

Crown Pastoral Land Tenure Review

Lease name : BEN OHAU

Lease number : PT 128

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.

August 04



28

DUE DILIGENCE REPORT
TO THE
COMMISSIONER OF CROWN LANDS

KF REF: Pt 128.01 **LINZ REF:** **CASE NO:** 99/

LEASE NAME: Ben Ohau

LESSEE: Ben Ohau Station Limited, (contact, Simon Cameron)

LOCATION: Twizel, South Canterbury

DATE OF THIS REPORT: 3 May 1999

LEASE DETAIL:

Land Tenure:	Pastoral Lease
Legal Description:	Pt Run 336 "Ben Ohau" and Sec.1 S.O. 8529 Strachey Survey District, Canterbury Land District, Certificate of Title 10F/1319
Area:	5705.6402 hectares
Term:	33 years from 1 July 1970
Rental Value:	Old System, Not recorded
Annual Rent:	\$1,125.00
Date of Next Review:	1 July 2003
Stock Limit in Lease:	4670 Sheep (including 2250 breeding ewes) 281 Cattle (including 180 breeding cows)

LAND STATUS REPORT SUMMARY

Land Status Report prepared by an approved person is appended, without supporting papers, which are held on file.

The report states that the current land holding and its additions and/or incorporations, have remained in the Crown's interest for a period of over 130 years. There are no requirements under Section 40 Public Works Act 1981 to offer the land back to a former owner(s) and/or successor(s).

*Due Diligence Report
Ben Ohau - June 1999*

The nature of legal roads is a matter raised for investigation, particularly the unformed roads to the north, south and west. The legal road on Topo Plan 55T (1884) is identified as not having been formally closed, yet it does not show on the more recent SO 13326.

Compensation Certificate No 275055/1 cannot be discharged until all of the legalisation requirements have been completed for roading. It is also noted that the road to be stopped should be incorporated into the lease but is not part of the compensation agreement.

Under Clause (c) of Survey Requirements, the following statement is made: "without the benefit of survey definition under Class A or B Standards, there is no immediate guarantee that occupation boundaries coincide with the current cadastral boundaries". This statement appears to have been made because it is not absolutely certain which side of the legal roads, to the north and south-west, is the position of the boundary fence. This has a legal significance if the road was to ever be double fenced. Except for the southern boundary adjacent to Ruataniwha Station, west of the Pukaki Canal, which is currently double fenced, the need is unlikely to arise in the foreseeable future. In other respects, the boundary fencing is either on or thereabout the boundary.

SUMMARY OF FEATURES FROM TOPOGRAPHICAL AND CADASTRAL DATA

A largely flat property running from the Pukaki River in the east bisected by State Highway 8, and extending west to the foot of the Ben Ohau Range. The highest point and only significant hill area being The Pyramid at 855 metres. The property contains significant good soils although it has not been highly developed. At the time of issue of the lease, it was initially classified as pastoral and a pastoral lease offered, however the lessee subsequently requested a reclassification which, after a renewable lease being approved by the Land Settlement Board, was declined by the lessee. Various reports note the considerable potential of the property which has not been realised by the lessees.

Approximately one third of the property lying east of the Twizel River is flat poorer Class VII land.

The Pukaki airfield is situated as an enclave into the pastoral lease east of State Highway 8. Some of the airport buildings are located on the pastoral lease being permitted under a recreation permit. The District Council under their proposed District Plan have applied for a designation over some 270 hectares of land parallel to the State Highway for airport purposes. The recent development of a Briar Berry processing factory in Twizel offers the opportunity for horticultural growing of briar as well as harvesting of wild stands. Located as it is adjacent to the former hydro development town of Twizel, there is the opportunity for subdivision of parts of the property into lifestyle blocks or for more extensive commercial recreational use.

The property is situated on a major fault line which is of geographic interest.

Boundaries for all practical purposes are fenced, however doubt remains as to which side of the legal road, that follows the northern and south-west boundary, the boundary fence is situated.

A road is identified on Plan Topo 55T of June 1884 which has not been closed and does not show on current cadastral definition as it does on neighbouring SO 13326.

SUMMARY OF LEASE DOCUMENT (CT)

Legal Description reconciled with KF records. (Records amended)

Term of lease reconciles with KF records.

Area reconciled with Status Check area. (Records amended)

Transfers and Transmissions Registered against the lease.

- 1 Lease issued in name of John Arthur Preston Cameron with the title registered 13 May 1971.
- 2 Transfer 21113/1 to Ben Ohau Station Limited 26 January 1979.
Company directors JAP Cameron and S J Cameron.

Encumbrances registered against the lease.

- 1 Rabbit and Land Management Agreement - LIA registered as document 994342/1 on 19 May 1992
- 2 Certificate of Alteration as document 27604/1 limiting transfer of shares in the company registered 18 December 1978.
- 3 Compensation Certificate Document 275055/1 registered 21 May 1980

Mortgages registered and not discharged

The National Bank of New Zealand Limited as document 838889/3 on 21 November 1989.

DETAILS OF ANY NEIGHBOURING CROWN OR CONSERVATION LAND

Crown Land held as result of Hydro Development. In particular the areas known as Loch Cameron (part of "A" on SO 16859) and Lake Poaka (part of "E" on SO 16044). Note that the defined areas on the SO plans include both canal and significant areas which are artificial wetlands. The land was taken for hydro development but now part appears to be surplus to that use. This matter needs to be investigated and if surplus, the area could be included in the tenure review. Lake Poaka is identified within an area of the pastoral lease with inherent values. Loch Cameron, while an attractive artificial tarn, has not been identified and could be incorporated back into the lease.

