

# **Crown Pastoral Land Tenure Review**

**Lease name: SILVERBIRCH**

**Lease number: PO 290**

## **Substantive Proposal**

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

**November**

**05**

EXECUTION  
COPY

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

Date: 5 November 2004

**Parties**

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**Holder:** Paul Benson Johnston ½ share and Blair Reginald Johnston ½ share  
Silverbirch  
RD2 Etrick  
Roxburgh

**Commissioner of Crown Lands:**

C/- Manager for Tenure Review  
DTZ New Zealand Limited  
PO Box 27  
Alexandra

**The Land**

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**Lease:** Silverbirch

**Legal Description:** Sections 4 and 5 SO Plan 315448

**Area:** 111.8428 Hectares

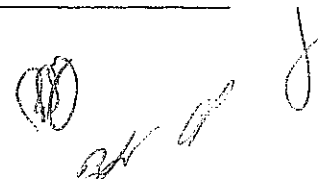
**Certificate of Title/Unique Identifier:** OT A2/1312

**Summary of Designations**

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Under this Proposal, the Land is designated as follows:

- (a) 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 subject to protective mechanisms.



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**2 Conditions**

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

**3 Settlement**

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- 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 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**

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- 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**

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- 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**

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

**7 Issue of Certificate of Title**

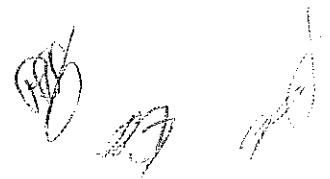
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- 7.1 Notwithstanding any other provision in this Proposal, the Commissioner will not request that the Surveyor-General issue a certificate to the Registrar pursuant to section 116 of the Land Act 1948 (to enable a certificate of title to issue for 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**

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- 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**

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- 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 1973 and the Overseas Investment Regulations 1995.
- 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**

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- 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**

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- 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.

**12 Apportionments**

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- 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**

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- 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**

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- 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**

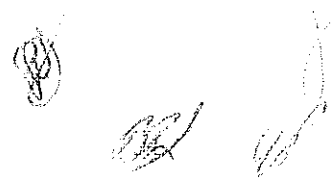
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- 15.1 If the Holder accepts this Proposal and that acceptance takes effect under the Act, the Holder acknowledges that:
  - (a) it is obtaining the freehold interest in the Freehold Land:
    - (i) "as is", solely in reliance on its own investigations 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 1991; 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;
  - (e) 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
  - (f) 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**

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- 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**

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- 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**

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- 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**

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- 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**

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- 20.1 The Commissioner and the Holder warrant to each other that they are registered for GST purposes.
- 20.2 On the 10<sup>th</sup> 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 10<sup>th</sup> 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. The invoice will specify the Holder's GST Date.
- 20.5 The Commissioner will pay GST on the Commissioner's Consideration to the Holder on the Holder'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 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.



**21 Lowest price**

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- 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 EH 48(3)(a) of the Income Tax Act 1994 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 EH 48(3)(a) of the Income Tax Act 1994 is equal to the Commissioner's Consideration.

**22 Costs**

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- 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**

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- 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 General**

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- 24.1 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.
- 24.2 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.
- 24.3 The Holder must comply with the Commissioner's requirements for the implementation and settlement of the Tenure Review contemplated by this Proposal.
- 24.4 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.
- 24.5 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.
- 24.6 The illegality, invalidity or unenforceability of any provision in this Proposal will not affect the legality, validity or enforceability of any other provision.
- 24.7 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).

**25 Interpretation**

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**25.1 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 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;

**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 GST Date** means the earlier of Settlement Date or 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 Proposal;

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**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 15<sup>th</sup> day of the following January or a day which is a provincial holiday in the place where the obligation is to be performed.

## 25.2 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);

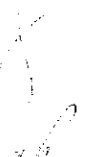
- (g) references to sections, clauses, sub-clauses, parts, annexures, attachments, appendices, schedules, paragraphs and sub-paragraphs are references to such as they appear in this Proposal and form part of this Proposal;
- (h) headings are included for ease of reference only and will not affect the 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

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Nil.



Schedule Two: Provisions relating to the Schedule Two Land

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Nil.

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Schedule Three: Provisions relating to the Schedule Three Land

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**1 Details of designation**

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1.1 Under this Proposal the land shown marked in green on the Plan, being 111.8428 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 substantially as set out in Appendix 4; and
- (d) the covenant substantially as set out in Appendix 5.





