

Crown Pastoral Land Tenure Review

Lease name: HOME HILLS

Lease number: PO 383

Substantive Proposal - Part 1

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

JUNE

08

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

Date: 21 December 2007

Parties

Holder: Euan Sclater Johnstone

ES Johnstone
Home Hills Station
RD 1
Oturehua

Commissioner of Crown Lands:

C/- OPUS International Consultants Limited
197 Rattray Street
Private Bag 1913
Dunedin
(Attention: Simon de Lautour)

The Land

Lease: Po 383 Home Hills

Legal Description: Part Run 227A situated in St Bathans and Turnagain Survey Districts

Area: 3,199.5846 hectares more or less

Certificate of Title/Unique Identifier: OT15C/21

Summary of Designations

Under this Proposal, the Land is designated as follows:

- (a) The Crown Land (shown edged in pink and in red 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 edged in green on the Plan) is to be disposed by freehold disposal to the Holder as set out in Schedule Three.

1 The Plan

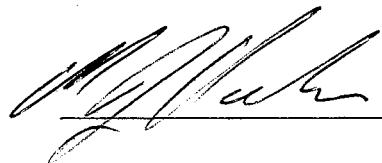
CONSENT

FALLS DAM COMPANY LIMITED being the party entitled to the benefit of Caveat 5971197 registered against Lease OT15C/21, hereby consents to the acceptance of the Proposal dated 21 December 2007 by EUAN SCLATER JOHNSTONE pursuant to the Crown Pastoral Land Act 1998.

DATED: 12th day of March 2008

SIGNED by
FALLS DAM COMPANY LIMITED
~~in the presence of:~~

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)
)

 Director

~~Witness Signature:~~

 Director

~~Witness Name:~~

~~Occupation:~~

~~Address:~~

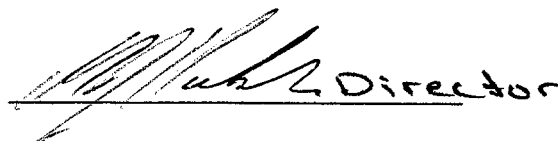
CONSENT

OMAKAU AREA IRRIGATION COMPANY LIMITED being the party entitled to the benefit of an Easement in Gross for Irrigation Works under Transfer 885868 and embodied in Computer Interest Register OT16D/919 registered against Lease OT15C/21, hereby consents to the acceptance of the Proposal dated 21 December 2007 by **EUAN SCLATER JOHNSTONE** pursuant to the Crown Pastoral Land Act 1998.

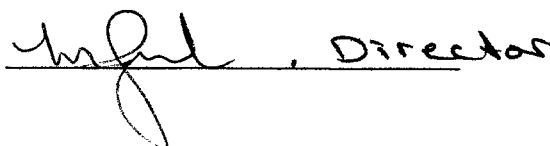
DATED: 10th day of March. 2008

SIGNED by
OMAKAU AREA IRRIGATION
COMPANY LIMITED
in the presence of:

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)
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)

 Director

~~Witness Signature:~~

 Director

~~Witness Name:~~

~~Occupation:~~

~~Address:~~

CONSENT

HAWKDUN IDABURN IRRIGATION COMPANY LIMITED being the party entitled to the benefit of:

- (a) ~~Easement in Gross 856320.0,~~
- (b) Easement to convey water under Transfer 845161, and
- (c) Unregistered Easement dated the 4th day of May 1994

registered against Lease OT15C/21, hereby consents to the acceptance of the Proposal dated 21 December 2007 by **EUAN SCLATER JOHNSTONE** pursuant to the Crown Pastoral Land Act 1998.

DATED: 8th day of February, 2008

SIGNED by
HAWKDUN IDABURN IRRIGATION
COMPANY LTD
in the presence of:

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)
)
)

Kevin M. Gillaspie
Director

Witness Signature:

Witness Name:
Occupation:
Address:

G. J. Dowling
Director

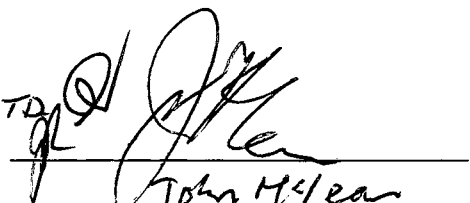
CONSENT

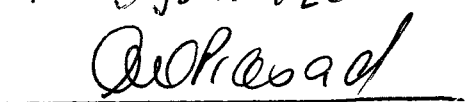
~~RABOBANK NEW ZEALAND LIMITED~~ ~~RABO WRIGHTSON FINANCE LIMITED~~ as Mortgage under Mortgage 963034.3 ("the Mortgagee") hereby:

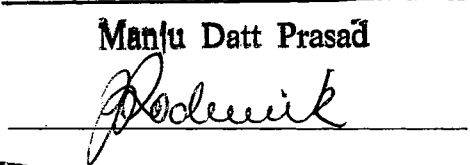
- (a) consents to acceptance of the Proposal dated 21 December 2007 ("the Proposal") by **EUAN SCLATER JOHNSTONE** ("the Holder") pursuant to the Crown Pastoral Land Act 1998 and agrees and consents to the registration of the documents affecting the Freehold Land referenced in the Proposal prior to the registration of any new mortgage to be granted in its favour over the Freehold Land; and
- (b) agrees to sign and execute all deeds, agreements, schedules and other documents and do all acts and things as may be reasonably required by the Holder or the Commissioner to register a discharge of Mortgage and any new mortgage over the Freehold Land.

DATED: 12th day of February 2008

SIGNED by ~~RABOBANK NEW ZEALAND LTD~~ ~~RABO WRIGHTSON FINANCE LIMITED~~)
in the presence of:)

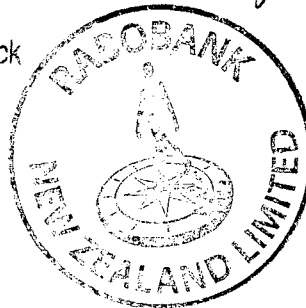

John McLean


Manju Datt Prasad


Roderick

Witness Signature:

Witness Name: Judith Ann Roderick
Occupation: Bank Officer
Address: Wellington

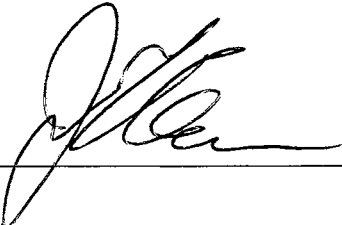


CERTIFICATE OF NON-REVOCATION OF POWER OF ATTORNEY

We, **John George Ronaldson McLean** of Wellington in New Zealand, Senior Counsel, and **Manju Datt Prasad** of Wellington in New Zealand, Manager, certify -

1. THAT by deed dated 18 April 2000, Rabobank New Zealand Limited of Level 12, 80 The Terrace, Wellington appointed us its attorneys.
2. THAT we have not received notice of any event revoking the power of attorney.

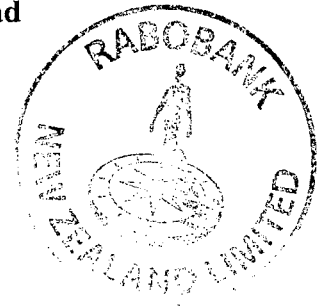
SIGNED at Wellington on the **12th day of February 2008**



John George Ronaldson McLean



Manju Datt Prasad



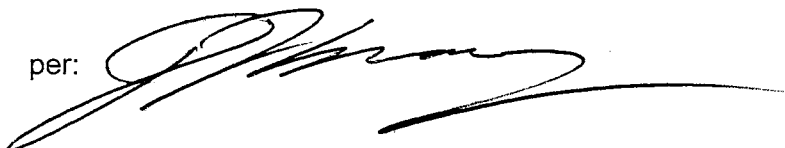
SOLICITORS CERTIFICATE

I **DAVID JOHN GRAY** of Gore, Solicitor hereby certify as follows:

1. **EUAN SCLATER JOHNSTONE** ("the Holder") has executed the Proposal.
2. All necessary consents, licences, approvals and authorisations required to enable the Holder to accept the Proposal, perform his obligations under it and to acquire the freehold interest in the Land (as defined in the Proposal) have been obtained. Evidence of the consents, licences, approvals and authorisations are attached to this letter.

Yours faithfully
AB GRAY & ASSOCIATES

per:

A handwritten signature in black ink, appearing to read 'D.J. Gray', with a long horizontal flourish extending to the right.

D.J. GRAY

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.