No known Conservation Land to consider.

FILE SEARCH

Details of File Search and Uncompleted Actions:

This has been a property of comparative inactivity and there are only three closed Pastoral Lease files, one of which is a duplicate that was held in Timaru while the main files were in Christchurch. A file search has been carried out of all Pt 128 Pastoral Lease files, held by Knight Frank (NZ) Ltd, dating back to January 1955.

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- 20/12/55 Reserve 4675 surrendered without compensation for Rabbit Board Buildings purposes.
- 12/6/56 An easement approved to supply water to Reserve 4675 and was shown on plan SO 8529.
- 9/8/56* An area of closed road described as RS 38406 be incorporated into the area. A note on an old plan indicates an inconsistency where the river bank road along the Fraser Stream was not extended to link into the old road running from Rhoboro Downs to Ben Ohau. This needs checking during cadastral search.
- 3/10/62 Land Settlement Board Case No 6930 resolved that Ben Ohau be determined pastoral land suitable for disposal on Pastoral Occupation Licence following expiry of the present Pastoral Run Licence on 28 February 1970. It was noted that there was a lot of discussion and "fence sitting" by various officers at the time as to whether it should be pastoral land or farm land.
- 6/4/66 The previous Land Settlement Board decision Case No 6930 was rescinded and the Board resolved that the land be determined pastoral land suitable for disposal on Pastoral Lease following expiry.
- 31/5/66 Head Office committee Case No 6262/320. 37 acres surrendered for the Pukaki Airfield. No reduction in annual rent or stock limit.
- 3/12/69 Land Settlement Board approved the offer of a Pastoral Lease at a rental of \$1,250. It was also deemed to be a disposition for the purposes of Section 58 (1) Land Act 1948.
- 24/7/70 Reserve 4674 had been surrendered from the prior lease in 1957 but no action was taken to reserve this area for Rabbit Board purposes. A letter to the Board requested confirmation that the area was used. A hand written note on the letter on file indicates that the Rabbit Board does not require the land therefore it was to be incorporated in the new lease. This was done.
- 3/2/71 Following an application from the lessee, the Land Settlement Board under Case 8310 agreed to accept surrender of the pastoral lease and preferentially allot the land on renewable lease to the existing lessee.
- 23/7/71 Lessee offered renewable lease.
- 9/9/71 Lessee decided in the meantime not to accept renewable lease.
- 15/10/82 Formal note on file, principally regarding hydro works, notes under the heading Pastoral Run Re-classified - Farmland the following "In District Solicitors opinion this land is still farmland ..."

- It is interesting to note however, that in the Land Settlement Board decision of 3 February 1971, the Land Settlement Board submission although headed "Reclassification" does not in any of the recommendations refer to Section 51 of the Land Act, however it does state in the resolution that it approves in principle the reclassification.
- 28/10/82 Letter from Ministry of Works and Development states approximately 330 hectares taken for hydro development, compensation settled.
- 27/1/83* - Gazette notice for taking of land for generation of electricity, 70.25 hectares shown on SO 15540. This is land adjacent to the Pukaki River. Document 701297/1 surrenders 202.8303 hectares out of the lease.
Note 1: There needs to be a check of the SOs to ensure this includes the canal area.
Note 2: Status check reveals canals surrendered.
- 13/2/84 From Chief Surveyor noting that he had removed the Section 58 strip on SO 11428 comprising some 20 hectares and instructed that the area should be added in to the pastoral lease. It had been pointed out to him that no water had flowed down the west branch of the Twizel since 1968 which was the subject of the Section 58 strip.
- 15/2/83 Title shows surrender of 70.25 hectares which relates to the generation of electricity. Action complete.
- 5/3/84 Shows change of appellation which gives effect to the incorporation of 20.2342 hectares being the Section 58 strip on the west branch of the Twizel River.
- 25/7/84 Certificate of Alteration increasing the area by incorporation of the 20.2342 hectares. Action now complete.
- 30/7/87 Gazette notice 123 Page 3529 schedules further areas taken for generation of electricity on SO Plans 16043, 16044, 16859, 16045, 16735 and 16859.
- 1/12/87 Request by Department of Conservation to incorporate Reserve 4675 into Ben Ohau pastoral lease. The basis for it was that the land had been taken for Pest Board purposes and surrendered out of the lease at no cost. It was now not required for Pest Board purposes, was gazetted Crown Land and the Pest Board had paid the former Department of Lands and Survey \$100 which was the fee for processing. The area was incorporated as Section 1 SO 8529 13/10/89.
- 6/3/97 A copy of the Mackenzie District Council's requirement for a designation for the Pukaki Airfield. Your request for advice of any action necessary to protect the Crown's interest has been implemented through the submission prepared by Caroline Mason to the District Plan.

LI (Christchurch) office on 11 March 1997 were requested to advise of any uncompleted actions. In a letter dated 12 June 1997 they advised “*There appears to be road realignment legalisation action to be completed on the road in the vicinity of Ben Ohau homestead*”. The approved person completing the status check has subsequently searched relevant files held by LINZ.

SUMMARY OF ANY GOVERNMENT PROGRAMMES APPROVED FOR THE LEASE

Document 994342/1 registered a Land Improvement Agreement against the title securing the Rabbit and Land Management Programme. The programme consisted of approximately half pest control and half land management works, principally oversowing and topdressing. There is no signed copy of the Programme on file, however a full description of the programme and proposal report is held in a Rabbit and Land Management Property Plan summarised as follows:

Rabbit and Land Management Plan.
5290 Ha 1080 rabbit poison
443 Ha Pindone rabbit poison
2400 m rabbit netting of boundary fence - adjoins Ruataniwha
500 Ha Oversowing and topdressing
4860 m strategic fencing
42 Ha of fodderbank establishment if trials successful

Other than poisoning no works were on the area likely to be retained and transferred to DoC. Therefore there should be undue implications for the Regional Council.