Schedule Four: Conditions

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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:

Handwritten signatures and initials, including a large signature on the left and several smaller initials on the right.

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

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**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.]

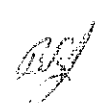
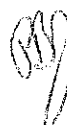
Yours faithfully  
[signed by principal of law firm]



Appendix 3: Indicative Fencing Requirements

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Nil.



Appendix 4: Form of Easement to be Created

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RELEASED UNDER THE OFFICIAL INFORMATION ACT

Transfer Instrument

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

[Empty box]

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

All

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.

Public Access Easement in Gross under section 12 of the Reserves Act 1977 (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

[Empty box]

[Solicitor for] the Transferee

[Signature]

[Signature]

[Signature]



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 20 metres wide which is marked "[ ]" on Deposited Plan/S.O. Plan No [ ].
  - 1.2 "Servient Land" means the land owned by the Transferor and described on page 1.
  - 1.3 "Transferee" means Her Majesty the Queen acting by and through the Minister of Conservation and 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.
  - 1.4 "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 to pass and re-pass at any time over and along the Easement Area on foot, or on or accompanied by horses, or by non-motorised vehicle powered by a person or persons.
- 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.

Term

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

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





Annexure Schedule

Transfer Instrument      Dated      Page      of      Pages

Temporary Suspension

5. The Transferee 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.

Dispute Resolution

6.1 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.

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 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.

7.2 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

Transfer Instrument	Dated	Page	of	Pages
---------------------	-------	------	----	-------

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



Appendix 5: Form of Protective Mechanism to be Created

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Handwritten signatures or initials in the bottom right corner of the page.

CONSERVATION COVENANT  
for Crown Pastoral Land Act 1998 Purposes  
(Section 77, Reserves Act 1977)

THIS DEED of COVENANT is made the                      day of

BETWEEN                                      COMMISSIONER OF CROWN LANDS

AND    MINISTER OF CONSERVATION

**BACKGROUND**

- A. The Commissioner of Crown Lands is deemed to be the owner of the Land under section 80(5) of the Crown Pastoral Land Act 1998.
- B. The Land contains beech forest.
- C. The parties agree that the Land should be managed so as to preserve the natural environment and landscape amenity.
- D. An approved plan designating the Land as land over which a Covenant under section 77 of the Reserves Act 1977 is to be created has been registered under section 64 of the Crown Pastoral Land Act 1998.
- E. The Commissioner of Crown Lands has agreed to grant the Minister a Covenant over the Land to preserve the attributes described in C above.

**OPERATIVE PARTS**

In accordance with section 77 of the Reserves Act 1977, and with the intent that the Covenant run with the Land and bind all subsequent owners of the Land, the Commissioner of Crown Lands and the Minister agree as follows:

**1. INTERPRETATION**

1.1 In this Covenant unless the context otherwise requires:

- “Act”                                      means the Reserves Act 1977.
- “Covenant”                                means this Deed of Covenant made under section 77 of the Act.
- “Land”                                     means the land described in Schedule 1.
- “Minister”                                means the Minister of Conservation.
- “Owner”                                    means the person or persons who from time to time is or are registered as the proprietor(s) of the Land.



- 1.2 For avoidance of doubt:
- 1.2.1 the reference to any statute in this Covenant extends to and includes any amendment to or substitution of that statute;
  - 1.2.2 clause and other headings are for ease of reference only and are not to be treated as forming any part of the context or to affect the interpretation of this Covenant;
  - 1.2.3 words importing the singular number include the plural and vice versa;
  - 1.2.4 expressions defined in clause 1.1 bear the defined meaning in the whole of this Covenant including the Background. Where the parties disagree over the interpretation of anything contained in this Covenant and in determining the issue, the parties must have regard to the matters contained in the Background;
  - 1.2.5 any obligation not to do anything must be treated to include an obligation not to suffer, permit or cause the thing to be done;
  - 1.2.6 words importing one-gender include the other gender;
  - 1.2.7 the agreements contained in this Covenant bind and benefit the parties and their administrators and executors, successors and assigns in perpetuity;
  - 1.2.8 where clauses in this Covenant require further agreement between the parties such agreement must not be unreasonably withheld.

