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# Agreement

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**TODD & WALKER** law  
LAWYERS | NOTARY PUBLIC

## Agreement

Date: 26 September 2018

### Parties

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- 1) Orange Lakes (NZ) Limited ("Orange Lakes")
- 2) Director-General of Conservation ("Director-General")

### Background

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- A. Orange Lakes is the holder of Pastoral Lease No P179 contained in Computer Freehold Register OTA2/1310 and a Special Grazing Lease from Her Majesty the Crown for the property commonly referred to as Hunter Valley Station (the "Station").
- B. The Director-General is the administrative head of the Department of Conservation (DOC) which administers Hāwea Conservation Park and various other public conservation lands adjoining the Station. These public conservation lands are held on behalf of the Crown for various purposes including providing for recreation on those lands.
- C. DOC and others have for some time sought to clarify the rights of non-commercial public access over part of the Station being the Hunter Valley farm track which runs from Terrace Creek to Scrubby Flat (the "Track") to enable access to the Hāwea Conservation Park and other adjoining public conservation lands.
- D. The Track provides one point of access to the Hāwea Conservation Park and other adjoining public conservation lands.
- E. The Walking Access Commission ("WAC") has sought from the Commissioner of Crown Lands, pursuant to section 60 of the Land Act 1948, an easement as to right of way over the Track.
- F. Orange Lakes is opposed to the granting of such easement primarily on the grounds that condition three of the consent granted to Orange Lakes under the Overseas Investment Act 2005, Notice of Decision dated 9 February 2017 and attached, provides for public access and as Orange Lakes has in the past and continues to provide access, including vehicle access, over the Track to the public, DOC and other Government agencies and statutory bodies.
- G. Valley Ventures Limited ("VVL"), which is an entity related to the sublessee of Orange Lakes, holds a Recreation Permit which entitles it to charge a fee for providing vehicle access which fee is intended to contribute to the maintenance of the Track.

### Agreement

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- 1 Description of the Track and Conditions**
  - 1.1 The Track extends over a distance of approximately 45 kilometres and crosses through a working high-country station. To reach the Scrubby Flat pastoral lease boundary of Hāwea Conservation Park by vehicle takes at least four hours.



- 1.2 Annual rainfall figures vary from approximately 89 centimetres at Terrace Creek to 381 centimetres at Scrubby Flat Creek. From Terrace Creek the Track runs for approximately 30 kilometres to the Hunter River Valley floor. In several points it climbs to 300 metres above the normal lake level with regular steep drop offs from the Track to the lake. The width of the Track is generally not greater than 3 to 5 metres. There are many blind corners and, in many locations, passing is impossible. Over the first 25 kilometres of the Track there are six river crossings to ford. On the river valley floor to the northern boundary of the Pastoral Lease at Scrubby Flat Creek, there are another four river crossings. From Scrubby Flat Creek into the Hāwea Conservation Park, there is no physical marked Track and one has to cross the main Hunter River at least four times. There are 22 gates along the length of the Track.
- 1.3 From a safety perspective it is noted that there is no cell phone coverage for the full length of the Track and there are a number of hazards. Vehicle use of the track is only recommend for experienced drivers in suitably equipped 4WD vehicles
- 1.4 There are no toilet facilities on the Track. The last public toilet is at Kidds Bush camp on Meads Road.
- 1.5 The Track has a locked gate at Terrace Creek. Users will need to contact the Station to gain access to the Track.