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

- 11.1 If the Holder has accepted this Proposal and that acceptance has taken effect pursuant to the Act, the Commissioner will, at its cost, erect new fencing approximately along the line marked as such on the Plan (if any).
- 11.2 The Commissioner will erect the fencing referred to in clause 11.1 according to the specifications in Appendix 3. The ongoing maintenance of the fencing referred to in clause 11.1 will be under the terms of the Fencing Act 1978.
- 11.3 If the Commissioner has not completed any fencing as set out in Appendix 3 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 such fencing. The Holder will do all things necessary (including signing any document) to enable the Commissioner to register such a covenant.
- 11.4 If the Holder has accepted this Proposal and that acceptance has taken effect pursuant to the Act, the parties will (or the relevant party will (as the case may be)) undertake the construction works set out in Appendix 3 on the terms and conditions set out in Appendix 3.

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; andthe 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 The Holder's Consideration does not include any capitalised interest and the parties agree that the "lowest price" for the purposes of valuing the Freehold Land under section EW 32(3) of the Income Tax Act 2004 is equal to the Holder's Consideration.
- 21.2 The Commissioner's Consideration does not include any capitalised interest and the parties agree that the "lowest price" for the purposes of valuing the Crown Land under section EW 32(3) of the Income Tax Act 2004 is equal to the Commissioner's Consideration.

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 Discretionary Actions

- 25.1 If the Holder has been granted a consent by the Commissioner to do an activity on the land under s18 of the Act, and the area over which the consent is exercised is designated in the proposal as Crown Land then the Holder agrees to act in good faith whilst exercising the terms of consent and not damage or destroy the Crown Land.

26 General

- 26.1 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.
- 26.2 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.
- 26.3 The Holder must comply with the Commissioner's requirements for the implementation and settlement of the Tenure Review contemplated by this Proposal.
- 26.4 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.

- 26.5 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.
- 26.6 The illegality, invalidity or unenforceability of any provision in this Proposal will not affect the legality, validity or enforceability of any other provision.
- 26.7 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).

27 Interpretation

27.1 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;

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;

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.

27.2 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 edged in pink and labelled "CA3" on the Plan, being 2 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 edged in pink and labelled "CA1" on the Plan, being 1366 hectares (approximately) is designated as land to be restored to or retained in Crown control as conservation area subject to:
- a) the granting of a grazing concession to the Holder as set out in Appendix 4;
 - b) the continuation in force of the easement in gross to convey water in favour of The Hawkdun Idaburn Irrigation Company Limited, created by Transfer 845161 and the unregistered easement in gross in favour of Hawkdun Idaburn Irrigation Company Limited (both shown with a dashed green line labelled "Y-Z", on the plan). A copy of these easements in gross are attached as Appendix 5.
- 1.2 Under this Proposal the land shown edged in pink and labelled "CA2" on the Plan, being 130 hectares (approximately) is designated as land to be restored to or retained in Crown control as conservation area subject to:
- a) the continuation in force of the easement in gross to convey electricity in favour of OtagoNet Limited created by Deed of Easement 6979622.3 and embodied in Computer Interest Register 305735. A copy of this easement and the Computer Interest Register are contained in Appendix 7.
- 1.3 Under this Proposal the land shown edged in red on the Plan, being 27 hectares (approximately) is designated as land to be restored to or retained in Crown control as Crown land under the Land Act 1948 for the specified purpose as lake bed subject to:
- (a) the granting of a Farm Management Easement to the Holder (shown with a dashed maroon line labelled "a-b-c" on the Plan) where the track marked "a-b-c" (or any part of it) is found on survey to encroach onto the land to be restored to or retained in Crown control as Crown land under the Land Act 1948. The easement is to be granted pursuant to the Deed of Arrangement to Grant an Easement attached and set out in Appendix 8;
 - (b) the continuation in force of an easement in gross for Irrigation Works in favour of the Omakau Area Irrigation Company Limited, created by Transfer 885868 and embodied in Computer Interest Register OT16D/919. A copy of this easement and the Computer Interest Register are contained in Appendix 9.
 - (c) legalisation of the easement under s60(1) of the Land Act 1948 in favour of Falls Dam Company Limited as approved by the CCL (case No 03/44) on 17 September 2002 for storage of water to the Maximum Operating Level to be determined by direct measurement to the top of the well defined bank shown by the yellow dot on the plan attached as Appendix 6. Maximum Operating Level has provisionally been determined to be approximately the 562.7 metre contour (subject to survey). The easement boundary deviates from the Maximum Operating Level to incorporate Falls Dam Company Limited infrastructure as depicted on the Plan (sheet 5).
- 1.4 Under this Proposal the land shown marked with a dashed pink line and labelled CL on the Plan, being 16 hectares (approximately) is designated as land to be restored to or retained in

Crown control as Crown land under the Land Act 1948 for the specified purpose as public access way subject to:

- a) the continuation in force of the easement in gross to convey electricity in favour of OtagoNet Limited created by Deed of Easement 6979622.3 and embodied in Computer Interest Register 305735. A copy of this easement and the Computer Interest Register are contained in Appendix 7.