## 2. OBJECTIVE OF THE COVENANT

- 2.1 The Land must be managed:
- 2.1.1 so as to preserve the attributes described in Background C;
  - 2.1.2 to provide, subject to this Covenant, freedom of access to the public on foot only for the benefit, enjoyment and recreational use of the Land.

## 3. THE OWNER'S OBLIGATIONS

- 3.1 The Owner must not carry out on or in relation to the Land:
- 3.1.1 deliberate grazing of the Land by livestock;
  - 3.1.2 felling, removal or damage of any tree, shrub or other plant;
  - 3.1.3 the planting of any species of tree, shrub or other plant;
  - 3.1.4 the erection of any fence, building, structure or other improvement for any purpose;
  - 3.1.5 any burning, chemical spraying, top dressing or sowing of seed;
  - 3.1.6 any cultivation, earth works or other soil disturbances;



- 3.1.7 any archaeological or other scientific research involving disturbance of the soil;
  - 3.1.8 the damming, diverting or taking of natural water;
  - 3.1.9 any action which will cause deterioration in the natural flow, supply, quantity, or quality of water of any stream, river, lake, pond, marsh, or any other water resource affecting the Land;
  - 3.1.10 any other activity which might have an adverse effect on the values described in Background Recital C
- 3.2 Unless permitted to do so by statute the Owner must not carry out in relation to the Land:
- 3.2.1 any prospecting or mining for minerals, coal or other deposit or moving or removal of rock of any kind on or under the Land;
  - 3.2.2 the erection of utility transmission lines across the Land.
- 3.3 The Owner must:
- 3.3.1 eradicate or control all weeds and pests on the Land to the extent required by any statute; and in particular comply with the provisions of, and any notices given under, the Biosecurity Act 1993;
  - 3.3.2 if it is safe to do so, and the Owner is available, assist the Minister to exterminate any wildfire upon or threatening the Land;
  - 3.3.3 keep the Land free from exotic tree species;
  - 3.3.4 keep the Land free from rubbish or other unsightly or offensive material arising from the Owner's use of the Land;
  - 3.3.5 subject to consultation between the Owner and the Minister and observance of any reasonable conditions imposed by the Owner, grant to the Minister and any employee or authorised agent of the Minister, a right of access on to the Land, with or without motor vehicles, machinery, and implements of any kind, to examine and record the condition of the Land, or to carry out protection or maintenance work on the Land, or to ascertain whether the provisions of this Covenant are being observed;
  - 3.3.6 keep all fences and gates on the boundary of the Land in good order and condition and must rebuild or replace all such fences and gates except as provided in clause 4.2.

#### 4. THE MINISTER'S OBLIGATIONS

- 4.1 The Minister must have regard to the objective specified in clause 2.1 when considering any requests for approval under this Covenant.
- 4.2 The Minister must repair and replace to its former condition any fence, gate or other improvement on the Land or on its boundary which may have been damaged in the

course of the Minister or any member of the public exercising any of the rights conferred by this Covenant.

**5. IMPLEMENTATION OF OBJECTIVES**

5.1 The Minister may;

5.1.1 provide to the Owner technical advice or assistance as may be necessary or desirable to assist in meeting the objectives specified in clause 2;

5.1.2 prepare, in consultation with the Owner, a joint plan for the management of the Land to implement the objective specified in clause 2.

**6. DURATION OF COVENANT**

6.1 This Covenant binds the parties in perpetuity to the rights and obligations contained in it.

**7. MISCELLANEOUS MATTERS**

7.1 **Rights**

7.1.1 The rights granted by this Covenant are expressly declared to be in the nature of a covenant.

7.2 **Trespass Act:**

7.2.1 Except as provided in this Covenant, the Covenant does not diminish or affect the rights of the Owner to exercise the Owner's rights under the Trespass Act 1980 or any other statute or generally at law or otherwise;

7.2.2 For avoidance of doubt these rights may be exercised by the Owner if the Owner reasonably considers that any person has breached the rights and/or restrictions of access conferred by this Covenant.

7.3 **Reserves Act**

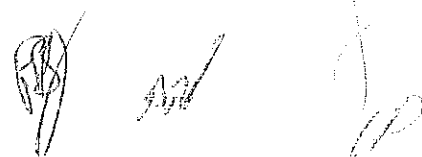
7.3.1 While this Covenant remains in force and subject to the terms and conditions set out in this Covenant, sections 93 to 105 of the Reserves Act 1977, as far as they are applicable, apply to the Land as if the Land were a reserve.

