



Notified Concession Officer's Report to Decision Maker

Officer's Report to Decision Maker: Andy Roberts, Director, Operations, Eastern South Island Region

Notified Application for a Lease and Licence and Easement Concession¹

Applicant: NZSki Limited

Permission Record Number: 35128-SKI

File: PAC-00-07-06

The purpose of this report is to provide a thorough analysis of the application within the context of the legislation, the statutory planning framework and actual and potential effects, so the Decision Maker can consider the application; and confirm that it should be notified; and make a decision in principle whether it should be granted or declined.

1.0 Summary of proposal

1.1 Background:

The applicant is the current lessee, permit and easement holder and operator of the Mount Hutt ski area under existing authorisations (refer Table 1). All authorisations were originally granted under the Forests Act 1949, being prior to the establishment of the Department of Conservation and enactment of the Conservation Act 1987.

Table 1. Lease, Permit and Easement Contracts

Activity Type	Permission Number	File Reference	Execution Date	Term (Years)	Commencement Date	Expiry Date
Lease	CA-011-SKI	PAC-12-06-409	20 February 1973	40	1 May 1973	30 April 2013
Permit	CA-011-SKI	PAC-12-06-409	15 August 1979	40	1 May 1973	30 April 2013
Easement	CA-011-SKI	PAC-12-06-409	15 August 1979	40	1 May 1973	30 April 2013

Renewal vs New Lease, Licence and Easement

The Department considers, and the applicant agrees, that the application be processed under Part 3B of the Conservation Act 1987 for a new Concession lease, licence and easement contract and associated terms and conditions.

The 3 types of activity are mutually co-dependent, and it is appropriate to consider them under the one concession application.

Section 17ZAA Conservation Act 1987

An application for a new 40 year lease, licence and easement concession was received by the Department prior to the expiry of the original lease, permit and easement.

Pursuant to section 17ZAA of the Conservation Act 1987, and by agreement with the Department, the applicant can continue to operate a commercial snow skiing activity at Mount Hutt under the terms and conditions of its original lease, permit and easement authorisations while this application is under consideration.

¹ Note: This application was received before the enactment on 18 October 2017 of section 202 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Information about the applicant: The applicant has operated a ski field at Mount Hutt since 2002. The major shareholder of the applicant company is Trojan Holdings Limited.

Type of concession sought: Notified Concession Lease, Licence and Easement.

Term sought: The applicant initially sought a Term of 40 years (as per the Term of its original lease, permit and easement) with a further right of renewal for the same period. This was amended to 40 years with no right of renewal (refer to section 2.0 and 6.1.2 in this Report). The Term is discussed in more detail in section 6.1.2 in this Report.

Description of the proposed activity applied for: Management and control of all activities related to the ownership, operation, repair and maintenance of a commercial ski field including, but not limited to:

- (i) the provision of goods and services (sale, hire and services e.g. ski and snow sport instruction);
- (ii) the operation of snow making machines;
- (iii) helicopter operations for activities associated with the management of the activity such as health and safety (Search and Rescue (SAR) and medical emergencies) and avalanche management;
- (iv) the provision of an access road.

A concession (if approved) would be subject to conditions which will facilitate the continued management and monitoring of the existing ski field activities by the Department. Any proposed new activities such as heli-ski or tracked vehicle backcountry skiing activities, their scale and potential effects, will need to be considered as part of a new concession application.

Description of locations where activity is proposed:

The applicant's activities are concentrated within a natural topographical basin feature in the Mount Hutt and Hakatere Conservation Areas, which are located at the edge of the Canterbury foothills immediately to the south of the Rakaia River. The developed ski area occupies approximately 365 hectares of terrain with ski lift infrastructure taking skier patrons from a car-park to the ski field (see figure 1 below).

Facilities

The ski area is a modern operation with 3 key chairlifts, 2 smaller learner lifts, and a network of snow making infrastructure and other ancillary structures and apparatus. Base, visitor, operations and other ancillary buildings are generally of substantial, permanent construction and in a good state of repair. The site is serviced with reticulated electricity. Water for snow making and domestic purposes is sourced from a bore on site. Effluent is collected and treated on site before it is discharge to ground. The large main car park area is supplemented by additional parking areas located further down the access road.

Main Ski Area Basin

Contains the bulk of the ski area buildings and fixed infrastructure including ski lifts, snow making infrastructure and car park. Should this application be approved, additional refinement and development of the activity within the main basin would continue under the 10 year development plan referred to in this Report.

South Face

Descending directly from the South Peak is a face naturally constrained by ridgelines to the east and west generally described as the 'South Face' and included within the managed terrain of the ski area. This location is distinct from the main basin as it is essentially undeveloped other than 'cat tracks' located at its eastern edge. A descent of the south face slopes leads around to the top of the gully below the main basin and car park. The lowest lift infrastructure on the mountain, the triple chair commences from this point and returns skiers to the top of the main basin.

North West Valley

Beyond the main areas of development on the 'other side' of the summit ridge to the west is the 'North-West Valley' area. The slopes on the eastern side of the north-west valley fall directly from the summit ridge above the main ski area basin and are therefore accessible from the summit chairlift which places skiers near the top of the north-western valley.

Patrons can access this terrain from the main basin ski area via lift infrastructure descent into the north-western valley and take a descending traverse returning to the main basin via the south face slopes.

Rakaia 'Chutes'

The Rakaia Chutes is a name given to an area of terrain to the east of the main ski area basin, on the 'other side' of the summit ridge. In this location the Conservation Area boundary is at a high altitude and parts of the terrain available for skiing are within the Mount Hutt Station pastoral lease area and skiing is facilitated by agreement with the owners of Mount Hutt Station Limited.

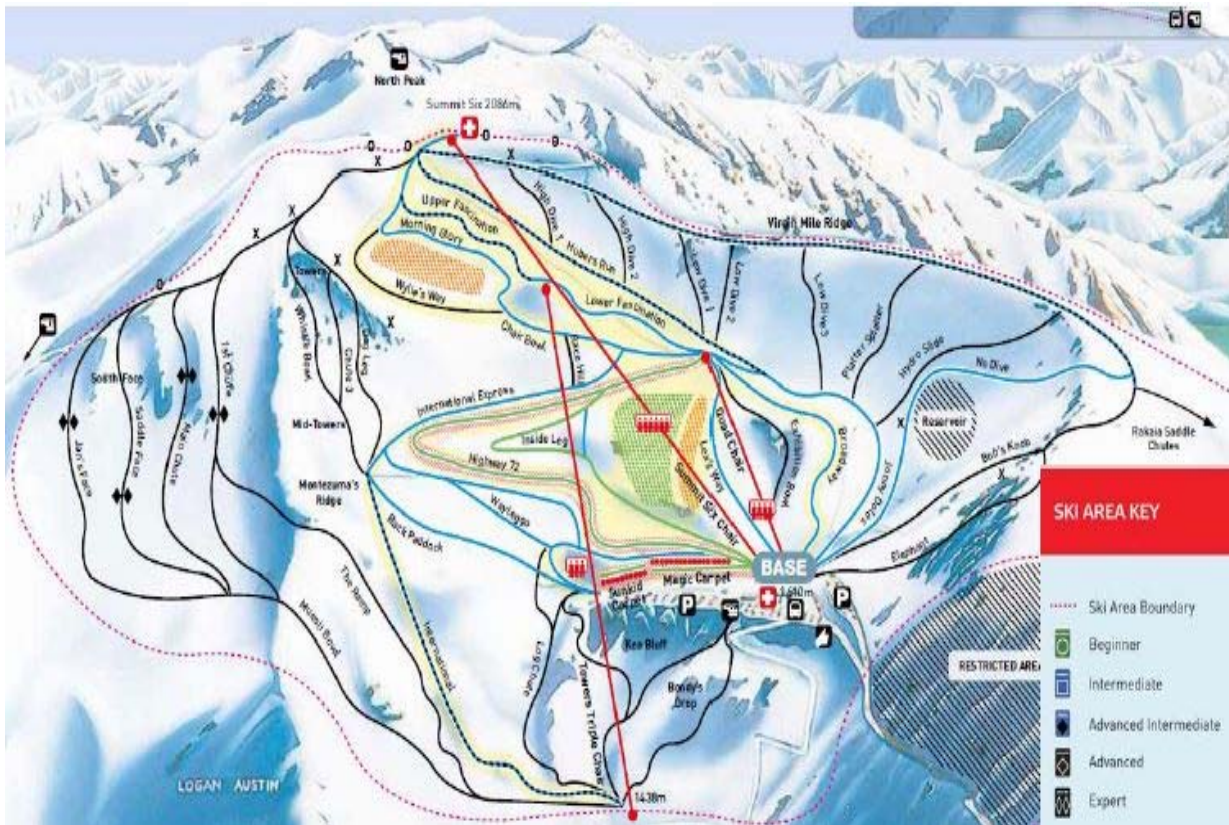


Figure 1: Layout of Mount Hutt ski area

Consunit No	Consunit Name	Legal Description	NaPALIS ID	Activity
J35005	Hakatere Conservation Park	Parts of Rural Section 42160, Parts of Part Reserve 4760, Part Reserve 3118, Parts of Reserve 3316 and Parts of Part Reserve 5200 Recorded Area (ha): 59,570.455	2806143	Ski field Lease, Licence and Easement. Note: includes portion of Mount Hutt ski field access road over Part of Part Reserve 4760.
K35045	Mount Hutt Forest Conservation Area	Part Rural Section 38613, Part Lot 7 DP 23526, Part Rural Section 38629, Section 1 SO 20239 Recorded Area (ha): 7.0345	2808665	Right of way Easement only. Mount Hutt ski field access road.

1.2 Consultation with External Parties

The following bodies have been asked to comment on the Application:

- (a) Aoraki Conservation Board (refer to section 4.2.3(a) in this Report)
- (b) Te Rūnanga o Ngāi Tahu (refer to section 4.2.3(a) in this Report)
- (c) Ngāi Tūāhuriri (refer to section 4.2.3(b) in this Report)

1.3 Characteristics of the Application Area

The Canterbury Conservation Management Strategy, extracts of which are reproduced in section 4.5 in this Report, describes the location in detail.

1.4 Appendices to this Report

Appendix A: Table and map of ski field area

Appendix B: Proposed Special Conditions

Appendix C: Draft Concession Document (Lease, Licence and Easement) recorded as [DOCDM-1359702](#) for discussion purposes only.

2.0 Information available for consideration

Information obtained or received:

From applicant –

- Application: Parts A to E ([DOCDM-1388475](#)); Parts F to K ([DOCDM-1388476](#)); Parts L to R ([DOCDM-1388477](#)).
- Additional report received on “Environmental Effects of Ski Area Operations at Mount Hutt” (recorded as [DOCDM-1389034](#)).
- Additional information received on 28 October 2016 relating to infrastructure updates within the Mt Hutt Ski Area between the periods 2012 to 2016 (recorded as [DOC-2925948](#)).

The applicant seeks a term exceeding 30 years based on:

1. The term of the current 40 year lease, licence and easement to operate a commercial ski area at the current location.

2. Licence area boundary that reflects the current extent of the terrain used by the applicant including the north-west valley for possible future expansion of lift and service infrastructure.
3. Exclusive occupation of buildings and structures.
4. An easement over the existing road formation.
5. A 10 year development plan that will be incrementally implemented through approval of annual works approval process subject to each activity being assessed and their effects considered.

From iwi – iwi protocols triggered (refer to section 4.2.3(b) in this Report)

From Conservation Board – Aoraki Conservation Board protocols triggered (refer to section 4.2.3(a) in this Report).

From DOC staff:

- (i) Raukapuka Geraldine Field Base consulted
- (ii) Technical Advisor – Threats (comments in Section 6 - Consultation)
- (iii) Departments Commercial Business Unit - financial and commercial considerations e.g. fees. Includes the commissioning of a valuation report from CBRE Valuation and Advisory Services prepared by Gerrard Wilson (Associate Director, Registered Valuer) dated 18 December 2013 recorded as [DOCDM-1407617](#).
- (iv) other groups within the Department.

Requested information not received:

All information requested to consider this application has been provided to the Department.

3.0 Acknowledgement of complete application (s17S)

The applicant has provided a comprehensive application document augmented with supplementary information as required. Overall, the applicant has satisfied the requirements of s17S.

