

# **Crown Pastoral Land Tenure Review**

**Lease name: KILLERMONT**

**Lease number: PO 207**

## **Substantive Proposal - Part 1**

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

**June**

**06**

EXECUTION  
COPY

PROPOSAL FOR REVIEW OF CROWN LAND

Under Part 2 of the Crown Pastoral Land Act 1998

Date: 21 February 2006

**Parties**

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**Holder:** Killermont Run Limited  
C/- Scott and Co Limited  
Chartered Accountants  
27a Coquet St  
Oamaru

**Commissioner of Crown Lands:**

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

**The Land**

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**Lease:** Killermont

**Legal Description:** Section 3, Block V, Ahuriri Survey District, Runs 201B and 674, Ahuriri and Hawkdun Survey Districts

**Area:** 4825.0669 Hectares

**Certificate of Title/Unique Identifier:** OT 386/146

**Summary of Designations**

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Under this Proposal, the Land is designated as follows:

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

1      The Plan

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**2 Conditions**

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

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**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.

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**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.

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**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.

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**6 Vesting of Crown Land**

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

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**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.

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**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**

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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 2005 and 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**

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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 and Construction**

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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.
- 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**

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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 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**

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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.
- 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**

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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 purpose 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 purpose 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**

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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 Recreation Permit**

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- 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**

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- 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

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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 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 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.

## 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

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1 Details of Designation

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- 1.1 Under this Proposal the land shown edged in pink and labelled "CA1" and "CA2" on the Plan, being 1150 hectares (approximately), is designated as land to be restored to or retained in full Crown ownership and control as conservation area held for the purpose of the protection of conservation values.

2 Schedule One Improvements

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Nil

Schedule Two: Provisions relating to the Schedule Two Land

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1 Details of designation

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Nil

Schedule Three: Provisions relating to the Schedule Three Land

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1 Details of designation

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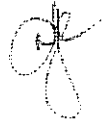
- 1.1 Under this Proposal the land shown edged in green on the Plan, being 3675 hectares (approximately) is designated as land to be disposed of by freehold disposal to the Holder subject to:
- (a) Part IVA of the Conservation Act 1987;
  - (b) Section 11 of the Crown Minerals Act 1991;
  - (c) the easement marked a-b-c, d-b, e-f, g-h and i-j on the plan and substantially as set out in Appendix 4; and
  - (d) the continuation in force of an easement in gross in favour of AgResearch Limited which is to be registered pursuant to Schedule 4 of this proposal. A copy of the unregistered easement is attached as Appendix 5.



Schedule Four: Conditions

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The Commissioner is under no obligation to proceed with this tenure review until the easement in favour of AgResearch Limited and substantially set out in Appendix 5, is registered.





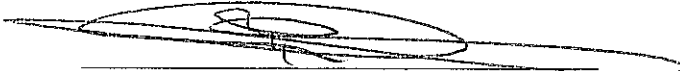
CERTIFICATE OF NON-REVOCATION OF POWER OF ATTORNEY


We, John Peter Larcomb and Manju Datt Prasad  
National Manager and Manager respectively, both of Wellington in New Zealand do hereby  
certify:

1. THAT by deed dated 18<sup>th</sup> day of April 2000 Rabobank New Zealand Limited,  
appointed us as its attorney's on the terms and subject to the conditions set out in the  
said deed.
  
2. THAT the power of attorney was deposited in the Land Transfer Office at:
 

Blenheim (Marlborough Registry) and there numbered	215414.1
Christchurch (Canterbury Registry) and there numbered	A483706.1
Dunedin (Otago Registry) and there numbered	5013528.1
Gisborne (Gisborne Registry) and there numbered	231450.1
Hamilton (South Auckland Registry) and there numbered	B637396.1
Hokitika (Westland Registry) and there numbered	115481.1
Invercargill (Southland Registry) and there numbered	5016998.1
Napier (Hawkes Bay Registry) and there numbered	709427.1
Nelson (Nelson Registry) and there numbered	402416.1
New Plymouth (Taranaki Registry) and there numbered	475072.1
Wellington (Wellington Registry) and there numbered	B810600.1
Auckland (North Auckland Registry) and there numbered	D557660.1
  
3. THAT as the date hereof we have not received any notice or information of the  
revocation of that appointment by the winding up of the said Rabobank New Zealand  
Limited or otherwise.