7.4 **Titles**

7.4.1 This Covenant must be signed by both parties and registered against the Certificate of Title to the Land.

7.5 **Acceptance of Covenant**

7.5.1 The parties agree to be bound by the provisions of this Covenant including during the period prior to the Covenant's registration.



7.6 Fire

7.6.1 Provided the Owner is aware of the wildfire the Owner must notify, as soon as practicable, the appropriate fire authority and the Minister in the event of wildfire threatening the land;

7.6.2 If the Minister is not the appropriate Fire Authority for the Land, the Minister will render assistance to the Fire Authority in suppressing the fire if:

7.6.2.1 requested to do so; or

7.6.2.2 if there is in place between the Minister and the Fire Authority a formalised fire agreement under section 14 of the Forest and Rural Fires Act 1977.

8. NOTICES

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

8.1.1 be hand delivered to the receiving party; or

8.1.2 be sent by ordinary post to the receiving party

8.2 If clause 8.1.2 applies the notice will be deemed to be received by the receiving party on the date on which the ordinary post would be delivered.

8.3 The Owner must notify the Minister of any change of ownership or control of all or part of the Land and must supply the Minister with the name and address of the new owner or person in control.

8.4 For purposes of this clause 8 the term "Owner" does not include the Commissioner of Crown Lands.

9. DEFAULT

9.1 Where either party breaches any of the terms and conditions contained in this Covenant the other party:

9.1.1 may take such action as may be necessary to remedy the breach or prevent any further damage occurring as a result of the breach; and

9.1.2 will also be entitled to recover from the party responsible for the breach as a debt due all costs (including solicitor/client costs) incurred by the other party as a result of remedying the breach or preventing the damage.

9.2 Should either party become of the reasonable view that the other party (the defaulting party) has defaulted in performance of or observance of its obligations under this Covenant then that party (notifying party) may, by written notice:

9.2.1 advise the defaulting party of the default.



9.2.2 state the action reasonably required of the defaulting party to perform or observe in accordance with this Covenant; and

9.2.3 state a reasonable period within which the defaulting party must take action to remedy the default.

**10. DISPUTE RESOLUTION PROCESSES**

10.1 If the defaulting party:

10.1.1 fails to take the action required within the time required in the notice under clause 9.2; or

10.1.2 disputes the notice or any aspect of it; or

10.1.3 has any other dispute in connection with this Covenant or the rights and obligations contained in it;

the parties agree to make efforts to resolve the dispute by negotiation between them or their representatives.

**10.2 Mediation**

10.2.1 if a resolution contemplated by the process provided in Clauses 10.1 is not agreed within 3 months of the date given in clause 9.2.3 the matter must be referred to formal mediation by the parties with a mediator agreed between them;

10.2.2 if the parties do not agree on a mediator, the President of the Local District Law Society is to appoint the mediator.

**10.3 Failure of Mediation**

10.3.1 in the event that the matter is not resolved by mediation within two months of being referred to mediation the parties agree that the provisions in the Arbitration Act 1996 will apply;

10.3.2 if the parties do not agree on the person to be appointed as arbitrator, the appointment is to be made by the President for the time being of the Local District Law Society;

10.3.3 the parties further agree that the results of arbitration are to be binding upon the parties.

**11. JOINT OBLIGATIONS**

11.1 The Owner or the Minister may, by mutual agreement, carry out any works or improvements or take any action either jointly or individually to better preserve the attributes described in Background, Recital C on page 1.

11.2 The Minister will pay to the Owner a proportionate share of the following:

11.2.1 the cost of new fences or the repair and maintenance of existing fences on the boundary of the Land if the Minister has first approved the work.



11.2.2 the cost of a programme under clause 3.3 if the Minister has first approved a programme.

11.3 The proportionate share payable by the Minister is to be calculated having regard to the purpose of the expenditure with the intent that:

11.3.1 the Minister will bear the cost of work essential for purposes of nature/historic conservation

11.3.2 the Owner will bear the cost of work essential for farming purposes.

11.3.3 when the expenditure is partly for nature/historic conservation and partly for farming purposes, the parties will bear the costs equally or in such other proportion as they may agree, and failing agreement, as may be determined under clause 10.