2 Information Concerning Proposed Concession

2.1 Grazing Concession

- 2.1.1 Description of proposed activity(s) [s.39(a)]: Grazing of sheep. No more than 1400 SU can be grazed during the first 5 years, and no more than 1100 SU can be grazed during the second 5 years of the licence period
- 2.1.2 Description of place(s) where proposed activity to be carried out and proposed status [s.39(b)]: The Manuherikia flats being approx 1374ha (shown as CA1 and edged pink on designations plan) are proposed for retention in Crown control.
- 2.1.3 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 concession is a continuation of an activity that has been carried out on this land for more than 100 years. The continuation of grazing will be for a comparatively short period only, with the maximum number of stock fixed. Stock numbers will reduce after 5 years to further reduce the grazing pressure.
- 2.1.4 Details of the proposed type of concession: Grazing concession under section 36 (1) (a) CPLA. The total carrying capacity has been detailed above.
- 2.1.5 Proposed duration of concession and reasons for proposed duration [s.39(e)]:
Proposed duration: The term of the grazing starts on settlement. The 10 year period was negotiated to allow a reasonable time for the holder to increase the carrying capacity of the farming enterprise to offset the loss of grazing this area.
Reasons for proposed duration: This will give time for the farming system to change to allow other land to be developed.
- 2.1.6 Relevant information about the proposed grantee including information relevant to the grantee's ability to carry out the proposed activity [s.39(f)]: Has been grazing area for many years.
Proposed grantee: Euan Sclater Johnstone.
Relevant information: The grantee is currently engaged in farming and is currently using the area for grazing.
- N.B. *The preparation of this information is not intended to imply consent under s.41 CPLA.*

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 1659 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) the continuation in force of the easement in gross to convey electricity in favour of OtagoNet Limited created by Deed of Easement 6979622.3 and embodied in Computer Interest Register 305735. A copy of this easement and the Computer Interest Register are contained in Appendix 7;
 - (d) conservation covenant one being 100 hectares (approximately) shown in yellow wash and marked as CC1 on the Plan substantially as set out in Appendix 10;
 - (e) conservation covenant two being 70 hectares (approximately) shown in yellow wash and marked as CC2 on the Plan substantially as set out in Appendix 11;
 - (f) a Public Access and Management Purposes Easement in gross for:
 - (i) public access on foot, or accompanied by horses, or by non-motorised vehicle powered by person or persons along the line shown orange and marked "a-b" on the Plan;
 - (ii) public access on foot, or accompanied by horses, or by non-motorised vehicle powered by person or persons, or by motor vehicles along the line shown orange and marked "b-c" on the Plan;
 - (iii) access for management purpose, on foot, or accompanied by horses, or by motor vehicles, with or without machinery or implements of any kind along the lines shown orange and marked "a-b-c" on the Plan;
- substantially as set out in Appendix 12.

Schedule Four: Conditions

Nil

Appendix 1: Consents – Example of Mortgagee Consent

[] as Mortgagee under Mortgage [] ("the Mortgage"), hereby:

- (a) consents to acceptance of the Proposal dated [] ("the Proposal") by [the Holder] ("the Holder") pursuant to the Crown Pastoral Land Act 1998 and agrees and consents to the registration of the documents affecting the Freehold Land referenced in the Proposal prior to the registration of any new mortgage to be granted in its favour over the Freehold Land ; and
- (b) agrees to sign and execute all deeds, agreements, schedules and other documents and do all acts and things as may be reasonably required by the Holder or the Commissioner to register a discharge of the Mortgage and any new mortgage over the Freehold Land.

Dated:

SIGNED by []) _____
in the presence of: []) _____

Witness Signature: _____

Witness Name:
Occupation:
Address:

Appendix 1: Consents (continued) - Example of "Other" Consent

[], being the party entitled to the benefit of [] registered against Lease [], hereby consents to the acceptance of the Proposal dated [] by [the Holder] pursuant to the Crown Pastoral Land Act 1998.

