



Permission Decision Support Document

Application Details

Decision Maker	Jo Macpherson – Operations Director for Eastern South Island
Applicant	Mount Cheeseman Ski Club Incorporated
Permission Number	36477-SKI
Permission Type	Non-notified Easement

Key Dates

Application received	07 May 2014
Task Assignment assigned	06 May 2014
Context Meeting	21 June 2018
Check-In Meeting	N/A
Decision due	

Document Links

Application	DOCDM-1401296
Task Assignment	DOC-5481347
Cost Recovery Tool	

Resources

Permissions Advisor	Darcy Liddell
District Office/s	Emma Hunt (Community Ranger) and Leeann Ellis (Operations Manager)
Science and Policy	
Legal	Ellieda Komene

1. Purpose

To make a decision on the application.

2. Context

This report relates to the easements component of the Applicant's application for a lease, licence and easements. The report relating to the lease and licence is at <https://doccm.doc.govt.nz/cwxv4/wcc/faces/wccdoc?dDocName=DOC-5494865>. The above report provides the background to operations and past authorisations at Mt Cheeseman Ski Club, and history of processing the application since it was lodged in 2014. The report also provides a record of engagement with the Department's Treaty Partners and the Canterbury Conservation Board.

In regard to easement history, an authority for a lease and easements was issued under the Land Act 1948 for a term of 30 years expiring on 31 December 2020. The easements were registered against the land title (see DOC-2339068 for a copy of the old authorisations). The easements authorised under the old authority (see plan SO17780) were for the following:

- a) ROW - formerly included all of the 12km access rd. from the main gate (Sh73) to snowline lodge (base area).
- b) Right to operate ski lifts and ancillary equipment, including the Main T-bar, Ridge T Bar, Fixed Rope Learners Tow on Learners Slope.
- c) Existing water easement.
- d) An old telecommunication easement

The easements applied for in the application are:

- a) ROW – to apply for a ROW over the access road from the middle hut up to the snowline lodge (base area) as the road from SH73 to the middle hut is a “public road”.
The new ROW easement will need to be for the entire access road length as the Club use and maintain it during the winter months and the entire road length is public conservation land.
- b) Right to operate ski lifts and ancillary equipment, including the Main T-bar, Ridge T Bar, Fixed Rope Learners Tow on Learners Slope.
- c) Existing water easement.
- d) Right to convey electricity - no easement existed for conveyance of electricity under the former Land Act. Their application includes 3 11kV existing on-ground cables to the base area (workshop). They subsequently provided plans of the cable route see <https://doccm.doc.govt.nz/cwxv4/wcc/faces/wccdoc?dDocName=DOC-7433477>.

The club are not wanting the old telecommunications easement renewed.

