

Crown Pastoral Land Tenure Review

Lease name : EMERALD HILLS

Lease number : PO 158

Due Diligence Report - Addendum

This report and attachments results from a pre-Tenure Review assessment of the pastoral lease for the purpose of confirming land available for Tenure Review and any issues, rights or obligations attaching to it. The information is gathered from files and other sources available to the LINZ contractor.

Part of the information relates to research on the status of the land, resulting in a Status Report that is signed off by a LINZ approving officer. The remainder of the information is not analysed for relevancy or possible action until required, and LINZ does not guarantee its accuracy or completeness as presented.

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

July 08

**DUE DILLIGENCE REPORT ADDENDUM
CPL PRE-TENURE REVIEW ASSESSMENT STANDARD 6:**

File Ref: 12482 Emerald Hills Report No: 710033

Report Date: 31 July 2008

Office of Agent: Christchurch LINZ Case No:

Date sent to LINZ:

Recommendations:

That the Commissioner of Crown Lands or his delegate note:

1. That the Commissioner of Crown Lands or his delegate **note** this Due Diligence Report Addendum which has been prepared in a manner similar to Pre-Tenure Review Assessment Standard on instructions from the Commissioner of Crown Lands.
2. That the Commissioner of Crown Lands or his delegate **note** the following incomplete actions which require action by the Manager of Pastoral:
 - a. The balance area of the pastoral lease has been shown as 1,038.1909 hectares; however the correct area is 1,044.2795 hectares being the sum of the areas of Part Run 711 and Section 1 Block V Rock & Pillar Survey District as deduced from SO plans 12976 and 21578. It would be prudent to correct this error, by requesting the Land Information New Zealand Processing Centre Manager to register a Departmental Dealing to correct this.
 - b. That Clause 14 of Emerald Hills pastoral lease provides a right of way for access to the former Rockvale pastoral lease as defined on SO Plan 12976. Should the pastoral lease enter the Tenure Review process, the situation should be reviewed to formalise the existing situation by an easement pursuant to Section 60 of the Land Act 1948.

Signed by



REBECCA GILLESPIE
Property Consultant

31 July 2008

Reviewed by



TONY FRASER
Project Manager – Contract 50428/3

31 July 2008

Approved/Declined (pursuant to a delegation from the Commissioner of Crown Lands) by:

Name:

Date of Decision: / /

1. Pastoral Lease Details

Pastoral Lease Emerald Hills.

Location Located in Otago, approximately 26 kilometres north of Middlemarch on the eastern slopes of the Rock and Pillar range.

LIPS No. 12482

Lessee Anthony John Richards and Barbara Mary Richards.

Legal Description Part Run 711 and Section 1 Block V Rock & Pillar Survey District

Area 1,044.2795 hectares

Land Tenure Pastoral Lease of pastoral land pursuant to Section 66 and registered under Section 83 of the Land Act 1948, as varied by Memorandum of Renewal on 3 May 1990 (No. 753504).

Term 33 years commencing on 1 July 1989.

Computer Interest Register OTA2/1300.

2. File Search

The following files were provided by LINZ, and searched for the purpose of the Land Status Check and Due Diligence addendums:

File Reference	File Name	Date
CON/50213/09/12482/A-ZNO	Contract Management – Crown Property Contracts – Crown Pastoral Interests : Statutory Land Management : Emerald Hills	1 July 2000 – 1 January 2005
CON/50268/09/12482/A-ZNO	Contract Management – Crown Property Contracts – Pre Tenure Review Assessment – Standard 6 – Emerald Hills	27 September 2001 – 8 May 2002
PRY-C60-12482-SLM-PO158-Z/01	Property: Crown Pastoral Land: Emerald Hills pastoral lease	31 March 2008 -
CPL/04/11/12482-ZCH	Regional Files – Crown Pastoral Land – District – Otago Land District – Emerald Hills	1 March 1997 – 11 April 2005

3. Summary of Lease Document

Terms of Lease

Term

A thirty three year lease from 1 July 1989.

Rental

The current annual rental payable is set at _____ plus GST being 2.25% of the Land Exclusive of Improvements Value of _____

The current annual rental is for the 11 year period from 1 July 2000 to 30 June 2011. The date of the next rent review is 1 July 2011.