SIGNED at Wellington this 3<sup>rd</sup> day of March 2006.

  
 \_\_\_\_\_  
 John Peter Larcomb

  
 \_\_\_\_\_  
 Manju Datt Prasad

Appendix 1: Consents – Example of Mortgagee Consent

RABOBANK NEW ZEALAND LIMITED  
[ ] as Mortgagee under Mortgage [5946901.2] ("the Mortgage"), hereby:

- (a) consents to acceptance of the Proposal dated [21 February 2006] ("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: 3<sup>rd</sup> March 2006

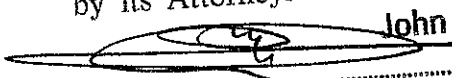
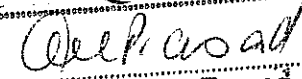
SIGNED by [ ] ) \_\_\_\_\_  
in the presence of: ) \_\_\_\_\_

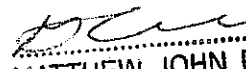
Witness Signature:

Witness Name:  
Occupation:  
Address:

Witnessed by:

SIGNED for RABOBANK  
NEW ZEALAND LIMITED  
by its Attorneys in the presence of:  
John Peter Larcomb

  
.....  
  
.....  
Manju Datt Prasad

  
.....  
MATTHEW JOHN RUSSELL  
Bank Officer  
Wellington

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**

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**Fenceline**

---

**Length and location:** Fence to be located along the line shown marked as L-M and N-O on the Plan (being approximately 450m and 200 metres respectively).

**Type:** L-M Deer fence  
N-O Seven wire sheep fence upgraded to stock proof standard  
J-K Eight wire sheep fence upgraded to stock proof standard

**Specifications:**

---

**L-M Deer fence**

- Fence construction shall be ground treated (H4) Corsican Pine round 2.7 metre medium 125mm posts every seven metres, 13 line 1900mm high deer netting, 300mm spacing. Alternatively such fence as the parties may agree in writing providing it meets the requirements of the Fencing Act 1978.
- Every wire 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 2.7 metres with an average diameter of 200mm to be fully stayed with box stay assemblies.
- Tie downs to be installed at posts using full length "Waratah" where there is more than 5 degrees lift angle between posts.
- Wire to be to NZ Standard specification. Waratahs to be of Australian manufacture.
- Ground preparation to be the minimum required to establish a secure fence.
- No gates are required in this particular fence.

**N-O Sheep fence**

- Seven wire sheep fence upgraded to stock proof standard.

**J-K Sheep fence**

- Eight wire sheep fence upgraded to stock proof standard.
- Hunter chain to be utilised where necessary in snow prone zones of the fence line.

**Construction**

---

Nil

Appendix 4: Form of Easement to be Created

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In Gross Easement: Public Access and Management Purposes - Version 5.1

CHCCO- 73881 - Killermont - June 2005

## **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

R 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 12 of the Reserves Act 1977 (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 TRANSFEREE 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 \_\_\_\_\_

Attestation

Signed by  
acting under written delegation  
from the Commissioner of Crown  
Lands

Signature, or common seal of Transferor

Signed in my presence by the Transferor  
Signature of Witness

Witness to complete in BLOCK letters  
(unless typewritten or legibly stamped)

Witness name

Occupation

Address

(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)

Solicitor for the Transferee



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

**Annexure Schedule**

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

Dated

Page  of  Pages

**Definitions**

1. In this transfer unless the context otherwise requires:
  - 1.1 "Easement Area" means that part of the Servient Land being 10 metres wide which is marked "[ ]" on Deposited Plan/S.O. Plan No [ ].
  - 1.2 "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.
  - 1.3 "Servient Land" means the land owned by the Transferor and described on page 1.
  - 1.4 "Transferee" means Her Majesty the Queen acting by and through the Minister of Conservation and, for purposes of clause 2.1, 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 2.2 means the Transferee's tenants, agents, contractors, and invitees; and any employee or contractor of the Director-General of Conservation only.
  - 1.5 "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 in common with the Transferor:
  - 2.1 To pass and re-pass at any time over and along the Easement Area a-b-c, e-f, g-h, and i-j on foot or by non-motorised vehicle powered by a person or persons.
  - 2.2 To pass and re-pass at any time over and along the Easement Area a-b-c, e-f, g-h, i-i, and d-b on foot, or on or accompanied by horses, or by motor vehicle, with or without machinery and implements of any kind, for Management Purposes.
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.

