



Concession Document (Easement)

THIS CONCESSION is made this 23rd day of August, 2013

PARTIES:

1. **Minister of Conservation** (the Grantor)
2. **Alfeld, Peter Andrew; Alfeld, Judith Ann; Hundhammer, Hans and Hundhammer, Ingrid Renate** (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 Land.
- F. The Concessionaire wishes to carry out the Concession Activity on the Easement Land subject to the terms and conditions of this Concession.
- G. The Concessionaire acknowledges that the Easement land may be the subject of Treaty of Waitangi claims.
- H. The parties wish to record the terms and conditions of this Concession and its Schedules.

OPERATIVE PARTS

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

SIGNED on behalf of the Minister of Conservation by


Kingsley Timpson, Acting Conservator,
Canterbury Conservancy acting under
delegated authority in the presence of:

SIGNED by:


s9(2)(a)

Peter Andrew Alfeld


s9(2)(a)

Judith Ann Alfeld

Witness Signature: [Signature]

Witness Name: D. C. Salmon

Witness Occupation: Conservation Officer

Witness Address: Christchurch

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

s9(2)(a)

Hans Hundhammer

s9(2)(a)

Ingrid Renate Hundhammer

in the presence of:

Witness Signature: _____

Witness Name: _____


Witness Occupation: _____

Witness Address: _____

SCHEDULE 1

1.	Easement Land (Servient land - the land where the easement activity occurs) (Schedule 4)	As marked in yellow on the attached plan in Schedule 4 Land Status: s 24 Marginal Strip Area: 20m x 3m either side of the stream bed of Nathan Stream. Legal Description: Part RUN 287 Location ID: 28156
2.	Land (Dominant land - the land that benefits from the easement) (Schedule 4)	Is the easement in gross? Yes
0	Concession Activity (clause 2)	A Right of Way
3.	Term (clause 3)	In perpetuity commencing on 1 September 2013.
4.	Final Expiry Date (clause 3)	N/A
5.	Concession Fee (clause 4)	Annual Activity Fee N/A Annual Management Fee: N/A
6.	Concession Fee Payment Date (clause 4)	N/A
7.	Penalty Interest Rate (clause 4)	Double the current Official Cash Rate (OCR). <u>See Reserve Bank of New Zealand website</u>
8.	Insurance (To be obtained by Concessionaire) (clause 10)	<u>Types and amounts:</u> Public Liability Insurance for: (a) general indemnity for an amount no less than \$1,000,000.00; and (b) Forest and Rural Fires Act extension for an amount no less than \$500,000.00; and Insurance amounts subject to review (clause 10)
9.	Addresses for Notices (clause 19)	The Grantor's address is: Department of Conservation 70 Moorhouse Avenue

Concessionaire's initials		Grantor's initials	
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		Christchurch 8011 Phone: (03) 371-3700 Fax: (03) 365 1388
		The Concessionaire's address in New Zealand is: s9(2)(a) 
11.	Registration Easement (Schedule 6)	of Is the easement to be registered with LINZ? No
12.	Special Conditions (clause 23)	See Schedule 3

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

Note: Please initial each page of Schedule 1

Concessionaire's initials		Grantor's initials	
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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 to the Grantor in the manner directed by the Grantor the Concession Fee plus GST on the Concession Fee Payment Date specified in Items 6, and 7 of Schedule 1.
- 4.2 If the Concessionaire fails to make payment within 14 days of the Concession Fee Payment Date then the Concessionaire is to pay interest on the unpaid Concession Fee from the Concession Fee Payment Date until the date of payment at the Penalty Interest Rate specified in Item 8 of Schedule 1.

5. Are there any other charges?

- 5.1 The Concessionaire must pay all levies rates and other charges, including utility charges payable in respect of the Easement Land or for the services provided to the Easement Land which relate to the Concessionaire's use of the Easement Land or the carrying on of the Concession Activity. Where the Grantor has paid such levies, rates or other charges the Concessionaire must on receipt of an invoice from the Grantor pay such sum to the Grantor within 14 days of receiving the invoice. If payment is not made within the 14 days then the Concessionaire is to pay interest on the unpaid sum from the date

payment was due until the date of payment at the Penalty Interest Rate specified in Item 8 of Schedule 1.