## **2 Use of the Track**

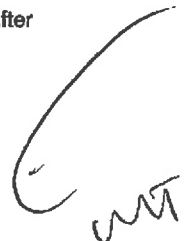
- 2.1 Orange Lakes agrees that members of the Public ("Public Users") may use the Track to access Hāwea Conservation Park and other public conservation lands subject to the terms and conditions of this Agreement. This Agreement does not provide for or allow commercial use of the Track.
- 2.2 Public Users may access the Track on conditions including they must:
- a respect the landowner's livestock and property;
  - b stay on the Track until they reach the Hāwea Conservation Park or other adjoining public conservation lands;
  - c leave gates as they find them; and
  - d use stiles where provided.
- 2.3 In summer, very hot and dry conditions are common. Public Users of the Track should carry sufficient water and have adequate protection against the sun.
- 2.4 Alpine conditions may be experienced at any time of the year, with snow being experienced particularly during the winter months. Public Users of the Track are required to ensure they carry clothing and footwear suitable for alpine conditions.
- 2.5 Camping on the Station by Public Users is not permitted. Camping is allowed within the Hāwea Conservation Park and on public conservation land adjoining the Station.
- 2.6 Public Users must not carry guns or take or be accompanied by dogs on the Track or the Station unless a current hunting permit to hunt in the adjoining conservation land is held and carried. Representatives of Orange Lakes may ask Users to produce their hunting permits.

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- 2.7 Public Users must not light fires on the Station or in the vicinity of the Track. Fire is a serious risk and those starting fires can be expected to meet the significant costs likely to be incurred in extinguishing the same.
- 2.8 All Public Users must remove all rubbish and human waste from the Track and the Station.
- 2.9 Orange Lakes will not be responsible for any damage to, or loss from, Public Users' vehicles parked on the Station or using the Track.
- 3 Seasonal Restrictions**
- 3.1 The Track will be closed by Orange Lakes to Public Users annually for lambing and calving from 1 October to 1 December.
- 3.2 Public User's vehicle access via the Track is generally unavailable from 1 May to 30 November annually due to winter conditions.
- 4 Access**
- 4.1 Access to the Track is via Meads Road off State Highway 6 Wanaka-Makarora Road.
- 4.2 Orange Lakes and the Director-General agree that access over the Track is only available to Public Users for:
- a 4WD vehicles (motor cycles and all terrain vehicles are not permitted),
  - b walking,
  - c mountain biking, and
  - d horse riding.
- 4.3 Informal carparking for Public Users is available on the Station with the permission of and at the direction of Orange Lakes.
- 4.4 Public Users should not assume access will be available at any time and access must be arranged with Orange Lakes prior to arriving at the Station.
- 4.5 The parties agree that in terms of Public Users obtaining access over the Track:
- a Public Users must contact the farm manager prior to using the Track. At least 24 hours' notice will normally be required. The preferred method of contact is via email on [hvfarmingco@gmail.com](mailto:hvfarmingco@gmail.com) alternatively Public Users can call on 03 443 1242;
  - b The Director-General will make available the contact details for the farm manager;
  - c Prior to using the Track, Public Users must contact the farm manager and sign the attached form;
  - d Public User Vehicle access to the Track is only available during day light hours;
  - e In the circumstances where Public Users have been granted permission to carry firearms, ensure that such person holds appropriate licenses, a valid permit to hunt in the adjoining conservation land and that guns are suitably secured; and



