

EXECUTIVE COUNCIL

RESTRICTED

Title of Report: Proposed creation of the Patricia Luxton National Nature Reserve (Chartres)

Paper No: 173/09

Date: 20 August 2009

Report of: Nicholas Rendell – Environmental Officer
Alison Inglis – Senior Crown Counsel

1.0 Purpose

To seek agreement to the proposed creation of the Patricia Luxton National Nature Reserve (Chartres), and approval of the draft designation order, regulations and management agreement.

2.0 Recommendations

- (a) That honourable members agree the designation of the Chartres horse paddock as a national nature reserve under the Conservation of Wildlife and Nature Ordinance, and approve the attached draft as the Patricia Luxton National Nature Reserve (Chartres) Order.
- (b) That honourable members approve the draft Patricia Luxton National Nature Reserve (Chartres) Regulations.
- (c) That honourable members approve the terms of the draft Management Agreement between FIG and the landowner, Chartres Sheepfarming Company Limited.

3.0 Summary of Financial Implications

None

4.0 Background

- 4.1 The landowner, Chartres Sheepfarming Company Limited, wants to have the camp known as the Chartres horse paddock declared a national nature

reserve (NNR) to be known as the Patricia Luxton National Nature Reserve (Chartres). The Environmental Planning Department believe the area warrants formal protection under NNR designation.

4.2 The horse paddock (see attached map) is located east of Chartres settlement and is 2,237 acres in area. It has never been subject to pasture improvement (burning, rotovating or reseeding). Today it is used for horse grazing, and historically has not been used for any other purpose.

4.3 The late Patricia Luxton (a part owner of Chartres Sheepfarming Company Limited) was keen to see the horse paddock preserved, as are her son Stephen and husband William Luxton. They wish to see the horse paddock declared an NNR and managed appropriately so that it is not damaged by heavy stocking.

4.4 The road connecting Chartres settlement to the West Falkland spine road runs through the centre of the horse paddock. The road is appropriately landscaped and drained. Cable and Wireless South Atlantic Limited operate a telecommunications mast located close to the road. These activities do not have any current environmental effects.

4.5 Some £2,500 of Environmental Studies Budget funding paid for partial fencing repairs to the site boundaries during last financial year 2008/09. More fence repairs are required but can be done at a later date and are provided for in the management plan conditions below.

4.6 The designation of the NNR was approved in principle by members of the Environmental Committee which met on July 9th 2009.

4.7 This will be the first NNR to be created since the enactment of the Conservation of Nature and Wildlife Ordinance (CNWO) in 1999. The Environmental Planning Department are also working on proposals to have Sea Lion Island and Bertha's Beach designated as NNRs.

5.0 Conservation Value

5.1 The botanist employed by Falklands Conservation, Rebecca Upson, has made a number of site visits to the horse paddock, and made some significant discoveries.

5.2 To date, eight of the thirteen endemic plant species found in the Falkland Islands and two near endemic species have been found growing in the horse paddock.

5.3 The horse paddock holds three populations of one plant species of global conservation concern, the globally threatened Falkland rockcress (*Phlebelobium maclovianum*).

5.4 The horse paddock is home to an outstanding example of the fachine scrub habitat, which is of global plant conservation and botanical importance.

5.5 Other notables of national importance are the large population of the nationally protected Gaudichaud's orchid (*Chloraea gaudichaudii*), pale yellow orchid (*Gavilea littoralis*) and dog orchid (*Codonorchis lessonii*) found within areas of dwarf shrub heath and acid grassland, and the nationally rare American willowherb (*Epilobium ciliatum*) which is found growing on the eastern side of the lower reaches of the Old House Stream.

5.6 Populations of the following data deficient species were recorded: Fuegian foxtail (*Alopecurus magellanicus*), blood beak sedge (*Carex aematorrhyncha*) and Fuegian sedge (*Carex magellanica*).

5.7 On the basis of the present survey work the Chartres horse paddock qualifies as a priority site for plant conservation in the Falkland Islands.

6.0 Designation Process

6.1 The Governor may designate any publicly or privately owned land as an NNR by Order under section 13 of the CNWO. Where the land is privately owned, every owner, lessee and occupier must agree to the creation of the NNR. (There are no lessees or occupiers of Chartres horse paddock.)

