

Crown Pastoral Land Tenure Review

Lease name: MERIVALE

Lease number: PO 193

Lease name: GEORDIE HILLS

Lease number: PO 053

Lease name: LONGACRE

Lease number: PO 188

Lease name: SHIRLMAR

Lease number: PO 192

Lease name: TIMBURN

Lease number: PO 237

Lease name: NINE MILE

Lease number: PO 365

Substantive Proposal - Part 1

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

November

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**EXECUTION
COPY**

Substantive Proposal

relating to

Tenure Review of Lindis Group of Pastoral
Leases under the Crown Pastoral Land Act
1998

**Commissioner of Crown Lands acting under
the Crown Pastoral Land Act 1998**

(the Commissioner)

and

- (a) **Matthew Robert McCaughan**, as lessee
under the **Geordie Hill Lease**;
- (b) **Longacre Station Limited** as lessee
under the **Longacre Lease**;
- (c) **Shirlmar Station Limited** as lessee
under the **Shirlmar Lease**;
- (d) **Gerald Raymond Goodger, The
Trustees Executors & Agency
Company of New Zealand Limited and
Mary Josephine Goodger** as lessee
under the **Merivale Lease**;
- (e) **John Clement Anton Lucas, Elizabeth
Ann Lucas and Lucas Family Trust
Limited** as lessee under the **Timburn
Lease**;
- (f) **James Gordon Lucas, Marion Lesley
Lucas, Myles Cameron White and
Mark James Cunningham Faulks** as
lessee under the **Nine Mile Lease**.

(each a **Holder** and together the **Holder**s)

Date: 11th December 2003

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This **Substantive Proposal** is made on 11th DECEMBER 2003

between (1) **Commissioner of Crown Lands acting under the Crown Pastoral Land Act 1998 (the Commissioner)**

and (2)

- (a) **Matthew Robert McCaughan, as lessee under the Geordie Hill Lease;**
- (b) **Longacre Station Limited as lessee under the Longacre Lease;**
- (c) **Shirlmar Station Limited as lessee under the Shirlmar Lease;**
- (d) **Gerald Raymond Goodger (1/2 share), The Trustees Executors & Agency Company of New Zealand Limited and Mary Josephine Goodger (1/2 share) as lessee under the Merivale Lease;**
- (e) **John Clement Anton Lucas (1/3 share), Elizabeth Ann Lucas (1/3 share) and Lucas Family Trust Limited (1/3 share) as lessee under the Timburn Lease;**
- (f) **James Gordon Lucas (3/10 share), Marion Lesley Lucas (1/5 and 1/10 share), Myles Cameron White and Mark James Cunningham Faulks (2/5 share), as lessee under the Nine Mile Lease.**

(each a **Holder** and together the **Holder**s)

Introduction

- A. In each case the **Holder** is the lessee under the Lease.
- B. On the written invitation of each **Holder**, the Commissioner is undertaking Tenure Review of the Lease Land and the Freehold Land. The Tenure Review process comprises four stages.
- C. On 20 December 2000 the Commissioner provided each **Holder** with a draft of the Preliminary Proposal for consultation purposes. Each **Holder** returned a completed **Holder's Acknowledgement** dated 11 July 2001 relating to the draft of the Preliminary Proposal to the Commissioner. This completed stage one of the Tenure Review.
- D. On 27th May 2002, the Commissioner put the Preliminary Proposal to each **Holder** under section 34 of the Act. This completed stage two of the Tenure Review.
- E. On the 14th July 2003, the Commissioner put the Substantive Proposal (Draft) to each **Holder** as Stage Three of the Tenure Review.

- F. The Commissioner puts this Substantive Proposal to each Holder as Stage Four of the Tenure Review.

It is declared

1. Interpretation

1.1 Definitions

In this Substantive Proposal unless the context otherwise requires:

Act means the Crown Pastoral Land Act 1998;

Commissioner means the Commissioner of Crown Lands appointed under section 24AA of the Land Act 1948;

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 and has the meaning given it in the Relevant Schedule.

Commissioner's GST Date means the earlier of Settlement Date and 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 Substantive Proposal;

Commissioner's Payment means the balance of the consideration payable by the Commissioner to Shirlmar Station Limited (being the Holder of the Shirlmar Lease) by equality of exchange for surrender of the leasehold interest in the Shirlmar Schedule One Land as specified in the relevant Notice

Conservation Act means the Conservation Act 1987;

Conservation Management Easement means an easement to provide access for employees, tenants, agents, workmen and invitees of the Minister by motor vehicles, with or without machinery and implements of any kind and in some cases with or without guns and dogs for conservation management purposes only; and includes:

- (a) Conservation Management Easements Longacre;
- (b) Conservation Management Easements Merivale;
- (c) Conservation Management Easements Shirlmar;

- (d) Conservation Management Easement Timburn,
all as defined in the Relevant Schedules.

Covenant means a covenant created under section 40(2)(b) of the Act, and includes;

- (a) Conservation Covenant Longacre;
(b) Conservation Covenant Shirlmar;
(c) Conservation Covenant Timburn,

the terms and conditions of which are specified in the Relevant Schedules.

Crown means the Crown as defined in section 2 of the Public Finance Act 1989;

Default GST means any additional GST, penalty or other sum levied against either the Commissioner or the Holder under the GST Act or the Tax Administration Act 1994 by reason of either the Commissioner or the Holder failing to pay GST as required by the Substantive 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 (in each instance, as the case may be);

Default Rate means the floating rate agreement mid-point thirty day bank bill rate as at 10.45 a.m. on Reuters' page BKBM on the date on which the relevant payment becomes due and payable plus 500 basis points and compounded monthly;

Diagram means each of the Diagrams A –J inclusive contained in the Plans Schedule, being enlarged plans of certain parts of the Land as identified on Plan 1 and Plan 2;

Director-General means the Director-General of Conservation and refers to the Director-General's consultative function under the Act;

Draft Preliminary Proposal means the draft of the Preliminary Proposal that the Commissioner provided to each Holder for consultation purposes under the Act on 20 December 2000; and includes all schedules, parts, plans, appendices and annexures attached to that draft of the preliminary proposal;

Easements means, collectively the:

- (a) Conservation Management Easement Longacre;

- (b) Conservation Management Easement Merivale;
- (c) Conservation Management Easement Shirlmar;
- (d) Conservation Management Easement Timburn,
- (e) Public Access (foot) Easement Timburn;
- (f) Public Access (foot) Easement Shirlmar;
- (g) Public Access (foot) Easement Nine Mile;
- (h) Public Access (foot and mountain bike) Easement Merivale;
- (i) Public Access (foot and mountain bike) Easement Timburn;
- (j) Public Access (foot and mountain bike) Easement Shirlmar;
- (k) Public Access (foot and mountain bike) Easement Longacre;
- (l) Public Access, Motor Vehicle Easement Shirlmar;
- (m) Public Access, Motor Vehicle and Parking Easement Merivale;

all as defined in the Relevant Schedule;

Execution Copies means the two copies of this Substantive Proposal each labelled "Execution Copy";

Execution Section means the section at the end of this Substantive Proposal containing the Commissioner's signature and evidencing each Holder's acceptance of this Substantive Proposal and containing the consent of any person having an interest in the Lease Land and Freehold Land;

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

Geordie Hill Schedule One Land has the meaning set out in the Relevant Schedule;

Geordie Hill Schedule Three Land has the meaning set out in the Relevant Schedule;

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

GST Act means the Goods and Services Tax Act 1985;

Holder means

- (a) **Matthew Robert McCaughan**, as lessee under the **Geordie Hill Lease**;
- (b) **Longacre Station Limited** as lessee under the **Longacre Lease**;
- (c) **Shirlmar Station Limited** as lessee under the **Shirlmar Lease**;
- (d) **Gerald Raymond Goodger (1/2 share), The Trustees Executors & Agency Company of New Zealand Limited and Mary Josephine Goodger (1/2 share)** as lessee under the **Merivale Lease**;
- (e) **John Clement Anton Lucas (1/3 share), Elizabeth Ann Lucas (1/3 share) and Lucas Family Trust Limited (1/3 share)** as lessee under the **Timburn Lease**;
- (f) **James Gordon Lucas (3/10 share), Marion Lesley Lucas (1/5 and 1/10 share), Myles Cameron White and Mark James Cunningham Faulks (2/5 share)**, as lessee under the **Nine Mile Lease**.