- f In the circumstances where Public Users seeking access have been granted permission to have a dog on the Track, ensure that any dog on the Track remains either on a leash or confined within a vehicle at all times.
- 4.6 The Director-General accepts that it will be reasonable for Orange Lakes to deny or restrict access to Public Users of the Track in any of the following circumstances:
- a Such access will interfere with day to day farming operations and in particular the movement of stock on the Track;
  - b Burning off operations on the Station in the vicinity of the track;
  - c Lambing and calving season – 1<sup>st</sup> October to 1<sup>st</sup> December;
  - d The condition of the Track;
  - e Extreme weather conditions (weather conditions will be monitored with reference to MetService forecast and warning information);
  - f Trampers, riders and cyclists not being suitable attired or provisioned. In summer, very hot and dry conditions are common. Public Users must ensure they carry a good water supply and have adequate protection against the sun. Alpine conditions may be experienced at any time of year. Public Users must be prepared and ensure that they carry warm, windproof clothing and have appropriate footwear
  - g Public Users seeking motorised access not having a suitable vehicle (it is recommended that minimum vehicle requirements include a raised 4-wheel drive fitted with off-road tyres, a snorkel, or other suitable means to avoid hydraulicing, and any 4-wheel drive travelling alone must have a winch);
  - h In terms of Public User vehicles normally a maximum of 6 per day will be permitted to access the Track; or
  - i Any breach of the terms of this Agreement by Public Users advised to them by the parties.
- 4.7 Orange Lakes will advise the Director-General and, where practicable, seek to publish prior notice of activities or hazards which may impact on the availability of Public User access to the Track.
- 4.8 Orange Lakes will maintain an access register recording Public Users' details of:
- a those that have applied for access,
  - b registration number of vehicles,
  - c whether access was granted and
  - d where access is denied, the reasons for denying access.
- 4.9 DOC's website will include a method for Public Users to provide feedback on access to the Track and register any concerns in the event that access to the Track is denied or restricted.
- 5 Review provision**
- 5.1 This Agreement shall be reviewed in February 2019 and May 2019 and annually thereafter unless otherwise agreed.



- 5.2 The WAC will be invited to participate in the reviews.
- 5.3 During any review, Orange Lakes will make available details of the access register it holds under clause 4.8 above.
- 5.4 During any review, the Director-General will make available for discussion any feedback DOC has received from Public Users through its website.
- 6 Vehicle Costs, Assistance and Recovery**
- 6.1 The Director-General acknowledges that Orange Lakes (or its subsidiary) may charge a fee of \$35.00 per Public User vehicle to assist with the maintenance and repair of the Track. This fee will be subject to annual review and discussion by the Parties.
- 6.2 Public Vehicle users should not have any expectation that any assistance will be available from Orange Lakes or the farm manager for any vehicles that become submerged, damaged or stuck on the Track or in rivers that have to be traversed. Those seeking access by vehicle MUST make their own arrangements for recovery of vehicles. The Director-General will ensure this advice is included in information about the Track where this is provided on the DOC website or other public information.
- 7 Health and Safety**
- 7.1 As a condition of access to the Track, Public Users will be required to comply with all provisions of the Health and Safety Act 2015 and associated regulations (and any subsequent amendments to the legislation) and the New Zealand Walking Access Commission New Zealand Outdoor Access Code (see the Walking Access Commission website <https://www.walkingaccess.govt.nz/walkways-and-access/outdoor-access-code/>).
- 7.2 Orange Lakes will require Public Users of the Track to ensure that their actions do not endanger the health and safety of the Station or employees of the Station or other users of the Track.
- 7.3 Public Users of the Track will be required to comply with any lawful directions given in respect of the Station's policies and procedures applicable to health and safety while using the Track.
- 7.4 Orange Lakes at its discretion may refuse or restrict access to Public Users who do not agree to comply with any and all of clauses 7.1 to 7.3 above.
- 8 Disputes provision**
- 8.1 The parties agree to use their reasonable endeavours to resolve any dispute or different that may arise under this Memorandum of Understanding.
- 8.2 If either party has any dispute with the other in connection with this Memorandum of Understanding:
- a That party will promptly give full written particulars of the dispute to the other.
- b The parties will promptly meet together and in good faith try to resolve the dispute.
- 8.3 If the dispute is not resolved within 10 business days of written particulars being given (or any longer period agreed to by the parties) the dispute will be referred to mediation by either party giving written notice of such referral to mediation to the other.
- 8.4 a. A party must use the mediation procedure to resolve a dispute before commencing any other dispute resolution proceedings.