6.2 In the case of an NNR on privately owned land, the Governor may enter into a management agreement with the owner (and where applicable, the lessee and occupier) under section 14 of the CNWO. The agreement provides for the management of the land in such manner as is expedient for the purpose of its management as an NNR. The agreement may be made irrevocably, or subject to such provisions for variation or revocation as are stipulated in the agreement. The agreement if registered as a land charge becomes enforceable against all future owners, lessees and occupiers.

6.3 Where a management agreement is breached, and the breach adversely affects the satisfactory management of the land as an NNR, the Governor may serve a notice under section 15 of the CNWO requiring the person in breach of the agreement to remedy the breach. If they fail to do so, the Governor may enter the land and take such steps as are necessary to remedy the breach, and recover as a civil debt the cost of doing so.

6.4 The Governor may make regulations under section 16 of the CNWO for the protection of any NNR, whether on publicly or privately owned land. Regulations may prohibit or restrict certain activities on the NNR, either absolutely or subject to any exceptions. Regulations may not interfere with the exercise by any person of any public right of way over the land, nor with the rights of any owner, lessee or occupier. If the owner, lessee and occupier are prepared to accept any restriction on their rights, then these restrictions are placed in the management agreement.

7.0 Draft Regulations

7.1 Certain activities are criminal offences under the CNWO, subject to limited exceptions. These include the killing, taking, destruction, molestation or disturbance of any wild animals or birds; the taking or destruction of the egg of any wild animal or bird; and the damage or destruction of the breeding site, resting place or nest of any wild animal or bird.

7.2 The draft regulations prohibit certain other activities in the new NNR, that otherwise would not be prohibited in law, namely:-

7.2.1 The introduction of any carnivorous animal (except working sheep dogs with the permission of the landowner);

7.2.2 The depositing of rubbish;

7.2.3 The discharge of any noxious or polluting substance;

7.2.4 The possession of a firearm (except with the permission of the landowner);

7.2.5 The use of a weapon, or other device or thing designed or adapted for the purpose of capturing or killing an animal or bird, to capture or kill an animal or bird (except where this is done for the purpose of the humane destruction of any animal or bird where required in the interests of animal welfare);

7.2.6 The smoking of a cigarette, cigar or pipe;

7.2.7 The lighting of any fire, or the doing of anything likely to cause a fire; and

7.2.8 The introduction of a plant, or the picking, plucking or uprooting of a plant (this does not apply to anything done by a grazing animal which is present by permission of the landowner).

8.0 Management Agreement Conditions

8.1 The draft Management Agreement strengthens the creation of the NNR in two ways. First, the owner of the land (Chartres Sheepfarming Company Limited) agrees to abide by the same restrictions as are set out in the draft regulations, so that they become binding on current and future owners, lessees and occupiers and not only on the general public.

8.2 Second, the owner of the land also agrees to abide by the following management regime in perpetuity:-

8.2.1 No livestock are to be allowed into the NNR at any time, except:-

- 8.2.1.1 not more than twenty horses at any time (together with those retired horses presently grazing the NNR until their natural demise); and
 - 8.2.1.2 livestock which are transiting through the NNR, provided they do not remain in the NNR overnight.
- 8.2.2** No pasture improvement work will be carried out in the NNR, including burning, rotovating or reseeded;
- 8.2.3** Improvements to the boundary fences of the NNR will be carried out by the owner as funds permit, and any funding which the owner receives (whether from FIG, Falklands Conservation or elsewhere) for environmental projects will be spent on such fencing works until they are complete;
- 8.2.4** If the owner fails to keep the boundary fences of the NNR in a stockproof condition, FIG shall be entitled (at FIG's expense) to arrange for the NNR to be fenced;
- 8.2.5** No development (as defined in the Planning Ordinance) shall be carried out in the NNR without FIG's agreement;
- 8.2.6** FIG is granted access to the NNR for any purpose connected with the management agreement, or for the scientific study or conservation of the wildlife and vegetation of the Falkland Islands.

9.0 Fire Control Plan

A short fire control plan will be prepared by the Environmental Planning Department in conjunction with Chartres Sheepfarming Company Limited if the creation of the NNR is approved. This will mitigate against the perceived increased risk of natural and human-induced fire with the removal of grazing stock from the area and increased visitation to the area. The plan will include the provision of signage, working with the fire brigade on possible scenarios, the possible provision of beaters and the feasibility of introducing operating procedures to utilise the FIGAS fire engine at Chartres settlement.

