

Crown Pastoral Land Tenure Review

Lease name : ROSTRIEVER

Lease number : PO 309

Due Diligence Report (including Status Report) - Part 2

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.

March

05

"RELEASED UNDER THE OFFICIAL INFORMATION ACT"

aking this application it is acknowledged that the information provided which is subject to the Privacy Act 1993 is provided for the use of the Commissioner of Crown Lands in the processing of this application.

**SUBMISSION IN ACCORDANCE WITH
CPL GRANT OF EASEMENTS OVER CROWN PASTORAL
LAND STANDARD**

Application for an easement pursuant to Section 60 (1) Land Act 1948

File Ref:	Po309	Submission No:	A0145	Submission Date:	19 December 2000
LINZ Ref:	12566				
Office of Agent:	Alexandra	LINZ Case No:		Date sent to LINZ:	15

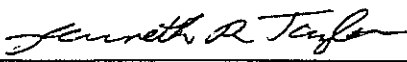
RECOMMENDATIONS:

- (1) That, in accordance with the provisions of Section 18 Crown Pastoral Land Act the Commissioner of Crown Lands or his delegate **grant** an easement under Section 60 (1) Land Act for the purpose specified, subject to the conditions and for the reasons outlined in the attached draft Notice of Decision.
- (2) That the Commissioner of Crown Lands or his delegate **note** that the enclosed easement document has been perused and a solicitor's certificate confirming that it is in order for execution is appended to this submission.
- (3) That the Commissioner of Crown Lands or his delegate **sign** the original of the enclosed easement document, which we understand you currently hold.

CERTIFICATION:

Knight Frank certifies that this submission, attached draft Notices of Decision have been prepared in accordance with the CPL Grant of Easements over Crown Pastoral Land Standard.

Signed by Knight Frank (NZ) Limited:


K R Taylor:

Manager:

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

Name:
Date of decision:

(1) Details of lease:

Lease Name: Rostriever
Location: Otematata
Area: 3542.8533 hectares
Legal Description: Section 1 Block IV Gala Survey District and part Run 745 Gala and Benmore Survey Districts
Land Registry Folio Ref: 3A/513

(2) Details of lessee:

Name of lessee as recorded in lease document:

A H Munro, R M Munro, C J Munro and I A Munro

Tenure review status:

Knight Frank is not aware of any invitation to undertaking tenure review having been made by the holders.

(3) Details of applicant:

Name:

Telecom New Zealand Limited

Legal entity:

Registered company

(4) Details of application

Purpose of proposed easement:

To establish a Telecom mobile communications site including access and electricity supply to the site.

Proposed term:

19 years 364 days.

Location:

The site proposed is Tin Hat Bluff in the close proximity to the township of Otematata. Both Vodafone and Meridian Energy already have communication sites on this location.

Evidence of agreement with lessee:

An agreement with the holders is attached to the application.

Any other relevant information provided by the applicant:

The applicant states that the access to the site will be via the existing track to the Vodafone site with a small additional length. They also advise that they will utilise existing electricity supply to the Meridian Energy site with a short additional length of line.

The applicants have also advised that the area will require minor earthworks and a small distance of additional tracking. This will have minimal impact on the pastoral lease. They also advise that from the existing overhead power line to other facilities in the area power will be conveyed through an underground line mainly along the existing track. A resource consent has been separately applied for.

(5) *Analysis of proposed easement document:*

The easement document has been prepared as a Deed of Easement and is essentially a standard document which has been agreed with the Commissioner of Crown Lands. The documents notes a payment of _____ which we understand is based on a previous approval for this easement. Attached to the easement is a separate agreement with the holders for the use of the site. We have not identified any unusual provisions in this proposal.

(6) *Consultation with DGC:*

Date referred to DGC:

25 October 2000

Information provided to DGC:

A full copy of the application has been provided to Knight Frank.

Comment from DGC:

The DGC delegate advised by letter dated 15 November 2000, received 20 November 2000 that in his view there are no inherent values, for which it is desirable to protect for conservation reasons, that will be adversely affected by the proposal.

