Concession Document

(Lease and Easement)

Concession Number [ ]

THIS DOCUMENT is made this [*insert date*]

PARTIES:

Minister of Conservation (the Grantor)

NZSki Limited (the Concessionaire)

Trojan Holdings Limited (the Guarantor)

BACKGROUND

A. The Department of Conservation ("Department") Te Papa Atawhai is responsible for managing and promoting conservation of the natural and historic heritage of New Zealand on behalf of, and for the benefit of, present and future New Zealanders.

B. The Department is under the control of the Grantor.

C. The carrying out of these functions may result in the Grantor granting concessions to carry out activities on public conservation land.

D. The Grantor administers public conservation lands described in Schedule 1 as the Land.

E. The Conservation Act 1987 ("Conservation Act") authorises the Grantor to grant a concession over the Land. The Fast-Track Approvals Act 2024 ("Fast-Track Act") allows a fast-track applicant to seek a concession that would otherwise be applied for under the Conservation Act.

F. This Concession, granted under the Fast-Track Act, has the same force and effect for its duration, and according to its terms and conditions, as if it were granted under the Conservation Act, except that section 17A of the Conservation Act does not apply

~~F.~~**G.** The Concessionaire wishes to carry out the Concession Activity on the Land subject to the terms and conditions of this Concession.

~~G.~~**H.** The Concessionaire acknowledges that the land may be the subject of Treaty of Waitangi claims.

. The parties wish to record the terms and conditions of this Concession and its Schedules.

OPERATIVE PARTS

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

Commented [MD1]: DOC amendment accepted.

SIGNED on behalf of the Minister of Conservation by **[Name]**, **[position]** acting under delegated authority	SIGNED by **NZSki Limited** by Paul Anderson, Chief Executive Officer, having authority to enter into contracts
In the presence of:	In the presence of:

Commented [MD2]: DOC amendment accepted.

Draft

Witness Signature: Witness Name: Witness Occupation: Witness Address: A copy of the Instrument of Delegation may be inspected at the Director-General's office at 18-32 Manners Street, Wellington.	Witness Signature: Witness Name: Witness Occupation: Witness Address:
	Guarantor SIGNED for **Trojan Holdings Limited** by: Signature Director name: (print name) Signature Director name: (print name)

Draft

SCHEDULE 1

1.	**Land** (Clause 1 of Schedule 2)	The areas of land shown on Maps 1 to 3 in Schedule 4 and as described in Schedule 4.1 over the following conservation lands: (a) Part Rastus Burn Recreation Reserve (F41055). Land Status: (a) Held as Recreation Reserve under section 17 of the Reserves Act 1977. Legal Description: (a) Part Section 1 Block X Kawarau Survey District; and (b) Part Sections 1-2 Survey Office 22561. Map Reference: (a) NaPALIS ID: 2804656; Approximate GPS NZTM 2000 of ski field main building E1270383, N5002586 Total area of the Land is approximately 8,501 m² (area not defined by survey) as shown on Maps 1 to 3 in Schedule 4. **The Land is comprised of the Lease Land and the Easement Land which are more particularly described below.** **Lease Land** Those parts of the Land measuring approximately 6,731 m² in total whose general locations are depicted on Map 1 of Schedule 4 and which are more particularly described in Schedule 4.1 as being leased. The size of each leased area is set out in column 4 of Schedule 4.1. **Easement Land (in gross)** Those parts of the Land measuring approximately 1,770 m² which are depicted on Map 2 of Schedule 4 and described in column 3 of Schedule 4.1 as being easements.
2.	**Concession Activity** (Clause 2 of Schedule 2)	Subject to the limitations in Schedules 2 and 3, the Concessionaire may carry out the following activities upon the Land: 1. Construct the structures and facilities listed in Schedule 4.1, as more particularly described in clause 1 of Schedule 3, in accordance with the plans and diagrams in Schedule 4 and the provisions of clauses 2 to 19 of Schedule 3 (referred to in this Concession as the "Expansion Works") ~~1.~~2. Manage, operate, maintain, and repair, at the Concessionaire's cost, the ~~structures and facilities listed in Schedule 4.1~~Expansion Works for the primary purposes listed in that schedule; ~~2.~~3. In respect of the Easement Land, use the Easement Land and the existing easement structures and facilities located on or in the Easement Land for purposes connected with:

Commented [MD3]: DOC amendment accepted.

Commented [MD4]: DOC amendment accepted.

Commented [MD5]: Change proposed by NZSki as 2(1) has defined the term.

Draft

		(a) treatment of wastewater and storage of wastewater; (b) conveyance of electricity: and (c) conveyance of telecommunications and computer media: Items 2(a)-(c) above associated with utilities and services (above and under the ground infrastructure) for water, air (airburst system) electricity, telecommunications and computer media. ~~3.~~4. Use vehicles where that use is necessary and directly connected with the activities listed in 1 and 2 above. - and as more specifically set out in Schedule 3
3.	**Term** (Clause 4 of Schedule 2)	The number of years, months and days commencing on [*insert date*]*(30 working days following approval date as per s11, Schedule 6 of the Fast-Track Act*] and expiring on the Final Expiry Date
4.	**Renewal(s)** (Clause 4 of Schedule 2)	Not applicable
5.	**Final Expiry Date** (Clause 4 of Schedule 2)	30 November 2063
6.	**Concession Fee** (clause 5 of Schedule 2)	**(a) Concession Activity Fee:** Not applicable: the concession activity fee associated with Concession 96118-SKI and [insert number] apply to this concession. AND **(b) Concession Management Fee:** $1,440.00 per annum plus GST
7.	**Environmental Monitoring Contribution** (Clause 10 of Schedule 2; clauses 53 and 54 of Schedule 3)	Standard Departmental charge-out rates for staff time and mileage required to monitor the effects of the concession activity apply.
8.	**Community Services Contribution** (Clause 7 of Schedule 2)	Such sums as may be notified from time-to-time by the Grantor in accordance with section 17ZH of the Conservation Act 1987.
9.	**Total Payment to be made per annum** (Clause 5 of Schedule 2)	Concession Activity Fee (Item 6); AND the Concession Management Fee (Item 6); AND the Environment Monitoring Contribution (Item 7); AND the Community Services Contribution (Item 8).
10.	**Total Payment instalment(s)** (Clause 5 of Schedule 2)	As per Item 9 above.
11.	**Concession Fee Payment Date(s)** **(**Clause 5 of Schedule 2)	**(a) Concession Management Fee (Item 6), Environmental Monitoring Contribution** (Item 7), are payable in arrears on each annual anniversary of the Commencement Date during the Term

Commented [MD6]: DOC amendment accepted.

Commented [MD7]: DOC amendment accepted.

Commented [MD8]: DOC amendment accepted.

Draft

		as detailed in Item 3 of Schedule 1. **(b) Concession Activity Fee** (Item 6): is payable in arrears for each Concession Year (or part-year). **(c) Community Services Contribution** (Item 8): Payable in accordance with notices received from the Grantor pursuant to section 17ZH of the Conservation Act 1987. For the avoidance of doubt, the due date for payment of all concession fees is the 20th of the month following the date on which the invoice was issued by the Grantor.
12.	**Penalty Interest Rate** (Clause 5 of Schedule 2)	Double the current Official Cash Rate (OCR). See Reserve Bank of New Zealand website
13.	**Concession Fee Review Date(s)** (Clause 6 of Schedule 2)	Every three years from and including the third anniversary of the commencement date
14.	**Insurance** (To be obtained by Concessionaire) (Clause 13 of Schedule 2)	Types and amounts: Public Liability Insurance for: (a) General indemnity for an amount no less than $2,000,000.00; and (b) Third party vehicle liability for an amount no less than $500,000.00. Subject to clause 17(c) of Schedule 3 and review on each Concession Fee Review Date.
15.	**Health and Safety** (Clause 14 of Schedule 2; clauses 37-42 of Schedule 3)	Audited Safety Plan: Required. The Concessionaire must provide the Grantor with audited safety plans: (a) in respect of the Expansion Works (or any stage of them), prior to commencement of construction of the Expansion Works; and ~~(a)~~(b) in respect of all other Concession Activities, within 6 months of the commencement of this Concession.
16.	**Concessionaire Identification** (Clause 32 of Schedule 2)	The Concessionaire and any person acting under the authority of the Concessionaire must carry and display a Concession Identification card when carrying out the Concession Activity, unless attired in appropriate Concessionaire's uniform with logo visible.
17.	**Addresses for Notices** (Clause 25 of Schedule 2)	The Grantor's address for notices: Physical Address: Department of Conservation Level 1, John Wickliffe House 265 Prince Street Ōtepoti/Dunedin 9016 New Zealand Postal Address: PO Box 5244 Dunedin 9054

Commented [MD9]: DOC amendment accepted.

Commented [MD10]: DOC amendment accepted.

Draft

		New Zealand Phone: 03 477 0677 Email: transactioncentre@doc.govt.nz
		The Concessionaire's address in New Zealand is: Physical Address: NZSki Limited Queenstown Snow Centre Ground Level, The Station Building 9 Duke Street Queenstown 9300 Postal Address: PO Box 359 Queenstown 9348 Phone: 0800 697 547 Email: info@nzski.com
18.	**Guarantee** (Clause 30 of Schedule 2)	The Guarantors address in New Zealand is: Physical Address: Trojan Holdings Limited Level 2 The Station 44 Camp Street Queenstown 9300 Postal Address: PO Box 956 Queenstown 9348 Phone: 03 450 1900 Email: accounts@trojanholdings.co.nz
19.	**Special Conditions** (Clause 36 of Schedule 2)	See Schedule 3
20.	**Processing Fee** (Clause 5 of Schedule 2)	$[TBC]

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

Draft

SCHEDULE 2

STANDARD TERMS AND CONDITIONS OF LEASE AND EASEMENT

1. Interpretation

1.1 In this Document, unless the context otherwise requires:

"**Land**" means the Lease Land and Easement Land described in Item 1 of Schedule 1.

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

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

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

1.3 The Concessionaire is responsible for the acts and omissions of its employees, contractors, agents, clients and invitees (excluding other members of the public accessing the Land). The Concessionaire is liable under this Concession for any breach of the terms of the Concession by its employees, contractors, agents, clients and invitees (excluding other members of the public accessing the Land), as if the breach had been committed by the Concessionaire.

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

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

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

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

2. What is being authorised?

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

2.2 The Concessionaire must exercise reasonable skill, care and diligence in carrying out the Concession Activity, in accordance with standards of skill, care and diligence normally practised by suitably qualified and experienced people in carrying out such activities.

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

2.4 The Concessionaire must not commence the Concession Activity until the Concessionaire has signed the Concession Document and returned one copy of this Document to the Grantor, as if it were a notice to be given under this Concession.

Draft

3. What about quiet enjoyment?

3.1 The Concessionaire, while paying the Concession Fee and performing and observing the terms and conditions of this Concession, is entitled peaceably to hold and enjoy the Lease Land and any structures and facilities of the Grantor without hindrance or interruption by Grantor or by any person or persons claiming under the Grantor until the expiration or earlier termination of this Concession.

3.2 Provided reasonable notice has been given to the Concessionaire the Grantor, its employees and contractors may enter the Lease Land to inspect the Lease Land and facilities, to carry out repairs and to monitor compliance with this Concession.

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

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

4.2 If there is a right of renewal then the Grantor at the Concessionaire's cost must renew the Term for a further period as set out in Item 4 of Schedule 1 provided the Concessionaire:

(a) gives the Grantor at least three month's written notice before the end of the Term, which notice is to be irrevocable, of the Concessionaire's intention to renew this Concession; and

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

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

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

5.1 The Concessionaire must pay the Processing Fee (Item 20 of Schedule 1) to the Grantor in the manner directed by the Grantor. Except where the Grantor's written consent has been given, the Concessionaire cannot commence the Concession Activity until the Processing Fee has been paid.

5.2 The Concessionaire must pay to the Grantor in the manner directed by the Grantor the Concession Fee and any other payment comprised in the Total Payment specified in Item 9 of Schedule 1 in the instalments and on the Concession Fee Payment Date specified in Items 10, and 11 of Schedule 1.

5.3 If the Concessionaire fails to make payment within 14 days of the Concession Fee Payment Date then the Concessionaire is to pay interest on the unpaid Concession Fee from the Concession Fee Payment Date until the date of payment at the Penalty Interest Rate specified in Item 12 of Schedule 1.

6. When can the fee be reviewed?

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

(a) The Grantor must commence the review not earlier than 3 months before a Concession Fee Review Date by giving notice to the Concessionaire.

(b) Subject to clause 6.1(e) the notice must specify the Concession Fee which the Grantor considers to be the market value for the Concession Activity as at the Concession Fee Review Date having regard to the matters specified in section 17Y(2) of the Conservation Act 1987.

Draft

(c) If, within 28 days of receipt of the Grantor's notice, the Concessionaire gives notice to the Grantor that the Concessionaire disputes the proposed new Concession Fee, the new Concession Fee is to be determined in accordance with clause 6.2(a) or (b).

(d) If the Concessionaire does not give notice to the Grantor under clause 6.1(c) the Concessionaire is to be deemed to have accepted the Concession Fee specified in the Grantor's notice.

(e) Notwithstanding clause 6.1(b) the new Concession Fee so determined or accepted must not be less than the Concession Fee payable during the year preceding the particular Concession Fee Review Date and is to be the Concession Fee payable by the Concessionaire from the Concession Fee Review Date.

(f) Until determination of the new Concession Fee, the Concession Fee payable by the Concessionaire from the Concession Fee Review Date is to be the Concession Fee specified in the Grantor's notice. On determination of the new Concession Fee an adjustment is to be made and paid, either by the Grantor or by the Concessionaire, whichever is applicable.

6.2 Immediately the Concessionaire gives notice to the Grantor under clause 6.1(c) the parties are to endeavour to agree on a new Concession Fee. If the parties are unable to reach agreement within 28 days the new Concession Fee is to be determined either:

(a) By one party giving notice to the other requiring the new Concession Fee to be determined by the Disputes clause (clause 23) or, if the parties agree,

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

(i) Each party must appoint a valuer and give notice of the appointment to the other party within 14 days of the parties agreeing to determine the new Concession Fee by this means.

(ii) If the party receiving a notice does not appoint a valuer within the 14 day period the valuer appointed by the other party is to determine the new Concession Fee and that valuer's determination is to be binding on both parties.

(iii) Before commencing their determination the respective valuers must appoint an umpire who need not be a registered valuer.