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

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

Dated

Page  of  Pages

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.

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.

Notice

- 8.1 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;
  - (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 the 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.

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

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

Dated  Page  of  Pages

**Special Easement Terms**

- 9. The standard easement terms contained above must be read subject to any special easement terms set out below.
- 10. The Transferee (not being a member of the Public) has the right:
  - 10.1 To mark the Easement Area as appropriate.
  - 10.2 To erect and maintain stiles.
  - 10.3 To 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 their rights and responsibilities in relation to the Easement Area.
  - 10.4 To use whatever reasonable means of access he/she thinks fit over the Easement Area to carry out the works in clause 10.1 to 10.3.

**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 \_\_\_\_\_

*Footnote: In substitution of the SO Plan (which has yet to be prepared), the proposed easement described in clause 1 is marked on the Plan.*

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. Vehicles for Management Purposes

**Land Transfer Act 1952**

Law Firm Acting

Conservancy Solicitor  
Department of Conservation  
133 Victoria Street  
Christchurch

Auckland District Law Society  
REF.4135

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

Appendix 5: Easement in Gross in favour of AgResearch Limited

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BETWEEN  
THE COMMISSIONER OF CROWN LANDS  
A N D  
AGRESEARCH LIMITED

GRANT OF EASEMENT

gallaway cook allan  
LAWYERS

Handwritten signature and initials in the bottom right corner of the page.

THIS DEED is made the \_\_\_\_\_ day of \_\_\_\_\_ 2006

BETWEEN THE COMMISSIONER OF CROWN LANDS at Wellington ("the Grantor")

A N D AGRESEARCH LIMITED at Hamilton (together with its successors and permitted assigns "the Grantee")

**BACKGROUND**

- A The Grantor is the owner of the Land described in Clause 1 of the Schedule ("the Grantor's Land").
- B The Grantee is the owner of the Land described in Clause 2 of the Schedule ("the Grantee's Land").
- C The Grantee wishes to use part of the Grantor's Land for the purpose of conveying water across the Grantor's Land.
- D The Grantor has agreed to grant to the Grantee an easement over the Grantor's Land on the conditions set out in this Deed.

**TERMS OF THIS DEED**

**1. DEFINITIONS AND INTERPRETATION**

**1.1. In this Deed (including the Schedule)**

"Deed" means this deed, the background and the Schedule;

"Easement Land" means those parts of the Grantor's Land marked "A" and "B" on Plan SO 359037 within which the Grantee may exercise the rights granted by this Deed;

"Grantee" includes the Grantee's servants, agents, employees, workers, invitees, licensees, lessees or tenants and contractors;

"Lessee" means the lessee in the Pastoral Lease;

"Works" means: conduits, pipes and any ancillary equipment in relation to the water race belonging to the Grantee on the Grantor's Land;

"Pastoral Lease" means pastoral lease No. P207 (as varied) which was granted pursuant to section 83 of the Land Act 1948 and is comprised and described in certificate of title OT386/146 (Otago Land Registration District).

**1.2. In the interpretation of this Deed unless the context otherwise requires:**

(a) the headings and subheadings appear as a matter of convenience and shall not affect the interpretation of this Deed;

(b) references to any statute, regulation or other statutory instrument or bylaw shall be deemed to be references to the statute, regulation, instrument or bylaw.

bylaw as from time to time amended and includes substitution provisions that substantially correspond to those referred to and;

- (c) the singular includes the plural and vice versa and words incorporating any gender shall include every gender.