Stock Limitation in Lease

Clause 13 of the lease document provides that the base stock limit is set as follows:

1,320 Sheep

Commencement Date

The original pastoral lease was issued on 1 July 1956 to Bruce Patrick Kinney, Gerald Joseph Kinney and John Graham Kinney. The lease was transferred to the current lessee, Anthony John Richards and Barbara Mary Richards, by Transfer 6043376.1 on 16 June 2004.

The lease was renewed on 1 July 1989 for a further term of 33 years by Memorandum of Renewal of Lease No. 753504 at an annual rental of _____ plus GST, being 1.5% of the Land Exclusive of Improvements Value of _____

Other Provisions

Clause 14 of the lease document provides that "...the parcel of land coloured yellow on the plan hereon and marked "Right-of-Way" may be used by the Lessee of Run 712 Rock and Pillar Survey District for access purposes across the land herein leased to the said Run 712".

The Due Diligence Report dated 8 April 2002 advises that the right of way, which provides access to Run 712 is held over four parcels of adjoining land. It further advises that only one access route affects the reduced area of the current pastoral lease.

Renewals & Variations

707198.2 Surrender of part of the within lease being Part Run 711 (3.8897 ha) shown hatched black hereon effective from 29 June 1984 (see Re-Appellation 651569.4).

753504 Variation of the terms of the lease registered on 3 May 1990. The variation acts to renew the lease for a further 33 years commencing on 1 July 1989 and fixing the annual rental payable at (for the first 11 years), calculated on a rental value of

Area Adjustments

The current area recorded on the CIR is incorrect. An area adjustment determined by redefinition for part of the lease was incorrectly applied to the balance of the lease rather than to the area that was redefined and subsequently surrendered from the lease. The correct area should be 1044.2795 hectares.

Registered Interests

707198.2 Surrender of part of the within lease being Part Run 711 (3.8997 ha) shown hatched black hereon effective from 29 June 1984.

753504 Memorandum renewing the term of the within lease for a further period of 33 years commencing on 1 July 1989 and fixing (for the first 11 years) the annual rent at calculated on a rental value of

965483.1 Certificate specifying Mining Rights under Section 417 of the Resource Management Act 1991. This provides a registered certification from the Otago Regional Council that the licence holders of Water Race No 1518 Naseby Registry of the Warden's Court, are entitled to cut, construct, and maintain a race and to use the race as natural water channel. It is noted that this interest has not been bought down to the current Computer Interest Register, but does however still show as a current interest on the historical title.

Unregistered Interests None.

Other Interests None.

4. Summary of Government Programmes

As in the original Due Diligence Report dated 8 April 2002, no Government programmes relating to the pastoral lease have been identified.

5. Land Status Check Report Summary

The Land Status Check Report confirms that status of the land as Crown Land under the Land Act 1948, and being subject to pastoral lease pursuant to Section 66 of the Land Act 1948. The pastoral lease is registered pursuant to Section 83 of the Land Act 1948, as Computer Interest Register OTA2/1300.

The Land Status Check Report identifies that the lease is subject to Part IVA of the Conservation Act 1987, and Certificate 965483.1 pursuant to Section 417 of the Resource Management Act 1991 (water race). The minerals remain with the Crown.

The balance area of the pastoral lease has been shown as 1,038.1909 hectares; however the correct area is 1,044.2795 hectares being the sum of the areas of Part Run 711 and Section 1 Block V Rock & Pillar Survey District as deduced from SO plans 12976 and 21578. The previously recorded area of 1,038.1909 hectares has been derived from adjustment of a former area within the lease. Section 9 Block X Rock & Pillar SD was redefined on SO 21764 as Section 15 Block X Rock & Pillar SD and the area amended from 255.7613 hectares to 261.8500 hectares.

This area adjustment was incorrectly applied to the balance of the lease rather than to the parcel that was redefined and subsequently surrendered from the lease. This matter was not addressed in the original Land Status Check Report or Due Diligence Report.

The legal description has been confirmed and is the same as that noted earlier in this report under Section 1.