(iv) The valuers are to determine the new Concession Fee which they consider to be the market value for the Concession Activity as at the Concession Fee Review Date having regard to the matters specified in section 17Y(2) of the Conservation Act 1987 but in no case is the new Concession Fee to be less than the Concession Fee payable during the year preceding the particular Concession Fee Review Date. If they fail to agree the Concession Fee is to be determined by the umpire.

(v) In determining the Concession Fee the valuers or umpire are to disregard the annual cost to the Concessionaire to maintain or provide access to the Land.

(vi) Each party is to be given the opportunity to make written or oral representations or submissions to the valuers or the umpire subject to such reasonable time and other limits as the valuers or the umpire may prescribe.

(vii) The valuers or the umpire must have regard to any such representations but are not bound by them.

(c) The valuers or umpire must give written notice to the parties once they have determined the new Concession Fee. The notice is to be binding on the parties and is to provide how the costs of the determination are to be borne.

Draft

(d) If a Concession Fee Review Date is postponed because of a moratorium imposed by law the Concession Fee Review is to take place at the date the moratorium is lifted or so soon afterwards as is practicable; and

(i) the Concession Fee Review is to establish the market value for the Concession Activity as at that date instead of the date fixed under clause 6.1 having regard to the matters specified in section 17Y(2) of the Conservation Act 1987 but in no case is the new Concession Fee to be less than the Concession Fee payable during the year preceding the particular Concession Fee Review Date; and

(ii) each subsequent Concession Fee Review is to take place in accordance with the procedure fixed in clause 6.1.

7. Are there any other charges?

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

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

7.3 Where the Grantor has paid such levies, rates or other charges the Concessionaire must on receipt of an invoice from the Grantor pay such sum to the Grantor. If payment is not made within 14 days of the due date specified on the invoice then the Concessionaire is to pay interest on the unpaid sum from the date payment was due until the date of payment at the Penalty Interest Rate specified in Item 12 of Schedule 1.

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

8. When can the Concession be assigned?

8.1 The Concessionaire must not transfer, sub licence, assign, mortgage or otherwise dispose of the Concessionaire's interest under this Concession or any part of it (which includes the Concessionaire entering into a contract or any other arrangement whatsoever whereby the Concession Activity would be carried out by a person (called the assignee) other than the Concessionaire) without the prior written consent of the Grantor.

8.2 The Grantor may in the Grantor's discretion decline any application for consent under clause 8.1.

8.3 Sections 17P, 17S, 17T, 17U, 17W, 17X, 17ZB and 17ZC of the Conservation Act 1987 apply to applications for consent under this clause unless the Grantor, in the Grantor's discretion, decides otherwise.

8.4 If the Grantor gives consent under this clause then the Concessionaire remains liable to observe and perform the terms and conditions of this Concession throughout the Term and is to procure from the Assignee a covenant to be bound by the terms and conditions of this Concession.

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

8.6 If the Concessionaire is not a publicly listed company then any change in the shareholding of the Concessionaire altering the effective control of the Concessionaire is to be deemed to be an assignment and requires the consent of the Grantor.

Draft

9. What are the obligations to protect the environment?

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

9.2 The Concessionaire must at its cost keep the Land in a clean and tidy condition and free of weeds and all organisms specified as pests in a relevant pest management strategy.

9.3 The Concessionaire must not store hazardous materials on the Land nor store other materials on the Land where they may obstruct the public or create a nuisance

9.4 If directed by the Grantor, the Concessionaire must take all steps necessary to control, or, at the Grantor's option, contribute to the cost of controlling any pest, insect or rodent infestation occurring in or emanating from the Land or any structure or facility on the Land, and if directed by the Grantor, engage a pest exterminator approved by the Grantor.

9.5 The Concessionaire must make adequate provision for suitable sanitary facilities for the Land if directed by the Grantor and for the disposal of all refuse material and is to comply with the reasonable directions of the Grantor in regard to these matters.

9.6 The Concessionaire must keep all structures, facilities and land alterations and their surroundings in a clean and tidy condition. If reasonably directed by the Grantor the Concessionaire must paint all structures and facilities in colours approved by the Grantor and with paints of a type approved by the Grantor.

9.7 If, during the Term, the Concessionaire removes a structure or facility from the Land the Concessionaire must, unless the Grantor directs otherwise, repair and make good at its own expense all damage which may have been done by the removal and must leave the Land in a clean and tidy condition.

9.8 The Concessionaire must not bury:

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

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

10. What about Environmental Monitoring?

10.1 The Concessionaire must, during the Term, if the Grantor so directs, design in consultation with the Grantor and undertake a programme to monitor and report on the environmental effects of the Concessionaire's use of the Land and conduct of the Concession Activity.

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

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

11.1 The Concessionaire must not erect, alter or bring on to the Land any structure not authorised in Schedule 3 nor alter the Land in any way without the prior approval of the Grantor.

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

11.3 The Concessionaire must pay to the Grantor all costs associated with applications for approval

Draft

under this clause determined at the standard rates then applying in the Department for cost recovery of staff time and expenses.

11.4 The Concessionaire must, upon request by the Grantor, submit written engineering or building plans and details to the Grantor for approval before:

(a) erecting new structure or altering any structure on the Land

(b) altering the Land in any way.

11.5 The Concessionaire must at all times where a building warrant of fitness under the Building Act 2004 is required display a copy of the relevant current certificate showing the location of the compliance schedule in a place in each building (as defined in that Act) on the Land to which users of the building have ready access.

11.6 The Concessionaire must keep and maintain all building systems and any structure on the Land in accordance with the, requirements of any compliance schedule.

11.7 The Concessionaire must retain and make available to any territorial authority and any other person with a right to inspect any structures on the Land under the Building Act 2004 a copy of the compliance schedule, together with the written reports relating to compliance with the compliance schedule over the previous two year period.

12. What about advertising?

12.1 The Concessionaire must not erect or display any signs or advertising on the Land without the prior approval of the Grantor. At the expiry or termination of this Concession the Concessionaire must remove all signs and advertising material and make good any damage caused by the removal.

12.2 If directed by the Grantor, the Concessionaire must ensure that all its advertising and promotional material specifies that it is carrying out the Concession Activity under a Concession granted by the Grantor on land administered by the Department.

12.3 If directed by the Grantor, the Concessionaire must include information in its advertising and promotional material which assists its clients to understand the features and values of the natural and historic resources of the Land and the surrounding area.

12.4 The Concessionaire is encouraged to obtain information from and have regard to the views of tangata whenua.

13. What are the liabilities and who insures?

13.1 The Concessionaire agrees to use the Land at the Concessionaire's own risk and releases to the full extent permitted by law the Grantor and the Grantor's employees and agents from all claims and demands of any kind and from all liability which may arise in respect of any accident, damage or injury occurring to any person or property in or about the Land.

13.2 The Concessionaire must indemnify the Grantor against all claims, actions, losses and expenses of any nature which the Grantor may suffer or incur or for which the Grantor may become liable arising from the Concessionaire's performance of the Concession Activity.

13.3 This indemnity is to continue after the expiry or termination of this Concession in respect of any acts or omissions occurring or arising before its expiry or termination.

13.4 The Concessionaire has no responsibility or liability for costs, loss, or damage of whatsoever nature arising from any act or omission or lack of performance or any negligent or fraudulent act or omission by the Grantor, or any contractor or supplier to the Grantor, or any employee or agent of the Grantor.

13.5 Despite anything else in clause 13 the Concessionaire is not liable for any indirect or

Draft

consequential damage or loss howsoever caused.

13.6 The Grantor is not liable and does not accept any responsibility for damage to or interference with the Land , the Concession Activity, or to any structures, equipment or facilities on the Land or any other indirect or consequential damage or loss due to any natural disaster, vandalism, sabotage, fire, or exposure to the elements except where, subject to clause 13.7, such damage or interference is caused by any wilful act or omission of the Grantor, the Grantor's employees, agents or contractors.

13.7 Where the Grantor is found to be liable in accordance with clause 13.6, the total extent of the Grantor's liability is limited to $1,000,000 in respect of the Concessionaire's structures, equipment and facilities.

13.8 Despite anything else in clause 13 the Grantor is not liable for any indirect or consequential damage or loss howsoever caused.

13.9 Without prejudice to or in any way limiting its liability under this clause 13 the Concessionaire at the Concessionaire's expense must take out and keep current policies for insurance and for the amounts not less than the sums specified in Item 14 of Schedule 1 with a substantial and reputable insurer.

13.10 After every three year period of the Term the Grantor may, on giving 10 working day's notice to the Concessionaire, alter the amounts of insurance required under clause 13.9. On receiving such notice the Concessionaire must within 10 working days take out and keep current policies for insurance and for the amounts not less than the sums specified in that notice.

13.11 The Concessionaire must provide to the Grantor within 5 working days of the Grantor so requesting:

(a) details of any insurance policies required to be obtained under this Concession, including any renewal policies if such renewal occurs during the Term; and/ or;

(b) a copy of the current certificate of such policies.

14. What about Health and Safety?

14.1 The Concessionaire must exercise the rights granted by this Concession in a safe and reliable manner and must comply with the Health and Safety at Work Act 2015 and its regulations and all other provisions or requirements of any competent authority relating to the exercise of this Concession. The Concessionaire must comply with its safety plan (if one is required in Item 15 of Schedule 1), and with any safety directions of the Grantor.

14.2 Before commencing the Concession Activity the Concessionaire must, if required by Item 15 of Schedule 1:

(a) prepare a safety plan;

(b) have it audited by a suitably qualified person approved by the Grantor and forward to the Grantor a certificate from the auditor certifying that the safety plan is suitable for the Concession Activity; and

(c) the Concessionaire must obtain from the auditor details as to when the safety plan is to be re-audited. The Concessionaire must comply with any such requirement to re-audit and forward a copy of the re-audit certificate to the Grantor within 5 working days of the certificate being issued.

14.3 If clause 14.2 applies then if the Concessionaire amends or replaces the safety plan then before the amendment or replacement plan takes effect the Concessionaire must comply with 14.2(b) and (c).

Draft

14.4 The Grantor may at any time request the Concessionaire to provide the Grantor with a copy of the current safety plan in which case the Concessionaire must provide the copy within 10 working days of receiving the request.

14.5 Receipt of the certified safety plan by the Grantor is not in any way to limit the obligations of the Concessionaire under clause 14 and is not to be construed as implying any responsibility or liability on the part of the Grantor.

14.6 The Concessionaire must:

(a) notify the Grantor of any natural events or activities on the Land or the surrounding area which may endanger the public or the environment;

(b) take all practicable steps to protect the safety of all persons present on the Land and must, where necessary, erect signposts warning the public of any dangers they may encounter as a result of the Concessionaire's operations;

(c) take all practicable steps to eliminate any dangers to the public and must clearly and permanently mark any that remain and of which the Concessionaire is aware;

(d) record and report to the Grantor all accidents involving serious harm within 24 hours of their occurrence and forward an investigation report within 3 days of the accident occurring;

(e) ensure that all contracts between the Concessionaire and any contractors contain, at a minimum, the same requirements as clause 14;

(f) be satisfied that facilities or equipment provided by the Grantor to enable the Concession Activity to be carried out meet the safety requirements of the Concessionaire;

(g) not bring onto the Land or any land administered by the Department any dangerous or hazardous material or equipment which is not required for purposes of the Concession Activity; and if such material or equipment is required as part of the Concession Activity, the Concessionaire must take all practicable steps at all times to ensure that the material or equipment is treated with due and proper care.

15. What are the compliance obligations of the Concessionaire?

15.1 The Concessionaire must comply where relevant:

(a) with the provisions of any conservation management strategy or conservation management plan under the Conservation Act 1987 or Part 2A of the Reserves Act 1977, or any general policy statement made under the Conservation Act 1987, Reserves Act 1977, National Parks Act 1980, or Wildlife Act 1953, or management plan under section 45 of the National Parks Act 1980, whichever is appropriate to the 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

Draft

(e) with all reasonable notices and directions of the Grantor concerning the Concession Activity on the Land.

15.2 The Concessionaire must comply with this Concession.

15.3 A breach or contravention by the Concessionaire of a relevant conservation management strategy, conservation management plan, management plan or any statement of general policy referred to in clause 15.1.(a) is deemed to be a breach of this Concession.

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

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

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

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

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

(a) as to render them untenantable, the Concession is to terminate at once; or

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

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

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

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

(b) all the necessary permits and consents are obtainable; and

(c) the Grantor has not exercised the right to terminate under clause 16.1,

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

16.4 Any repair or reinstatement may be carried out by the Grantor using such materials and form of construction and according to such plan as the Grantor thinks fit and is to be sufficient so long as it is reasonably adequate for the Concessionaire's use of the Land for the Concession Activity.

16.5 Until the completion of the repairs or reinstatement a fair proportion of the Concession Fee and other charges is to cease to be payable according to the nature and extent of the damage.

16.6 If any necessary permit or consent is not obtainable or the insurance money received by the Grantor is inadequate for the repair or reinstatement, the Term is at once to terminate but without

Draft

prejudice to the rights of either party against the other.

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

17.1 The Grantor may elect to remedy at any time, after giving notice, if practicable, any default by the Concessionaire under this Concession. Before electing to so remedy in accordance with this clause, the Grantor must, if practicable, first give the Concessionaire notice of the default and a reasonable opportunity to remedy the default.

17.2 The Concessionaire must pay to the Grantor forthwith on demand all reasonable costs and expenses incurred by the Grantor, including legal costs and expenses as between solicitor and client, in remedying such default. The Concessionaire is to pay interest on such costs and expenses if payment is not made within 14 days of the days of the Grantor's demand from the date of the demand until the date of payment at the Penalty Interest Rate specified in Item 12 of Schedule 1

18. When can the Concession be suspended?

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

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

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

18.4 The Grantor may suspend this Concession while the Grantor investigates any of the circumstances contemplated in clauses 18.1 and 18.2 and also while the Grantor investigates any potential breach or possible offence by the Concessionaire, whether or not related to the Concession Activity under the Conservation Act 1987 or any of the Acts mentioned in the First Schedule of that Act.

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

18.6 During any period of temporary suspension arising under clauses 18.1 or 18.2 the Concession Fee payable by the Concessionaire is to abate in fair proportion to the loss of use by the Concessionaire of the Land.

18.7 The Grantor is not to be liable to the Concessionaire for any loss sustained by the Concessionaire by reason of the suspension of the Concession under this clause 18 including loss of profits.