(each a **Holder** and together the **Holder**s)

Holder's Acknowledgement means, where not inconsistent with the context, the Acknowledgement by each of the Holders that accompanied, but did not form part of, the Draft Preliminary Proposal, and the Preliminary Proposal;

Holder's Consideration has the meaning given in the Relevant Schedule;

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

Holder's Payment means the balance of the consideration payable by each Holder (with the exception of Shirlmar Station Limited) to the Commissioner by equality of exchange for the freehold of the Schedule Three and Four Land, as specified in the Notice;

Holder's solicitors mean the solicitor, or solicitors, if any, acting for a Holder;

Land means the Lease Land and the Freehold Land;

Lease means collectively the:

- (a) Geordie Hill Lease
- (b) Longacre Lease
- (c) Shirlmar Lease;
- (d) Merivale Lease;
- (e) Timburn lease; and
- (f) Nine Mile Lease,

all these leases are more particularly defined in the Relevant Schedule;

Lease Land collectively has the meaning given in the Relevant Schedules;

Longacre Schedule Three Land has the meaning set out in the Relevant Schedule;

Merivale Schedule Three Land has the meaning set out in the Relevant Schedule;

Minister means the Minister of Conservation;

Mortgage has the meaning set out in the Relevant Schedule

Mortgagee has the meaning set out in the Relevant Schedule;

Nine Mile Schedule One Land has the meaning set out in the Relevant Schedule;

Nine Mile Schedule Three Land has the meaning set out in the Relevant Schedule;

Notice means the notice to each Holder setting out:

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

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- (d) when the Holder's Payment or the Commissioner's payment (as the case may be) will be payable,

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

Plan 1 means the Plan showing some of the designations and easement routes;

Plan 2 means the Plan showing some of the designations, easement routes and covenant areas;

Plans mean Plans 1 and 2, including the Diagrams showing all designations, the Covenant Areas, the Easement routes and the indicative fence lines attached in the Plans Schedule;

Plans Schedule means the schedule attached to this Substantive Proposal itemising the Plans;

Preliminary Proposal means the preliminary proposal, that the Commissioner put to each Holder under, and subject to, section 34 of the Act on 27th May 2002 and includes all schedules, parts, plans, appendices and annexures attached to the preliminary proposal;

Public Access Foot Easement means an easement to provide:

- (a) public access on foot over that part of the Lease Land for Shirlmar as defined in the Relevant Schedule; and
- (b) public access on foot over that part of the Lease Land for Timburn as defined in the Relevant Schedule,
- (c) public access on foot over that part of the Lease Land for Nine Mile as defined in the Relevant Schedule;

Public Access Foot and Mountain Bike Easement means an easement to provide:

- (a) public access on foot and non - motorised vehicle over that part of the Lease Land for Shirlmar as defined in the Relevant Schedule; and
- (b) public access on foot and non - motorised vehicle over that part of the Lease Land for Timburn as defined in the Relevant Schedule, and
- (c) public access on foot and non - motorised vehicle over that part of the Lease Land for Merivale as defined in the Relevant Schedule; and

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- (d) public access on foot and non - motorised vehicle over that part of the Lease Land for Longacre as defined in the Relevant Schedule;

Public Access and Motor Vehicle Easement means an easement to provide:

public access by motor vehicle over that part of the Lease Land for Shirlmar as defined in the Relevant Schedule;

Public Access and Vehicle Parking Easement means an easement to provide:

public access on foot or by motorised vehicle or non-motorised vehicle powered by a person, and the right to park motor vehicles over that part of the Lease Land for Merivale as defined in the Relevant Schedule;

Registrar means the Registrar-General of Land appointed pursuant to section 4 of the Land Transfer Act 1952;

Relevant Schedule means the schedules attached to the Substantive Proposal and which relate each to the Geordie Hill, Longacre, Shirlmar, Merivale, Timburn and Nine Mile Leases.

RM Act means the Resource Management Act 1991;

Schedule One Land means collectively the Geordie Hill, Nine Mile, Shirlmar and Timburn Schedule One land as described in the Relevant Schedules;

Schedule Two Land means nil;

Schedule Three Land means collectively the Geordie Hill, Longacre, Merivale, Nine Mile including certain Freehold Land, Shirlmar and Timburn Schedule Three Land as described in the Relevant Schedules;

Settlement Date means the settlement date defined in clause 9.1;

Shirlmar Schedule One Land has the meaning set out in the Relevant Schedule;

Shirlmar Schedule Three Land has the meaning set out in the Relevant Schedule;

Solicitor's Certificate means the certificate provided by the Holder's solicitors addressed to the Commissioner, in a form acceptable to the Commissioner, certifying as to certain matters relating to the Holder's acceptance of this Substantive Proposal;

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Stage Four of the Tenure Review means the process set out in clause 2;

Substantive Proposal means this substantive proposal that the Commissioner puts to the Holder under, and subject to, section 46 of the Act, and includes all schedules, parts, plans, appendices and annexures attached to this substantive proposal;

Surveyor General means the Surveyor General appointed under section 5 of the Cadastral Survey Act 2002;

Tenure Review means the tenure review of the Lease Land and certain Freehold Land being undertaken by the Commissioner under Part 2 of the Act;

Unconditional Date means the date that the Commissioner receives from all Holders an Execution Copy of this Substantive Proposal signed by each Holder and containing the consents of all persons having an interest in the Lease Land and certain Freehold Land to the Holder's acceptance of this Substantive Proposal which results in the acceptance taking effect under section 60(4) of 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.

1.2 Construction of certain references

In this Substantive Proposal, unless inconsistent with the context:

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

- (f) references to sections, clauses, sub-clauses, parts, annexures, attachments, appendices, schedules, paragraphs and sub-paragraphs are references to such as they appear in this Substantive Proposal and form part of this Substantive Proposal;
- (g) headings are included for ease of reference only and will not affect the construction or interpretation of this Substantive Proposal;
- (h) all monetary amounts are expressed in New Zealand currency;
- (i) 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;
- (j) all references to times are references to times in New Zealand;
- (k) if the Unconditional Date or the Settlement Date falls on a day that is not a working day, the Unconditional Date or the Settlement Date will be the next working day after the day so nominated; and
- (l) if the Holder comprises more than one person, each of those person's obligations, as Holder, will be both joint and several.

1.3 The illegality, invalidity or unenforceability of any provision in this Substantive Proposal will not affect the legality, validity or enforceability of any other provision.

2. Substantive Proposal

2.1 The Commissioner having:

- (a) considered, under section 47 of the Act:
 - (i) all matters raised by the iwi authority concerned during the consultation on the Preliminary Proposal; and
 - (ii) all written submissions relating to the Preliminary Proposal received by the Commissioner (from any person or organisation) on or before the day specified in the notice given under section 43 of the Act at the address specified in that notice;
- (b) consulted with the Director-General under section 26 of the Act about putting this Substantive Proposal to the Holder;

- (c) obtained the prior written consent of the Minister to this Substantive Proposal; and
- (d) ensured that the Crown has completed all statutory clearance and other actions that the Crown is required to complete in relation to the Lease Land,

put this Substantive Proposal to the Holder under section 46 of the Act.

2.2 Under this Substantive Proposal, the Commissioner designates that the:

- (a) Schedule One Land be restored to full Crown ownership and control as conservation area under section 35(2)(a)(i) of the Act, or as reserve under 35(2)(a)(ii) of the Act, as designated in the Relevant Schedules, and the provisions of Schedule One apply to these designations;
- (b) Schedule Three Land be disposed of to each Holder by freehold disposal under section 35(3) of the Act, as follows:

The Geordie Hill Schedule Three Land be disposed of to the Holder of the Geordie Hill Lease by freehold disposal under section 35(3) of the Act subject to:

- (i) Part IVA of the Conservation Act;
- (ii) Section 11 of the Crown Minerals Act 1991; and

the provisions of Schedule Three and the Geordie Hill Lease Schedule apply to this designation;

The Longacre Schedule Three Land be disposed of to the Holder of the Longacre Lease by freehold disposal under section 35(3) of the Act subject to:

- (i) Part IVA of the Conservation Act;
- (ii) Section 11 of the Crown Minerals Act 1991;
- (iii) Public Access Foot and Mountain Bike Easement; and
- (iv) Conservation Management Easement Longacre; and
- (v) the Covenant, and

the provisions of Schedule Three and the Longacre Lease Schedule apply to this designation;

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The Merivale Schedule Three Land be disposed of to the Holder of the Merivale Lease by freehold disposal under section 35(3) of the Act subject to:

- (i) Part IVA of the Conservation Act;
- (ii) Section 11 of the Crown Minerals Act 1991;
- (iii) Public Access Foot and Mountain Bike Easement;
- (iv) Conservation Management Easements Merivale;
- (v) Public Access and Vehicle Parking Easement ; and

the provisions of Schedule Three and the Merivale Lease Schedule apply to this designation;

The Shirlmar Schedule Three Land be disposed of to the Holder of the Shirlmar Lease by freehold disposal under section 35(3) of the Act subject to:

- (i) Part IVA of the Conservation Act;
- (ii) Section 11 of the Crown Minerals Act 1991;
- (iii) the Covenant;
- (iv) Public Access and Motor Vehicle Easement;
- (v) Public Access Foot and Mountain Bike Easement;
- (vi) Public Access Foot Easement; and
- (vii) Conservation Management Easements Shirlmar; and

the provisions of Schedule Three and the Shirlmar Lease Schedule apply to this designation;

The Timburn Schedule Three Land be disposed of to the Holder of the Timburn Lease by freehold disposal under section 35(3) of the Act subject to:

- (i) Part IVA of the Conservation Act;
- (ii) Section 11 of the Crown Minerals Act 1991;

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- (iii) the Covenant;
- (iv) Public Access Foot and Mountain Bike Easement;
- (v) Public Foot Access Easement;
- (vi) Conservation Management Covenantat Timburn; and

the provisions of Schedule Three and the Timburn Lease Schedule apply to this designation;

The Nine Mile Schedule Three Land be disposed of to the Holder of the Nine Mile Lease by freehold disposal under section 35(3) of the Act subject to:

- (i) Part IVA of the Conservation Act;
- (ii) Section 11 of the Crown Minerals Act 1991;
- (iii) Public Access Foot Easement; and

the provisions of Schedule Three and the Nine Mile Lease Schedule apply to this designation;

2.3 Notwithstanding any other clause and subject to clause 6 of the Relevant Schedule, the Schedule Three Land to be disposed of in accordance with clause 2.2(b) above, may be also subject to the provisions of section 114 of the Land Act 1948.

