

Crown Pastoral Land Tenure Review

Lease name: CATTLE FLAT(SOUTHLAND)

Lease number: PS 071

Substantive Proposal - Part 1

The report attached is released under the Official Information Act 1982.

October

08

PROPOSAL FOR REVIEW OF CROWN LAND
Under Part 2 of the Crown Pastoral Land Act 1998

Date: 28 May 2008

Parties

Holder: G A Young & Co Limited
C/o Peter Sim
5 Nith Street
Invercargill

EXECUTION
COPY

Commissioner of Crown Lands:

C/- Opus International Consultants Limited
Private Bag 1913
Dunedin

Attention Robin Whelan

The Land

Lease: Cattle Flat Ps 17

Legal Description: Part Run 598 Blocks II, III, IV, V, VI and VIII Eyre Survey District

Area: 3263.1055 hectares more or less

Certificate of Title/Unique Identifier: SL B3/631

Lease: The Henroost Ss 453

Legal Description: Section 1 SO Plan 11854

Area: 2120.0000 hectares more or less

Computer Interest Register: SL 10C/81

Crown Land: Disused Water Race

Legal Description: Crown Land Block III Eyre Survey District

Area: 6,000 m² more or less

Certificate of Title/Unique Identifier: No title in Registry

Summary of Designations

Under this Proposal, the Land is designated as follows:

- (a) The Crown Land (shown marked in pink on the Plan) is to be restored to, or retained by, the Crown as set out in Schedules One and Two; and
- (b) The Freehold Land (shown marked in green on the Plan) is to be disposed by freehold disposal to the Holder as set out in Schedule Three.

1 The Plan

2 Conditions

- 2.1 This Proposal, and any agreement arising therefrom, is subject to the conditions contained in Schedule Four (if any).

3 Settlement

- 3.1 Unless otherwise agreed by the parties, the Settlement Date for the disposal of the Freehold Land to the Holder by freehold disposal will be the day that is TEN (10) working days following the day on which Land Information New Zealand notifies the Commissioner that the Final Plan and a copy of this Proposal are registered in accordance with the Act.
- 3.2 The Freehold Land will be disposed of to the Holder under the Land Act 1948.
- 3.3 Notwithstanding anything to the contrary, if, as at the Settlement Date (as determined pursuant to clause 3.1), the rent payable under the Lease is subject to a Rent Review, then the Commissioner may elect to:

(a) settle on the Settlement Date on the basis that the Commissioner may retain from the Commissioner's Payment an amount which the Commissioner, acting reasonably, estimates will be payable by the Holder to the Commissioner following agreement or determination of the Rent Review ("the Retention"). The Retention shall be held by the Crown Law Office in an on-call, interest-bearing trust account in the joint names of the parties for their respective rights and interests. Upon agreement or determination of the Rent Review, the Commissioner shall calculate the rent shortfall payable by the Holder to the Commissioner in respect of the period from the effective date of the Rent Review to the Settlement Date, both dates inclusive ("the Shortfall").

If:

(i) the Shortfall is less than the Retention and the net interest earned thereon, the balance shall be paid by the Commissioner to the Holder within TEN (10) working days; or

(ii) the Shortfall is more than the Retention and the net interest earned thereon, the balance shall be paid by the Holder to the Commissioner within TEN (10) working days.

or

(b) defer the Settlement Date until TEN (10) working days after the rent payable as a consequence of the Rent Review:

(a) has been agreed or determined; and

(b) is not and will not be subject to any appeal, rehearing or other proceedings.

4 Holder's Payment

- 4.1 By 3.00 p.m. on the Settlement Date, the Holder must pay the Holder's Payment and all other money payable to the Commissioner or the duly appointed agent of the Commissioner by bank cheque without set-off or deduction of any kind in accordance with the settlement requirements of the Commissioner.
- 4.2 If the Holder fails to pay the Holder's Payment or any part of it or any other money to the Commissioner or to the duly appointed agent of the Commissioner on the Settlement Date clause 19 will apply.

5 Commissioner's Payment

- 5.1 The Commissioner shall pay the Commissioner's Payment to the Holder on the Settlement Date.

- 5.2 No interest shall be payable to the Holder by the Commissioner in respect of the Commissioner's Payment, including (without limitation) for the period from the Vesting Date to the Settlement Date.

6 Vesting of Crown Land

- 6.1 The Crown Land will vest in the Crown on the Vesting Date.

7 Issue of Certificate of Title

- 7.1 Notwithstanding any other provision in this Proposal, the Commissioner will not request that the Surveyor-General issue a certificate to the Registrar pursuant to section 116 of the Land Act 1948 (to enable a certificate of title to issue for the Freehold Land) unless and until:
- (a) the Commissioner has received the Holder's Payment from the Holder under clause 4, and all other money payable by the Holder under this Proposal and the Notice;
 - (b) the Holder has provided to the Commissioner duplicate copies of the certificate of title relating to the Lease (if any) and/or the Lease if requested by the Commissioner;
 - (c) the Holder has signed and returned to the Commissioner all documents required by the Commissioner to be signed by the Holder to give effect to this Proposal (including, without limitation, any permit, covenant, easement and/or any other document); and
 - (d) the Holder has procured a registrable discharge of any Mortgage and provided this to the Commissioner together with any new mortgage documents to be registered against the Freehold Land.