19. When can the Concession be terminated?

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

(a) by 14 days notice to the Concessionaire if the Concession Fee or any other money payable to the Grantor under this Concession is in arrears and unpaid for 10 working days after any of the days appointed for payment whether it has been lawfully demanded or not; or

(b) by 14 days notice to the Concessionaire or such sooner period as it appears necessary and reasonable to the Grantor if-.

Draft

(i) the Concessionaire breaches any terms of this Concession and in the Grantor's sole opinion the breach is able to be rectified; and

(ii) the Grantor has notified the Concessionaire of the breach; and

(iii) the Concessionaire does not rectify the breach within 7 days of receiving notification; or such earlier time as specified by the Grantor; or

(c) by notice in writing to the Concessionaire where the Concessionaire breaches any terms of this Concession and in the sole opinion of the Grantor the breach is not capable of being rectified; or

(d) immediately by notice in writing to the Concessionaire where the Concessionaire breaches clauses 13.9 and 14; or

(e) by notice in writing to the Concessionaire if the Concessionaire ceases to conduct the Concession Activity or, in the reasonable opinion of the Grantor, the conduct of the Concession Activity is manifestly inadequate; or

(f) by notice in writing to the Concessionaire if the Concessionaire is convicted of an offence under the Conservation Act 1987 or any of the Acts listed in the First Schedule to that Act or any statute, ordinance, regulation, bylaw, or other enactment affecting or relating to the Land or which in the Grantor's sole opinion affects or relates to the Concession Activity; or

(g) by notice in writing to the Concessionaire if the Concessionaire or the Guarantor is dissolved; or enters into any composition with or assignment for the benefit of its creditors; or is adjudged bankrupt; or being a company, has a receiver appointed; or is put into liquidation; or is placed under statutory management; or has a petition for winding up presented against it; or is otherwise unable to pay its debts as they fall due; or the estate or interest of the Concessionaire is made subject to a Writ of Sale or charging order; or the Concessionaire ceases to function or operate; or

(h) immediately if there is, in the opinion of the Grantor, a permanent risk to public safety or to the natural and historic resources of the Land whether arising from the conduct of the Concession Activity or from natural causes such as earthquake, land slip, volcanic activity, flood, or arising in any other way, whether or not from any breach of the terms of this Concession on the part of the Concessionaire.

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

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

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

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

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

(a) of a monthly tenancy only, terminable by 1 month's notice by either party; and

(b) at the Concession Fee then payable; and

(c) otherwise on the same terms and conditions, as they would apply to a monthly tenancy, as expressed or implied in this Concession.

20.2 On expiry or termination of this Concession, either as to all or part of the Land, the

Draft

Concessionaire is not entitled to compensation for any structures or other improvements placed or carried out by the Concessionaire on the Land.

20.3 The Concessionaire may, within the Grantor's written consent, remove any specified structures and other improvements on the Land. Removal under this clause must occur within the time specified by the Grantor and the Concessionaire is to make good any damage and leave the Land and other public conservation land affected by the removal in a clean and tidy condition.

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

21. When is the Grantor's consent required?

21.1 Where the Grantor's consent or approval is expressly required under this Concession then the Concessionaire must seek that approval or consent for each separate time it is required even though the Grantor may have given approval or consent for a like purpose on a prior occasion. Any such consent or approval may be made on such conditions as the Grantor considers appropriate.

22. What about other concessions?

22.1 Nothing expressed or implied in this Concession is to be construed as preventing the Grantor from granting other concessions, whether similar or not, to other persons provided that the Grantor must not grant another concession that would derogate in any material way from the Concessionaire's ability to carry out the Concession Activity.

23. How will disputes be resolved?

23.1 If a dispute arises between the parties in connection with this Concession the parties must, without prejudice to any other rights or entitlements they may have, attempt to resolve the dispute by agreement using informal dispute resolution techniques such as negotiation, mediation, independent expert appraisal or any other alternative dispute resolution technique. The rules governing any such technique adopted are to be agreed between the parties.

23.2 If the dispute cannot be resolved by agreement within 14 days of written notice by one party to the other (or such further period as the parties may agree to in writing) either party may refer the dispute to the Disputes Tribunal, where relevant, or to arbitration, which arbitration is to be carried out in accordance with the provisions of the Arbitration Act 1996.

23.3 If the parties do not agree on an arbitrator within 10 working days of a party giving written notice of the requirement to appoint an arbitrator the President of the New Zealand Law Society is to appoint the arbitrator. In either case the arbitrator must not be a person who has participated in an informal dispute resolution procedure in respect of the dispute.

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

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

24. What about prosecution for offences?

24.1 Where any breach of this Concession by the Concessionaire also constitutes an offence under

Draft

the Resource Management Act 1991, the Conservation Act 1987, or any of the Acts listed in the First Schedule to that Act:

(a) no waiver or failure to act by the Grantor under this Concession is to preclude the Grantor from prosecuting the Concessionaire; and

(b) no failure by the Grantor to prosecute the Concessionaire is to preclude the Grantor from exercising the Grantor's remedies under this Concession; and

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

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

25.1 Any notice to be given under this Concession is to be in writing and made by personal delivery, fax, by prepaid post or email to the receiving party at the address, fax number or email address specified in Item 17 or 18 of Schedule 1. Any such notice is to be deemed to have been received:

(a) in the case of personal delivery, on the date of delivery;

(b) in the case of fax, on the date of dispatch;

(c) in the case of post, on the 6th working day after posting; and

(d) in the case of email, on the date receipt of the email is acknowledged by the addressee by return email or otherwise in writing.

25.2 If any party's details specified in Item 17 or 18 of Schedule 1 change then the party whose details change must within 5 working days of such change provide the other party with the changed details.

26. What is the scope of the Concession?

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

27. Can provisions be severed?

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

28. What about the payment of costs?

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

28.2 The Concessionaire must pay in full immediately and on demand all costs and fees (including solicitor's costs and fees of debt collecting agencies engaged by the Grantor arising out of and associated with steps taken by the Grantor to enforce or attempt to enforce the Grantor's rights and powers under this Concession including the right to recover outstanding money owed to the Grantor.

29. What is the relationship of parties?

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

(a) constituting the parties as partners or joint venturers;

(b) conferring on the Concessionaire any right of exclusive occupation or use of the Easement

Draft

Land;

(c) granting any exclusive estate or interest in the Easement Land to the Concessionaire;

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

30. What about a Guarantee?

30.1 Where the Grantor has in Item 18 of Schedule 1 required this Concession to be guaranteed by a third party the following clauses are to apply.

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

(a) guarantees payment of the Concession Fee and the performance by the Concessionaire of the covenants in this Concession; and

(b) indemnifies the Grantor against any loss the Grantor might suffer should the Concession be lawfully disclaimed or abandoned by any liquidator, receiver or other persons.

30.3 The Guarantor covenants with the Grantor that:

(a) no release, delay, or other indulgence given by the Grantor to the Concessionaire, to the Concessionaire's successors or assigns, or any other thing whereby the Guarantor would have been released had the Guarantor been merely a surety is to release, prejudice, or affect the liability of the Guarantor as a Guarantor or as indemnifier;

(b) as between the Guarantor and Grantor the Guarantor may, for all purposes, be treated as the Concessionaire and the Grantor is under no obligation to take proceedings against the Concessionaire before taking proceedings against the Guarantor;

(c) the guarantee is for the benefit of and may be enforced by any person entitled for the time being to receive the Concession Fee;

(d) any assignment of this Concession and any Concession Fee Review in accordance with this Concession are not to release the Guarantor from liability;

(e) should there be more than one Guarantor the liability of each Guarantor under this Guarantee is to be joint and several.

31. What about Co-Siting?

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

31.2 The Concessionaire must not allow Co-Siting on the Land without the prior written consent of the Grantor.

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

31.4 In addition, the Grantor must withhold consent if:

(a) the Co-Siting would result in a substantial change to the Concession Activity on the Land; or

(b) the Grantor considers the change to be detrimental to the environment of the Land.

31.5 Subject to clause 31.4 the Concessionaire must, if required by the Grantor, allow Co- Siting on

Draft

the Land.

31.6 Where the Concessionaire maintains that Co-Siting by a third party on the Land would:

(a) detrimentally interfere physically or technically with the use by the Concessionaire of the Land; or

(b) materially prejudice any resource consents obtained by the Concessionaire or cause more onerous conditions to be imposed on it by the relevant authority; or

(c) obstruct or impair the Concessionaire's ability effectively to operate from the Land; or

(d) interfere with or prevent future forecast works of the Concessionaire,

the Grantor, must, as a pre-condition to consideration of an application to grant a concession to a third party, require that third party to obtain, at its own cost, a report prepared by an independent consultant acceptable to the Grantor confirming or rejecting the presence of the matters specified in this clause 31.6. The Grantor must not grant a concession to a third party where the report confirms that the proposed concession would give rise to one or more of the matters specified in this clause 31.6.

31.7 If the independent consultant report rejects the Concessionaire's concerns, the Concessionaire may dispute this in accordance with the procedure set out in clause 23 of Schedule 2.

31.8 Where the Concessionaire is required under clause 31.5 to allow Co-Siting on the Land, the Concessionaire is, subject to clause 31.10 entitled to enter into commercial agreements with third parties for them to conduct an activity on the Land and to receive a reasonable fee from them for any agreed activity they intend to carry out on the Land. If a dispute arises between the Concessionaire and a third party such dispute must be determined by the Grantor having regard to, but not limited to, the following matters:

(a) any written comments or submissions of the Concessionaire and third party;

(b) market value for the concession activity proposed by the third party having regard to the matters specified in Section 17Y(2) of the Conservation Act 1987;

(c) any other matters the Grantor considers relevant.

31.9 If the Concessionaire does not accept the Grantor's determination, the Concessionaire may dispute this in accordance with the procedure set out in clause 23 of Schedule 2.

31.10 For the avoidance of doubt, a Co-Sitee permitted on the Land must enter into a separate concession with the Grantor in terms of which the Co-Sitee may be required to pay to the Grantor a concession fee and environmental premium assessed in respect of the Co-Sitee's activity on the Land. This separate concession must not contain provisions that conflict with the Concessionaire's rights and obligations in relation to the Land.

31.11 The Grantor must not authorise the third party to commence work on the Land until all relevant resource consents are issued, an agreement is executed between the Concessionaire and third party, and any conditions imposed by the Concessionaire have been met.

32. What about Identification cards?

32.1 Before commencing the Concession Activity the Concessionaire must, if required by the Grantor in Item 16 of Schedule 1, obtain Concessionaire Identification cards from the Grantor. The Grantor is to supply such cards to the Concessionaire on a cost recovery basis.

32.2 The Concessionaire and any person acting under the authority of the Concession must carry and display a Concession Identification card when carrying out the Concession Activity.

32.3 The Concessionaire must obtain sufficient cards to ensure all people acting under the authority

Draft

of the Concession can carry and display such cards when undertaking the Concession Activity.

33. What about registering the Concession?

33.1 The Grantor is not required to do any act or thing to enable this Concession to be registered and the Concessionaire must not register a caveat in respect of the Concessionaire's interest under the Concession.

33.2 Nevertheless, if the Concessionaire wishes to register this Concession under the Land Transfer Act 2017, the Grantor must take all such steps as are necessary to enable a certificate of title to issue in respect of the land against which the Concession may be registered subject to the Concessionaire being responsible for and bearing all costs of and incidental to any survey necessary to enable such issue of title and all costs incurred by the Grantor in enabling such an issue of title and in having this Concession re-executed by the parties in a form suitable for registration.

34. Are there limitations on public access and closure?

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

35. Which clauses survive termination?

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

36. Are there any Special Conditions?

36.1 Special conditions are specified in Schedule 3. If there is a conflict between this Schedule 2 and the Special Conditions in Schedule 3, the Special Conditions shall prevail.

37. The Law

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

Draft

SCHEDULE 3

SPECIAL CONDITIONS

Any reference in these Special Conditions to the "Fast-Track Approvals" is a reference to all approvals (other than this Concession) granted by the expert panel constituted under the Fast-Track Act and pursuant to the Fast-Track Act for the Concessionaire's activities as set out in the Concessionaire's Application.

Any reference in these Special Conditions to the Concessionaire's application is a reference to the Concessionaire's substantive application for approvals under the Fast-Track Act.

Commented [MD11]: DOC amendment accepted.

SCOPE

1. For the avoidance of doubt and in addition to the activities described in paragraphs 2-4 of Schedule 1 of this Concession, this Concession authorises the following within the Rastus Burn Recreation Reserve:

   (a) Expansion of the existing Rastus Burn Base Building and reconfiguration of the arrival surrounds;

   (b) The establishment of a new 33/11kV 7.25 MVA rated substation containing a 33/11kV power transformer, 33 kV and 11 kV switchgear and metering and two emergency diesel generators will be installed at the northwestern corner of Carpark 3;

   (c) Establishment of a new Wastewater Treatment Plant, contained in two buildings approximately 25m x 23m x 4.5m in height and 7 x 22.5m x 4.5m in height.

   and including all construction activities associated with the above (and those structures and facilities listed in Schedule 4.1).

Commented [MD12]: DOC amendment accepted.

EXPANSION WORKS

Without limiting the application of any other clause in ~~Schedule~~Schedule 2 or 3 of this Concession, the provisions of clauses 2 – 19 of this Schedule apply to the Expansion Works, but not to any other Concession Activities except as expressly specified.

Commented [MD13]: DOC amendment accepted.

Design

2. The Concessionaire will prepare the detailed design for the Expansion Works in substantive accordance with the outline design for the Expansion Works as authorised by the Fast-Track Approvals. The Concessionaire must obtain the approval of the Grantor to any modifications to the design which are not in substantive accordance with the outline design, provided that:

   (a) the Grantor's approval is not needed for any modifications to the design that do not affect the external appearance or footprint of the Expansion Works; and

   (b) the Grantor's approval will not be unreasonably withheld or delayed and is expected to be provided within 15 working days.

   The Concessionaire will provide a copy of the detailed design to the Grantor for the Grantor's records, as soon as practicable following its preparation and in any event prior to the commencement of the Expansion Works (or any part of them).

Commented [MD14]: NZSki has accepted DOC's amendments in part, but considers that a working day timeframe is required to ensure the condition is reasonable and enforceable.

Independent monitor

3. The Concessionaire and the Grantor will jointly appoint an independent person to monitor compliance by the Concessionaire with its obligations under this Concession (as they relate to the Expansion Works, including (without limitation) the Concessionaire's obligations to comply

Draft

with any management and monitoring plans. The Independent Monitor will be required to:

(a) carry out one site visit per week (or at such other frequency as the parties may agree) for the duration of the Expansion Works; and

(b) provide a written compliance report to both parties no later than 5 working days following each site visit,

and the appointment will otherwise be on terms as reasonably required by the Grantor.