12 PUBLIC ACCESS

12.1 The Owner must, subject to this clause, permit the public to have foot access over the Owner's adjoining land to the Land along an access strip 3 metres wide coloured yellow on the attached plan, and to have access over the Land.

12.2 The Owner may decline access to the Land for reasonable farm management reasons, including during lambing, or when such decline is reasonably exercised as a consequence of the public being in breach of the terms of this clause 12.

12.3 When exercising access over the Owner's adjoining land and over the Land:

- (a) the public shall not take any gun or animal with them; and
- (b) the public shall not light any fires or leave any rubbish.

Signed by \_\_\_\_\_ acting under a )  
delegation from the Commissioner of Crown Lands )  
in the presence of : \_\_\_\_\_ )

Witness: \_\_\_\_\_

Address : \_\_\_\_\_

Occupation: \_\_\_\_\_

Signed by \_\_\_\_\_ acting under a )  
designation given to him by the Regional )  
General Manager (Southern) of the Department )  
of Conservation and dated \_\_\_\_\_ )  
in the presence of : \_\_\_\_\_ )

Witness: \_\_\_\_\_

Address : \_\_\_\_\_

Occupation: \_\_\_\_\_

SCHEDULE 1

Description of Land



GRANT of

Correct for the purposes of the  
Land Transfer Act 1952

CONSERVATION COVENANT

Solicitor for the Minister

Under Section 77 of the  
Reserves Act 1977

COMMISSIONER OF CROWN  
LANDS

to

MINISTER OF CONSERVATION

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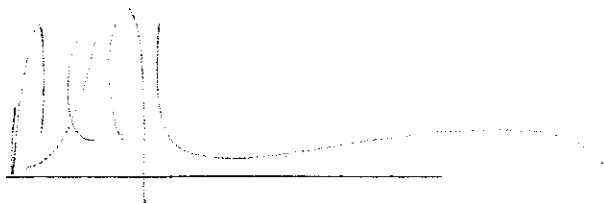
Solicitor  
Department of Conservation  
DUNEDIN

**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:



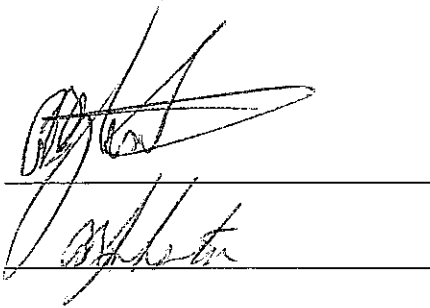
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U M Parzma  
Witness

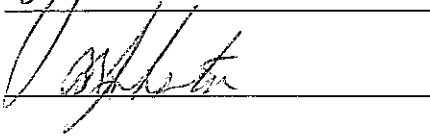
Solicitor  
Occupation

Wellington  
Address

**SIGNED** by Paul Benson  
Johnston and Blair Reginald  
Johnston in the presence of:



---



---

Rose Johnston  
Witness

Accountant  
Occupation

Rose Johnston  
Address



---



Checketts McKay  
Lawyers Central Otago

Alexandra Office:

Address Level 1,  
77 Centennial Avenue, Alexandra  
Post P.O. Box 41, Alexandra, New Zealand  
Phone (03) 448 6969  
Fax (03) 448 8960  
Trust Account BNZ 020916 0007675 00  
G.S.T. Number 30-317-955

2 February 2005

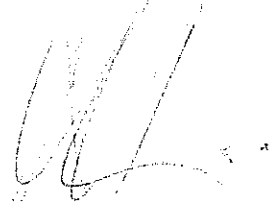
Please ask for:

To: Commissioner of Crown Lands  
Land Information New Zealand

**PAUL BENSON JOHNSTON & BLAIR REGINALD JOHNSTON  
TENURE REVIEW –  
SOLICITORS CERTIFICATE**

We hereby certify as follows:

1. The consent of each person that has a registered interest in the Land (as that term is defined in the Proposal), to the Holder's acceptance of the Proposal has been obtained and included with the copy of the Proposal, signed by the Holder, that has been provided to the Commissioner.
2. We are not aware of any person who has an unregistered interest in the Land (as defined in the Proposal).
3. Apart from the consents referred to in item 1 above, we are not aware of any consent, licence, approval or authorisation by any Court, regulatory authority or governmental agency which 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).