8 Registration of Documents

- 8.1 Subject to clause 7, the Commissioner will lodge all documents necessary to give effect to this Proposal (including, without limitation any easement, covenant, discharge of mortgage, and/or duplicate copy of the Lease) and any new mortgage documents to be registered against the certificate of title to be issued for the Freehold Land so that the certificate of title for the Freehold Land will issue subject to the encumbrances provided in this Proposal. Any new mortgage will be registered after any other encumbrances such as any easements and/or covenants are registered.

9 Consents

- 9.1 The Holder must obtain the written consent to the Holder's acceptance of this Proposal from all persons having an interest in the Land (other than the Holder), including, but not limited to:
- (a) any Mortgagee(s);
 - (b) any party entitled to the benefit of a land improvement agreement registered against the Lease and/or the Land; and
 - (c) any other person that the Commissioner reasonably believes has an interest in the Land or who the Holder reasonably believes has an interest in the Land, whether registered or not.
- 9.2 The consents required under clause 9.1 must be in a form acceptable to the Commissioner in all respects and be returned to the Commissioner with this Proposal on its acceptance by the Holder. Examples of the form of consents required under clause 9.1 are set out in Appendix 1.
- 9.3 The Holder must also obtain, and provide to the Commissioner if requested, all consents necessary for the Holder to accept this Proposal including (without limitation) any:
- (a) corporate and/or trustee consents; and
 - (b) consent required under the Overseas Investment Act 2005 and the Overseas Investment Regulations 2005.
- 9.4 The Holder will procure the Mortgagee to execute a registrable discharge of the Mortgage and, if required by the Mortgagee, the Holder will execute registrable new mortgage documents and forward these to the Commissioner to be registered as set out in clause 8.

- 9.5 If required by the Mortgagee, the Commissioner will provide an undertaking that, subject to the provisions of clause 7 being satisfied, the Commissioner will register the discharge of the Mortgage and register any new mortgage against the certificate of title for Freehold Land at the same time as the certificate of title for the Freehold Land issues.

10 Continuation of Lease

- 10.1 The Lease will remain in full force and effect until a certificate of title issues for the Freehold Land. Notwithstanding when Settlement Date occurs, until a certificate of title issues for the Freehold Land the Holder will duly and punctually comply with all obligations on its part under the Lease (other than as set out at clause 12.1 (b)) and the Lease will remain in full force and effect.
- 10.2 From the date that a certificate of title is issued for the Freehold Land the Lease is deemed to be surrendered and, subject to clause 10.3, the Commissioner releases and discharges the Holder from the performance and observance of all covenants, conditions and obligations under the Lease.
- 10.3 The release and discharge in clause 10.2:
- (a) is without prejudice to the rights, remedies and powers of the Commissioner contained in the Lease (except as varied in accordance with clause 12.1(b)); and
 - (b) will not release or discharge the Holder from any liability under the Lease, arising prior to the date that the certificate of title for the Freehold Land is issued, under any statute or by any reason where such liability is due to the fault of the Holder.
- 10.4 As from the Vesting Date, the Holder will not have any estate, right or claim against any of the land, improvements, fencing, buildings, structures, fixtures, fittings or chattels on the Crown Land (subject to the provisions of any permit, easement, concession, other encumbrance or document provided under this Proposal). The Holder will not be entitled to any compensation for any of its improvements, fencing, buildings, structures, fixtures, fittings or chattels which are on the Crown Land as at the Vesting Date.

11 Fencing and Construction Works

- 11.1 If the Holder has accepted this Proposal and that acceptance has taken effect pursuant to the Act, the Commissioner will, subject to clauses 11.2 and 14.4, erect at the Commissioner's cost new fencing:
- (a) approximately along the line marked "New Fencing Line" on the Plan; and
 - (b) to the specifications in Appendix 3;
- ("the Fencing").
- 11.2 If the Fencing requires a resource consent or any other consent from any local or territorial authority ("the Fencing Consent"), the following provisions shall apply:
- (a) The Commissioner shall use reasonable endeavours to obtain the Fencing Consent within 6 months of this Proposal taking effect pursuant to the Act.
 - (b) If the Fencing Consent:
 - (i) is not obtained within 6 months of this Proposal taking effect pursuant to the Act; and/or
 - (ii) is obtained on terms which are not satisfactory to the Commissioner in all respects; the Commissioner may, acting reasonably, elect to do any one or more of the following:
 - (iii) erect the Fencing in a position different from that shown on the Plan;

