

## **Crown Pastoral Land Tenure Review**

**Lease name : MATUKITUKI**

**Lease number : PO 351**

### **Due diligence report (including status report)**

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.

**June 04**

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**DUE DILIGENCE REPORT**  
**CPL PRE TENURE REVIEW ASSESSMENT STANDARD 6:**

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<b>File Ref:</b>	Po351/1	<b>Report No:</b>	AT0059	<b>Report Date:</b>	12 May 2000
<b>Office of Agent:</b>	Alexandra	<b>LINZ Case No:</b>		<b>Date sent to LINZ:</b>	13/5/00

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**RECOMMENDATIONS:**

- (1) That the Commissioner of Crown Lands or his delegate **note** this Due Diligence Report which has been prepared in accordance with the PRE Tenure Review Assessment Standard.
- (2) That the Commissioner of Crown Lands or his delegate **note** the following incomplete actions which require action by the Manager of Crown Property Contracts (or others).

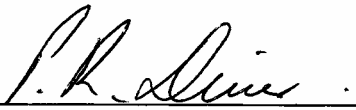
- (1) 120 hectares of Unoccupied Crown Land (*riverbed*) next to the Matukituki River at the mouth of the Niger Stream was approved for amalgamation into the lease in 1991 under Section 113 of the Land Act 1948 by the District Manager of the Department of Survey and Land Information subject to marginal strips being laid off along the Niger Stream. The area was surveyed out as Section 1 Matukituki Survey District - 130.12 ha with marginal strips identified. All approvals and survey appear complete as well as notification of all rating authorities as to the alteration of area. This amalgamation has never been registered against the lease document (10C/687).

Knight Frank is currently addressing this registration.

- (2) A non-standard condition contained in CL 386/66 that applies to this lease (10C/687) gives the right to the holder of Runs 458, 465 and 468 (*Mount Aspiring Station*) to establish and have access to cattle yards on the lease. It is not clear if this is still relevant (*may be on land transferred to Mt. Aspiring Station 1967*). Investigation to determine if this right is applicable and the need to secure it formally is recommended.
- (3) Recreational Permit RPo044 issued in 1995 for 5 years to Matukituki Adventures expired on 30 April 2000. A new permit has been applied for. Activities affect land likely to be retained for conservation purposes under tenure review (*see Attachment 2*).
- (4) A Mining Licence for extraction of ornamental stone from Phoebe Creek exists on the lease document (*see Attachment 8*). This expired in 1995. No renewal has been applied for. *Not a due dily. matter*
- (5) The Land Improvement Agreement on the lease document (*Memorial 556773*) for the Multiple Windbreak Scheme appears redundant and could be discharged upon application of the lessee to the Otago Regional Council (*see Attachment 7*).

- (6) An area of Unoccupied Crown land (*riverbed*) near the mouth of Phoebe Creek on the Matukituki that is thought to be grazed. While not backed by any file data personal field knowledge recognises that about 50 ha are utilised in this area, presumably without any lease. The area is known to be partially improved. The exact status of this area needs to be clarified to judge if it should be incorporated in the Tenure Review.

**Signed by Knight Frank (NZ) Limited**

  
Name: \_\_\_\_\_

  
Manager

**Approved/Declined**

\_\_\_\_\_  
Name:  
Date of decision:

**(1) Details of lease:**

**Lease Name:** Matukituki Station

**Location:** The property is situated 32 kms from Wanaka township on the Wanaka - Mount Aspiring Road in the Matukituki Valley. It covers the land from the Carmel Burn on the south to the Niger Stream in the north and covers the eastern flanks of the Harris Mountain Range. The Matukituki River forms the north-eastern boundary. The homestead and buildings are located adjacent to the Wanaka - Mount Aspiring Road near Phoebe Creek.

**Lessee:** Richard Lloyd Ewing (*1/2 share*), Suzanne Lorna Ewing (*1/2 share*).

**Tenure:** Pastoral lease under Section 83 of the Land Act 1948. Lease no P351.

**Term:** 33 years from 1 July 1990 to 30 June 2023

**Annual Rent:** \$4,650 (*plus GST*)

**Rental Value:** \$310,000

**Date of Next Review:** 1 July 2001

**Land Registry Folio Ref:**

CL 10C/687 Otago Registry.

