaire is to be responsible for the reasonable costs of the Grantor's *Quality Conservation Management* (QCM) standards/safety inspections of the improvements to the Easement Land area.

23. The Concessionaire must have in place an annual maintenance programme approved by the Buller *Kawatirti* Operations Manager.

Adverse impacts

24. The Concessionaire must ensure there are no adverse impacts on the *Electric Loco Line*.
25. The Concessionaire must ensure there are no adverse impacts on the *Stockton Structural Detachment*.

Weed control

26. The Concessionaire must ensure that all gravel and other materials used in undertaking the Concession Activity are from a weed-free source.
27. The Concessionaire shall be responsible for controlling weeds along the sides of the road. The Concessionaire must formulate and implement an on-going weed control programme for gorse, montbretia and *Juncus squarossus*, and any other weed species identified on the site that the Department requires addressing to the satisfaction of the Buller *Kawatirti* Operations Manager.

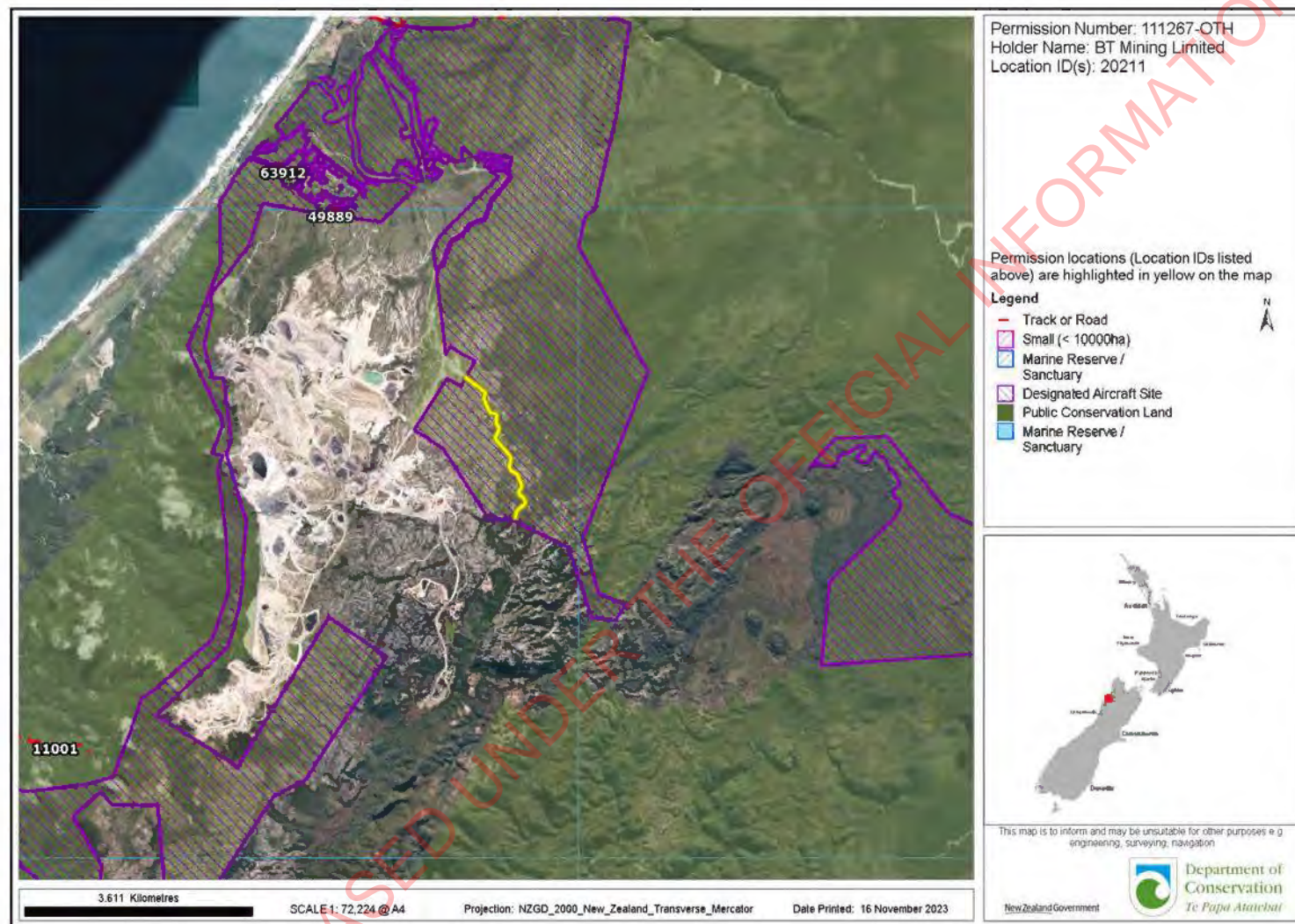
Rehabilitation

28. The Concessionaire must ensure that any fill slopes from construction of passing bays are rehabilitated to the satisfaction of the Buller *Kawatirti* Operations Manager.
29. The Concessionaire shall rehabilitate the Easement Land at the expiry of the easement to the satisfaction of the Buller *Kawatirti* Operations Manager.

Termination

30. The Grantor may terminate this Easement if it decides that the Easement Land is to be used for another concession activity or land exchange. Refer to Schedule 2, Clause 15 for further Termination clauses.

SCHEDULE 4



SCHEDULE 5

RIGHTS AND POWERS IMPLIED IN EASEMENTS

LAND TRANSFER REGULATIONS 2018

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

1 Interpretation

In this schedule, unless the context otherwise requires,—

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

burdened land, in relation to an easement,—

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

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

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

easement facility,—

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

- (e) for a right to drain sewage, means pipes, conduits, pumps, tanks (with or without headwalls), manholes, valves, surface boxes, other equipment suitable for that purpose (whether above or under the ground), and anything in replacement or substitution:
- (f) for a right to convey gas, means pipes, conduits, valves, other equipment suitable for that purpose (whether above or under the ground), and anything in replacement or substitution

grantee and grantor—

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

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

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

2 **Classes of easements**

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

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

Rights and powers implied in easements granting certain rights