- (iv) erect the Fencing over a shorter distance than that shown on the Plan; or
 - (v) erect the Fencing to specifications different from those in Appendix 3.
- 11.3 If the Commissioner has not completed the Fencing by the Settlement Date, the Holder agrees that the Commissioner may register a covenant, on terms entirely satisfactory to the Commissioner (in the Commissioner's sole discretion), over the Freehold Land to enable the Commissioner to complete the Fencing. The Holder will do all things necessary (including signing any document) to enable the Commissioner to register such a covenant.
- 11.4 The ongoing maintenance of the Fencing referred to in clauses 11.1 and 11.2 will be subject to the terms of the Fencing Act 1978.
- 11.5 If the Holder has accepted this Proposal and that acceptance has taken effect pursuant to the Act, [the Commissioner] [the Holder] [both parties] will, subject to clause 11.6, undertake the construction works set out in Appendix 3 on the terms and conditions set out in Appendix 3 ("the Construction Works").
- 11.6 If any Construction Works for which the Commissioner is liable, or jointly liable with the Holder, require a resource consent or any other consent from any local or territorial authority ("the Works Consent"), the following provisions shall apply:
- (a) The Commissioner shall use reasonable endeavours to obtain the Works Consent within 6 months of this Proposal taking effect pursuant to the Act.
 - (b) If the Works Consent:
 - (i) is not obtained within 6 months of this Proposal taking effect pursuant to the Act; and/or
 - (ii) is obtained on terms which are not satisfactory to the Commissioner in all respects;
- the Commissioner may, acting reasonably, elect to vary the extent of the Construction Works in question and/or the terms and conditions upon which they are carried out.

12 Apportionments

- 12.1 Rent payable under the Lease in respect of the Freehold Land shall be apportioned as follows:
- (a) Rent paid or payable will be apportioned on the Settlement Date as at the Settlement Date and either deducted from or added to (as the case may be) the amount required to settle.
 - (b) Notwithstanding that the Lease continues in effect until a certificate of title issues for the Freehold Land, the Holder shall not be required to pay any rent under the Lease for the Freehold Land from the Settlement Date.
- 12.2 Rent paid or payable under the Lease for the Crown Land will be apportioned on the Settlement Date as at the Vesting Date and either deducted from or added to (as the case may be) the amount required to settle.
- 12.3 All rates, levies, and all other incomings and outgoings and other charges receivable from or charged upon the Freehold Land will, unless otherwise agreed by the parties, be apportioned on the Settlement Date as at the Settlement Date.
- 12.4 All rates, levies and all other incomings and outgoings and other charges receivable from or charged upon the Crown Land will be apportioned on the Settlement Date as at the Vesting Date and either deducted from or added to (as the case may be) the amount required to settle.
- 12.5 Following the date that a certificate of title issues for the Freehold Land, the Commissioner will undertake a final apportionment and either the Commissioner will pay to the Holder, or the Holder will pay to the Commissioner, any additional amounts due because of any payments made or received by one party on behalf of the other for the period from the Settlement Date to the date on which a new certificate of title issues for the Freehold Land.

13 Risk

- 13.1 On and with effect from the Unconditional Date all risk of any nature in respect of the Freehold Land will pass from the Commissioner to the Holder. For the avoidance of doubt, the Holder's current risk in respect of matters arising under the Lease, including, without limitation, the Holder's risk in respect of all improvements, buildings, fencing, fixtures, fittings and chattels, will continue to remain with the Holder until the Lease is deemed to be surrendered under clause 10.2.
- 13.2 The Holder will be required to comply with its settlement obligations under this Proposal irrespective of any damage to, or destruction of, the Freehold Land prior to the Settlement Date.

14 Survey

- 14.1 All areas of the Land forming part of this Proposal and delineated on the Plan are approximate and subject to preparation of the Final Plan. The measurements of the areas may therefore alter on the Final Plan.
- 14.2 No error, misdescription or amendment of any part of the Land will annul, vary, or derogate from this Proposal, or the Holder's acceptance of this Proposal.
- 14.3 For the avoidance of doubt, the Holder will not be entitled to cancel or withdraw its acceptance of this Proposal, nor will the Holder, or any successor in title of the Holder or any party with an interest in the Land, be entitled to payment of any compensation, should any area of the Land on the Final Plan have a different measurement to the area specified in this Proposal.
- 14.4 The Commissioner does not warrant that any existing fence is erected on, or that any new fence to be erected will be on, any boundaries of the Land or any part of the Land as outlined on the Plan or the Final Plan.

15 Holder's Acknowledgments

- 15.1 If the Holder accepts this Proposal and that acceptance takes effect under the Act, the Holder acknowledges that:
 - (a) it is obtaining the freehold interest in the Freehold Land:
 - (i) "as is", solely in reliance on its own investigations and judgement; and
 - (ii) not in reliance on any representation or warranty made by the Commissioner, its employees, agents or any other person or persons directly or indirectly associated with the Commissioner;
 - (b) the Holder has carried out all inspections of the Freehold Land which the Holder considers necessary to satisfy itself as to all matters relating to the Freehold Land;
 - (c) the Holder, at its cost, is entirely responsible for all work to ensure that the Freehold Land complies with all applicable laws including (without limitation):
 - (i) the Resource Management Act 1991; and
 - (ii) any rule in any plan, resource consent or other requirement issued under the Resource Management Act 1991, and
 - (iii) the Building Act 2004; and
 the Holder hereby indemnifies and will indemnify the Commissioner against all losses, damages and expenses incurred by the Commissioner and against all claims made against the Commissioner in respect of any work or costs for which the Holder is liable under this clause 15;
 - (d) nothing in this Proposal is affected by, and the Commissioner has no liability of any nature in respect of, the existence or terms of any leases, licences or other occupation rights of any nature (if any) granted by the Holder in respect of the Land; and
 - (e) the Holder has no claim (and will not have any claim) whatsoever against the Crown and/or Commissioner in relation to the Tenure Review and/or this Proposal, including (without limitation) any claim for any misrepresentation or for any loss or damage suffered whether in contract, tort (including negligence) or otherwise.