4. The Independent Monitor must be appropriately qualified and experienced to carry out its role.

5. The Concessionaire must submit to the Grantor the name of the person the Concessionaire proposes be appointed as the Independent Monitor, together with such information as the Grantor reasonably requires in order to assess whether the Grantor agrees with the appointment. In the event that the parties cannot agree on the appointment, the failure to agree will be treated as a dispute to be determined in accordance with clause 23 of Schedule 2 ("*How will disputes be resolved*").

6. The Concessionaire must not commence construction of the Expansion Works (or any part of them) until the Independent Monitor has been appointed.

7. All costs of the independent monitor will be payable by the Concessionaire.

8. For the avoidance of doubt, the requirement for independent monitoring under the above clauses 3-7 are without limitation to the requirement for independent monitoring specified elsewhere in this Concession.

Commented [MD15]: DOC amendment accepted.

Construction stage plans / briefing

9. Prior to the commencement of each stage of the Expansion Works:

(a) the Concessionaire must submit to the Grantor and the Independent Monitor:

(i) a plan of works documenting the proposed programme of works for that stage, the machinery to be used and the expected monitoring requirements and which must otherwise comply with the requirements set out in clause 10 of this Schedule ("Works Plan"); and

(ii) a safety plan for that stage which must be prepared and audited pursuant to clause 14.2 and 14.2A of Schedule 2 (as amended by clauses 57 and 58 of this Schedule 3); ("Safety Plan"); and

(b) the Independent Monitor will provide a briefing on its particular requirements for that stage and the Concessionaire will procure the relevant employees and contractors to attend such briefing.

10. The Works Plan must:

(a) reflect the following requirements:

(i) that the Concessionaire is to cease all earthworks and rehabilitation works by 1 May each year and not recommence such works until 1 October of the same year; and

(ii) that the Concessionaire must take all necessary steps to stabilise any unfinished earthworks by 1 May in any year to prevent soil erosion until the works can recommence; and

Commented [MD16]: DOC amendment accepted in part. Depending on seasonal conditions, some construction works would be unreasonably time limited by the amendments proposed by DOC which could contribute to longer disturbance timeframes overall.

(b) if the Expansion Works are to be staged over two or more years, include remediation measures for unfinished works that may become redundant due to changing circumstances.

Draft

11. For the avoidance of doubt, the obligation of the Concessionaire to prepare the Safety Plan under clause 9 of this Schedule and to comply with the Safety Plan under clause 17 of this Schedule does not limit the Concessionaire's obligations under clause 14 of Schedule 2, which will also apply for the duration of the Expansion Works.

Commented [MD17]: DOC amendment accepted with NZSki amendment to clarify stabilisation is in relation to earthworks.

Management or Monitoring Plan Certification / Approval Process

12. The parties acknowledge that:

    (a) the Concessionaire is required to prepare and comply with certain management or monitoring plans pursuant to the relevant terms or conditions of certain other Fast-Track Approvals ("Relevant Terms or Conditions");

    (b) the Concessionaire must submit the following management or monitoring plans for the approval or certification of the Grantor at least 20 working days before the commencement of Expansion Works;

        i. Terrestrial Ecology Management Plan;

        ii. Lizard Management Plan;

        iii. Construction Environmental Management Plan; and

        iv. Erosion and Sediment Control Plan.

13. Once supplied, the Grantor will consider whether the relevant management or monitoring plan achieves the objectives and/or meets the requirements of the Relevant Terms or Conditions and, if, in the Grantor's reasonable opinion:

    (a) the relevant management or monitoring plan does achieve the objectives and/or meet the requirements of the Relevant Terms or Conditions, the Grantor will, within 20 working days of its receipt of the relevant management or monitoring plan. issue a written confirmation (which will constitute 'the certificate' or 'approval') to the Concessionaire that the objectives and requirements of the Relevant Terms or Conditions have been achieved or met (as applicable); or

    (b) the relevant management or monitoring plan does not achieve the objectives and/or meet the requirements of the Relevant Terms or Conditions:

        (i) the Grantor will, within 20 working days of its receipt of the relevant management or monitoring plan, advise the Concessionaire in writing of the shortcomings, including the additional information or measures the Grantor considers necessary to achieve the objectives and/or meet the requirements of the Relevant Terms and Conditions;

        (ii) the Concessionaire will modify the relevant management or monitoring plan to address the Grantor's requirements and resubmit the modified plan to the Grantor for its approval or certification (and the provisions of this clause 13 will apply to the modified plan).

14. The Concessionaire must not commence the Expansion Works (or any part of them) until all management or monitoring plans (including but not limited to those plans listed in clause 12(b)) have been approved or certified.

15. The Concessionaire must:

    (a) in carrying out all activities authorised by this Concession, implement and comply with all approved or certified monitoring plans and management plans required pursuant to the Relevant Terms and Conditions (including but not limited to the plans listed in clause 12(b) above); and

Draft

(b) ensure that a copy of each approved or certified management or monitoring plan (including any certified or approved amendments to such plan), is available onsite at all times and that each copy is updated within 5 working days of any amendments to the plan being certified or approved.

Amendments to Plans

16. The Concessionaire may make amendments to any of the management or monitoring plans approved or certified by the Grantor, including but not limited to those referred to in clause 12(c), at any time. Any amendment to any plan must be submitted for approval or recertification by the Grantor, and the provisions of clause 13 will apply to the amended plan. Any works associated with the amendment must not commence until approval or recertification has been given in accordance with clause 13.

Commented [MD18]: NZSki has accepted DOC's amendments in part, but considers that a working day timeframe is required to ensure the condition is reasonable and enforceable.

Construction

17. The Concessionaire must:

(a) obtain all consents and approvals under the Building Act 2004 and any other relevant legislation which are necessary to enable the construction and completion of the Expansion Works;

(b) construct the Expansion works in accordance with:

(i) the detailed design prepared in accordance with clause 2;

(ii) the terms and conditions of all approvals obtained under paragraph (a) of this clause;

(iii) all relevant legislation, regulations, bylaws and the terms and conditions (if relevant) of any other approvals, consents and permits affecting or relating to the Land or the Expansion Works (including the Fast-Track Approvals);

(iv) the Works Plan, the Safety Plan and all other management or monitoring plans approved or certified by the Grantor under clause 13 or by any other relevant authority;

(v) the requirements of the Independent Monitor from time to time; and

(vi) the relevant requirements of clauses 25-40, 46-54, and 63-72 of this Schedule 3 and, where the context permits, any other relevant clauses in this Concession.

(c) Keep and maintain (or procure its contractor(s) to keep and maintain) for the duration of the Expansion Works (and any defects periods under any construction contracts the Concessionaire enters into in respect of the Expansion Works):

(i) contract works cover for an amount equivalent to the value of the Expansion Works (or the relevant part of them);

(ii) public liability cover for an amount not less than [$20,000,000] for any one event or series of related events, covering the liability of the Concessionaire, its contractors, subcontractors and consultants; and

(iii) motor vehicle liability cover for not less than $[5,000,000] per vehicle.

Commented [MD19]: DOC amendments accepted in part. NZSki considers the clause relating to accepted standards and practices to be immeasurable, and unnecessary due to the requirement to prepare and certify a CEMP.

Hours of Work

18. The Concessionaire must not carry out the Expansion works (or any part of them) other than between 7.00 am and 9.00 pm, Monday to Sunday.

Commented [MD20]: DOC amended construction hours not accepted. Due to the short seasonal construction windows, it is necessary for NZSki to maximise construction hours (7am-9pm Monday to Sunday) during the construction season. This will assist to minimise long-term effects of ongoing construction. As there are no immediate sensitive neighbours, extended construction hours and days are appropriate.

Draft

Completion of Expansion Works

19. The Concessionaire must:

(a) notify the Grantor in writing when the Expansion Works are completed; and

(b) within three months of completion of the Expansion Works, provide the Grantor with:

(i) photographs of the structures and facilities constructed or established on the Lease Land, Licence Land and Easement Land as part of the Expansion Works, illustrating the final as-built form and extent of the Concession Activity authorised by this Concession;

(ii) final as-built scale plans of the structures and facilities constructed or established on the Lease Land, Licence Land and Easement Land as part of the Expansion Works; and

(iii) NZTM shapefiles or GPX files of the structures and facilities constructed or established on the Lease Land, Licence Land and Easement Land as part of the Expansion Works.

Commented [MD21]: DOC amendment accepted.

GENERAL

Annual works plan

~~2.~~20. The Concessionaire (at its expense) must provide the Grantor with a forward-looking Annual Work Plan by 30 November annually, with the first Annual Works Plan due on the first 30 November following completion of the Expansion Works. The Concessionaire will set out the following information in each Annual Work Plan:

(a) Any proposed modifications to its existing structures, assets or facilities;

(b) Any proposed new structures, assets or facilities it wishes to construct or add to the Land;

(c) Any earth disturbance activities it proposes to undertake;

(d) Any proposed changes in use of existing structures, assets or facilities or the way in which services are delivered;

(e) Any restoration, revegetation or preventative maintenance the Concessionaire wishes to perform;

~~(e)~~(f) Any revegetation, remediation or reinstatement measures it is required to perform pursuant to this Concession or previous approvals of the Grantor; and

Commented [MD22]: DOC amendment accepted.

~~(f)~~(g) The proposed commencement and completion dates of all such works and the inception or termination dates of any changes to services or the usage of the structures, assets or facilities.

~~3.~~21. The Grantor may request that the Concessionaire provide additional information such as plans, drawings, diagrams and/or specifications, scopes of work and an assessment of the potential effects the anticipated works or changes may have in order for the Grantor to assess their scale and impact relative to the status quo.

~~4.~~22. The Concessionaire must not commence any such works or changes in use or services described in the Annual Work Plan unless or until the Grantor has given written approval for those works. The Grantor's approval may be subject to further conditions including changes to how, when and where the activities are carried out.

Draft

~~5.~~23. Where the Grantor forms the view that the works or activities described in the Annual Work Plan:

(a) Are not minor or technical and do materially increase the adverse effects of the Concession Activity; or

(b) Will result in a material change in the location of the activity,

the Grantor may require the Concessionaire to seek a variation of the Concession under section 17ZC and that application will be dealt with as if it were an application for a concession.

~~6.~~24. If the Concessionaire wishes to undertake work or change services or uses that the Concessionaire did not anticipate or include in its Annual Work Plan, the Concessionaire may seek separate written approval from the Grantor. The Grantor may. approve or decline such request or may advise the Concessionaire to seek a variation or new concession under Part 3B of the Act.

Contractor selection

~~7.~~25. The Concessionaire must ensure that only contractors with a demonstrated ability in alpine earthworks and native vegetation restoration are used to carry out any works.

Public access and safety

~~8.~~26. The Concessionaire must ensure the public is able to pass freely and safely through the Easement Land whenever reasonably possible. All gates on the Easement Land must be kept unlocked at all times (other than any gates securing the structures and facilities set out in Schedule 4.1)

~~9.~~27. While approved work is being carried out on in the Easement Land the Concessionaire may temporarily limit public access to the extent necessary to avoid harm to the public, but only with prior written agreement of the Grantor. Suitable alternative access is to be provided.

28. The Concessionaire is to install signage for the duration of any works, at its expense, advising the public as to the nature of the work.

29. The Concessionaire must clearly define, mark and control areas which it deems to be unsafe for the public on the Land, and take reasonable steps to educate paying visitors about the danger of going outside safe areas.

~~10.~~30. The Concessionaire must take reasonable care to manage its own works, structures or landscaping on the Land to ensure that other users of public conservation land are not unreasonably impeded.

Commented [MD23]: DOC amendment accepted

Vehicle and machinery access

~~11.~~31. While carrying out any approved works the Concessionaire must ensure that:

(a) All machinery only enters and exits work sites from existing roads or ski trails, whichever is closer; and

(b) Machinery does not disturb terrain or vegetation, other than as authorised in this Concession.

Control of surface runoff and silt

~~12.~~32. Suitable drainage, cut-outs and silt traps must be installed to control new surface flows into lower areas of vegetation, wetlands and watercourses.

~~13.~~33. Where areas of surface or sub-surface drainage are unable to be avoided, suitable provision for maintaining their flow and quality must be installed for instance by using coarse rock, geocloth, piping or silt traps.

Draft

RESTORATION WORK

Re-vegetation protocol

~~14.~~34. Unless the Grantor stipulates otherwise, the Concessionaire must comply with clauses ~~16~~ 36 and ~~17~~ 37 in this Schedule 3 and with the *"Protocol for the rehabilitation of natural alpine environments following ski area* development*"* attached as Schedule 3A, whenever it undertakes work which involves disturbance of the soil or the vegetation on the Land.

Compliance with the Protocol and clauses ~~16~~ 36 and ~~17~~ 37 in this Schedule 3 does not eliminate the need to seek prior approval from the Grantor in accordance with clauses ~~4~~ 22 or ~~6~~ 24 in this Schedule 3 or pursuant to any other relevant clause in this Concession where the prior approval of the Grantor is required (as applicable).

~~15.~~35. If there is a conflict between clauses 36~~16~~ or 37~~17~~ in this Schedule 3 and the Protocol in Schedule 3A, clauses 36~~16~~ and 37~~17~~ in this Schedule 3 prevail.

Removal and storage of vegetation

~~16.~~36. The Concessionaire must comply with the following requirements whenever it undertakes activities which disturb vegetation:

(a) Vegetation is to be stripped and stored locally as construction progresses. It must be stripped and stored with enough surrounding soil and humus and in a manner that is likely to result in successful replanting and long-term survival.

(b) Stripping may be by machine or by hand, whichever will provide the best chance for success given the nature of the vegetation.

(c) Watering of vegetation material may be required, at the direction of the Grantor or its nominated independent monitor, to ensure its survival while stored.