6. When can the Concession be assigned?

- 6.1 If in Item 2 of Schedule 1 the easement is expressed as being in gross the Concessionaire must not transfer, sub licence, assign, mortgage or otherwise dispose of the Concessionaire's interest under this Concession or any part of it (which includes the Concessionaire entering into a contract or any other arrangement whatsoever whereby the Concession Activity would be carried out by a person (called the assignee) other than the Concessionaire) without the prior written consent of the Grantor.
- 6.2 The Grantor may in the Grantor's discretion decline any application for consent under clause 6.1.
- 6.3 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.
- 6.4 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.
- 6.5 The Concessionaire must pay the costs reasonably incurred by the Grantor incidental to any application for consent, whether or not such consent is granted.
- 6.6 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.

7. What are the obligations to protect the environment?

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

8. When can structures be erected?

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

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

- 9.1 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.

10. What are the liabilities and who insures?

- 10.1 The Concessionaire agrees to use the Easement Land at the Concessionaire's own risk and releases to the full extent permitted by law the Grantor and the Grantor's employees and agents from all claims and demands of any kind and from all liability which may arise in respect of any accident, damage or injury occurring to any person or property in or about the Easement Land.
- 10.2 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.
- 10.3 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.
- 10.4 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.
- 10.5 Despite anything else in clause 10 the Concessionaire is not liable for any indirect or consequential damage or loss howsoever caused.
- 10.6 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 10.7, such damage or interference is caused by any wilful act or omission of the Grantor, the Grantor's employees, agents or contractors.
- 10.7 Where the Grantor is found to be liable in accordance with clause 10.6, the total extent of the Grantor's liability is limited to \$1,000,000 in respect of the Concessionaire's structures, equipment and facilities.
- 10.8 Despite anything else in clause 10 the Grantor is not liable for any indirect or consequential damage or loss howsoever caused.
- 10.9 Without prejudice to or in any way limiting its liability under this clause 10 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 9 of Schedule 1 with a substantial and reputable insurer.
- 10.10 After every three year period of the Term the Grantor may, on giving 10 working day's notice to the Concessionaire, alter the amounts of insurance required under clause 10.9 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.
- 10.11 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.

11. What about Health and Safety?

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

12. What are the compliance obligations of the Concessionaire?

- 12.1 The Concessionaire must comply where relevant:

- (a) with the provisions of any conservation management strategy or conservation management plan under the Conservation Act 1987 or Part IIA of the Reserves Act 1977, or any general policy statement made under the Conservation Act 1987, Reserves Act 1977, National Parks Act 1980, or Wildlife Act 1953, or management plan under section 45 of the National Parks Act 1980, whichever is appropriate to the Easement Land, together with any amendment or review of any policy, strategy or plan whether approved before, on, or after the date on which this Concession takes effect; and
- (b) with the Conservation Act 1987, the Reserves Act 1977, the National Parks Act 1980, Wildlife Act 1953 and any other statute, ordinance, regulation, bylaw, or other enactment (collectively the "Legislation") affecting or relating to the Easement Land or affecting or relating to the Concession Activity, including any regulations made under the Conservation Act 1987 and Wildlife Act 1953 or bylaws made under the Reserves Act 1977 or the National Parks Act 1980; and
- (c) with all notices and requisitions of any competent authority affecting or relating to the Easement Land or affecting or relating to the conduct of the Concession Activity; and
- (d) with all Department signs and notices placed on or affecting the Easement Land.

- 12.2 The Concessionaire must comply with this Concession.

- 12.3 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 12.1.(a) is deemed to be a breach of this Concession.

- 12.4 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.

13. When can the Concession be terminated?

13.1 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.

13.2 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.

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

14.1 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.

14.2 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.

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

15. When is the Grantor's consent required?

15.1 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.

16. Are there limitations on public access and closure?

- 16.1 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.

17. What about other concessions?

- 17.1 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.