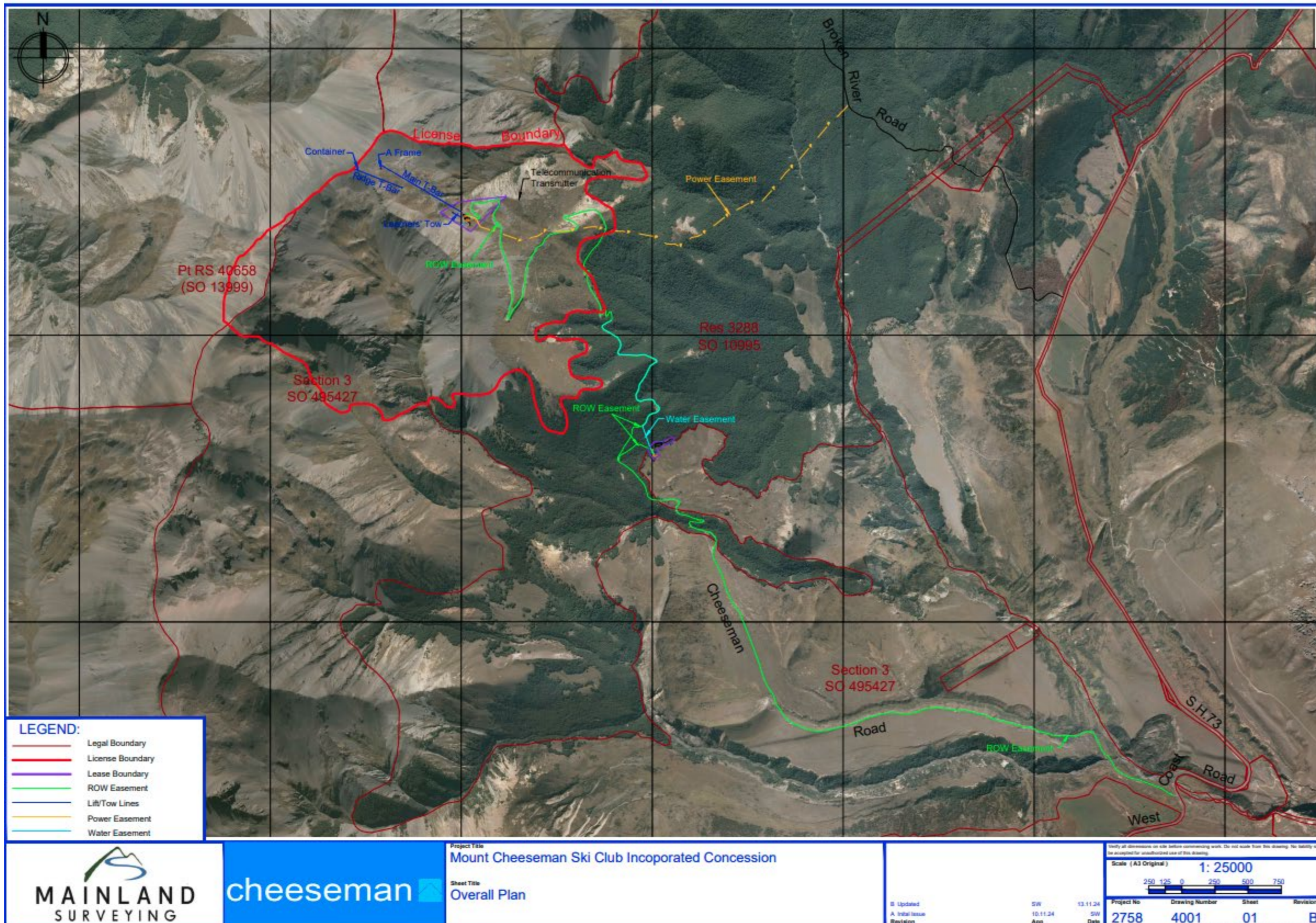
Description of locations where activity is proposed:

The ski area and access road are located on the Craigieburn Range, 99km from Christchurch. The underlying land status is Conservation Area - Castle Hill (K34047) and Conservation Park - Craigieburn Forest Park (K34002)

See map on the next page showing location of easements.