Re-vegetation

~~17.~~37. When re-vegetating disturbed areas, the Concessionaire must comply with the following conditions:

(a) Vegetation is to be replanted using material sourced from within the Ecological District, including that stripped and stored under clause ~~16~~36(a) in this Schedule 3, as soon as possible following completion of works at individual sites such as individual tower sites or trenches. Follow-up maintenance of re-vegetated areas to enhance their chances of re-establishment must be undertaken prior to the end of the growing season;

Commented [MD24]: DOC amendment accepted

(b) Where there is sufficient plant material and humus to allow survival, stripped material can be split. To supplement re-vegetation works, split material may also be sourced from other areas in the Rastus Burn Recreation Reserve, provided it does not result in additional adverse ecological effects on the source areas;

(c) Appropriate methods (e.g. laying of Geotextile cloth) as agreed to by the Grantor must be used to protect areas where there has been insufficient planting by 1 May to prevent sediment wash/erosion. These are to be removed before revegetation works continue in the following spring;

(d) Plant spacing should be adequate to ensure revegetation of the site to a sufficient vegetation cover, with additional density detail as specified by the independent monitor on site;

(e) Nursery-reared plants from appropriate eco-sourced seed may be used where there is insufficient existing vegetation available for transplanting. The rearing and planting of any plants that are to be brought on site must be to the satisfaction of the Grantor;

Draft

(f) The seed of appropriate native species sourced from the Rastus Burn Recreation Reserve or similar location (from within the Ecological District) should be broadcast to promote vegetation growth in the rock areas, between transplanted/planted tussocks and to assist revegetation of fellfield areas;

(g) Where there has been insufficient replanting by 1 May, any exposed topsoil must be managed to avoid erosion losses until replanting can be restarted in the following spring; and

(h) All disturbed areas that have existing vegetation cover are to be re-vegetated.

Remediation of Works

~~18.~~38. Where the Grantor identifies any requirement for remediation following monitoring or inspection, the remediation is to be carried out as specified by the Grantor at the Concessionaire's expense.

Suspension of Works

~~19.~~39. The Grantor, at its sole discretion, may require all works to be suspended until suitable remediation is completed.

Satisfactory Completion of Re-vegetation Works

~~20.~~40. The Grantor will determine when and whether any re-vegetation works have been completed and/or carried out satisfactorily.

OTHER CONSENTS, APPROVALS AND ASSESSMENTS

~~21.~~41. This Concession does not replace, displace or supersede any other lawfully required consents, approvals and assessments from other agencies. This includes (but is not limited to) geotechnical, engineering, district and regional resource consents, district and regional plans, national environmental standards, and building consents. Copies of these approvals are to be provided to the Grantor prior to works commencing.

IN RESPECT TO NGĀI TAHU

~~22.~~42. The Concessionaire is requested to consult the relevant Papatipu Rūnanga if it wishes to use Ngāi Tahu cultural information. If the Concessionaire wishes to use the Tōpuni or statutory acknowledgement information contained in schedules 14 - 108 of the Ngāi Tahu Claims Settlement Act 1998, or any interpretative material produced by the Department of Conservation in respect to Ngāi Tahu cultural information, the Concessionaire is requested to notify the relevant Papatipu Rūnanga, as a matter of courtesy.

~~23.~~43. The Concessionaire must, as far as practicable, attend any workshops held by the Department of Conservation for the purpose of providing information to Concessionaires, which includes Ngāi Tahu values associated with Tōpuni areas.

~~24.~~44. The Concessionaire must ensure its employees are requested to recognise and provide for Ngāi Tahu values in the conduct of their activities.

INTERPRETATION MATERIALS AND CULTURAL VALUES

~~25.~~45. If the Concessionaire intends to undertake any written interpretation materials (panels, brochures etc) that include Māori/iwi values of the area, then the Concessionaire is requested to contact the Papatipu Rūnanga and Te Rūnanga o Ngāi Tahu (as set out below):

Office of Te Rūnanga o Ngāi Tahu

Draft

PO Box 13 046
Christchurch 8141
Phone: 0800 524 8248
email: info@ngaitahu.iwi.nz

ACCIDENTAL DISCOVERY PROTOCOL

~~26.~~46. The Concessionaire and its contractors must take all reasonable care to avoid any cultural heritage values on the Land and/or in the Water which includes (but is not limited to) archaeological sites, historic heritage sites, koiwi/burials, artefacts/taonga and protected New Zealand objects.

(a) For Māori cultural heritage values sites, evidence of a site may be in the form of shells, bone, charcoal, hangi stones exposed during earthworks or seen eroding out of a shoreline or riverbank, for example. Other features maybe include pits or low stone formations. Artefacts/taonga maybe in the form of toki/adzes, fishhooks, flake tools, wooden/textile objects.

(b) Later sites of Pākehā or Chinese origin may be indicated by the presence of broken glass, crockery, clay pipes, slate, metal, match boxes, cutlery etc. and structural features built of rock, brick, concrete, and metal as well as features such as gold tailings, sluice faces, water races, dams, reservoirs.

(c) Burials/koiwi may be found from any period and from any ethnic group.

(d) In the event that a suspected site, place, object or koiwi/burial of cultural origin is found during any work on the Land and/or in the Water, work must cease immediately, and advice must be sought from the Whakatipu/Queenstown Office of the Department of Conservation. The discovery must be GPS'd and photographed in-situ showing close views of the cultural heritage find and showing surrounding views of the area for context. This recording is important to inform on management of the find. The Concessionaire and its contractors must not recommence work until permitted to do so by the Department of Conservation.

(e) Whakatipu/Queenstown Office of the Department of Conservation contact number 0273063998 or email queenstown@doc.govt.nz.

OPERATION OF PLANT, MACHINERY AND EQUIPMENT

~~27.~~47. The Concessionaire must operate all plant, machinery (including snow tows) and equipment on the Land to required standards, codes of practice and legislative requirements. The Concessionaire shall, at the Grantor's request, provide the Grantor with documentary evidence of compliance with the said requirements.

~~28.~~48. Plant, machinery and equipment used in conducting the Concession Activity must be maintained at all times to prevent leakage of oil and other contaminants onto the Land.

FUELS, HAZARDOUS MATERIALS, CHEMICALS AND WASTE

~~29.~~49. Any waste or rubbish must be disposed of in an approved manner off the Land at a Council approved site. Waste held on the Land prior to its removal must be stored in a manner so as to ensure it does not become a contaminant, is not blown by wind and does not present a potential hazard to wildlife, in particular kea.

~~30.~~50. At the completion of any approved works, the Concessionaire must promptly remove all construction-related waste and fill from the Land and dispose of it at a resource recovery centre, Council landfill or other authorised facility.

~~31.~~51. The Concessionaire must ensure that all site personnel are trained in hazardous material,

Draft

waste and fuel handling and spill contingency and emergency procedures relevant to their areas of work.

~~32.~~52. The Concessionaire must ensure that all hazardous materials including paints, fuels and other chemicals stored on site are kept in a secure enclosed facility and that appropriate spill clean-up kits are available for use to contain and/or absorb all hazardous substances used in the Concession Activity.

~~33.~~53. The Concessionaire, wherever practicable, must use clean fuels in preference to fossil fuels.

~~34.~~54. In the event of any hazardous substance spill the Concessionaire must:

(a) Take all practicable measures to stop the flow of the substances and prevent further contamination onto the Land or water;

(b) Immediately contain, collect and remove the hazardous substances and any contaminated material, and dispose of all such material in an appropriate manner / authorised facility;

(c) Notify the Grantor as soon as practicable;

(d) Undertake any remedial action to restore any damage to affected Land; and

(e) Take all measures to prevent any reoccurrence.

THIRD PARTY OPERATORS (INCLUDES OTHER CONCESSIONAIRES)

~~35.~~55. The Concessionaire is taken to agree that activities and infrastructure operated by any third parties that existed upon application do not derogate in any material way from the Concessionaire's ability to carry out the Concession Activity and the Concessionaire acknowledges that those third parties possess or may apply for their own concessions in respect of those activities.

SIGNAGE

~~36.~~56. Clause 12.1 of Schedule 2 is amended to read:

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

HEALTH AND SAFETY

57. Clause 14 of Schedule 2 is amended by inserting a new clause 14.5A as follows:

14.5A The Concessionaire will at all times ensure that the safety plan (including as amended or replaced under clause 14.3):

(a) clearly identifies all hazards, and how the Concession Activities interact with such hazards;

(b) outlines appropriate controls for contractor and visitor safety; and

(c) reflects the requirements listed in clause 14.6 below.

58. Clause 14.6 of Schedule 2 is amended as follows:

(a) Paragraph (c) is replaced with the following:

Draft

(c) take all practicable steps to eliminate any dangers to the public and must clearly mark any that remain and of which the Concessionaire is aware;

~~(a)~~(b) Paragraph (d) is replaced with the following:

~~(c)~~(d) report to the Grantor all accidents involving a notifiable event reportable to WorkSafe in accordance with the Concessionaire's safety plan and applicable legislation; and

(i) provide the report within 3 days of providing a report to WorkSafe; and

~~(i)~~(ii) provide to the grantor a complete (or summary) copy of the internal investigation report resulting from notifiable events within 60 days of the event occurrence; and

(iii) provide to the Grantor at the Grantor's request any weekly or monthly reports generated by the Concessionaire and derived from the Concessionaire's accident reporting database.

(c) a new paragraph (h) is inserted as follows:

(h) to the extent reasonably practicable, consult, co-operate and coordinate with the Grantor and any other PCBU (as that term is defined in the Health and Safety at Work Act 2015) which shares overlapping duties in relation to the same matter, given the risk and hazards at or affecting the Land, and keep the Grantor and other PCBUs (as applicable) informed of all matters relating to the management of health and safety on the Land.

~~37.~~59. In order to comply with its obligations under the Health and Safety at Work Act 2015 to eliminate or minimise risks to health and safety so far as is reasonably practicable, the Concessionaire may, when undertaking activities such as slope safety, road safety, snow grooming and avalanche control work, control, limit or restrict public access to the specific area of the Land where the activity is to be carried out for a period not exceeding 2 days.

~~38.~~60. If the particular activity in clause ~~40~~ 59 in this Schedule 3 will require more than 2 days or if the Concessionaire considers an extension beyond the period of 2 days is necessary, the Concessionaire must advise the Grantor of the time sought and the reasons for it and comply with any directions the Grantor may give concerning the matter.

Commented [MD25]: DOC amendment accepted

AIRCRAFT USE

~~39.~~61. The Concessionaire must only use aircraft providers who also hold a current Concession which authorises them to operate on Public Conservation Land. For drone operations, the Concessionaire's own staff may operate the drone when carrying out the Concession Activity for the Concessionaire.

Filming

~~40.~~62. Promotional filming by the Concessionaire (including its agents and contractors) (including the use of drones) is allowable to the extent that it is for the purpose of promoting the activities which the Concessionaire is permitted to undertake under this Concession. For the avoidance of doubt, this does not include filming or photographing the activities for the purpose of creating a purchasable product (such as photograph or video pack). The Grantor's prior approval for any other filming such as marketing or commercial filming by, and for, any third parties is required separately (e.g. ski equipment brands, advertisements or television shows).

DIDYMO / FRESHWATER PESTS

~~41.~~63. 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 Ministry for Primary Industries | NZ Government by searching Freshwater pests and diseases. The Concessionaire must regularly check this website and update their precautions accordingly.

PLANT PEST AND ANIMAL PEST MANAGEMENT (INCLUDING MITIGATION)

~~42.~~64. The Concessionaire must ensure that:

(a) Machinery and equipment is cleaned and checked to remove soil that could contain seeds or exotic plants prior to entering the Land, and must take all practicable steps to avoid the introduction of exotic seeds or plants;

(b) No imported soil is brought onto the Land. Where the Concessionaire plans to deposit soil over the surface of any newly contoured slopes or batters, the soil must be from the Concession Activity work area;

(c) No soil is to be moved upslope from lower areas (to prevent the further spread of weeds); and

(d) Any exotic plant species introduced through the course of any works are removed.

~~43.~~65. Clauses 9.2 and 9.4 of Schedule 2 require the Concessionaire to keep the Land (as described in Item 1 of Schedule 1) free of any weeds or organisms listed as pests in the relevant pest management strategy. To provide clarity as to which pests will be targeted and how they will be effectively managed the Concessionaire is required to prepare a pest control plan under its existing Concession [Concession 96118-SKI] which addresses the areas where this Concession applies.

CLIMATE CHANGE CONSIDERATIONS

~~44.~~66. 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.

~~45.~~67. 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.

~~46.~~68. The Grantor may review and amend the conditions of this Concession (Revised Conditions) to:

(a) Reflect climate change-related legislation and Government or Departmental policy; and/or

(b) Measure, manage and set targets for reducing greenhouse gas emissions associated with the Concession Activity which align with Government and/or Departmental policy.

~~47.~~69. Before amending the conditions of this Concession in accordance with clause ~~49~~ ~~7568~~ in this Schedule 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

Commented [MD26]: DOC suggested inclusion of conditions relating to a Pest Control Plan are not accepted. This is a duplication of requirements for a pest strategy/Pest Control Plan in the Remarkables that already exist under Concession 96118-SKI and therefore not considered reasonable.

Draft

the Revised Conditions before finalising the Revised Conditions.

~~48.~~70. 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 ~~49~~ 7568 in this Schedule 3 or any later date specified in the Revised Conditions.

MONITORING AND COMPLIANCE

~~49.~~71. Further to clause 7 of Schedule 2, if the Grantor determines that it is reasonable to monitor compliance with the conditions of this Concession or the effects of Concession Activity, the Concessionaire is to meet the reasonable costs of any monitoring programme that is implemented. Where the monitoring programme involves assessing other concessionaires who use the same locations then the Grantor may apportion the costs among the relevant concessionaires. These costs will be set in accordance with the Department's standard charge-out rates for staff time and the mileage rates for associated vehicle use.

~~50.~~72. Further to clause 15.1(e) of Schedule 2, the Concessionaire may, from time-to-time, be required by the Grantor to provide documentary evidence of compliance with the conditions of this Concession. Such requests will be made in writing. Where a request is received the Concessionaire must provide the requested documentation to the Grantor within thirty (30) days of the date of receiving any such written notice or any such alternative period agreed to by the Grantor and the Concessionaire.

POTABLE WATER

~~51.~~73. Where the Concessionaire provides drinking water to users of the Land as described in Item 1 of Schedule 1, including but not limited to, members of the public, its contractors, staff or third parties, the Concessionaire must take all necessary steps to ensure the water supply meets regulatory standards and is to meet the costs associated with any upgrades that may be necessary in order to comply with drinking-water legislation.

~~52.~~74. The Concessionaire is to co-operate fully with the Grantor's representatives with regard to sharing information and liaising with regulators in respect of any drinking water supplies.

~~53.~~75. For the purposes of this Concession "drinking water" means water used for:

(a) Human consumption;

(b) Oral hygiene;

(c) Preparation of food, drink and other products for human consumption; or

(d) Washing of utensils that are used for eating and drinking, or for preparing, serving or storing food or drink for human consumption.

