

Crown Pastoral Land Tenure Review

Lease name: ORCHARD ESTATE

Lease number: PT 092

Substantive Proposal - Part 1


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

October

06

**EXECUTION
COPY**

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

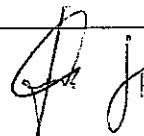
Date: 30 June 2006 

Parties

Holder: High Country Rosehip Orchards Limited
C/- J C Lyons
51 Flower Street
Fairfield
Dunedin

Commissioner of Crown Lands: C/- DTZ New Zealand Limited
P O Box 142
Christchurch

The Land

Lease:  Omaha Orchard Estate
Legal Description: Sections 4 & 5 on Survey Office Plan 20050, Blocks VII, IX, X, XI Strachey Survey District
Area: 2392 hectares
Certificate of Title/Unique Identifier: CB47C/171

Summary of Designations

Under this Proposal, the Land is designated as follows:

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

1 The Plan

2 Conditions

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

3 Settlement

- 3.1 Unless otherwise agreed by the parties, the Settlement Date for the disposal of the Freehold Land to the Holder by freehold disposal will be the day that is TEN (10) working days following the day on which Land Information New Zealand notifies the Commissioner that the Final Plan and a copy of this Proposal are registered in accordance with the Act.
- 3.2 The Freehold Land will be disposed of to the Holder under the Land Act 1948.

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 is without prejudice to:
- (a) 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 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 General

- 25.1 This Proposal and the Notice:
- (a) constitute the entire understanding and agreement between the Commissioner, the Crown and the Holder in relation to the Tenure Review; and
 - (b) supersede and extinguish all prior agreements and understandings between the Crown, the Commissioner and the Holder relating to the Tenure Review.
- 25.2 Each provision of this Proposal will continue in full force and effect to the extent that it is not fully performed at the Settlement Date.
- 25.3 The Holder must comply with the Commissioner's requirements for the implementation and settlement of the Tenure Review contemplated by this Proposal.

- 25.4 The Commissioner and the Holder will sign and execute all deeds, agreements, schedules and other documents and do all acts and things as may be reasonably required by the other to effectively carry out and give effect to the terms and intentions of this Proposal.
- 25.5 This Proposal is governed by, and must be construed under, the laws of New Zealand and the Commissioner and the Holder irrevocably submit to the jurisdiction of the New Zealand courts or other New Zealand system of dispute resolution.
- 25.6 The illegality, invalidity or unenforceability of any provision in this Proposal will not affect the legality, validity or enforceability of any other provision.
- 25.7 In relation to notices and other communications under this Proposal:
- (a) each notice or other communication is to be in writing, and sent by facsimile, personal delivery or by post to the addressee at the facsimile number or address, and marked for the attention of the person or office holder (if any), from time to time designated for that purpose by the addressee to the other party. Other than the address to which the Holder is to send its acceptance of this Proposal (which the Commissioner will specifically notify the Holder of) the address, person or office holder (if any) for each party is shown on the front page of this Proposal;
 - (b) no communication is to be effective until received. A communication will be deemed to be received by the addressee:
 - (i) in the case of a facsimile, on the working day on which it is despatched or, if despatched after 5.00 p.m. on a working day or, if despatched on a non-working day, on the next working day after the date of dispatch;
 - (ii) in the case of personal delivery (including, but not limited to, courier by a duly authorised agent of the person sending the communication), on the working day on which it is delivered, or if delivery is not made on a working day, on the next working day after the date of delivery; and
 - (iii) in the case of a letter, on the fifth working day after mailing (postage paid).

26 Interpretation

26.1 Definitions

In this Proposal unless the context otherwise requires:

Act means the Crown Pastoral Land Act 1998;

Commissioner means the Commissioner of Crown Lands appointed under 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 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 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 pursuant to section 4 of the Land Transfer Act 1952;

Settlement Date means the settlement date defined in clause 3.1;

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

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.

26.2 **Construction of certain references**

In this Proposal, unless inconsistent with the context:

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

Schedule One: Provisions relating to the Schedule One Land

1 Details of Designation

- 1.1 Under this Proposal the land shown marked in pink on the Plan and labelled CA1, being 60 hectares (approximately) is designated as land to be restored to or retained in full Crown ownership and control as conservation area; and
- 1.2 Under this Proposal the land shown marked in pink on the Plan and labelled CA2, being 10 hectares (approximately) is designated as land to be restored to or retained in full Crown ownership and control as riverbed area subject to, pursuant to section 36(3)(b) of the Act, the creation of an easement in gross for a right to convey electricity in favour of Alpine Energy Limited marked m-n on the Plan and on terms to be agreed by the Commissioner

2 Schedule One Improvements

Nil



Schedule Two: Provisions relating to the Schedule Two Land

1 Details of designation

- 1.1 Under this Proposal the land shown marked in pink on the Plan and labelled CA3, being 265 hectares (approximately) is designated as land to be restored to or retained in Crown control as conservation area subject to:
- a. the creation of a concession easement appurtenant to the land in schedule Three marked as g-h and i-j on the Plan and substantially as set out in Appendix 5:
 - b. the creation of a concession easement appurtenant to the land in schedule Three marked as k-l on the Plan and substantially as set out in Appendix 5:

2 Information Concerning Proposed Concession

- 2.1 Section 39 Crown Pastoral Land Act 1998 information requirements inserted at page 14 and 15



Information on proposed concession provided by Director-General of Conservation
(section 39 CPL Act)

Explanatory note: This information is required in the event that the CCL accepts the recommendation of the Director-General to designate land as land to be restored to or retained in Crown control subject to the granting of a Concession or over which a Concession is granted. This information must be provided for each Concession if more than one is proposed. The concession may require the provisional consent of the Minister of Conservation (section 41 CPL Act)

1. Description of the proposed activity:

Easement Concession for the adjoining landholder along an existing track for farm management purposes and stock access and over two areas for the installation and maintenance of an irrigation pipeline, race, filtration gallery and pumphouse from the Twizel River.