UNCOMPLETED ACTIONS AND POTENTIAL LIABILITIES TO THE COMMISSIONER

Compensation Certificate 275055/1 over the title is not discharged and cannot be discharged until various legalisation requirements in relation to roading are complete. As a consequence of roading actions, particularly roads to be stopped, it may be appropriate for this land to be incorporated into Ben Ohau. While these matters could presumably be brought down on the new title, it would be preferable to have all matters pertaining to hydro development works, the reason for the Compensation Certificate, completed prior to finalisation of tenure review. The Status Report indicates that land is yet to be taken for roading as shown on SO 16043, SO 16044, SO 16735, and SO 16859.

Personal comment from LINZ indicates that there are boundary adjustments fronting the Pukaki River Bed to be made.

There is no guarantee that boundaries are fenced on the legal line.

Other than notice of requirement for a designation under Section 168 or Clause 4 of the First Schedule to the Resource Management Act 1991, we have sighted no other obligations related to the land

su. ending the airport. A recreation permit is held over land between the State Highway and the airport runway, to enable airport buildings to be on the pastoral lease.

No known structures from the LIA are likely to be on land that would be retained as Conservation Land.

We are satisfied we have fulfilled our duty of reasonable care, using the information we have available, to inform the Commissioner of all incomplete action and potential liabilities concerning the above named lease. No inspection of the lease has been undertaken.

We have relied on Land Status Check and survey information provided to us by qualified persons as being true and correct, including search of LINZ files.

Signed for Knight Frank (NZ) Limited



R A Ward-Smith
Manager, Timaru

6 17 1999

G L Holgate

/ /

Approved/Declined

Commissioner of Crown Lands

/ /

ATTACHMENTS:

- (1) Recent title search for each title considered
- (2) Full list of information sources considered
- (3) Land Status Check report from qualified person

Appendix 1

L. & S.—B. 4

SEARCH COPY - 10 MARCH 1999

Former Ref. Vol. PR fol. 570

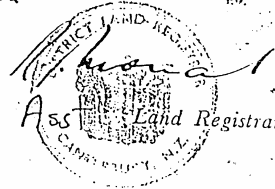
NEW ZEALAND

Entered in the Register-book, t

L. & S. Ref. No. P.128

1971 at 2.0 o'clock

13th day of May



Pastoral Lease under the Land Act 1948

This Deed, made the 1st day of March 1970 between HER MAJESTY THE QUEEN (hereinafter referred to as "the Lessor") of the one part and JOHN ARTHUR PRESTON CAMERON of Lake Pukaki, Farmer

(hereinafter referred to as "the Lessee"), of the other part: WITNESSETH that, in consideration of the rent hereinafter reserved, and of the covenants, conditions, and agreements herein contained and implied, and of the part of the Lessee to be paid, observed, and performed, the Lessor doth hereby demise and lease unto the Lessee, all that parcel of land containing by estimation 14,730 acres more or less, situated in the Land District of Canterbury, and being Run 336 "Ben Ohau" situated in Blocks I, II, III, IV, V, VI, VII and VIII Strachey Survey District as the same is more particularly delineated with bold black lines on the plan heron; together with the right

No. IOF / 1319

10F/1319

casements, and appurtenances thereto belonging. TO HOLD the said premises intended to be hereby d
into the Lessee for the term of 33 years, commencing on the 1st day of July 1970, to
with the period between the date of this lease and the aforesaid 1st day of July 1970, YIEL
and paying therefor unto the Department of Lands and Survey at Christchurch the :
rent of \$1250.00 payable without demand by equal half-yearly payments in advance on the 1st
January and the 1st day of July in each and every year during the said term ~~AND also paying in~~
~~improvements specified in the Schedule hereto the sum of \$XXXXXXXXXXXXXXXXXXXX by deposit of XXXXXXXX~~
~~(which has already been paid) and thereafter by XXXXXX half-yearly instalments of XXXXXXXXXXXXXXX~~
~~day of January and the 1st day of July in each and every year~~

AND the Lessee doth hereby covenant with the Lessor as follows:

1. THAT without derogating from or restricting the covenants contained and implied in this lease and o
part of the Lessee to be performed or complied with the Lessee will not at any time during the said terr
pasture on the land hereby demised more than 4670 sheep which number shall not include more than 22
breeding ewes nor more than 281 cattle which number shall not include more than 180 bre
cows PROVIDED HOWEVER that the Lessee may with the prior written consent of the Land Settlement I
carry such additional stock on such terms and conditions as may therein be specified subject nevertheless to
right of the Land Settlement Board to revoke or vary such consent at any time. PROVIDED FURTHER
HOWEVER that should such additional stock numbers be allowed no increase in rent

2. That the Lessee will at all times farm the land hereby demised in a manner to promote soil conservation
prevent erosion and will comply with the provisions of the Soil Conservation and Rivers Control Act 194

AND it is hereby agreed and declared by and between the Lessor and Lessee:

THAT pursuant to the provisions of the Noxious Animals Act 1956 officers and employees of the New Zeal
Forest Service and other authorised persons shall at all times have a right of ingress, egress and regress over
land comprised in this lease for the purpose of determining whether such land or any adjoining land is infe
with deer, wild goats, wild pigs, opossums or other animals which the said Service is charged with the duty of
terminating or controlling, or for the purpose of destroying any such animals: Provided that such offic
employees and other authorised persons in the performance of the said duties shall at all times avoid un
disturbance of the Lessee's stock.