10.0 Financial Implications

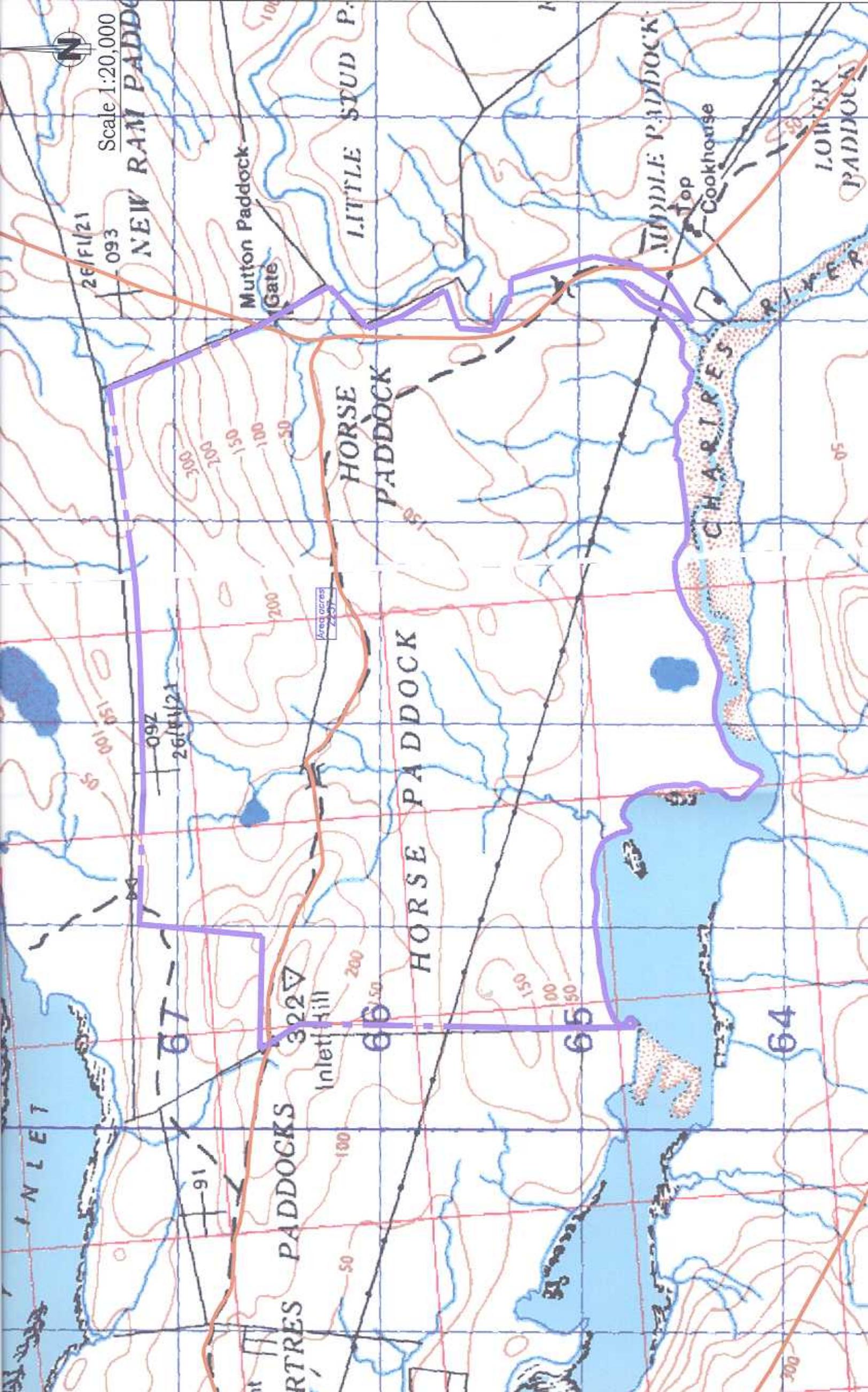
None, other than funding from the existing Environmental Studies Budget for signage and fencing repairs.

11.0 Legal Implications

See section 6.0 – Designation Process

12.0 Human Resources Implications

None



Scale 1:20,000

26/F1/21
093

NEW RAM PADDOCK

Mutton Paddock
Gate

HORSE PADDOCK

HORSE PADDOCK

MIDDLE PADDOCK

Top
Cookhouse

LOWER PADDOCK

CHARLES RIVER

INLET

09Z
26/F1/21

Inlet Hill
322

RTRES PADDOKS

67

66

65

64

Area acres
2.27

CONSERVATION OF WILDLIFE AND NATURE ORDINANCE

Patricia Luxton National Nature Reserve (Chartres)

Management Agreement

This Agreement is made on the day ofunder section 14 of the Conservation of Nature and Wildlife Ordinance between **Alan Edden Huckle**, Governor of the Falkland Islands (“the Governor”) and **Chartres Sheepfarming Company Limited**, a company incorporated in the Falkland Islands with registered number 3794 and having its registered office at Chartres, West Falkland (“the Landowner”).