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

Three easement areas are required as marked on the plan attached to the substantive proposal. One of the easement areas is for farm management purposes and stock access along a traditionally used existing access track. The easement will be across the proposed Conservation Area and Twizel River and is from one area of proposed freehold land to another area of proposed freehold land that is bisected by the proposed Conservation Area. Two of the easement areas are for the installation and maintenance of an irrigation pipeline, race, filtration gallery and pumphouse from the Twizel River across the Conservation Area to the proposed freehold area to enable irrigation of the land.

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

The concession for stock access and associated farm management purposes is over an existing access track which has traditionally been used in the management of the property. It is the only practical access from one area of proposed freehold land to another area of proposed freehold land and crosses the Twizel River. Access will be confined to the existing track area so affects will be limited.

The two concession areas for the installation and maintenance of an irrigation system from the Twizel River will require some initial establishment disturbance to the land but will then only be used for maintenance activities.

Any effects will be mitigated by the terms of the concession including restrictions on earth disturbance, depositing of materials, lighting of fires and disturbance of waterways.

4. Details of the proposed type of concession:

An easement concession under S. 17Q (1) Conservation Act 1987.

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

Proposed duration: in perpetuity.

The easement concessions are essential to the running of the farming operation to enable continued access between the two areas of land and the establishment of an irrigation system to allow for increased productivity of the land as the property diversifies upon completion of tenure review. The period of the concession will allow surety for the ongoing operation of the farm.

6. Relevant information:

Orchard Estate has entered into this review voluntarily. The proposed easement concession is essential for ongoing management of the farm and the effects on the areas which the easements are to cross will be limited.



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 2057 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 easement marked as a-b-c-d and e-f, on the Plan and substantially as set out in Appendix 4, and
 - (d) The continuation of a right to drain sewage over part Section 4 marked B, E & D on SO Plan 20050 appurtenant to part Run 292 contained in and taken by Gazette Notice 860231.
 - (e) The continuation of a right to drain sewage over part Section 4 marked B on SO Plan 18355 appurtenant to Section 1 SO Plan 18355 – CT CB45A/677 created by Deed of Easement 45A/687.
 - (f) Pursuant to section 36(3)(b) of the Act, the creation of an easement in gross for a right to convey electricity in favour of Alpine Energy Limited marked m-n on the Plan and on terms to be agreed by the Commissioner.



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

Fencing

New boundary fencing is required to be erected in two places on the boundary between the proposed freehold designation outlined GREEN and the proposed conservation designation outlined PINK shown on the designation plan.

Specifications For New Fences:

Line X-Y: from the end of the existing predator proof fence along the northern side of the Black Stilt area above a high terrace to where the existing boundary fence along the Ohau River meets the top of the said high terrace approximately 800m east of the predator proof fence referred to above.

Length: 800 metres

Type: Rabbit netted

Specifications:

- Fence construction shall be ground treated (H4) Corsican Pine round 1.7 metre medium 100 - 150mm posts every 30 metres with steel 4"(1.37 m) standards every 3 metres between posts.
- Four evenly spaced 2.5mm galvanised high tensile wires to be stapled to the posts with 50 x 4mm galvanised slice point barbed staples and strained to a tension recommended by the wire manufacturer.
- Round ground treated (H4) Corsican Pine Strainer posts to be 2.4 metres with an average diameter of 200mm to be fully stayed with either horizontal stay assemblies or angle stays and stay block at all corners and angles (inside)135 degrees or less. Angles greater then 135 degrees to have light strainers installed of 2.1 metre length.
- The length of one strain should not be more than 300 metres.
- Tie downs to be installed at or adjacent to posts/standards where there is more than 5 degrees lift angle between posts.
- Rabbit netting (minimum standard (40") 1016mm x (1 5/8") 40mm x 17 or 18 gauge mild steel galvanised wire) to be securely fastened with stainless steel fasteners at 500mm intervals between, and at, uprights to the second top wire and not less than 1m spacing to lower wires with not less than 200mm apron on the ground either ploughed in or weighted with rock. The whole length of the fence to made rabbit proof.
- That wires be placed on the farmland (freehold) side of the uprights except where there is a high risk of snow damage where they shall be placed on the leeward side away from prevailing snow.
- Wire to be to NZ Standard specification. Waratahs/Standards to be of Australian manufacture.

Line W-Z:

Length: 3800 metres

Type: Seven wire fence - wooden posts approximately 1.05m high

Specifications:

- Fence construction shall be ground treated (H4) Corsican Pine round 1.8 metre medium 125mm posts every 10 metres with 4 tanalised wooden battens or metal battens between posts, six 2.5mm galvanised high tensile wires (may substitute one wire with barbed wire) plus one bottom wire of 4mm galvanised medium tensile. Alternatively such fence as the parties may agree in writing provided it meets the requirements of the Fencing Act 1978.
- Wires to be stapled to the posts with 50 x 4mm galvanised slice point barbed staples and strained to a tension recommended by the wire manufacturer and spaced as approved in site at conventional spacing with the bottom wire between 100mm and 150mm above the ground.
- Round ground treated (H4) Corsican Pine strainer posts to be 2.4 metres with an average diameter of 200mm to be fully stayed with either horizontal stay assemblies or angle stays and stay block at all corners and angles (inside) 135 degrees or less. Angles greater than 135 degrees to have light strainers installed of 2.1 metre length.
- The length of one strain should not be more than 300 metres depending on manufacturers specifications.
- Tie downs to be installed at battens/standards or at posts using a full length steel standard where there is more than 5 degrees lift angle between posts.
- Wires to be placed on the Schedule Two (freehold) side of the uprights except where there is a high risk of snow damage where they shall be placed on the leeward side away from prevailing snow.
- Wire to be to NZ Standard specification.

Gates: Provision to be made for three gates in the line. One at each end and one adjacent to the easement concession for a water supply intake. Gates to be standard 4.2m (14 foot) length made of galvanised heavy duty pipe with galvanised chain mesh netting or pipe bar infill. To be hinged on posts and latches fitted.