AND it is hereby declared and agreed that these presents are intended to take effect as a Pastoral Lease of past
land under section 66 of the Land Act 1948, and the provisions of the said Act and of the regulations made the
under applicable to such leases shall be binding in all respects upon the parties hereto in the same manner a
such provisions had been fully set out herein.

For Clauses 3 and 4 see page opposite.

SCHEDULE OF IMPROVEMENTS BELONGING TO THE CROWN

IN WITNESS whereof the Commissioner of Crown Lands for the said Land District, on behalf of the Lessor, has hereunto set
his hand, and these presents have also been signed by the said Lessee.

Signed by the said Commissioner on behalf of the Lessor, in the
presence of—

Witness: P. L. Savage
Occupation: Clerk, Lands & Survey Dept,
Address: Christchurch:

[Signature]
Commissioner of Crown Lands.

Signed by the above-named Lessee, in the presence of—

Witness: [Signature]
Occupation: Salvator
Address: [Signature]

[Signature]
Lessee.

600/G/62-55398 1W

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3. AND IT IS FURTHER AGREED AND DECLARED that so long as the said land is being farmed in conjunction with the adjoining property being Part Rural Section 33873 situated in Blocks II and VI Strachey Survey District, area 249 acres 1 rood 12 perches, at present owned by the Lessee, the Lessee shall not be in breach of the covenant restricting the numbers of stock which may be depastured on the said land if the total cattle depastured on the said land and adjoining freehold land is not at any time more than 356 cattle which number shall not include more than 255 breeding cows, subject nevertheless to the increased numbers of stock being depastured equally on both the aforesaid lands and in accordance with the rules of good husbandry.

4. THAT the Lessee will not erect any buildings or fences on any land 1000 feet either side of the line marked "proposed canal" and shown with pecked black lines on the plan hereon, without the prior written consent of the Land Settlement Board.

For diagram see over.

C.T. 10F/1319

44
o.552742 ~~Electricity~~ ~~Agreement~~ under The
Electricity Amendment Act 1948 - 2/8/1956
at 12.10 p.m.

Variation of Mortgage 71740/1 - 1-5-1979 at
10.35a.m.

Mortgage 691892 to Dominion Life
Assurance Office of New Zealand Limited
- 7/9/1966 at 10.58 a.m.

No. 275055/1 Compensation Certificate pursu
to Section 17 of the Public Works
Amendment Act 1948 - 21-5-1980 at 9.04a.m.

Mortgage 808640 to Dalgety New Zealand
Limited - 16/9/1970 at 10.58 a.m.

Mortgage 368314/1 to The Rural Banking and
Finance Corporation - 16/9/1982 at 9.01a.m.

Mortgage 858619 to The State Advances
Corporation - 1/3/1972 at 1.40 p.m.

No. 420853/1 Gazette Notice taking part of
within Leasehold estate (70.2500 hectares) for
generation of electricity - 15.2.1983 at 9.01

No.858621 Memorandum of Priority making
Mortgage 858619 second Mortgage and
Mortgage 808640 third Mortgage -
1/3/1972 at 1.40 p.m.

No. 937710 Change of Name of The
Dominion Life Assurance Office of
New Zealand Limited
Mortgage under Mortgage 691892
to Commercial Union Assurance
Company of New Zealand Limited
26/11/1973 at 2.40p.m.

No. 422403/1 Change of Name of
the mortgage under mortgage
No. 691892 to GIL Investments
Limited - 24/2/1983 at 9.01a.m.

Kobainas D.L.R.

Transfer 422403/2 of mortgage
No. 691892 to The National
Mutual Life Association of
Australasia Limited - 24/2/1983
at 9.01a.m.

Mortgage 71740/1 to The Rural Banking
and Finance Corporation of New Zealand
- 11.3.1976 at 9.58 a.m.

No.71740/3 Memorandum of Priority
making Mortgage No.71740/1 third
mortgage and Mortgage No.808640
fourth mortgage - 11.3.1976 at
9.58 a.m.

No.47769/1 Change of appellation whereby the descri
of the within land is changed to Part Run 336
Block III Strachey SD (Affects 20-234
produced this 5th day of March 1984 at 2
Assistant Land Regi

No. 207604/1 Certificate of Alteration varying
the terms of the within lease - 18.12.1978 at
9.16 am.

Transfer 211133/1 to Ben Ohau Station
Limited at Timaru - 26.1.1979 at
2.06 pm.

Variation of Mortgage 691892 -
26.1.1979 at 2.06 pm.

L & DEEDS
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L.S.
13 MAY 1971
2.00 p
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Abstract No. 3206

10F/1319

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Clerk
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No. 499410/1 Certificate of
Alteration increasing the within
land to 5911.0037 hectares by the
incorporation of part Run 336
"Ben Ohau" - 25.7.1984 at 11.44a.m.

A.L.R.

Mortgage 521612/3 to the National
Mutual Life Association of
Australasia Limited - 11.12.1984
at 9.17 a.m.

DISPOSED
E. J. J. J.

No. 521612/4 Memorandum of Priority
making Mortgages 521612/3, 71740/1
and 368314/4 first, second and
third mortgages respectively -
11.12.1984 at 9.17 a.m.

for A.L.R.

~~No. 701297/1 Gazette Notice declaring~~
No. 701297/1 Gazette Notice declaring
parts of the within leasehold estate
(202.8303 ha) to be acquired for the
generation of electricity - 9.9.1987
at 11.57 a.m.

at 11.57 a.m.

