

## **Crown Pastoral Land Tenure Review**

**Lease name : CLOUDY RANGE**

**Lease number : PM 015**

### **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.

February

06

**DUE DILIGENCE REPORT**

**CPL PRE TENURE REVIEW ASSESSMENT STANDARD 6:**

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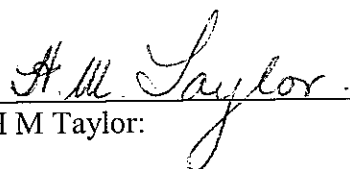
File Ref:	Pm015	Report No:	AT2029	Report Date:	28 June 2002
LINZ Ref:	12791				
Office of Agent:	Alexandra	LINZ Case No:		Date sent to LINZ:	

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**RECOMMENDATIONS:**

- (1) That the Commissioner of Crown Lands or his delegate **note** the contents of this Due Diligence which has been prepared in accordance with the Pre Tenure Review Assessment Standard.
- (2) That the Commissioner of Crown Lands or his delegate **note** that there are no incomplete action which may require action by the Manager of Crown Property Contracts.

**Signed by DTZ New Zealand Limited:**

  
 \_\_\_\_\_  
 H M Taylor:

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

  
 \_\_\_\_\_  
 Name: **GRANT KASPER WEBLEY**  
 Date of decision: 31/7/02

**(1) Details of lease:**

<b>Lease name:</b>	Cloudy Range
<b>Location:</b>	<p>The property is located on the Inland Kaikoura Road (<i>State Highway 70</i>), 45 kms west of Kaikoura, and 42 kms northeast of Waiiau.</p> <p>The Clarence River flows along the north-western and western boundary while the Conway River flows along the eastern boundary. Also draining the property are the Winterburn Stream, the Manson River, Pleasant Creek Tinline Creek and Robson Stream.</p> <p>The property rises from 365 metres to 1740 metres, which includes 140 ha flat and the balance steep to very steep.</p> <p>The Amuri Range runs through the western side of the property with Cloudy Range being found towards the northern end of the property.</p>
<b>Lessee:</b>	<p>Cloudy Range Holdings Limited.</p> <ul style="list-style-type: none"><li>• Tony and Sue Clarke, 50%</li><li>• Daryl and Barbara Thompson, 25%</li><li>• Tim Rivers, 25%</li></ul>
<b>Tenure:</b>	Pastoral lease under the Land Act 1948 and Crown Pastoral Land Act 1998, Pastoral Lease No 15.
<b>Term:</b>	33 years from 1 July 1991. Expiry 30 June 2024.
<b>Annual Rent:</b>	\$8,550
<b>Rental Value:</b>	\$380,000
<b>Date of Next Review:</b>	30 June 2013
<b>Land Registry Folio Ref:</b>	MB 46/192
<b>Legal Description:</b>	Run 208, Blocks X, XV, XVI, XVIII, XX, XXI and XII Acheron Survey District.
<b>Area:</b>	9315.8635 hectares

**(2) File Search:***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>
Pm15	1	358	8/10/1956	509	23/5/1977
Pm15	2	1	5/7/1977	103	8/10/1980
Pm15	3	1	10/10/1980	134	22/2/1983

*Other files held by DTZ 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>
Pm15	4	1	25/7/1983	Unnumbered	26/5/1998
Pm15	5	Unnumbered	12/8/1998	Unnumbered	6/10/1999
Pm15	6	Unnumbered	7/10/1999	Unnumbered	1/3/2000
CON/50213/09/12791/ A-ZNO	1	Unnumbered	1/7/2000	Unnumbered	1/1/2002

The file search has covered volumes covering 1956 to 2002. While a few folios are missing from the record, the vast majority are present and have been researched. The first folio entry is 8 October 1956 (*Volume 1 Cloudy Range Pm15*).

Volume 1 records that in 1956, Robert le Clerc Latter, held a 2/3 share in the property (*at this stage Pastoral Run Licence 287*) and Philip McLeod 1/3 share.

Term was 35 years (*21 years plus an extension of 14 years from 1 March 1923*), expiry 28 February 1958.

The stock limit was 4450 sheep (*plus 10%*). A pastoral lease was recommenced and accepted by Mr McLeod (*who was also the manager*). Commencement dated 1 July 1958.

The property was transferred from Latter to McLeod in 1958, who transferred 1/3 share to H H Scott. 1959 saw a boundary change and reduction in area (*230 acres*) due to a correction to the plot of the Land District Boundary (*Volume 1, folio 401, 402, SO 4297*).

1963 saw a Run Plan suggested, however this was not actioned.

1964 the northwest faces in the Clarence Valley are recorded as being depleted.

In 1964 P McLeod died, and the lease was transferred to his widow (*Mrs H I McLeod*). The lease was transferred to R P Jopp Sons Trust in 1969.

Bruce Jopp (*the manager in 1969*) proposed the retirement of the Clarence Faces, primarily because the low return from the wethers grazed there, and the high cost of mustering.

The property was transferred to Murray Rivers in 1977. Marginal Lands Finance was used for purchase.

1977 saw major development using Marginal Lands Finance, as little development had previously been done. Subdivision fencing and OSTD (*1000 acres*).

By 1977 the Clarence Faces had not been grazed for 8 years, and had recovered from their depleted state. Grazing with 1000 wethers was recommended.

A boundary issue arose in 1978, on the northern boundary between POL 029 Clarence Reserve and P15 Cloudy Range. POL 029 consisted of the retired land on Clarence Reserve, and the boundary between the two properties was regarded as impractical to fence.

Mr Rivers proposed a new boundary, along the skyline east of the Winterburn Stream through Mount Ross. The lessee of Clarence Reserve did not agree to the boundary change (*800 ha to go from Clarence Reserve to Cloudy Range*). However Cloudy Range stock continued to graze this area, although there were continuing complaints from Clarence Reserve re stock trespassing. This grazing was included in the stock limit for Cloudy Range in 1978.

Rapid development (*1978 – 1981*) continued using Marginal Lands Finance, aerial oversowing, topdressing, clearing, burning and spraying, cattle yards, tracking and fencing were completed.

An extension to the house was undertaken in 1979, using a Rural Housing Loan.

By 1980 the personal stock limit was 6600 sheep and 200 cattle.

The routine property report records that the lessee was successfully improving this property. 1981 saw another Marginal Lands Loan for a woolshed, and 19.5 kms of fencing.

1982 saw the unfenced boundary with Clarence Reserve resurface in correspondence and once again it was unresolved.

Sixteen kilometres of electric fencing was installed in 1984.

The boundary issues were in focus again in 1987, as Clarence Reserve now wanted to utilise “the retired” area which Cloudy Range had traditionally grazed.

Clarence Reserve wanted to fence on the legal boundary to resolve the issues.

The core of the problem appeared to be the temporary right to graze given to Cloudy Range in 1978.

By 1994 Clarence Reserve POL was transferred from Clarence Reserve Limited to Department of Conservation.

A special lease area in the Clarence Reserve was proposed by the Cloudy Range lessee (*Mr Rivers*) in 1994.

The lease was renewed in 1991:

Rental value	\$232,000
Rental:	\$3,480
Commencement	1 July 1991
Expiry:	30 June 2023.

Major new road and accommodation facilities beside the Clarence River were proposed in 1996.

A recreation permit was issued in 1994 (*term 5 years*) to Mrs Mary Lindsay Rivers.

1997 saw a number of unsuccessful attempts to transfer the property to off farm investors, with Mr Rivers to remain as manager.

Eventually in 1999, the property was transferred to Cloudy Range Holdings, with Tim Rivers (*the lessee's son*) as manager and a shareholder.

A new major maintenance, upgrading and development programme began 1999.

New tracking for stock access and easier farm management was approved, along with track maintenance.

OSTD, tree planting and burning broom and matagouri were all approved.

Cloudy Range Holdings currently hold the pastoral lease, with Tim Rivers as manager.

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

#### ***Terms of lease:***

The commencement date of the pastoral lease on Crown files is in agreement with the licence document. The lease was issued on 1 July 1958, and renewed on 1 July 1991, for a term of 33 years (*under the Pastoral Land Act 1948*).