Appendix 4: Form of Easement to be Created

Transfer Grant of Easement in Gross

1. Public Access
2. Vehicles for Management Purposes



In Gross Easement: Public Access and Management Purposes to
Conservation Area. – Version 5.1

CHCCO- 63039 - Orchard Estate – June 2006.

TRANSFER GRANT OF EASEMENT IN GROSS

1. Public Access
2. Vehicles for Management Purposes

Land Transfer Act 1952

This page does not form part of the Transfer.

~~TRANSFER~~
RELEASED UNDER THE OFFICIAL INFORMATION ACT

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

Canterbury

Certificate of Title No.

All or Part?

Area and legal description – *insert only when part or Stratum, CT*

--	--	--	--

Transferor Surnames must be underlined

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

Transferee Surnames must be underlined

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

Estate or Interest or Easement to be created: *Insert e.g. Fee simple; Leasehold in Lease No.; Right of way etc.*

Public Access and Management Purposes Easement in Gross under section 7(2) of the Conservation Act 1987 (continued on pages 2, 3 and 4 of Annexure Schedule).

Consideration

The various considerations set out in a substantive proposal accepted under the Crown Pastoral Land Act 1998 on the _____ day of _____

Operative Clause

For the above consideration (receipt of which is acknowledged) the TRANSFEROR TRANSFERS to the TRANSFEEE all the transferor's estate and interest in the land in the above Certificate(s) of Title and if an easement is described above such is granted or created.

Dated this _____ day of _____ 2004

Attestation

Signed by acting under written delegation from the Commissioner of Crown Lands	Signed in my presence by the Transferor Signature of Witness _____ Witness to complete in BLOCK letters <i>(unless typewritten or legibly stamped)</i> Witness name Occupation Address
Signature, or common seal of Transferor	(continued on page 4 of Annexure Schedule)

Certified correct for the purposes of the Land Transfer Act 1952

Certified that Part IIA of the Land Settlement Promotion and Land Acquisition Act 1952 does not apply
Certified that no conveyance duty is payable by virtue of Section 24(1) of the Stamp and cheque Duties Act 1971.
(DELETE INAPPLICABLE CERTIFICATE)

[Signature]

Solicitor for the Transferee

Approved by Register-General of Land under No. 1995/5003

Annexure Schedule

Insert below

"Mortgage", "Transfer", "Lease", etc

[]

Dated

[]

Page

1

of

3

Pages

Definitions

1. In this transfer unless the context otherwise requires:

1.1 "Easement Area" means that part of the Servient Land being 6 metres wide which is marked "a-b-c-d", and "e-f" on S.O. Plan No [] .

1.2 "Easement Purposes" means:

(a) to provide a track which where practical follows the line shown on SO Plan [] for the purposes of providing public access to the Twizel River and the Conservation Area which is marked "CA3" on SO Plan No [] ; and

(b) to provide a track which where practical follows the boundary of the Servient Land and Conservation Area which is marked "CA1" on SO Plan [] for the purpose of providing access to the fenceline along the southern boundary of the Servient Land for Management Purposes.

1.3 "Management Purposes" means:

- the protection of a significant inherent value of the land managed by the Transferee;
- the ecological sustainable management of the land managed by the Transferee.

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, for purposes of clause 2.1(a), includes the Transferee's tenants, agents, contractors, and licensees; and any employee or contractor of the Director-General of Conservation; and any member of the public; but for the purposes of clause 2.1(b) means the Transferee's tenants, agents, contractors, and invitees (not being members of the public); and any employee or contractor of the Director-General of Conservation only.

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. The Transferee has the right:

2.1 In common with the Transferor and other persons to whom the Transferor may grant rights;

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

RELEASED UNDER THE OFFICIAL INFORMATION ACT

Approved by Register-General of Land under No. 1995/5003
Annexure Schedule

Insert below
"Mortgage", "Transfer", "Lease", etc

Dated Page of Pages

(a) to pass and re-pass at any time over and along the Easement Area marked "a-b-c-d", on foot, or by non-motorised vehicle powered by a person or persons for the Easement purposes defined in Clause 1.2(a); and

(b) to pass and re-pass at any time over and along the Easement Area marked "a-b-c-d" and "e-f", on foot, or by motor vehicle, with or without machinery and implements of any kind reasonably necessary, for Management Purposes.

2.2 To establish a track over and along the Easement Area.

3. 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, where such event or outcome is caused by or under the control of the Transferor.

Exclusion of Schedules

4. 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.

Term

5. The easement created by this transfer is to be in perpetuity.

Temporary Suspension

6. The Transferee (not being a member of the Public) may, at any time in exercise of her/his powers, temporarily close all or part of the Easement Area for such period as she/he considers necessary provided that such closure(s) shall not limit the rights of the owner and/or other parties with rights over the land to use the Easement Area.

Dispute Resolution

- 7.1 If a dispute arises between the Transferor and Transferee (not being a member of the Public) concerning the rights, management and operation created by this transfer the parties are to enter into negotiations in good faith to resolve it.
- 7.2 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.
- 7.3 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.
- 7.4 The arbitration is to be determined in accordance with the Arbitration Act 1996 and its amendments or any enactment passed in substitution.

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

Insert below
"Mortgage", "Transfer", "Lease", etc

Dated

Page

of

Pages

Notice

8.1 A Notice is 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.

8.2 If clause 8.1(b) applies the notice will be deemed to be received by the receiving party on such date on which ordinary post would be delivered.

8.3 If clause 8.1(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

Conflict

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

Maintenance and Establishment

10. The Transferee (not being a member of the Public) shall:

- 10.1 Mark the Easement Area as appropriate.
- 10.2 Erect and maintain stiles.
- 10.3 Erect and maintain signs informing the public:
 - (a) of the location of the land managed by the Crown and available for public access and recreation; and
 - (b) of the public's rights and responsibilities in relation to the Easement Area.
- 10.4 Maintain any improvements established by the Transferee.
- 10.5 Use whatever reasonable means of access the Transferee thinks fit over the Easement Area to carry out the works in clause 10.1 to 10.4.