## 2. GRANT OF EASEMENT

2.1. Pursuant to section 60 of the Land Act 1948 the Grantor grants to the Grantee, for a term of 25 years commencing from the date of the execution of this Deed the following easement:

- (a) The right to from time to time and at all times to take and convey water by way of a water race through over and under the Easement Land in terms of a right to convey water appurtenant to the Grantees Land as defined by the 4<sup>th</sup> Schedule of the Land Transfer Regulations 2002 ("the 4<sup>th</sup> Schedule") together with all such rights and obligations that attach to such an easement for the right to convey water as contained in the 4<sup>th</sup> schedule except where such rights and obligations conflict with the terms of this Deed then the terms of this Deed shall prevail.

- (b) The provisions of the 4<sup>th</sup> schedule are modified by the addition of the following:


"Any maintenance repair or replacement of the easement facility on the servient or dominant land that is necessary because of any act or omission by the owner of the servient land or the owner of the dominant land (which includes agents, employees, contractors, sub-contractors and invitees of that owner) must be carried out promptly by that owner at fault and at that owner's sole cost.

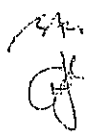
Where that act or omission is the partial cause of the maintenance, repair or replacement the costs payable by that owner responsible must be in proportion to the amount attributable to that act or omission (with the balance payable in accordance with clause 11 of schedule 4)."

- (c) The right from time to time and at all times to enter, exit, pass and remain on, under or over such part of the Grantor's Land as is reasonable for the exercise of the rights granted under this Deed from time to time and at all times for all purposes reasonably necessary for the exercise of the rights granted under this Deed with or without vehicles or machinery necessary for such purposes but subject to the limitations expressed in this Deed.
- (d) The rights granted under this Deed are non-exclusive and are exercisable in common with the Grantor and any other person having similar rights either now or in the future.

## 3. CONSIDERATION

3.1. In consideration of the grant of easement in this Deed:

- (a) The Grantee shall pay the Grantor the sum of one dollar (\$1.00) for the grant of the water easement.
- (b) The Grantee shall observe the obligations imposed on it under this Deed. 





4. **REGISTRATION**

- 4.1. This Deed shall be registered pursuant to section 60 of the Land Act 1948 at the Grantees request and all parties will do all that is necessary for the registration of this Deed at the required time.

5. **WAIVER OF COMPENSATION BY LESSEE**

- 5.1. The Grantee has obtained from the Lessee a waiver of the Lessee's right to payment of compensation from the Grantor pursuant to section 60(1) of the Land Act 1948 in respect of the grant of easements in this Deed.

6. **OBLIGATIONS OF THE GRANTEE**

- 6.1. The Grantee shall when on the Grantor's Land (subject to Clause 2.1 (b)) of this Deed:

- (a) Wherever possible remain on the formed roads and tracks and when on those roads or tracks comply with all traffic laws and regulations as are applicable to public roads.
- (b) Immediately after passing through any gates, close such of them as were closed and lock such of them as were locked immediately before such passing through.
- (c) Take all reasonable precautions for guarding against any danger (including, but without limitation, fire, physical damage or disease), and in particular shall (but without limiting the general obligation to take full and proper precautions pursuant to this Clause 6.1 (c)) comply with all conditions that may be imposed from time to time by the Grantor or any lawful authority.
- (d) Ensure that as little damage or disturbance as possible is caused to the surface of the Grantor's Land and that the surface is restored as nearly as possible to its former condition and any other damage done by reason of the activities permitted on the Easement Land by this Deed is similarly restored.
- (e) The Grantee shall only enter onto the Grantor's Land pursuant to this Deed without notice for routine matters such as water flow monitoring minor and routine matters in relation to complying with the terms of the various Resource Consents for the taking of the water and minor and routine maintenance of the water race. Where the maintenance required is not of a minor nature nor routine, the Grantee shall give reasonable prior written notice **EXCEPT** in an emergency where the Grantee may enter without notice if necessary provided that subsequent notice is given as soon as practicable. In both cases notice shall be given to both the Grantor and the Lessee.
- (f) The Grantee shall, at its cost, repair to the satisfaction of the Grantor any part of the Grantor's Land, including the tracks, fences, gates, drains, buildings or other structures, which is damaged directly or indirectly by the Grantee.

- 6.2. The Grantee shall compensate the Grantor for any loss suffered by the Grantor resulting directly or indirectly from the actions of the Grantee.