16 No Representations or Warranties by the Commissioner

- 16.1 The Commissioner gives no representations or warranties of any nature in respect of the Freehold Land. Without limitation, the Commissioner does not warrant:
- (a) the accuracy of any matter in the Notice or this Proposal or in any notice, or any correspondence or other information provided to the Holder by the Commissioner or by any agent, contractor or employee of the Commissioner; or
 - (b) that the Freehold Land is or will remain suitable for the Holder's use; or
 - (c) that the Freehold Land complies with all or any statutory, territorial authority or any other legal requirements affecting or relevant to the Freehold Land.

17 Acceptance

- 17.1 The Holder's acceptance of this Proposal is irrevocable and constitutes a binding agreement between the Commissioner and the Holder.
- 17.2 If the Commissioner does not receive an acceptance to this Proposal from the Holder within three (3) months of putting it (in its substantive form) to the Holder, the Holder is deemed to have rejected this Proposal.

18 Solicitors Certificate

- 18.1 The Holder must procure the Holder's solicitors to provide the Commissioner with a solicitor's certificate (in a form satisfactory to the Commissioner, in its reasonable opinion) relating to such matters as the Holder's execution of this Proposal and the Holder's execution of any documents required to give effect to this Proposal (including, without limitation any easement, protective mechanism and/or concession). An example of the form of solicitors certificate required is set out at Appendix 2.
- 18.2 The Holder must return the completed solicitor's certificate to the Commissioner with this Proposal on its acceptance by the Holder.

19 Default

- 19.1 If from any cause whatever (except the default of the Commissioner) all or any part of the Holder's Payment or any other money payable by the Holder to the Commissioner is not paid on the due date the Holder will pay to the Commissioner interest at the Default Rate on the part of the Holder's Payment or any other money payable by the Holder to the Commissioner so unpaid from the due date until the date of actual payment in full.
- 19.2 The Commissioner's rights under this clause 19 are without prejudice to any other rights or remedies available to the Commissioner at law or in equity.

20 Goods and Services Tax

- 20.1 The Commissioner and the Holder warrant to each other that they are registered for GST purposes.
- 20.2 On the 10th working day following the Unconditional Date, the Commissioner will provide to the Holder a GST invoice in respect of the supply evidenced by the Holder's Consideration. The invoice will specify the Commissioner's GST Date.
- 20.3 The Holder will pay GST on the Holder's Consideration to the Commissioner by bank cheque on the Commissioner's GST Date, time being of the essence.
- 20.4 On the 10th working day following the Unconditional Date, the Holder will provide to the Commissioner a GST invoice in respect of the supply evidenced by the Commissioner's Consideration.
- 20.5 The Commissioner will pay GST on the Commissioner's Consideration to the Holder on the Commissioner's GST Date, time being of the essence.
- 20.6 Where any GST is not paid to the Commissioner or to the Holder (as the case may be) in accordance with this clause 20, the Holder will pay to the Commissioner, or the Commissioner will pay to the Holder (as the case may be), upon demand and together with the unpaid GST:

- (a) interest, at the Default Rate, on the amount of the unpaid GST and which will accrue from the Commissioner's GST Date until the date of payment of the unpaid GST; and
- (b) any Default GST.

21 Lowest price

- 21.1 For the purposes of section EW 32(3) of the Income Tax Act 2004 the purchase price of the Land, as set out in this agreement, does not include any capitalised interest and is the lowest price that the parties would have agreed upon, at the date of this agreement had payment been required in full at the time the first right in the Land was transferred.

22 Costs

- 22.1 The Commissioner will meet the costs of the survey (if any) of the Land, including all designation areas, the Final Plan and for a certificate of title to issue for the Freehold Land.
- 22.2 The Holder is responsible for all costs the Holder incurs in respect of and incidental to the Tenure Review. In particular, but without limitation, the Holder shall bear all its costs in relation to the review of all documentation forming part of the Tenure Review (including this Proposal), and all professional advice provided to or sought by the Holder.

23 No nomination or assignment

- 23.1 The Holder is not entitled to, and is expressly prohibited from, nominating another person to perform the Holder's obligations under this Proposal or assigning to another person the Holder's interest (or any part) under this Proposal.

24 Recreation Permit

- 24.1 Immediately on the registration of the Final Plan and a copy of the proposal to which it relates over the Land and pursuant to s64 of the Act, any recreation permit granted over the Land shall be determined.

25 General

- 25.1 This Proposal and the Notice:
- (a) constitute the entire understanding and agreement between the Commissioner, the Crown and the Holder in relation to the Tenure Review; and
 - (b) supersede and extinguish all prior agreements and understandings between the Crown, the Commissioner and the Holder relating to the Tenure Review.
- 25.2 Each provision of this Proposal will continue in full force and effect to the extent that it is not fully performed at the Settlement Date.
- 25.3 The Holder must comply with the Commissioner's requirements for the implementation and settlement of the Tenure Review contemplated by this Proposal.
- 25.4 The Commissioner and the Holder will sign and execute all deeds, agreements, schedules and other documents and do all acts and things as may be reasonably required by the other to effectively carry out and give effect to the terms and intentions of this Proposal.
- 25.5 This Proposal is governed by, and must be construed under, the laws of New Zealand and the Commissioner and the Holder irrevocably submit to the jurisdiction of the New Zealand courts or other New Zealand system of dispute resolution.
- 25.6 The illegality, invalidity or unenforceability of any provision in this Proposal will not affect the legality, validity or enforceability of any other provision.
- 25.7 In relation to notices and other communications under this Proposal:
- (a) each notice or other communication is to be in writing, and sent by facsimile, personal delivery or by post to the addressee at the facsimile number or address, and marked for the attention of the person or office holder (if any), from time to time designated for that purpose by the addressee to the other party. Other than the address to which the Holder is to send its acceptance of this Proposal (which the Commissioner will

specifically notify the Holder of) the address, person or office holder (if any) for each party is shown on the front page of this Proposal;