- b. The mediation will be conducted by a LEADR panel mediator chosen by the parties or if they fail to agree on such appointment within 14 days of the notice referring the dispute to mediation being given, the mediator will be appointed on request by either party, by the President of the New Zealand Law Society or the President's nominee.
- 8.5 The parties must always act in good faith and co-operate with each other to promptly resolve any dispute.
- 8.6 The procedures and time frames for any mediation will be fixed by the mediator if the parties cannot agree.
- 8.7 The parties must continue to comply with their obligations under this Agreement during the dispute resolution process.
- 8.8 This clause will not apply to:
  - a A dispute arising in connection with any attempted renegotiation of this Agreement; or
  - b Any application by either party for urgent interlocutory relief.

## 9 Notices

- 9.1 Every notice to be given by a party to another party under, or in connection with this Memorandum of Understanding shall be in writing and signed by the party or an authorised representative of the party serving the notice.
- 9.2 Every notice to be given under or in connection with this Memorandum of Understanding shall be given by one of the methods below, and will be deemed to be received as follows:
  - a Personal delivery to the address below, at the time of such delivery.
  - b Mailing by pre-paid post to the address below, 4 Business Days after the date of mailing.
  - c Email transmission to the email address below, at the time the sender's email system confirms that the email was sent to the email address of the recipient (unless the recipient proves that contrary to the sender's email confirmation, the email was not sent or was not properly sent to the recipient's email address).
- 9.3 For the purposes of this Agreement, any notice transmitted by email or delivered after 5 pm on a business day, or at any time on a non-business day, will be deemed received at 9 am on the next business day.

### Orange Lakes:

Address: C/- Todd and Walker Law, PO Box 124, Queenstown 9348

Attention: Graeme Todd

Fax: 03 441 2976

Email: [graeme.todd@toddandwalker.com](mailto:graeme.todd@toddandwalker.com)

### DOC:

Address: C/- Department of Conservation, Box 93 Wanaka 9343

Attention: Mike Tubbs

Fax: 03 443 8777

Email: mtubbs@doc.govt.nz

- 9.4 If a written notice of change of address is notified to all other parties then the new address so notified will be deemed to be that party's address for the purposes of this Memorandum of Understanding.

### Execution

Signed by Orange Lakes (NZ) Limited:

Director's signature

LEAH MC MORRIS TUDOR  
Director's full name

Director's signature

Director's full name

Signed on behalf of the Director-General of Conservation pursuant to delegated authority<sup>1</sup> in the presence of:

Annette Grieve  
Signature of witness

Annette Grieve  
Name of witness

Senior Ranger - Community  
Occupation

DOC Central Otago (Wanaka)  
Address

[Signature]

Delegate's position

Operations Manager -  
Central Otago

<sup>1</sup> A copy of the Instrument of Delegation may be inspected at the Director-General's office at Conservation House *Whare Kaupapa Atawhai*, 18 - 32 Manners Street, Wellington 6011

[Signature]



## Hunter Valley Station Visitors Form

All visitors to Hunter Valley Station are advised that numerous hazards exist, and care must be taken at all time to avoid accidents.

Access over the Hunter Valley farm track is only available for 4WD vehicles (motor cycles and all-terrain vehicles are not permitted), walking, mountain biking and horse riding

### Hazards

Hazards can be expected to be encountered. These include but are not confined to:

- Steep banks/cliffs particularly above and below roads and tracks
- Numerous river and creek crossings
- Slippery surfaces, particularly frost, ice, snow and rain
- Holes and tomos which are often hidden by vegetation
- Old fences lying on ground
- Vehicles and machinery, especially on roads and tracks
- Activities of recreational and contracted hunters
- Activities of staff and contractors
- Adverse climate conditions, especially rain, snow, wind, cold and fog
- Uncontrolled scrub fires
- Unauthorised trespassers and poachers
- Beehives and beekeeper's activities
- Poisonous plants

The Management of Orange Lakes NZ Limited and Hunter Valley Farming Co Limited (referred to as Manager) are concerned about safety but as there are inherent dangers on this property you acknowledge that safety is your responsibility.