The Land Status Check Report advises that Clause 14 of the pastoral lease document image CIR OTA2/1300 notes a subject right of way in favour of Run 712 to the south, as noted earlier in this report. It further advises that "...SO 12976 shows this ROW coloured yellow at the western end of the legal road adjoining the eastern boundary of the subject land. This requires further investigation at the due diligence stage re formalising the easement."

Other than the above matters regarding the anomaly concerning the correct area shown on the title, and also the provision contained in Clause 14 (which was also noted in the original Due Diligence Report) no further matters requiring further investigation have been identified.

A copy of the Land Status Check Report is attached at Appendix A.

6. Review of Topographical & Cadastral Data

The topographical and cadastral data reported in the original Due Diligence Report dated 8 April 2002 has been reviewed and it is confirmed that there are no changes to that reported.

7. Details of Neighbouring Crown or Conservation Land

As noted in the original Due Diligence Report dated 8 April 2002, no conservation land exists within the property boundary.

Conservation land, described as Section 1 SO 24790 (Gaz. 1999 p 4483), formerly part of the former Rockvale pastoral lease, is now part of the Rock and Pillar Conservation Area and borders the property along the south western boundary.

Two conservation covenant areas border the property along part of the southern boundary. These two areas are defined as Areas A & B on Section 1 SO 24789, being part of the former Rockvale pastoral lease.

8. Summary of Uncompleted Actions or Potential Liabilities

Other than the matter noted below, no further uncompleted actions or potential liabilities have been identified, other than those noted in the original Due Diligence Report dated 8 April 2002.

Review of Due Diligence Report matters

Our review of the original Due Diligence Report dated 8 April 2002 and associated documents have confirmed that there is only one uncompleted actions/ potential liabilities that we have identified pertaining to the pastoral lease, other than that noted in the Due Diligence Report.

In summary this is as follows:

Area Adjustment

As outlined above, the balance area of the pastoral lease has been shown as 1,038.1909 hectares; however the correct area is 1,044.2795 hectares being the sum of the areas of Part Run 711 and Section 1 Block V Rock & Pillar Survey District as deduced from SO plans 12976 and 21578.

The previously recorded area of 1,038.1909 hectares has been derived from adjustment of a former area within the lease. Section 9 Block X Rock & Pillar SD was redefined on SO 21764 as Section 15 Block X Rock & Pillar SD and the area amended from 255.7613 hectares to 261.8500 hectares.

This area adjustment was incorrectly applied to the balance of the lease rather than to the parcel that was redefined and subsequently surrendered from the lease. This matter was not addressed in the original Land Status Check Report or Due Diligence Report.

It would be prudent to correct this error, by requesting the Land Information New Zealand Processing Centre Manager to register a Departmental Dealing to correct this.

Clause 14 – Right of Way

Clause 14 of Emerald Hills pastoral lease Computer Interest Register OTA2/1300 currently provides a right of way for access to the former Rockvale pastoral lease over four parcels of adjoining land.

Only one short section of the route is reported (in the original Due Diligence Report) to affect the pastoral lease. This is reported to being a short section on the south west boundary of the pastoral lease against Scrub Burn, and defined on Survey Office Plan 12976.

Whilst the provision in the pastoral lease, acts to 'formalise' the right of way currently, should the pastoral lease enter the Tenure Review process, the situation should be reviewed to formalise the existing situation by an easement pursuant to Section 60 of the Land Act 1948. This would ensure that the existing right is formalised in such a way that it can be registered against any subsequent fee simple title issued, or similarly made subject to any transfer of land to any other Government Department such as the Department of Conservation.

Before such action is taken however, it would be prudent to ascertain whether this access is in fact still required.

ATTACHMENTS:

Schedule A Copy of Computer Interest Register OTA2/1300

Attachment 1 Land Status Check

Schedule A

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**COMPUTER INTEREST REGISTER
UNDER LAND TRANSFER ACT 1952**



Search Copy

R. W. Muir
Registrar-General
of Land

Identifier **OTA2/1300**
Land Registration District **Otago**
Date Registered 11 December 1962 09:17 am