- (b) no communication is to be effective until received. A communication will be deemed to be received by the addressee:
 - (i) in the case of a facsimile, on the working day on which it is despatched or, if despatched after 5.00 p.m. on a working day or, if despatched on a non-working day, on the next working day after the date of dispatch;
 - (ii) in the case of personal delivery (including, but not limited to, courier by a duly authorised agent of the person sending the communication), on the working day on which it is delivered, or if delivery is not made on a working day, on the next working day after the date of delivery; and
 - (iii) in the case of a letter, on the fifth working day after mailing (postage paid).

26 Interpretation

26.1 Definitions

In this Proposal unless the context otherwise requires:

Act means the Crown Pastoral Land Act 1998;

Commissioner means the Commissioner of Crown Lands appointed under the State Sector Act 1988;

Commissioner's Consideration means the amount payable by the Commissioner to the Holder by equality of exchange for the surrender of the leasehold interest in the Lease in relation to the Crown Land, as specified in the Notice;

Commissioner's GST Date means the earlier of Settlement Date or the fifth working day before the day on which the Commissioner is due to pay to the Inland Revenue Department all GST payable by the Commissioner in respect of the supply made under this Proposal;

Commissioner's Payment means the balance of the Commissioner's Consideration payable by the Commissioner to the Holder by equality of exchange for the Crown Land, as specified in the Notice (if any);

Crown Land means the land (including any improvements) set out in Schedule One and the land (including any improvements) set out in Schedule Two (if any);

Default GST means any additional GST, penalty or other sum levied against either the Commissioner or the Holder under the Goods and Services Tax Act 1985 or the Tax Administration Act 1994 by reason of either the Commissioner or the Holder failing to pay GST as required by this Proposal. It does not include any sum levied against the Commissioner or the Holder by reason of a default by the Commissioner after payment of GST to the Commissioner by the Holder or by reason of a default by the Holder after payment of GST to the Holder by the Commissioner;

Default Rate means the rate of 11 per cent per annum;

Fencing means any stock proof farm fence.

Fencing Consent means any and all consents required under the Resource Management Act 1991.

Final Plan means the final plan for the Land prepared and submitted by the Commissioner to the Surveyor-General under sections 62(4)(c) and (d) of the Act;

Freehold Land means the land set out in Schedule Three;

GST means all goods and services tax payable by the Commissioner or the Holder under the Goods and Services Tax Act 1985 in respect of their respective supplies evidenced by this Proposal;

Holder means the holder shown on the front page of this Proposal (being the lessee under the Lease);

Holder's Consideration means the amount payable by the Holder to the Commissioner by equality of exchange for the freehold of the Freehold Land, as specified in the Notice;

Holder's Payment means the balance of the Holder's Consideration payable by the Holder to the Commissioner by equality of exchange for the freehold of the Freehold Land, as specified in the Notice (if any);

Land means the land subject to the Tenure Review identified on the front page of this Proposal;

Lease means the lease described on the front page of this Proposal;

Mortgage means any mortgage (registered or unregistered) over the Land;

Mortgagee means the holder of any Mortgage;

Notice means the notice to the Holder setting out:

- (a) the Holder's Consideration;
- (b) the Commissioner's Consideration; and
- (c) the Holder's Payment or the Commissioner's Payment (as the case may be);

which includes amounts proposed to be paid by way of equality of exchange and accompanies this Proposal, but is not part of this Proposal;

Plan means the plan of the Land showing all designations on page 2 of this Proposal;

Registrar means the Registrar-General of Lands appointed under the State Sector Act 1988;

Rent Review means the process for determination of the rent payable under the Lease as set out in sections 6 - 8 of the Act;

Settlement Date means the settlement date defined in clause 3.1;

Surveyor-General means the Surveyor-General appointed under the State Sector Act 1988;

Tenure Review means the tenure review of the Land being undertaken by the Commissioner under the Act;

Unconditional Date means the date that the Commissioner receives from the Holder an executed copy of this Proposal signed by the Holder containing the signed consents of all persons having an interest in the Land to the Holder's acceptance of this Proposal which results in the acceptance taking effect under the Act;

Vesting Date means the date on which the Crown Land vests in the Crown pursuant to the Act;

Working day means a day that is not a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's birthday, Labour Day, or a day during the period commencing on any Christmas Day and ending with the 15th day of the following January or a day which is a provincial holiday in the place where the obligation is to be performed.

Works Consent means any and all consents required under the Resource Management Act 1991; and/all the Building Act 2004.