2.4 This Substantive Proposal is accompanied by a Notice under section 46(4) of the Act.

3. Conservation Act

As required by section 24 of the Conservation Act, the Commissioner has notified the Director-General of the disposition of Crown land contemplated by this Substantive Proposal.

4. Acceptance by Holder

4.1 Each Holder may accept this Substantive Proposal by completing the Execution Section at the end of this Substantive Proposal and returning one original signed Execution Copy of this Substantive Proposal to the Commissioner. The original signed Execution Copy of this Substantive

Proposal must be delivered by courier or by post to the Commissioner at the following address:

Commissioner of Crown Lands
Land Information New Zealand
Lambton House
160 Lambton Quay
Private Box 5501
WELLINGTON

Attention: Jean Greedy

- 4.2 Each Holder must arrange for the Mortgagee and any other person having an interest in the Lease Land and certain Freehold Land, as specified in the Relevant Schedule to consent to the Holder's acceptance of this Substantive Proposal as required by paragraph 5 of the Relevant Schedule and of this Substantive Proposal. These consents must be endorsed in the Execution Section of the Execution Copy of this Substantive Proposal that is to be returned to the Commissioner.
- 4.3 Under section 60(5) of the Act, each Holder's acceptance of this Substantive Proposal is irrevocable and has the effect as an irrevocable authority to, and obligation on, the Commissioner to take the appropriate actions required by Part 2 of the Act. The Holder's acceptance of this Substantive Proposal constitutes a binding contract between the Commissioner and each Holder.
- 4.4 Each Holder must procure the Holder's solicitors to provide the Solicitor's Certificate and the Holder must return the executed Solicitor's Certificate to the Commissioner with the Execution Copy of this Substantive Proposal (signed by the Holder and including the written consents of all the persons referred to in clause 4.2).
- 4.5 If the Commissioner does not receive the Execution Copy of this Substantive Proposal referred to in clause 4.1 (signed by each Holder and including the written consents of all the persons referred to in clause 4.2) within three months of the Commissioner putting this Substantive Proposal to each Holder, then the Holder is deemed to have rejected this Substantive Proposal.
- 4.6 Each Holder acknowledges that:
 - (a) under section 61(4) of the Act, every person who, after the notice referred to in clause 5.2 has been registered, acquires an estate or interest in the Land, will be bound by each Holder's acceptance of this Substantive Proposal to the same extent as each Holder; and
 - (b) under section 61(5) of the Act, if a person acquires an estate or interest in the Lease Land and certain Freehold Land:

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- (i) after each Holder has accepted this Substantive Proposal; and
- (ii) before the notice referred to in clause 5.2 has been lodged for registration,

then Part 2 of the Act has effect as if each Holder had rejected this entire Substantive Proposal.

5. Implementation of Substantive Proposal

5.1 If:

- (a) each Holder accepts this Substantive Proposal in accordance with clause 4; and
- (b) the acceptance has taken effect under section 60(4) of the Act,

then the parties will proceed to implement this Substantive Proposal in accordance with clauses 5.2 – 5.10.

5.2 Under section 61 of the Act, once the Commissioner receives the Execution Copy of this Substantive Proposal completed by each Holder and containing the requisite consents, the Commissioner must sign and forward to the Registrar a written notice of the Holder's acceptance of this Substantive Proposal, describing this Substantive Proposal in general terms.

5.3 Under section 61 of the Act, the Registrar must register the notice referred to in clause 5.2 against every instrument of title to the Land to which this Substantive Proposal relates.

5.4 Under section 62 of the Act, once each Holder's acceptance of this Substantive Proposal takes effect, the Commissioner must give the Surveyor General written notice of the Holder's acceptance, attaching a copy of this Substantive Proposal.

5.5 Under section 62 of the Act, as soon as is practicable after receiving the Commissioner's notice referred to in clause 5.4, the Surveyor General must:

- (a) determine whether any of the Land needs to be surveyed before this Substantive Proposal can be given effect to; and
- (b) give the Commissioner written notice:
 - (i) of the Land or parts thereof (including, but not limited to, all Easement areas, and Covenant areas) that need to be surveyed; or

(ii) that none of the Land needs to be surveyed.

5.6 Under section 62 of the Act, if the Commissioner is notified by the Surveyor General that any of the Land needs to be surveyed, the Commissioner is to have it surveyed, and to have a plan or plans of it prepared and approved under the Cadastral Survey Act 2002.

5.7 Under section 62 of the Act, once the Commissioner:

(a) has complied with clause 5.6; or

(b) has been notified that none of the Land needs to be surveyed,

the Commissioner must prepare a Final Plan of the Land to which this Substantive Proposal relates, showing the various areas to which it relates, and in respect of each area giving:

(a) a legal description;

(b) its designation by this Substantive Proposal; and

submit two copies of the Final Plan to the Surveyor General.

5.8 Under section 63 of the Act, if (and only if) the Surveyor General is satisfied that:

(a) the boundaries of the various areas shown on the Final Plan submitted under clause 5.7 are, in light of any discovered imprecisions in the boundaries shown or described in the accepted Substantive Proposal concerned, as close as may reasonably practicably be achieved to the boundaries shown or described in this Substantive Proposal; and

(b) to the extent allowed by the position of the boundaries shown on the Final Plan:

(i) the areas they define; and

(ii) the designations of those areas,

accurately reflect this Substantive Proposal,

the Surveyor General must sign and date on both copies of the Final Plan a written notice approving it for the purposes of the Act, and return one copy of the Final Plan to the Commissioner.

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- 5.9 Under section 64 of the Act, once the Commissioner receives the approved Final Plan, the Commissioner must lodge the Final Plan and a copy of this Substantive Proposal with the Registrar, and the Registrar must register them against every instrument of title to the Lease Land and certain Freehold Land to which the Final Plan and this Substantive Proposal relate.
- 5.10 The balance of the implementation process prescribed by the Act is set out in each of the Relevant Schedules;

6. Commissioner's considerations

- 6.1 Under section 25 of the Act, in acting under Part 2 of the Act, the Commissioner must (to the extent that those matters are applicable), take into account:
- (a) the objects of Part 2 of the Act;
 - (b) the principles of the Treaty of Waitangi; and
 - (c) in acting in relation to land used or intended to be used by the Crown for any particular purpose, that purpose.
- 6.2 Under section 25 of the Act, in acting under Part 2 of the Act in relation to any part of the Lease Land, the Commissioner must take into account the objects of Part 2 of the Act in the light of:
- (a) their application to all of the Lease Land held under the Leases; rather than
 - (b) their application to that part of the Lease Land alone.

7. Discontinuance of Tenure Review

Under section 33 of the Act, at any time before each Holder accepts this Substantive Proposal, in accordance with clause 4, the Commissioner:

- (a) may discontinue the Tenure Review; and
- (b) must discontinue the Tenure Review if asked in writing by a Holder to do so.

8. Survey

- 8.1 All areas of the Land forming part of this Substantive Proposal and delineated on the Plan are approximate and subject to preparation of the Final Plan and, therefore, the measurements of the areas may alter on the Final Plan.
- 8.2 No error, misdescription or amendment of any part of the Land will annul, vary, or derogate from the Draft Preliminary Proposal, the Preliminary Proposal, this Substantive Proposal, or the Holders' acceptance of this Substantive Proposal.
- 8.3 For the avoidance of doubt, none of the Holders will be entitled to cancel or withdraw its acceptance of this Substantive Proposal, nor will any Holder, or any successor in title of any Holder or any party with an interest in the Schedule Three Land as specified in the Relevant Schedules, 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 Substantive Proposal.
- 8.4 The Commissioner does not warrant that:
- (a) any existing fence is erected on; or
 - (b) 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.