3 **Right to convey water**

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

4 Right to drain water

- (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, at all times, to convey water (whether sourced from rain, springs, soakage, or seepage) in any quantity—
 - (a) from the benefited land through the easement facility and over the easement area; or
 - (b) for an easement in gross, through the easement facility and over the easement area.
- (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 for the relevant easement is the easement facility laid or to be laid along the easement area in accordance with clause 10(1).

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, at all times, to drain, discharge, and convey sewage and other waste material and waste fluids in any quantity—
 - (a) from the benefited land through the easement facility and over the easement area; or
 - (b) for an easement in gross, through the easement facility and over the easement area.
- (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 for the relevant easement is the easement facility laid or to be laid along the easement area in accordance with clause 10(1).

6 Rights of way

- (1) A right of way includes the right for the grantee, in common with the grantor and other persons to whom the grantor may grant similar rights, at all times, to go over and along the easement facility.
- (2) The right to go over and along the easement facility includes the right to go over and along the easement facility with or without any kind of—
 - (a) vehicle, machinery, or implement; or
 - (b) domestic animal or (if the burdened land is rural land) farm animal.
- (3) A right of way includes the right to have the easement facility kept clear at all times of obstructions (whether caused by parked vehicles, deposits of materials, or unreasonable impediment) to the use and enjoyment of the easement facility.

- (4) The right to go over and along the easement facility, and to have the easement facility kept clear, is limited to the extent by any period of necessary repair or maintenance of the easement facility.
- (5) The easement facility for the relevant easement is the surface of the land described as the easement area, including any easement facility laid or to be laid along the easement area in accordance with clause 10(1).

7 Right to convey electricity

- (1) 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

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

11 Repair, maintenance, and costs

- (1) If the 1 or more grantees have exclusive use of the easement facility, each grantee is responsible for arranging the repair and maintenance of the easement facility, and for the associated costs, so as to keep the facility in good order and to prevent it from becoming a danger or nuisance.
- (2) If the 1 or more grantees 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 burdened land.
- (4) The parties responsible for maintenance under subclause (1), (2), 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.