1. Introduction

- 1.1 The Landowner wants to have the camp known as the Horse Paddock declared a national nature reserve to be known as the Patricia Luxton National Nature Reserve (Chartres).
- 1.2 The Horse Paddock is located east of Chartres settlement. It has never been subject to pasture improvement (burning, rotovating or reseeded). Today it is used for horse grazing, and historically has not been used for any other purpose.
- 1.3 The late Patricia Luxton (a part owner of Chartres) was keen to see the Horse Paddock preserved, as are her son Stephen and husband Bill. They wish to see the Horse Paddock declared a National Nature Reserve and managed appropriately so that it is not ruined by heavy stocking.

2. Background

- 2.1 The botanist employed by Falklands Conservation, Rebecca Upson, has made a number of site visits to the Horse Paddock and made some significant discoveries.
- 2.2 The Horse Paddock holds three populations along the Chartres river cliffs of one plant species of global conservation concern. This is the globally threatened Falkland Rock Cress (*Phlebelobium maclovianum*). The Horse Paddock is also home to an outstanding example of a habitat type (fachine scrub) of global plant conservation and botanical importance.
- 2.3 To date, eight of the thirteen endemic plant species and two near endemic species have been found growing in the Horse Paddock. Other notables of national importance are the large population of the nationally protected Gaudichaud’s orchid (*Chloraea gaudichaudii*) found within areas of dwarf shrub heath and acid grassland, and the nationally rare American willowherb (*Epilobium ciliatum*) which is found growing on the eastern side of the lower reaches of the Old House Stream.

- 2.4 Further survey work is needed to discover the full extent of the distribution of the Falkland Rock Cress and the total area covered by fachine scrub, but the site qualifies as a priority site for plant conservation in the Falkland Islands.
- 2.5 The road connecting Chartres settlement to the West Falkland spine road runs through the centre of the Horse Paddock. The road is appropriately landscaped and drained. Cable and Wireless South Atlantic Limited operate a telecommunications mast located close to the road. These activities do not have any current environmental effects.

3. Management Regime

- 3.1 The Landowner on behalf of itself and its successors as proprietors of the Horse Paddock hereby agrees with the Governor that in consideration of the Governor declaring the Horse Paddock a national nature reserve (“the Reserve”) the Landowner will abide by the following management regime in perpetuity:-
 - 3.1.1 No livestock are to be allowed into the Reserve at any time, except:-
 - 3.1.1.1 not more than twenty horses at any time (together with those retired horses presently grazing the Reserve until their natural demise); and
 - 3.1.1.2 livestock which are transiting through the Reserve, provided they do not remain in the Reserve overnight.
 - 3.1.2 No pasture improvement work will be carried out in the Reserve, including burning, rotovating or reseedling;
 - 3.1.3 Improvements to the boundary fences of the Reserve will be carried out by the Landowner as funds permit, and any funding which the Landowner receives (whether from the Governor, Falklands Conservation or elsewhere) for environmental projects will be spent on such fencing works until they are complete;
 - 3.1.4 If the Landowner fails to keep the boundary fences of the Reserve in a stockproof condition, the Falkland Islands Government is entitled (at the Government’s expense) to arrange for the Reserve to be fenced;
 - 3.1.5 No development (as defined in the Planning Ordinance) may be carried out in the Reserve without the prior written consent of the Governor;
 - 3.1.6 The Landowner agrees to allow the Falkland Islands Government its servants and agents access to the Reserve for any purpose connected to this agreement or to the scientific study or conservation of the wildlife and vegetation of the Falkland Islands.