The ownership is the same as used on Crown files and in the Status Check.

No non-standard conditions are recorded.

*Original lease stock limit:*

4895 Sheep  
88 Cattle

*Personal Stock Limit:*

7600 Sheep (including not more than 3400 breeding ewes)  
350 Cattle (including not more than 100 breeding cows)

*Renewals and variations:*

- 155964 Variation of terms renewing the within lease for 33 years, commencing on 1 July 1991 – (17 July 1991).
- 204816.4 Variation of the within lease – (25 May 1999). This variation requires the consent of the Crown to the transfer of company shares.

*Area adjustments:*

- 127111 Notice amending the area of the within lease to 9315.8635 ha (25 September 1985). This was to register the following, which was not recorded on MB 46/192.

In 1959, the boundary was changed and the area reduced by 230 acres. This was due to a correction to the plot of the Land District Boundary (SO 4297).

*Registered Interests:**Mortgages:*

- 204816.6 Mortgage to Bank of New Zealand (25 May 1999).

*Unregistered Interests:*

Conway Spur VHF repeater site - decommissioned as a Transpower NZ site.

Transpower are to gift the installation to the Run lessee.

*Other Interests:*

No electricity agreement is registered on the lease.

No mining or prospecting licence or permit is registered.

No Section 417 certificates under the Resource Management Act are registered.

There are no current recreation permits or DoC concessions issued for this lease.

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

There were no Government programmes implemented on this property.

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

Copy attached as Schedule A.

**5.1 The Pastoral Lease:**

The Land Status Report confirms the Crown land status under the Land Act 1948, subject to pastoral lease registered as MB 46/192.

The area of the lease is confirmed as 9315.8635 ha, which agrees with the lease document.

The Land Status Report records that the lease is not subject to any encumbrances.

This is in agreement with the lease details section of the report to 25 March 2002.

The legal description is confirmed as that being used in the Due Diligence Report.

The Crown retains mineral ownership.

The Land Status Check confirms that no conservation land exists within Cloudy Range lease boundaries. This agrees with the findings of this Due Diligence Report.

No UCL is identified within the lease.

Marginal strips are found along the Clarence River, Winterburn Stream, Conway River, Towy River and Robson Stream (SO 4297).

Legal roads are defined on SO 2270 (1926), and recorded in New Zealand Gazette 1926, Page 3165.

Parts of Ngai Tahu Claims Settlement Act 1998 – Schedule 65, identifies statutory acknowledgement for Tutae Putaputa (Conway River) refer SO 7328 Marlborough SO 19906 Canterbury.

The Status Check confirms that there are no recreation permits, DoC concessions or mining interests on the lease.

The Status Check identifies the following matters as possibly requiring investigation:

- Public access and or Department of Conservation issue over a proposed right of way in gross over existing formed track, shown on LT Plan 9470.



- SO plan 4297 has a plan face note, relating to the right lined western boundary "approved as to amended boundary A – B" (see file 1 folio 568 – August 1959).

The intersection of the boundary at the Clarence River was amended due to a plotting correction in respect to the Land District Boundary. Refer MB 46/192 diagram for comparison. The amended boundary is not shown on MB 46/1912.

Conway Spur VHF site – decommissioned. Transpower are to gift the installation to the run lessee.

No other issues arising from the report were noted.

## 5.2 *Other Land:*

No other land is covered in the Status Check.

## (6) *Review of topographical and Cadastral data:*

### *Topographical Map:*

The topographical map shows the Clarence River, the Conway River and the Towy River forming part of this lease boundary. The Mason River, Tinline Creek, Pleasant Stream, plus the Winterburn Stream and Robson Stream drain this property.

A TV transmitter (*Transpower*) is marked on the Conway Spur.

Farm tracks are shown, leading to the transmitter, and also a 25 km length of track, leading from the homestead to the Clarence River at the back of the property.

Yards are shown at the homestead, near Robson Stream and near Cloudy Hut.

Only one hut is marked near the Clarence River (*Cloudy Hut*).

Two airstrips are shown, one at the homestead and one further north, near the Conway River.

Cloudy Range Road is shown near the homestead area. This is legal road.

A derelict fence is shown running across the northern boundary.

### *Cadastral Map:*

A legal road is shown, Cloudy Range Road.

Marginal strips are shown following the Conway, Clarence and Towy Rivers and the Towy River tributary and the Winterburn and Robson Streams.

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

The northern boundary is adjacent to DoC land, former Clarence Reserve POL.

The eastern boundary is Clarence Reserve (*DoC*) and Conway Downs (*freehold*), while the southern boundary is formed by the Towy River with Whalesback (*freehold*), Mount Lyford Skifield (*freehold*), a scenic reserve and Teraka (*freehold*) completing the southern boundary.

To the west and northwest of the property lies Molesworth Station across the Clarence River. The rest of the western boundary and part of the southern boundary is formed by the Hossock Conservation Area.

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

No incomplete actions noted.

*The following issues are brought to your attention to note only:*

- Conway Spur VHF site, decommissioned. Transpower are to gift the installation to the lessee.
- The traditional grazing of Cloudy Range stock on an adjoining of Clarence Reserve (*now administered by DoC*) has been an unresolved issue.

A temporary right to graze was given in 1978, however concern re trespassing stock from Cloudy Range has resurfaced over the years. The most recent being in 1999, when the stock limitation for the new lessees on Cloudy Range was set. DoC comment expressed concern re stock trespass from Cloudy Range, and the impact they had on the high inherent values of this area (*Attachment 3*).

**ATTACHMENTS:**

- Schedule A - Status Check.
- Attachment 1 - Recent copy of lease document MB 46/192.
- Attachment 2 - Plotting correction – district boundary (*SO 4297*).
- Attachment 3 - Correspondence re stock trespass.

**SCHEDULE A:**

Status check.

**DTZ NEW ZEALAND LIMITED**

**Appendix A**

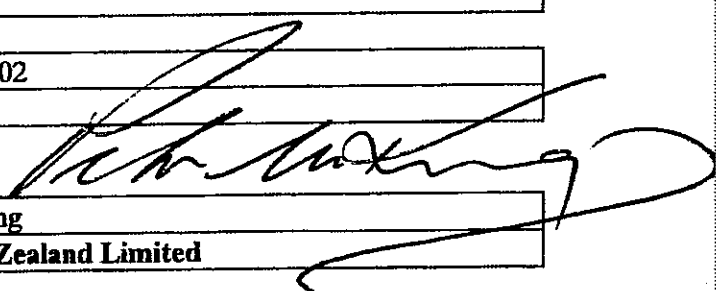
This report has been prepared on the instruction of Land Information New Zealand in terms of the contract number 50268 dated 31 August 2001 and is undertaken for the purposes of the Crown Pastoral Leases Act 1998.

<b>LAND STATUS REPORT for CLOUDY RANGE</b>				<b>[LIPS ref.12791]</b>
<b>Property</b>	<b>1</b>	<b>of</b>	<b>1</b>	

<b>Land District</b>	Marlborough
<b>Legal Description</b>	Run 208 situated Blocks X, XV, XVI, XVIII, XX, XXI & XXII Acheron Survey District.
<b>Area</b>	9315.8635 hectares (subject to survey)
<b>Status</b>	Crown Land subject to the Land Act 1948.
<b>Instrument Number</b>	All Computer Interest Register MB46/192 pursuant to section 66 and as registered under section 83 of the Land Act 1948, renewed by document No.155964.
<b>Encumbrances</b>	N/A
<b>Mineral Ownership</b>	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 Kaikoura purchase 1859.
<b>Statute</b>	Land Act 1948 & Crown Pastoral Land Act 1998.