26.2 Construction of certain references

In this Proposal, unless inconsistent with the context:

- (a) a reference to a certificate of title includes a reference to a computer register;
- (b) words importing a gender include all genders;
- (c) reference to a statute includes reference to all enactments that amend or are passed in substitution for the relevant statute and to all regulations relating to that statute;
- (d) words in the singular include the plural and vice versa;
- (e) reference to a month means a calendar month;

- (f) reference to a person means an individual, a body corporate, an association of persons (whether corporate or not), a trust or a state or agency of a state (in each case, whether or not having separate legal personality);
- (g) references to sections, clauses, sub-clauses, parts, annexures, attachments, appendices, schedules, paragraphs and sub-paragraphs are references to such as they appear in this Proposal and form part of this Proposal;
- (h) headings are included for ease of reference only and will not affect the construction or interpretation of this Proposal;
- (i) all monetary amounts are expressed in New Zealand currency;
- (j) references to obligations includes reference to covenants, undertakings, warranties and, generally, obligations or liabilities of any nature properly arising whether directly or indirectly, under or in respect of the relevant contract, agreement or arrangement;
- (k) all references to times are references to times in New Zealand;
- (l) if the Holder comprises more than one person, each of those person's obligations, as Holder, will be both joint and several.

Schedule One: Provisions relating to the Schedule One Land

1 Details of Designation

- 1.1 Under this Proposal the land shown marked in pink and labelled "CA1" on the Plan, being 2.2 hectares (approximately) is designated as land to be restored to or retained in full Crown ownership and control as conservation area.
- 1.2 Under this Proposal the land shown marked in pink and labelled "CA2" on the Plan, being 0.04 hectares (approximately) is designated as land to be restored to or retained in full Crown ownership and control as conservation area.

2 Schedule One Improvements

Not applicable

Schedule Two: Provisions relating to the Schedule Two Land

1 Details of designation

- 1.1 Under this Proposal the land shown marked in pink and labelled "R1" on the Plan, being 101.8 hectares (approximately) is designated as land to be restored to or retained in Crown control as reserve area subject to:
- (a) the granting of easement concession to the Holder shown marked in maroon and labelled p-q on the Plan as set out in Appendix 4;
 - (b) the granting of a grazing concession to the Holder as set out in Appendix 5;
- 1.2 Under this Proposal the land shown marked in pink and labelled "R2" on the Plan, being 100.4 hectares (approximately) is designated as land to be restored to or retained in Crown control as reserve area subject to:
- (a) the granting of easement concession to the Holder shown marked in maroon and labelled l-m on the Plan as set out in Appendix 6;
- 1.3 Under this Proposal the land shown marked in pink and labelled "R3" on the Plan, being 2 hectares (approximately) is designated as land to be restored to or retained in Crown control as reserve area subject to:
- (a) the granting of easement concession to the Holder shown marked in maroon and labelled g-h on the Plan as set out in Appendix 7;
 - (b) the granting of a grazing concession to the Holder as set out in Appendix 8;
- 1.4 Under this Proposal the land shown marked in pink and labelled "CA3" on the Plan, being 0.06 hectares (approximately) is designated as land to be restored to or retained in Crown control as conservation area subject to:
- (a) the granting of easement concession to the Holder shown marked in maroon and labelled x1 on the Plan as set out in Appendix 9;
- 1.5 Under this Proposal the land shown marked in pink and labelled "CA4" on the Plan, being 1.5 hectares (approximately) is designated as land to be restored to or retained in Crown control as conservation area subject to:
- (a) the granting of easement concession to the Holder shown marked in maroon and labelled s, t, u, v on the Plan as set out in Appendix 9;

2 Information Concerning Proposed Concession

2.1 Easement Concession One shown as p-q on the designations plan

1. Description of proposed activity:

The easement (concession) permits stock movement, the use of dogs, horses and carriage of guns associated with farming the land to which it provides access.

2. Description of area where proposed activity to be carried out and proposed status:

The proposed easement lies along an existing 4WD track which traverses through the proposed addition to the Mataura Range Scenic Reserve. This track links land proposed for freeholding in the Mataura and Dome Creek catchments which are bisected by the existing and proposed reserve lands.

Proposed status: The area to be subject to the easement is currently held under pastoral lease and scenic reserve. Proposed status is scenic reserve.

3. Description of potential effects of proposed activity and any actions proposed to avoid, mitigate or remedy any adverse effect:

The use of the easement as proposed is not likely to create any adverse effects. It is considered that the easement terms contain sufficient controls to avoid, mitigate or remedy any adverse effects. The easement contains clauses dealing with protection of the environment, interference with natural features and obstruction of the public enjoyment of the area.

DOC staff will periodically visit the scenic reserve and proposed addition and will therefore be aware if the concession activity is having any negative effects.

4. Details of the proposed type of concession:

Concession (easement) under Section 59A Reserves Act 1977.

5. Proposed duration of concession and reasons for proposed duration:

Proposed duration: The easement is for a term of 10 years.

Reasons for proposed duration:

The proposed term is to coincide with the term of the proposed grazing concession to be granted to the Holder as part of the review

6. Relevant information about the proposed grantee including information relevant to the grantee's ability to carry out the proposed activity (s39(f))

Proposed grantee:
G A Young & Co Limited.