**Legal Description:** Run 813 being all that land contained in CL 10C/687 Otago Registry. (*Incorporation of Section 1 Matukituki Survey District 130.12 ha approved in 1991 has not yet been registered*).

**Area:** 6160 hectares (*6290.12 ha allowing for above incorporation*).

**(2) File Search:**

**Files held by Agent on behalf of LINZ:**

<i>File Reference</i>	<i>Volume</i>	<i>First Folio</i>	<i>Date</i>	<i>Last Folio</i>	<i>Date</i>
<b>Po351</b>	1	720	22/11/1981	884	10/3/1986
	2	885	5/6/1996	136	10/6/1998
	3	1	24/5/1998	10	3/8/1999
<b>Po176</b>	1	1	20/11/1920	257	23/8/1957
	2	258	25/8/1957	408	16/5/1969
	3	409	9/6/1959	590	16/9/1975
	4	591	25/9/1975	720	11/11/1981

**Other relevant files held by LINZ:**

<i>File Reference</i>	<i>Volume</i>	<i>First Folio</i>	<i>Date</i>	<i>Last Folio</i>	<i>Date</i>
5200-D14-DN09	1	1	28/7/1997	14	29/11/1996
7900/04/P351/1DDN	1	1	17/6/1992	10	Undated
CPL04/11/12591ZCH	1	1	1/3/1997	10	28/7/1999

The records have been searched including the files related to the original undivided Cattle Flat Station (*Po176*).

With the exception of a very few missing folios the records are complete. Confidence is held that all important data has been searched.

In 1919 Run 333A was acquired by D C Aubrey and subdivided with the newly created Run 333B being sold to his brother. A pastoral run licence (*1605 ha*) was issued to D C Aubrey in 1922 for 35 years over Run 333A. In 1925 Run 333B was sold back to D C Aubrey and the two Runs then worked as one. History up until lease renewal in 1957 is routine with files containing matters of rent payments, burning administration, family part share transfers and re-purchases.

At lease renewal in 1975 a pastoral lease Po176 was issued for 33 years over the combined Runs 333A and 333B with two notable conditions being:

- The removal of the existing Mount Aspiring Road from the lease
- A condition allowing the holder of Mount Aspiring Station (*Runs 458, 465 and 468*) to establish and have access to cattle yards on the lease.

In 1961 the lease was transferred to a family company called Cattle Flat Station Limited.

In 1967, following protracted negotiations, 1440 acres on the northern boundary (*Run 333B*) was surrendered and transferred to Mount Aspiring Station.

In 1969 a small area was surrendered and transferred to Motatapu Station (*35 acres - from Run 333A*) on the southern boundary.

During the process to surrender land for the Treble Cone Skifield the property was sold to W L Ewing and Family trust in 1972. Land Settlement Board approval to transfer was given subject to the prior the surrender of 3100 acres of upper mountain land and a commitment that a 50 acre block at the base of the skifield road would also be surrendered (*special lease to be issued to Treble Cone Skifield Limited*). Mr Ewing eventually gave a signed commitment to surrender a reduced area (*950 acres*) for the skifield and a 50 acre block at the base of the mountain fronting on the Mount Aspiring Road as well as easements for the access road, tower sites and power and telephone reticulation.

Much file history relates to disputes with the skiffed presence notably damage to the flats caused by erosion allegedly caused by roading and the occurrence of a massive slip adjacent to the road area and who was to blame.

In 1977 a River Control Scheme was undertaken on the Matukituki River involving river training works for the protection of the flats. The LSB contributed some \$7,288 towards the cost of works. In 1977 an additional \$406 was contributed for further minor work. The works were completed but were only ever partially successful as floods constantly changed the bed and destroyed protection works. A large control scheme was proposed in 1985 involving cost sharing with the lessee, Lakes County Council, Otago Catchment Board and the LSB. This was completed but work was not continuing as Soil Conservation and River Control Council withdrew its grant funding for control of rivers of this type.

In 1983 the LSB approved the subdivision of the lease in two with the future intention of C G Ewing taking the southern section (*now known as Cattle Flat Station Po352*) and R L Ewing the northern section (*now known as Matukituki Station Po351*). The boundary between the two did not follow the old Run 333A and 333B boundary but a new line following the Carmel Burn.