<b>Date Generated</b>	08 April 2002
<b>Certificate Attached</b>	Yes

<b>Prepared by</b>	Peter M King
<b>Crown Accredited Supplier</b>	DTZ New Zealand Limited



**DTZ NEW ZEALAND LIMITED**

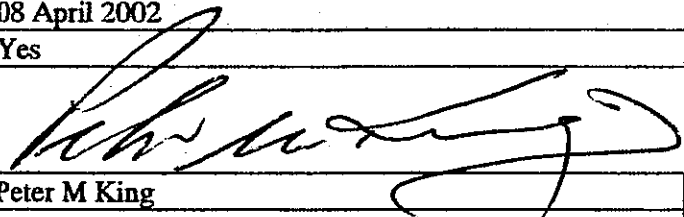
**Appendix B**

This Land status report has been prepared on the instruction of Land Information New Zealand in terms of the contract number 50268 dated 31 August 2001 and is undertaken for the purposes of the Crown Pastoral Leases Act 1998.

<b>LAND STATUS REPORT for CLOUDY RANGE</b>				<b>[LIPS ref.12791]</b>
<b>Property</b>	<b>1</b>	<b>of</b>	<b>1</b>	

<b>Land District</b>	<b>Marlborough</b>
<b>Legal Description</b>	<b>Run 208 situated Blocks X, XV, XVI, XVIII, XX, XXI &amp; XXII Acheron Survey District.</b>
<b>Area</b>	<b>9315.8635 hectares (subject to survey)</b>
<b>Status</b>	<b>Crown Land subject to the Land Act 1948</b>
<b>Instrument of lease</b>	<b>All Computer Interest Register MB46/192 pursuant to section 66 and as registered under section 83 of the Land Act 1948, renewed by document No.155964.</b>
<b>Encumbrances</b>	<b>N/A</b>
<b>Statute</b>	<b>Land Act 1948 &amp; Crown Pastoral Land Act 1998.</b>

<b>Date Correct as at</b>	<b>08 April 2002</b>
<b>[Certification Attached]</b>	<b>Yes</b>



<b>Prepared by</b>	<b>Peter M King</b>
<b>Crown Accredited Supplier</b>	<b>DTZ New Zealand Limited</b>

**Certification:**

Pursuant to section 11(1)(l) of the Survey Act 1986 and acting under delegated authority of the Surveyor-General pursuant to section 11 (2) of that act, I hereby certify that the land described above is; Crown Land subject to the Land Act 1948.

..... *R. Moulton* .....

**Ross Moulton, Chief Surveyor**  
**Land Information New Zealand**  
**Marlborough Land District**

Date *22* / *4* / 2002

*CLOUDY RANGE Property 1 of 1*

<p><b>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 paragraph 6</b></p>	<p><del>Public Access and/or Department of Conservation issue over a proposed Right of Way in Gross over existing formed track, shown on LT Plan 9470.</del></p> <p>SO plan 4297 has a plan face note relating to the right lined western boundary "Approved as to amended boundary A-B see file 5/1 folio 568" dated August 1959.</p> <p>The intersection, of the boundary at the Clarence River was amended due to a plotting correction in respect to the Land District boundary, refer CB46/192 diagram for comparison.</p> <p>Conway Spur VHF repeater site decommissioned as a Transpower New Zealand Ltd site. Transpower are to gift the installation to the Run lessee.</p>
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<b>LAND STATUS REPORT CLOUDY RANGE</b>				[LIPS ref 12791]
<b>Property</b>	<b>1</b>	<b>of</b>	<b>1</b>	

**Research Data: Some Items may be not applicable**

<b>Property</b>	<b>1</b>	<b>of</b>	<b>1</b>	
Cadastral Print Obtained	Yes			
NZMS 261 Ref	N31 & O31			
Local Authority	Kaikoura District Council & Hurunui District Council			
Crown Acquisition Map	Kaikoura Purchase 1859			
SO Plan	SO 4297 (1956)			
Relevant Gazette Notices	N/A			
CT Ref / Lease Ref	All CIR MB46/192 (1958)			
Legalisation Cards	N/A			
CLR	N/A			
Allocation Maps (if applicable)	SOE - SO 17090 (N31 Cnty) no overlaps SO 6644 (O31 Marl) no overlaps DoC - SO 17141 (N31 Cnty) no overlaps SO 6622 (O31 Marl) no overlaps			
Rating Ref - if known	All assessment 20720/8000 Kaikoura 2170/2000 Hurunui			
Crown Grant Maps	Acheron No.30 (1880)			
If Subject land Marginal Strip: <b>a) Type [Sec 24(9) or Sec 58]</b>	No subject provision for section 58 of the Land Act 1948 on lease MB46/192 although SO Plan 4297 depicts one chain strips along the Clarence River, Winterburn Stream, Conway River and Towy River Reserved under section 58 Land Act 1948 with appellations added in April 1996.  Lease renewal in July 1991 is a disposition under section 24(9) of the Conservation Act 1987.			
<b>b) Date Created</b>	1956			
<b>c) Plan Reference</b>	SO 4297			

<b>LAND STATUS REPORT CLOUDY RANGE</b>				[LIPS ref 12791]
<b>Property</b>	<b>1</b>	<b>of</b>	<b>1</b>	

**Research – continued**

<b>Property</b>	<b>1</b>	<b>of</b>	<b>1</b>	
<b>If Crown land - Check Irrigation Maps.</b>				N/A
<b>Mining Maps</b>				No interest recorded National Mining Index.
<b>If Road</b>				
a) <b>Is it created on a Block Plan - Section 43(1)(d) Transit NZ Act 1989</b>				a) .Section 12 Land Act 1924
b) <b>By Proc</b>				b) NZ Gazette 1926 page 3165
c) <b>Plan</b>				c) SO 2270 (1926)
<b>Other Relevant Information</b>				
a) <b>Concessions - Advice from DOC or DTZ New Zealand Limited.</b>				a) There are no DoC concessions and or no current Recreation Permits.
b) <b>Subject to any provisions of the Ngai Tahu Claims Settlement Act 1998 or Northern South Island Regional Landbank.</b>				b) Subject to Part 9 of the Ngai Tahu Claims Settlement Act 1998. Schedule 65 of the Act identifies Statutory Acknowledgement for Tutae Putaputa (Conway River) refer SO 7328 Marlborough/SO 19906 Canterbury.
c) <b>Mineral Ownership</b>				c) Mines and Minerals are owned by the Crown because the land has never been alienated from the Crown since its acquisition for settlement purposes from the former Maori owners under the Kaikoura Purchase (1859)  Contained in [provide evidence]: Run 208 formerly; Run 15A "Wardens Run", MB46/125 (1923) under the Land Act 1908 is the earliest recorded lease/licence for Run 15A available in the Land Titles Office and Sections 17, 18, 19 & 20 Square 80 Amuri, (Square 80 Canterbury plan) reserve for dipping station (Nelson Provincial Gazette 1866 page 49 (S42 Reserves and Other Lands Disposal and Public Bodies Empowering Act 1910 reservation cancelled), after the Nelson Waste Lands Regulations 1856 (Nelson Provincial Gazette 1856 page 11) and subsequent Marlborough Waste Lands Regulations Amendment Act 1863.
d) <b>Other Info</b>				d) N/A



**ATTACHMENT 1:**

Recent copy of lease document MB 46/192.



# COMPUTER INTEREST REGISTER UNDER LAND TRANSFER ACT 1952



## Historical Search Copy

  
R. W. Muir  
Registrar-General  
of Land

**Identifier** MB46/192  
**Land Registration District** Marlborough  
**Date Registered** 24 March 1958 11:30 am

**Prior References**  
MB46/125

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<b>Type</b>	Lease under s83 Land Act 1948	<b>Term</b>	Thirty-three years, commencing on the first day of July 1958 and renewed for 33 years commencing on 1 July 1991
<b>Area</b>	9315.8635 hectares more or less		

**Legal Description** Run 208

**Original Proprietors**  
Cloudy Range Holdings Limited

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**Interests**

204816.4 Variation of the within lease - 25.5.1999 at 9.00 am  
204816.6 Mortgage to Bank of New Zealand - 25.5.1999 at 9.00 am

# REGISTER

Registered in the LAND REGISTER Act  
but not under the LAND TRANSFER ACT

[L and R. R. - 4

Issued as a Renewal of (or in Exchange for) Lease  
registered in Vol. 46 Pt. 323  
as P.L. 267

LAND & DEEDS	
Volume	46
Page	244/1058
Subj.	1130
Plan	151
Abstract No.	162

NEW ZEALAND

LAND DISTRICT

Entered in the Register-book, Vol. 46 Pt. 323  
the 24th day of March 1958 at 11:30 o'clock.