11. The Transferee shall:

- (a) Surrender the easements created by this Transfer in respect of the land from the State Highway to the area marked "Oxidation Ponds" and marked "b-c" on S.O. Plan [] in the event that the Easement Area marked "b-c" on S.O. Plan [] becomes a road which provides the Transferee with the rights of access equivalent to those contained herein.
- (b) Acknowledge that other parties may have rights to use the Easement Area marked "b-c" on S.O. Plan [] as a track or road for motorised vehicles.

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

RELEASED UNDER THE OFFICIAL INFORMATION ACT

Approved by Register-General of Land under No. 1995/5003
Annexure Schedule

Insert below
"Mortgage", "Transfer", "Lease", etc

Dated

Page

of

Pages

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 _____

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.



Approved by Registrar-General
of Land under No. 1995/1004

TRANSFER GRANT OF EASEMENT IN GROSS

1. Public Access to Conservation Areas
2. Management Access

Land Transfer Act 1952

Law Firm Acting
Conservancy Solicitor Department of Conservation 133 Victoria Street Christchurch

Auckland District Law Society

REF:4135

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

This page is for Land Registry Office use only.
(except for "Law Firm Acting")



Appendix 5: Form of Easement Concession to be Created

Easement Concession under Crown Pastoral Land Act 1998

A handwritten signature or set of initials, possibly 'J.P.', enclosed in a hand-drawn oval shape.

Concession number: _____

DATED _____

Between

MINISTER OF CONSERVATION
("the Grantor")

and

HIGH COUNTRY ROSEHIP ORCHARDS LIMITED
("the Concessionaire")

EASEMENT CONCESSION
UNDER CROWN PASTORAL LAND ACT 1998



Department of Conservation
Te Papa Atawhai

A handwritten signature in the bottom right corner of the page.

THIS DOCUMENT is made this day of 200

PARTIES:

1. **MINISTER OF CONSERVATION**, ("the Grantor")

2. **HIGH COUNTRY ROSEHIP ORCHARDS LIMITED**, ("the Concessionaire")

BACKGROUND

- A. The land described in Item 1 of Schedule 1 as the Servient Land is a Conservation Area or a Reserve under the management of the Grantor.

- B. The land described in Item 2 of Schedule 1 as the Dominant Land is freehold land of the Concessionaire.

- C. Sections 66 and 68 of the Crown Pastoral Land Act 1998 authorise the Grantor to grant a Concession for a Concession Activity in a Conservation Area and a Reserve under section 17Q(1) of the Conservation Act 1987 or section 59A of the Reserves Act 1977 (whichever is relevant in the circumstances).

- D. The Concessionaire wishes to carry out the Concession Activity on the Easement Area subject to the terms and conditions of this Document.

- E. The Grantor has agreed to grant the Concessionaire an Easement appurtenant to the Dominant Land over that part of the Servient Land specified as the Easement Area.

OPERATIVE PARTS

TERMS AND CONDITIONS

1.0 DEFINITIONS AND INTERPRETATION

1.1 In this Document, unless the context otherwise requires:

“**Background**” means the matters referred to under the heading ‘Background’ on page 2 of this Document.

“**Compensation**” means the amount specified in Item 6 of Schedule 1 and required by the Grantor under section 53 of the Crown Pastoral Land Act 1988 and section 17X of the Conservation Act 1987 for the adverse effects of the Concession Activity on the Crown’s or public’s interest in the Easement Area.

“**Concession**” means a concession as defined in section 2 of the Conservation Act 1987.

“**Concessionaire**” means the registered proprietor for the time being of the Dominant Land and includes the Concessionaire’s successors, assigns, executors, and administrators.

“**Concession Activity**” means the use of the Easement Area by the Concessionaire for purposes specified in Item 4 of Schedule 1.

“**Conservation Area**” has the same meaning as “Conservation area” in section 2 of the Conservation Act 1987.

“**Director-General**” means the Director-General of Conservation.

“**Document**” means this document and any subsequent amendments and all schedules, annexures, and plans attached to it.

“Dominant Land” means the land specified in Item 2 of Schedule 1.

“Easement” means the Appurtenant Easement granted under this Document by the Grantor to the Concessionaire under section 17Q of the Conservation Act 1987 or section 59A of the Reserves Act 1977 (whichever is relevant in the circumstances).

“Easement Area” means that part of the Servient Land specified in Item 3 of Schedule 1.

“Reserve” has the same meaning as “reserve” in section 59A of the Reserves Act 1977.

“Servient Land” means a Conservation Area being the area more particularly described in Item 1 of Schedule 1.

“Structure” includes a bridge, a culvert, and a fence.

“Term” means the period of time specified in Item 5 of Schedule 1 during which this Document operates.

“Working Day” means the period between any one midnight and the next excluding Saturdays, Sundays and Statutory holidays in the place where the Concession Activity is being carried out.

1.2 In this Document unless the context otherwise requires:

- (a) a reference to a party is a reference to a party to this Document;
- (b) schedules and annexures form part of this Document and have effect accordingly;
- (c) words appearing in this Document which also appear in Schedule 1 mean and include the details appearing after them in that Schedule;
- (d) a provision of this Document to be performed by two or more persons binds those persons jointly and severally;
- (e) words in a singular number include the plural and vice versa;
- (f) words importing a gender include other genders;
- (g) references to a statute or statutory provision, or order or regulation made under it, include that statute, provision, or regulation as amended, modified, re-enacted or replaced from time to time whether before or after the date of this Document;
- (h) where the Grantor’s consent or approval is expressly required under a provision of this Document, the Concessionaire must seek the consent or approval of the Grantor for each separate occasion it is required notwithstanding that the Grantor has granted consent or approval for a like purpose on a prior occasion.

1.3 Words used in the Background to this Document have the same meaning given to them in clause 1.1.

2.0 GRANT OF APPURTENANT EASEMENT

2.1 In exercise of the Grantor’s powers under either section 66 or section 68 of the Crown Pastoral Land Act 1998 (whichever is relevant in the circumstances) the Grantor **GRANTS** to the Concessionaire an **EASEMENT APPURTENANT** to the Dominant Land under either section 17Q(1) of the Conservation Act 1987 or section 59A of the Reserves Act 1977 (whichever is relevant in the circumstances) to carry out the Concession Activity on the Easement Area subject to the terms and conditions contained in this Document.

