

CONSERVATION COVENANT
for Crown Pastoral Land Act 1998 Purposes
(Section 27, Conservation Act 1987)

THIS DEED of COVENANT is made the day of

BETWEEN COMMISSIONER OF CROWN LANDS

AND MINISTER OF CONSERVATION

BACKGROUND

- A. The Commissioner of Crown Lands is deemed to be the owner of the Land under section 80(5) of the Crown Pastoral Land Act 1998.
- B. The Land contains high altitude tussocklands and cushionfields and comprises the upper slopes of lake faces, rising to the summit ridge of the Hector Mountains.
- C. The parties agree that there should be a Covenant granted over the Land for Conservation purposes.
- D. An approved plan designating the Land as land over which a Covenant under section 27 of the Conservation Act 1987 is to be created has been registered under section 64 of the Crown Pastoral Land Act 1998.
- E. The Commissioner of Crown Lands has agreed to grant the Minister a Covenant over the Land for Conservation purposes.

OPERATIVE PARTS

In accordance with section 27 of the Conservation Act 1987 the Commissioner of Crown Lands and Minister agree with the intent and so as to bind the Land into whosoever hands the same may come, as follows:

1. INTERPRETATION

1.1 In this Covenant unless the context otherwise requires:

“Act”	means the Conservation Act 1987.
“Conservation purposes”	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.
“Covenant”	means this Deed of Covenant made under section 27 of the Act.

“Land”	means the land described in Schedule 1 and identified in the plan attached to that Schedule.
“Minister”	means the Minister of Conservation.
“Owner”	means the person or persons who from time to time are registered as the proprietor(s) of the Land.

1.2 For avoidance of doubt:

- 1.2.1 the reference to any statute in this Covenant extends to and includes any amendment to or substitution of that statute.
- 1.2.2 clause and other headings are for ease of reference only and are not to be treated as forming any part of the context or to affect the interpretation of this Covenant.
- 1.2.3 words importing the singular number include the plural and vice versa.
- 1.2.4 expressions defined in clause 1.1 bear the defined meaning in the whole of this Covenant including the Background. Where the parties disagree over the interpretation of anything contained in this Covenant, and in determining the issue, the parties must have regard to the matters contained in the Background.
- 1.2.5 any obligation not to do anything must be treated to include an obligation not to suffer, permit or cause the thing to be done.
- 1.2.6 words importing one gender include other genders.
- 1.2.7 the agreements contained in this Covenant bind and benefit the parties and their administrators and executors successors and assigns in perpetuity.
- 1.2.8 where clauses in this Covenant require further agreement between the parties such agreement must not be unreasonably withheld.

2. OBJECTIVES OF THE COVENANT

2.1 The Land must be managed:

- 2.1.1 for Conservation purposes.
- 2.1.2 to provide, subject to this Covenant, freedom of access to the public for the appreciation and recreational enjoyment of the Land.

2.2 Subject to the management of the Land in a manner that is ecologically sustainable, the parties also have as an objective the continued economic use of the Land.

2.3 In order to promote the objectives of the parties:

- (i) The parties wish to each participate in a monitoring process:
- (ii) The parties have agreed upon some specific constraints to the use of the Land.

- 2.4 The nature of the parties objectives, and the possibility of an evolution of the state of knowledge about the Land and its ecology, are such that the parties recognise that the provisions of this covenant must be able to be altered if the need arises.
- 2.5 The parties wish to foster a spirit of partnership in the stewardship of the Land by means of participation and co-operation, and the provisions of this covenant are aimed at a relationship that will, on an enduring basis, promote the objectives.

3. THE OWNER'S OBLIGATIONS

- 3.1 The Owner shall only graze those animals of the type specified in schedule II and shall comply with the grazing restrictions set out in schedule III.
- 3.2 Unless agreed in writing by the parties the Owner must not carry out in relation to the Land:
- 3.2.1 felling, removal or damage of any tree, shrub or other plant on the Land;
 - 3.2.2 the planting of any species of tree, shrub or other plant;
 - 3.2.3 the erection of any fence, building, structure or other improvement for any purpose;
 - 3.2.4 any burning, chemical spraying, or sowing of seed other than as provided in clause 3.4 below.
 - 3.2.5 any topdressing other than to the extent traditionally carried out as provided for in schedule III and as provided in clause 3.4 below.
 - 3.2.6 any cultivation, earth works or other soil disturbances;
 - 3.2.7 any archaeological or other scientific research involving disturbance of the soil;
 - 3.2.8 the damming, diverting or taking of natural water other than as provided in clause 3.4 below.
 - 3.2.9 any action which will cause deterioration in the natural flow, supply, quantity or quality in the water of any stream, river, lake, pond, marsh, or any other water resource affecting the Land.
 - 3.2.10 the erection of utility transmission lines across the Land.
- 3.3 Unless permitted to do so by statute the Owner must not carry out in relation to the Land:
- 3.3.1 any prospecting or mining for minerals, coal or other deposit on or under the Land;
- 3.4 Notwithstanding clause 3.2 the Owner shall not be precluded from:
- i repairing any existing fence, building, structure or other improvements on the Land, or erecting any replacement fence, building, structure or other improvements on the land in place of any existing facility;