Further consultation with DGC:

No further consultation is recommended.

(7) *Consultation with affected parties and other bodies or persons*

Affected parties:

We identified that the holders are an affected party in this proposal and in accordance with Crown Pastoral Land Standard 2 we sought consultation with them on 25 October 2000 and forwarded to them the relevant documentation as received by Knight Frank. The holders have not responded to this request, but as they have previously signed an agreement with Telecom it is assumed that they are in agreement with the proposal.

Other bodies/persons:

We have not identified any other bodies or persons who should be consulted.

(8) *Consideration of matters to be taken into account by the Commissioner of Crown Lands or his delegate:*

Desirability of protecting inherent values:

We have not identified any inherent values which will be adversely affected by this proposal. We note that the Tin Hat Bluff is already a well established communication site and it is preferable that where possible communication sites are clustered rather than opening up new localities.

Desirability of making it easier to use the land concerned for farming purposes:

The proposed easement and the use of the site covered by the easement will not adversely affect the farming operation. Conversely we are not aware of any benefits to the farming operation from this. We do note that the holders are being paid a significant annual sum for the use of their site and this may have some benefit to what is currently a marginal business operation.

(9) *Assessment of compensation entitlement of lessee (if easement to be granted):*

A valuer's report in this regard is attached. We do not believe that there is any compensation due to the holders as a result of granting this easement. We do however note that Telecom are paying the holders an annual sum in recognition of possible interruption to the farming activity.

(10) *Assessment of consideration payable for proposed easement (if granted):*

A valuer's report in this regard is attached. We note there was an earlier application for this site in 1998 and we believe that the fee arrived at that time remains current. We therefore recommend a one off fee of _____ be paid.

(11) *Discussion and conclusions:*

This application is the resurrection of an earlier proposal considered in 1998. We note that the proposed Telecom site will be in the vicinity of two other communication sites already on this situation. We do not believe this additional site will have any impact on inherent values nor will it impact unduly on the farming operation. The recommended term is less than 1 year greater than that provided for in the standard and we believe that in this case the request should be granted as this will not unduly impact on the ongoing use of the site.

We note there are two deficiencies in the documentation's applied. Firstly there is no evidence of written evidence of the lessee's agreement to accept the compensation offered by Telecom as full and final compensation. Approval of the easement would need to be conditional on this being obtained. Secondly the agreement with the holders at Clause 3

notes a payment of an annual sum of _____ whereas the schedule to the agreement on Page 4 identifies as an example an adjustment for CPI. As this example is based on different figures it may be misleading.

In conclusion I recommend that the easement be granted subject to Telecom obtaining suitable evidence that the holders will wave any compensation claims against the Crown.

APPENDICES:

- (1) Copy of application (*including draft document*) dated 1 September 2000, received 20 October 2000.
- (2) Copy of letter to DGC requesting consultation dated 25 October 2000.
- (3) Copy of response from DGC dated 15 November 2000, received 20 November 2000.
- (4) Copy of letter to holders dated 25 October 2000.
- (5) Solicitor's certificate.
- (6) Valuation report in support of assessment of lessee's compensation entitlement.
- (7) Valuation report in support of assessment of consideration payable for easement.
- (8) Notices of Decision.
- (9) Checklist

DRAFT LETTER

Our Ref: Po309, Rostriever

19 December 2000

Telecom New Zealand Limited
C/- Opus International Consultants Limited
Private Bag 1913
DUNEDIN

Dear Sir

RE: NOTICE TO APPLICANT OF DECISION OF COMMISSIONER OF CROWN LANDS OR HIS DELEGATE

With regard to your application of 1 September 2000, the Commissioner of Crown Lands or his delegate has made the following decision on ^ by Case No. [CCL Case No];

- (1) (a) To grant an easement under Section 60 (1) of the Land Act 1948 on the purpose of establishing a Telecom mobile communication site and associated access and provision of electricity and according to the terms and conditions specified in the attached document. This approval is conditional on you obtaining a written statement from the holders but they will not require any compensation from the Commissioner of Crown Lands in relation to the granting of this easement.