Part-Cancelled

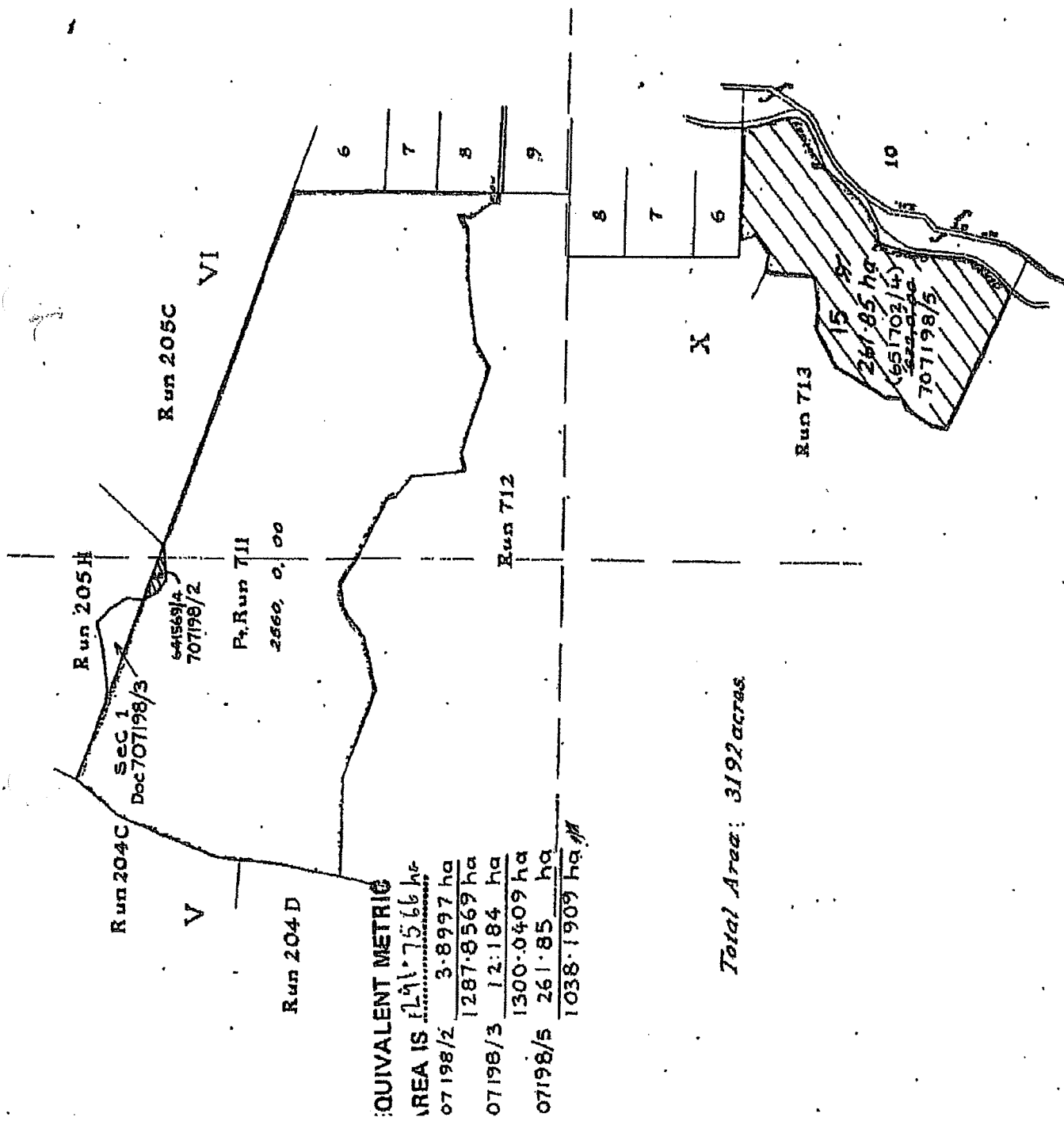
Type	Lease under s83 Land Act 1948	
Area	1038.1909 hectares more or less	Term Thirty-three years commencing on the 1.7.1956 and renewed for a further period of 33 years commencing on 1.7.1989