9. Settlement

- 9.1 The Settlement Date for the disposal of the Schedule Three Land as specified in the Relevant Schedules to a Holder by freehold disposal will be the day that is five working days following the day that the Final Plan and a copy of this Substantive Proposal are registered at the Otago Land Registry under section 64 of the Act.
- 9.2 Notwithstanding when Settlement Date occurs, until a certificate of title issues for the Schedule Three Land as specified in the Relevant Schedules, each Holder will duly and punctually comply with all obligations on its part under the Lease, and the Lease will remain in full force and effect.
- 9.3
- (a) Rent paid or payable under each of the Leases for the Schedule Three Land will be apportioned on the Settlement Date as at the date that a certificate of title issues for the Schedule Three Land and either

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deducted from or added to (as the case may be) the amount required to settle.

- (b) Rent payable under each of the Leases for the Schedule Three Land from the Settlement Date to the date a certificate of title issues for the Schedule Three Land shall bear the same proportion to the total rent payable under each Lease as the Schedule Three Land area bears to the total area of the Lease Land.
- (c) Any apportionments for rent for the Schedule Three Land for the period between the Settlement Date and the date that a certificate of title issues for the Schedule Three Land will be estimated by the Commissioner in its settlement statement. Following the date that a certificate of title issues for the Schedule Three Land, the Commissioner will undertake a final apportionment and either the Commissioner will refund to the relevant Holder, or the relevant Holder will pay to the Commissioner any additional amounts due because of the final apportionment.

9.4 Rent paid or payable under each of the Leases applicable to the Schedule One Land will be apportioned (on a pro rata basis) 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.

9.5

- (a) All rates, levies, and all other incomings and outgoings and other charges receivable from or charged upon the Schedule Three Land will, unless otherwise agreed by the parties, be apportioned on the Settlement Date as at the date that a certificate of title issues for the Schedule Three Land.
- (b) The rates, levies, incomings, outgoings and other charges described in this clause 9.5 payable in respect of the Schedule Three Land from the Settlement Date to the date a certificate of title issues for the Schedule Three Land shall bear the same proportion to the total charges payable in respect of the Lease Land as the area of the Schedule Three Land bears to the total area of the Land. The appropriate payments, if any, will be made on the Settlement Date by the Commissioner and the Holder, as the case may be.
- (d) Any apportionments for rates, levies, and all other incomings and outgoings and other charges receivable from or charged upon the Schedule Three Land for the period between the Settlement Date and the date that a certificate of title issues for the Schedule Three Land will be estimated by the Commissioner in its settlement statement. Following the date that certificates of title issue for the Schedule Three Land, the Commissioner will undertake a final apportionment and either

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the Commissioner will refund to the relevant Holder, or the relevant Holder will pay to the Commissioner any additional amounts due because of the final apportionment.

- 9.6 All rates, levies and all other incomings and outgoings and other charges receivable from or charged upon the Schedule One Land will be apportioned (on a pro rata basis in respect of the Land) if they cannot be separately assessed) 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.
- 9.7 From the date that certificates of title is issued for the Schedule Three Land, under section 69(2) of the Act, the Lease is deemed to be surrendered and subject to clause 9.8, the Commissioner releases and discharges the relevant Holder from the performance and observance of all covenants, conditions and obligations under the Lease.
- 9.8 The release and discharge in clause 9.7 is without prejudice to the rights, remedies and powers of the Commissioner contained in each Lease and will not release or discharge a Holder from any liability under the Lease arising prior to the date that the certificate of title for the Schedule Three Land is issued or under any statute or by any reason where such liability is due to the fault of the Holder.
- 9.9 As from the date that the Final Plan and this Substantive Proposal are registered, the Holders will not have any estate, right or claim against any of the land, improvements, fencing, buildings, structures, fixtures, fittings or chattels on the Schedule One Land. The Holders will not be entitled to any compensation for any of its improvements, fencing, buildings, structures, fixtures, fittings or chattels which are on the Schedule One Land, on the date that the Final Plan and this Substantive Proposal are registered.
- 9.10 The Holders must comply with the Commissioner's requirements for the implementation and settlement of the Tenure Review contemplated by this Substantive Proposal. These requirements may involve procuring the Holders' 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 Holders' execution of the Covenant and the Easements, and the execution and registrability of any new mortgage in favour of the Mortgagee.

10. GST

10.1 If:

- (a) each Holder accept this Substantive Proposal in accordance with clause 4; and
- (b) the acceptance has taken effect under section 60(4) of the Act,

then clauses 10.2 - 10.7 apply and will form part of this Substantive Proposal.

- 10.2 The Commissioner and each Holder warrant to each other that they are registered for GST purposes.
- 10.3 On the working day following the Unconditional Date, the Commissioner will provide to each Holder a GST invoice in respect of the supply evidenced by the Holder's Consideration. The invoice will specify the Commissioner's GST Date.
- 10.4 Each 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.
- 10.5 On the working day following the Unconditional Date, each Holder will provide to the Commissioner a GST invoice in respect of the supply evidenced by the Commissioner's Consideration. The invoice will specify the Holder's GST Date.
- 10.6 The Commissioner will pay GST on the Commissioner's Consideration (where applicable) to each Holder on the Holder's GST Date, time being of the essence.
- 10.7 Where any GST is not so paid to the Commissioner or to a Holder (as the case may be), 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 or the Holder's GST Date (as the case may be) until the date of payment of the unpaid GST; and
 - (b) any Default GST.

11. Holder's Payment and the Commissioner's Payment

- 11.1 By 3.00 p.m. on the Settlement Date, each Holder (with the exception of Shirlmar Station Limited) must pay its Holder's Payment and all other money payable to the Commissioner or the duly appointed agent of the Commissioner in cash or by bank cheque without set-off or deduction in accordance with the settlement requirements of the Commissioner.

- 11.2 If any Holder fails to pay its 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 then clause 12 will apply.
- 11.3 By 3.00pm on the Settlement Date (as defined in the Shirlmar Lease Schedule) the Commissioner must pay the Commissioner's Payment to Shirlmar Station Limited or that Holder's solicitors in cash or by bank cheques without setoff or deduction.

12. Default

If from any cause whatever (save the default of the Commissioner) all or any part of a Holder's Payment or any other money payable by a Holder to the Commissioner is not paid on the due date:

- (a) the relevant Holder will pay to the Commissioner interest at the Default Rate on all or the part of that Holder's Payment or any other money payable by that Holder to the Commissioner so unpaid from the due date until payment in full; and
- (b) the Commissioner's rights under this clause 12 are without prejudice to any other rights or remedies available to the Commissioner at law or in equity.

13. Access and stock

- 13.1 The Commissioner will give, and the Holders will take, vacant possession of the Schedule Three Land on Settlement Date.
- 13.2 The Holders will not, from and including the Settlement Date, enter on, pass through, or use or permit to be entered on, passed through, or used, the Schedule One Land for any purpose.
- 13.3 The Holders will not, from and including the Settlement Date, permit any of the Holders' stock to enter onto or graze on the Schedule One Land,
- 13.4 A Holder's stock may from time to time stray onto the Schedule One Land. If such straying occurs, the Holder will, at its own cost, remove the stock within a reasonable time after the Holder becomes aware of the straying or after being requested by the Minister to remove the straying stock.

14 Costs

Each Holder is responsible for all costs it incurs in respect of and incidental to the Tenure Review. In particular, but without limitation, each Holder shall bear

all its costs in relation to the review of all documentation forming part of the Tenure Review (including this Substantive Proposal), and all professional advice provided to or sought by the Holder.

15. No nomination or assignment

15.1 Each Holder is currently the lessee under the Lease.

15.2 Each Holder is not entitled to, and is expressly prohibited from;

- (a) nominating another person to perform that Holder's obligations under this Substantive Proposal; or
- (b) assigning to another person that Holder's interest (or any part) under this Substantive Proposal.

16. General

16.1 Each provision of this Substantive Proposal will continue in full force and effect to the extent that it is not fully performed at the Settlement Date.

16.2 The Commissioner and each 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 Substantive Proposal.

16.3 This Substantive Proposal is governed by, and must be construed under, the laws of New Zealand and the Commissioner and each Holder irrevocably submit to the jurisdiction of the New Zealand courts or other New Zealand system of dispute resolution.

16.4 In relation to notices and other communications under this Substantive 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. The initial facsimile number, address, person or office holder (if any) for each party is specified in clause 16.4(c);
- (b) no communication is to be effective until received. A communication will be deemed to be received by the addressee:

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- (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), when delivered; and
 - (iii) in the case of a letter, on the fifth working day after mailing; and
- (c) the initial address details for the Commissioner and the Holder are:

The Commissioner:

Commissioner of Crown Lands
c/- The Manager
DTZ New Zealand Limited
PO Box 27
41-43 Tarbett Street,
ALEXANDRA

The Holder

As specified in the Relevant
Schedule

16.5 This Substantive Proposal and the Notice:

- (a) constitute the entire understanding and agreement between the Commissioner, the Crown and each Holder in relation to the Tenure Review; and
- (b) supersede and extinguish all prior agreements and understandings between the Crown, the Commissioner and each Holder relating to the Tenure Review.