~~54.~~76. The Concessionaire must ensure that its drinking water supplies are registered in accordance with any relevant drinking water legislation.

OTHER

~~55.~~77. In the event that the Grantor's buildings, structure or facilities are damaged or destroyed as a result of the Concessionaire's actions or omissions the Grantor may:

(a) Require the Concessionaire to repair or replace any such damaged or destroyed building, structure or facility: or

(b) Demand from the Concessionaire a sum or sums equivalent to the full cost of repairing or replacing the damaged or destroyed buildings, structures or facilities.

Draft

~~56.~~78. Further to clause 9.1 of Schedule 2, the Grantor permits the use of contained and purpose-built fireplaces located in the Base Building identified on Map 1 of Schedule 4.

~~**SURRENDER OF CONCESSIONS**~~

Commented [MD27]: DOC amendment accepted

~~57. The Concessionaire and the Grantor agree that upon commencement of this Concession and the Concession Activity described in Item 2 of Schedule 1 the following components of Concession 96118-SKI must be surrendered:~~

~~**Table 1: Components of Concession 96118-SKI to be Surrendered.**~~

~~**Activity / Structure**~~	~~**Description**~~
~~Rastus Burn Base Building~~	~~Shown as:~~ ~~• Item 10 on Map 3 of Schedule 4.~~ ~~• Item 10 on Map 4 of Schedule 4.~~ ~~• Row 11 of Schedule 4.1.~~

ACTIVE PERMISSIONS

Commented [MD28]: DOC amendment accepted

79. The parties acknowledge the following permissions are, as at the date of this Concession, active:

Permission number	**Description**
OT-34108-SKI	Lease – Remarkables Lease for re-alignment of access road entering into carparks & redevelopment of carpark areas Term start: 1 January 2013 Term end: 30 April 2043
OT-34109-SKI	Easement – Curvey Basin Chairlift, Remarkables, snow making & trail development into Curvey Basin Term start: 1 January 2013 Term end: 30 April 2043
49957-SKI	Easement - Remarkables skifield – installation of underground pipe and intake structure (in Lake Alta) to take water from the lake into the Rastus Burn for the purpose of increasing flows for snowmaking Term start: 1 October 2016 Term end: 30 April 2043
96118-SKI	Lease, Licence and Easement – Remarkables skifield – activities associated with the operation

Draft

	of a commercial skifield (Rastus Burn) Term start: 1 December 2025 Term end: 30 November 2063
[ ]	Lease, Licence and Easement – Remarkables skifield – activities associated with the establishment and operation of a commercial skifield (Doolans Basin) Term start: [ ] Term end: 30 November 2063

TERMINATION OR EXPIRY OF THE CONCESSION

~~58.~~80. Clause 20 of Schedule 2 is deleted and replaced with the following:

What happens on termination or expiry of the Concession?

20.1 ***Concessionaire's Improvements*** *means any structures or improvements owned by the Concessionaire immediately prior to the expiry of the Term or earlier termination of the Concession.*

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

(a) Of a monthly tenancy only, terminable by 1 month's notice by either party; and

(b) At the Concession Fee then payable; and

(c) Otherwise on the same terms and conditions, as they would apply to a monthly tenancy, as expressed or implied in this Concession.

20.3 The Concessionaire may, with the Grantor's written consent (which must not be unreasonably withheld), 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 any other public conservation land affected by the removal in a clean and tidy condition and will replant the affected Land with indigenous vegetation of a similar abundance and diversity as that which existed generally in the vicinity prior to the structures or improvements being installed.

20.4 Subject to clauses 20.5, the Concessionaire must, if the Grantor gives written notice, remove any specified structures and other improvements on the Land. All specified structures and other improvements above ground must be removed to ground level unless otherwise agreed. Removal under this subclause 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 affected Land with indigenous vegetation of a similar abundance and diversity as that which existed generally in the vicinity prior to the structures or improvements being installed. If before the expiry of the Term, the Concessionaire applies for a further concession in respect of the Concession Activity on the Land, the Grantor cannot require such removal and reinstatement until such time as that concession application is determined.

Draft

20.5 *There will be no requirement for removal of:*

(a) Wastewater – tanks (in-ground), treatment ponds, dispersal field; or

(b) Underground infrastructure e.g. sewage, telecommunication, water, power.

20.6 *If, within five (5) years of the expiry of the Term or earlier termination of the Concession, the Grantor proposes to grant a concession to a person other than the Concessionaire (the Third Party), whether pursuant to a contestable process or not, and the proposed concession includes the right to exclusively use the Concessionaire's Improvements, ownership of which has vested in the Grantor under clause 20.13, or any part of them:*

(a) The Grantor shall notify the Concessionaire and the Grantor and the Concessionaire will each appoint a valuer within twenty (20) Working Days to determine the value of the Concessionaire's Improvements, as at the commencement date of the proposed concession. Before proceeding with their determination, the valuers will each appoint, as an umpire, a valuer who will undertake to hand down a determination of the value of the Concessionaire's Improvements if so required. If the valuers are unable to agree on a determination within sixty (60) Working Days of their appointment, then the value of the Concessionaire's Improvements will be assessed by the umpire whose determination will be final and binding on the parties (the Final Value). In assessing the value of the Concessionaire's Improvements, the valuers and the umpire will be required to have regard to, and offset the value attributable to:

(i) any maintenance, repair (including replacement) and/or improvements to the Concessionaire's Improvements, undertaken, or paid for, by the Grantor or any third party between the expiry of the Term or earlier termination of the Concession, and the commencement date of any new concession granted to a Third Party under this clause; and/or

(ii) compensation (if any) that may be paid by the Grantor to the Concessionaire pursuant to the discussions between the Grantor and the Concessionaire under clause 20. 910.

Commented [MD29]: DOC amendment accepted.

(b) The Grantor shall require the Third Party as a condition of any such concession to be granted to the Third Party, to pay the Grantor, in trust for the Concessionaire, the Final Value, or in the case where the concession application relates only to a part of the Concessionaire's Improvements, the proportion of the Final Value attributable to those improvements.

20.7 *If on the date that is five (5) years after the expiry of the Term or five (5) years after the earlier termination of the Concession:*

(a) The Concessionaire is occupying the Land under clause 20.2;

(b) The Concessionaire has duly and punctually paid the Concession Fee and duly observed, performed and kept all covenants and conditions on the part of the Concessionaire;

(c) The Grantor has not entered into an agreement to grant a new concession to a third party under clause 20.6;

the Grantor and the Concessionaire will discuss whether the timeframes in and application of clause 20.6 are to be extended but without imposing any obligation on either party to agree.

DRAFT

20.8 *If either the Grantor or the Concessionaire fails to appoint a valuer within the period specified in Clause 20.6(a), then the determination of the Final Value shall be made by the sole valuer as appointed either by the Grantor or the Concessionaire, as the case may be, and their determination shall be final and binding on both parties as if the appointment had been by consent.*

20.9 *The Grantor will, on demand (but subject to all rent and other moneys payable by the Concessionaire having been paid), pay to the Concessionaire the amount paid to the Grantor by the Third Party under clause 20.6(b). For the avoidance of doubt, the Grantor's obligation only arises once the Grantor has received payment from the Third Party.*

20.10 *If the Grantor itself intends to exclusively use the Concessionaire's Improvements or any part of them to operate some or all of the Concession Activity on a fully commercial basis immediately following the expiry of this Concession then, except where clause 20.~~10~~ 11 applies, the Grantor will enter into discussions with the Concessionaire prior to the expiry of the Term, or within 3 months of earlier termination of the Concession (and ending 3 months from that date) concerning compensation, if any, that may be paid by the Grantor to the Concessionaire for the Concessionaire's Improvements. It is at the Grantor's sole discretion as to whether to pay compensation, if any, and Schedule 2 clause 1.4 does not apply. For the avoidance of doubt, clause 20.3 will not apply to those of the Concessionaire's Improvements for which compensation has been agreed.*

20.11 *Clause 20.~~9~~ 10 does not apply where the Grantor uses the Concessionaire's Improvements or any part of them to operate some or all of the Concession Activity on a fully commercial basis on an interim or transitional basis pending the commencement of a concession granted to the Third Party under clause 20.6.*

20.12 *The Grantor's obligations in clauses 20.6 to 20.~~9~~8 only apply if:*

(a) *The Concessionaire has, at all material times, complied with the terms and conditions of this Concession; and*

(b) *The Grantor has not given notice permitting or requiring the Concessionaire to remove the Concessionaire's Improvements (or relevant portion of them), pursuant to clauses 20.3 or 20.4 above.*

20.13 *The Concessionaire's Improvements referred to in clause 20.5 and 20.10 (or any other of the Concessionaire's Improvements that the parties have agreed in writing will not be removed from the Land) will vest in the Crown at the expiry of the Term or earlier termination of this Concession. Such vesting is delayed to the extent that clause 20.2 (monthly tenancy) applies or, where relevant, the Concessionaire has been permitted time to remove the Concessionaire's Improvements under clause 20.3 or 20.4. The Grantor is not required to maintain nor insure the structures or improvements.*

20.14 *The Concessionaire is not entitled to compensation from the Grantor for the Concessionaire's Improvements, except in so far as clause 20.8 provides, or if agreement is reached by the parties under clause 20.9.*

COMPLIANCE

81. Clause 15.1 of Schedule 2 is amended by adding the following new paragraph (f):

(f) with the relevant terms and conditions of all other consents, approvals and permits affecting or relating to the Land or the Concession Activity (including the Fast-Track Approvals (as defined at the start of Schedule 3)).

Commented [MD30]: DOC amendment accepted.

82. A new clause 15.4A is inserted as follows:

15.4AA breach or contravention by the Concessionaire of a term and condition of any other consent, approval or permit affecting or relating to the Land or the Concession Activity (including the Fast-Track Approvals (as defined at the start of Schedule 3)) is deemed to be a breach of this Concession.

Commented [MD31]: DOC amendment accepted.

REVIEW OF CONDITIONS

~~59.~~83. In addition to the express opportunities the Grantor has to review conditions elsewhere in this Concession, the Grantor may, on each Concession Fee Review Date, and after consulting with the Concessionaire, delete, vary or add any condition to more effectively manage the Concession Activity.

Draft

LEASE - SPECIFIC CONDITIONS

Lease area

~~60.~~84. The Lease Land under this Concession is described in Item 1 of Schedule 1.

Structures and facilities

~~61.~~85. The building, structures and facilities authorised by this concession must comply with Conditions BD.1(2) and BD.2(2) of the Queenstown Lake District Council land use consent [consent number reference].

~~62.~~86. The Concessionaire must (at its cost) construct, operate, maintain and repair buildings, equipment sheds, utility huts, lift infrastructure and other similar devices and apparatus on the Land to relevant industry standards or codes of practice and in accordance with the Legislation. The Concessionaire must, at the Grantor's request, provide the Grantor with documentary evidence of compliance with this condition.

Maintenance

~~63.~~87. The Concessionaire is authorised to perform the following maintenance work under this Concession on the Land:

(a) Ongoing interior maintenance and interior modification of any building;

(b) The exterior maintenance of any building, stationary plant item or structure on the Land where such maintenance does not alter the external appearance of that building or structure, and where consent from the Grantor is not otherwise required under this Concession.

Use of toilet facilities by public

~~64.~~88. During the Concession Activities in Item 2 of Schedule 1 the Concessionaire must make available to the public, free of charge, toilet facilities located in any of the Concessionaire's buildings on the Land.

~~65.~~89. Outside of the dates of operation specified in Item 2 of Schedule 1, the Concessionaire must make available to the public, free of charge, and maintain toilet facilities located in the base area (e.g. carpark) and:

(a) Pursuant to section 17X(f)(i) of the Conservation Act 1987, this arrangement is on a 50/50 (actual and reasonable basis) cost sharing with the Grantor.

(b) The actual and reasonable cost of providing the toilet facilities is to be recorded on the Statement of Gross Annual Revenue Form associated with Concession [insert number].

(c) For the avoidance of doubt, in the event that the Concessionaire is granted further summer activities by way of a variation to this Concession, or a separate concession (for example guiding activities utilising the Concessionaire's infrastructure), then the cost of providing toilet facilities is to be met solely by the Concessionaire for those periods of operation.

Draft

EASEMENT - SPECIFIC CONDITIONS

Easement classes and easement facilities

~~66.~~90. The following classes of easement are created by this Concession:

(a) Right to store and drain wastewater and sewage in accordance with wastewater treatment shown as Map 2 of Schedule 4.

(b) Right to convey electricity over those parts of the Easement Land as shown on Map 2 of Schedule 4;

~~67.~~91. For the purposes of this Concession, the phrase "easement facilities" means all those existing structures, facilities, plant or equipment owned or operated by the Concessionaire located upon the Easement Land and as depicted or described in Map 2 of Schedule 4.

~~68.~~92. The Concessionaire must (at its cost) operate, maintain and repair the easement facilities in accordance with accepted industry standards and with the Legislation. The Concessionaire must, at the Grantor's request, provide the Grantor with documentary evidence of compliance with the said requirements.

General

~~69.~~93. The rights and powers implied in easements under Schedule 5 of the Land Transfer Regulations 2018 are varied as follows:

(a) All references to the "grantee" are deemed to mean the Concessionaire.

(b) Clause 1 of Schedule 5 is amended by adding the words "in Schedule 4" after the words "on the plans" in paragraph (a) of the interpretation of "**easement area**"

(c) Clause 11(2) is amended by deleting the words *"if the 1 or more grantees and the grantor share the use of the easement facility, each of them is responsible equally"* and by substituting the words ("the grantee is responsible").

(d) Clauses 13 and 14 are deleted.

~~70.~~94. For ease of reference, Schedule 5 of this Concession contains a reproduction of Schedule 5 of the Land Transfer Regulations 2018 together with the amendments described in clause 100~~72~~ above.

Draft

SCHEDULE 3A

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

Between

DEPARTMENT OF CONSERVATION ("DOC") and NZSKI LIMITED ("NZSKI").

1. Introduction

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

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

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

2. Objectives of the protocol

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

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

(c) To minimise the erosion of soil and impacts arising from sedimentation on existing or transplanted vegetation and receiving or downstream environments;

(d) To optimise the potential for longer term regeneration of indigenous vegetation through natural dispersal into and colonisation of disturbed areas;

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

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

(i) Work site control measures;

(ii) Removal and replacement of vegetation and top soil;

(iii) Management of soil erosion and sediment control;

(iv) Ongoing monitoring and maintenance of rehabilitated areas;

(v) Contracted monitoring; and

(vi) DOC's ability to suspend works.