- ii applying topdressing to, and sowing seed on that part of the Land comprising :
100 metre belt above the existing snow-line fence;
- iii taking any water from those parts of the Land which do not comprise the
headwater creeks which form part of the catchment of the Wakatipu Tributary
Conservation Area for the purposes of either watering stock, or utilising the water
for mineral water (either privately, or for commercial exploitation);
- iv the maintenance of the existing track above the snowline fence, and the extension
of the same along that fence for the purpose of replacing that fence.

3.5 The Owner shall ensure that full and proper precautions are taken to safeguard the Land against fire and shall take all reasonable steps to control any fires that may be burning on the Land.

3.6 Within the constraints of the other provisions of this deed the parties agree and acknowledge that the Land will be managed with objectives consistent with the objectives of the Remarkables Conservation Park when it is created and consistent with any conservation management plan for that Park.

4 PUBLIC ACCESS

4.1 During the period from 1 April to 31 December in any year, and upon request at any other times when the Land is not stocked, the Owner will permit members of the public access (other than by aircraft) over the Land for the purposes of private recreational activities of a non-commercial nature such as cross-country skiing, provided that nothing in this clause shall grant any right of access over any adjoining land. Nothing in this clause will prevent the Owner from granting more generous access if he so wishes.

4.2 Notwithstanding the foregoing, no member of the public shall be allowed to enter onto the Land for the purposes of hunting or with any animal or vehicle.

4.3 Nothing in this clause shall prevent the Owner from giving further access to the public by consent.

5 ACCESS FOR THE MINISTER

The Owner grants to the Minister and any officer or duly authorised agent of the Minister a right of access onto the Land with or without vehicles motor vehicles machinery and implements of any kind for the purposes of examining and recording the condition of the Land or for carrying out protection or maintenance work on the Land consistent with the objectives set out in this deed or to ascertain whether the provisions of this Covenant are being observed: **HOWEVER** in exercising this right the Minister and officers or agents of the Minister will consult with the Owner in advance and have regard to all reasonable requests and requirements of the Owner.

6 THE MINISTER'S OBLIGATIONS

6.1 The Minister must have regard to the objectives specified in clause 2 when considering any requests for approval under this Covenant.

7 STOCK TO BE CONTAINED WITHIN THE LAND

- 7.1 The Owner shall, at no expense to the Minister, ensure that stock is adequately contained within the Land.
- 7.2 The Minister shall not be called upon at any time to contribute to the costs of any boundary fencing between the Land and any adjoining land of the Owner, if the purpose of the fencing is to assist the Owner to comply with clause 7.1.

8 PROTECTION OF THE ENVIRONMENT

- 8.1 The Owner shall not, unless authorised in writing by the Minister, or otherwise authorised by way of Special Conditions in Schedule III:
- 8.1.1 interfere with, remove, damage, or endanger the natural features, animals, plants, or historic resources on the Land; or
- 8.1.2 remove any mineral including gravel or rock; or
- 8.1.3 bring any plants or animals onto the Land; or
- 8.1.4 deposit debris, rubbish, or other dangerous or unsightly matter, or
- 8.1.5 disturb or allow stock to disturb any stream or watercourse on the Land, to any greater extent or intensity than that current at the date of this deed.
- 8.1.6 the Owner shall ensure that his employees and invitees do not carry out any acts prohibited under this clause.
- 8.1.7 The Owner will so far as is practicable keep the land free from exotic tree species.

9 SAFETY

- 9.1 The Owner shall notify the Minister of any natural events or activities on the Land or in the surrounding area that may endanger the public or the environment.