18. How will disputes be resolved?

- 18.1 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.
- 18.2 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.
- 18.3 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.
- 18.4 The arbitrator must include in the arbitration award reasons for the determination.
- 18.5 Despite the existence of a dispute, each party must continue to perform its obligations under this Concession.

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

- 19.1 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 10 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.
- 19.2 If either party's details specified in Item 10 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.
- 20. What about the payment of costs?**
- 20.1 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.
- 20.2 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.
- 21. What about the powers implied by statute?**
- 21.1 The rights and powers implied in the relevant easements by the 5th Schedule to the Property Law Act 2007 and the Fourth Schedule to the Land Transfer Regulations 2002 (as set out in Schedule 5 of this easement) apply to this easement **EXCEPT** to the extent set out in Schedule 3 of this easement.
- 22. What about Co-Siting?**
- 22.1 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.
- 22.2 The Concessionaire must not allow Co-Siting on the Easement Land without the prior written consent of the Grantor.
- 22.3 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.
- 22.4 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.
- 22.5 Subject to clause 22.4 the Concessionaire must, if required by the Grantor, allow Co- Siting on the Easement Land.
- 22.6 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 22.6. 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 22.6.
- 22.7 If the independent consultant report rejects the Concessionaire's concerns, the Concessionaire may dispute this in accordance with the procedure set out in clause 18 of Schedule 2.
- 22.8 Where the Concessionaire is required under clause 22.5 to allow Co-Siting on the Easement Land, the Concessionaire is, subject to clause 22.10 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.
- 22.9 If the Concessionaire does not accept the Grantor's determination, the Concessionaire may dispute this in accordance with the procedure set out in clause 18 of Schedule 2.
- 22.10 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.
- 22.11 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.

23. Are there any Special Conditions?

23.1 Special conditions are specified in Schedule 3.

24. The Law

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

Released under the Official Information Act

SCHEDULE 3

SPECIAL CONDITIONS

1. The rights implied in easements of vehicular right of way in the 5th Schedule of the Property Law Act 2007 as set out in Schedule 5 of this document are amended by:
 - (a) replacing the word, "grantee" with "Concessionaire"; and
 - (b) adding to Clause 2(a) the words, "after first obtaining the prior consent of the Grantor as required in clauses 7 and 8 of Schedule 2 of this easement."
2. The Concessionaire shall ensure that any machinery brought into the site shall be free of weed seed and plant material.
3. The Concessionaire shall ensure that any excavated material will be utilised and landscaped into the surrounding terrain and finished in such a manner that it minimises any disturbed appearance.
4. The Concessionaire shall ensure that any vegetation that is disturbed is be stockpiled in such a way that the plants remain alive until they can be replanted.
5. The Concessionaire shall ensure that any disturbed vegetation is to be replanted in the area it is taken from or used to restore other areas of disturbed ground around the site.
6. Once construction is complete all surplus materials are to be removed and the site be left in a condition satisfactory to the Grantor.