Legal Description Run 711 and Section 1 Block V Rock & Pillar Survey District

Proprietors
Anthony John Richards and Barbara Mary Richards

Interests

- 707198.2 Surrender of part of the within lease being Part Run 711 (3.8997 ha) shown hatched black hereon effective from 29 June 1984 - 15.7.1988 at 10.08 am (See Re-Appellation 651569.4)
- 753504 Memorandum renewing the term of the within lease for a further period of 33 years commencing on 1.7.1989 and fixing (for the first 11 years) the annual rent at \$510.00 calculated on a rental value of 3.5.1990 at 9.54 am
- 965483.1 Certificate Specifying Mining Rights under s417 Resource Management Act 1991 - 12.4.1999 at 3.30 pm



Attachment 1



12482
EMERALD HILLS
PASTORAL LEASE

Land Status Report Addendum
June 2008

Prepared By:
Ashley Macfarlane
Senior Property Consultant

Reviewed By
Tony Fraser
Project Manager – Contract 50428/3

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reproduction in full or in part is forbidden.

This report is an addendum of the Land Status Report of 25 February 2002 (File: CON/50268/09/12482/A-ZNO) and has been prepared on the instruction of Land Information New Zealand in terms of Contract 50428/3 dated 27 May 2008 and undertaken for the purposes of the Crown Pastoral Leases Act 1998.

LAND STATUS REPORT for Emerald Hills Pastoral Lease		LIPS Ref: 12482
PROPERTY		

Land District	Otago
Legal Description	Part Run 711 and Section 1 Block V Rock & Pillar Survey District
Area	1044.2795 hectares
Status	Crown Land subject to the Land Act 1948
Instrument of Title / Lease	Balance Computer Interest Register OTA2/1300 pursuant to Section 66 and registered under Section 83 Land Act 1948
Encumbrances	Subject to: <ol style="list-style-type: none"> 1. Certificate 965483.1 pursuant to Section 417 Resource Management Act 1991 (water race) 2. Subject to Part IVA Conservation Act 1987
Mineral Ownership	Minerals remain with the Crown as the land has never been alienated since its acquisition for settlement purposes, from the former Maori owners under the Kemp purchase 1848.
Statute	Land Act 1948 & Crown Pastoral Land Act 1998.

Data Correct as at	10 April 2008
Certification Attached	Yes

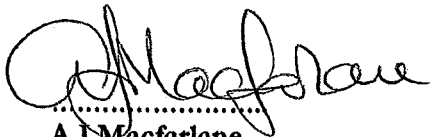
Prepared by Crown Accredited Supplier	The Property Group Limited
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<p>NOTES: This information does not affect the status of the land but was identified as possibly requiring further investigation at the due diligence stage: See Crown Pastoral Standard 6.</p>	<ol style="list-style-type: none"> 1. Clause 14 of the pastoral lease document image CIR OTA2/1300 notes a subject right of way in favour of Run 712 to the south. SO 12976 shows this ROW coloured yellow at the western end of the legal road adjoining the eastern boundary of the subject land. This requires further investigation at the due diligence stage re formalising the easement. 2. The balance area shown on CIR OTA2/1300 is 1038.1909 hectares. The correct area is 1044.2795 hectares being the sum of the areas of Part Run 711 and Section 1 Block V Rock & Pillar Survey District, as deduced from SO plans 12976 and 21578. The difference of 6.0886 hectares is a result of Section 9 Block X Rock & Pillar SD (632 acres or 255.7613 hectares), formerly held in the lease, being redefined on SO 21764 as Section 15 Block X Rock & Pillar SD with an area of 261.8500 hectares, before being surrendered out of the lease. This area difference needs to be flagged at the due diligence stage. 3. No subject provision for Section 58 Land Act 1948 is shown on lease CIR OTA2/1300 or on SO 12976. Lease renewal in July 1989 is a disposition under Section 24(9) Conservation Act 1987, however Section 24 marginal strips are not identified on any plan of this leased land.
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CERTIFICATION

Report to the Commissioner of Crown Lands, or his delegate, for the acceptance of Status Investigation for the EMERALD HILLS Pastoral Lease.

1. I, Ashley John Macfarlane of The Property Group Limited, certify that the status report addendum enclosed for certification is in order for signature.
2. In giving this certification I, Ashley John Macfarlane of The Property Group Limited, undertake that the status report addendum has been completed in compliance with all relevant policy instructions and Standards and Guidelines.



.....
A J Macfarlane
Senior Property Consultant



.....
Tony Fraser
Project Manager