## Pastoral Lease of Pastoral Land under the Land Act 1948

No. 215

This Deed, made the first day of March one thousand nine hundred and fifty eight between HER MAJESTY THE KING (who, with his heirs and successors, is hereinafter referred to as "the Lessee"), of the one part, and Robert de Glare, in the Dominion of New Zealand, Letter of Marque, Farmer as to two thirds share and Philip McLeod, formerly of Geraldine; Farmer as to one third share as tenants in common (the Lessee), of the other part, WITNESSETH that, in consideration of the rent hereinafter reserved, and of the covenants, conditions, and agreements herein contained or implied and on the part of the Lessee to be paid, observed, and performed, the Lessee doth hereby demise and lease unto the Lessee ALL that piece or parcel of land containing by admeasurement twenty-three thousand two hundred and fifty-eight acres and a little more or less, situated in the Land District of Marlborough and being Pastoral Run 208, Blocks I, IV, XVI, XVII, XX, XXI and XXII Ashburton Survey District

THIS REPRODUCTION (ON A REDUCED SCALE) CERTIFIED TO BE A TRUE COPY OF THE ORIGINAL REGISTER FOR THE PURPOSES OF THE SECTION 114A LAND TRANSFER ACT 1952.

*R.P.C.*  
*P. 208*

(hereinafter referred to as "the said land"), as the same is more particularly delineated in the plan drawn brown and thereon coloured red in outline, together with the rights, easements, and appurtenances thereto belonging. The R.M.U. the said premises intended to be hereby demised unto the Lessee for the term of thirty-three years commencing on the first day of July one thousand nine hundred and fifty-eight together with the period between the date of this lease and the aforesaid first day of July 1958

Yielding and paying therefor during the said term unto the Department of Lands and Survey at the Principal Land Office for the said Land District of Marlborough the clear annual rent of two hundred pounds (£200.0.0) payable without demand by equal half-yearly payments in advance on the 1st day of January and the 1st day of July in each and every year during the said term. And also paying in respect of the improvements specified in the Schedule hereto the sum of £5000.0.0 by a deposit of £1000.0.0 (the receipt of which sum is hereby acknowledged) and thereafter by half-yearly instalments of £1000.0.0 on the 1st day of January and the 1st day of July in each year in the manner herein specified.

- AND the Lessee doth hereby covenant with the Lessee as follows, that is to say:-
1. THAT the Lessee will fully and punctually pay the rent herebefore reserved at the times and in the manner herebefore reserved in that behalf; and also will pay and discharge all rates, taxes, assessments, and outgoings whatsoever that now are or hereafter may be assessed, levied, or payable in respect of the said land or any part or parts thereof during the said term.
  2. THAT the Lessee will within one year after the date of this lease take up his residence on the said land, and thereafter throughout the term of the lease will reside continuously on the said land.
  3. THAT the Lessee will hold and use the said land bona fide for his own use and benefit and will not trade, assign, sublet, mortgage, charge, or part with possession of the said land or any part thereof without the previous approval of the Land Settlement Board: Provided that such approval will not be necessary in the case of a mortgage to the Crown or to a Department of State.
  4. THAT the Lessee will at all times from the said land diligently and in a husbandlike manner according to the rules of good husbandry and will not in any way commit waste.
  5. THAT the Lessee will throughout the term of his lease to the satisfaction of the Commissioner of Crown Lands for the Land District of Marlborough (hereinafter referred to as "the Commissioner") cut and trim all live fences and hedges, clear and keep clear the said land of all useless weeds, and will comply strictly with the provisions of the Noxious Weeds Act, 1928.
  6. THAT the Lessee will keep the said land free from wild animals, rabbits, and other vermin, and generally comply with the provisions of the Rabbit Nuisance Act, 1924.
  7. THAT the Lessee will clean and clear from weeds and keep open all drains, ditches, and watercourses upon the said land, including any drains or ditches which may be constructed by the Commissioner after the commencement of the term of the lease; and will not at any time without the prior consent of the Commissioner alter the channel of any such drain or watercourse or stop or divert the water flowing therein.
  8. THAT the Lessee will at all times during the said term repair and maintain and keep in good and substantial repair, order, and condition all improvements belonging to the Crown (including those specified in the Schedule hereto which are being purchased by the Lessee) now or hereafter erected on the said land, and will not without the prior written consent of the Commissioner, pull down or remove them or any part of them.
  9. THAT the Lessee will throughout the term of his lease to the satisfaction of the Commissioner (including those specified in the Schedule hereto which are being purchased by the Lessee) erect and maintain on the said land all such buildings as the Commissioner may require, and will pay all rates, taxes, and outgoings payable in respect of such buildings.
  10. THAT the Lessee will not throughout the term of the lease without the prior consent of the Commissioner, which consent may be given on such terms and conditions (including the payment of any such timber, tree, or bush upon the Commissioner otherwise agrees: Provided that the consent of the Commissioner as aforesaid shall not be necessary where any such timber or tree is required for any agricultural, pastoral, household, husbandry, or building purposes on the said land nor where the timber or tree has been planted by the Lessee.
  11. THAT the Lessee shall not, except for the purpose of complying with any of the provisions of the Noxious Weeds Act, 1928, burn any rubbish, straw, fern, or grass on the said land, nor graze any livestock, except such as the Commissioner may in writing consent in writing of the Commissioner, which consent may be given subject to such terms and conditions as the Commissioner may deem necessary.
  12. THAT officers and employees of the Department of Internal Affairs shall at all times have a right of ingress, egress, and regress over the land comprised in this lease for the purpose of determining whether such land or any adjoining land is infested with deer, wild goats, wild pig, opossum, or other animals which the said Department is charged with the duty of exterminating or controlling, or for the purpose of destroying any such animals: Provided that such officers and employees in the performance of the said duty shall at all times avoid undue disturbance of the Lessee's stock.

11. THAT the Lessee shall exercise due care in stocking and shall not overstock. (see over)
- AND it is hereby agreed and delivered by and between the Lessee and the Lessee:-
- (a) THAT the Lessee shall have the exclusive right of pasturage over the said land, but shall have no right to the soil.
- (b) THAT the Lessee shall have no right, title, or claim whatsoever in any minerals (within the meaning of the Land Act, 1948) or in or under the surface of the soil of the said land, and all such minerals are reserved to the Crown together with a full right of way over the said land in favour of the Commissioner or of any person authorized by him and of all persons lawfully engaged in the working, extraction, or removal of any mineral on or under the surface of the said land or any adjacent land of the Crown, subject to the payment to the Lessee of compensation for all damage done to improvements on the said land belonging to the Lessee in the working, extraction, or removal of any such mineral: Provided that there shall be no right of way over, or right to work, extract, or remove any mineral from, any part of the said land which is for the time being under any crop or used or situated within 50 yards of a road, garden, orchard, vineyard, nursery, or plantation, or within 100 yards of any building: Provided also that the Lessee may, with the prior consent in writing of the Commissioner, which consent may be given subject to such conditions as the Commissioner thinks fit, use any such minerals for any agricultural, pastoral, household, husbandry, or building purposes on the said land, but not otherwise.
- (c) THAT upon the expiration by effluxion of time of the term hereby granted and thereafter at the expiration of each succeeding term to be granted to the Lessee the outgoing Lessee shall have a right to obtain, in accordance with the provisions of section 64 (2) of the Land Act, 1948, a new lease of the land hereby leased as a rent to be determined in the manner provided by Part VIII of the said Act for a term of thirty-three years commencing from the expiration of the term hereby granted and subject to the same covenants and provisions as this lease, including this present provision for the renewal thereof and all provisions ancillary or in relation thereto.