(b) Reasons for decision:

The Commissioner of Crown Land's delegate has accepted that the telecommunications site will contribute a valuable public service. He is also satisfied that provided it is constructed in the manner identified in the application it will not unduly impact on inherent values which may be present in the locality. The Commissioner's delegate requires a clear statement from the holder in relation to compensation as the Commissioner does not wish to have subsequent liability in this regard.

If you wish to accept the offer of an easement on the terms and conditions specified in the attached document, please arrange for the enclosed documents to be executed and returned to this office within 3 weeks.

Right of rehearing:

Please note that under the provisions of Section 17, Land Act 1948 you have the right to apply for a rehearing of the Commissioner of Crown Lands or his delegate's decision. Section 17 provides that:

17. Application for rehearing - (1) Any person aggrieved by any decision of the Commissioner or any determination of an administrative nature by the Commissioner may, within 21 days after being notified of that decision or determination, apply to the Commissioner for a rehearing, and the Commissioner may, at any time within one month after receiving the application, grant a rehearing of the case if he/she thinks that justice requires it, and on the rehearing may reverse, alter, modify, or confirm the previous decision or determination in the same case:

If you wish to apply for a rehearing, then an application must be submitted to this office within 21 days of receipt of this letter. The application should clearly state the grounds on which an application for a rehearing is made.

Yours faithfully
KNIGHT FRANK (NZ) LIMITED

K R Taylor
Manager, Alexandra

DRAFT LETTER

Our Ref: Po309, Rostriever

19 December 2000

A H, R M, C J, & I A Munro
Rostriever
P O Box 8
OTEMATATA

Dear Lessees

**RE: NOTICE TO LESSEE OF DECISION OF COMMISSIONER OF CROWN LANDS
OR HIS DELEGATE**

With regard to the application of 1 September 2000, from Telecom New Zealand Limited, the Commissioner of Crown Lands or his delegate has made the following decision on ^ by Case No. [CCL Case No];

- (1) (a) To grant an easement under Section 60 (1) of the Land Act 1948 to Telecom New Zealand Limited for the purpose of establishing a mobile communications site together with access and electricity supply to this and according to the terms and conditions specified in the attached document. This approval is subject to yourselves providing Telecom with written evidence that you will not be seeking compensation from the Commissioner in relation to this easement.

(b) Reasons for decision:

→ The Commissioner of Crown Land's delegate believes that this communication site will provide a valuable public service and if constructed in the manner prescribed will not unduly impact on inherent values that may be present at the site.

Right of rehearing:

Please note that under the provisions of Section 17, Land Act 1948 you have the right to apply for a rehearing of the Commissioner of Crown Lands or his delegate's decision. Section 17 provides that:

17. Application for rehearing - (1) Any person aggrieved by any decision of the Commissioner or any determination of an administrative nature by the Commissioner may, within 21 days after being notified of that decision or determination, apply to the Commissioner for a rehearing, and the Commissioner may, at any time within one month after receiving the application, grant a rehearing of the case if he/she thinks that justice requires it, and on the rehearing may reverse, alter, modify, or confirm the previous decision or determination in the same case:

If you wish to apply for a rehearing, then an application must be submitted to this office within 21 days of receipt of this letter. The application should clearly state the grounds on which an application for a rehearing is made.

Yours faithfully
KNIGHT FRANK (NZ) LIMITED

K R Taylor
Manager, Alexandra

Appendix H - Checklist

Request for consent – file reference: Pa 309 (A 0145)

Name of Pastoral Lease/Occupation Licence: Rostriver

Purpose of Checklist

This Checklist is to be used as a tool to prompt the Agent when reviewing its actions in preparing submissions so that the ability of the CCL (or delegate) to make a fair, reasonable and lawful decision is not compromised. However, the completion of this Checklist is not intended to replace the duty of the Agent to bring any other relevant matters not covered by this Checklist to the attention of the CCL (or delegate).