In considering the application, the Department has met with the applicant on multiple occasions to discuss the proposal and how it sits with the statutory documents that guide the Department in any recommendations it makes to the decision maker. This is outlined below and explains why the proposal under consideration is different in some respects to what was initially applied for.

Comment

The Minister should be satisfied that the application is complete for the purposes of the Act.

4.0 Analysis of proposal (s17T, 17U, 17V, 17W, 17X, 17Y)

4.1 Analysis of the Proposal - Section 17T

Declining an Application within 20 working days – s17T

Section 17T(2) requires the Minister to decline an application within 20 working days of it being deemed complete, if “...the application does not comply or is inconsistent with the provisions of this Act or any other relevant conservation management strategy or plan...”

This application appears to comply with and be consistent with s.17T(2). It is therefore not considered appropriate for the application to be declined within twenty working days.

Public notification s17T(4) and s17T(5):

The Department considered whether the “rolling on” lease was worded in such a way that allowed for s.17T(6) to be applied - *that public notification does not apply if an application for a grant of a lease or licence resulting from the exercise of a right of renewal or extension, or a right to a new lease or licence, that is contained in a lease or licence.*

Clause B.2(d) of the “rolling on” lease states that there is no right of renewal of the lease beyond the 40th year (being 2013). Despite this, the clause sets out that the lessor will review and renegotiate the lease with a view to a renewal for a further period in light of the conditions pertaining in the last 2 years of the lease...with a view to using best endeavours to grant a renewal or extension of the term of the lease.

While the term “best endeavours” carries certain legal connotations (principally the requirement to demonstrate that the lessor took all practical steps to grant a renewal), this is not the same as a right to a renewal or a requirement to grant a new lease.

Accordingly, it is contended that s.17T(6) does not apply and this application must be publicly notified pursuant to Section 17T(4) of the Conservation Act 1987 i.e. before granting a lease, or a licence with a term (including all renewals) exceeding 10 years, in respect of a conservation area, the Minister must give public notice of the intention to do so in accordance with s.49.

It is appropriate that as the 3 concession activity types (lease, licence and easement) are for inter-related (co-dependent) aspects of the activity that the Minister consider it appropriate they be publicly notified as a package i.e. includes the easement component pursuant to s.17T(5).

4.2 Analysis of the Proposal - the Effects of the Activity and the Availability of Methods to Avoid, Remedy or Mitigate Adverse Effects –s17U(1) and s17U(2)

Analysis of Effects s17U(1) and (2):

Section 17U(1) requires the Minister to have regard to the effects of the activity as well as the measures that can be imposed to avoid, remedy or mitigate adverse effects. Section 4.2 of this Report considers the effects of the activity from a number of perspectives which can generally be categorised as follows:

- Effects on conservation values
- Effects on cultural values
- Effects on existing and future users
- Cumulative effects of adding this activity to current activity on site.

In accordance with section 17U(1)(c), this Report also considers what measures can reasonably and practicably be undertaken to avoid, remedy or mitigate the adverse effects. As is required by section 17U(1)(c).

When analysing the effects of the proposed activities, this report considers the following material:

- (a) Environmental Impact Assessment (EIA) included in application.
- (b) Feedback received from Departmental staff in the Dunedin District Office (section 4.2.2 in this Report).
- (c) Feedback received from the Aoraki Conservation Board (section 4.2.3(a) in this Report).
- (d) Feedback received from Ngāi Tūāhuriri and Te Rūnanga o Ngāi Tahu (section 4.2.3(b) in this Report).

In addition to the material noted in the preceding paragraph this report also assesses the application by reference to the relevant conservation planning documents, including:

1. Canterbury (Waitaha) Conservation Management Strategy 2016 (“Canterbury CMS”) (refer to section 4.5 in this Report).
2. Conservation General Policy (May 2005)(CGP) (refer to section 4.5 in this Report).

Introduction

Alpine ski areas require terrain modification and additions to the landscape to facilitate the activity. Their impact on the ecology and visual amenity of the land is at the higher end of the scale than most other commercial recreation activities conducted on public conservation lands and waters. It is generally accepted by the Department that the creation of new ski areas on currently undeveloped public conservation lands and waters under the Conservation Act will be more difficult to justify than it was 40 years ago when the Mount Hutt ski area was established under the Forests Act.

The original 1979 lease area includes an approximate "seised" area of 4,441.5477 hectares of public conservation lands and waters, of which probably less than 400 hectares has been developed to facilitate the current ski area activity. Much of the original lease area contains terrain geographically isolated from the land on which the ski area is currently established. Much of this terrain is below the 'snow-line', forested and dissected by deep gullies.

As the original lease, permit and easement were issued under the Forests Act 1949, the Department does not have access to all the original/historic documents. A review of the documents available for the Department's review was undertaken and indicates that despite the large lease area, the ski area activity was to be concentrated around and within the topography currently developed as a ski area.

It is considered that the original lease "seised" area is not necessary for the activity to continue being successfully undertaken at its current site. The net result of the land area sought in the application is roughly the same total land area utilised under the original lease, though not the same boundary configuration i.e. it is proposed that the ski area will largely remain as it is currently.

The large land area originally included within the lease was probably included for the purposes of facilitating the long access road and ensuring a buffer between the proposed use and surrounding land, bearing in mind that public rights of entry onto forestry land were not necessarily the same as they would now be under the Conservation Act.

The boundaries may also be the result of convenience - western and southern boundaries traverse from one prominent spot height to another. It is also possible that they reflect original forestry block survey boundaries.

Over the term of the original 40 year lease, permit and easement, significant infrastructural development and terrain modification has been undertaken by successive owners of the ski area. The applicant (current owner) has probably made the most significant investment in terms of infrastructure expansion and improvement.

Access Road

Vehicular access to the site is via a long (approximately 13.2 km) unpaved/unsealed metal construction road that was constructed for the purpose of providing access to the ski area requiring regular maintenance. Grading results in a specified amount of excess roading material spilling over the edges of the road formation during routine maintenance. Grit is regularly used to manage slick surface conditions. The effects of the excess material on the receiving environment vary depending on the terrain below the road and the type of vegetation present. Generally, the effects are not significant within the context of the large, reasonably mobile scree slopes found below many sections of the road.

In discussions around the impact of the migration of roading metal and grit from the road to the down slope environments, the applicant has indicated that the collection and removal of graded material from the road would be prohibitively expensive in addition to their existing annual roading maintenance and upgrading costs of around \$300,000 per annum.

The applicant is instigating the gradual installation of 'amco' vehicle safety barriers along the parts of the road exposed to steep terrain below the road. Installation of these barriers probably makes it harder for material to be pushed by graders and other vehicles over the road edge. In any case, with a degree of diligence, the accumulated material can generally be re-distributed effectively across the road surface during ongoing maintenance.

The applicant acknowledges that although public access cannot technically be prevented, it may advise users of hazards or physical restrictions that may make such use extremely hazardous and not recommended. The applicant could physically close the road as gates can be locked to prevent vehicular access to various sections of the road when the road is subject to immediate hazard and/or keep their patrons and the general public informed with warning signs. In winter, patrons and other visitors with appropriate vehicles, experience and snow chains are permitted to use the road which is under the applicant's control. Although reasonable maintenance and care are taken to facilitate safety, users of the road (including the public) do so at their own risk.

Under the current arrangement the main entrance ('bottom') gate is left open 'off season' unless safety/maintenance circumstances require road closure. Higher at 'Zed Creek' the gate is open during weekday office hours. Outside these hours, vehicle users need to contact the applicant in advance and obtain a key. The applicant advises that this practice has been driven by incidences of vandalism that have occurred from time to time in the past.

4.2.1 Applicant's analysis of the effects of the activity plus methods to avoid, remedy or mitigate

Environmental Impact Assessment

The applicant's Environmental Impact Assessment includes a thorough analysis of the environmental impacts of the activity/operations and the methods used to avoid, remedy and mitigate adverse environmental effects which include detailed emergency plans, policies and standard operating procedures.

The applicant would also be responsible for functions exercised by other statutory bodies and membership of other organisations including:

1. Containment of bulk fuels in the event of a leak or spill. Appropriate and safe storage of liquid fuels and explosives in approved quantities.
2. Appropriately designed, constructed and maintained effluent disposal and discharge infrastructure.
3. Monitoring of local stream ecosystems for pollutants originating from the applicant's site.
4. Obtaining and maintaining any requisite approvals and/or consents from other authorities, such as Regional and District Councils.
5. Methodical and consistent management of hazards through the drafting and application of safety plans including avalanche hazard mitigation works, visitor safety and management of road hazards, including closure of the area due to any one of the above aspects of hazard not being adequately mitigated.
6. Membership of Ski Areas Association of New Zealand (SAANZ) which provides self regulation of the industries' activities through the Ski Area Management Safety Strategy (SAMSS) document.

In addition to this the Department performs the following:

7. Monitoring by the Department of Conservation.
8. Approval of annual works plans by the Department of Conservation.

4.2.2 Analysis of the effects of the Activity by Departmental Staff together with proposed methods to avoid, remedy or mitigate adverse effects.

Technical Advisor – Threats

The control of pest species was discussed with a Technical Advisor – Threats. It was noted that provided 'reasonable' access was maintained so that the Department can discharge its duties with respect to weed management and pest control and that the applicant did not plant exotic wilding plant species, the Department was satisfied that they did not require further specific involvement in the application process.

Monitoring Conditions

The scale and nature of the ski field activity requires continual monitoring by not only the applicant but the Department, to ensure that any conditions of approval, if a concession is granted, are adhered to and that any adverse effects of the activity continue to be avoided, remedied or mitigated. Monitoring would be undertaken by staff located at the Departments 'Geraldine Field Base' and will be facilitated by conditions of any proposed concession.

4.2.3 Dunedin Service Centre assessment of effects on conservation values plus proposed methods to avoid, remedy or mitigate adverse effects

The ongoing monitoring of the access road and its effects on surrounding ecological values will identify any emergent effects greater than those identified through the consideration of this application.

The Department recognises that:

- the primary purpose of the road and its reason for having been constructed is ultimately to service a commercial ski area activity on conservation land.
- for the applicant to manage the road effectively that vehicular access may need to be prevented from time to time due to the inability to adequately provide for visitor safety and/or the need to close the road for maintenance.
- the Department considers the applicant has been fair and reasonable in facilitating 'out of season' vehicle access over the years that it has managed the road.
- the Department will continue to have a vehicular right of way to pass and re-pass over the easement for management purposes.
- because it is an asset for which the applicant is responsible for, it is important that the applicant retain control over the road and vehicular access so that it can meet its Health and Safety obligations, while ensuring efficient operation of the road which is vital to the successful operation of its business.
- The applicant is entitled to charge for vehicular use of the road, but has indicated that it does not propose to charge the general public for use.
- the applicant has requested that the access road be authorised under similar arrangements ("terms and conditions") as those already provided for under the current "rolling-on" easement. Accordingly, the proposed Easement special conditions in Appendix B have been updated, but still reflect the existing arrangements under the "rolling on" Easement contract.

North West Valley

It is noted that the applicant may increase active safety management over this part of the ski area, including avalanche control methods, possibly also temporary signage and potential ski patrol supervision. The Department is not opposed to this and recognises that during winter the effects of the activity are not significant.

For clarity, it is noted that the applicant's investigations into the potential future development of the 'North-West Valley' with fixed infrastructure such as ski lifts, snow making and other ancillary ski field infrastructure are beyond the scope of this application. A comprehensive investigation into the environmental effects of any such development in the valley would be required during the snow free summer months.

Ski Area and Heli-ski Concession Boundaries

Much of this wider original area is subject to a concession held by Mount Hutt Helicopters (2013) Ltd for the purpose of providing 'heli-skiing'. The concession activity and how it interacts with the ski area activity are discussed in detail below.

Conflicting Concession Area Boundaries

As described above, a heli-ski concession granted to Mount Hutt Helicopters (2013) Ltd allows it to operate within the Mount Hutt skis current lease area.

However, the boundary for the 'heli-ski block' allocated to the concession held by Mount Hutt Helicopters (2013) Ltd includes terrain within the area actively used in the Mount Hutt ski area operation. Specifically, the plan identifying heli-ski blocks allocated to Mount Hutt Helicopters (2013) Ltd through Concession 37716-GUI² identifies the boundary of the concession area as including the summit ridge and north-west valley of the Mount Hutt ski area.