(OVER)

46/192

- (4) THAT the Lessee shall have an right of acquiring the freehold of the said land.
  - (5) THAT the Lessee may, with the prior consent in writing of the Commissioner given subject to such conditions as the Commissioner may deem necessary:
    - (a) Cultivate any portion of the said land for the purpose of growing winter food for the stock depastured thereon;
    - (b) Clear such area of the said land as is sufficient for the use of himself and family and his employees;
    - (c) Plough and sow in grass any portion of the said land;
    - (d) Clear any portion of the said land by felling and burning bush or scrub and sow the land so cleared in grass;
    - (e) Sowing any in grass any portion of the said land;
- Provided that the Lessee shall, on the termination of the lease, leave the whole of the area that has been ploughed or cultivated properly till down in good permanent clover and grass to the satisfaction of the Commissioner.
- (6) THAT the Lessee shall maintain the said land and shall not overstock it and for the purpose of this clause it is hereby expressly declared and agreed between the said Lessee and the Commissioner that the maximum stock to be kept on the said land during the winter months shall not, without the prior consent of the Commissioner, exceed See Below.
- (7) THAT if the Lessee shall leave New Zealand or abandon the said land or if he cannot be found or if he shall neglect or fail or refuse to comply with the covenants and conditions herein expressed or implied to the satisfaction of the Land Settlement Board or the Commissioner, on the one hand, or if he shall default for not less than two months in the payment of rent, water levy, or other payments due to the Lessee, then the Land Settlement Board may, subject to the provisions of section 146 of the Land Act, 1946, declare this lease to be forfeit, and this without discharge or returning the Lease from liability for rent due or accruing due or for any prior breach of any covenant or condition of the lease.
- (8) THAT these provisions are intended to take effect as if a provision were made under the Land Act, 1946, and the provisions of the said Act and of the regulations made thereunder applicable to such leases shall be binding in all respects upon the parties hereto in the same manner as if such provisions had been fully set out herein.

R.H.B.  
P.H.L.  
P.H.L.

R.H.B.  
P.H.L.

SCHEDULE

Interim Covenant - Restrictions on the Growth and Harvesting of the Lessee

In WITNESS whereof the Commissioner of Crown Lands for the Land District of Marlborough, on behalf of the Lessee, both heretofore set his hand, and these presents have also been executed by the said Lessee.

Signed by the said Commissioner, on behalf of the Lessee, in the presence of -

Witness: J. R. Duggan  
Occupation: Land Surveyor  
Address: Blenheim

Signed by the above named Robert de Clare Lessee, in the presence of -

Witness: Edmund  
Occupation: Labourer  
Address: Blenheim

Signed by the above named Philip McLeod as Lessee, in the presence of -

Witness: J. A. J. Lewis  
Occupation: Postman  
Address: Blenheim

Robert de Clare  
Commissioner of Crown Lands

Robert de Clare  
Lessee

Philip McLeod  
Lessee

(c) THAT the Lessee shall be deemed not to have failed to use due care in stocking or to have overstocked so long as the number of sheep depastured on the said Land does not exceed 1200 and the number of cattle depastured does not exceed 50 (both numbers being increases of ten per cent on the carrying capacity on which is based the rent hereinafter reserved) but the Commissioner may by notice in writing permit the Lessee to depasture thereon any greater number should he deem it advisable or expedient so to do. Any permission so granted shall be subject to revocation or amendment by the Commissioner at any time and particularly in the event of a transfer. Any variation consented to by the Commissioner shall not affect the rent payable hereunder.

R.H.L.  
P.H.L.

Previous Description.

Part Pastoral Run 15A, Blocks X, XV, XVI, XVII, XVIII, XIX, and XXII, Ashburton P.D.

28749 Transfer of his interest Robert de Clare  
Latter to Philip McLeod of Waiau Farmer, produced  
1/5/1958 at 11.2am

45632 Change of the interest of  
agricultural under the Transmission  
45631 to Helen Isabel McLeod  
of Gladly Range, Ashburton County  
Widow produced 11.8.1965 at  
9.42am.

28749 Transfer of an undivided one third share  
Philip McLeod to Hector Moffatt Smith of  
Gladly Range produced 11/8/1965 at 10.10am

5663 Transfers to the Perpetual Trustees Estate  
Company of New Zealand Limited at  
Dunedin - 21.5.1967 at 9.50am.

45631 Transmission of the interest of Philip McLeod  
to The Perpetual Trustees Estate and Agency Company  
of New Zealand Limited at Dunedin on account  
dated 11.8.1965 at 9.40am.

DISCHARGE  
CERTIFIED TO BE A TRUE COPY OF THE  
ORIGINAL REGISTER FOR THE PURPOSES OF  
SECTION 215A LAND TRANSFER ACT 1952.  
25/4/1977  
A.L.R.

(OVER)

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7613 Variation of mortgage 56564.-  
14.6.1974 at 9.27 o'c.

A.L.R.

87016.2 Transfer to Murray Austin Rivers of  
Bannockburn, Farmer.-28.4.1977 at 1.50o'c.

A.L.R.

87016.3 Mortgage to Her Majesty the Queen.-  
28.4.1977 at 1.50o'c.

A.L.R.

90071 Mortgage to Her Majesty the Queen.-  
21.2.1978 at 1.50o'c.

A.L.R.

90523 Mortgage to Rural Banking and  
Finance Corporation.-11.4.1978 at 11.26o'c

A.L.R.

96993 Notice of Statutory Charge under  
the Rural Housing Act 1979.-20.11.1979 at  
11.30o'c

A.L.R.

98170 Mortgage to Rural Banking and  
Finance Corporation.-20.3.1980 at 11.43o'c

A.L.R.

103206 Mortgage to Her Majesty the Queen  
.-22.5.1981 at 2.26o'c

A.L.R.

106138.1 Mortgage to Her Majesty the Queen  
.-26.11.1981 at 2.26o'c

A.L.R.

106138.2 Variation of mortgage 98170.-  
26.11.1981 at 2.26o'c

A.L.R.

109530 Mortgage to Finance Limited  
- 13.7.1982 at 9.48o'c

A.L.R.

111323 Variation of mortgage 90523.-17.11.1982  
at 9.26o'c

A.L.R.

112811 Mortgage to Wrightson NMA Limited.-  
10.3.1983 at 10.40o'c

A.L.R.

123474.1 Application under Section 4 Rural  
Banking and Finance Corporation Amendment Act  
1982 whereby mortgages 87016.3, 90071,  
103206 and 106138.1 are vested in the Rural  
Banking and Finance Corporation.-12.2.1985 at  
3.00o'c

A.L.R.

123474.6 Mortgage to Rural Banking and  
Finance Corporation.-12.2.1985 at 3.00o'c

A.L.R.

123474.7 Memorandum of Priority making mortgage,  
123474.6 a third mortgage and mortgage 112811 a  
fourth mortgage.-12.2.1985 at 3.00o'c

A.L.R.

126448.1 Variation of mortgage 123474.6.-  
15.8.1985 at 2.30o'c

A.L.R.

127111 Notice amending the area of the within  
lease to 9315.8635 hectares.-25.9.1985 at  
2.00o'c

A.L.R.

131091 Notice of claim under the Matrimonial  
Property Act 1976 by Christina Mary Rivers  
.-2.7.1986 at 2.05o'c

A.L.R.

140907.1 Mortgage to Rural Banking and  
Finance Corporation.-9.5.1988 at 1.50o'c  
(Claimant under claim 131091)

A.L.R.

140907.2 Mortgage to Wrightson NMA Limited.-  
9.5.1988 at 1.50o'c  
(Claimant under claim 131091)

A.L.R.

142019 Transfer of mortgage 140907.2  
to Wrightson Farmers Finance Limited.-  
19.7.1988 at 10.35o'c

A.L.R.

152580.4 Mortgage to Bank of New Zealand  
.-1.6.1990 at 9.05o'c

A.L.R.

155964 Variation of terms renewing the within  
Lease for 33 years commencing on 1 July 1991.-  
17.1.1991 at 9.48o'c

A.L.R.

165811 Notice of Claim under the Matrimonial  
Property Act 1976 by Mary Catherine Rivers.-  
13.11.1992 at 9.45o'c

for A.L.R.

166101 Caveat by Robert James Metherell.-  
1.12.1992 at 2.00o'c

for A.L.R.

170429 Mortgage to Wrightson Farmers Finance  
Limited.-23.9.1993 at 9.26o'c (Claimant  
under 165811 consented)

A.L.R.