The current Matukituki Lease Po 351 (*CL 10C/68*) was issued in 1984 for the balance of the original lease term expiring in 1990 with the condition that a wetland reserve covering the Big Boggy Burn (*20.9455 ha*) be surrendered from the lease. This area was excluded from the new lease issued. The lease was transferred to R L Ewing then half share to his wife in 1987.

The Big Boggy Burn conservation area was fenced out but drainage work carried out by the lessee affected the reserve causing much debate and eventually the Commissioner instructed the lessee to fill in the drainage ditches and restore water levels. This appears to have been done but, how effectively, is not known.

Much file history relates to the lessee's attempts to have a block of unoccupied Crown land next to the Matukituki River at the mouth of the Niger Stream amalgamated in the lease. The land was previously riverbed but due to the river protection works had not flooded and was considered suitable for grazing. This incorporation was approved in 1991 under Section 113 of the Land Act 1948 by the District Manager of the Department of Survey and Land Information subject to marginal strips being laid off along the Niger Stream (*under section 24 of the Conservation Act*) (*see Attachment 4 - Folio 117*). The area was surveyed out as Section 1 Matukituki Survey District - 130.12 ha with marginal strips identified (*see Attachment 5 - Folio 137*). All approvals and survey appear complete as well as notification of all rating authorities as to the alteration of area. This amalgamation however has never been registered against the lease document (*10C/687*). **This appears to be an uncompleted action.**

During reports and correspondence related to the above vague reference is made to an area of Unoccupied Crown land near the mouth of Phoebe Creek that is grazed. While not backed by any file data personal field knowledge recognises that about 50 ha are utilised in this area without any lease. The area is known to be partially improved.

Historically small quantities of pink ornamental stone have been removed from the lower reaches of Phoebe Creek for house building. A Mining Licence was issued in 1985 to Donald Rodman Taylor for 10 years (*see Attachment 8*).

A renewal has not been applied for but the Memorial has not been removed from the lease document. Some friction between the lessee and the licence holder is evident from files.

At lease renewal in 1990 marginal strip requirements were fully processed by the Chief Surveyor and relevant streams defined (*see Attachment 9*).

In 1994 application was made and granted for a recreation permit RPo044 in the name of Matukituki Adventures for heli-skiing and climbing. Little activity is recorded as having occurred. It appears that it was taken out by the holders to control commercial recreation companies use of the area (*see attachment 3*). This permit expired on 30 April 2000. A new permit has been applied for

The property has as long history of overburns affecting the upper mountain lands and the catchments of the Leaping Burn and Phoebe Creek.

Overall the file search identified one uncompleted action.

**(3) Summary of lease document:**

*Terms of lease:*

The commencement date of the pastoral lease on Crown files is in agreement with the Instrument of Title (*10C/687 Otago Registry*).

The lease was issued on 4 July 1984 under Section 83 Land Act 1948 at subdivision of P176 (*CL Volume 386/66*) for the balance of the term of 33 years from 1 July 1957 and contains the same conditions and implied conditions as contained in that lease.

*Lease Stock Limit:*

2100 Sheep (*no more than 1300 breeding ewes*)  
350 Cattle

*Personal Stock Limit:*

12000 Sheep (*including not more than 6500 breeding ewes*)  
1000 Cattle (*including not more than 500 breeding cows*)

*Block limitations:*

None

The only non-standard condition contained in CL 386/66 that applies relates to condition (I) that gives the right to the holder of Runs 458, 465 and 468 (*Mount Aspiring Station*) to establish and have access to cattle yards on the original lease. (*This is located on the Matukituki Station part of the divided lease*).

Memorial of renewal registered on lease Document

757396 Memorandum renewing the term of the within lease for a further period of 33 years commencing on 1 July 1990 and fixing for the first 11 years the annual rent at \$4,650 calculated on a rental value to \$310,000 - 27 June 1990.

No right of way or compensation certificates are registered.

All documentation on the lease document appears in order.

The previous lease document for the un-subdivided run (*Po176*) was also searched (*CL 386/66*). The original two runs (*333A and 333B*) had three boundary adjustments made with 1440 acres on the northern boundary surrendered to Mount Aspiring Station in 1967, 370 ha surrendered to the Treble Cone Skifield in 1971 and a small section of 35 acres on the boundary with Motatapu Station (*Part Run 333A*) surrendered in 1970.