As a result of the discussions between the applicant and Mount Hutt Helicopters (2013) Ltd, an agreed operating boundary between the heli-ski concession activity and the ski area licence boundary has been agreed in principle by the applicant, Mount Hutt Helicopters (2013) Limited and the Department.

Note: that the area described as the 'North-West Valley' is considered part of the current ski area operation; reflected by the proposed licence area. However, the expansion of infrastructure into the 'North-West Valley' would be subject to a separate analysis and any approval undertaken through an application for a concession to use the area for such purposes.

It should also be noted that underlying this agreement in principle, it is possible that the applicant would like to retain use of the land contained within its original lease area for the purposes of offering its own helicopter or over-snow vehicle supported skiing activities.

Any investigation into the expansion of infrastructure into the north-west valley by the applicant would be considered as a new concession application.

Mount Hutt Helicopters (2013) Limited

Mount Hutt Helicopters (2013) Limited hold a concession to undertake heli-ski operations within a number of 'blocks' identified within its approved concession document. One of these 'blocks' contains a large part of the terrain included within the applicant's original ski area lease. As described previously, large parts of the terrain contained within the original ski area lease are geographically isolated from the ski area development and probably only suitable for 'heli-skiing'.

An investigation of the Department's documentation for that concession application suggests that the Department granted approval to the heli-ski concession activity on the basis that Mount Hutt ski area had contained its development to the current extent; that the wider lease area was not being utilised in the operation of the ski area and because the applicant is not a heli-ski operator.

The Mount Hutt Helicopters (2013) Ltd heli-ski concession contains a provision that the company may land helicopter aircraft within the Mount Hutt lease area at the lessee's discretion. For a number of

² Previously CA-25222-AIR

years Mount Hutt Helicopters have co-ordinated with the ski area to offer 'heli-skiing' packages booked at the ski area office and delivered by Mount Hutt Helicopters, which lands in the car park.

The Department re-allocated heli-ski blocks via a tender process in 2014. Participation in this re-allocation process was only open to incumbent heli-ski concessionaire operators and therefore the applicant has not been eligible to seek a 'heli-ski' concession to utilise the terrain previously contained within their lease area. Mount Hutt Helicopters (2013) Ltd as an incumbent heli-ski Concessionaire is eligible for this re-allocation process.

It is considered that no material detriment appears to have been imposed on the applicant because heli-ski activity has been conducted under this arrangement for approximately the last 14 years without complaint. Furthermore, the two operators have worked co-operatively to provide a heli-ski activity product to Mount Hutt ski area patrons.

Use of Helicopter

Under the current lease and permit the landing of helicopters operated or engaged by the applicant for activities associated with the management of the ski area activity is undertaken without the need for the Department's approval i.e. for avalanche control work, health and safety (i.e. SAR, medical emergency) and for construction purposes associated with approved work programmes. The Department acknowledges that the use of helicopters is now an integral part of effective ski field management, so it is proposed that the use of helicopters be included as a concession activity in Item 2 of Schedule 1 in any proposed concession (if approved).

However, landings by other parties not associated with the applicant's operation of the ski field would be processed in accordance with Co-Siting provisions in the applicant's proposed concession (if approved) and the operator of the helicopter would be required to be the holder of a concession with the Department for helicopter landings.

Aircraft effects

The operation of the ski area requires the use of helicopter aircraft from time to time. Common reasons for flying to the site include search and rescue, staff transport when the road cannot be used, avalanche control work and as a lifting platform for the installation of new infrastructure or relocation of equipment. Helicopters used at the location are typically not re-fuelled onsite, unless perhaps they were undertaking significant work at the location - such as the installation of a new ski lift. Therefore, the presence of aviation fuel and the associated risks of a spill are an infrequent, low risk activity.

The main effect of helicopters operating at the location relate to the noise they produce and the loss of 'natural quiet'. The ski area is identified as being 'front country' under the 'Recreation Opportunity Spectrum' (ROS) setting, which does not specifically describe expectations with respect to the presence of low flying, hovering and landing aircraft. It is noted the *'Preconsultative Guidelines for Aircraft Access, Canterbury Conservancy, 2009'* which have informed the Departments draft Canterbury Conservation Management Strategy (not yet operative), which designates the Mount Hutt environs as being within a 'Seasonally Frequent' zone. This translates to meaning that the presence of aircraft will be more frequent during the winter months.

The continued use of helicopter aircraft at the site on a seasonally frequent basis is consistent with the nature of the activity approved for the site in the past and current proposed activity. Framed against the backdrop of landscape modification, built form, vehicle movements and general signs of activity at this location during winter, the effects of helicopter movements are transient and minor. The use of helicopters for the transportation of patients with injuries or other medical emergencies is deemed an acceptable temporary effect given the benefit to the patient, irrespective of the amenity values and remoteness of a given location.

Hazardous Substances Storage - Fuels and Explosives

Through the course of operating a ski area the applicant requires the use and storage of various types of hazardous and potentially environmentally damaging substances. The majority of the applicants risk would be associated with the storage and pumping of diesel fuels, but includes the storage and use of explosives for the control and management of avalanche hazards. Other legislative requirements govern the use and storage of these substances and conditions of any concession (if granted) will require the applicant to comply with these legislative requirements, and any containment and emergency procedures.

4.2.4 Third party comments on the effects of the activity plus methods to avoid, remedy or mitigate

(a) Aoraki Conservation Board

The nature and scale of the application triggered the need to consult with the Aoraki Conservation Board. The key points of the Conservation Board response was that the Board:

1. Recognises the ski area provides "excellent facilities for public recreation".
2. Supports the renewal (new application) and recognises the opportunity for partnerships to improve interpretation and appreciation of the area during non-snow covered months.
3. Recognise the opportunity for rapid public access to an elevated view point provided by maintaining road access during 'off season' months and seek to ensure this access is maintained.

Dunedin Service Centre comments on Aoraki Conservation Board's Feedback

None.

(b) iwi

The nature and scale of the application triggered the need to consult with Te Rūnanga o Ngāi Tahu.

A response was received from Ngāi Tūāhuriri via Ngāi Tahu who raised the following concerns:

1. The ski field uses a large amount of water for snow making. Does the applicant have to treat the water with antifreeze or similar?
2. Water flows from the land used by the applicant flows into the Pudding Hill Stream catchment. This is a reasonably well used recreation area with a school camp at the base of the mountain. Whio have also been present in the stream.
3. The introduction, spread of, and lack of control of weeds brought with their machinery during road maintenance and grit spreading.
4. Removal of wilding pines (admittedly not planted by the applicant). The ability to require the applicant to control wilding pines as a requirement of the granting of a concession.
5. Raised concerns over the on-site effluent disposal and suggested that it failed to function adequately when large numbers had to stay overnight due to a climatic event a couple of years ago that required the road to be closed and many visitors having to spend the night at the ski area base building.

Dunedin Service Centre comments on feedback from Ngāi Tūāhuriri

After receiving the draft report the applicant advised that there should be some more detail on NZSki's response to Ngāi Tūāhuriri environmental submissions/concerns, such as the information contained in the following documents:

- a) 'Environmental Effects of Ski Area Operations at Mount Hutt' (recorded as [DOCDM-1389034](#)) to which it attached a number of monitoring reports and Regional and District Council Consents, and
- b) A short brief accompanied by a Pudding Hill Stream Biological Monitoring Survey carried out by Jason Strong from Environmental Consultants dated February 2013.

Item 1

Report (a) above includes detailed technical information about snow nucleating agents ('Snomax®'), used in snow making.

Item 2

Compliance monitoring reports show that we (the applicant) are meeting our obligations under the terms of the consent. Additionally, a comprehensive biological survey of Pudding Hill stream must be conducted on a biannual basis (refer proposed Special Condition 19 in Appendix B). Successive surveys show that the discharge of treated water into one of the tributaries that feeds Pudding Hill stream is not having a detrimental effect on the ecology of Pudding Hill stream.

With regard to implied loss of water quality as a result of the applicant's current practices, the Department is satisfied that the applicant has provided substantive evidence that it is undertaking and monitoring its operation in accordance with the various consents and permits it holds from other responsible authorities.

Item 3

Ngāi Tūāhuriri concerns over the incursion/spread of weeds on, and in the vicinity of the access road are shared by the Department. The Department has no evidence that sediment or metal originating from the road e.g. via road maintenance is adversely impacting the plant or stream ecosystems below the road as they could just as likely be introduced by private vehicles using the road, and possibly wind transportation. The equipment used for road maintenance is understood to be located on site and not used at other locations. The current practice of material screening at the time of extraction and processing into roading metal suggests it is unlikely that weeds are originating from this source.

The receiving environment is a relatively heavily-modified and active landscape regularly affected by the degrading effects of the climatic and geological process at work on the landscape.

The management of weeds needs to be continued through the Departments ongoing control programmes on conservation land and waters.

Item 4

The applicant stated that "Wilding pines do not exist within the ski area and it already removes any that appear within the road easement area."

Item 5

The applicant stated that there are no events on record, including the overnight stay referred to in item 5 above, that has compromised the capacity of the waste water treatment system during ski area operations. The waste water treatment system is monitored by skilled maintenance personnel on a daily basis and in accordance with Resource Consent monitoring conditions.

4.2.5 Co-Siting

The applicant raised concerns over the potential for other Concessionaires to be co-sited within the proposed ski area which may include the use of the applicant's structures or facilities. The applicant maintains that the Department should not on the one hand offer exclusivity through a lease and then on the other hand reserve the right to co-site other potential Concessionaires within an exclusive lease area.

Dunedin Service Centre Comments on Co-Siting

The Co-Siting clause in the standard contract (clause 31 of Schedule 2: standard terms and conditions) include several provisions that allow interested third party activity on conservation land which may include complementary activities to benefit the applicant's operation of the ski field.

It is considered that the detailed Co-Siting provisions contain sufficient safeguards to ensure a robust Co-Siting process.

Several authorised and unauthorised Co-Siting arrangements occur at the Mount Hutt ski field location and these are considered below.

Helicopter Building and Landing Pad

A concrete block building is established beside the designated helicopter landing area at the edge of the main ski area car park (within the proposed concession area). The Department's records do not indicate who owns this building and it appears that this is another unauthorised historic activity to support heli-ski patrons and aircraft operations. The current owners of Mount Hutt Helicopters (2013) Limited have indicated that they purchased it when purchasing this company and the applicant supports this position.

Dunedin Service Centre Comments on Helicopter Building and Landing Pad

The applicant is completely supportive of Mount Hutt Helicopters 2013 Ltd Co-Siting within any proposed ski field licence area.

This issue has been discussed with Mount Hutt Helicopters (2013) Limited and they wish to fully co-operate with the Department by applying for a concession to regularise the building and landing site activity on conservation land.

Philip Wareing Limited

Philip Wareing Limited was granted a notified concession (licence) by the Department on 2 July 2005 to locate a radio communications repeater on the summit ridge above the ski area, known as the 'Wareing' site.

Philip Wareing has already relocated its telecommunication repeater facility to the applicant's Weather System and Repeater Equipment Hut (Appendix A - label "CC" on Table)

Dunedin Service Centre Comments on Philip Wareing Limited

The Department will:

- prepare a Deed of Variation for this concession, and
- confirm decommissioning of the telecommunication repeater from the summit.

Mount Hutt Ski Club Hut

A hut is operated by the Mount Hutt Ski Club within the applicant's current lease area. The Departments' records of this building are limited, however, the original licence agreement for the 'Methven Ski Club Incorporated' was signed on 23rd May 1985 for an initial 9 year term and the 20 year right of renewal under this lease has been exercised. This sublease expired on 30 April 2013.

The club has enjoyed a relationship with the applicant and the previous owners of the ski field. The club hut is provided with connections to site infrastructure and serviced with electricity, water, and snow clearing operations for a nominal annual fee. Arrangements for continued reticulated services to the club building will need to be negotiated directly between the applicant and the Ski Club.

Dunedin Service Centre Comments on Mount Hutt Ski Club Hut

The applicant supports Mount Hutt Ski Club being Co-sited within the applicant's proposed licence area. The Mount Hutt Ski Club has submitted an application to the Department for a concession for the hut on conservation land, and this will be processed once the outcome of public notification of this application is known.