### Recommendations

- Always notify a reliable person of your intended departure, duration of visit, intended route and intended return. Stick to the plan and notify them when safely returned.
- Complete an Outdoors Intention Form on the Adventure Smart website - <https://www.adventuresmart.org.nz/outdoors-intentions/download-printable-pdfs/>.
- Carry an appropriate means of communication, noting there is no cell-phone coverage.
- Wear Hi-viz clothing.
- Have with you suitable clothing for the weather conditions noting rapid and severe changes in the weather may occur.

### Terms & Conditions

#### Firearms

Firearms will only be allowed if specific permission is granted by Manager. Users must hold a valid hunting permit to hunt in the adjoining conservation land and a current gun licence. All safety criteria applies per licence, plus no firearms to be used near or in the direction of farmed animals or farm buildings and machinery.

#### Dogs

Only allowed if specific permission is granted by the Manager. Dogs must be registered, safe around other dogs, people and livestock and under control at all times. If lost on Hunter Valley Station the Manager to be informed immediately and every effort made to recover quickly.



**Vehicles**

Must have current Registration and WOF and be suitable for the areas used. 30km/hr speed limit with headlights and hazard lights on.

Those seeking motorised access must have a suitable vehicle (it is recommended that minimum vehicle requirements include a raised 4-wheel drive fitted with off-road tyres, a snorkel, or other suitable means to avoid hydraulicing, and any 4-wheel drive travelling alone must have a winch).

In terms of vehicles normally a maximum of 6 per day will be permitted.

Vehicle access via the track is generally unavailable from 1 May to 30 November annually due to winter conditions.

A fee of \$35.00 per vehicle will be payable to assist with the maintenance and repair of the track. This sum will be subject to annual review.

Vehicle users should not have any expectation that any assistance will be available for any vehicles that become submerged, damaged or stuck on the track or in rivers that have to be traversed. Those seeking access by vehicle MUST make their own arrangements for recovery of vehicles.

**Fires**

No fires to be started by yourself. Immediately report if any seen.

**Huts and Camping**

Use of Station huts and camping is not permitted on the Station without the prior permission of the Manager. Anyone found camping or using the huts without permission will be subject to immediate removal from the Station.

**General**

- Access is only granted to Hunter Valley Station. Any access onto Conservation or Crown land is to be arranged with the controlling administration.
- Close all gates unless it appears they are meant to be open.
- No litter or equipment to be left on property.
- Avoid damage to land, fencing and facilities. If it does occur, repair if possible or report to Manager.
- Report to Manager any thing you think he should know about. It is a large place and they won't see everything.
- The safety and conduct of any guests brought on to Hunter Valley Station are your responsibility and they must adhere to the same terms and conditions.
- You must provide third party contact details on case of any emergency.
- Orange Lakes (NZ) Limited and the Manager will not be responsible for any damage to, or loss from, vehicles parked on the Hunter Valley Station or using the Hunter Valley farm track.



I \_\_\_\_\_ on behalf of Orange Lakes NZ Limited and Hunter Valley Farming Co Limited, give approval to \_\_\_\_\_ [visitor] to have access onto Hunter Valley Station for the purpose of \_\_\_\_\_.

Date \_\_\_\_\_

I \_\_\_\_\_ [visitor] agree that I enter Hunter Valley Station at my own risk and take responsibility for my own actions and safely and that of any guest I have with me, and that my guests will abide by the same terms and conditions and I acknowledge that:

- i) My activity in the environment may be inherently dangerous.
- ii) There is by way of the general nature of farming, and the high-country environment hazards on the property.
- iii) The Manager has taken all practical steps to advise me of hazards on the property.
- iv) Orange Lakes NZ Limited and Hunter Valley Farming Co Limited are not liable for any injury, loss or damage to me, my possessions or any vehicle, bicycle or horse arising out of my use of the Station or for any loss or damage whatsoever, whether or not that damage is due to Orange Lakes NZ Limited and/or Hunter Valley Farming Co Limited negligence.
- v) Orange Lakes NZ Limited and Hunter Valley Farming Co Limited are not guaranteeing the possible result of my proposed activity but rather granting permission to use land for the activity.
- vi) I have not relied on any statement or representation by Orange Lakes NZ Limited and/or Hunter Valley Farming Co Limited and that they do not warrant that the Station, or access over it, is or will remain suitable or adequate for my purposes.