Both the Big and Little Boggy Burn conservation areas (*Section 4 Matukituki Survey District - 20.9455 ha and Section 1 Block III - 3.9070 ha*) were declared but never withdrawn from the lease (*CL 386/66*). The Status Check from Opus recommends that the cancelled title (*CL 386/66*) should have an entry withdrawing them to clarify future searches. This has since been carried out.

The subdivision of the lease in 1986 did not follow the old run boundaries but a new line down the Carmel Burn.

Both new leases were issued excluding the two wetland reserve areas.

No compensation certificates exist on the lease document.

***Area adjustments:***

The legal description, and area differs in that files and reports state the area and description as also including Section 1 Matukituki Survey District (*130.12 ha*) that was incorporated in November 1991. This addition has not yet been entered on the lease document. Knight Frank is currently addressing this registration.

***Registered interests:***

- |          |  |
|----------|--|
| 296218   | Electricity Agreement pursuant to Section 3 Electricity amendment Act 1948.  |
| 556773   | Land Improvement Agreement under the Soil Conservation and Rivers Control Act 1941 - 26 June 1981. ( <i>Un-discharged Windbreak Plan Agreement - see Attachment 7</i> )                                      |
| 632776   | Mining Licence affecting part in favour of Donald Rodman Taylor for a term of 10 years from 1 April 1985 - 7D/117. ( <i>Ornamental stone from Phoebe Creek - expired 1995. Not renewed (attachment 8).</i> ) |
| 840908/2 | Mortgage to The Trustees Executors and Agency Company of New Zealand limited- and Agnus Christabel Ewing-20.10.1993.   |
| 861607/2 | Mortgage to The National Bank of New Zealand Limited-3.8.1994.   |

***Unregistered interests:***

A recreation permit RPo044 in the name of Matukituki Adventures for heli-skiing and climbing was issued in 1994. It appears that it was taken out by the holders of the lease to control commercial recreation companies use of the area (*see attachment 3*). This permit expired on 30 April 2000. A new permit has been applied for.

No unregistered easements or other recreation permits are known to exist.

Unregistered mortgages may exist between family members but none are known of.

**(5) Summarise any Government programmes for the lease:**

A Catchment Board Run plan was drawn up in 1976 involving minor fencing (*cattle proofing*) on the low hills but was never adopted by the holders.

One Catchment Board Multiple Windbreak Plan was entered into on the lease and the legal agreement (*see attachment 7*) remains on the lease document. The plan was registered in 1981 on the un-subdivided lease (*Po176*) and the legal agreement transferred to the new lease (*Po351*) at subdivision in 1984. 12km of windbreaks were planned to cover the flats but few, if any were ever claimed. (*Regional Council staff have indicated this legal agreement is redundant and could be removed by application of the lessee*).

Several river training and control programmes were grant assisted (*Soil Conservation and River Control Council and Land Settlement Board*) along the Matukituki River in the 1970's and 1980's. Results were mixed and flood losses high. Despite active riverbank erosion Soil Conservation and River Control Council suspended expenditure on this type of river control in the late 1980's as not being economic.

No legal agreements were registered related to this work.

The property was not involved in the Rabbit and Land Management Programme.

There are no Government approved programmes or issues from them that would affect tenure review.

**(5) Summary of Land Status Report:**

Copy attached as Schedule A.

The Land Status Report is in two parts one covering the status of CL 10C/687 the pastoral lease Po351 and one covering the Status of Section 4 Matukituki Survey District being the Big Boggy Burn Conservation Area.

The Land Status Report confirms the Crown Land Status under the Land Act 1948 subject to PL registered as 10C/687.

The special condition "I" of the lease was identified that gives the right to the holder of Runs 458, 465 and 468 (*Mount Aspiring Station*) to establish and have access to cattle yards on the original lease. (*This is located on the Matukituki Station part of the divided lease*).

Section 4 Matukituki Survey District being the Big Boggy Burn Conservation Area was confirmed as a held for conservation purposes by GN 805307. It was noted that the removal was not registered on the cancelled lease 386/66 and recommended this be done to provide an audit trail. This has been carried out and registered since the Status check was written.