The Department will require the club to meet certain standards for the provision of reticulated service infrastructure including electricity, potable water and effluent waste disposal, as well as snow clearing and any other service matters related to the operation of the clubs facility as part of a concession application.

4.2.6 Bungy Platform and Hut

At the edge of the main ski area car-park, within the applicant's current lease area, is a steel bridge-like platform structure cantilevered over a rocky bluff and the ground below. The structure is the remnant of a failed 'bungy jumping' concession venture by a third party with no links to the applicant company (refer concession number CA/228/ATT; File ref: PAC-12-06-564). The bungy jumping concession holder applied for their concession to be terminated (cancelled) on 9 September 2008. No bond or other mechanism to require the removal of the structure at the cessation of the concession activity was originally secured under that concession. The ownership of the platform was last recorded as CHN Exploits Limited and ex-Director Keegan Corbett of this company has confirmed that it "walked away" from the activity, assuming that the ski field operator at the time would "take on" the structure.

However, in accordance with clause 30.3 of its concession (shown in full below) the structure vests absolutely in the Lessor (Minister of Conservation).

Expiry of Lease (page 16) of bungy operation concession states that:

30.3 All structures or facilities remaining on the Land at the expiry, surrender or termination of this Document, or as otherwise approved by the Lessor, will be deemed to be fixtures and property in them will vest absolutely in the Lessor.

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

Dunedin Service Centre Comments on Bungy Platform and Hut

The Department's Business Accountant's have confirmed that there is no need to bring this "asset" onto our books as it has no value to the Department (i.e. we have no use for it). The Department needs to ensure it transfers all rights to the structure to the applicant and that the Department takes no legal responsibility for it i.e. ownership, safety, quality and the like.

The Department considered various options with regard to the bungy platform and hut such as:

1. Removal of the infrastructure
2. Tender for the use and operation (Co-Siting and operation by a third party)
3. Disposal to the applicant and inclusion of this activity in any concession (if approved).

Option 1 – will impose a cost on the Department for removal.

Option 2 – will impose a cost on the Department to tender and would require Co-Siting consultation with the applicant.

Option 3 - The Department recommends option 3 as the applicant has expressed a desire to take over ownership and responsibility for the bungy platform and hut infrastructure which it may use for future commercial recreation activities. The applicant has significant infrastructure in place at this location and is in the best position to take on this additional infrastructure as a practical solution/resolution. Allowing the structure to remain in place will not result in any additional adverse effects, and any future potential use can be adequately provided for in any concession conditions (if approved).

Recommendation is that ownership of the bungy platform and hut be transferred to the applicant at "nil consideration" in accordance with clause 30.4 above (in particular "...or otherwise dispose of them...") and that the facility be included in any concession (if approved) subject to the acceptance of proposed Special Conditions 34 to 36 in Appendix B by both parties.

4.2.7 Positive effects

During the preceding 40 years that the ski area has operated, the experience of skiing at Mount Hutt or gaining access to the conservation land via the road is likely to have benefited hundreds of thousands of visitors through recreational opportunities and facilitating an appreciation for the alpine environment. Providing opportunities for greater participation in recreation on public conservation land is a statutory purpose of the Department and also one of the Departments 'Intermediate Outcomes' specified in its current 'Statement of Intent' (2012-2017).

There is obvious benefit for skiers in the approval of this concession activity. Recreational opportunities are also available to non skier visitors who are able to take advantage of rapid access via the ski field road to an elevated alpine environment in a pristine state, that would otherwise be inaccessible, to participate in recreation activities such as recreational walking and downhill mountain biking.

While it is true that the ski area landscape is a heavily modified environment, the ability to view and experience the wider, natural surroundings from this vantage point enables an appreciation of the natural world and facilitates rapid access to the broader unmodified alpine environment. This non-commercial recreation opportunity can be enjoyed by both able bodied and less mobile visitors who would not normally be able to gain access to this type of environment.

The applicant has demonstrated through discussions with the Department that it takes responsibility for the role of custodian of part of the Conservation Park and Area seriously and seeks to operate its business in a manner that minimises adverse environmental effects yet maximises the opportunity to be a successful business and meet the recreational aspirations of its customers.

4.2.8 Cumulative Effects

Development proposed through the 10 year development plan will be subject to assessment and approval by the Department on receipt of the annual works plan for any proposed work. The proposed works generally relate to refining or enhancing existing modifications and are unlikely to contribute to the overall effects of the ski area in such a way that a cumulative threshold will be exceeded. For example, re-contouring around the lift loading areas to reduce 'ponding' will result in minor changes to the appearance of the land gradient but will not be discernible. Whether or not the activity will result in more than minor ecological effects would require specific investigation at the time the activity is proposed.

Overall, the granting of a new concession to continue operating a ski area at the Mount Hutt site will not result in significant new effects. Future development, expansion or refinement of the activity conducted at the site will be subject to assessment at that time, including an assessment of cumulative impacts.

4.2.9 Any other relevant information

Avoiding, Remedying or Mitigating Adverse Effects

As a well established Concessionaire, the applicant has a range of procedures, processes and plans in place for all aspects of its operation to which it is required to adhere to.

In addition, the applicant is required to comply with legislative requirements related to the storage, transport and refuelling of vehicles with liquid fuels, as well as the use, transportation and storage of explosives.

The existing development and activity at the site has resulted in moderate to heavy modification of the natural environment. Should a concession be granted the approval will be subject to conditions that ensure that any future adverse effects caused by the activity (and in particular approved modifications) are avoided, remedied or mitigated.

4.3 Analysis of the Proposal - Other Matters to be Considered by the Minister - s17U(4) and s17U(5)

4.3.1 Alternative Locations – s17U(4)

The Department is satisfied, pursuant to s.17U(4), that it would be impractical to consider if the activity could reasonably be undertaken in another location as the ski area has existed at this location for 40 plus years.

The Department is satisfied pursuant to s.17U(4) that it would be impractical to consider if the activity could reasonably be undertaken in another location. The applicant is successfully operating a commercial ski field at the current location and continuing to utilise the existing infrastructure and the modified environment, without the need to build a new ski area at a new location (on public conservation lands and waters) that would undoubtedly have significant potential impacts and similar effects to those already known in the current modified environment.

4.3.2 Appropriateness of Granting a Lease or Licence or Easement

The Applicant sought three classes of concession in the Application. These included a lease, a licence and an easement. The dimensions of each of these areas is set out in section 4.3.3 in this Report, and are more particularly described in the application.

In general, this Report agrees with the approach taken by the applicant that three classes of concession be granted:

- (a) A lease to correspond with the footprint of the existing structures;
- (b) A licence for the skiable terrain; and
- (c) An easement for ancillary infrastructure as detailed in Section 4.3.3 of this Report.

Large parts of the original “seised” lease area (approximately 4,441 hectares) are comprised of forested slopes and gullies through which rivers flow, making it unsuitable for ski area development. Other parts of the original lease area that are suitable for skiing, but not part of the currently developed area, are too geographically isolated from the ski area to be developed with fixed ski field infrastructure.

Both the applicant and the Department agree that the area of the original lease is the starting point for determining the shape and size of a new lease and licence area.

The applicant has made it clear that it is uncomfortable with not having exclusive occupancy rights over the entire proposed land area to be included within the ski area boundary and that it requires the ability to physically exclude persons from entering the land contained within the ski area for their own safety and for the effective operation of their activity.

The applicant’s proposal was slightly complex insofar that it proposed to maintain a large area of what was the initially approved lease area, but with slight alterations to boundaries and the total land area. The land area quoted by the applicant in its application (page 3 of 29) is at odds with what is specified in the lease document granted in 1979. In any case, it would be reasonable to surmise that the applicant seeks to maintain a large land area under a lease as part of any proposed concession which is not part of the ski area development - or used in the past by the applicant.

The original lease area included a large parcel of land, predominantly to the west of the established ski area that is not contiguous with the area currently developed as a ski field. No effort has been made by the ski areas successive owners during the term of the 40 year approval to develop the wider area of terrain contained within the original Forests Act lease area.

The application seeks alterations to the original lease boundaries to include additional 'new' terrain suitable for skiing, while excluding terrain that was within the original lease area, but which is unsuitable for skiing. Much of the additional terrain sought by the applicant cannot be practically accessed from the ski area by ground methods and reliance on helicopters for access would probably be required. The applicant also wishes to have the opportunity to maintain the option of using the area in the future potentially to offer its own heli-ski or tracked vehicle backcountry skiing activities.

4.3.3 Dunedin Service Centre recommendations on dimensions and definition of the Lease, Licence and Easement Areas

Proposed Lease and Licence Area

It is considered that a lease is appropriate as the proposal relates to 1 or more fixed structures and facilities [s.17U(5)(a)] and accordingly the lease footprint has been identified below in the “Lease, Licence and Easement Areas defined” section of this report. Exclusive possession is considered appropriate over certain buildings and structures for:

- reasons of public safety, for example a ski lift station building where the public are physically excluded from the site to protect them from hazards that may result from operating machinery and buildings for storage of explosives and detonators [s.17U(6)(a)]; and
- for the purposes of safety or security of certain assets (buildings and structures) [s.17U(6)(b)]; and
- to ensure that the applicant can operate the activity competently as they have a significant investment in buildings and related infrastructure [s.17U(6)(c)].

It is also considered appropriate to grant a licence for areas around the defined lease area for the purposes of safety or security at the location [s.17U(5)(b)(i)(A)] and to clearly define an area that is an integral part of the activity on the land, being the main ski field area/skiable terrain (slopes) [s.17U(5)(b)(i)(B)]. This will not only allow the applicant to operate effectively, but will also allow public access for non-ski recreational opportunities.

It is noted that the applicant has appropriate health and safety processes in place to ensure public safety, in general, is maintained over non-leased areas.

The Minister should be satisfied that the grant of a lease and licence granting an interest in the land is essential to enable this historic activity to be carried on [s.17U(5)(b)(ii)].

Lease, Licence and Easement Areas Defined

Applying s17U of the Act, the Department considers the types of activities related to this application can be defined and categorised as detailed below, and described in the Table and map in Appendix A.

Applicant's comment on draft report

“In respect of the exclusive leased areas, it will be impractical (and very expensive) to have a survey plan prepared for each leased area structure. Also, some of the structures (like the snow guns) are periodically moved so if a plan was prepared now, it would quickly become out of date. My preference is to describe the exclusive leased areas within the lease. In my view we can agree appropriate wording that clearly captures what those areas are. This approach allows for flexibility over the 30 year term to avoid the parties having to vary the lease every time a new building or snow making line is installed.”

Proposed Lease Area

Footprint of structures and facilities being approximately 0.7 hectares comprising:

- base buildings;
- equipment sheds and utility huts;
- lift infrastructure (including chairlift loading structures and terminals);
- fuel containment, pumps and other similar devices and apparatus.

Proposed Licence Area

The proposed licence area geographically defines the extent to which non-exclusive interest of the ski area activity may extend, being the 'skiable' terrain.

The licence area will be approximately 820 hectares and comprise:

- main ski field area i.e. ski field terrain (slopes).

Proposed Easement Area

The easement area of approximately 40 hectares will comprise:

- Mount Hutt ski field main access road (approximately 26 hectares);
- Main car-park and access road car-parks (3) (approximately 3 hectares);
- Utilities and services (above and below-ground infrastructure) for water storage and reticulation (reservoir, dam, water tanks), sewage, electrical, telecommunications and computer media (approximately 5 hectares);
- Ancillary equipment (above and below-ground infrastructure) such as snow making and pumping equipment (wands/snow guns), pylons, lift cables, ski lift chairs (approximately 6 hectares).

Dunedin Service Centre Recommendations

This Report recommends that a lease be granted in relation to the existing structures because the tests set down in s17U(5)(a) and s.17U(5)(b)(i)(A) and s.17U(5)(b)(ii) are met. The Department is also satisfied, pursuant to s.17U(6), that exclusive possession is necessary over certain buildings and structures.

In addition to creating a lease in relation to the existing structures it is proposed to include a clearly defined licence area for the skiable terrain immediately proximate to the structures as this is an integral part of the activity [s.17U(5)(b)(i)(B)].

In considering which area or areas around the structure or facility should be within this licence area, regard has been had to the application.

This report also recommends that an easement for access purposes be granted.