10 TEMPORARY SUSPENSION

- 10.1 If in the reasonable opinion of the Minister any activities on the land of the Owner, his clients or invitees are having or may have an adverse effect on the environment which was not reasonably foreseeable at the date this Covenant was granted and the Minister is of the opinion that the effect can reasonably be avoided, remedied, or mitigated, then the Minister may, after offering the Owner reasonable opportunity for consultation, require that the Owner (at the Owner's option) either take some action specified by the Minister to avoid, remedy or mitigate the effect (which may, without limitation, include a reduction in the scale or extent of the activity) or to cease and desist from the activity altogether until the Owner has taken the specified action to avoid, remedy or mitigate the adverse impact to the satisfaction of the Minister.
- 10.2 The Minister shall not be liable to the Owner for any loss sustained by the Owner by reason of suspension of any activity under this clause.

11 IMPLEMENTATION OF OBJECTIVES

- 11.1 The Minister may:
- 11.1.1 provide to the Owner technical advice or assistance as may be necessary or desirable to assist in the objectives specified in clause 2;

- 11.1.2 prepare, in consultation with the Owner, a joint plan for the management of the Land to implement the objectives specified in clause 2.

12 DURATION OF COVENANT

- 12.1 This Covenant binds the parties in perpetuity to the rights and obligations contained in it.

13 MISCELLANEOUS MATTERS

13.1 Acceptance of Covenant

- 13.1.1 The parties agree to be bound by the provisions of the Covenant, including during the period prior to the covenant being registered.

13.2 Fire

- 13.2.1 the Owner must notify the appropriate Fire Authority and the Minister in the event of wild fire threatening the Land.
- 13.2.2 if the Minister is not the appropriate Fire Authority for the Land, the Minister will render assistance to the Fire Authority in suppressing the fire if:
 - 13.2.2.1 requested to do so; or
 - 13.2.2.2 if there is in place between the Minister and the Fire Authority a formalised fire agreement under section 14 of the Forest and Rural Fires Act 1977.

13.3 Survey and Legal Costs

The Commissioner of Crown Lands will meet all survey and legal costs required to complete the registration of this deed.

13.4 Works

The Owner and the Minister may, by mutual agreement, carry out any works or improvements or take any action either jointly or individually to better preserve and protect the natural and historic resources on the Land, provided that the Owner shall not be required or expected to contribute to the costs of any such improvements or action, and provided also that this clause shall not prevent the Owner from carrying out any works which are not in contravention of this Covenant.

14 NOTICES

- 14.1 Any notice to be given under this Covenant by one party to the other is to be in writing and must:
 - 14.1.1 be hand delivered to the receiving party; or
 - 14.1.2 be sent by ordinary post to the receiving party.
- 14.2 If clause 14.1.2 applies the notice will be deemed to be received by the receiving party on the date on which ordinary post would be delivered.

- 14.3 The Owner shall notify the Minister of any change of ownership or control of all or an part of the Land and shall supply the Minister with the name and address of the new owner or person in control. For the purposes of this clause, the term "Owner" does not include the Commissioner of Crown Lands

15. DEFAULT

- 15.1 Where either party breaches any of the terms and conditions contained in this Covenant the other party:

15.1.1 may take such action as may be necessary to remedy the breach or prevent any further damage occurring as a result of the breach; and

15.1.2 will also be entitled to recover from the party responsible for the breach as a debt due all costs (including solicitor/client costs) incurred by the other party as a result of remedying the breach or preventing the damage.

- 15.2 Should either party become of the reasonable view that the other party (the defaulting party) has defaulted in performance of or observance of its obligations under this Covenant then that party (notifying party) may, by written notice:

15.2.1 Advise the defaulting party of the default;

15.2.2 State the action reasonably required of the defaulting party to perform or observe in accordance with this Covenant; and

15.2.3 State a reasonable period within which the defaulting party must take action to remedy the default.

16 DISPUTE RESOLUTION PROCESSES

- 16.1 If the defaulting party:

16.1.1 fails to take the action required within the time required in the notice under clause 15.2; or

16.1.2 disputes the notice or any aspect of it; or

16.1.3 has any other dispute in connection with this Covenant or the rights and obligations contained in it;

the parties agree to make efforts to resolve the dispute through negotiation between the parties or their representatives.

16.2 Mediation

16.2.1 if a resolution contemplated by the process provided in clause 16.1 is not agreed within 3 months of the date given in clause 15.2.3 the matter must be referred to formal mediation by the parties with a mediator agreed between them;

16.2.2 if the parties do not agree on a mediator, the President of the local district law society is to appoint the mediator.