The proposed concessionaire currently uses the track over which the easement is proposed. No negative effects associated with the current use of the track have been noted. DOC currently has a good working relationship with the holder over a variety of issues including fencing on a common boundary and wilding pine and pest control.

2.2 Easement Concession Two is I-m shown as the designations plan

1. Description of proposed activity(s)

The easement (concession) permits farm stock movement, the use of farm dogs, farm horses, motor vehicles, machinery and implements associated with farming the land to which it provides access.

2. Description of place(s) where proposed activity to be carried out and proposed status:

The proposed easement lies along existing 4WD tracks that traverse through the proposed addition to the Mataura Range Scenic Reserve and the existing reserve. These tracks link lands proposed for freeholding in the Mataura and Dome Creek catchments that are bisected by the existing and proposed reserve lands.

Proposed Status: The area to be subject to the easement is currently held under pastoral lease and scenic reserve. Proposed status is scenic reserve.

3. Description of potential effects of proposed activity and any actions proposed to avoid, mitigate or remedy any adverse effect, [s.39(c)] noting the requirements of s.51(3)(a) and s.51(2)(d) CPLA:

The use of the easement as proposed is not likely to create any adverse effects. It is considered that the easement terms contain sufficient controls to avoid, mitigate or remedy any adverse effects. The easement clauses dealing with the protection of the environment, interface with natural features, storage of noxious substances and obstruction of the public enjoyment of the area.

Department of Conservation Staff will periodically visit the scenic reserve and proposed addition and will therefore be aware if the concession activity is having any negative effects.

4. Details of the proposed type of concession:

Concession (easement) under Section 59A Reserves Act 1977.

5. Proposed duration of concession and reasons for proposed duration

Proposed duration: The easement shall be forever appurtenant to the land of the transferee to which it provides access.

Reasons for proposed duration:

The land in the Mataura catchment to which the easement provides access is separated from the balance of the proposed freehold land in the Dome Creek catchment. The proposed easement represents the only practical access between these areas that form part of the one farming operation.

6. Relevant information about proposed Grantee:

The proposed concessionaire currently uses the tracks over which the easement is proposed. No negative effects associated with the current use of the tracks have been noted. The Department of Conservation currently has a good working relationship with the holder over a variety of issues including fencing on a common boundary and wilding pine and pest control.

Proposed grantee:

G A Young & Co Limited.

2.3 Easement Concession Three shown as s,t,u,v,x1 on the designations plan

1. Description of proposed activity(s)

The easement (concession) permits farm stock movement, the use of farm dogs, farm horses, motor vehicles, machinery and implements associated with farming the land to which it provides access.

2. Description of place(s) where proposed activity to be carried out and proposed status:

The proposed easement lies along existing 4WD tracks that traverse through the proposed Conservation Area. These tracks link lands proposed for freeholding in the Tomogalak Stream catchments that are bisected by the proposed Conservation Area.

Proposed Status is Conservation Area.

3. Description of potential effects of proposed activity and any actions proposed to avoid, mitigate or remedy any adverse effect, [s.39(c)] noting the requirements of s.51(3)(a) and s.51(2)(d) CPLA:

The use of the easement as proposed is not likely to create any adverse effects. It is considered that the easement terms contain sufficient controls to avoid, mitigate or remedy any adverse effects. The easement clauses dealing with the protection of the environment, interface with natural features, storage of noxious substances and obstruction of the public enjoyment of the area.

Department of Conservation Staff will periodically visit the proposed Conservation Area and will therefore be aware if the concession activity is having any negative effects.

4. Details of the proposed type of concession:

Concession (easement) under Section 17Q Conservation Act 1987.

5. Proposed duration of concession and reasons for proposed duration

Proposed duration: The easement shall be forever appurtenant to the land of the transferee to which it provides access.

Reasons for proposed duration:

The land in the Tomogalak Stream catchment to which the easement provides access is separated from the balance of the proposed freehold land in the Mataura catchment. The proposed easement represents the only practical access between these areas that form part of the one farming operation.

6. Relevant information about proposed Grantee:

The proposed concessionaire currently uses the tracks over which the easement is proposed. No negative effects associated with the current use of the tracks have been noted. The Department of Conservation currently has a good working relationship with the holder over a variety of issues including fencing on a common boundary and wilding pine and pest control.

Proposed grantee:
G A Young & Co Limited.

2.4 Easement Concession Four shown as g-h on the designations plan

1. Description of proposed activity(s)

The concession will provide continued access by the Holder for farm management purposes across an existing farm access track. The easement (concession) permits access over proposed recreation reserve strip for farm stock movement, the use of farm dogs, horses, motor vehicles, machinery and implements and carriage of guns associated with farming the land to which it provides access.

2. Description of place(s) where proposed activity to be carried out and proposed status:

The concession will provide access over land proposed to become a recreation reserve strip (marked g-h on the designations plan).

3. Description of potential effects of proposed activity and any actions proposed to avoid, mitigate or remedy any adverse effect, (s.39(c)) noting the requirements of s.51(3)(a) and s.51(2)(d) CPLA:

The concessionaire will take all reasonable care to avoid damage to the soil and vegetation of the Easement Area and will pay a 50% share portion of the cost of maintenance to 4WD standard.