4.4 Analysis of the Proposal – Purpose for Which the Land is Held - Section 17U(3)

Section 17U(3) provides that the Minister cannot grant a concession if the proposed activity is either contrary to the Act or to the purposes for which the land is held.

The application affects land held under the Conservation Act 1987 for the following purposes:

1. Mount Hutt Forest Conservation Area (K35045) is Stewardship area held under Section 25 of the Conservation Act 1987
2. Hakatere Conservation Park (J35005) is held under Section 19 of the Conservation Act 1987 for the purpose of a conservation park (New Zealand Gazette 2007 p 2910).

Stewardship areas (s.25)

The purpose for which a stewardship area is held is set out in section 25:

“Every stewardship area shall so be managed that its natural and historic resources are protected.”

Conservation Parks [s.19(1)]

The purpose for which a conservation park is held is set out in section 25:

“Every conservation park shall be so managed - (a) that its natural and historic resources are protected; and (b) subject to paragraph (a), to facilitate public recreation and enjoyment.”

Part 1, section 2(1) of the Conservation Act 1987 defines conservation as:

*“**conservation** means the preservation and protection of natural and historic resources for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generations.”*

Both Sections 21 and 25 of the Conservation Act 1987 refer to the need to “protect”. The term “protection” is defined in Part 1, section 2(1) of the Conservation Act 1987 as:

The interpretation of “protection” in Section 2 of the Act is **“protection, in relation to a resource, means its maintenance, so far as is practicable, in its current state; ...”** (underline added for emphasis).

“protection, in relation to a resource, means its maintenance, so far as is practicable, in its current state but includes-

(a) its restoration to some former state; and

(b) its augmentation, enhancement, or expansion: ...” (underline added for emphasis)

In order to comply with the test laid down by section 17U(3) the granting of a concession must not be contrary to the protection of those values.

4.4.1 Assessment of the purpose for which the stewardship land is held

The land over which the easement would be granted is stewardship land.

The legal test, so far as the stewardship land is concerned, is whether granting an easement would fail to protect (so far as is reasonably practicable) the historic and natural resources of the stewardship land.

The continued use as a ski area would not substantially alter the existing state of affairs. In addition, the operation of the ski area at this location facilitates and provides for the appreciation of the natural and historic resources and recreational enjoyment of the public.

Accordingly, it would not be contrary to the purposes for which this stewardship land is held if concessions, in the form of an easement, were granted to enable the continuation of the activities at the site subject to the terms and conditions proposed in section 6.5 in this Report.

4.4.2 Assessment of the purpose for which the conservation park is held

In this case the activities that would take place within the conservation park are a lease for the ski field infrastructure, licence for the skiable terrain and part of the access road for foot and vehicular access to the ski area.

The current state of the conservation park is such that the infrastructure, skiable terrain and access-road already exists and has been in situ for many decades, in fact the ski field pre-dates the creation of the conservation park. As stated in section 4.4.1 in this Report, the operation of the ski area at this location facilitates and provides for the appreciation of natural and historic resources and recreational enjoyment of the public.

Protecting the values of the conservation park in their “current state” can be understood to mean protecting them as they currently are, namely with the infrastructure and roadway passing through the area and with human disturbance already evident. Allowing continued occupation, use of the skiable terrain and access along the pre-existing roadway, would not amount to a failure to protect the values identified as the “current state” of those values would continue. Accordingly, it would not be contrary to the purposes for which the land is held to grant a lease, licence and easement for the continued activities associated with the ski area.

In terms of the obligation to protect the natural and historical values within the conservation park, the definition of “protection” in section 2 of the Conservation Act 1987 is qualified by the words “so far as is practicable”.

4.4.3 Assessment of whether the activities are otherwise contrary to the Conservation Act 1987

For the purposes of section 17U(3) there are no provisions of the Conservation Act 1987 that would be breached by the granting of the lease, licence and easement.

4.5 Analysis of the Proposal – Consistency with relevant Conservation Management Strategies and Plans – 17W

Where a conservation management strategy or conservation management plan exists for a particular location a concession can only be granted if doing so is consistent with the management strategy or plan (s17W).

In this case a conservation management strategy does affect the area to which the application relates. The relevant management strategy is the Canterbury (Waitaha) Conservation Management Strategy 2016 (“Canterbury CMS”). The Canterbury CMS is subservient to the Conservation General Policy 2005 in so far as it must implement the general policies set out in the 2005 document and it must not derogate from the general policies. Where a conservation management strategy is silent on an issue reference can be made to the Conservation General Policy for direction.

There is no relevant conservation management plan for the area.

Conservation General Policy (May 2005) (CGP):

The proposed activity is for recreational use and for the public's benefit and enjoyment which is consistent with Policy 9 – People's Benefit and Enjoyment. It is also recognised in the CGP that there are a variety of activities undertaken by people and organisations on public conservation lands and waters that require authorisation [Policy 11 Activities requiring Specific Authorisation (not covered elsewhere)]. Policy 11.3 covers the policy on utilities and states that *"utilities may be provided for on public conservation lands and waters where they cannot be reasonably located outside public conservation lands and waters, or if specifically provided for as a purpose for which the place is held."*

The relevant policies in 9.1 to 9.6, and 11.1 and 11.3 have been covered in detail in this Report therefore, it is considered that the proposed activity is consistent with the CGP.

Consistency with Relevant Management Strategies and Plans s17W:

Canterbury (Waitaha) Conservation Management Strategy 2016 ("Canterbury CMS")

The conservation land affected by the application is included in (see table below):

Canterbury CMS	Hakatere Conservation Park	Mount Hutt Forest Conservation Area ³
Part One	2.2 Southern Conservation Parks and Place (pages 45-59)	2.5 Foothills Place (pages 85-92)
CMS Map	5.2 and 5.2.1 (pages 13-14)	5.5 and 5.5.2 (pages 21 & 23)
Inventory (Table & Map)	7.13 - Map 13 of 23 (pages 65-67)	7.14 – Map 14 of 23 (pages 69-71)
Map Visitor Management Zones	8.14 (page 108)	8.14 (page 108)
Map Aircraft access zones	9.14 (page 132)	9.14 (page 132)

Extracts from the Canterbury CMS have been included in the box below. The extracts also deal specifically with recreational activities, ski fields, associated structure and utilities, aircraft use and vehicles.

- Extracts taken from **Part One** Section's 1.3, 1.5.3 and 1.5.5 of the Canterbury CMS (pages 17-41)
- Reference only to comprehensive objectives included in Sections 1.5.3.10, 1.5.3.12, 1.5.5.1 in relation to recreation and business partnerships (pages 37 and 40)
- Extracts taken from **Part Two – Places**; Section 2.2 of the Canterbury CMS (pages 45-59); Policies 2.2.4 and 2.2.9 (pages 54-55).
- Extracts taken from **Part Three – Specific policy requirements for Canterbury**; Section's 3.1, 3.2, 3.6, 3.10 and 3.25 of the Canterbury CMS (pages 132-163); **Policies** 3.25.1 and 3.25.2 (page 162).

³ Part of Mount Hutt ski field access road only.

Extracts taken from **Part One** Section's 1.3, 1.5.3 and 1.5.5 of the Canterbury CMS

1.3 Distinctive features, values and issues of Canterbury (Waitaha)

The high country and foothills provide recreational settings from urban to wilderness, and for activities as varied as passive resting and short walks, to intensive facility use such as on ski fields and intensive aircraft use. The mountain ranges, with their all-year or winter ice and snow, are prime areas for mountaineering and skiing, with the majority of New Zealand's ski fields located here. (Page 20) (underline added for emphasis).

1.5.3 Recreation

The Department manages a well-established network of visitor facilities and recreational opportunities, complemented by concessionaire facilities and services (e.g. ski fields...

Existing examples of these include the larger ski fields (e.g. Mount Hutt...underline added for emphasis).

OBJECTIVES

1.5.3.10 Enhance visitors' understanding and appreciation of natural, historic and cultural heritage, particularly at Icon and Gateway destinations, and at major concessionaire destinations. (underline added for emphasis).

1.5.3.12 Encourage recreational opportunities on public conservation lands and waters, especially within the extensive conservation parks and conservation areas of Canterbury, that are consistent with outcomes for a Place...(underline added for emphasis).

1.5.5 Business partnerships

Places and localities where the outcomes in Part Two—Places identify potential new business opportunities that would benefit conservation include:...

- *At existing ski fields (underline added for emphasis).*

OBJECTIVES

1.5.5.1 Work with concessionaires and other businesses to enhance the conservation experience of their customers and others, build support for conservation and deliver conservation gains consistent with the purposes for which the lands and waters are held.

Extracts taken from **Part Two – Places**, Section 2.2 of the Canterbury CMS

2.2 Southern Conservation Parks Place

The Place has significant value as a visitor resource, offering a diverse range of recreation opportunities including 10 ski fields, many front-country and backcountry sites, track and hut facilities, hunting, four-wheel driving, mountain biking and horse riding. Te Araroa Trail runs the length of the Place. Retention of the extensive network of facilities, particularly the huts and vehicle tracks arising from the former pastoral farming era, requires ongoing assessments against the available Department and community resources.

The 10 ski fields within the Place, while being some of the most intensive visitor-use locations on public conservation lands, and some justifying an importance akin to an Icon visitor destination, are vulnerable to climate change and rising operational costs.

Increasingly, the larger commercial fields will become more reliant on snow-making, but they and other ski field operators are also likely to seek better visitor access and closer visitor

accommodation. They may also wish to broaden the range of recreational activities permissible within their permitted areas. Smaller fields may survive as largely club- and volunteer-run fields, but some will not survive or will operate less frequently. This scenario mirrors an international trend and suggests a precautionary approach is needed for proposed ski field developments and terrain modification, especially for the more-vulnerable fields, to minimise abandoned structures and adverse landscape effects.

The ski fields, in drawing visitors to higher-altitude areas, also have potential for wide-ranging conservation advocacy and interpretation about these areas, additional to their recreation.

Table 2: Southern Conservation Parks Place—specific features, values and issues

Mount Hutt and Mount Potts ski fields and activities.

Mt Hutt ski field management and development, and conservation advocacy.

OUTCOME

All southern conservation parks and other public conservation lands and waters

Prominent landscape and geological features (ridgelines, plateaus, and mountain tops) remain in their natural state, or are unmodified beyond their state at the time of becoming public conservation land. Within public conservation lands and waters away from prominent landscape and geological features, except where in accordance with a ski field concession, small structures may be present where these are well blended into the landscape. (underline added for emphasis).

More people participate in recreation in conservation parks. Visitors are offered a wide range of experiences, from small-group activities walking through less-accessible and challenging areas, to easily accessible walking and vehicle use areas, and intensive use areas such as ski fields and their related accommodation. (underline added for emphasis).

All 10 ski fields, but particularly the smaller ones, are managed in a precautionary way in terms of additional structures and terrain modification, given the uncertainty of future snow availability and ski field longevity and risk of abandoned fields. Further development of existing ski fields, especially the larger ones, may occur, in preference to any new ski fields. Recognition of the ski fields' location on public conservation lands, and conservation interpretation, is readily apparent to visitors. (underline added for emphasis).

Hakatere

Mount Hutt and Mount Potts ski fields provide intensive use recreational experiences for visitors...Aircraft landings are regular in winter where associated with heli-skiing or ski field activities.

POLICIES

2.2.4 Should allow vehicles only on the roads purposely formed and maintained for vehicle use, and the vehicle access identified in Table 3 [All vehicles: Mt Hutt and Mt Potts ski field roads, subject to locked gates for ski field facility security.]

2.2.9 In respect of ski fields:

- a) require all ski fields to operate under a valid concession from the Department;
- b) may allow further development of existing authorised ski fields, where their natural values are already affected, in preference to the development of new ski fields;
- c) should, in considering the development of existing authorised ski fields, take a precautionary approach to the approval of new structures and terrain modification and consider both the likely longevity of the field in the face of climate change, and any land remediation and facility removal requirements should the ski field cease to operate;
- d) where practicable, encourage non-skier and/or non-ski season visitor use of the ski field, and visitor use beyond the ski field consistent with outcomes at Place; and
- e) should provide opportunities for conservation advocacy and interpretation.