**(6) *Review of topographical and Cadastral data.***

*Cadastral Maps:*

NZMS 261 F40 –Wanaka NZMS 261 F39

*Topographical Maps:*

NZMS 260 F 40 – Wanaka NZMS 260 F39

No communication sites or National Grid power transmission lines are marked on the above maps.

The local power supply line to the Matukituki Valley following the Wanaka - Mount Aspiring Road terminates at the homestead on the lease.

The Cadastral map shows that the Matukituki River has a marginal strip for its full length of boundary with the lease. River erosion and training works have resulted in the marginal strip being divorced from the riverbank in some areas. Two areas of note being:

- (1) Near the northern boundary where erosion has placed the marginal strip in the riverbed.
- (2) Opposite the Leaping Burn where silt deposition has resulted in it being far from the current river channel.

No other marginal strips are shown but from files they are known to have been processed (*see file search section*).

The subdivision of the original lease into Cattle Flat and Matukituki Stations along the new boundary following the Carmel Burn is not shown on the Cadastral map.

The creation of the Section 4 Matukituki Survey District (*Big Boggy Burn conservation area*) is registered on the Cadastral map.

All the boundaries of the lease on the range face appear unfenced. The only fences are on the flats and low hills. Natural boundaries (*river gorges and range crest*) appear to be used.

The lease has only one legal road affecting it being the Mount Aspiring Wanaka Road. This is a high usage main route to the Matukituki Valley and Mount Aspiring National Park. The road is gravelled, double fenced in some sections only and single fenced in others. The existing road varies greatly from its legal line for about half its total length (*See Attachment 6*).

No paper roads are in existence.

Within the lease no historic sites are shown.

**(7) Details of neighbouring Crown or conservation land:**

A wetland reserve (20.9455 ha) known as the Big Boggy Burn Conservation Area was removed from the lease at subdivision in 1992 and is held for conservation purposes under the Conservation Act 1987. This is located on the flats above the legal road in the north-eastern section of the property. The area is ring fenced and caused debate when the lessee installed drainage ditches that affected the reserve in 1984.

The Otago Conservation Management Strategy Land Inventory Document shows the pastoral lease area backs onto the Black Peak Conservation Area (2650 ha - F39057) that extends from the top of the range southwards in the catchment of the north branch of the Motatapu river.

A marginal strip reserved under Section 58 Land Act 1948 exists for the full length of the boundary of the Matukituki River as they affect the lease. The marginal strip is divorced from the actual riverbank in areas due to riverbank erosion or silt deposition.

Marginal strips under part IVA Conservation Act 1987 were established in 1990 for the Niger Stream, Big Boggy Burn, Leaping Burn, Phoebe Creek, and also over the Matukituki River (see Attachment 9 - Folio 142). An additional marginal strip on Niger Stream under the above act was laid off when Section 1 Matukituki Survey District was incorporated into the lease in 1991 (yet to be registered on the lease document).

**(8) Summary any uncompleted actions or potential liabilities:**

- (1) 120 hectares of Unoccupied Crown Land (*riverbed*) next to the Matukituki River at the mouth of the Niger Stream was approved for amalgamation into the lease in 1991 under Section 113 of the land Act 1948 by the District Manager of the Department of Survey and Land Information subject to marginal strips being laid off along the Niger Stream. The area was surveyed out as Section 1 Matukituki Survey District - 130.12 ha with marginal strips identified. All approvals and survey appear complete as well as notification of all rating authorities as to the alteration of area. This amalgamation has never been registered against the lease document (10C/687).

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The exact status of this area needs to be clarified to judge if it should be incorporated in the tenure review.

**ATTACHMENTS:**

- (1) Schedule A-Land Status Report
- (2) Copy of each recent instrument of title searched.
- (3) Recreational Permit RPo044 - Matukituki Adventures
- (4) Approval for amalgamation into lease of Section 1 Matukituki Survey District.
- (5) Survey map of Section 1 Matukituki Survey District.
- (6) Road variations from legal line.
- (7) Land Improvement Agreement.- Memorial 556773.
- (8) Mining Licence - Memorial 632776.
- (5) Marginal strips - Chief Surveyor.