16.6 For the avoidance of doubt, neither the Draft Preliminary Proposal, nor the Preliminary Proposal, constitutes or could constitute a binding agreement between the parties.

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Schedule One: Provisions relating to the Schedule One Land

1. Details of Designation

- 1.1 Under section 35(2)(a)(i) of the Act, the Schedule One Land will be designated as land to be restored to full Crown ownership and control as conservation area.
- 1.2 Subject to each Holder accepting this Substantive Proposal in accordance with clause 4 and that acceptance taking effect under section 60(4) of the Act, the Commissioner will implement the designation of the Schedule One Land (as envisaged by clause 5 of this Substantive Proposal), and as specified in the Relevant Schedule.

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Schedule Two

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Schedule Three: Provisions relating to the Schedule Three Land

1. Details of designation

Under section 35(3) of the Act,

- (a) The Geordie Hill Schedule Three Land be disposed of to the Holder of the Geordie Hill Lease by freehold disposal under section 35(3) of the Act subject to:
- (i) Part IVA of the Conservation Act;
 - (ii) Section 11 of the Crown Minerals Act 1991; and
- the provisions of Schedule Three and the Geordie Hill Lease Schedule apply to this designation;
- (b) The Longacre Schedule Three Land be disposed of to the Holder of the Longacre Lease by freehold disposal under section 35(3) of the Act subject to:
- (i) Part IVA of the Conservation Act;
 - (ii) Section 11 of the Crown Minerals Act 1991;
 - (iii) Public Access Foot and Mountain Bike Easement; and
 - (iv) Conservation Management Easement Longacre; and
 - (v) the Covenant, and
- the provisions of Schedule Three and the Longacre Lease Schedule apply to this designation;
- (c) The Shirlmar Schedule Three Land be disposed of to the Holder of the Shirlmar Lease by freehold disposal under section 35(3) of the Act subject to:
- (i) Part IVA of the Conservation Act;
 - (ii) Section 11 of the Crown Minerals Act 1991;

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- (iii) The Covenant;
 - (iv) Public Access and Motor Vehicle Easement;
 - (v) Public Access Foot and Mountain Bike Easement;
 - (vi) Public Access Foot Easement;
 - (vii) Conservation Management Easements Shirlmar; and
the provisions of Schedule Three and the Shirlmar Lease Schedule apply to this designation;
- (d) The Merivale Schedule Three Land be disposed of to the Holder of the Merivale Lease by freehold disposal under section 35(3) of the Act subject to:
- (i) Part IVA of the Conservation Act;
 - (ii) Section 11 of the Crown Minerals Act 1991;
 - (iii) Public Access Foot and Mountain Bike Easement in Gross;
 - (iv) Conservation Management Easements Merivale;
 - (v) Public Access and Vehicle Parking Easement ;and
the provisions of Schedule Three and the Merivale Lease Schedule apply to this designation;
- (e) The Timburn Schedule Three Land be disposed of to the Holder of the Timburn Lease by freehold disposal under section 35(3) of the Act subject to:
- (i) Part IVA of the Conservation Act;
 - (ii) Section 11 of the Crown Minerals Act 1991;
 - (iii) the Covenant;
 - (iv) Public Access Foot and Mountain Bike Easement;
 - (v) Public Foot Access Easement;
 - (vi) Conservation Management Easement Timburn; and

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the provisions of Schedule Three and the Timburn Lease Schedule apply to this designation;

(f) The Nine Mile Schedule Three Land be disposed of to the Holder of the Nine Mile Lease by freehold disposal under section 35(3) of the Act subject to:

- (i) Part IVA of the Conservation Act;
- (ii) Section 11 of the Crown Minerals Act 1991;
- (iii) Public Access Foot Easement; and

the provisions of Schedule Three and the Nine Mile Lease Schedule apply to this designation;

1.2 Subject to each Holder accepting this Substantive Proposal in accordance with clause 4 and that acceptance taking effect under section 60(4) of the Act, and subject to paragraph 5 of the Relevant Schedule, the Commissioner will implement the designation of the Schedule Three Land (as envisaged by clause 5 of this Substantive Proposal).

2. Holder's acknowledgements

If the Holders accept this Substantive Proposal in accordance with the provisions set out in clause 5 and that acceptance takes effect under section 60(4) of the Act, each Holder acknowledges that:

- (a) it is obtaining the freehold in the Schedule Three Land to be disposed of to the Holder:
 - (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) each Holder has carried out all inspections of the Schedule Three Land which the Holder considers necessary to satisfy itself as to the condition of the Schedule Three Land;
- (c) each Holder, at its cost, is entirely responsible for all work to ensure that the Schedule Three Land complies with:

- (i) the RM Act and its amendments and regulations; and
- (ii) any rule in any plan, resource consent or other requirement issued under the RM Act, 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 paragraph 2; and

- (d) nothing in the Draft Preliminary Proposal, the Preliminary Proposal, or this Substantive 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 that Holder under the relevant lease.

3. Risk

- 3.1 On and with effect from the Unconditional Date all risk of any nature in respect of the Schedule Three Land will pass from the Commissioner to each Holder. For the avoidance of doubt, each Holder's current risk in respect of matters arising under the Lease, including, without limitation, that Holder's risk in respect of all improvements, buildings, fencing, fixtures, fittings and chattels, will continue to remain with that Holder.
- 3.2 Each Holder will be required to comply with its settlement obligations under this Substantive Proposal irrespective of any damage to, or destruction of, the Schedule Three Land prior to the Settlement Date.

4. No representations or warranties by the Commissioner

The Commissioner gives no representations or warranties of any nature in respect of the Schedule Three Land. Without limitation, the Commissioner does not warrant:

- (a) the accuracy of any matter in the Draft Preliminary Proposal, the Preliminary Proposal, the Draft Substantive Proposal, the Notice or this Substantive Proposal or in any notice, or any correspondence or other information provided to the Holder by the Commissioner or by any agent or employee of the Commissioner; or
- (b) that the Schedule Three Land is or will remain suitable for a Holder's use; or

- (c) that the Schedule Three Land complies with all or any statutory, territorial authority or any other legal requirements affecting or relevant to the Schedule Three Land.

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Appendix 1:

PLANS SCHEDULE

PLAN 1: Showing some of the designations and Easement Routes

PLAN 2: Showing some of the designations and Easement Routes and
Covenant Areas,

DIAGRAMS A-J being enlarged plans of certain parts of the Land as identified on
Plan 1 and 2.

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GEORDIE HILL LEASE SCHEDULE

GEORDIE HILL LEASE SCHEDULE

CONTENTS

Part 1: General Provisions

PART 1: GENERAL PROVISIONS

INTRODUCTION

This Schedule relates to the Lease described as the Geordie Hill Lease.

1. Interpretation

1.1 In this Schedule, unless the context otherwise requires:

Commissioners Consideration means the amount payable by the Commissioner to the Holder by equality of exchange for the surrender of the leasehold interest in the Geordie Hill Lease in respect of the Geordie Hill Schedule One Land, as specified in the relevant Notice;

Geordie Hill Lease means the lease comprised and described in folio number OT338/71 (Otago Land Registry) issued under the Land Act 1948, and includes all variations and renewals of that lease;

Geordie Hill Schedule One Land means 3 hectares of the Lease Land adjoining the Lindis River shaded pink and marked as R4 on Diagram F and marked on Plan 1;

Geordie Hill Schedule Three Land means 2094 hectares of the Lease Land, as outlined in green on Plan 1;

Holder for the purposes of this Schedule means the lessee of the Geordie Hill Lease;

Holder's Consideration means the amount payable by the Holder to the Commissioner by equality of exchange for the freehold of the Geordie Hill Schedule Three Land as specified in the relevant Notice;

Lease Land means 2096.9578 hectares more or less being Part Run 675 and Section 4 Block XIII Lindis Survey District being the land comprised and described in folio number OT381/71 (Otago Land Registry) subject to:

- (a) Land Improvement Agreement 689041;
- (b) Land Improvement Agreement 820570;

- (c) 928124 Certificate Specifying Mining Rights under s417(2) Resource Management Act 1991; and
- (d) Mortgages;

Mortgages mean mortgage 941279.4 and 941279.5 registered against the Geordie Hill Lease;

Mortgagees mean the Holder's mortgagees of the Geordie Hill Lease being:

- (a) Rabobank New Zealand Limited under Mortgage 941279.4; and
- (b) Brian Alexander McCaughan, Sheila Ellen McCaughan and Alan Bevin McKay under Mortgage 941279.5;

Settlement Date means the date specified in paragraph 4 of this schedule;

Substantive Proposal means this substantive proposal that the Commissioner puts to the Holder including this Schedule for the Geordie Hill Lease;

- 1.2 Unless modified by this Schedule the terms defined in the Substantive Proposal have the same meaning when used in this Schedule.