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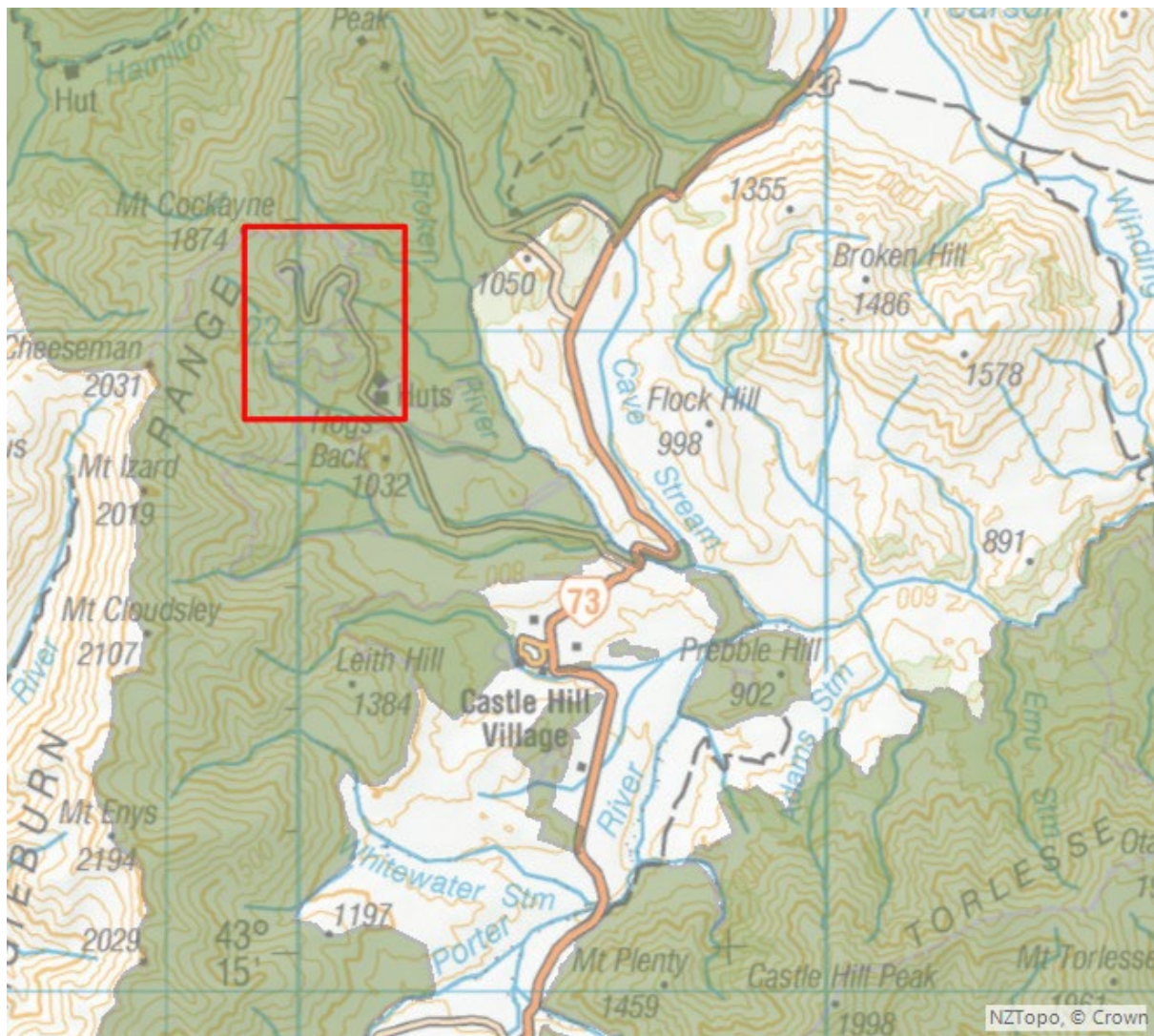
Easement Concession Map