Draft

3. Work Site control measures

(a) Only machinery operators with a demonstrated ability in earthworks and vegetation rehabilitation in an alpine setting are to undertake construction; training operators must be supervised by experienced operators.

(b) Prior to works, NZSki shall ensure that a briefing occurs between its staff, contractors and DOC to ensure a common understanding of how works will be conducted and coordination wherever possible in order to better achieve the Objectives of this protocol.

(c) NZSki must minimise disturbing non target areas when accessing and working within development sites. If machinery is required to move off existing tracks the least damaging route must be used, and any disturbed vegetation must be rehabilitated when works are completed; prior approval must be sought from DOC for significant departures from approved routes and additional environmental protection measures may be required.

(d) Measures to mimimise the risk of soil erosion in impacted areas must be in place and fit for purpose until rehabilitation works are completed and soil is no longer exposed or at risk of erosion due to the impacts of construction.

(e) Works must be conducted to ensure no contaminants are discharged onto the land or into watercourses (directly or indirectly); refuelling must be undertaken on hard surfaces away from watercourses and vegetation in a protected/bunded area; appropriate spill kits must be available for use wherever fuel is stored and precautions such as soil/absorbent material laid on ground when refuelling from portable tanks.

(f) All vehicles, machinery, equipment and aggregate material must be cleaned of weeds, seeds and soils before entering the works area.

(g) Sensitive natural features including streams, wetlands, tarns, lakes and rare habitats are not to be disturbed, either for development works or access to development sites. Where disturbance is unavoidable, prior approval must be sought from DOC and additional environmental protection measures may be required.

(h) All development and rehabilitation work impacting the natural environment must be completed by the 1st May. Any unfinished work must be stabilised to prevent soil erosion until works can recommence.

4. Removal and replacement of vegetation and top soil

(a) Vegetation must be carefully removed in a manner to minimise damage to both the foliage and root systems; as much soil material as possible shall be retained around the roots; particular care is required for species with tap or deep roots (e.g. Aciphylla (Spaniards), Anisotome (herbaceous species), cushion species).

(b) Topsoil must also be removed and stored separately from vegetation before excavation of deeper soil, fill and rock material may commence. If not used quickly to support the replanting of vegetation this topsoil may be stockpiled for later use; where possible, topsoil should not be stockpiled on vegetation in undisturbed areas.

(c) All vegetation removed should be quickly replanted into areas where works have already been completed. This will usually occur through progressive reinstatement on completed formations behind the main work “face”.

(d) Priority for replanting shall be given to areas prone to erosion.

(e) Individual plants or clumps of vegetated material (“sod”) shall be reinstated by careful use of a digger bucket. Spacing should be no greater than 1 metre, unless directed otherwise by DOC.

Draft

(f) Final positioning of transplanted vegetation and sods should be conducted by hand/with hand tools, with topsoil tamped around each plant or sod to maximise re-establishment and to achieve a result that closely resembles the surrounding natural areas.

(g) When transplanted plants and sods are insufficient to reinstate the cover in the disturbed area, additional vegetation may be sourced through splitting indigenous vegetation from adjacent areas. This should only be done where there is sufficient plant material to allow survival of both 'parent' and 'split' plants and should not unduly deplete an area otherwise unaffected by construction.

(h) Where specific plants are required to be transplanted from a work zone, these must be clearly marked with suitably durable flags, plant species, number of plants/clusters of plants and locations must be recorded using a handheld GPS; flags must be in place until all work is completed including project monitoring. Transplanted plants must be marked with suitably durable materials in their new location, with the new location recorded with handheld GPS, photographs showing the tag and plants with a record of species and number of plants/cluster of plants moved.

(i) Nursery reared plants (usually tussocks) may also be used to supplement transplanted vegetation and sods. Only locally sourced seeds may be used to grow plants for the ski area. Nursery reared plants are susceptible to frost heave, environmental stress and browsing and must be handled carefully as follows:

  (i) Slow-release fertiliser is to be placed in the root well prior to planting;

  (ii) Plants must be well bedded in to lessen risk of uprooting by feral animals and frost heave; and

  (iii) Plants may be treated with suitable chemicals to deter browsing by feral animals.

(j) Locally sourced seed of appropriate species may be broadcast to promote vegetation growth between transplanted vegetation and sods. Exotic seeds (e.g. grass) may be spread only with prior approval from DOC.

(k) Special care must be taken when replanting on steep slopes between 30 and 45 degrees:

  (i) Plants should be transplanted quickly; steep slopes require plants to be in the healthiest possible condition and reinstatement efforts focused on minimising the area of exposed soil.

  (ii) Indented troughs or depressions should be formed to create "bedding" for the tussocks or sods to be transplanted. Replanting should not occur on sheer surfaces.

  (iii) Replanting should be as close together as practical, or in clusters where vegetation was sparse or scattered prior to works.

  (iv) Large heavy plants and sods should be staked for support where possible.

  (v) Steep slopes should be closely monitored, and any plants or sods released from the slope quickly retrieved, split into smaller, lighter clumps and replanted back into the slope as described above.

  (vi) Consideration should be provided to planting small nursery reared plants where a shortfall of vegetation is anticipated; the placement of rocks, soil and plants that replicate natural patterns of the surrounding landscape should also be considered.

  (vii) Attempts at replanting vegetation on slopes steeper than 45 degrees should only proceed with prior approval from DOC; bespoke solutions should be investigated.

(l) The vegetation removed at one site may be used at another development site within the ski

Draft

area only with prior approval from DOC.

(m) If no areas are available for a quick reinstatement, vegetation may be temporarily stored in designated areas with prior agreement; in this case:

(i) All handling of vegetation for longer term storage away from the worksite must be done with great care to minimise cumulative damage to plants; vegetation should only be moved to storage and then retrieved for planting; loading and deposition should aim to reduce potential for damage to plants;

(ii) Vegetation may only be stockpiled up to one metre high with roots down to avoid die off resulting from smothering and crushing; and

(iii) All vegetation temporarily stored must be watered when protracted dry conditions may impact on survivorship.

(n) If NZSki expects to have a surplus of vegetation and/or topsoil at the end of works, this must be replanted/spread over other areas requiring rehabilitation, under direction from DOC.

(o) Any surplus rock material must not be stockpiled and/or spread over nearby terrain without prior approval from DOC.

(p) NZSki will actively eradicate any noxious weeds from all development and rehabilitation areas.

(q) No rock landscaping may be used as a substitute for vegetation unless by prior agreement.

(r) Use of rock in reinstatement works may occur where the impacted site was predominantly rocky prior to disturbance, or as a response to anticipated shortfalls in ground cover in the reinstated area; where rock is used to remediate construction impacts, it must achieve a natural appearance that replicates the patterns of the surrounding landscape, including rocky habitats.

5. Management of soil erosion and sediment control

(a) An Environmental Management Plan that includes a Sediment and Erosion Control Plan ("the Plan") must be submitted and approved prior to commencement of works where appropriate depending on the scale of works, as required by DOC. This Plan must include site/project specific measures that address the following in addition to the requirements of any Resource Consent issued by a Regional or District Authority. Where there is a discrepancy between the DOC approval and conditions of any other required authorisation, the measures providing the highest level of environmental protection shall prevail.

(b) Areas identified for erosion control and soil conservation work may vary from year to year as revegetation occurs and slope and soil stability is achieved. Requirements for erosion control and soil conservation measures may endure beyond the completion of construction.

(c) Significant developments will have a soil conservation and Sediment and Erosion Control Plan in place prior to the commencement of works. This Plan will demonstrate how the objectives of this protocol will be achieved.

(d) The Sediment and Erosion Control Plan shall include but not limited to the following:

(i) Management measures for the surface of vehicle tracks, formed ski trails and any other disturbed ground without a cover of indigenous vegetation to achieve appropriate water infiltration, minimise rilling and sheet erosion, reduce suspension of sediment and provide micro sites for wind borne seed to settle. Anticipated control measures include:

Draft

- shaping/crowning the surface;
- forming of earth, rock or vegetation bunds;
- ripping or roughening soils perpendicular to the slope angle;
- constructing water tables/swale drains to intercept and divert surface flows; and
- applying an appropriate gravel surface in problem areas.

(ii) Where the slope angle exceeds 30 degrees natural features such as rocks could be incorporated into the slope where this lends to the stability of the site; this would require prior approval from DOC and potentially the support of geotechnical experts. This solution would be considered on a site-by-site basis; refer to 4.p. and q. above.

(iii) Water tables/swales must have a catchment area no greater than 2,000m^2. Ski trails must have functioning swales no less than 60m apart. All water tables/swales must be maintained in a fit for purpose state and be able to convey water.

(iv) Water tables and swales must lead to an appropriately designed and armoured flow attenuation area able to capture sediment so only clear water disperses into the surrounding landscape.

(v) These settlement areas must be large enough to 'settle' the flow and allow sediment to be deposited, particularly during or following heavy rainfall events and during periods of snowmelt. Precise dimensions will depend on the area and erosion potential of catchment above, and appropriate designs must be incorporated into the Sediment and Erosion Control Plan. They may include excavated areas armoured with rocks and or surrounded by soil mounds and tussocks and or the use of geotextile materials.

(vi) Settlement areas must be maintained such that they provide a means of monitoring the effectiveness of control measures; management measures must be adjusted to reduce the potential for recurrent erosion where this becomes evident during monitoring.

(vii) Water tables and swales must be designed to maintain the hydrological integrity of adjacent seepages and wetlands.

(viii) To protect wetlands and wetland vegetation from sediment, no surface water carrying sediment must be allowed to run into wetland areas. Settlement areas must not overflow onto wetland areas.

(ix) Areas requiring erosion control measures are to be prioritised based on the following criteria:

- Vulnerability to erosion (e.g. slopes > 20 degrees, unconsolidated soils, disturbed ground adjacent to compacted soils).
- Saturated soils on cut faces where seepages have been intercepted.
- Remediation of slips or slumped land and stabilisation of land to prevent further or repeated slope failures.
- Settlement areas that require armouring or treatment in order to filter water.
- Stabilisation works required to facilitate revegetation.

(e) Sediment captured by settlement areas are to be redistributed to assist re-vegetation of disturbed areas, whether historical or current earthworks e.g. used to fill gaps between

Draft

transplanted tussocks or to improve the mineral soil content when planting nursery tussocks or to support the continuing recovery of previously disturbed sites.

6. Ongoing monitoring and maintenance of the rehabilitated area

(a) The purpose of the monitoring is to assess the progress of rehabilitation and advise NZSki how to prevent or minimise risks to the establishment of reinstated vegetation and recovery of self-sustaining vegetation cover.

(b) All development and rehabilitation works will be monitored at least once prior to the commencement of work and again at completion of works. Interim monitoring may be required, depending on the nature of work. Following completion, regular monitoring will continue for each development site until it is agreed by DOC and NZSki that the rehabilitation of the natural environment at that site can progress without further supplementation or management.

~~Interim monitoring may be required, depending on the nature of work. Following completion, regular monitoring will continue for each development site until it is agreed by DOC and NZSki that the rehabilitation of the natural environment at that site can progress without further supplementation or management.~~

(c) Additional monitoring of erosion and sediment control measures will be made during or following significant periods of rainfall where it is safe to do so.

(d) Where monitoring establishes significant risks to rehabilitation, DOC will require NZSki to take any reasonable steps to rectify the situation and return the area to its desired condition. Any additional work required will be carried out at the cost of NZSki.

(e) In the event that an area is not rehabilitated following works, monitoring will continue until rehabilitation works have been completed. Attention will be paid to preventing erosion during any lay period.

(f) DOC reserves the right to recover the actual and reasonable costs of monitoring work.

7. Contracted monitoring

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

(b) The contractor is generally tasked to monitor the implementation of this protocol during any ski area development work that disturbs the natural environment.

(c) The monitor is to resolve any concerns of a routine nature directly with NZSki. Issues should be referred to DOC when problems are recurrent, significant in scale, unconventional, or if a mutual agreement cannot be reached.

(d) To advise both DOC and NZSki whenever their action (or inaction) may present a problem for ski area environment, whether related to a specific development or any other activity.

(e) The monitor is to immediately advise DOC and NZSki if unauthorised works may be occurring, of significant risks to the natural environment that warrant suspension of works, and of any concerns with geotechnical hazards and/or public safety.

(f) Monitoring visits are to be scheduled in consultation with NZSki and DOC at a frequency of no more than once a week and no less than three times a summer (depending on nature of works over summer).

Draft

(g) If agreement on scheduling cannot be reached, DOC will make a final decision and notify NZSki of when monitoring is to occur.

(h) A brief written report of each monitoring visit is to be forwarded to DOC and NZSki in a timely manner. Reports should take a broad approach to assess overall performance, record agreements reached on site and highlight unresolved issues. Reports should take advantage of photo monitoring where possible.

(i) The time required for visits (and reports) are to be appropriate to the works in progress. The monitor is to notify and seek agreement from NZSki where the combined time required for site visits and reporting is likely to exceed 5 hours.

(j) Support tasks supplementary to monitoring and reporting (e.g. research and meetings) are to be agreed with DOC and NZSki prior to work occurring.

(k) The time spent on monitoring visits, reporting and support work will be billed directly to NZSki at a rate no less equivalent to DOC's current hourly rate for field staff, plus GST. Disbursements are to be billed separately.

(l) All monitoring reports and discussions between the contractor, NZSki and DOC will be subject to the Official information Act 1982.

8. Right to suspend works

(a) DOC will, at its sole discretion, suspend any development work or activity should contracted monitoring, public feedback or DOC's own observations determine there are unexpected and/or significant impacts on the natural environment that are not being adequately rehabilitated.

(b) Any suspension shall remain in place until a response plan is agreed with NZSki.