No 832596/2 Certificate of Incorporation
incorporating Section 1 S.O. 8529 in the
within lease increasing the area to
5710.2431 hectares - 13.10.1989 at 11.40
a.m.

L. J. J.

for A.L.R.

Mortgage 838889/3 to The National Bank
of New Zealand Limited - 21.11.1989 at
10.31am

L. J. J.

for A.L.R.

No. 994342/1 Land Improvement Agreement
under Section 30A of the Soil Conservation
and Rivers Control Act 1941 - 19.5.1992 at
11.25am

A.L.R.

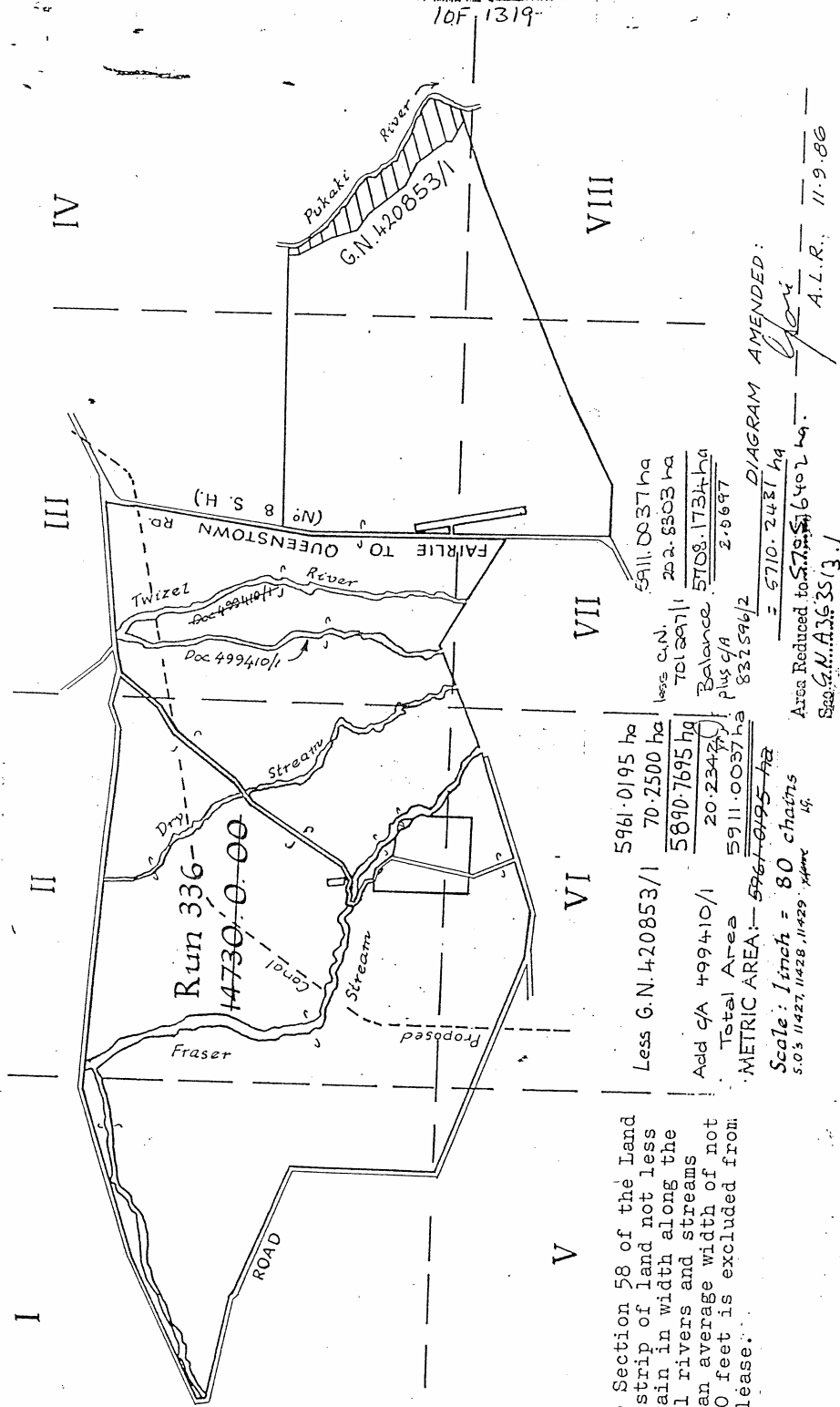
Variation of Mortgage 838889/3
29.8.1997 at 1.16

2200

A363513.1 Gazette Notice (1998 pg 2301)
declaring that part of the within land
(4.6029 ha) to be road and shall vest in
the Mackenzie District Council - 7.8.1998
at 11.45

Boie
for DLR

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Pursuant to Section 58 of the Land Act 1948 a strip of land not less than one chain in width along the banks of all rivers and streams which have an average width of not less than 10 feet is excluded from the within lease.

Less G.N. 420853/1 5961.0195 ha
 70.2500 ha
 5890.7695 ha
 Add c/a 499410/1 20.2347 ha
 Total Area 5911.0037 ha
 METRIC AREA: 5961.0195 ha

less c.n. 5911.0037 ha
 70.2500 ha
 Balance 5708.1734 ha
 Plus c/a 2.8697 ha
 5711.0431 ha

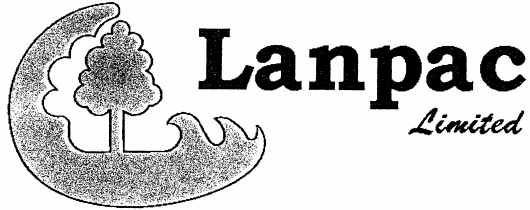
DIAGRAM AMENDED:
 = 5710.2431 ha
 Area Reduced to 5708.1734 ha
 6402 ha
 A.L.R. 11.9.86
 Sgd G.N. 420853/1

Scale: 1 inch = 80 chains
 5.03 11427, 11428, 11429

APPENDIX 2

List of Information Sources Considered.