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**Applicant Details**

Name \_\_\_\_\_

Activity \_\_\_\_\_

Drivers Licence \_\_\_\_\_

Vehicle make, colour and Registration \_\_\_\_\_

Firearms Licence \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

Contact Home \_\_\_\_\_ Mob \_\_\_\_\_

Email \_\_\_\_\_

Third Party contact \_\_\_\_\_

Number of people in party \_\_\_\_\_ Date and Time Due Out \_\_\_\_\_

Emergency Equipment you are carrying: \_\_\_\_\_

- Wet weather gear and thermal clothing
- GPS
- First aid kit
- Extra food
- Survival kit
- Emergency shelter
- Personal locator beacon
- Satellite phone number: \_\_\_\_\_
- Mountain radio call sign: \_\_\_\_\_
- Other: \_\_\_\_\_

**Details of Group Members**

Name \_\_\_\_\_

Contact Number \_\_\_\_\_

Name \_\_\_\_\_

Contact Number \_\_\_\_\_

Name \_\_\_\_\_

Contact Number \_\_\_\_\_



*Good character*

2. The Individuals with Control must:

- (a) continue to be of good character; and
- (b) not become an individual of the kind referred to in section 15 or 16 of the Immigration Act 2009.

*Access*

3. In respect of access:

- (a) Where WAC or another party applies to the Commissioner for a grant of an easement for public walking access over the Sawyer Burn Track between Kidds Bush and Sawyer Burn hut and between Sawyer Burn hut and Sentinel Peak, where such public walking access is required to cross the Pastoral Lease, the Consent Holder must actively and diligently support such application at no cost to the applicant for the easement (including but not limited to meeting all and any legal and surveying costs, waiving any compensation payable, and arranging all and any necessary consents);
- (b) The Consent Holder must permit non-commercial walking access along the western access to Sentinel Peak, on terms to be determined from time to time by the Consent Holder and its lessees or agents, acting reasonably and in accordance with the terms and conditions of the Pastoral Lease, and having regard to any officially designated use or purpose for the Land;
- (c) The Consent Holder must continue to permit the current non-commercial access to the Land for walking and non-motorised cycling on terms to be determined from time to time by the Consent Holder and its lessees or agents, acting reasonably and in accordance with the terms and conditions of the Pastoral Lease and the Special Lease, and having regard to any officially designated use or purpose for the Land;
- (d) The Consent Holder must apply to the Commissioner for a grant of a Race Recreation Permit, and if granted, provide public access to the Land for the Annual Cycling Race organisers, participants and associated public, on terms which comply with the terms and conditions of the Race Recreation Permit, the Pastoral Lease and any officially designated conservation purposes of the Land;
- (e) The Consent Holder must continue to permit the current non-commercial access over Hunter Valley Station Road by walkers, hunters, fishers, non-motorised cyclists, and horse riders, on terms to be determined from time to time by the Consent Holder and its lessees or agents, acting reasonably and in accordance with the terms and conditions of the Pastoral Lease, and having regard to any officially designated use or purpose for the Land; and
- (f) The Consent Holder must undertake and fund the maintenance of Hunter Valley Station Road; including clearing crossings and repairing track damage subject always to first applying for and obtaining any required written consent from the Commissioner.

4. In relation to road legalisation:

- (a) If QLDC seeks to complete the legalisation of any part of Meads Road from SH6 to Kidds Bush, the Consent Holder must actively and diligently support such legalisation at no cost to QLDC or the Crown (including but not limited to, executing all documentation required to legalise the road, meeting all and any legal and surveying costs, arranging all and any necessary consents, and forgoing any and all compensation payable to the Consent Holder); and