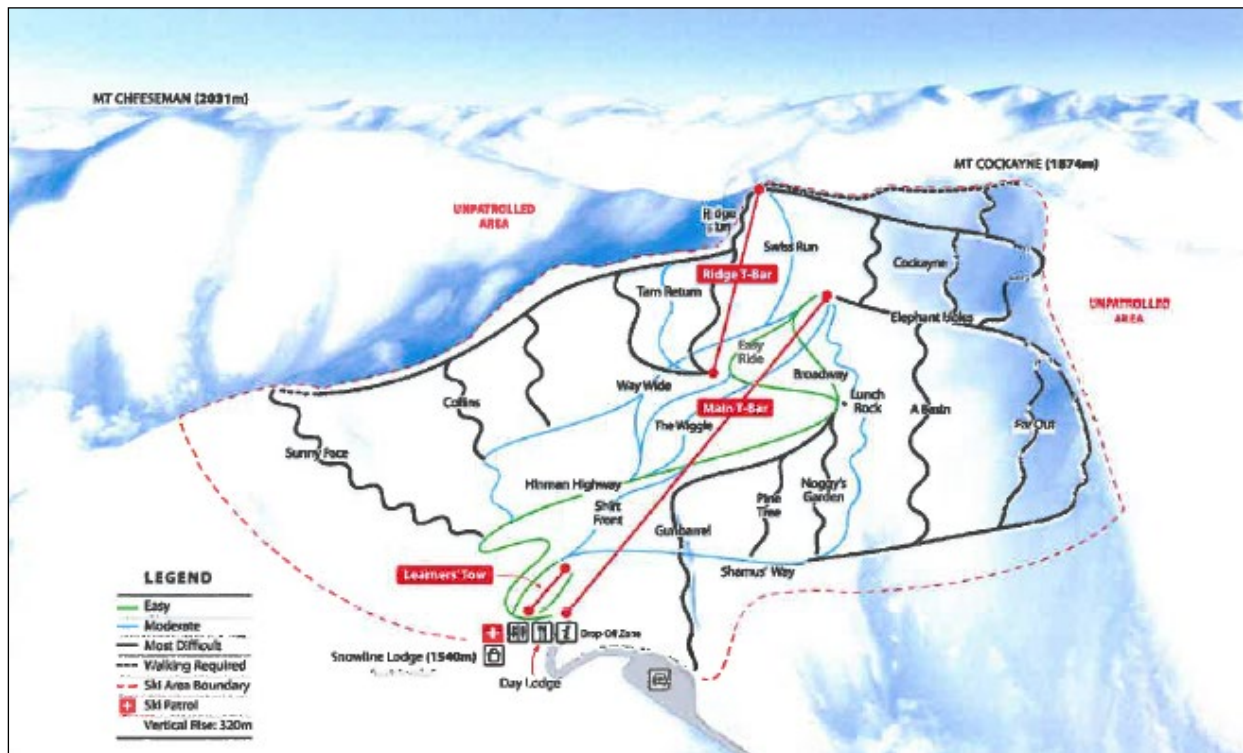
Location Map

General location of skifield

Public Conservation Land is shaded green



Mt Cheeseman Ski Area



Proposed Term

30 years

Statutory Analysis: Non-Notified Concession under Part 3B of the Conservation Act 1987

Darcy Liddell, Permissions Advisor

S17S: Contents of application

To be complete (s17S(1)), an application for a concession must include:

- A description of the proposed activity;
- A description of the locations for the proposed activity;
- A description of the potential effects of the proposed activity and proposed action to avoid, remedy, or mitigate adverse effects;
- The proposed term and reasons for that term;
- Relevant information about the application (as requested in the application form).

Criteria for decision:

- Does the application include all the required information as per s17S?

Yes

S17SC: Public Notification

The concession application must be publicly notified if it meets any of the following criteria:

- The concession type is a lease – this is for exclusive use of public conservation land;

- The term of the concession exceeds ten years (unless it is an easement – an easement may be granted for a term exceeding ten years without public notification);
- The effects of the activity mean it is appropriate to do so.

Criteria for decision:

- Is public notification required?

No

Discussion:

The application is to renew existing easements (assuming the electricity easement is applied for later) and so there is no increase in adverse effects resulting from approving the new easements. It has been confirmed by the Applicant's survey that the location of the easements to be renewed reflects the location shown on the survey plan (to be confirmed). The effects of approving the new easements is therefore such that public notification is not appropriate.

S17U(1) and (2): Analysis of effects

Briefly discuss the positive and adverse effects of the proposed activity, drawing on information from:

- *The application form, as provided by the Applicant;*
- *The contributions described in the context and check in meetings and outlined in this document.*

Any adverse effects identified that are not managed by a standard condition for the activity may require a site/activity specific special condition to either avoid, remedy, or mitigate the adverse effect. Include the condition proposed and a description of how it avoids, remedies, or mitigates the adverse effect, and list the condition in the Proposed Operating Conditions section of this document.

Note that only information relevant to the activity on public conservation land can be considered – if information about effects of the activity is included in the above sources that is outside of this scope, note why it is not a relevant consideration under the Conservation Act (for example, economic benefits to an area).

Criteria for decision:

- Is the activity consistent with s17U(1) and (2) of the Conservation Act?

Yes

Discussion:

The application is to renew existing easements (assuming the electricity easement is applied for later) and it has been confirmed by the Applicant's survey that the location of the easements to be renewed reflects the location shown on the survey plan (to be confirmed). There is therefore no increase in adverse effects resulting from approving the new easements. Further discussion though is provided below regarding the access road:

Access Road:

The 12km, gravel access road is open for public use from the SH73 boundary to the Middle Hut car park, located approximately 1.2km below the ski field base area. The Department therefore

maintains this section of road in the summer months to accommodate recreation users. The Club is responsible for maintenance of the access road from SH73 to the ski base area during the winter months.