2. Implementation of Substantive Proposal

- 2.1 In addition to the provisions of clauses 1-16 of the Substantive Proposal the following provisions apply to the implementation of the Substantive Proposal in respect of the Geordie Hill Lease
- 2.2 Under sections 65, 66 and 69 of the Act, upon registration of the Final Plan and this Substantive Proposal under section 64 of the Act:
- (a) the Geordie Hill Schedule One Land will be restored to full Crown ownership and control as recreation reserve; and
 - (b) subject to paragraph 2.6 below, the Commissioner will dispose of the Geordie Hill Schedule Three Land to the Holder (subject to the encumbrances specified in paragraph 1.1(a) of Schedule Three) under the provisions of the Land Act 1948 by requesting that the Surveyor General issue a certificate under section 116 of the Land Act 1948 to the Registrar and that the Registrar issue a certificate of title for the Geordie Hill Schedule Three Land in the name of the Holder;
- 2.3 The Geordie Hill Schedule One Land will vest in the Crown freed and discharged from all mortgages, charges, claims, estates and interests.
- 2.4 The Commissioner will meet the costs for the survey (if any) of the Lease Land, including all designation areas, the Final Plan and for a certificate of title to issue for the Geordie Hill Schedule Three Land.
- 2.5 The Geordie Hill Lease will remain in force until a certificate of title is issued for the Schedule Three Land, and at this time the Geordie Hill Lease will, under section 69(2) of the Act, be deemed to be surrendered in respect of the Lease Land.
- 2.6 Notwithstanding any other provision in this Substantive Proposal, the Commissioner will not request that the Surveyor General issue a certificate under paragraph 2.2.(b) unless and until:
- (a) The Commissioner has received the Holder's Payment from the Holder under clause 11.1 of the Substantive Proposal, and the Commissioner has received all other money payable by the Holder under this Substantive Proposal;
 - (b) The Commissioner has received the respective Holder's Payments from the other Holders under the Relevant Schedules and the Commissioner has received all other money payable by the other Holders under the Substantive Proposal;

- (c) the Holder has provided to the Commissioner the duplicate of the Geordie Hill Lease (if the Holder has this document) and has signed and returned to the Commissioner any other documents reasonably required by the Commissioner to be signed by the Holder to give effect to this Substantive Proposal; and
- (d) the Holder has procured the Mortgagees' execution of a registrable discharge of the Mortgages and, if required by the Mortgagees, the Holder has executed registrable new mortgage documents (in relation to the Geordie Hill Schedule Three Land only) and if the Mortgagee holds the duplicate of the Lease, the Holder has procured that Mortgagee to allow the Holder to provide the Geordie Hill Lease to the Commissioner and the Holder has provided these documents to the Commissioner.

2.7 Subject to clause 2.6, the Commissioner will lodge the discharge of the Mortgages, the duplicate of the Geordie Hill Lease, and any new mortgage documents at the Otago Land Registry, to be registered against the certificate of title to be issued under the Land Transfer Act 1952 for the Geordie Hill Schedule Three Land, so that the certificate of title for the Geordie Hill Schedule Three Land will issue subject to any new mortgage.

3. Settlement Date

The Settlement Date for the disposal of the Geordie Hill Schedule Three Land to the Holder by freehold disposal will be the day that is five working days following the day that the Final Plan and a copy of this Substantive Proposal are registered at the Otago Land Registry under section 64 of the Act.

4. Lowest price

- 4.1 The Holder's Consideration does not include any capitalised interest and the parties agree that the "lowest price" for the purposes of valuing the Geordie Hill Schedule Three Land under section EH 48(3)(a) of the Income Tax Act 1994 is equal to the Holder's Consideration.
- 4.2 The Commissioner's Consideration does not include any capitalised interest and the parties agree that the "lowest price" for the purposes of valuing the Geordie Hill Schedule One Land under section EH 48(3)(a) of the Income Tax Act 1994 is equal to the Commissioner's Consideration.

5. Consents

- 5.1 Under section 60(4) of the Act the Holder must obtain the written consent to the Holder's acceptance of this Substantive Proposal from all persons having

an interest in the Lease Land (other than the Holder), including, but not limited to:

the Mortgagees;

the grantee of Land Improvement Agreements 689041 and 820570, registered against the Geordie Hill Lease;

any other person that the Commissioner reasonably believes has an interest in the Lease Land or who the Holder reasonably believes has an interest in the Lease Land.

- 5.2 In addition to obtaining the consents of the persons outlined in paragraph 5.1 of this Schedule, the Holder must also obtain:

all corporate consents; and

if required, consent under the Overseas Investment Act 1973 and the Overseas Investment Regulations 1995, necessary for the Holder to accept this Substantive Proposal.

- 5.3 The Holder will procure the Mortgagees to execute a registrable discharge of the Mortgages and, if required by the Mortgagees, the Holder will execute registrable new mortgage documents and forward these to the Commissioner to be registered at the same time as the certificate of title for the Geordie Hill Schedule Three Land issues.

- 5.4 The Commissioner will provide the Mortgagees with an undertaking that, subject to the provisions in paragraph 2.6 being satisfied, it will register the discharges of the Mortgages and register the new mortgages against the certificate of title for the Geordie Hill Schedule Three Land at the same time as the certificate of title for the Geordie Hill Schedule Three Land issues.

6. Address of Holder

For the purposes of clause 16.4 of the Substantive Proposal, the address of the Holder of the Geordie Hill Lease is:

Matthew Robert McCaughan

Lindis Valley

Tarras,

Otago.

LONGACRE LEASE SCHEDULE

LONGACRE LEASE SCHEDULE

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- Part 1: General Provisions
- Part 2: Public Access Foot and Mountain Bike Easement
- Part 3: Conservation Management Easement Longacre
- Part 4 Covenant

PART 1: GENERAL PROVISIONS

INTRODUCTION

This Schedule relates to the Lease described as the Longacre Lease.

1. Interpretation

1.1 In this Schedule, unless the context otherwise requires:

Conservation Management Easement Longacre means an easement to provide access for employees, tenants, agents, contractors and invitees of the Minister on foot, by horses or by motor vehicles, with or without machinery and implements of any kind for conservation management purposes, over that part of the Lease land marked as route "f-g-h" on Plan 2, in the proposed form attached as Part 3;

Covenant means the conservation covenant providing for the management of 535 hectares of the Lease Land shaded in yellow on Plan 2 within Longacre for the purposes of preserving the short tussock grasslands, *Chionochloa rigida* grasslands and native shrublands supporting Kowhai trees, in the proposed form attached as Part 4;

Easements mean the Public Access Foot and Mountain Bike Easements and the Conservation Management Easement Longacre;

Holder for the purposes of this Schedule means the lessee of the Longacre Lease;

Holder's Consideration means the amount payable by the Holder to the Commissioner by equality of exchange for the freehold of the Longacre Schedule Three Land as specified in the relevant Notice;

Lease Land means 3340.7979 hectares more or less being Part Run 237G and Section I Survey Office Plan 23198 being the land comprised and described in folio number OT386/83 (Otago Land Registry) subject to:

- (a) Land Improvement Agreement 823653;
- (b) Mortgages.

Longacre Lease means the lease comprised and described in folio number OT386/83 (Otago Land Registry) issued under the Land Act 1948, and includes all variations and renewals of that lease;

Longacre Schedule Three Land means 3341 hectares of the Lease Land, as outlined in green on the Plans;

Mortgages mean mortgage 793167.8 and 846344.2 registered against the Longacre Lease;

Mortgagees mean the Holder's mortgagees of the Longacre Lease being:

(c) Wrightson Farmers Finance Limited under Mortgage 793167.8; and

(d) Rabobank New Zealand Limited under Mortgage 846344.2;

Public Access Foot and Mountain Bike Easement means an easement in gross over that part of the Lease Land marked routes "f-g-h, t-u, v-w & g-u" on Plan 2, in the proposed form as set out in Part 2;

Settlement Date means the date specified in paragraph 4 of this schedule;

Substantive Proposal means this substantive proposal that the Commissioner puts to the Holder including this Schedule for the Longacre Lease;

- 1.2 Unless modified by this Schedule the terms defined in the Substantive Proposal have the same meaning when used in this Schedule.