3.0 TERM

3.1 The Easement is for the Term specified in Item 5 of Schedule 1.



4.0 COMPENSATION

4.1 The Concessionaire must pay to the Grantor in the manner specified by the Grantor the Compensation specified in Item 6 of Schedule 1.

5.0 OTHER CHARGES

5.1 In addition to Compensation, the Concessionaire must pay all rates, levies, taxes, duties, assessments, charges, and other outgoings which may be charged, levied, or reasonably assessed, or which may become payable in relation to the Easement Area and which are attributable to the Concessionaire's use of or activity on the Easement Area.

6.0 CONCESSION ACTIVITY

6.1 The Concessionaire is not to use the Easement Area for any purpose other than the Concession Activity.

7.0 COMPLIANCE

7.1 The Concessionaire will comply where relevant:

- (a) with the provisions of any conservation management strategy or conservation management plan under Part IIIA of the Conservation Act 1987 together with any amendment or review of any strategy or plan whether approved before, on, or after the date on which this Document takes effect; and
- (b) with the Conservation Act 1987, the Reserves Act 1977, the Resource Management Act 1991 and the Health and Safety in Employment Act 1992 and any other statute, ordinance, regulation, bylaw, or other enactment (collectively the "Legislation") affecting or relating to the Easement Area or affecting or relating to the Concession Activity.

8.0 CONCESSIONAIRE'S STRUCTURES, FACILITIES AND LAND ALTERATIONS

8.1 The Concessionaire must not erect or bring on to the Easement Area any Structure, install any facility, or alter the Land in any way without the prior written consent of the Grantor.

8.2 The Concessionaire must keep and maintain any Structures, and facilities on and alterations to the Easement Area in good repair.

8.3 On expiry or early termination of this Document either as to the whole or any part of the Easement Area, the Concessionaire will not be entitled to compensation for any improvements and any Structure or facilities remaining on the Easement Area are to become the property of the Grantor.

8.4 If requested by the Grantor, the Concessionaire must, within such time as the Grantor determines, remove all Structures, facilities or other improvements erected or installed by the Concessionaire and make good at the Concessionaire's own expense all damage done by the removal and must leave the Easement Area in a clean and tidy condition to the satisfaction of the Grantor.

9.0 PROTECTION OF THE ENVIRONMENT

9.1 Except as approved in writing by the Grantor the Concessionaire will not, whether by act or omission:

- (a) interfere with, remove, damage, or endanger the natural features, indigenous animals and plants, or historic resources on the Easement Area; or
- (b) bring any plants, or animals (except those stipulated in Item 4 of Schedule 1) on to the Easement Area; or

- (c) deposit on the Easement Area debris, rubbish or other dangerous or unsightly matter, or contaminate any water body on the Easement Area; or
- (d) pile or store materials in any place on the Easement Area where they may obstruct the public or create a nuisance; or
- (e) conduct any noxious, noisome, dangerous or offensive activity on the Easement Area; or
- (f) top-dress, burn, sow seed, or carry out earthworks (including tracking, drainage or ditching) on the Easement Area; or
- (g) disturb or allow stock to disturb any stream or watercourse on the Easement Area (except those stipulated in Item 4 of Schedule 1); or
- (h) light any fire on the Easement Area.

9.2 The Concessionaire, must at the Concessionaire's expense:

- (a) if required by the Grantor take all steps necessary to control any pest, insect, or rodent infestation occurring on or emanating from the Easement Area or any Structure or facility on the Easement Area;
- (b) comply strictly with the provisions of the Biosecurity Act 1993.

9.3 The Concessionaire must ensure that the Concessionaire's employees, agents, contractors, licensees and invitees comply with the obligations imposed on the Concessionaire under clause 9

9.4 The Concessionaire may bring firearms on to the Easement Area for use in connection with the Concession Activity and pest control operations.

9.5 The Concessionaire may for purposes of the Concession Activity take onto or use vehicles on the Easement Area on existing formed access tracks only.

10. TEMPORARY SUSPENSION

10.1 The Grantor may, at any time in exercise of the Grantor's powers, close all or part of the Easement Area for such period as she/he considers necessary.

11.0 TERMINATION

11.1 The Grantor may terminate this Document by notice in writing to the Concessionaire if:

- (a) the Concessionaire breaches any terms of this Document; and
- (b) the Grantor has notified the Concessionaire in writing of the breach; and
- (c) the Concessionaire does not rectify the breach within 28 days of receiving notification.

11.2 Immediately on termination the Concessionaire must execute a surrender of this Document if the Grantor so requires it.

12.0 INDEMNITIES AND INSURANCE

12.1 The Concessionaire will indemnify and keep indemnified the Grantor against all claims made by any person in respect of any injury, loss, or damage, including fire, caused or suffered as a result of or arising out of any acts or omissions of the Concessionaire, its employees, agents, contractors, licensees or invitees or otherwise caused as a result of its use of the Easement Area or the Concessionaire's carrying out of the Concession Activity on the Easement Area.

- 12.2 This indemnity is to continue after the expiry or other determination of this Document in respect of those acts or omissions occurring or arising before its expiry or determination.
- 12.3 Without prejudice to or in any way limiting its liability under clause 12.1 the Concessionaire must take out and keep in force during the Term if required by the Grantor:
- (a) a policy of public liability insurance against liability for loss, damage or injury from any one single accident or event arising out of its conduct of the Concession Activity on the Easement Area and covering:
 - (i) general indemnity for a sum not less than the amount specified in Item 7 of Schedule 1; and
 - (ii) Forest and Rural Fires Act 1977 extension for a sum not less than the amount specified in Item 8 of Schedule 1; and
 - (b) statutory liability insurance for the amount specified in Item 9 of Schedule 1; and
 - (c) such other policy or policies of insurance against any other liability and for such other sums which the Grantor specifies in Item 10 of Schedule 1.
- 12.4 With respect to clause 12.3 the Concessionaire must before commencing the Concession Activity and on each renewal of insurance, provide the Grantor with certificates of insurance issued by the Concessionaire's insurer confirming the nature, amount and duration of cover.