Draft

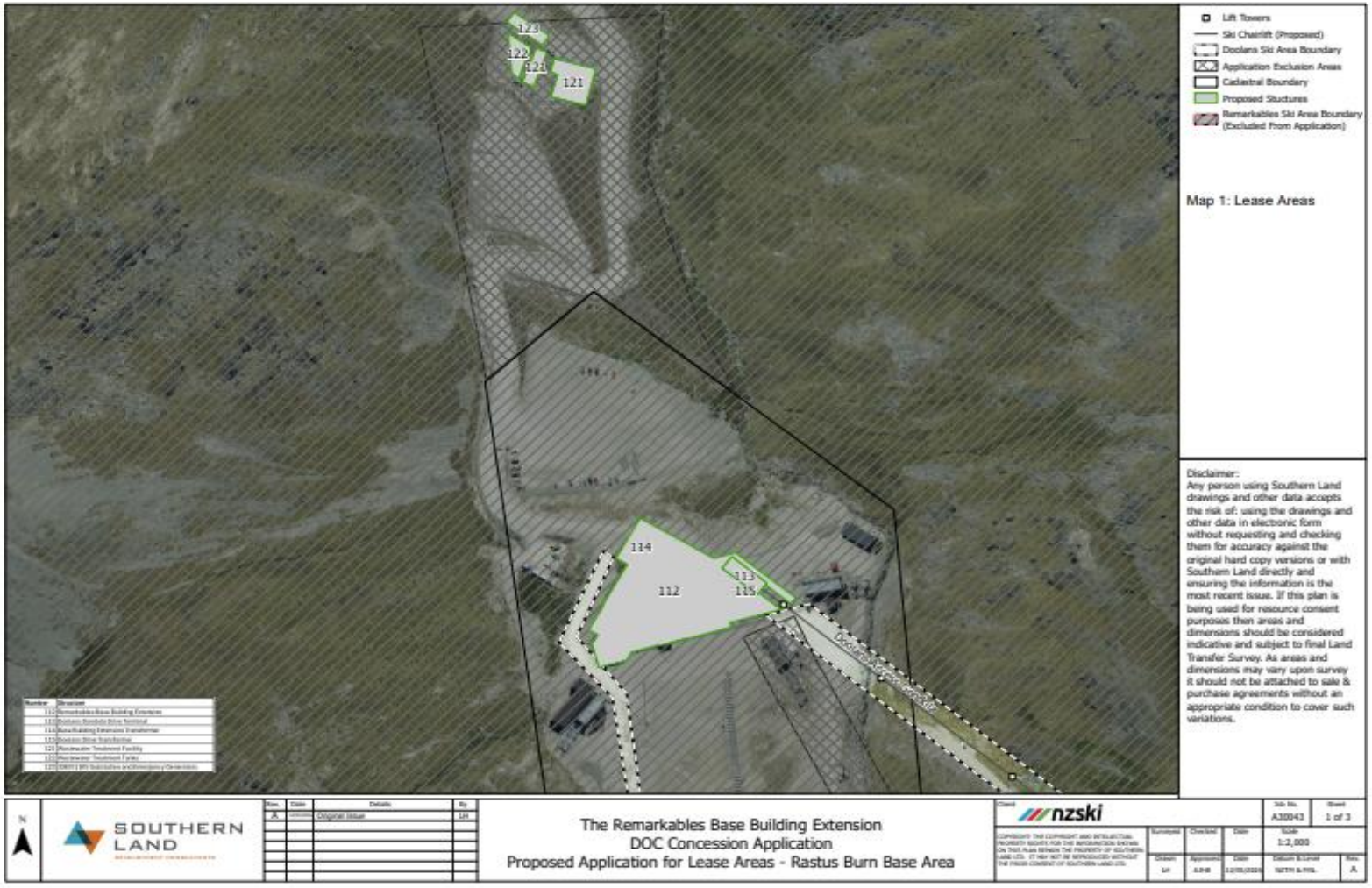
Schedule 4

Map 1: Lease Areas

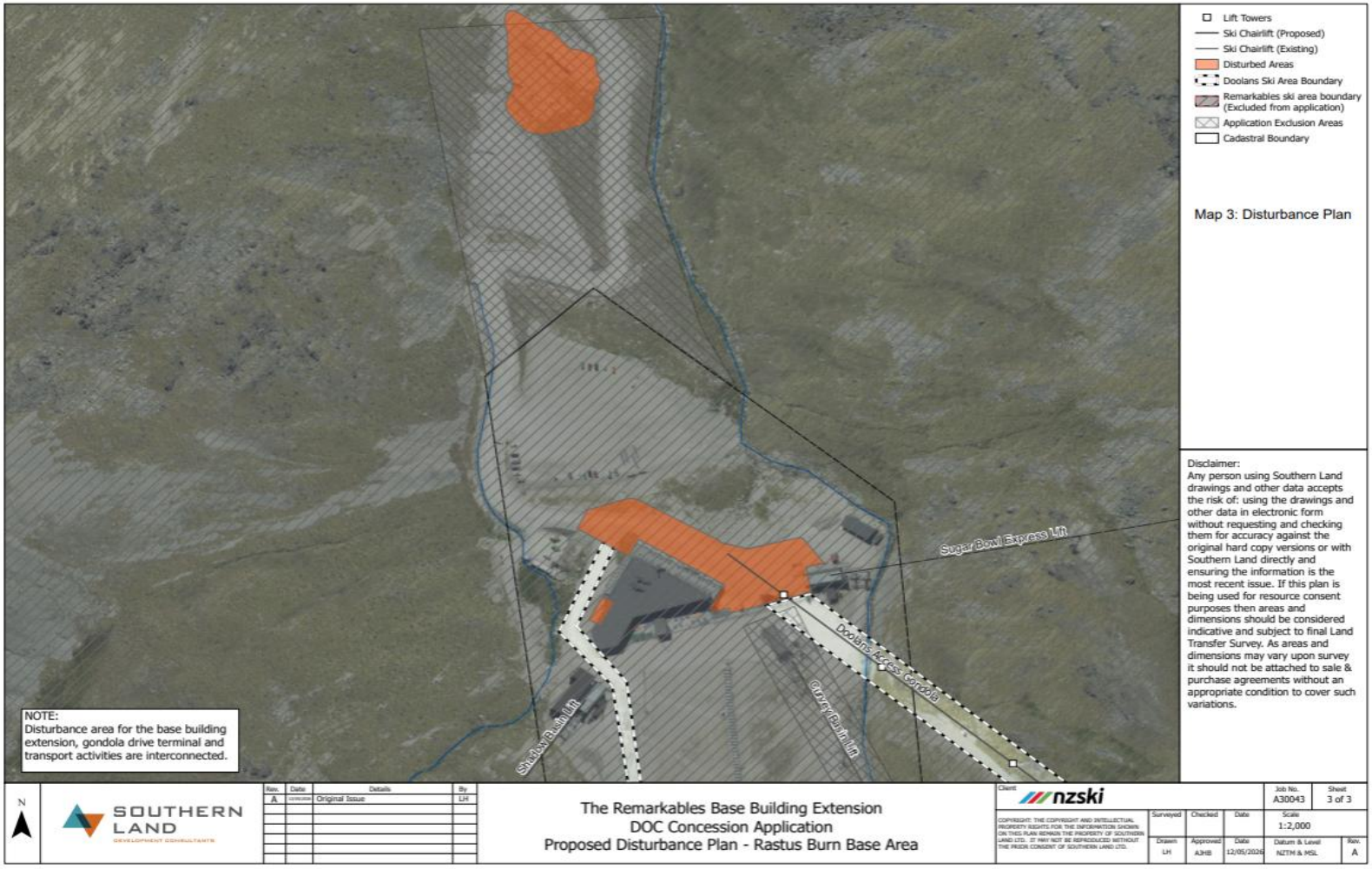
Map 2: Easements

Map 3: Disturbance Plan

Draft


123
122
121
121
114
112
113
115
Lift Towers
Ski Chairlift (Proposed)
Doolans Ski Area Boundary
Application Exclusion Areas
Cadastral Boundary
Proposed Stuctures
Remarkables Ski Area Boundary (Excluded From Application)
Map 1: Lease Areas
Disclaimer:
Any person using Southern Land drawings and other data accepts the risk of: using the drawings and other data in electronic form without requesting and checking them for accuracy against the original hard copy versions or with Southern Land directly and ensuring the information is the most recent issue. If this plan is being used for resource consent purposes then areas and dimensions should be considered indicative and subject to final Land Transfer Survey. As areas and dimensions may vary upon survey it should not be attached to sale & purchase agreements without an appropriate condition to cover such variations.
SOUTHERN LAND
The Remarkables Base Building Extension
DOC Concession Application
Proposed Application for Lease Areas - Rastus Burn Base Area
nzski
A30043
1 of 3
1:2,000


Lift Towers
Ski Chairlift (Proposed)
Communications Line
High Voltage
Wastewater Main
Wastewater Tanks
Doolans Ski Area Boundary
Buildings
Remarkables Ski Area Boundary (Excluded From Application)
Application Exclusion Areas
Cadastral Boundary
Map 2: Easements
Disclaimer:
Any person using Southern Land drawings and other data accepts the risk of: using the drawings and other data in electronic form without requesting and checking them for accuracy against the original hard copy versions or with Southern Land directly and ensuring the information is the most recent issue. If this plan is being used for resource consent purposes then areas and dimensions should be considered indicative and subject to final Land Transfer Survey. As areas and dimensions may vary upon survey it should not be attached to sale & purchase agreements without an appropriate condition to cover such variations.
N
SOUTHERN LAND
The Remarkables Base Building Extension
DOC Concession Application
Proposed Application for Easements- Rastus Burn Base Area
nzski
A30043
2 of 3
1:2,000


Lift Towers
Ski Chairlift (Proposed)
Ski Chairlift (Existing)
Disturbed Areas
Doolans Ski Area Boundary
Remarkables ski area boundary (Excluded from application)
Application Exclusion Areas
Cadastral Boundary
Map 3: Disturbance Plan
Disclaimer:
Any person using Southern Land drawings and other data accepts the risk of: using the drawings and other data in electronic form without requesting and checking them for accuracy against the original hard copy versions or with Southern Land directly and ensuring the information is the most recent issue. If this plan is being used for resource consent purposes then areas and dimensions should be considered indicative and subject to final Land Transfer Survey. As areas and dimensions may vary upon survey it should not be attached to sale & purchase agreements without an appropriate condition to cover such variations.
Sugar Bowl Express Lift
Doolans Access Gondola
Gravity Rush Lift
Ski Jump Rush Lift
NOTE:
Disturbance area for the base building extension, gondola drive terminal and transport activities are interconnected.
N
SOUTHERN LAND
DEVELOPMENT CONSULTANTS
Rev. A
Date 12/05/2026
Details Original Issue
By LH
The Remarkables Base Building Extension
DOC Concession Application
Proposed Disturbance Plan - Rastus Burn Base Area
Client nzski
COPYRIGHT: THE COPYRIGHT AND INTELLECTUAL PROPERTY RIGHTS FOR THE INFORMATION SHOWN ON THIS PLAN REMAIN THE PROPERTY OF SOUTHERN LAND LTD. IT MAY NOT BE REPRODUCED WITHOUT THE PRIOR CONSENT OF SOUTHERN LAND LTD.
Surveyed
Checked
Date
Drawn LH
Approved AJHB
Date 12/05/2026
Job No. A30043
Sheet 3 of 3
Scale 1:2,000
Datum & Level NZTM & MSL
Rev. A

Schedule 4.1: Tables of Structures and Facilities - Asset Catalogue

This Table is to be read in conjunction with Maps 1-3. This Table identifies the key NZSki-Limited owned assets permanently located within the concession area.

The complete Asset Catalogue provides images of lease assets (corresponding labelled figures), land area occupied for proposed lease areas, and assets are referenced to the auxiliary Maps 1-3 within this document

Description of structure or facility	**Label/Map**	**Concession Category**	**Area (m^2 / ha)**	**Use**
The Base Building	Label 112, Map 1	Lease	5,381 m^2	General staff / public
Doolans Drive transformer	Label 115, Map 1	Lease	10 m^2	Maintenance / infrastructure
Doolans Gondola Drive Terminal (113)	Label 113, Map 1	Lease	242 m^2	Maintenance / infrastructure
The Base Building Extension Transformer	Label 114, Map 1	Lease	10 m^2	Maintenance / infrastructure
Wastewater Treatment Facility	Label 121, Map 1	Lease	156 m^2 & 535 m^2	Maintenance / infrastructure
Wastewater Treatment Tanks	Label 122, Map 1	Lease	210 m^2	Maintenance / infrastructure
33kV / 11kV Substation and Emergency Generators	Label 123, Map 1	Lease	187 m^2	Maintenance / infrastructure
Wastewater infrastructure	Map 2	Easement	450 m^2	Maintenance / infrastructure
Underground systems and infrastructure (Sewage/communication/ electricity)	Map 2	Easement	1320 m^2	Maintenance / infrastructure
Total Lease Area			6731 m^2	
Total Easement Area			1770 m^2	

Draft

Schedule 4.2: Table of Structures and Facilities for Removal on Concession Termination or Expiry (Make Good)

To be read in conjunction with Table 4.1

Description of structure or facility	Label/Map	Concession Category	Area (m^2 / ha)	Use
The Base Building	Label 112, Map 1	Lease	5,381 m^2	General staff / public
Doolans Drive transformer	Label 115, Map 1	Lease	10 m^2	Maintenance / infrastructure
Doolans Gondola Drive Terminal (113)	Label 113, Map 1	Lease	242 m^2	Maintenance / infrastructure
The Base Building Extension Transformer	Label 114, Map 1	Lease	10 m^2	Maintenance / infrastructure

Notes:

(i) For all structures and / or facilities listed above, foundations must be removed to ground level unless otherwise agreed between the Grantor and the Concessionaire.

(ii) For the avoidance of doubt, there is no requirement for the removal of tanks (in-ground), treatment ponds, dispersal field; and underground infrastructure e.g. sewage, telecommunication, water, power.

Draft

SCHEDULE 5

RIGHTS AND POWERS IMPLIED IN EASEMENTS

SCHEDULE 5, LAND TRANSFER REGULATIONS 2018

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 in registered and that is described by reference to the register in the relevant easement instrument, transfer instrument, or deposit document; and

(b) includes the easement area

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

(a) is shown on the plans in Schedule 4; and

(b) is referred to in the relevant easement instrument, transfer instrument, or deposit document as the area to which the easement applies

easement facility,—

(a) for a right to convey water, means pipes, pumps, pump sheds, storage tanks, water purifying equipment, other equipment suitable for that purpose (whether above or under the ground), and anything in replacement or substitution:

(b) for a right to convey electricity or a right to convey telecommunications, means wires, cables (containing wire or other media conducting materials), ducts, surface boxes, towers, poles, transformers, switching gear, other equipment suitable for that purpose (whether above or under the ground), and anything in replacement or substitution:

(c) for a right of way, means the surface of the land described as the easement area, including any driveway:

(d) 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

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

Draft

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

Draft

(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

Draft

(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.

6. (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

Draft

(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) The grantee is responsible 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.

Commented [MD32]: DOC amendment accepted.

Draft