Three barrier arms (one located at Middle Hut car park, and two at the Forest Lodge turnoff) installed by the Club and the Department control vehicle access to the upper road and Forest Lodge. The Club occasionally closes the road for safety reasons before and during the ski season and wishes to retain its ability to do this. To ensure that roles are clear, that the road is maintained to an acceptable standard and that adverse effects are minimised, the Club seeks a written, joint agreement with the Department for the control and maintenance of the road, including summer use, rather than the current verbal agreement.

To avoid erosion, water tables and channels are cleared regularly to ensure snow melt is directed via appropriate water courses.

A condition is recommended to address road maintenance below:

“

1. *The Concessionaire shall maintain the Mt Cheeseman Ski Field Road from 1 May through to 30 September (or at other such times as directed by the Grantor to account for differing snow seasons) in accordance with the Department of Conservation (DOC) document titled “Unsealed Roads Maintenance Specifications” at Schedule 6. DOC will maintain the road from 1 October through until 30 April (or at other such times as directed by the Grantor to account for differing snow seasons) in accordance with the same maintenance specifications at Schedule 6. The “road” is defined as the section of access road from State Highway 73 to the locked gate at Middle Hut. The access road beyond the locked gate shall be maintained by the Concessionaire at all times in accordance with the maintenance specifications at Schedule 6.”*

A slip on the access road in 2022 which was later repaired has raised the possibility that future slips may occur which may be more difficult/expensive to repair. A condition is therefore recommended to address any future slip or other natural event that affects the access road:

2. *It is possible that the access road from State Highway 73 to the Mt Cheeseman base area is affected by natural events that render the road unusable for safe access. In the event this occurs the Department of Conservation (DOC) and the Concessionaire must have a discussion within 1 month of the natural event occurring about what options there are for continuing to keep the road open. Neither party is committed to undertaking repairs in this situation, and the parties are required to discuss what options are available. In the event there is no written confirmation of a commitment by either party to repair the road to make it usable for safe access within 3 months of the natural event occurring, the Grantor has the discretion to terminate the easement concession. The Grantor shall give the Concessionaire at least one months’ notice of terminating the concession.*

S17U(3): Purpose for which the land is held

A concession shall not be granted if the proposed activity is contrary to the purpose for which the land is held.

Criteria for decision:

- Is the activity consistent with s17U(3) of the Conservation Act? (That is, not contrary to the purpose for which the land is held).

Yes

Discussion:

The land under application is held under two sections of the Conservation Act 1987, being conservation area (stewardship area under s25) and conservation park (s.19). The purpose of the Conservation Act 1987 is to manage for conservation purposes, all land, and all other natural and historic resources.

The purpose of Conservation Areas is for the protection of natural and physical resources.

Every conservation park shall so be managed that its natural and historic resources are protected to facilitate public recreation and enjoyment.

A ski field is not contrary to the purposes for which the land is held as it provides for public recreation and enjoyment and adverse effects will not increase as shown in the effects section above.

It is considered that the proposed activity is consistent with the purpose for which the land is held.

S17W: Relationship between concessions and conservation management strategies and plans

A concession shall not be granted unless the proposed activity is consistent with any established conservation management strategy, conservation management plan, and/or national park management plan.

Criteria for decision:

- Is the activity consistent with all relevant statutory planning documents?

Yes

Discussion:

The application to renew easements will not lead to an increase in adverse effects and Skifields are envisaged in the Canterbury Conservation Management Strategy 2016 (CMS).

3. Proposed Operating Conditions

Conditions

Special conditions relevant to this application:

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.

Construction conditions (general)

2. No alterations to the easement facility requiring earth disturbance must be undertaken without prior consent in writing of the Grantor.
3. The Concessionaire must ensure that all machinery, tools and equipment used in undertaking the Concession Activity is steamed cleaned and weed free prior to being taken onto the Easement Land.
4. The Concessionaire must ensure that all gravel and other materials used in undertaking the Concession Activity are from a weed free source.