Didymo

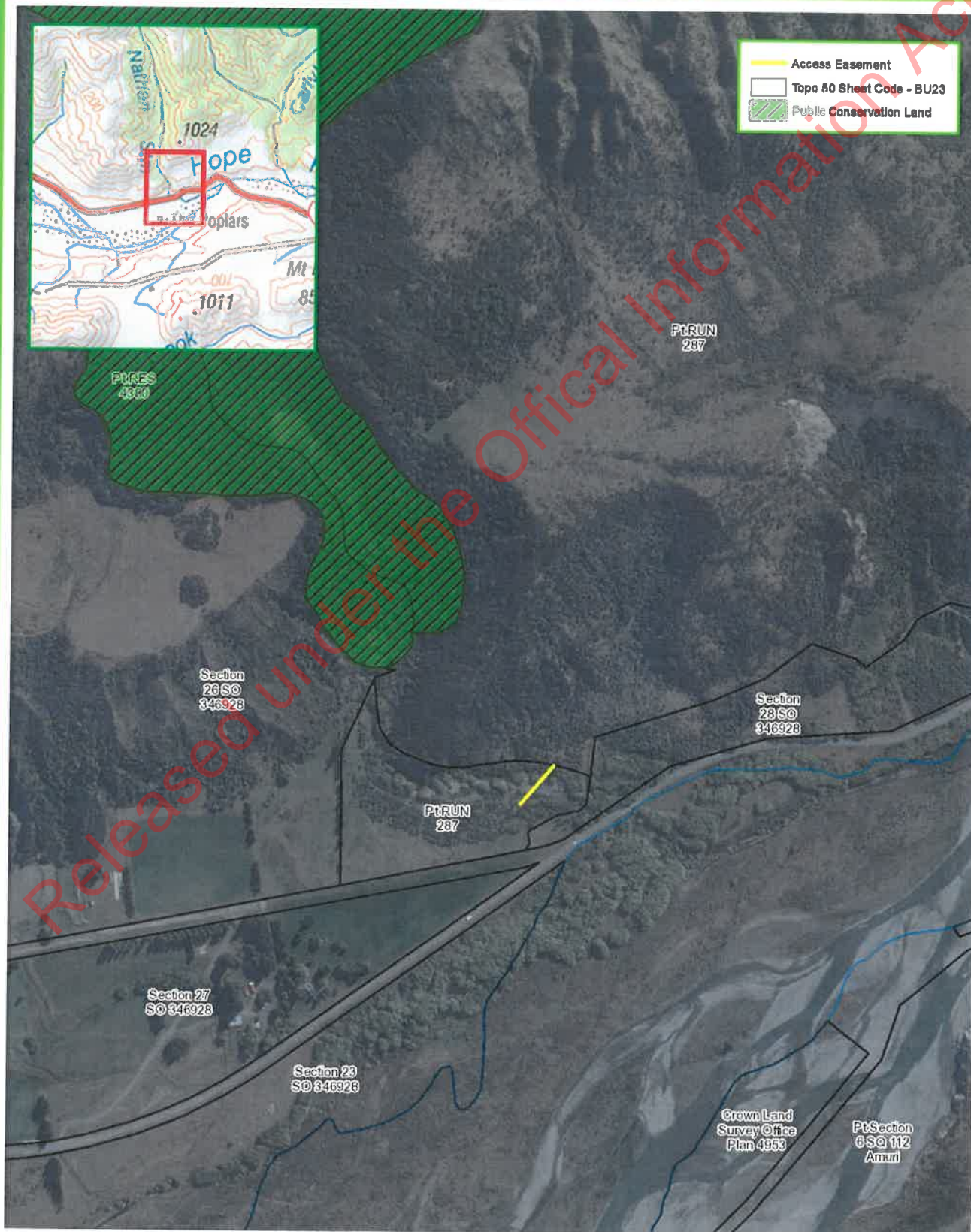
7. The Concessionaire must comply and ensure its clients comply with the Ministry for Primary Industry (MPI)'s "Check, Clean, Dry" cleaning methods to prevent the spread of didymo (*Didymosphenia geminata*) and other freshwater pests when moving between waterways. "Check, Clean, Dry" cleaning methods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

Concession Holder: Alfeld
Concession Number: 37046
Location ID: 28156



0 225 450
m

Scale at A4 = 1:8,000



Esri World Imagery & Topo 50 - 250

This map is for informational purposes and may not have been prepared for or be suitable for engineering or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the data.

New Zealand Government
Te Kāwanatanga o Aotearoa

Department of Conservation
Te Papa Atawhai

Map Created: 20/06/2013

project location: G:\GIS\PROJECTS\NationalOffice\Permissions\37046_Alfred.mxd

Released under the Official Information Act

SCHEDULE 4

Plan or map

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; andincludes the agents, employees, contractors, tenants, licensees, and other invitees of the grantee

grantor, in relation to an easement,—

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

servient land, in relation to an easement, means—

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

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

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

2. Classes of easements

For the purposes of regulation 10(a), easements are classified by reference to the following rights:

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

Rights and powers implied in easements granting certain rights

3. Right to convey water

- 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.