A copy of the completed Checklist is to be appended to each submission when forwarded for consideration by the CCL (or delegate).

If the Agent is unable to answer yes to each question the matter may need be referred to the CCL (or delegate) for further instructions.

The submission and recommendation(s)	Yes
1 Is the application/request for consent for an activity which is contemplated by the Land Act/CPL Act?	✓
2 Have you identified the specific statutory authority that the CCL (or delegate) will be acting under?	✓
3 Are you satisfied that you have no personal interest in the application/request for consent or its outcome?	✓
4 Are you satisfied that you have viewed this application/request for consent objectively and with an open mind and that your analysis and recommendations have not been affected by personal prejudice or bias?	✓
5 Have you considered whether there are any persons who would be prejudicially affected by the outcome of a decision on this application/request for consent?	✓
6(i) If you have identified persons prejudicially affected, have you sought the CCL's (or delegate's) consent to consult with them?	✓
6(ii) If instructed by the CCL (or delegate) to consult, have you consulted with them in accordance with the standard?	✓
6(iii) Have you fully considered their views in the preparation of your submission and is this clear from your recommendation?	NA
7(i) Are you satisfied that all the facts considered in the course of preparing your submission are accurate and if not have you identified any discrepancies between your facts and the facts provided by others?	✓
7(ii) Are any such discrepancies apparent from your submission?	NA
8 To the best of your knowledge, have you taken into account all relevant	

Schedule D – DP 27052

Note:

All roads are legal.
 Easement position determined by Trimble 4000 RTK GPS to +/- 0.1m.
 The easements shown hereon at necessarily depict the position of the 'As Built' services.
 All adoptions from SO16562 unless otherwise shown.

Equipment used:
 Trimble 4900SSI
 Rose #35224A11138
 Rover #3526A11501
 Rover #3523A11111

SCHEDULE OF OPTIONAL EASEMENTS IN GROSS

Purpose	Servient Tenement	Shown	Grantee
Right to convey Block IV (telecommunications) Gala SD (Pt Cl 3A/513)	Pt Run 745	o-b	Electricity Corporation of NZ Ltd
Right to convey Block IV (telecommunications) Gala SD (Pt Cl 3A/513)	Section 1 Block IV (Pt Cl 3A/513)	b-c, d-e, & f-g	Electricity Corporation of NZ Ltd

DATUM: GEODETIC 1949

CIRCUIT: LINDIS PEAK

Total Area

Comprised in CL 3A/513 (PT) Easement Only

I, DARRELL REX THOMSON Registered Surveyor and holder of an annual practicing certificate for the year 2016 hereby certify that this plan has been made from surveys conducted by me or under my direction, that this plan and survey are correct and have been made in accordance with the Survey Regulations 1977 and regulations made in substitution thereof.

Dated at Dunedin this 20th day of September 2016.

Darrell Rex Thomson
 Registered Surveyor

field book reference from SO2754, 16562, 16566

examined *Accepted* correct

Approved for the purposes of Sec 167 (1) of the Land Transfer Act 1952

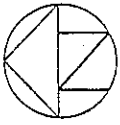
29/1/1997
 M.H. Harbottle
 Chief Surveyor