13.0 ASSIGNMENT

- 13.1 The Concessionaire is not to transfer, sublicense, assign, mortgage or otherwise dispose of the Concessionaire's interest under this Document or any part of it without the prior written consent of the Grantor. The Grantor may, in the Grantor's discretion, decline to grant consent under this clause.
- 13.2 If the Grantor gives consent under this clause the Concessionaire is to remain liable to observe and perform the terms and conditions of this Document throughout the Term and is to procure from the transferee, sublicensee, or assignee a covenant to be bound by the terms and conditions of this Document unless the Grantor otherwise provides in writing.
- 13.3 The Concessionaire must pay the costs reasonably incurred by the Grantor incidental to any application for consent, whether or not such consent is granted.
- 13.4 Any change in the shareholding of the Concessionaire altering the effective control of the Concessionaire will be deemed to be an assignment and will require the consent of the Grantor.

14.0 DISPUTE RESOLUTION AND ARBITRATION

- 14.1 If any dispute arises between the parties in connection with this Document, the parties must, without prejudice to any other rights they have under this Document, attempt to resolve the dispute by negotiation or other informal dispute resolution techniques agreed by the parties.
- 14.2 If the dispute is not capable of resolution by agreement within 14 days of written notice by one party to the other (or such further period as the parties may agree to in writing) either party may refer the dispute to the Disputes Tribunal, where relevant, or to mediation with a mediator agreed between the parties.
- 14.3 If the parties do not agree on a mediator, the President of the District Law Society in the region in which the Easement Area is located is to appoint the mediator.
- 14.4 In the event that the dispute is not resolved by mediation within 2 months of the date of referral to mediation the parties agree that the provisions of the Arbitration Act 1996 will apply.

14.5 Notwithstanding any provision to the contrary in the Arbitration Act 1996, if the parties do not agree on an arbitrator within 10 working days of a party giving written notice of the requirement to appoint an arbitrator the President of the District Law Society in the region in which the Easement Area is located is to appoint the arbitrator. The arbitrator must not be a person who has participated in an informal dispute resolution procedure in respect of the dispute.

14.6 All arbitration proceedings are to take place in New Zealand and to be governed by New Zealand law.

14.7 The parties agree that the results of any arbitration are to be binding on the parties.

15.0 NOTICES

15.1 Any notice to be given under this Document by one party to the other is to be in writing and made by personal delivery, by pre-paid post or by facsimile addressed to the receiving party at the address or facsimile number set out in Item 11 of Schedule 1.

15.2 A notice given in accordance with clause 15.1 will be deemed to have been received:

- (a) in the case of personal delivery, on the date of delivery;
- (b) in the case of pre-paid post, on the third working day after posting;
- (c) in the case of facsimile, on the Working Day on which it is dispatched or, if dispatched after 5.00pm on a Working Day, or if dispatched on a non-working day, on the next Working Day after the date of dispatch.

16.0 RELATIONSHIP OF PARTIES

16.1 Nothing expressed or implied in this Document shall be construed as:

- (a) conferring on the Concessionaire any right of exclusive occupation or use of the Easement Area;
- (b) preventing the Grantor from granting similar concessions to other persons;
- (c) derogating from the rights of the Grantor and the public to have access across the Easement Area.

17.0 SPECIAL CONDITIONS

17.1 Special conditions relating to this Document are set out in Schedule 2.

17.2 The standard conditions contained in this Document must be read subject to any special conditions.

Signed by :

for and on behalf of
the Minister of Conservation
pursuant to a written delegation (or designation as the case may be)
in the presence of :

Witness:
Occupation:
Address:

Signed by :

as Concessionaire
in the presence of :

Witness :
Occupation :
Address :



SCHEDULE 1

1. **Servient Land:** The land described as being part of _____ being Conservation Land situated in the Canterbury Land District and designated as Conservation Area along the Twizel River.
(see definition of Servient Land in clause 1.1)
2. **Dominant Land:** The land described as being _____ situated in the Strachey Survey District and described in Certificate of Title CB _____ (Canterbury Registry).
(see definition of Dominant Land in clause 1.1)
3. **Easement Area:** That part of the land labelled g-h, i-j, and k-l and shown as an orange line on the plan attached to the Proposal and having a width of 6 metres, and in respect of k-l having a width of 20 metres.
(see definition of Easement Area in clause 1.1)
4. **Concession Activity:** The Concessionaire has the right to from time to time and at all times for the Concessionaires, their servants, employees, agents workmen, contractors, licensees and invitees (in common with the Grantor and any other person lawfully entitled so to do) to have the full, free uninterrupted and unrestricted right liberty and privilege from time to time and at all times by day and by night to go pass and repass with motor vehicles and with or without horses, machinery and implements of any kind and with or without farm dogs and farm stock to and from the dominant land over and along the easement k-l and in respects to easement g-h and i-j to excavate a channel for an irrigation water supply, install pipes, install electricity conductors, install pumps, pump shed and maintain the installation from the Twizel River (as indicated on the attached map), but subject to the limitations expressed in this deed, to the intent that the easement hereby created shall forever be appurtenant to the Dominant Land. Provided that in undertaking the concession activity with respect to livestock movement the concessionaire must take all practical steps to ensure that the stock remain on the easement area for the shortest possible time.
(see definition of Concession Activity in clause 1.1.)
5. **Term:** The concession is granted in perpetuity commencing on the date on which the Surrender of the Orchard Estate Pastoral Lease folio number CB 47C/171 (Canterbury Land Registry) becomes effective pursuant to the Crown Pastoral Land Act 1998, being the day of 200
(see clause 3.1)
6. **Compensation: \$**
(payable on date of execution of this Document) *(see clause 4.1)*
7. **Public Liability General Indemnity Cover:** *(see clause 12.3)*
8. **Public Liability Forest & Rural Fire Act Extension:** *(see clause 12.3)*
9. **Statutory Liability Insurance** *(see clause 12.3)*
10. **Other Types of Insurance:** *(see clauses 12.3)*