- 6.3. The Grantee shall at all times in the exercise of the rights set out in this Deed not obstruct or hamper the Grantor, or any agents, employees and contractors of the Grantor or the Lessee, in its normal or reasonable use of the Grantor's Land.

- 6.4. The Grantee shall not at any time except with the prior written approval of the Grantor carry out any activity which is not included within Clause 2 of this Deed on

*[Handwritten signature]*

the Grantor's Land, or do any other thing which would affect the ability of the Grantor to use the Grantor's Land.

- 6.5. The Grantee shall comply at all times with all statutes and regulations and obtain all approvals, consents and authorisations as are necessary for the Grantee to conduct the activities permitted by this Deed.
- 6.6. The Grantee shall be responsible for using its best endeavours, to prevent the Works from becoming a danger or a nuisance.

**7. OWNERSHIP OF STRUCTURES**

- 7.1. All structures and Works placed by the Grantee on the Easement Land for the purposes of exercising the rights of the Grantee created by this Deed will remain the property of the Grantee and no part of them will become a fixture on the Grantor's Land.
- 7.2. The Grantee will, on the expiry of the term granted or sooner determination of the rights created by this Deed, remove all structures and Works from the Easement Land within one month and will restore the Grantor's Land as nearly as possible to the condition that it was in at the commencement of this Deed.
- 7.3. If the Grantee has not taken the steps set out in Clause 7.2 of this Deed within the specified time, the Grantor may remove all structures and Works from the Easement Land and restore the Grantor's Land as nearly as possible to the condition that it was in at the commencement of this Deed and recover all costs incurred from the Grantee.

**8. COSTS**

- 8.1. The Grantee shall bear all reasonable costs and expenses (including the Grantor's legal costs) in relation to the preparation and enforcement of any provisions in this Deed.
- 8.2. The Grantee shall be solely responsible for the registration (if any) of this Deed and any associated costs.
- 8.3. All costs for the installation and maintenance of the structures and Works, and carrying out of associated works, permitted by this Deed shall be at the Grantee's cost.

**9. INDEMNITY**

- 9.1. The Grantee hereby indemnifies the Grantor against any loss, claim, damage, costs, expense, liability or proceeding suffered or incurred at any time by the Grantor in connection with this Deed or as a direct result of the exercise by the Grantee of its rights under this Deed, or any breach by the Grantee of its obligations, undertakings or warranties contained or implied in this Deed.

**10. GRANTOR'S LIABILITY EXCLUDED**

- 10.1. Under no circumstances will the Grantor be liable in contract, tort, or otherwise to the Grantee for any expense, costs, loss, injury, or damage whether consequential or otherwise, arising directly or indirectly from this Deed or any activity undertaken by the Grantor on the Grantor's Land, whether the expense, cost, loss, injury or damage is the direct or indirect result of negligence or otherwise.

**11. TERMINATION**

- 11.1. The Grantor may terminate the rights created by this Deed if the Grantee breaches any of the terms of this Deed and the breach remains unrectified following written notice to the Grantee specifying the breach and seeking rectification within 30 days or such other time provided the parties agree.
- 11.2. If the breach remains unrectified (or is unable to be rectified) then termination must be by written notice from the Grantor.
- 11.3. Upon termination (for whatever reason) of the grant of easement evidenced by this Deed all rights of the Grantee shall immediately cease (subject to Clause 7.2 of this Deed) but the Grantee shall not be released from any liability to pay consideration or other moneys up to the date of termination.
- 11.4. Upon termination the Grantee shall formally surrender the rights under this Deed and surrender the grant of easement.

**12. DELEGATION**

- 12.1. All rights, benefits and obligations of the Grantor arising under this Deed may be exercised by any person duly appointed by the Grantor **PROVIDED THAT** the exercise of any such rights, benefits or obligations by that person shall not limit the liability of the Grantor in the performance or observance of the provisions of this Deed.