Road Maintenance

5. The Concessionaire shall maintain the Mt Cheeseman Ski Field Road from 1 May through to 30 September (or at other such times as directed by the Grantor to account for differing snow seasons) in accordance with the Department of Conservation (DOC) document titled “Unsealed Roads Maintenance Specifications” at Schedule 6. DOC will maintain the road from 1 October through until 30 April (or at other such times as directed by the Grantor to account for differing snow seasons) in accordance with the same maintenance specifications at Schedule 6

The “road” is defined as the section of access road from State Highway 73 to the locked gate at Middle Hut. The access road beyond the locked gate shall be maintained by the Concessionaire at all times in accordance with the maintenance specifications at Schedule 6.

6. The Concessionaire shall undertake regular inspections (a minimum of twice yearly before and after the ski season) of the access road. Inspections shall also be made following significant rainfall (significant rainfall is that which triggers any orange or red heavy rain warning).
7. The Grantor will undertake monthly inspections of the access road outside of the ski season.
8. It is possible that the access road from State Highway 73 to the Mt Cheeseman base area is affected by natural events that render the road unusable for safe access. In the event this occurs the Department of Conservation (DOC) and the Concessionaire must have a discussion within 1 month of the natural event occurring about what options there are for continuing to keep the road open. Neither party is committed to undertaking repairs in this situation, and the parties are required to discuss what options are available. In the event there is no written confirmation of a commitment by either party to repair the road to make it usable for safe access within 3 months of the natural event occurring, the Grantor has the discretion to terminate the easement concession. The Grantor shall give the Concessionaire at least one months' notice of terminating the concession.

Road access

9. The Concessionaire may lock the gate at the middle hut on the Mt Cheeseman access road and at the beginning of the road to Forest Lodge for reasons of security and public safety to deny public pedestrian and vehicle access. A key to the gates must be provided to the Grantor. In particular:
 - (a) The Concessionaire may refuse access to vehicles for any of the reasons set out at clause 10 below;
 - (b) The Concessionaire may refuse pedestrian access to any member of the public, only where safety is of a concern; and
 - (c) Prior to refusing such pedestrian access, the Concessionaire shall take all practicable steps to consult with the Grantor.
10. The Concessionaire may refuse vehicle entry (except to vehicles operated by the Grantor) where in the opinion of the Concessionaire:
 - (a) The weather (any orange or red rain warnings) or road conditions or visibility of the right of way are hazardous; or
 - (b) The vehicle does not appear to be roadworthy or adequately equipped with appropriate safety equipment required for the conditions; or
 - (c) The driver appears to be impaired and not capable of proper control of the vehicle.
 - (d) There is a high avalanche risk.

Other easement facilities

11. The Concessionaire must (at its cost) operate, maintain and repair the water reticulation infrastructure, ski lift infrastructure, and utilities (water, electricity) on the Land to required standards, codes of practice and legislative requirements. The Concessionaire must at the Grantor's request, provide the Grantor with documentary evidence of compliance with the said requirements.

Term: 30 Years

This recommended term is consistent with that recommended for the associated lease/licence for the skifield operation. A 30 year term is provided for in the legislation.

Decision: Non-Notified Concession under Part 3B of the Conservation Act 1987

1. Deem this application to be complete in terms of s17S of the Conservation Act 1987:

Agree / Disagree

2. Approve/Decline to grant an Easement Concession to Mount Cheeseman Ski Club Incorporated, subject to the conditions listed in section 3 of this report.

Approve / Decline

Signed by Jo Macpherson, Director of Operations Eastern South Island Region

Pursuant to the delegation dated 9 September 2015

Date

Decision Maker comments

Decision Maker to comment on the rationale behind their decision. If there is nothing contentious this can be brief, but if there are differing views between DOC staff and/or DOC and Treaty Partners, or there are multiple options available, or the decision made is different from what is recommended/requested, the rationale for the decision made must be clearly provided.

The Permissions Advisor will share the rationale for the decision with team members.

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