Extracts taken from **Part Three – Specific policy requirements for Canterbury (Waitaha):** Section's 3.1, 3.2, 3.6, 3.10 and 3.25 of the Canterbury CMS

3.1 General

Authorisations (General)

Unless enabled by other legislation, anyone wishing to undertake an activity for specific gain or reward (including carrying out a trade, occupation or business) on public conservation lands and waters, or undertake other activities such as research or collection of resources of any kind, requires an authorisation. The most common authorisation is a concession under Part 3B of the Conservation Act 1987. The Department aims to allow for a range of authorisations that are consistent with relevant legislation and policy, the protection of natural resources and historic and cultural heritage, and the recreational settings and planned outcomes and policies for specific Places (see Part Two).

Authorisations can add value to visitors' experiences by connecting them with natural, historic and cultural heritage and providing opportunities to visit places that may not otherwise be easily accessible.

Authorisations in Canterbury (Waitaha) have been wide-ranging in purpose (public utilities to tourist development) and scale (small guided walking groups to major ski fields). (underline added for emphasis).

3.2 Vehicles

Vehicle use is part of the range of recreation opportunities that are only allowed on public conservation lands and waters in locations identified in this CMS.

Refer to policy 2.2.4 above.

3.6 Aircraft

Table 15: Aircraft—Orange Zone Criteria

Part Mount Hutt Conservation Area and Hakatere Conservation Park (Mount Hutt Range)

From 1 May to 30 September as for Green Zone for heli-skiing and other aircraft activity within the mapped heli-skiing block. During the operative skiing season as for the Green Zone for ski field activities in accordance with Mount Hutt ski field concessions. Outside this season as for Yellow Zone in accordance with Mount Hutt ski field concessions.

3.10 Structures and utilities

Structures and utilities can be temporary or intended for long-term use. They can share space (usually a public facility) or require exclusive occupation of space (usually a private facility). Both may be either commercial or non-commercial in nature. Regardless of the nature of the structure, the rationale for the establishment of a structure requiring exclusive occupation on public conservation land and at a specific location needs to be clearly established.

3.25 Ski fields

Of the 15 ski fields in Canterbury (Waitaha), the 12 on public conservation land are some of the most intensive visitor use locations on those lands, but they are vulnerable to climate change and rising operational costs. Increasingly, the larger commercial fields will become more reliant on snow-making and will seek better visitor access and closer visitor accommodation. Smaller fields may survive as largely club and volunteer-run fields, but some will not survive or may operate intermittently. All fields may look to expanding their winter and summer visitor activities both on the fields and nearby.

These changes will start taking effect during the term of this CMS but may take decades to become fully apparent. In response, both a precautionary and a partnership approach may be needed: precautionary to avoid the risk of abandoned structures and adverse landscape effects; partnership to maintain a ski field's recreational opportunity. Both 2.2 Southern Conservation Parks Place and 2.3 Northern High-Country Place set out outcomes and policy on this.

The ski fields, in drawing visitors to higher-altitude areas, also have potential for wide-ranging conservation education, additional to their community engagement with backcountry recreation.

Policy

3.25.1 Manage ski fields in accordance with Policies 2.2.9 and 2.3.21.

3.25.2 Process all applications for renewals of existing expired authorisations for ski fields as concessions.

Dunedin Service Centre Comments on the Canterbury CMS

As illustrated above, the Mount Hutt ski field and associated road is referred to extensively in the Canterbury CMS. This is an existing activity, with the infrastructure “in situ”. The ski field policies detailed in Part 2.2.9 have been referred to throughout this Report, and adverse effects will be mitigated by conditions.

It is considered that the proposed activity is consistent with the Canterbury CMS.

5.0 Relevant information about the applicant

Convictions on any charge related to the activity applied for or on any conservation related issue: None.

Past compliance with concession conditions: The applicant's tenure at the site has not resulted in any compliance issues.

Credit check result: The applicant company has a strong credit history with the Department.

6.0 Proposed operating conditions

Appendix C contains the draft concession document (recorded as [DOCDM-1359702](#)). The concession is broken into distinct parts.

- The first portion of the concession document sets out the operative parts of the lease and licence and easement document; includes the names of the parties; contains their signatures; and provides the background.
- The second part of the concession contains Schedule 1. Schedule 1 sets out many of the key terms used elsewhere in the concession.
- Schedule 2 contains the standard conditions applied to most concessions.
- Schedule 3 would contain the special conditions that have been prepared specifically for this application. The draft special conditions recommended by this report are set out in section 6.5 below.
- Subsequent schedules contain maps or plans depicting the concession area(s), bond agreement, and in the case of the easement document; rights and powers implied in easements.

This portion of the Report considers the content of Schedule 1 of the proposed concession(s) and makes recommendations as to the drafting of some of the key terms.

6.1 Concession Activity and Term:

6.1.1 Concession Activity:

In light of the findings of this Report, it is considered appropriate to issue one concession for the three co-dependent concession activities comprising the following elements:

“Concession Activity” in respect of the:

The Management and control of all activities related to the ownership, operation, repair and maintenance of a commercial ski field including, but not limited to:

- (i) The provision of goods and services (sale, hire and services e.g. ski and snow sport instruction);
- (ii) The operation of snow making machines;
- (iii) Helicopter operations for activities associated with the management of the activity such as health and safety (Search and Rescue (SAR) and medical emergencies) and avalanche management;
- (iv) The provision of an access road.

Lease Land

being the footprint of structures and facilities:

- base buildings;
- equipment sheds and utility huts;
- lift infrastructure (including chairlift structures and terminals);
- fuel containment, pumps and other similar devices and apparatus.

Licence Land

being the ski area comprising:

- main ski field area/ski field terrain (slopes).

Easement Land

- (a) a right to store and convey water;
- (b) a right to drain sewage;
- (c) a right of way;
- (d) a right to convey electricity;
- (e) a right to convey telecommunications and computer media:

Associated with:

- Mount Hutt ski field main access road;
- main car-park and access road car-parks (3);
- utilities and services (above and under the ground infrastructure) for water storage and reticulation (reservoir, dam, water tanks), sewage, electrical, telecommunication, and computer media;
ancillary equipment (above and under the ground infrastructure) such as snow making and pumping equipment (wands/snow guns), pylons, lift cables, ski lift chairs.

6.1.2 Term:

There are two statutory constraints which directly impact upon the Term of the proposed concessions. The first is section 17Z of the Conservation Act 1987 and the second is the Ngāi Tahu Claims Settlement Act 1998.

17Z Term of concession

- “(1) A lease or a licence may be granted for a term (which term shall include all renewals of the lease or licence) not exceeding 30 years or, where the Minister is satisfied that there are exceptional circumstances, for a term not exceeding 60 years.*
- (2) A permit may be granted for a term not exceeding 10 years but shall not be renewable.*
- (3) An easement may be granted for a term not exceeding 30 years, but—*
- (a) in exceptional circumstances, the Minister may grant a term not exceeding 60 years:*
 - (b) where the easement provides a right of way access to a property to which there is no other practical access, the term may be for such longer period as the Minister considers appropriate:*
 - (c) where the easement is for a public work (as defined in the [Public Works Act 1981](#)), the term may be for the reasonably foreseeable duration of that public work.”*

Term: 40 years. The Minister should be satisfied that “exceptional circumstances” pursuant to s.17Z(1) and s.17Z(3)(a) do exist in exercising this statutory power of decision for a 40 year Term as discussed in detail below.

17Z Term of concession

- (1) A lease or a licence may be granted for a term (which term shall include all renewals of the lease or licence) not exceeding 30 years or, where the Minister is satisfied that there are exceptional circumstances, for a term not exceeding 60 years.*

Applicant’s comments on Term

In this case, pursuant to s.17Z(1) the applicant would need to demonstrate and satisfy the Minister that “exceptional circumstances” exist to justify a 40 year Term. The applicant’s comments are as follows:

1. Clause B2(d) of the existing lease indicates an intention to recognise the investment required to develop the field and to provide protection for that investment by providing for the possibility of a new lease. It is therefore logical for the same principle to apply to the new lease.
2. The application demonstrates the investment over the last 10 years and an indication of future proposals for investments in its 5-10 year plan.
3. DOC must have regard to this investment and ongoing development which amounts to exceptional circumstances.
4. The applicant is a significant local employer within the Canterbury region and the security of the 40 year term is necessary for the regional economy.
5. The ski field is a permanent fixture and a 40 year term recognises that and protects it for future generations.
6. It is 'short-sighted' for the Department to not grant such a term.

Dunedin Service Centre’s Comments on Term

After considering the applicant’s comments, the Department’s view is that:

1. the proposal is being considered under the Conservation Act 1987 which states that 30 years is the maximum unless exceptional circumstances are demonstrated. The fact the New Zealand Forest Service issued 40 years under the Forests Act is not, in itself, a reason to grant 40 years in this case, and
2. the benefits to the regional economy are not relevant factors under the Conservation Act which focuses on the effects on the land, and
3. the Department acknowledges that even though the original 40 year Term may have recognised the original investment required, it is recognised that the applicant purchased an existing operation with significant facilities and infrastructure (both above and below-ground), has injected significant capital into the ski field and needs to continually maintain and upgrade the facilities and infrastructure in accordance with operational and development plans. Expanding on this point, the applicant has taken a considered approach in specifically requesting 40 years only under exceptional

- circumstances (rather than say 60 years), which would have been assessed, in part, to its projected Return on Investment (ROI). Therefore, it is reasonable to consider that exceptional circumstances do exist for a longer than 30 year term for the applicant to guarantee and/or ensure a reasonable return on any investment, and
4. the applicant is confronted with several external factors that either limit and affect the operation of the activity at this location that are beyond the applicants control such as, the risk of inclement weather (compounded by a long winding access road), the small window of opportunity in relation to the activity on public conservation lands and waters in comparison to other commercial activities on public conservation lands and waters (being approximately mid-June to mid-October) and other environmental impacts such as global warming.

In summary, it is considered that items 3 & 4 above provide sufficient evidence that exceptional circumstances do exist, and support a Term of 40 years.

Ngāi Tahu Claims Settlement Act 1998

The applicant initially sought a lease term of 60 years with a right of renewal of a further 60 years. This will trigger Ngāi Tahu's right of first refusal in accordance with the Ngāi Tahu Claims Settlement Act 1998 s.49. Section 48(1)(a)(iii) interprets the disposal of relevant land as including "to grant a lease of relevant land if the term of the lease (including rights or renewal or extensions, whether in the lease or granted separately) is, or could be, for 50 years or longer;...."

Pursuant to Section 52 and 53 of the Ngāi Tahu Claims Settlement Act 1998, preliminary notice was sent to Te Rūnanga o Ngāi Tahu (Ngāi Tahu Property Group Limited) on 15 June 2015 as the applicant's requested a Term of 60 years and advising Ngāi Tahu that the right of first refusal may be triggered. A letter dated 18 June 2015 was received in response (recorded as [DOC-2530325](#)).

Dunedin Service Centre comment on Ngāi Tahu Claims Settlement Act 1998

Prior to giving preliminary notice to Ngāi Tahu the applicant amended the requested Term to 40 years only.

Resource Management Act 1991

If this proposed lease, licence and easement was registered, it could be considered to be a subdivision pursuant to s.218(1)(a)(iii) of the Resource Management Act 1991, as it would be for a term exceeding 35 years and a subdivision of land. Should the decision-maker elect to grant a Term longer than 35 years, which may require subdivision consent, then the applicant will be responsible for all costs of obtaining this.

6.2 Fees:

Redacted from public notification copy of report.

6.3 Fee Reviews

Redacted from public notification copy of report.

6.4 Bond

The current authorisations do not provide for a bond. A proposed lease, licence and easement term of at least 30-40 years is a significant period that represents a degree of risk to the Department.

The Conservation Act 1987 states that:

17X Power of Minister to impose and enforce conditions

In granting any concession, the Minister may impose such conditions as he or she considers appropriate for the activity, structure, or facility, including (but not limited to) conditions relating to or providing for-

(e) the provision by the concessionaire of bonds—

- (i) to cover any costs incurred by the Minister in carrying out work that the concessionaire has failed to carry out and that was required by the concession document to be carried out; or*

(ii) to mitigate any adverse effects arising from but not authorised by the concession or not reasonably foreseen at the time the concession was granted:

Likewise, the Canterbury CMS states under policy 2.2.9(c) *in respect of ski fields that:*

- c) should, in considering the development of existing authorised ski fields, take a precautionary approach to the approval of new structures and terrain modification and consider both the likely longevity of the field in the face of climate change, and any land remediation and facility removal requirements should the ski field cease to operate;*

In the draft Report forwarded to the applicant, the Department recommended that the applicant engage professional services (at its cost) to estimate an appropriate bond amount:

If a concession is granted, and a bond required, the Department would require the applicant to enter into a formal process with an independent professional bond/surety assessment firm to assess and calculate an appropriate bond/surety amount. The Department would participate in this exercise and the parties would need to agree to an appropriate bond amount. This bond would be expected to be sufficient to ensure that there are appropriate financial safeguards in place to address, for example, the Department's risk if the business fails and/or the ski field is abandoned and infrastructure needs to be removed and the land reinstated to a satisfactory standard.