Dated:

SIGNED for and on behalf of)
[])
in the presence of:)

Witness Signature:

Witness Name:
Occupation:
Address:

Appendix 2: Example of Solicitors Certificate

Certifications

I [] hereby certify as follows:

1. [[insert name of Holder] ("the Holder") is a duly incorporated company under the Companies Act 1993. The Holder's entry into and performance of its obligations under the Proposal dated [] ("the Proposal") have been duly authorised by the directors and, if required, by the shareholders of the Holder. The Holder has executed the Proposal in accordance with its constitution.] **OR**

The entry into the Proposal dated [] ("the Proposal") by [insert name of Holder] ("the Holder") and performance of the Holder's obligations under the Proposal have been duly authorised by the trustees of the [insert name of trust] in accordance with its trust deed **OR**

[[insert name of Holder] ("the Holder") has delegated responsibility for signing the Proposal on its behalf to an attorney in accordance with its constitution. The attorney of the Holder has properly executed the Proposal in accordance with this power of attorney and in accordance with the Holder's constitution and a certificate of non-revocation is enclosed.]

2. The consent of each person that has an interest (registered or unregistered) in the Land (as that term is defined in the Proposal), to the Holder's acceptance of the Proposal has been obtained and included in the copy of the Proposal, signed by the Holder, that has been provided to the Commissioner.
3. [No consent, licence, approval or authorisation by any court, regulatory authority or governmental agency is required to enable the Holder to accept the Proposal, perform the Holder's obligations under the Proposal and to acquire the freehold interest in the Land (as defined in the Proposal).] **OR**

[All necessary consents, licences, approvals and authorisations required to enable the Holder to accept the Proposal, perform its obligations under it and to acquire the freehold interest in the Land (as defined in the Proposal) have been obtained. Evidence of the consents, licences, approvals and authorisations are attached to this letter.]

Yours faithfully

[signed by principal of law firm]

Appendix 3: Indicative Fencing and Construction Requirements

Fenceline

Length and location: New fences to be erected along the lines shown on the proposed designations plans sheet 1 and sheet2

A-B (500m approximately)
B-C (1600m approximately)
D-E (1300m approximately)
F-G (2000m approximately)

Type: Seven wire fence with T Irons or posts.

Specifications:

- 1.8 metre x 125mm treated timber posts or 1.65 metre T irons to be used at 20metre maximum spacing and on appropriate high points with steel 1.5 metre y-posts at 4 metre spacing between posts.
- Y-posts, back to back, may be used instead of posts on high points and corners with tiebacks on rocky ground.
- All strainers, to be driven or dug in and rammed and footed with appropriate footing material. No. 8 wire to be used on foots. All dips and hollows to be tied down.
- Netting to be hung on creek crossings and left to swing.
- All strainers and angles to be mortised, stayed and blocked. Stays to be one-third of the way up the posts.
- Tie-backs are permitted on both sides of the fence.
- Post staples to be 50 x 4mm galvanised slice pointed barb and be driven well in but allow the wire to run through.
- Strainers and angle posts to be dug in to such a depth that 117cm (46 inches) remains out of the ground.
- Lightning droppers may be used where appropriate.
- 2.1 metre x 200 mm treated timber strainers.
- Y-posts will be mainly 1.5 metres.
- Fence to have a 4mm medium tensile bottom wire and six 2.5mm high tensile wires with the 2nd top wire laced on with No. 9 soft wire. Top wire to be electrified with 'Beattie' style post and Y-post insulators.
- All gates to be 4.2 metre heavy duty sheep gated, approx 9 in total and be secured with a heavy duty wrap around chain. Gates need to be able to withstand cattle, "stressmaster" style would be the ultimate, the "Highlander" style cattle gate will be sufficient.
- A gate to be erected across a steep farm track and swing and secured to strainer with the intention that the track will be widened and a fence to come off either side of gate at a later date.
- Fence ending at existing gate at Falls Dam will required a steal 100x100 RHS bolted to back of existing concrete strainer to extend strainers up and 'new' fence to be above existing concrete wall.
- All strains to be tensioned with permanent type wire strainers.
- Fencing to be completed in a professional workmanlike manner using standard fencing practices.
- No mechanical earth works are permitted, some minor line clearing of vegetation by hand, benching by hand and blasting for post holes is permitted when required.

Construction

Nil

Appendix 4: Form of Grazing Concession to be Created