199963.1 CAVEAT BY ASHLEY JOAN KING AND  
ELIZABETH ANN VERBOKKET.-22.9.1998 at 10.03

for R.G.L.

for D.L.R.

46/192

20481.4 Variation of the within lease

204816.5 Transfer to Cloudy Range Holdings  
Limited

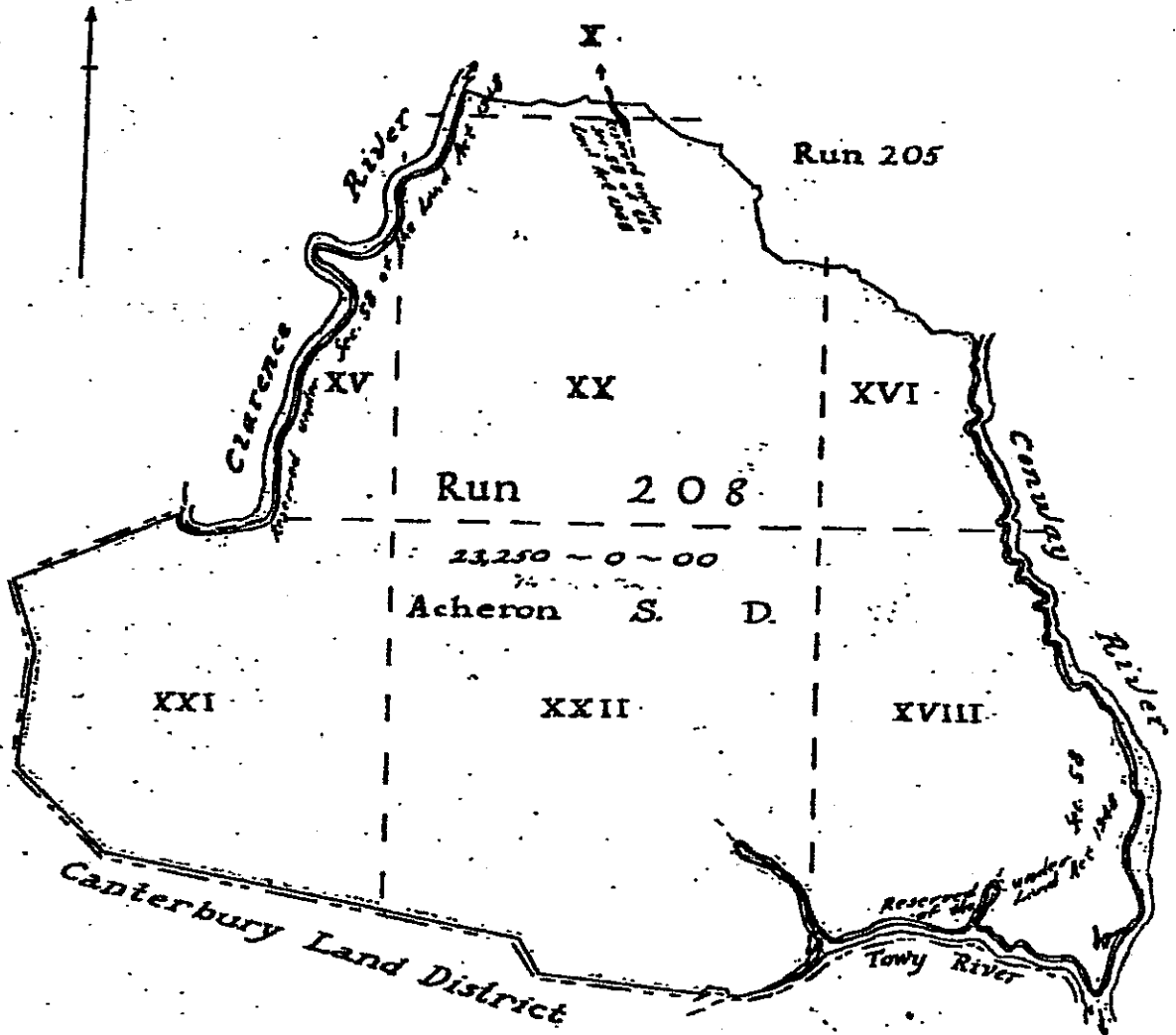
204816.6 Mortgage to Bank of New Zealand

all 25.5.1999 at 9.00

  
for RGL.

# REGISTER

46/192



METRIC AREA IS ~~9408~~ 9315.8635 ha

Scale - 60 chains to an inch

For distances see S.O. 4297

Image Quality due to Condition of Original

THIS REPRODUCTION (ON A REDUCED SCALE) CERTIFIED TO BE A TRUE COPY OF THE ORIGINAL REGISTER FOR THE PURPOSES OF SECTION 214A LAND TRANSFER ACT 1952.

*[Signature]* A.L.L.

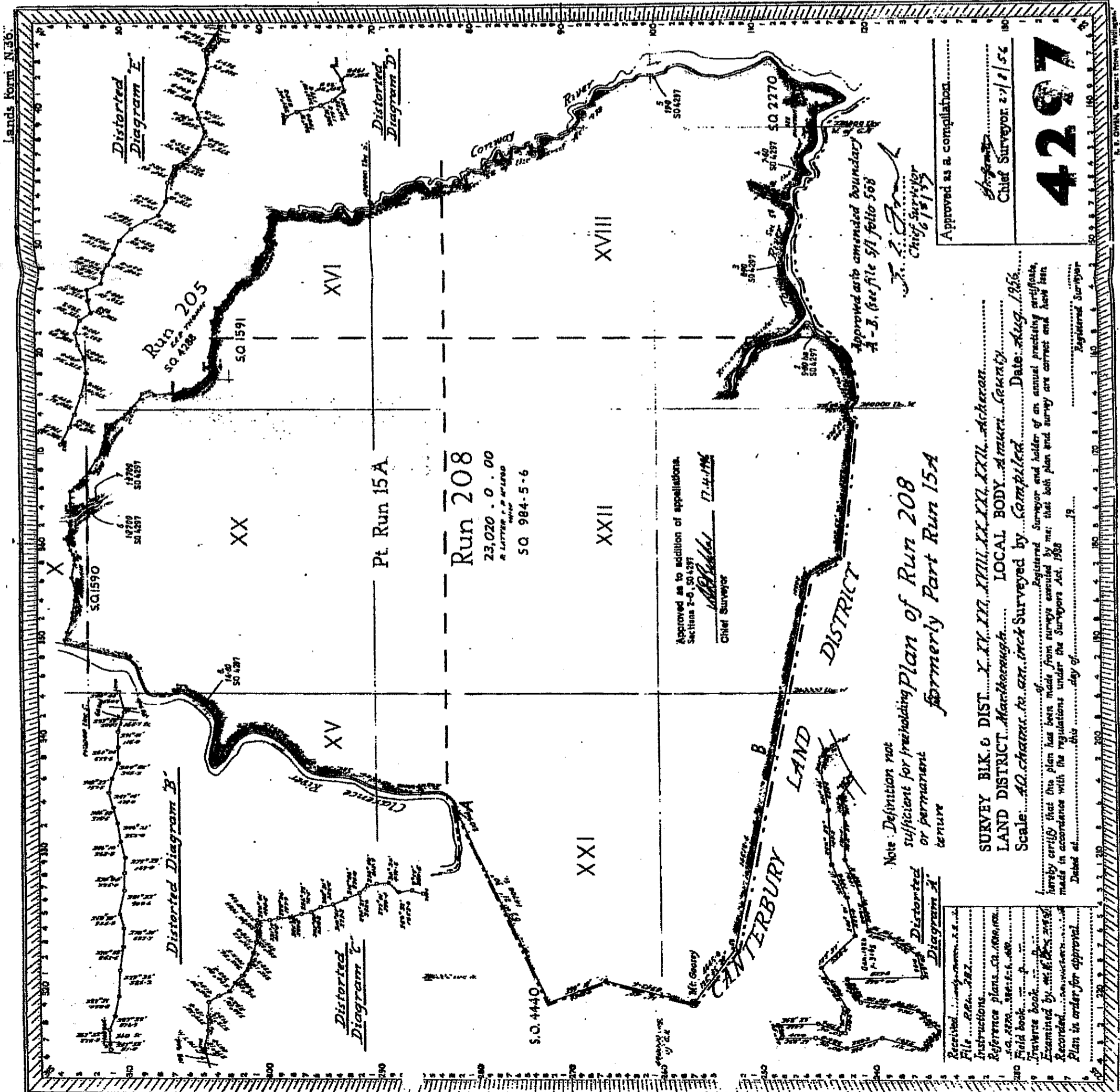
(over)



**ATTACHMENT 2:**

Plotting correction – district boundary (*SO 4297*).