The applicant responded to this statement in the draft Report as follows:

“The requirement for a bond is in our view unnecessary, and inconsistent with the position taken by DOC in respect of NZSki's operations in Otago. NZSki is a proven operator and as DOC is aware, the company is well capitalised through the support of its major shareholder, Trojan Holdings Limited. NZSki and its other associated companies hold a number of concessions, licences and leases from DOC, and there have never been any issues with those companies complying with their obligations. New concessions have been granted to NZSki for development at Remarkables ski field and the requirement for a bond has not been raised in the grant of those concessions.

If DOC had any concerns with a new operator that acquired the Mount Hutt ski field in the future, it could as a part of any consent to assignment of the concession, require a bond from that incoming operator.”

It is also relevant that barring major climatic change which destroys the viability of a ski field at Mount Hutt, it is highly unlikely that a ski field would not continue to operate at Mount Hutt. The ski field has been proven over a long period of time, and continues to be well supported by skiers from Canterbury. The likelihood of the ski field being returned to its former state is in our view remote, particularly within a 30 year time frame.”

In considering the applicant's feedback on whether a bond should be imposed the Department recognises the following:

- The applicant has a proven track record with the Department with respect to timely payment of concession fees, and
- the applicant and Department have historically worked together well, and ensure adverse effects have been reasonably foreseen and addressed by both the applicant and Department, and
- the Department will be actively monitoring the ski area, and
- the Department has a high level of confidence in the applicant's ability to fulfil its obligations and to remove infrastructure and rehabilitate the land in the highly unlikely event that the company fails and/or the ski area becomes inoperable e.g. result of a major climatic event, and
- adverse effects have been identified and addressed by the Department, and therefore the risk of there being major unforeseen adverse effects is considered to be low.
- any change in ownership that necessitates an assignment of the concession, the Grantor, as a condition of the assignment, can impose a bond or bank surety on the Assignee if this is deemed necessary.

A further response was received on 10 November 2014 from the applicant:

“We note that the annual financing cost to NZSki’s Mt Hutt business of maintaining a bond could be significant, and if a bond is imposed, the market Concession fee assessment would need to take that cost into account.”

Dunedin Service Centre comments on imposition of bond

With regard to the applicant’s comment above, if a bond is imposed this would be a cost associated with the privilege of carrying out the activity on public conservation lands and waters and would not be a consideration to reduce any assessed market value Concession Fee.

The ski field at Mount Hutt has existed for 40 years, and over that time the infrastructure has been fully established. If we treat each application on a case-by-case basis it could be considered that the only issue the Department may have for requiring a financial safeguard in the form of a bond for this application would be if the activity ceases for any reason, and the applicant may not be in a position to remediate the site to the Departments satisfaction – to which the applicant has provided supporting evidence to the contrary.

It is recommended, before this application is publicly notified, that the Minister decide whether or not a bond is appropriate for this activity. After considering feedback from the applicant and the provisions of s.17X(e), it is recommended that the Minister should be satisfied, if a concession is granted, that a bond not be imposed.

Refer to recommendation 3 in Section 9.0 (Recommendations to decision maker)

6.5 Summary of special conditions as listed in effects assessment above:

Refer to Appendix B.

References within these proposed special conditions to Schedules, are references to the Schedules attached to our draft Lease and Licence and Easement in Appendix C (recorded as [DOCDM-1359702](#)).

It is recommended that the proposed special conditions contained in Appendix B are appropriate in order to avoid, remedy or mitigate the adverse effects of the activities applied for. These proposed special conditions would be included in Schedule 3 of the concession document (if granted).

7.0 Applicant’s comments on draft Officer’s Report

Numerous correspondence has occurred via email / letter with regard to this application, including four key versions of the draft Report on 11 December 2013, 10 November 2014, 15 January 2018 and 9 February 2018.

The issues raised by the applicant were primarily consolidated in a letter from the applicant dated 10 November 2014 (recorded as [DOCDM-151820](#)), with the Departments responses to any issues raised dated 21 September 2015 (recorded as [DOC-2604992](#)), and 30 November 2015 (recorded as [DOC-2649256](#)).

Final confirmation from the applicant was received on 2 March 2018, stating that they were happy for public notification to proceed (refer to [DOC-5431780](#) and [DOC-5415872](#)).

Issues raised by the applicant and responses by the Department have been incorporated into this Report, if considered relevant.

8.0 Summary and Conclusions

It is considered that the proposed activity is not contrary to the purpose for which the land is held nor with other provisions of the Act (s.17U3), and is consistent with the Conservation General Policy (CGP) and Canterbury CMS (s.17W(1)).

After lengthy discussions with the applicant, the Department has attempted to understand the applicant's needs and give fair consideration to its views through negotiation, while maintaining statutory obligations and operational objectives.

The effects of the ski area have been long established, and while the activity has, and continues to reflect permanent modifications to the landscape, it is recognised in this Report that the activity has also provided for public recreation, benefit and enjoyment for the last 40 plus years.

Little in the way of further physical works to what has already occurred to date will result directly from the granting of any proposed concession. However, it is recognised that ongoing improvements and modifications consistent with the operation of a ski area will result, and that any potential adverse effects can be managed by conditions.

The contents of this report should satisfy the Minister that there appears to be no reason why the Minister should not grant a concession to the applicant for this existing activity. Any adverse effects on conservation values such as biodiversity, historic, social and amenity values resulting from the activity are well understood at this location due to the historic nature of the activity and can be avoided, remedied or mitigated by conditions.

9.0 Recommendations to decision maker

Pursuant to the delegation dated 8 September 2015 / 9 September 2015 it is recommended that the Director, Conservation Partnerships, South and Eastern South Island Region:

- 1. Deem this application to be complete in terms of s17S of the Conservation Act 1987; and**
- 2. Agree that if this application is approved in principle then the intention to grant the concession will be publicly notified; and**
- 3. Agree that a bond, pursuant to s17X(e) is not required; and**
- 4. Agree that if this application is approved in principle, ownership of the bungy platform and associated hut will transfer to the applicant for “nil consideration” in accordance with proposed special conditions 34 to 36 in Appendix B; and**
- 5. Approve in principle the granting of a Notified Concession (combined Lease and Licence and Easement Document) to NZSki Limited subject to the standard and special concession conditions identified in this report; and**
- 6. Having regard to s49(1) of the Conservation Act 1987, be satisfied that any intent to grant the concession would be of local or regional interest only, in which case the publication of the public notice on this matter be limited notice in The Christchurch Press and Timaru Herald.**

Signed by:
Kelvin Brown
Permissions Advisor

Date: 20 March 2018

Recommendations:

1. Agree
2. Agree
3. Agree
4. Agree
5. Approved
6. Agree

If the recommendation is declined please discuss here why this is so:

Signed by:
Andy Roberts, Director, Operations,
Eastern South Island Region

Date: 20 March 2018

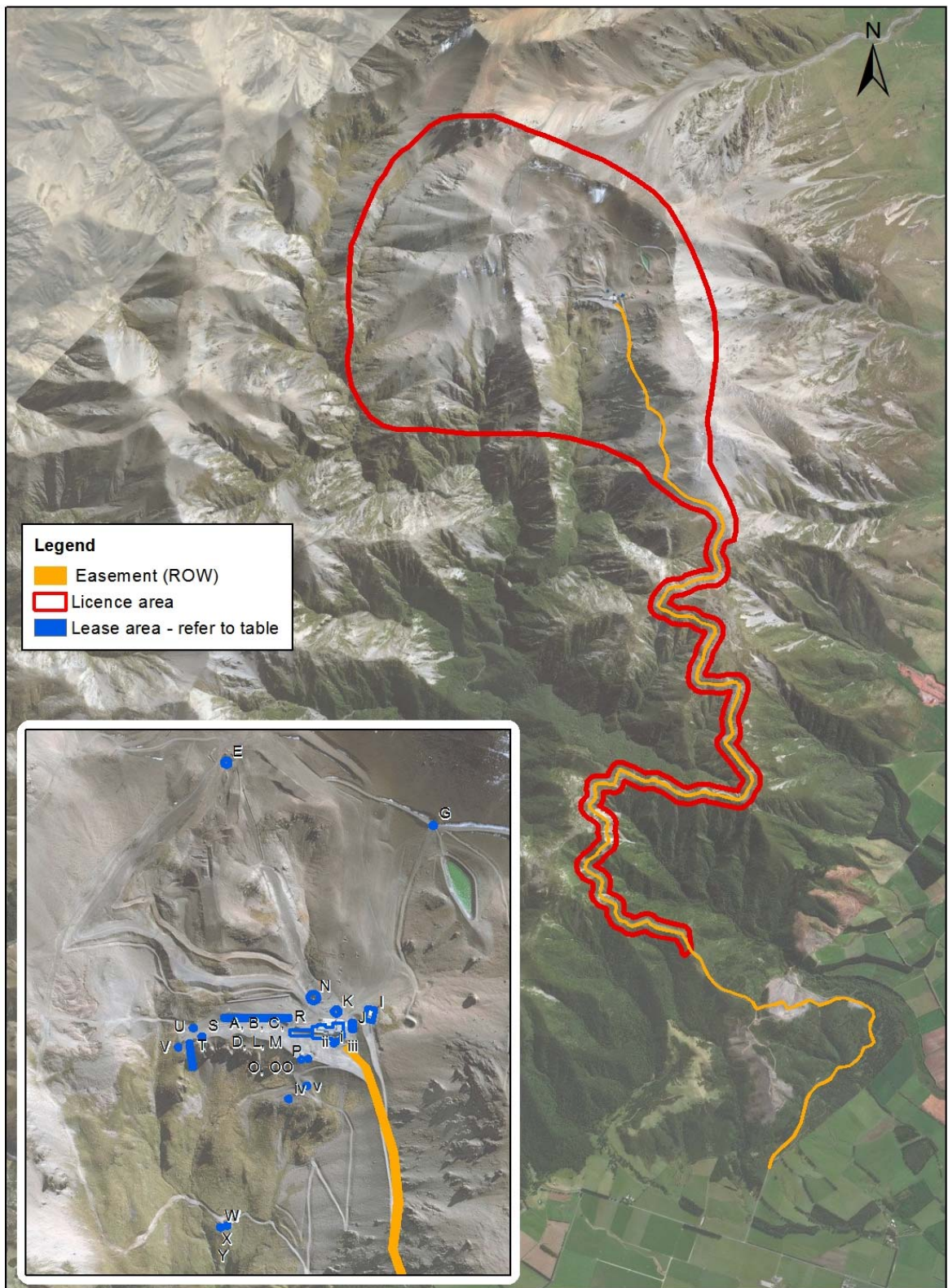
APPENDIX A: Table and map of ski field area

Table: Lease land as shown on map (based on applicant's asset catalogue).

Note: This table also includes reference to some, but not all, of the applicant's non-lease related activities denoted as Easement and Licence in Activity column below, plus Co-Siting with (authorised/unauthorised) third parties.