- Pastoral Lease files held by Knight Frank (NZ) Ltd, Timaru
- Status Check and attachments which included searches of Land Information New Zealand files
- 31 years personal knowledge



Your ref: file: P128
Project No.:-
Client : Land Information New Zealand

41 Neill Street
Christchurch 8004

Our ref: LAN - 1

Phone (03) 349 2970
Fax (03) 349 2973
A/H (03) 349 4473

30 April 1999

Page 1 of 7

Ben Ohau Pastoral Run

STATUS INVESTIGATION FOR PASTORAL TENURE REVIEW

AUTHORITY :

Land Information New Zealand Christchurch instruction fax dated 25 February 1999.

INTRODUCTION :

This status investigation report has been assembled in parallel with a due diligence report to form support of an application pursuant to section 27 Crown Pastoral Land Act 1998, for Tenure Review of Ben Ohau Pastoral Run.

LOCATION :

Ben Ohau Station, South Canterbury, approximately 1 kilometre north of Twizel. NZMS 260 sheet H38 (Appendix I).

PHYSICAL :

Typical open, MacKenzie Basin terrain.
Relatively level, running east to west rising to a single hill "The Pyramid". The run is divided by several natural rivers and streams flowing in a southeasterly direction. The Pukaki/Tekapo Canal, manmade for the purposes of power generation, diagonally cuts through the run.
Legal road access to the homestead is provided off S.H 8, via Twizel.

LEGAL DESCRIPTION :

5705.6402 hectares more or less being Section 1 SO 8529 and Parts Run 336 (SO 11427-11429/SO 15540, 16044-16046 & 16859) situated in Blocks I, II, III, IV, V, VI, VII, and VIII Strachey Survey District, Canterbury Land District.

STATUS :

Crown Land subject to the Land Act 1948 subject to Pastoral Lease 10F/1319 (1970) pursuant to section 66 as registered under section 83 of the Land Act 1948.

MINERAL STATUS :

The land from the origin of the provincial government has always been in Crown ownership.
From the period of the first registered lease (1899), the land has remained under the provisions of the Land Act and its amendments.
The mineral exclusion in favour of the Crown, came into effect by, sections 121 and 198 of the Land Act 1892.

continued.....

Areas of land added to Run 336 taken under the Public Works Act 1928 are deemed to have acquired the mineral ownership after 1939 (vide section 62(1) Statutes Amendment Act 1939).

Areas of Pt Run 336 or its former appellation, taken for a public work under the provisions of the Public Works Act 1981 are deemed, to have acquired the mineral ownership.

In terms of the Public Works Act 1981 this would apply, to those areas of Pt Run 336 shown on legalisation plans and yet to be actioned, by gazette notice.

Mineral ownership of the present lease to date, remains with the Crown.

Upon alienation from the Crown, the area effected will become “subject to section 11 Crown Minerals Act 1991”.

ENCUMBRANCES :

- (i) Lease 10F/1319 (1970) carries the memorial; *“Pursuant to Section 58 of the Land Act 1948 a strip of land not less than one chain in width along the banks of all rivers and streams which have an average width of not less than 10 feet is excluded from the lease”*.
In view of Land Information New Zealand letter dated 13 November 1997 re: “Marginal Strips - Lilybank Station” and attachment; Ministerial Co-Ordinating Committee/State Owned Enterprises paper 271, dated 31 March 1987 (Department of Justice), SO plans 11427 and 11428 support the above memorial. Both plans in respect to Fraser Stream, Dry Stream and the Twizel River, depict a one chain strip having been laid off and excluded from the run.
- (ii) New Zealand gazette 1970 page 1961 (document No. Proc 817132), part of *No. 8 State Highway (Timaru – Milton) to be a limited access road*. No memorial is shown on the current lease although, document schedule identifies this lease.
- (iii) Unregistered interest in respect to Mount Cook Airline Company assets (buildings) located on PL 10F/1319, adjacent to Pukaki Air Field as shown on SO 19504.
- (iv) Subject to Soil Conservation and Rivers Control Act 1941, vide section 170.

RIPARIAN RIGHTS :

Upon alienation of the lease from the Crown, the land becomes subject to Part IVA Conservation Act 1987, ie Marginal strip provision of 20 metre width, along rivers and streams of 3 metre width or greater whether they exist or not.

Their boundary identification would be shown on the alienation definition, plan face and plan panel.

Similarly the existing situation; vide section 24(3) Conservation Act 1987, in respect to the former section 58 Land Act 1948 strips. These are laid out on the respective plan face and identifiable, as marginal strips.

In these situations above, Pt Run 336 does not have a common boundary with the river or stream. The Crown has demonstrated its intention to retain ownership for the river/stream bed by denying a common boundary.

Therefore river/stream bed fronting and or adjoining marginal strips are (or will be) “Riverbed lands of the Crown”.

VALUATION :

Valuation Reference 25320/01300 under the Rating Powers Act 1988;

Dated 01/09/1997

Land value \$540 000.00
Capital value \$755 000.00

ZONING :

Mackenzie District Council

The council currently operates under both the;

- (i) Transitional District Scheme dated 10 March 1986, zoned "Rural 1" and
- (ii) Proposed District Plan as notified dated 28 February 1997, zoned "Rural".