Pt. Run 15A  
 Run 208  
 23,020 . 0 . 00  
 S. LATTER P.P. 471980  
 S.O. 984-5-6

Approved as to addition of appellations.  
 Sections 2-6, S.O. 4297  
 Chief Surveyor  
 17.4.1956

Note: Definition not sufficient for preholding Plan of Run 208 or permanent or permanent tenure formerly Part Run 15A

SURVEY BLK. & DIST. X, XI, XII, XIII, XIV, XV, XVI, XVII, XVIII, XIX, XX, XXI, XXII  
 LAND DISTRICT, Manukau... LOCAL BODY, Manukau...  
 Scale... 1:10,000... Date: Aug. 1956  
 Registered Surveyor and holder of an annual practicing certificate, hereby certify that this plan has been made from surveys executed by me; that both plan and survey are correct and have been made in accordance with the regulations under the Surveyors Act, 1958

Approved as a compilation.  
 Chief Surveyor: 2/1/56  
**4297**

Received...  
 File...  
 Instructions...  
 Reference plans...  
 Field book...  
 Traverse book...  
 Examined by...  
 Recorded...  
 Plan in order for approval...

**ATTACHMENT 3:**

Correspondence re stock trespass.



COPY

Our Ref: Pm 015

24 February 1999

Weston Ward & Lascelles  
Barristers & Solicitors  
PO Box 29-115  
CHRISTCHURCH

LAND RESOURCES DIVISION

4th Floor, Knight Frank House  
76 Cashel Street, Christchurch  
Telephone: (03) 379 9787  
Facsimile: (03) 379 8440

Attention: Greg Brogden

**RE: TRANSFER: PM 015 'CLOUDY RANGE' TO CLOUDY RANGE HOLDINGS LIMITED**

Further to your clients application to transfer his interest in pastoral lease Pm 015 'Cloudy Range' to Cloudy Range Holdings Limited I wish to advise that the Commissioner of Crown Lands has approved the transfer subject to the following conditions:

1. That a Memorandum of Variation of Lease be registered against the title 46/192 prior to the transfer, limiting the transfer of shares. The purpose of this variation is to require that changes of shareholding must be approved by the Commissioner of Crown Lands.
2. That Tony Clark and Tim Rivers are approved as managers on behalf of Cloudy Range Holdings Limited. Any subsequent change in manager requires Commissioner of Crown Lands consent.
3. That the rental arrears of [redacted] (including GST) must be fully paid prior to settlement to bring the account up to date to 30 June 1999. Any apportionment of rent paid to 30 June 1999 is the responsibility of the vendor and the purchaser. Responsibility for rent lies with the purchaser from 1 July 1999.
4. That evidence is produced to show rates are paid up to date.
5. That a copy of the Commissioner of Crown Lands letter and attachments dated 2 October 1998 is provided to the purchasers to ensure they are aware of the changes brought about by the Crown Pastoral Land Act 1998.
6. That it is noted that this consent applies strictly to land within the Cloudy Range pastoral lease. There are no rights to graze any land outside the boundaries of the property.

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New Zealand

Knight Frank (NZ) Limited  
(An LPL Group Company)

INTERNATIONAL PROPERTY CONSULTANTS

## SUBMISSION TO COMMISSIONER OF CROWN LANDS

Application to alter stock limitation, ~~Section 66(3), Land Act 1948 and~~  
~~Section 18, Crown Pastoral Land Act 1998~~  
*Pursuant to clause (f) of the pastoral lease*

**KF Ref:** Pm 015                      **CCL Ref:**                      **Case No:**

**Property Name:** Cloudy Range  
**Lessee:** M A Rivers  
**Location:** Inland Kaikoura Road  
**Date of Request:** 26 January 1999

**Nature of Request:**

This submission should be read in conjunction with the submission dated 7 February 1999 regarding the application to transfer the Cloudy Range pastoral lease to Cloudy Range Holdings Limited. Shareholders of Cloudy Range Holdings Limited are Tony and Sue Clark (50%), Tim Rivers (25%) and Darryl and Barbara Thompson (25%). It is proposed the property will be managed by Tim Rivers and Managing Director will be Tony Clark.

This application is for a new personal stock limitation for Tony Clark and Tim Rivers as follows:

7, 600 sheep (including not more than 3,400 breeding ewes) and  
350 cattle ( including not more than 100 breeding cows).

**Base Stock Limit:**

Not more than:                      4895 sheep and 88 cattle (includes the 10% tolerance)

**Current Personal Stock Limit: (last amended June 1984)**

Class	Number	Conversion	Stock Units
Breeding Ewes	3,700	1.0	3,700
Dry Sheep	<u>4,050</u>	0.7	<u>2,835</u>
<b>TOTAL SHEEP</b>	<b>7,750</b>		<b>6,535</b>
Breeding Cows	40	6.0	240
Dry Cattle	<u>110</u>	4.5	<u>495</u>
<b>TOTAL CATTLE</b>	<b>150</b>		<b>753</b>
Hinds	20	2.0	40
<b>TOTAL STOCK UNITS</b>			<b>7,310</b>

A Stock Limit has also applied to the Clarence Faces: That is that stock are to be allowed to graze the lower country of Clarence Faces as shown on an attached plan, not the higher country and that grazing is restricted to 1000 wethers. There had also previously been 100 and then 200 cattle included in the block limitation, but this was dropped in 1984 (no apparent reason).

**Proposed new Personal Limitation for: Tim Rivers and Tony Clark**

Class	Number	Conversion	Stock Units
Breeding Ewes	3,400	1.0	3,400
Dry Sheep	<u>4,200</u>	0.7	<u>2,940</u>
<b>TOTAL SHEEP</b>	<b>7,600</b>		<b>6,340</b>
Breeding Cows	100	6.0	600
Dry Cattle	<u>250</u>	4.5	<u>1,125</u>
<b>TOTAL CATTLE</b>	<b>350</b>		<b>1,725</b>
<b>TOTAL STOCK UNITS</b>			<b>8,065</b>

**Justification for new limit:**

In summary the proposed limit is very close to the numbers that have been run in recent years. There has also been development undertaken since 1984 when the current limit was set.

In recent years the current lessee has run 7000 to 7500 sheep (including 3000 - 3500 breeding ewes and 1800 - 2200 wethers) along with 250 to 300 cattle (including 120 to 150 breeding cows). Total stock units of 7500 to just under 8000. No deer have been run for some time. Numbers were reduced last season due to the drought with numbers at takeover being 5742 sheep and 200 cattle. Grazing on the Clarence Faces has normally been by 1250 wethers for 11 months, although it has been acknowledged for some years that a good proportion of these sheep graze outside Cloudy Range on Clarence Reserve. Other than the stock trespass onto Clarence Reserve there has been no concerns about the level of stocking on the property in the past.

Production has been reasonable for a property of this nature. Lambing has averaged 80 - 90% with wool weights of 3.8 to 4.0 kg/head (6 kg /head from wethers). Calving averages 90%. Deaths average 3-5% in sheep and 3% in cattle.

Stock numbers were at similar levels to now in the early 80's following the Land Encouragement loans but like many other properties inputs were not sustained at the same level and numbers reduced in the late 80's and gradually built up again in more recent time, along with further oversowing of tussock country.

The new proposed limit is a little higher than the current personal limitation with the difference being higher cattle numbers and slightly less sheep numbers. However the proposed limit is similar to numbers that have been carried in recent years. Increased numbers are also supported by additional development work of the seeding of 2000 hectares with fertiliser on part that has been done since 1984.