16.3 Failure of Mediation

- 16.3.1 in the event that the matter is not resolved by mediation within 3 months of the date referred to in clause 15.2.3 the parties agree that the provisions in the Arbitration Act 1996 will apply;
- 16.3.2 if the parties do not agree on the person to be appointed as arbitrator the appointment shall be made by the president for the time being of the local district law society.
- 16.3.3 the parties further agree that the results of arbitration are to be binding upon the parties.

17 CONSENT OF MINISTER

In any case under this deed where the consent of the Minister is required for any activity or action, such consent shall not be unreasonably withheld, but may be withheld on the grounds that the objectives of this deed would, in the opinion of the Minister, be compromised.

Executed as a Deed

Signed by _____ acting under a)
delegation from the Commissioner of Crown Lands)
in the presence of : _____)

Witness: _____

Address : _____

Occupation: _____

Signed by _____ acting under a)
delegation from the Minister of Conservation)
in the presence of : _____)

Witness: _____

Address : _____

Occupation: _____

SCHEDULE 1

Description of Land

SCHEDULE II

Type of Animals permitted:

sheep belonging to the Owner.

GRANT of

Correct for the purposes of the Land
Transfer Act

Solicitor for the Minister

CONSERVATION COVENANT

Pursuant to Section 27 of the
Conservation Act 1987

COMMISSIONER OF CROWN LANDS

to

MINISTER OF CONSERVATION

Solicitor
Department of Conservation
DUNEDIN

SCHEDULE III

GRAZING RESTRICTIONS

- 1 The Owner and the Minister shall comply with the following ecological monitoring programme.
- (a) The Owner shall manage the vegetation on the Land to maintain and enhance the existing cover of native species and to reduce the risk of invasion by exotic plant species. A detailed description of the type and condition of the vegetation on the Land at the commencement of this Covenant is attached.
 - (b) To achieve the goal in (a) grazing levels and management will be adjusted in accordance with Clause 2 below should that be necessary following collation of vegetation information from this programme and from field observations of the Minister and the Owner.
 - (c) The ecological units to be managed will include:
 - (i) Narrow-leaved snow tussockland and associated shrubland on western slopes of the Hector Mountains above the snowline fence up to approximately 1500 m.
 - (ii) Slim snow tussockland/narrow-leaved snow tussockland and associated cushionfield lying above unit (i) to the crest of the Hector Mountains.

The monitoring programme will include:

- Ten to 15 variable length transects on each of the two ecological units. Sampling will consist of estimated tall tussock and native shrubs canopy cover as measured by canopy intercepts along an outstretched tape. In addition, Scott Height Frequency estimates of structure and cover for tall tussocks and native shrubs, will be made.

Data gathered will consist of:

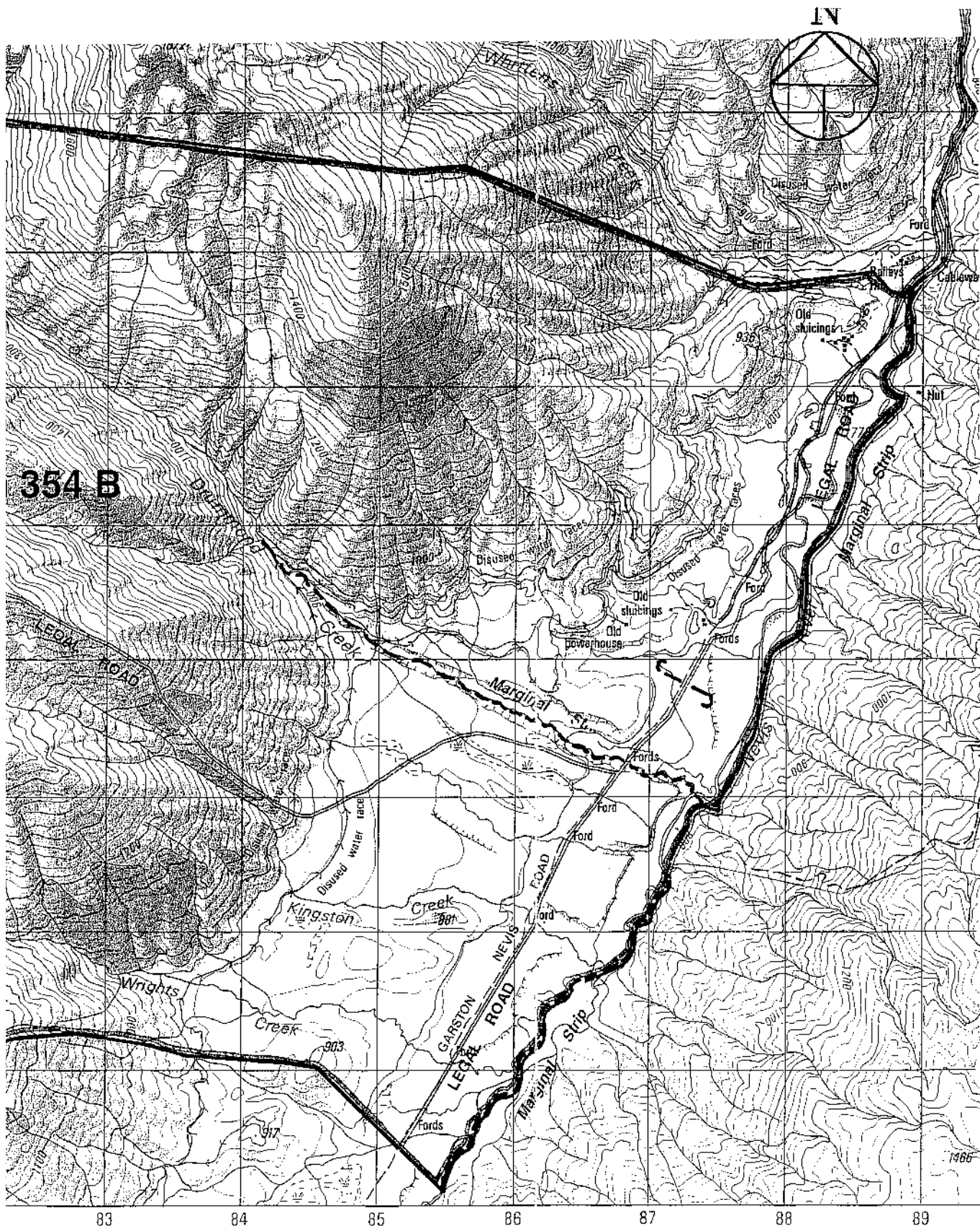
- Estimated tall tussock and native shrub canopy cover
- Height frequency data for tall tussocks (exclusive of flowering parts) and native shrubs.

Measurement data shall be taken in the period November/December prior to the commencement of sheep grazing, and on each occasion measurements are taken they shall be taken at approximately the same time of the year. Transects will be established in the first year of the Covenant and re-measured every sixth year. The Minister shall give the owner an opportunity to be present while measuring takes place.

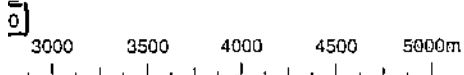
Note: Not included in the ecological units scheduled for monitoring are areas supporting less than 20 % slim snow tussock or narrow-leaved snow tussock cover or more than 20 % shrub cover.

- (d) A grazing rate of no greater than 375 stock units/annum shall be adhered to, provided that the results from the monitoring indicate, in the opinion of the Minister, that the vegetation is not being adversely affected by this level of grazing. Grazing is to be confined to the period 1 January to 31 March in any year. Not more than 1500 sheep are to graze the Land for a twelve-week period. Vegetation monitoring results will be compared to previous vegetation monitoring data in association with grazing records to determine trends. Results of the ecological monitoring programme may be used by the Minister to adjust the grazing level.

- 2 To assist in future management of the Land it is agreed that the following trends in vegetation constitute adverse effects and will result in the following reductions in stocking during the anticipated period of adverse effect:
- (a) If the combined canopy cover of tall tussock and native shrubs of all transects on either one of the ecological units decreases by more than 5 percentage points or for height frequency by more than 5 percentage points, the Minister may reduce the maximum stocking rate by 10%.
 - (b) If the combined canopy cover of tall tussock and native shrubs or height frequency of all transects on either one of the ecological units decreases by more than 10 percentage points, the Minister may reduce the current block limit to half its present level.
 - (c) If the combined canopy cover of tall tussock and native shrubs or height frequency of all transects on either one of the ecological units decreases by more than 15 percentage points, the Minister may require this unit to be destocked.



Station



Version	1	2	3	4	5
Otago Land District	Sheet 1 of 2				
NZMS 260 F 42	Date 21/5/1999				