An area of this nature (Pastoral Run) in the proposed plan, is designated as a "site of natural significance" (SONS).

Pukaki Airfield adjoining Pt Run 336 has also been designated in the proposed plan and there is proposed additional interest by the local authority to extend the site and the current approach and takeoff sight lines to which, would affect the lessees interest (Appendix V).

CONTINGENT LIABILITY/CONTAMINATION ISSUES :

No outstanding issues known, at time of report.

SURVEY PLAN REQUIREMENTS :

(a) Definition:

Run 336 original plan was a compilation of underlying plans. Survey standards at that period (1970) did not require, the right lining of legal roads where a traverse did not exist similarly one chain strips pursuant to section 58 Land Act 1948.

Since the issue of the current Crown lease (10F/1319) further variable deductions and or additions have altered the current lease by approximately some 200 hectares.

The Conservation Act 1987 provides for the identification of all rivers and streams, 3 metres of width or greater and lakes of area 8 hectares or greater, to have a 20 metre width marginal strip, etc.

In conclusion to suitably identify the balance land and cover the statutory/regulatory requirements a conventional survey office (SO) plan definition would be required upto class B standard although, this may alter with the introduction of the revised Survey Regulations this year (1999).

It is recommended the Chief Surveyor Christchurch, be consulted prior to this requirement.

(b) Legalisation:

- (i) The run peripheral in general, is bordered by legal roads.

These consist of both formed and unformed roads. In some cases the formation, although of a less than metalled standard deviates from the legal position.

Refer to topographical/cadastral 1:50 000 plan attached.

This is noticable; along the northern boundary off Rhoboro Downs Road and the southwest boundary of the extreme west block.

It will be necessary to seek the local authorities opinion and for them, to identify their future road requirements (vide sections 316 and 323 Local Government Act 1974) especially situations where the legal road is not formed.

continued....

(ii) Legal Road Topo Plan 55T (1884) - The plan original indicates a burnt sienna pecked line, north of "Trig J (1834.7)".

Topo Plan 52T (1884) adjoins Topo 55T along its northern border. This plan as a continuation, also shows this burnt sienna pecked line.

In 1968 the Department of Lands and Survey Head Office, gave an opinion to the effect that this representation on 40 chain Topo plans constituted these lines to be legal roads (File 9/16 folio 250, memo dated 08/05/1968) and if not required or unsuitable, to be closed.

The road on Topo 55T has not been formerly closed and to be consistent with SO 13326 should by rights, be represented on the cadastral definition as does its counterpart.

(iii) Compensation certificate 275055/1: The original agreement signed 02/06/82, on file 40/14/4/1/20 volume I, seems somewhat vague in its wording; "... the Crown will acquire all our interests in certain lands described in that agreement"

No schedule or area of lands to be taken, are attached to the agreement with a compensation value of \$18,707.00. Additional to this is a Memorandum of agreement on compensation, for the sum of \$25,000.00 dated 19/05/80 for an area of 232.9000 hectares. Both agreements indicate land is to be taken from both the freehold (CT 19B/486) and the leasehold (PL 10F/1319) of Ben Ohau Station Limited.

Memorandum dated 07/12/82 to the District Commissioner of Works concludes compensation of \$43,707.00 has been paid in full.

(a) Land to be Taken:

In general there are several areas relative to road and road (State Highway) that are yet to be legalised under the provisions of the Public Works Act 1981. Those by the agreement that affect Pt Run 336 are as follows;

Road (S.H) – shown marked "M" on SO 16043
Road (S.H) – shown marked "K" on SO 16043
Road (S.H) – shown marked "R" on SO 16043
Road – shown marked "Q" on SO 16044
Road - shown marked "A" on SO 16735
Road - shown marked "L" on SO 16859
Road - shown marked "M" on SO 16859
Road - shown marked "O" on SO 16859

(b) Road to be Stopped and Probable Incorporation into Pt Run 336

The file does not reveal any specific fact that this is to eventually occur. Logic would assume, as the only adjoining land the stopped road would be incorporated into Pt Run 336.

Areas affected to which no road stopping has occurred, are as follows;

Shown marked "L" on SO 16043
Shown marked "K" on SO 16044
Shown marked "R" on SO 16045
Shown marked "F" on SO 16734
Shown marked "E" on SO 16734
Shown marked "D" on SO 16734
Shown marked "C" on SO 16734

continued.....

Shown marked “B” on SO 16763

In conclusion, compensation certificate No.275055/1 cannot be discharged until all of the legalisation requirements above, have been completed.

(c) Reconciliation of Boundaries:

From file P 128 the indications are that the cadastral boundaries of the run to be fenced. Similarly those “new” boundaries, formed by Public Works Act 1981 agreements. Refer to fence plan appendix I.

Without the benefit of survey definition under Class A or B standards, there is no immediate guarantee that occupation boundaries coincide with, the current cadastral boundaries.

The run homestead is excluded from Pt Run 336. Contained in freehold certificate of title 19B/4486 as defined on SO 4251.

TITLE REQUIREMENTS :

The Crown Pastoral Land Act 1998 provides the initial mechanism to alienation. Legislation currently in place requires;

- (i) Section 24(2A) Conservation Act 1987, consultation with the Department of Conservation in regard to marginal strips.
- (ii) Part 9 Ngai Tahu Claims Settlement Act 1998, consultation with Te Rununga O Ngai Tahu (Right of First Refusal).

Upon completion of a suitable plan, certificate of title can issue pursuant to section 116 Land Act 1948 or its equivalent, subject to the mandatory Crown memorials.