The issue of the Block Limitation and trespass of wethers onto Clarence Reserve will be discussed later in this report.

### **Tony Clark and Tim Rivers**

Tony Clark currently runs a hill country property of 5000 stock units in the King Country. Along with his wife they have owned and operated this property for some 8 years. They previously owned another property in the King Country for 15 years. Mr Clark originally was in partnership with his brothers on Carrick Station, a pastoral lease situated in Bannockburn, Central Otago. It appears the Clark's are successful farmers with a background in high country farming. Mr Clark will be Managing Director.

Tim Rivers is the son of the current lessee and has been brought up on the property. Following working on various properties mainly in Central Otago he has been working on Cloudy Range for the last three years. Over that time he has taken on management responsibilities and has had full control of day to day management over the last year. Mr Rivers will be the on farm manager.

The purchasers have made application for the proposed stock numbers on the basis of information provided by the current lessee as to recent stock numbers and their own assessment of the carrying capacity of the property. It can be seen that these numbers are similar to that run in recent years, although numbers last season were down due to drought. They have also outlined broad development proposals and increased stock numbers. I have discussed the fact that a more detailed development application will need to be discussed on the ground and further increases of stock numbers will be looked at in conjunction with this.

I recommend the approval of Tony Clark and Tim Rivers as Managers of Cloudy Range and the new personal limitation as outlined above.

### **Clarence Faces**

The current personal limitation also includes a Block Limitation over the Clarence faces. This area had been voluntarily destocked by the previous lessee. Mr River wished to graze the area and a limit put in place in 1978, only allowing grazing on the lower altitude land adjacent to the Clarence River. This limitation also illegally included part of the Clarence Reserve POL without the consent of the occupier at that time. This was pointed out to Mr Rivers some years later by letter dated 24 March 1987, but no alteration made to the limitation.

There has been a long running boundary problem with Cloudy Range sheep having grazed parts of Clarence Reserve. Several boundary adjustments were proposed but consent from Clarence Reserve to relinquish any land was never forthcoming. The Crown does not appear to have actively sought to stop the stock trespass and ensure the conditions of the block limit were being met with stock grazing a much larger area than that allowed for in the block limit on both Cloudy Range and Clarence Reserve. The Crown also assisted through Marginal Lands finance to oversow parts of the Clarence faces with Maku lotus, a lot of this seed spread outside the block limit area as well. Most recently a tenure review was initiated with one of the primary objectives to find a solution to the problem. Part of Clarence Reserve was set aside from the Conservation Land survey to enable this to happen.

We believe there is now some doubt about the enforceability of block limits in general, but feel particularly in this case where there has been obvious breaches over a long period it would be very difficult to enforce. The area is also very isolated and difficult to view and inspect.

I believe the important issue here is to make it quite clear that the Crown is only considering a transfer of the Cloudy Range pastoral lease and that there is no legal right to any grazing outside the boundaries. The stock trespass issue will need to be dealt with the new lessees, and should be done early rather later.

**Consultation with DoC:** Request for comment by letter dated 27 January 1999 with attachments.

**DoC Response:** Letter received by fax 12 February 1999. It states " In my opinion it is desirable to protect ( for conservation reasons) a number of inherent values which occur in the area affected by the proposed discretionary action. These values are contained particularly in the forest remnants and the higher altitude slopes of the Mason, Towy, Robson and Conway Rivers and on the Clarence faces, including those adjacent to Clarence Reserve."

The likely adverse effects are shown on the attachment which implies that this discretionary action will increase grazing pressure on the areas with inherent values identified.

It also makes comment about the current number, the and location of sheep on adjacent land - the proposed Conservation Area on Clarence Reserve. While an issue already raised in this submission it is not seen as relevant to effects on the Cloudy Range leasehold area.

It is suggested that the following conditions or restrictions will remedy or mitigate these adverse effects- *to reduce the stock limitation of wethers to 500.*

**Further Consultation:** No further consultation is recommended.

**Affected Parties:** We consider that there are no affected parties who should be consulted.

**Available information:** A schedule of the available information which has been assessed is appended, along with copies of the information.

**Inherent values and the desirability of protecting them:**

Inherent values have been identified by DOC although I do not believe that they are affected by this application as implied. There is a potential for increased grazing but the proposal is for a continuation of current stock numbers and management. The values identified have survived and are present under the current management. We have already discussed that we have doubts about the applicability and enforceability of a block limit, particularly considering the past history in this case. I do not believe a stock limit as suggested by DOC would necessarily achieve the aims set out.

**Farming considerations and the desirability of making it easier to use the land for farming:**

This application is made on the basis of the current stocking of the property and the purchasers assessment of the carrying capacity.

**C onclusion:**

The inherent values identified are not seen to be under immediate threat from this application. We have been advised that management will continue along similar line to recent years under experienced management. Any increase in numbers or development will require further application and this issue fully scoped at that time. There is an issue to be pursued regarding stock trespass onto Clarence Reserve but we see a condition making it quite clear that this approval only relates to the Cloudy Range pastoral lease and implies no rights outside the lease as the most appropriate way to handle the issue as set out in the transfer submission..


**RECOMMENDATION/S:**

1. That you approve the following stock limitation for Pm 015, Cloudy Range:


Not more than: 7,600 Sheep (including not more than 3,400 breeding ewes)  
and 350 cattle (including not more than 100 breeding cows)

2. That this limitation is personal to Tony Clark and Tim Rivers and will be reconsidered should the lease be sold, the management change or the condition of the property deteriorate.

Signed for Knight Frank (NZ) Limited

  
\_\_\_\_\_  
Consultant

13 12 99

  
\_\_\_\_\_  
Manager (Christchurch)

19 2 99

**Approved/Declined**

\_\_\_\_\_  
Commissioner of Crown Lands / /

**APPENDIX: Available information assessed**

1. Application for personal stock limitation in letter from Simon Mortlock Lawyers dated 26 January 1999.
2. Request to DOC dated 27 January 1999.
3. Stocking and Production paper attached to DOC letter dated 27 January 1999.
4. Response from DOC received 12 February 1999.
5. Copy of lease document.



**Production**

Production has been reasonable for a property of this nature. Lambing has averaged 80 - 90% with wool weights of 3.8 to 4.0 kg/head (6 kg /head from wethers). Calving averages 90%. Deaths average 3-5% in sheep and 3% in cattle.

**APPLICATION BY A J CLARK AND T C RIVERS**

There is currently a contract for the purchase of Cloudy Range by Cloudy Range Holdings Limited. The shareholders are A J and S A Clark (50%), T C Rivers (25%) and D F and B M Thompson (25%). Mr Rivers will be manager of the property for the company, Mr Clark will be involved as Managing Director and the Thompson's are involved as investors.

Mr Rivers is the son of the current lessee and has been brought up on the property. He has been working full time on the property for the last three years and actively involved in the management over the past year or so. He also has other high country experience mainly in Central Otago.

Mr Clark currently has a 5000 stock unit property in the King Country, but he was brought up in the high country in Central Otago and his brother Don Clark now holds the family farm of Carrick at Bannockburn.

Please find attached a letter and schedule detailing development and stocking proposals. I have advised that the development proposals will require further detail to enable consideration and this is probably best done should the deal proceed after transfer and settlement. I propose to recommend a limit based on the stock numbers proposed for the winter of 2000, which equates to similar numbers that have been carried in recent years. Any further increases would have to be assessed in conjunction with any development considered and approved.

I am quite happy with the overall stock numbers proposed for the property although the issue of the Clarence Faces is a ~~difficult historical problem~~ that has been visited many times over the years but ~~never resolved~~. It also need to be remembered that it was one of the primary issues in initiating the tenure review with the current lessee and part of Clarence Reserve has been surveyed separately to allow some rationalisation to occur. Strictly speaking if the grazing was to be constrained to Cloudy Range the limitation would have to be halved to 500 wethers, although even with this number there may still be some trespass onto Clarence Reserve. I'm unsure, however of the legal ramifications of reducing this, considering the past history of it.



S J K Bamford  
27 / 01 / 1999