Deposited this 14th day of February 1999

for the Registrar-General of Land
 District Registrar
 Christchurch

Number 2571799
 Subsection 6009E
 DP 27052

SHEET 1 OF 4



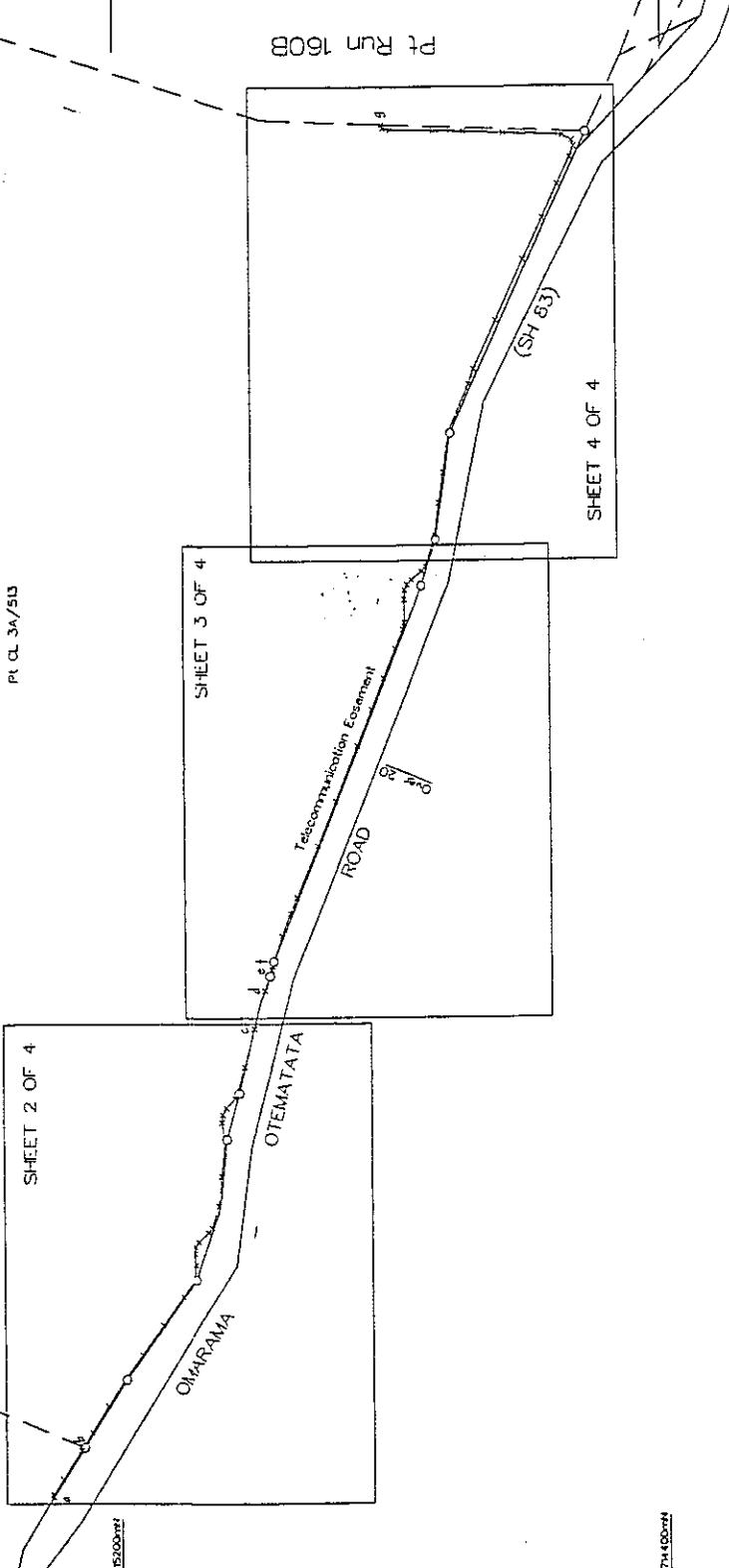
Pt Run 745
 Pt Cl 3A/513

Sec 1
 Pt Cl 3A/513

SHEET 2 OF 4

SHEET 3 OF 4

SHEET 4 OF 4



COMPUTED PLAN

TERRITORIAL AUTHORITY WAITAKI DISTRICT
 Surveyed by TERRALINK NZ LIMITED
 Scale 1: 5000 Date March 1998

PLAN OF EASEMENTS OVER
 PT RUN 745 & SEC 1 BLK IV GALA SD

LAND DISTRICT OTAGO
 Survey Blk. & Dist. IV GALA SD
 NZMS 761 Sheet H 40