11. Address for Notices (including facsimile number): (see clause 15)

(a) Grantor
Conservator
Department of Conservation
133 Victoria Street
Private Bag 4715
CHRISTCHURCH
PH: (03) 379 9758
Fax: (03) 365 1388

(b) Concessionaire
High Country Rose Hip Orchards Limited
c/o John Lyons
51 Flower Street
Fairfield
DUNEDIN
PH: (03) 488 3320
MOB: 025 320 306
Fax: (03)



SCHEDULE 2

Special Conditions

1. THE rights granted under this deed are non-exclusive and are exercisable in common with the Grantor and any other person granted similar rights by the Grantor, whether now or in the future, and without limitation the Grantor may grant the following persons access rights over the Easement Area:
 - i. members of the public for access on foot and with or without bicycles;
 - ii any lessee or licensee of the Grantors land

2. THAT in exercising the right liberty and privilege take all reasonable care to avoid damage to the soil and vegetation of the land in the easement and in particular will avoid using the easement when conditions render the land over which the easement is granted particularly vulnerable to damage.

3. THE cost and responsibility of any maintenance of the easement Area shall be borne by the Concessionaire and any other person or person(s) to whom the Grantor has granted similar rights in respect of the Easement Area, according to each persons use of the Easement Area PROVIDED THAT if any repair or maintenance is rendered necessary by the act, neglect, or default of any user or its servants, agents, contractors, workmen, licensees or invitees, then that user shall promptly carry such repair and maintenance and bear the cost of the work PROVIDED THAT the Grantor shall not be required to contribute to the cost of any maintenance in respect to the Easement Area PROVIDED further that any routine maintenance undertaken by the Concessionaire within the existing alignment does not require the prior consent in writing of the Grantor HOWEVER maintenance outside of the existing alignment undertaken by the Concessionaire requires the prior consent in writing of the Grantor.

4. THAT the Concessionaire shall ensure that no action by them or on their behalf has the effect of preventing the Easement Area over which the easement is granted being kept clear at all times of obstructions whether caused by parked vehicles, deposit of materials, or any other unreasonable impediment to the use and enjoyment of the said land.



CONSENT OF CANTERBURY REGIONAL COUNCIL
SUBSTANTIVE PROPOSAL FOR REVIEW OF CROWN LAND
UNDER PART 2 OF THE CROWN PASTORAL LAND ACT 1998


Dated 30 June 2006

BETWEEN: HIGH COUNTRY ROSEHIP ORCHARDS LIMITED at Dunedin ("Holder")

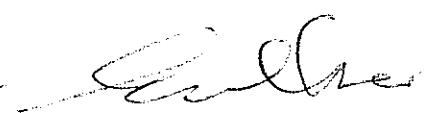
AND: THE COMMISSIONER OF CROWN LANDS

THE CANTERBURY REGIONAL COUNCIL, being the party entitled to the benefit of a Land Improvement Agreement Number 990830.1 registered against the Lease of the land described as Section 4-5, Survey Office Plan 20050 and contained in Certificate of Title CB47C/171, hereby consents to the acceptance of the Proposal dated 30 June 2006 by the Holder pursuant to the Crown Pastoral Land Act 1998.

Dated:
22/9/06


SIGNED for and on behalf of
CANTERBURY REGIONAL COUNCIL
in the presence of:

Witness Name:
Occupation:
Address:


Evan Walker
Manager
113 Pirini St
Riccarton
Christchurch

MACKENZIE DISTRICT COUNCIL
~~CONSENT OF CANTERBURY REGIONAL COUNCIL~~
SUBSTANTIVE PROPOSAL FOR REVIEW OF CROWN LAND
UNDER PART 2 OF THE CROWN PASTORAL LAND ACT 1998
Dated 30 June 2006

BETWEEN: HIGH COUNTRY ROSEHIP ORCHARDS LIMITED at Dunedin ("Holder")

AND: THE COMMISSIONER OF CROWN LANDS

THE MACKENZIE DISTRICT COUNCIL, being the party entitled to the benefit of:

- a registered interest 860231 – Gazette Notice creating a Right to Drain Sewage; and
- b registered interest 45A/687 – Deed of Easement creating Easement

registered against the Lease of the land described as Section 4-5, Survey Office Plan 20050 and contained in Certificate of Title CB47C/171, hereby consents to the acceptance of the Proposal dated 30 June 2006 by the Holder pursuant to the Crown Pastoral Land Act 1998.

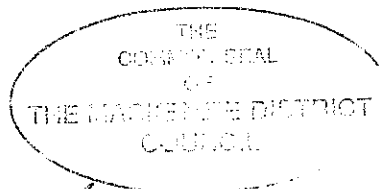
Dated: 14 September 2006

The Common Seal of the **MACKENZIE DISTRICT COUNCIL** was hereunto affixed in the presence of:

Witness Name:

Occupation:

Address:



A. A. Hull MAYOR
G. Jones CEO

DEPARTMENT OF CONSERVATION
~~CANTERBURY REGIONAL COUNCIL~~
CONSENT OF CANTERBURY REGIONAL COUNCIL
SUBSTANTIVE PROPOSAL FOR REVIEW OF CROWN LAND
UNDER PART 2 OF THE CROWN PASTORAL LAND ACT 1998
Dated 30 June 2006

BETWEEN: HIGH COUNTRY ROSEHIP ORCHARDS LIMITED at Dunedin ("Holder")

AND: THE COMMISSIONER OF CROWN LANDS

THE DEPARTMENT OF CONSERVATION, being the party entitled to the benefit of a Conservation Covenant Number A171549.1 registered against the Lease of the land described as Section 4-5, Survey Office Plan 20050 and contained in Certificate of Title CB47C/171, hereby consents to the acceptance of the Proposal dated 30 June 2006 by the Holder pursuant to the Crown Pastoral Land Act 1998.