DOC staff will periodically visit the proposed reserve as part of the normal management regime and will therefore be aware if the concession activity is having any negative effects.

4. Details of the proposed type of concession:

The proposed concession will be in terms of Section 59A of the Reserves Act 1977

5. Proposed duration of concession and reasons for proposed duration (s39(e)):

a) Proposed duration: The easement concession will be for a term of 30 years

b) Reasons for proposed duration:

The term is the maximum allowable in terms of section 55 CPLA 1998 which cannot exceed 30 years unless there are exceptional circumstances.

6. Relevant information about proposed Grantee including information relevant to the grantee's ability to carry out the proposed activity [s.39(f)]

a) Proposed grantee- G A Young and Co. Limited

b) Relevant information-

It is expected that the concessionaire will honour the terms and conditions of the concession and will have a positive working relationship with Departmental staff.

2.5 Grazing Concession shown as R1 on the designations plan

1. Description of proposed activity(s)

The concession will provide grazing for sheep and cattle only.

2. Description of place(s) where proposed activity to be carried out and proposed status:

The concession will provide grazing over land proposed to become reserve (marked R1 on the designations plan). The concession will also allow for the use of horses and dogs on the land for mustering purposes only.

3. Description of potential effects of proposed activity and any actions proposed to avoid, mitigate or remedy any adverse effect, (s.39(c)) noting the requirements of s.51(3)(a) and s.51(2)(d) CPLA:

The carrying capacity for the term of the concession is as follows;
2000 ewes for 5 consecutive days in the latter half of January
100 in calf heifers for the month of July
120 ewes set stocked for lambing from 1 October to 30 November

DOC staff will periodically visit the proposed reserve as part of the normal management regime and will therefore be aware if the concession activity is having any negative effects.

4. Details of the proposed type of concession:

The proposed concession will be in terms of Section 59A of the Reserves Act 1977

5. Proposed duration of concession and reasons for proposed duration (s39(e)):

a) Proposed duration: The concession will be for a term of 10 years with no right of renewal.

b) Reasons for proposed duration:

The fixed term of the concession will give the Concessionaire time to implement changes to farm management without compromising any significant inherent values.

6. Relevant information about proposed Grantee including information relevant to the grantee's ability to carry out the proposed activity (s.39(f))

a) Proposed grantee- G A Young and Co. Limited

b) Relevant information-

It is expected that the concessionaire will honour the terms and conditions of the concession and will have a positive working relationship with Departmental staff.

2.6 Farming/Grazing Concession shown as R3 on the designations plan

1. Description of proposed activity(s)

The concession will provide for grazing of sheep and cattle, fattening of stock, cultivation for feed crops and hay making.

2. Description of place(s) where proposed activity to be carried out and proposed status:

The concession will provide continued existing farming use over land proposed to become recreation reserve strip (marked g-h on the designations plan). The proposed concession activity will apply to all the land except for the vehicle access track formation itself

3. Description of potential effects of proposed activity and any actions proposed to avoid, mitigate or remedy any adverse effect. (s.39(c))noting the requirements of s.51(3)(a) and s.51(2)(d) CPLA:

The reserve strip will be fenced with a two wire fence along the western side of the formed track and passes through the proposed freehold. It will not be possible to set a stock limit to the reserve.

Any cultivation and/or hay making is not to impede on the vehicle access formation, or the public's right of access.

DOC staff will periodically visit the proposed reserve as part of the normal management regime and will therefore be aware if the concession activity is having any negative effects.

4. Details of the proposed type of concession:

The proposed concession will be in terms of Section 59A of the Reserves Act 1977

5. Proposed duration of concession and reasons for proposed duration ((39(e)):

a) Proposed duration: The concession will be for a term of 30 years.

b) Reasons for proposed duration:

The term coincides with the maximum allowable for the easement concession in terms of section 55 CPLA 1998 which cannot exceed 30 years unless there are exceptional circumstances.

6. Relevant information about proposed Grantee including information relevant to the grantee's ability to carry out the proposed activity (s.39(f))

a) Proposed grantee: G A Young and Co. Limited

b) Relevant information:

It is expected that the concessionaire will honour the terms and conditions of the concession and will have a positive working relationship with Departmental staff.

Schedule Three: Provisions relating to the Schedule Three Land

1 Details of designation

- 1.1 Under this Proposal the land shown marked in green on the Plan, being 5175.7 hectares (approximately) is designated as land to be disposed of by freehold disposal to the Holder subject to:
- (a) Part IVA of the Conservation Act 1987;
 - (b) Section 11 of the Crown Minerals Act 1991;
 - (c) an easement for management purposes marked as a dashed orange line labelled a2-a3, a-b, a1-l, l-a4, i-i1-i2, n-o, c-b, b-d, e-f, i1-j-k, j-r-z on the Plan and substantially as set out in Appendix 10;
 - (d) an easement for public access marked as a dashed orange line labelled a2-a3, a-b, b-d, e-f, a4-l, a1-l, n-o, b-c on the Plan and substantially as set out in Appendix 11;
 - (e) an easement for public access marked as a dashed orange line labelled i-i1-i2 on the Plan and substantially as set out in Appendix 12;
 - (f) a sustainable management covenant shown marked in yellow wash and labelled SMC on the Plan and substantially as set out in Appendix 13.

Schedule Four: Conditions

Nil