**13. DISPUTES**

- 13.1. If any dispute arises between the Grantor and the Grantee concerning the rights created by this Deed the parties shall enter into negotiations in good faith to resolve their dispute. If the dispute is not resolved within one month of the date on which the parties begin their negotiations the parties shall submit to the arbitration of an independent arbitrator appointed jointly by the parties, and if one cannot be agreed upon within 14 days, to an independent arbitrator appointed by the President for the time being of the District Law Society in which the Grantor's Land is situated. Such arbitration shall be referred to the arbitration in New Zealand of a single arbitrator if the parties can agree upon one or otherwise to two arbitrators (one to be appointed by each party) and an umpire (to be appointed by the arbitrators before entering upon their reference) in accordance with the Arbitration Act 1996 **PROVIDED THAT** this clause shall be subject in all respects to the provisions of section 17 of the Land Act 1948.

**14. NOTICES**

- 14.1. Any notice to be given by one party under this Deed to the other shall be in writing and shall be forwarded by either delivering or posting it to the addressee at the appropriate address set out below or to such address notified by the address in writing to the other party.
- (a) The Grantor's Address as set out in Clause 2 of the Schedule.
  - (b) The Grantee's Address as set out in Clause 3 of the Schedule.
  - (c) Any notice posted shall be deemed to be served three (3) working days after the date of posting.

**15. SEVERABILITY**

15.1. If any part of this Deed is held by any court or administration body of competent jurisdiction to be illegal, void, or unenforceable, such determination shall not impair the enforceability of the remaining part of this Deed which shall remain in full force.

16. GRANTOR NOT TO INTERFERE WITH GRANTEE'S RIGHTS

16.1. The Grantor shall not at any time do, permit or suffer to be done any act whereby the rights, powers, licences and liberties granted to the Grantee maybe interfered with or affected in any way.

IN WITNESS WHEREOF these presents have been executed the day and year hereinbefore written.

SIGNED by THE COMMISSIONER OF CROWN LANDS - by MURRAY ROBERT MACKENZIE in the presence of:

*[Handwritten signature of Murray Robert Mackenzie]*

Witness Signature:  
Witness Full Name:  
Witness Occupation:  
Witness Address:

*[Handwritten signature: Owen John Frost]*  
OWEN JOHN FROST  
PORTFOLIO MANAGER  
CROWN PROPERTY MANAGEMENT  
C/- LINZ, CHRISTCHURCH

EXECUTED for and on behalf of AGRESEARCH LIMITED in the presence of:

*[Handwritten signature: Scott Alexander Mataga]*  
} Authorised Person  
(Scott Alexander Mataga,  
Company Secretary)

Witness Signature:  
Witness Full Name:  
Witness Occupation:  
Witness Address:

*[Handwritten signature: Donna Jane Cross]*  
Donna Jane Cross  
Solicitor  
Hamilton

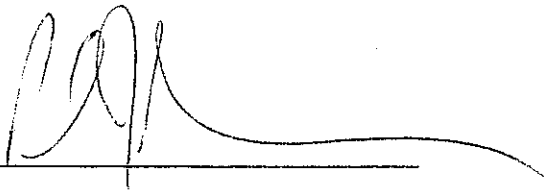
SCHEDULE

1. **GRANTOR'S LAND**  
4825.0669 hectares more or less  
being Section 3 Block V Ahuriri  
Survey District, Run 201B and  
Run 674  
**SUBJECT TO:** Renewal of  
Lease 910685, Statutory Land  
Charge 429781 and Certificate of  
Alteration 265173
  
2. **GRANTEE'S LAND**  
3341.6589 hectares more or less  
being Section 1 Survey Office  
Plan 23872 as comprised in Title  
reference OT14D/1011
  
3. **GRANTOR'S ADDRESS**  
C/- Land Information New  
Zealand  
Private Bag 4721  
Christchurch  
**Attention: Crown Property  
Management**
  
4. **GRANTEE'S ADDRESS**  
AgResearch Limited  
Ruakura Research Centre  
Private Bag 3115  
Hamilton  
  
**Attention: Chief Financial Officer**

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:



A M Lagan  
Witness

Solicitor  
Occupation

Wellington  
Address

SIGNED by Killermont Run Limited in the presence of:

M. B. Thomas Director  
D. J. Thomas Director

\_\_\_\_\_  
Witness

\_\_\_\_\_  
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 **GEORGE LATHAM BERRY**  
**Oamaru**  
**Solicitor**

I [ ] hereby certify as follows:

1. *Killermont Run Limited*  
[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 [ *21/2/06* ] ("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**

*MB* ~~[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.