2. Implementation of Substantive Proposal

- 2.1 In addition to the provisions of clauses 1 - 16 of the Substantive Proposal the following provisions apply to the implementation of the Substantive Proposal in respect of the Longacre Lease
- 2.2 Under sections 65, 66 and 69 of the Act, upon registration of the Final Plan and this Substantive Proposal under section 64 of the Act, subject to paragraph 2.6 below, the Commissioner will dispose of the Longacre Schedule Three Land to the Holder (subject to the encumbrances specified in paragraph 1.1(a) of Schedule Three) under the provisions of the Land Act 1948 by requesting that the Surveyor General issue a certificate under section 116 of the Land Act 1948 to the Registrar and that the Registrar issue a certificate of title for the Longacre Schedule Three Land in the name of the Holder;
- 2.3 The Commissioner will meet the costs for the survey (if any) of the Lease Land, including all designation areas, the Final Plan and for a certificate of title to issue for the Longacre Schedule Three Land.
- 2.4 The Longacre Lease will remain in force until a certificate of title is issued for the Schedule Three Land, and at this time the Longacre Lease will, under section 69(2) of the Act, be deemed to be surrendered in respect of the Lease Land.
- 2.5 Following registration of the Final Plan and this Substantive Proposal, the Commissioner must promptly:
- (a) prepare execution documents for the Easements and the Covenant in the forms attached to this Substantive Proposal and forward the execution documents to the relevant parties to be signed;
 - (b) under section 80 of the Act, agree with the Minister that the Minister should acquire the Conservation Management Easement Longacre and give to the Minister the Public Access Foot and Mountain Bike Easement Longacre and create the Covenant on the terms and conditions specified in this Substantive Proposal and the Minister must sign the execution copies of the Easements and the Covenant and return these to the Commissioner;
 - (c) sign the execution documents for the Easements; and
 - (d) lodge the documents for the Easements for registration at the Otago Land Registry once the documents are signed (as the case may be) by the Commissioner, the Holder and the Minister.

- 2.6 Notwithstanding any other provision in this Substantive Proposal, the Commissioner will not request that the Surveyor General issue a certificate under clause 5.10(c) unless and until:
- (a) The Commissioner has received all money payable by the Holder under this Substantive Proposal;
 - (b) The Commissioner has received the respective Holder's Payments from the other Holders under the Relevant Schedules and the Commissioner has received all other money payable by the other Holders under the Substantive Proposal;
 - (c) the Holder has provided to the Commissioner the duplicate of the Longacre Lease (if the Holder has this document) and the Holder has signed and returned to the Commissioner any documents reasonably required by the Commissioner to be signed by the Holder to give effect to this Substantive Proposal; and
 - (d) the Holder has procured each Mortgagee's execution of registrable discharges of the Mortgages and, if required by a Mortgagee, the Holder has executed registrable new mortgage documents (in relation to the Longacre Schedule Three Land only) and if a Mortgagee holds the duplicate of the Longacre Lease, the Holder has procured that Mortgagee to allow the Holder to provide the Longacre Lease to the Commissioner and the Holder has provided these documents to the Commissioner.

- 2.7 Subject to paragraph 2.6, the Commissioner will lodge the Easements and the Covenant, the discharges of the Mortgages, the duplicate of the Longacre Lease, and any new mortgage documents at the Otago Land Registry, to be registered against the certificate of title to be issued under the Land Transfer Act 1952 for the Longacre Schedule Three Land, so that the certificate of title for the Longacre Schedule Three Land will issue subject to the Easements and the Covenant and any new mortgage. Any new mortgages will be registered after the Easements and the Covenant are registered.

3. Settlement Date

The Settlement Date for the disposal of the Longacre Schedule Three Land to the Holder by freehold disposal will be the day that is five working days following the day that the Final Plan and a copy of this Substantive Proposal are registered at the

Otago Land Registry under section 64 of the Act.

4. Lowest price

The Holder's Consideration does not include any capitalised interest and the parties agree that the "lowest price" for the purposes of valuing the Longacre Schedule Three Land under section EH 48(3)(a) of the Income Tax Act 1994 is equal to the Holder's Consideration.

5. Consents

5.1 Under section 60(4) of the Act the Holder must obtain the written consent to the Holder's acceptance of this Substantive Proposal from all persons having an interest in the Lease Land (other than the Holder), including, but not limited to:

the Mortgagees;

the grantee of Land Improvement Agreement 823653, registered against the Longacre Lease;

and any other person that the Commissioner reasonably believes has an interest in the Lease Land or who the Holder reasonably believes has an interest in the Lease Land.

5.2 In addition to obtaining the consents of the persons outlined in paragraph 5.1 of this Schedule, the Holder must also obtain:

all corporate consents; and

if required, consent under the Overseas Investment Act 1973 and the Overseas Investment Regulations 1995,

necessary for the Holder to accept this Substantive Proposal.

5.3 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 at the same time as the certificate of title for the Longacre Hill Schedule Three Land issues.

5.4 The Commissioner will provide the Mortgagee with an undertaking that, subject to the provisions in paragraph 2.6 being satisfied, it will register the discharges of the Mortgages and register the new mortgages against the certificate of title for the Longacre Schedule Three Land at the same time as the certificate of title for the Longacre Schedule Three Land issues.

3. Address of Holder

For the purposes of clause 16.4 of the Substantive Proposal, the address of the Holder of the Longacre Lease is:

**Longacre Station Limited,
Tarras, Otago.**

**Registered office of Longacre Station Limited:
Level 1, 69 Tarbett Street,
Alexandra.**

**Part 2: PROPOSED FORM for PUBLIC ACCESS FOOT AND MOUNTAIN
BIKE EASEMENT LONGACRE**

Longacre.
Easement in Gross – Public

TRANSFER GRANT OF EASEMENT IN GROSS

Public Foot and Non Motorised Vehicle Access

Land Transfer Act 1952

Transfer Instrument
RELEASED UNDER THE OFFICIAL INFORMATION ACT
 Section 90, Land Transfer Act 1952

If there is not enough space in any of the panels below, cross-reference to and use the approved Annexure Schedule: no other format will be received.

Land Registration District

Otago

Grantor

Surname(s) must be underlined

LONGACRE STATION LIMITED by the COMMISSIONER OF CROWN LANDS, the deemed owner pursuant to Section 80 Crown Pastoral Land Act 1998

Grantee

Surname(s) must be underlined

HER MAJESTY THE QUEEN, acting by and through the MINISTER OF CONSERVATION

"Grant" of easement or *profit(s) à prendre* or creation of covenant

The Grantor, being the registered proprietor of the servient tenement(s) set out in Schedule A, grants to the Grantee (and, if so provided, in gross) the easement(s) or *profit(s) à prendre* set out in Schedule A, or creates the covenant(s) set out in Schedule A, with rights and powers or provisions set out in the Annexure Schedule(s).

Dated this _____ day of _____

Attestation

Signed by

acting under written delegation from the COMMISSIONER OF CROWN LANDS

Signed in my presence by the Grantor

Signature of witness
Witness to complete in BLOCK letters (unless legibly printed)

Witness name

Occupation

Address

Signature [common seal]

Signed for and on behalf of HER MAJESTY THE QUEEN by

Signed in my presence by the Grantee

Signature of witness
Witness to complete in BLOCK letters (unless legibly printed)

Witness name

Occupation

Address

under a written delegation

Signature [common seal]

Certified correct for the purposes of the Land Transfer Act 1952

[Solicitor for] the Grantee

Annexure Schedule 1

Easement Instrument Dated Page of Pages

Schedule A

Continue in additional Annexure Schedule if required

Purpose (nature and extent) of easement, profit, or covenant	Shown (plan reference)	Servient tenement (Identifier/CT)	Dominant tenement (Identifier/CT in gross)
Right of Way		[To be inserted]	In Gross

Easements or profits à prendre rights and powers (including terms, covenants, and conditions)

Delete phrases in [] and insert memorandum number as required.
Continue in additional Annexure Schedule if required

Unless otherwise provided below, the rights and powers implied in specific classes of easement are those prescribed by the Land Transfer Regulations 2002 and/or the Ninth Schedule of the Property Law Act 1952.

The implied rights and powers are [varied] [negated] [added to] or [substituted] by:

[Memorandum number _____ registered under section 155A of the Land Transfer Act 1952]

[the provisions set out in Annexure Schedule 2].

All signing parties and either their witnesses or solicitors must sign or initial in this box.

Annexure Schedule 2

Easement Instrument Dated Page of Pages

Continuation of Estate or Interest or Easement to be created

Easement in gross under section 7(2) Conservation Act 1987 for:

- (1) Foot access
- (2) Non motorised vehicle powered by a person or persons access

Definitions

- 1. In this Easement Instrument unless the context otherwise requires:
 - 1.1 "Easement Area" means that part of the Servient Land which is marked (*currently marked as "f-g-h, t-u, v-w & g-u" on the Designations Plan*) on S.O. Plan No. [].
 - 1.2 "Servient Land" means the land owned by the Grantor and described in Schedule A.
 - 1.3 "Grantee" means Her Majesty the Queen acting by and through the Minister of Conservation and includes the Grantee's tenants, agents, contractors, and licensees; and any employee or contractor of the Director-General of Conservation; and any member of the public.
 - 1.4 "Grantor" means the owner of the Servient Land and includes the Grantor's tenants and invitees.