AQUISITION HISTORY (PURPOSES SEC 40 PUBLIC WORKS ACT 1981):

Note: where an addition to the Run has been noted, its “background” has been addressed within the acquisition item as numbered (Appendix II, III & IV).

- (i) 1840 – The Treaty of Waitangi, authority for the Crown to authorise the purchase of land for colonisation within New Zealand.
- (ii) 1848 – Kemp Purchase of 12 June 1848 on behalf of the Governor of New Zealand, from the Ngai Tahu people.
- (iii) 1850 – Canterbury Association Charter and Land Regulations, Canterbury Runs Act 1850.
- (iv) 1851 – New pastoral regulations issued by J.R.Godley for Canterbury for Class I, II and III runs.
- (v) 1854 – W.G Britten (Commissioner of Crown Lands) re-issued new licences over and re-numbered, runs between the Hurunui/Waitaki Rivers.
- (vi) 1856 - Waste Lands Regulations, NZ gazette 1856 page 27 Part X.
- (vii) 1865 - Area known as “Ben Ohau” approximately 60,000 acres leased by H. Fraser (reference “Early South Canterbury Runs” Robert Pinney).
- (viii) 1867 – Canterbury Provincial gazette 1867 pages 159 (179, 180), 160 (300), 161 (319) and 163 (530) confirmation of application for Class III runs under the Canterbury Land Regulations, to H and S. Fraser.

The period upto the 1870s, from the provincial government to the national government was very poor in official records. Unfortunately those that did exist upto this period history notes, were often lost at the transition stage.

continued....

- (ix) 1892 – Land Act 1892.
- (x) 1899 – License to occupy Crown Lands for Pastoral Purposes PR 139, Run 87 “Ben Ohau Station” 54,400 acres to J.E.P.Cameron (21 years).
- (xi) 1920 – License to occupy Crown Lands for Pastoral Purposes PR 426, Run 87 (RS 36864) “Ben Ohau Station” 15,221 acres to J.E.P.Cameron (21 years).
- (xii) 1949 – License to occupy Crown Lands for Pastoral Purposes PR 570, Run 87 (RS 36864) “Ben Ohau Station” 15,221 acres to J.A.P.Cameron (21 years).
- (xiii) 1955 – Closed Road SO 8484, NZ gazette 1955 page 1402 (section 29(3) Public Works Amendment Act 1948), area 3-0-34.5 incorporated into lease PR 570.
The closed road was incorporated, in terms of the situation at this period i.e. SO 5621 definition. It was later corrected on SO 11428 to exclude Fraser Stream.
Area 3-0-34.5 formerly legal road by section 110A Public Works Act 1928 SO 5621 (1919).
- (xiv) 1970 – R 4674 SO 8528 (1952). There was no formal reservation for this reserve therefore the area remains deemed, Crown Land subject to the Land Act 1948 (vide Run 87 on SO 5621).
Lease PR 570, by memorial C/A 807567, changes appellation R 4674 to Pt Run 336 (formerly Run 87 its origin).
- (xv) 1970 – Pastoral Lease 10F/1319, Run 336 “Ben Ohau” 14,730 acres to J.A.P.Cameron (33 years).
- (xvi) 1984 – Lease PL 10F/1319, by memorial C/A 4477691/1 adds 20.2342 hectares (50 acres) to Pt Run 336.
Definition on SO 11428 (1970) from that shown for Pt Run 87 SO 5621 (1919) deletes a parallel section 58 strip (Land Act 1948) along the West Branch of the Twizel River on the grounds, that this is a dry watercourse. Whether this is strictly correct can be debated however, it has been signed by the Chief Surveyor for that period and remains a Crown interest.
In effect there was no acquisition as the land was “Run ” under lease prior to, it shown as a section 58 strip.
- (xvii) 1989 – Lease PL 10F/1319, by memorial Certificate of Incorporation 832596/2 adds 2.0697 hectares being Section 1 SO 8529 (formerly R 4675) to the lease.
SO 8529 (1952) defines R 4675 and a proposed water easement.
Reserved and vested by NZ gazette 1956 page 974 (Land Act 1948) document Proc 455007, in the Pukaki Rabbit Board. The water easement was never formerly created.
This reservation was later revoked by NZ gazette 1987 page 4633 (Reserves Act 1977) document GN 832596/1 to which deems it to be Crown Land subject to the Land Act 1948 and reincorporated into, the run it originated from albeit, a different number.
The easement by its omission in the gazette notice, confirms it is now redundant.

SUMMARY :

From an acquisition view it can be seen from the above, the current land holding and its additions and or incorporations, have remained in the Crowns interest for a period of over 130 years.

There are no requirements under section 40 Public Works Act 1981 to offer the land back, to a former owner(s) and or successor(s).

*** Section 1 SO 8529 and Pts Run 336 (Ben Ohau) are Crown Land subject to the Land Act 1948.**


..... Date... 03/05/1999
Search and Report in terms of an agreement signed between Peter M King (Crown Accredited Agent) and Land Information New Zealand dated 09 September 1998


ATTACHMENTS :

- Appendix I - Location Plan/Cadastral Plan
- Appendix II - Survey Plans
- Appendix III - Leases
- Appendix IV - Gazette Notices/Documents
- Appendix V - Miscellaneous/Valuation/Zoning
- Appendix VI - Legalisation Issues

Scale 1:50 000 Topographic Plan
Scale 1:50 000 Cadastral Overlay Plan

CERTIFICATION :

Pursuant to sections 11(1)(l) and 11(2) of the Survey Act 1986, I hereby certify that the described above* is Crown Land subject to the Land Act 1948.


..... Date: 21 / 5 / 1999
Chief Surveyor
Christchurch
Land Information New Zealand