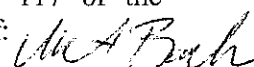
Dated: 26 July 2006
m.

SIGNED by the Regional Conservator for the Canterbury Conservancy, DEPARTMENT OF CONSERVATION acting for and on behalf of the Minister pursuant to Section 117 of the Reserve Act 1977 in the presence of:

Witness Name: MARYANNE BAXTER.

Occupation: TENURE REVIEW ADMINISTRATION.

Address: 161 B REGENTS PARK DRIVE
CHRISTCHURCH.



ALPINE ENERGY LIMITED
~~CONSENT OF CANTERBURY REGIONAL COUNCIL~~
SUBSTANTIVE PROPOSAL FOR REVIEW OF CROWN LAND
UNDER PART 2 OF THE CROWN PASTORAL LAND ACT 1998
Dated 30 June 2006

BETWEEN: HIGH COUNTRY ROSEHIP ORCHARDS LIMITED at Dunedin ("Holder")

AND: THE COMMISSIONER OF CROWN LANDS

ALPINE ENERGY LIMITED, being the party entitled to the benefit of an Electricity Easement pursuant to a Deed dated 14 December 2000 between J D J & A W Allan and the Holder over the land described as Section 4-5, Survey Office Plan 20050 and contained in Certificate of Title CB47C/171, hereby consents to the acceptance of the Proposal dated 30 June 2006 by the Holder pursuant to the Crown Pastoral Land Act 1998.

Dated: 27th July 2006

SIGNED by ALPINE ENERGY LIMITED by
its Directors:

JJ Bowen
Director

[Signature]
Director

JDJ ALLAN AND T K LAWSON
~~CANTERBURY REGIONAL COUNCIL~~
CONSENT OF CANTERBURY REGIONAL COUNCIL
SUBSTANTIVE PROPOSAL FOR REVIEW OF CROWN LAND
UNDER PART 2 OF THE CROWN PASTORAL LAND ACT 1998
Dated 30 June 2006

BETWEEN: HIGH COUNTRY ROSEHIP ORCHARDS LIMITED at Dunedin ("Holder")

AND: THE COMMISSION OF CROWN LANDS

JOHN DAVID JOSEPH ALLAN and THOMAS KEITH LAWSON, having an interest in the Electricity Easement in favour of ALPINE ENERGY LIMITED pursuant to a Deed dated 14 December 2000 between J D J & A W Allan and the Holder over the land described as Section 4-5, Survey Office Plan 20050 and contained in Certificate of Title CB47C/171, hereby consents to the acceptance of the Proposal dated 30 June 2006 by the Holder pursuant to the Crown Pastoral Land Act 1998.

Dated: 21 September 2006

SIGNED by JOHN DAVID JOSEPH ALLAN

in the presence of:

Witness name:

E. G. Bradley

Occupation:

Address:

E. G. Bradley
Solicitor
Timaru



SIGNED by THOMAS KEITH LAWSON

in the presence of:

Witness name:

E. G. Bradley

Occupation:

Address:

E. G. Bradley
Solicitor
Timaru



Partners :

David J. Ehlers, B.Com., LL.B.
John A. Farrow, B.A., LL.B.
Teresa Chan, B.Com., LL.B

Consultants :

John E. Farry, MNZM, LL.B.
Peter W.H. Chin, CNZM, LL.B.

Associates :

Megan L. Bartlett, B.A., LL.B.
Celeste Crawford, B.A., LL.B.
Andrew McClintock, LL.B.

Trust Account Number :

National Bank, Dunedin Branch, 060-901-0188039-00

Offices At:

79 Lower Stuart Street, Dunedin, NZ
Telephone (03) 477-1078, Fax (03) 477-5754

NZ Post Building, 107 Gordon Road Mosgiel, NZ
Telephone (03) 489-5157 Fax (03) 489-2021

All correspondence to :

PO Box 5541
Dunedin

Email Address :

Lawyers@webbfarry.co.nz

Website :

www.webbfarry.co.nz

26 September 2006


SUNSTANTIVE PROPOSAL FOR REVIEW OF CROWN LAND
UNDER PART 2 OF THE CROWN PASTORAL LAND ACT 1998
Dated 30 June 2006

Certifications

I, David Joseph Ehlers hereby certify as follows:

- 1 High Country Rosehip Orchards Limited ("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 30 June 2006 ("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.
- 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 by the Commissioner.
- 3 All necessary consents, licences, approvals and authorizations 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 authorizations are attached to this letter.

Yours faithfully
WEBB FARRY



D J Ehlers

Partner

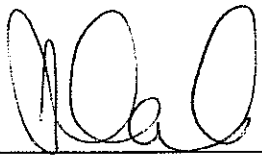
Direct Dial: 474 5719

Email: dehlers@webbfarry.co.nz

Execution Section

This Proposal (including the schedules and appendices) is signed by the Commissioner and the Holder as a binding agreement.

SIGNED for and on behalf of the
Commissioner of Crown Lands
by Paul Alexander Jackson acting
pursuant to a delegated authority in
the presence of:

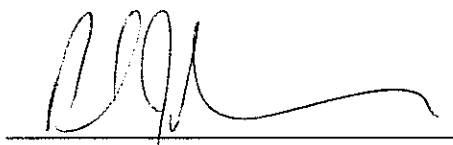


Witness

Shannon Leigh Austin

Occupation **Solicitor**
Wellington

Address



SIGNED for and on behalf of
High Country Rosehip Orchards Limited
by its director in the presence of:



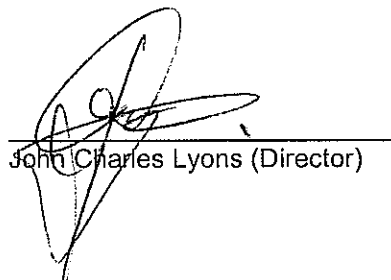
Witness

Solicitor

Occupation

Dunedin

Address


John Charles Lyons (Director)