Standard Easement Terms

Access

- 2.1 The Grantee has the right in common with the Grantor to pass and re-pass at any time over and along the Easement Area on foot or by non motorised vehicle powered by a person or persons.
- 2.2 The Grantor must keep the Easement Area clear at all times of obstructions whether caused by parked vehicles, deposit of materials or unreasonable impediment to the use of the Easement Area.

Exclusion of Schedules

- 3. The rights and powers contained in Schedule 4 of the Land Transfer Regulations 2002 and in the Ninth Schedule of the Property Law Act 1952 are expressly excluded.

Term

- 4. The easement created by this Easement Instrument is to continue in perpetuity.

Temporary Suspension

All signing parties and either their witnesses or solicitors must sign or initial in this box.

Annexure Schedule 2

Easement Instrument Dated Page of Pages

5. The Grantee (not being a member of the public) may close all or part of the Easement Area and suspend public access to it if reasons of public safety or emergency require closure, or otherwise in accordance with the provisions of section 13 of the Conservation Act 1987.

Dispute

- 6.1 If a dispute arises between the Grantor and Grantee (not being a member of the public) concerning the rights created by this Easement Instrument the parties are to enter into negotiations in good faith to resolve it.
- 6.2 If the dispute is not resolved within 14 days of written notice by one party to the other it is to be referred to mediation.
- 6.3 If the dispute is not resolved within 21 days or such other period, as agreed to in writing between the parties, after the appointment of the mediator, the parties must submit to the arbitration of an independent arbitrator appointed jointly by the parties or, if one cannot be agreed within 14 days, to an independent arbitrator appointed by the President for the time being of the District Law Society in which the Servient Land is situated.
- 6.4 The arbitration is to be determined in accordance with the Arbitration Act 1996 and its amendments or any enactment passed in substitution.

Notice

- 7.1 A notice to be given under this easement by one party to the other is to be in writing and must:
- (a) be hand delivered to the receiving party; or
 - (b) be sent by ordinary post to the receiving party.

If clause 7.1(b) applies the notice will be deemed to be received by the receiving party on such date on which the ordinary post would be delivered.

All signing parties and either their witnesses or solicitors must sign or initial in this box.

Annexure Schedule 2

Easement Instrument Dated Page of Pages

Special Terms

The standard easement terms contained above must be read subject to any special easement terms set out below.

8 The Grantee (not being a member of the public) has the right:

8.1 To mark the Easement Area as appropriate.

8.2 To erect and maintain stiles.

8.3 To erect and maintain signs informing the public of their rights and responsibilities in relation to the Easement Area.

8.4 To use whatever reasonable means of access she thinks fit over the Easement Area to carry out the works in clause 8.1 to 8.3.

9 In doing any of the matters specified in clause 8, the Grantee (not being a member of the public):

9.1 Must take reasonable and proper care not to damage any property of the Grantor and must properly repair any such damage;

9.2 Must, upon completion of any work on or over or immediately adjacent to the Easement Area, restore the surface as nearly as possible to its former condition.

10. The Grantor must install gates no less than four metres in width where fence lines cross the Easement Area and keep the gates unlocked at all times unless otherwise agreed with the Grantee (not being a member of the public).

11. The Grantee will not deposit rubbish on the Easement Area.

12. No dogs or firearms are permitted on the Easement Area.

13 The Easement Area is closed between 10 October and 5 December (both dates inclusive).

All signing parties and either their witnesses or solicitors must sign or initial in this box.

**Part 3: PROPOSED FORM for CONSERVATION MANAGEMENT EASEMENT
LONGACRE**

If there is not enough space in any of the panels below, cross-reference to and use the approved Annexure Schedule: no other format will be received.

Land Registration District

OTAGO

Unique Identifier(s) All/Part Area/description of part or stratum or C/T(s)

Transferor

Surname(s) must be underlined

COMMISSIONER OF CROWN LANDS, acting pursuant to section 80 of the Crown Pastoral Land Act 1998

Transferee

Surname(s) must be underlined

HER MAJESTY THE QUEEN, acting by and through the Minister of Conservation

Estate or Interest to be transferred, or easement(s) or profit(s) à prendre to be created State if fencing covenant imposed.

Management Purposes Easement to conservation area granted under section 7(2) of the Conservation Act 1987 (continued on pages 2, 3 and 4 of Annexure Schedule).

Operative Clause

The Transferor transfers to the Transferee the above estate or interest in the land in the above certificate(s) of title or computer register(s) and, if an easement or profit à prendre is described above, that easement or profit à prendre is granted or created.

Dated this day of

Attestation

If the transferee or grantee is to execute this transfer, include the attestation in an Annexure Schedule.

Signed in my presence by the Transferor

Signature of witness

Witness to complete in BLOCK letters (unless legibly printed)

Witness name

Occupation

Address

Signature [common seal] of Transferor

Certified correct for the purposes of the Land Transfer Act 1952

Annexure Schedule

Transfer Instrument Dated Page of Pages

Definitions

1. In this transfer unless the context otherwise requires:
 - 1.1 "Easement Area" means that part of the Servient Land being [10] metres wide which is marked (*currently marked as "f-g-h" on the Designations Plan*) on Deposited Plan/S.O. Plan No [].
 - 1.2 "Dominant Land" means the land administered by the Department of Conservation and contained in Certificate of Title "[]".
 - 1.3 "Management Purposes" means:
 - the protection of a significant inherent value of the Dominant Land;
 - the management of the Dominant Land in a way that is ecologically sustainable.
 - 1.4 "Servient Land" means the land owned by the Transferor and described on page 1.
 - 1.5 "Transferee" means Her Majesty the Queen acting by and through the Minister of Conservation and includes the Transferee's tenants, agents, contractors and invitees; or any employee or contractor of the Director-General of Conservation.
 - 1.6 "Transferor" means the owner of the Servient Land described on page 1 and includes the Transferor's tenants and invitees.

Standard Easement Terms

Access

- 2.1 The Transferee has the right in common with the Transferor at any time to pass and re-pass over and along the Easement Area on foot, or on or accompanied by horses, or by motor vehicles, with or without machinery and implements of any kind, for Management Purposes associated with the Dominant Land.
- 2.2 The Transferor must keep the Easement Area clear at all times of obstructions whether caused by parked vehicles, deposit of materials or unreasonable impediment to the use and enjoyment of the Easement Area.

Exclusion of Implied Rights and Powers

3. The rights and powers contained in Schedule 4 of the Land Transfer Regulations 2002 and the Ninth Schedule of the Property Law Act 1952 are expressly negated.

All signing parties and either their witnesses or solicitors must sign or initial in this box.

Annexure Schedule

Transfer Instrument Dated Page of Pages

Term

4. The easement created by this transfer is to be appurtenant to the Dominant Land in perpetuity.

Dispute Resolution

5.1 If a dispute arises between the Transferor and Transferee concerning the rights created by this transfer the parties are to enter into negotiations in good faith to resolve it.

5.2 If the dispute is not resolved within 14 days of written notice by one party to the other it is to be referred to mediation.

5.3 If the dispute is not resolved within 21 days or such other period as agreed to in writing between the parties after the appointment of the mediator, the parties must submit to the arbitration of an independent arbitrator appointed jointly by the parties or, if one cannot be agreed within 14 days, to an independent arbitrator appointed by the President for the time being of the District Law Society in which the Servient Land is situated.

5.4 The arbitration is to be determined in accordance with the Arbitration Act 1996 and its amendments or any enactment passed in substitution.

Notices

6.1 A notice to be given under this transfer by one party to the other is to be in writing and must:

- (a) be hand delivered to the receiving party; or
- (b) be sent by ordinary post to the receiving party; or
- (c) be sent by facsimile to the receiving party.

6.2 If clause 6.1(b) applies the notice will be deemed to be received by the receiving party on such date on which the ordinary post would be delivered.

All signing parties and either their witnesses or solicitors must sign or initial in this box.

Annexure Schedule

Transfer Instrument Dated Page of Pages

6.3 If clause 6.1(c) applies the notice will be deemed to have been received on the day on which it is dispatched or, if dispatched after 5.00pm, on the next day after the date of dispatch.

Special Easement Terms

7.1 The standard easement terms contained above must be read subject to any special terms set out below.

7.2 The Transferee must take all reasonable care to avoid damage to the soil and vegetation of the Easement Area and in particular will avoid using the easement when conditions such as softening during frost thaw render the Easement Area particularly vulnerable to damage.

7.3 Prior to using the Easement Area the Transferee shall give at least 24 hours notice by telephone to the Transferor and shall have regard to reasonable requests by the Transferor relating to farm management issues. This clause does not apply in an emergency or if the Transferor is unable to be contacted by telephone. For the avoidance of doubt, clause 6 does not apply to this clause.

Continuation of "Attestation"

Signed for and on behalf of)
Her Majesty the Queen by)

under a written delegation in the)
presence of:)

Witness (Signature)

Name _____

Address _____

Occupation _____

All signing parties and either their witnesses or solicitors must sign or initial in this box.