4. Adherence to Regulations

4.1 The Landowner on behalf of itself and its successors as proprietors of the Horse Paddock hereby agrees with the Governor that in consideration of the Governor declaring the Horse Paddock a national nature reserve (“the Reserve”) the Landowner will not carry out any of the following activities within the Reserve for so long as they are forbidden in any regulations:-

4.1.1 The introduction of any carnivorous animals (except working sheep dogs);

4.1.2 The depositing of rubbish;

4.1.3 The discharge of any noxious or polluting substance;

4.1.4 The use of a weapon, or other device or thing designed or adapted for the purpose of capturing or killing an animal or bird, to capture or kill an animal or bird; (this does not apply to something used for the humane destruction of an animal or bird if the destruction is required in the interests of animal welfare);

4.1.5 The smoking of a cigarette, cigar or pipe;

4.1.6 The lighting of any fire, or the doing of anything likely to cause a fire; and

4.1.7 The introduction of a plant or the picking, plucking or uprooting (except by grazing animals) of a plant.

5. The Falkland Islands Government

5.1 The Governor on behalf of the Falkland Islands Government agrees to support the Landowner in their current land management practices where practicable, and to adhere to and enforce any Order designating the Horse Paddock as a national nature reserve and any applicable regulations.

Signed
Alan Edden Huckle
Governor of the Falkland Islands
Ltd

Signed
Director
Chartres Sheepfarming Company

SUBSIDIARY LEGISLATION

ANIMALS

Patricia Luxton National Nature Reserve (Chartres) Order 2009

S. R. & O. No: of 2009

Made: 2009

Published: 2009

Coming into force: upon publication

IN EXERCISE of my powers under section 13 of the Conservation of Nature and Wildlife Ordinance (Title 5.7) I make the following order —

1. Title

This order is the Patricia Luxton National Nature Reserve (Chartres) Order 2009.

2. Commencement

This order comes into force upon publication in the Gazette.

3. Interpretation

In this order —

“the owner” means Chartres Sheepfarming Company Limited, a company incorporated in the Falkland Islands with registered number 3794 and having its registered office at Chartres, West Falkland;

“the Reserve” means the area of land to the east of Chartres Settlement on West Falkland Island shown on the map reproduced in the Schedule and formerly known as the Horse Paddock.

4. Declaration of nature reserve

With the consent and at the request of the owner of the Reserve, the Reserve is declared to be a national nature reserve under section 13 of the Ordinance.

Schedule

[Plan]

Made 2009

A. E. Huckle,
Governor

EXPLANATORY NOTE
(not forming part of the above order)

This order declares an area of privately owned land situated at Chartres Farm on West Falkland to be a national nature reserve.

SUBSIDIARY LEGISLATION

ANIMALS

Patricia Luxton National Nature Reserve (Chartres) Regulations 2009

S. R. & O. No: of 2009

Made: 2009

Published: 2009

Coming into force: upon publication

IN EXERCISE of my powers under section 16 of the Conservation of Nature and Wildlife Ordinance (Title 5.7) I make the following regulations —

1. Title

These regulations are the Patricia Luxton National Nature Reserve (Chartres) Regulations 2009.

2. Commencement

These regulations come into force upon publication in the Gazette.

3. Interpretation

In these regulations “the Reserve” means the National Nature Reserve designated under the Patricia Luxton National Nature Reserve (Chartres) Order 2009 (SR&O No [] of 2009).

4. Prohibited Activities

(1) The following activities are prohibited in the Reserve:-

- (a) to introduce a carnivorous animal;
- (b) to deposit rubbish;
- (c) to discharge a noxious or polluting substance;
- (d) to possess a firearm;
- (e) to use a weapon, or other device or thing designed or adapted for the purpose of capturing or killing an animal or bird, to capture or kill an animal or bird;
- (f) to smoke a cigarette, cigar, or pipe;
- (g) to light a fire, or do anything likely to cause a fire;

(h) to introduce a plant or pick, pluck or uproot a plant.

(2) Paragraph (a) does not apply to a working sheep dog which is in the Reserve with the permission of the landowner.

(3) Paragraph (d) does not apply to a firearm which is in the Reserve with the permission of the landowner.

(4) Paragraph (e) does not apply to something used for the humane destruction of an animal or bird if the destruction is required in the interests of animal welfare.

(5) Paragraph (h) does not apply to anything done by a grazing animal which is in the Reserve with the permission of the landowner.

5. Offences

(1) It is an offence to breach these regulations.

(2) A person convicted of an offence under these regulations is liable to a fine not exceeding the maximum of level 5 on the standard scale.

Schedule

[Plan]

Made 2009

A. E. Huckle,
Governor

EXPLANATORY NOTE *(not forming part of the above regulations)*

These regulations make it an offence to carry out certain prohibited activities within the Patricia Luxton National Nature Reserve (Chartres).