*MB* 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.]

**Berry & Co.**  
**Barristers & Solicitors**

Yours faithfully  
[signed by principal of law firm]

*[Signature]*  
Per:  
*3/13/2006*



### Appendix 3: Indicative Fencing and Construction Requirements

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#### Fenceline

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**Length and location:** Fence to be located along the line shown marked as L-M and N-O on the Plan (being approximately 450m and 200 metres respectively).

**Type:**

L-M Deer fence

N-O Seven wire sheep fence upgraded to stock proof standard

J-K Eight wire sheep fence upgraded to stock proof standard

#### Specifications:

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##### L-M Deer fence

- Fence construction shall be ground treated (H4) Corsican Pine round 2.7 metre medium 125mm posts every seven metres, 13 line 1900mm high deer netting, 300mm spacing. Alternatively such fence as the parties may agree in writing providing it meets the requirements of the Fencing Act 1978.
- Every wire 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 2.7 metres with an average diameter of 200mm to be fully stayed with box stay assemblies.
- Tie downs to be installed at posts using full length "Waratah" where there is more than 5 degrees lift angle between posts.
- Wire to be to NZ Standard specification. Waratahs to be of Australian manufacture.
- Ground preparation to be the minimum required to establish a secure fence.
- No gates are required in this particular fence.

##### N-O Sheep fence

- Seven wire sheep fence upgraded to stock proof standard.

##### J-K Sheep fence

- Eight wire sheep fence upgraded to stock proof standard.
- Hunter chain to be utilised where necessary in snow prone zones of the fence line.

#### Construction

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Nil

Appendix 4: Form of Easement to be Created

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In Gross Easement: Public Access and Management Purposes – Version 5.1

CHCCO- 73881 - Killermont – June 2005

## **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*

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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

**R 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 12 of the Reserves Act 1977 (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 TRANSFEREE 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 \_\_\_\_\_

Attestation

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

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)

Solicitor for the Transferee

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

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

Dated

Page

of

Pages

**Definitions**

1. In this transfer unless the context otherwise requires:
  - 1.1 "Easement Area" means that part of the Servient Land being 10 metres wide which is marked "[ ]" on Deposited Plan/S.O. Plan No [ ].
  - 1.2 "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.
  - 1.3 "Servient Land" means the land owned by the Transferor and described on page 1.
  - 1.4 "Transferee" means Her Majesty the Queen acting by and through the Minister of Conservation and, for purposes of clause 2.1, 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 2.2 means the Transferee's tenants, agents, contractors, and invitees; and any employee or contractor of the Director-General of Conservation only.
  - 1.5 "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 in common with the Transferor:
  - 2.1 To pass and re-pass at any time over and along the Easement Area a-b-c, e-f, g-h, and i-j on foot or by non-motorised vehicle powered by a person or persons.
  - 2.2 To pass and re-pass at any time over and along the Easement Area a-b-c, e-f, g-h, i-i, and d-b on foot, or on or accompanied by horses, or by motor vehicle, with or without machinery and implements of any kind, for Management Purposes.
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.

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

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

Dated

Page  of  Pages

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.

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.

Notice

- 8.1 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;
  - (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 the 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.

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

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

Dated

Page  of  Pages

**Special Easement Terms**

- 9. The standard easement terms contained above must be read subject to any special easement terms set out below.
- 10. The Transferee (not being a member of the Public) has the right:
  - 10.1 To mark the Easement Area as appropriate.
  - 10.2 To erect and maintain stiles.
  - 10.3 To 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 their rights and responsibilities in relation to the Easement Area.
  - 10.4 To use whatever reasonable means of access he/she thinks fit over the Easement Area to carry out the works in clause 10.1 to 10.3.

**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 \_\_\_\_\_

*Footnote: In substitution of the SO Plan (which has yet to be prepared), the proposed easement described in clause 1 is marked on the Plan.*

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. Vehicles for Management Purposes

**Land Transfer Act 1952**

Law Firm Acting

Conservancy Solicitor  
Department of Conservation  
133 Victoria Street  
Christchurch

Auckland District Law Society  
REF:4135

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