  
.....  
J A Williamson  
Partner  
**CHECKETTS MCKAY**

DDI 03 448 9670  
john@cmlaw.co.nz

MORTGAGEE CONSENT

Brian William Trevathan as a mortgagee under mortgage number 876984.11 ("the Mortgage"), hereby:

- a) consents to the acceptance by the Holder ("the Holder") of the Substantive Proposal ("the Proposal") dated the 5<sup>th</sup> November 2004 pursuant to the Crown Pastoral Land Act 1998 and agrees and consents to the registration of the documents affecting the Freehold Land referred to in the Proposal prior to the registration of any new mortgage to be granted in the mortgagee's favour over the Freehold Land; and
- b) agrees to sign and execute all deeds, agreements, schedules and other document 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 new replacement mortgage over the Freehold Land.

Dated 22/01/05 2005

**SIGNED** by Brian William TREVATHAN  
as Mortgagee in the presence of:

) B Trevathan

B. Trevathan  
Signature of Witness

DEBBIE TREVATHAN  
Name of Witness

COURT REGISTRY OFFICER  
Occupation of Witness

257 CLYDE STREET, BALCLUTHA  
Place of Residence

MORTGAGEE CONSENT

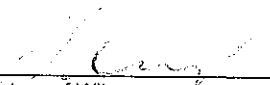
David Alexander Graham as a mortgagee under mortgage number 876984.11 ("the Mortgage"), hereby:

- a) consents to the acceptance by the Holder ("the Holder") of the Substantive Proposal ("the Proposal") dated the 5<sup>th</sup> November 2004 pursuant to the Crown Pastoral Land Act 1998 and agrees and consents to the registration of the documents affecting the Freehold Land referred to in the Proposal prior to the registration of any new mortgage to be granted in the mortgagee's favour over the Freehold Land; and
- b) agrees to sign and execute all deeds, agreements, schedules and other document 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 new replacement mortgage over the Freehold Land.

Dated 28-01 - 2005

SIGNED by David Alexander GRAHAM as Mortgagee in the presence of:

)  
)  
) 

  
Signature of Witness

PETER COUGN.  
Name of Witness

MANAGER.  
Occupation of Witness

36 BERKELEY AVE  
Place of Residence  
MARGATE

MORTGAGEE CONSENT


25 JAN 2005

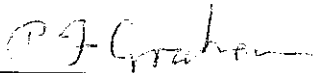
Christopher Mark Graham as a mortgagee under mortgage number 876984.11 ("the Mortgage"), hereby:

- a) consents to the acceptance by the Holder ("the Holder") of the Substantive Proposal ("the Proposal") dated the 5<sup>th</sup> November 2004 pursuant to the Crown Pastoral Land Act 1998 and agrees and consents to the registration of the documents affecting the Freehold Land referred to in the Proposal prior to the registration of any new mortgage to be granted in the mortgagee's favour over the Freehold Land; and
- b) agrees to sign and execute all deeds, agreements, schedules and other document 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 new replacement mortgage over the Freehold Land.

Dated 24 January 2005

SIGNED by Christopher Mark GRAHAM as Mortgagee in the presence of:

)  )

  
Signature of Witness

PETER FRANCIS BRUCE GRAHAM  
Name of Witness

RETIRED  
Occupation of Witness

11 THIVISTOCK PL FIVONHEAD CHCH  
Place of Residence

MORTGAGEE CONSENT

26 JAN


Graeme Trevathan as a mortgagee under mortgage number 876984.11 ("the Mortgage"), hereby:

- a) consents to the acceptance by the Holder ("the Holder") of the Substantive Proposal ("the Proposal") dated the 5<sup>th</sup> November 2004 pursuant to the Crown Pastoral Land Act 1998 and agrees and consents to the registration of the documents affecting the Freehold Land referred to in the Proposal prior to the registration of any new mortgage to be granted in the mortgagee's favour over the Freehold Land; and
- b) agrees to sign and execute all deeds, agreements, schedules and other document 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 new replacement mortgage over the Freehold Land.

Dated 26<sup>th</sup> January 2005

SIGNED by Graeme TREVATHAN  
as Mortgagee in the presence of:

) G. Trevathan

  
\_\_\_\_\_  
Signature of Witness

Stephen John Ryan  
\_\_\_\_\_  
Name of Witness

Accountant  
\_\_\_\_\_  
Occupation of Witness

New Plymouth  
\_\_\_\_\_  
Place of Residence