Description	Label	Activity	Access
Summit Six Return Station and Control Hut	A	Lease	✂
Patrol Dispatch Hut	B	Lease	🚒
Weather System and Repeater Equipment Hut	C	Lease	✂
Philip Wareing Limited	CC	Co-Siting	⊙
Triple Drive Station and Control Hut	D	Lease	✂
Quad Return Station and Control Hut	E	Lease	✂
Snowmaking Reservoir	F	Easement	❄
Well Building	G	Lease	❄
Snowmaking Bore	GG	Easement	❄
11kV Underground Power Cable Service Road	H	Easement	🏠
Snowmaking Pump Station Building	I	Lease	❄
Patrol / Race Staff Building	J	Lease	🚒
Quad Drive Station and Control/Storage Huts	K	Lease	✂
Base Lodge Building	L	Lease	🏠
Ski School/Creche Building	M	Lease	
Summit Drive Station and Control/Storage Huts	N	Lease	✂
Sewerage Treatment Building (SBR)	O	Lease	✂
Compactor Screen Hut	OO	Lease	✂
Mount Hutt Helicopters 2013 Limited's Building	P	Co-Siting	⊙
Mount Hutt Ski Club Building	Q	Co-Siting	⊙
Conveyor Lift Enclosure	R	Lease	🏠
Sunkid Conveyor Lifts (2)	RR	Easement	🏠
Bungy Hut	S	Lease	🏠
Bungy Platform	T	Lease	🏠
Triple Mid-station Control Hut	U	Lease	✂
Avalauncher Container	V	Lease	🚒
Triple Return Station and Control Hut	W	Lease	✂
Lower Snowmaking Pump Station	X	Lease	❄
Submersible Pump Station Hut	Y	Lease	❄
Snowmaking Stream Dam	Z	Easement	❄
70,000 litre underground diesel tank	i	Lease	✂
1,100 litre above ground unleaded petrol tank	ii	Lease	✂
LPG storage cupboard	iii	Lease	✂
Explosives magazine	iv	Lease	🚒
Detonator magazine	v	Lease	🚒
General ski area (skiable terrain) as defined by red outline on map		Licence	🏠

Table 1: Label and figure index of permanent assets at Mt Hutt Ski Area. Key to personnel access is as follows: 🚒 Patrol, ✂ Maintenance, ❄ Snowmaking/Maintenance, 🏠 General Staff/Public, ⊙ Private operators



Date: 9/02/2018

Mt Hutt Skifield Area



Path: Q:\GIS_Analysts\Old_Projects\Dunedin\2014_2015\SouthIsland\Mt_Hutt\Mt_Hutt.mxd

APPENDIX B: Proposed Special Conditions

Note: References to Schedules 1-4 in this Appendix refer to sections contained within the standard concession document in Appendix C (recorded as [DOCDM-1359702](#)) e.g. reference to Schedule 4 in this Appendix are the table and map in Appendix A.

General Special Conditions

In respect to Ngāi Tahu

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

Interpretation Materials and Cultural Values

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

Te Ngāi Tūāhuriri Rūnanga
219 Tuahiwi Road
Tuahiwi, RD 1
Kaiapoi 7691
Phone: (03) 313 5543
email: Tuahiw.Marae@ngaitahu.iwi.nz

Te Taumutu Rūnanga Society Incorporated
PO Box 3214
Christchurch 8140
Phone: (03) 371 2660
email: taumutu@ngaitahu.iwi.nz

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

Accidental Discovery Protocol

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

Works

6. The Concessionaire must provide an annual summer work programme to the Grantor for written approval (no later than 3 months following the end of the previous ski season). The Grantor may request plans, drawings, diagrams and/or specifications, scope of work and an assessment of its potential effects (and any other information required) for consideration for approval and the Grantor (at its entire discretion) may require changes to be made to any submitted material. The information to be provided is to include, but is not limited to:
- (a) any building or asset modifications requested by the Concessionaire;
 - (b) proposed terrain modification or other earth disturbance activities;
 - (c) appropriate restoration or preventative maintenance the Concessionaire may require;
 - (d) any works proposed as part of any 10 year development plan subject to concession conditions;
 - (e) any revegetation, remediation or reinstatement measures to be performed by the Concessionaire and required by the Grantor to the Land.
 - (f) expected commencement and completion dates of any such works.

Trading Year

7. For the purposes of this Concession, the annual trading year for the Concessionaire is 1 December to 30 November in each year.

Operation of Plant, Machinery and Equipment

8. 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.
9. 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

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

Freshwater Pests

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

Co-Siting

17. The Grantor and Concessionaire agree that the following Co-Siting of structures/facilities exist on:
 - (a) the Licence Land from Philip Wareing Limited (radio communications repeater) shown as Label "CC" at Schedule 4, and
 - (b) the Licence Land from Mount Hutt Helicopters (2013) Limited (helicopter building and landing site) shown as Label "P" at Schedule 4, and
 - (c) the Licence Land from Mount Hutt Ski Club (club ski hut) shown as Label "Q" at Schedule 4.

Monitoring and Compliance

18. If the Grantor determines that the conditions of this Document or the effects of Concession Activity should be monitored, the Concessionaire shall meet: either the full costs of any monitoring programme that is implemented; or, if the Grantor determines that the costs should be apportioned among several Concessionaires who use the same locations, part of the costs of the monitoring programme. These costs will include the Department's standard charge-out rates for staff time and the mileage rates for vehicle use associated with the monitoring programme.
19. The Concessionaire must commission and perform a comprehensive biological survey of Pudding Hill stream biannually at its cost, to determine the extent of any adverse effects of the Concession Activity on water quality, and provide this report to the Grantor on request.
20. Where the Concessionaire has been required by the Grantor to provide documentary evidence of compliance the Concessionaire must provide such documentation to the Grantor within thirty (30) days of the date of any written notice requesting the documentation, or such timeframe mutually agreed between the Grantor and Concessionaire.

Signage

21. Clause 12.1 in Schedule 2 is amended to read:

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

Public Access, Safety and Education

22. The Concessionaire must clearly define, mark and control areas deemed unsafe for the public on the Land, and educate paying visitors about the danger of skiing or going outside these areas.
23. The Concessionaire must take reasonable care to manage any approved works, structures or landscaping on the Land to ensure that users of conservation land are not adversely impeded.
24. The Concessionaire must allow access to members of the public through the Land who are passing through the Land to conduct their own, not-for-profit recreational activities, but without guns and animals.
25. Clause 14.6(d) in Schedule 2 is replaced with the following:

The Concessionaire must:

 - (a) Report to the Grantor all accidents involving serious harm that are reportable to WorkSafe in accordance with the Concessionaire's health and safety plan and applicable legislation;*
 - (b) Provide the report within 3 days of providing a report to WorkSafe;*
 - (c) Provide to the Grantor at the Grantor's request any weekly or monthly reports generated by the Concessionaire and derived from the Concessionaire's accident reporting database.*
26. 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.

27. If the particular activity in clause 26 in 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.

Other

28. The Concessionaire and its agents must take reasonable and proper care not to damage any property of the Grantor or other authorised Concessionaires. Should any damage occur which is attributable to the actions of the Concessionaire or its agents, the Concessionaire must promptly repair any such damage at its cost.
29. The Concessionaire must reinstate the Land to the same or better condition it was before any approved works commenced and generally maintain the Land in a tidy condition to the satisfaction of the Grantor.
30. The Concessionaire may operate the two consented lodge fires (open fire and log burner) in the Base Lodge Building shown as label "L" on table 1 and the map in Schedule 4.

LEASE SPECIFIC CONDITIONS

Lease Area

31. The lease area land under this Concession is described in the table and shown on the map in Schedule 4.

Structures and Facilities

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

Maintenance

33. The Concessionaire is authorised to perform the following maintenance work under this concession on the Land:
- (a) Ongoing interior maintenance and 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.

Bungy Platform and Hut

34. With respect to the existing bungy infrastructure located within the lease area of the Land (bungy platform and associated hut, "the facility"):
- (a) In case of any doubt, ownership of the facility is vested in the Concessionaire;
 - (b) The facility is included in the Concessionaire's Concession lease area; and
 - (c) The Concessionaire assumes all responsibility for the facility and the parties agree to treat the facility as a structure owned by the Concessionaire under this Concession. The Concessionaire will maintain and operate the facility to all statutory requirements, entirely at its own cost and risk.
35. The Concessionaire will include details regarding the operation of the facility in its annual summer work programme in clause 6 of Schedule 3.
36. The Grantor requires the Concessionaire to obtain (at its cost) a structural engineering report confirming the safety of the facility. This report is to be provided to the Grantor within six (6) months of concession commencement. The Grantor may require further engineering and other reports from the Concessionaire during the Term of the Concession.

LICENCE SPECIFIC CONDITIONS

Licence Area

37. The licence area land under this Concession is shown on the map in Schedule 4.

Main Ski field Area (Skiable Terrain)

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

Snow-making and Grooming

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

Use of Explosives

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

Weed and Pest Management

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

Terrain Modification

45. All terrain modification is to be set out in the approved works programme in clause 6 of Schedule 3. No other terrain modification works may occur.
46. The Concessionaire may perform the maintenance of any water table, culvert or other runoff water control device on the Land.
47. Any vegetation removal and soil disturbance necessary to undertake any approved terrain modification described in the approved works programme in clause 6 of Schedule 3 must be kept to a minimum.

EASEMENT SPECIFIC CONDITIONS

Interpretation of Right of Way

48. In this section, unless otherwise stated, the right of way is defined as the Mount Hutt ski field road and car-parks as shown in the diagram at Schedule 4.

Management of Right of Way

49. The Concessionaire must (at its cost) form, maintain and repair the said right of way and erect, build or form and maintain and repair such bridges, culverts, channels, drains, fences, gates (including toll gates), safety barriers, stops and other like works as may be necessary, subject to the prior written approval of the Grantor being received in each case (however, this shall not apply to routine maintenance). All approved works and routine maintenance must be performed to the satisfaction of the Grantor.

Road Access

50. The Concessionaire may install and operate a toll gate controlling entrance to the right of way at a position on the right of way approved by the Grantor.
51. The Concessionaire may lock the gate on the Mount Hutt ski field road for reasons of security and public safety to deny public pedestrian vehicle access. A key to the gate must be provided to the Grantor. In particular:
- (a) The Concessionaire may refuse access to vehicles for any of the reasons set out at clause 52 below;
 - (b) The Concessionaire may refuse pedestrian access to any member of the public, only where safety is of a concern; and
 - (c) Prior to refusing such pedestrian access, the Concessionaire shall take all practicable steps to consult with the Grantor.
52. The Concessionaire may refuse vehicle entry (except to vehicles operated by the Grantor) where in the opinion of the Concessionaire:
- (a) The weather or road conditions or visibility of the right of way are hazardous; or
 - (b) The vehicle does not appear to be roadworthy or adequately equipped with appropriate safety equipment required for the conditions; or
 - (c) The driver appears to be impaired and not capable of proper control of the vehicle.

Toll Gate Fees

53. The Concessionaire may charge a reasonable road toll to each user or vehicle for use of the road. The Concessionaire may charge fees at the toll gate for access to the road by all vehicles except those vehicles used by the Grantor carrying out management functions in accordance with clause 3.2 of Schedule 2.

Other Easement Facilities

54. The Concessionaire must (at its cost) operate, maintain and repair the water storage and reticulation infrastructure (reservoir, dam and water tanks), snow making and pumping equipment (wands/snow guns), pylons, lift cables, ski lift chairs and utilities (water, sewage, electricity, telecommunication and computer media) on the Land to required standards, codes of practice and legislative requirements. The Concessionaire must at the Grantor's request, provide the Grantor with documentary evidence of compliance with the said requirements.

General

55. The rights implied in easements of vehicular right of way in the 5th Schedule of the Property Law Act 2007 as set out in Schedule 5 of this document are amended by:
- (a) replacing the word, "grantee" with "Concessionaire"; and
 - (b) adding to Clause 2(a) the words, "after first obtaining the prior consent of the Grantor as required in clauses 7 and 8 of Schedule 2 of this easement.
56. The Right and Powers implied in easements under the 4th Schedule of the Land Transfer Regulations 2002 as set out in Schedule 5 of this Concession are varied as follows, the rights and powers in:
- (a) Regulation 1 is amended by replacing the word, "grantee" with "Concessionaire"
 - (b) Regulation 6(3)(a) is amended by adding at the end the words, "after first obtaining the prior consent of the Grantor as required in clauses 7 and 8 of Schedule 2 of this easement."
 - (c) Regulation 10(1)(b) is amended by adding at the end the words, "after first obtaining the prior consent of the Grantor as required in clauses 7 and 8 of Schedule 2 of this easement."
 - (d) Regulation 11(2) is deleted and sub clause (4) is amended by deleting the reference to sub clause (2).
 - (e) Regulations 13 and 14 are deleted.

Appendix C: Draft Concession Document (Lease and Licence and Easement) *for reference purposes only.*

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