

Crown Pastoral Land Tenure Review

Lease name : MOA HILLS

Lease number : PO 314

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.

December 04

**DUE DILIGENCE REPORT
CPL PRE TENURE REVIEW ASSESSMENT STANDARD 6:
MOA HILLS PASTORAL LEASE**

File Ref: CON/50269/09/12570/A Report No: DN0106

Report Date: 21/03/2002

Office of Agent: Dunedin

LINZ Case No:

Date sent to LINZ: 26/03/2002

RECOMMENDATIONS

1. That the Commissioner of Crown Lands or his delegate **note** this Due Diligence Report which has been prepared in accordance with the Pre Tenure Review Assessment Standard;
2. That the Commissioner of Crown Lands or his delegate **note** the following incomplete actions;
 - The lease renewal has yet to be registered.
 - The common law licence between the Department of Conservation and the Lessee has been agreed to in principle, however the formal documents have yet to be executed.

Signed by Opus:

M Brown
Property Consultant

D Payton
Contract Manager

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

Name:

Date of decision: / /

1. Details of lease:

Lease Name: Moa Hills
Location: On the Mount Benger Road on the Old Man Range above the township of Roxburgh.
Lessee: R Smollet, P H Deans, LJ Stewart & RT Michelle
Tenure: Pastoral Lease under the Land Act 1948 – Po314
Term: 33 years from 1 January 1999
Annual Rent: \$1,875.00
Rental Value: \$125,000
Date of Next Review: 31 December 2010
Land Registry Folio Ref: OT 2D/788
Legal Description: Run 751 Block X Teviot Survey District, Blocks XII and XIII Whitecoomb Survey District and Blocks IV and V Wart Hill Survey District
Area: 3589.5616 hectares

2. File Search

Files held by Knight Frank Limited on behalf of LINZ:

File Reference	Volume	From	To
CON/50213/09/12570/A-ZNO	1	01/07/2000	Date
Po/314-SDN-02	2	08/11/1988	30/06/2000

Files held by Opus International Consultants Limited on behalf of LINZ

File Reference	Volume	From	To
CON/50269/09/12570/A-ZNO	1	19/01/2002	Date

Other relevant files held by LINZ:

File Reference	Volume	From	To
Po/314-SDN-01	1	08/12/1965	16/11/1988

3. Summary of lease document:

Terms of lease

Stock Limitation in Lease

1600 wethers all year round plus 1000 breeding ewes for 3 months (Mid January – Mid April) plus 100 cattle including not more than 80 breeding cows.

Commencement Date

1 January 1999

Special Provisions

There are no special provisions in the lease.

Area adjustments

There are no unregistered area discrepancies

Registered interests

There are no registered interests in the property.

Unregistered interests

- This lease has been renewed, however the renewal is yet to be registered against the lease.
- The Department of Conservation have the Lessees approval for the grant of a Common Law Licence over part of the property. At present, the formal documents are with the Lessee's Lawyers for final approval.

4. Summarise any Government programmes approved for the lease:

There are no Government programmes approved for the lease.

5. Summary of Land Status Report:

Opus International Consultants Limited undertook a Land Status Check on 7 March 2002. This check confirms the status of the Land as Crown Land under the Land Act 1948, subject to pastoral lease Po314.

The following item was noted for information:

- A current search of OT2D/788 is not available at the time of preparation of this report. Landonline has treated the lease as cancelled since no renewal appears to have been registered.

6. Review of topographical and cadastral data:

A review of the topographical and cadastral data indicates there are some huts at approximately grid reference G43 151114.

There are no notable inconsistencies evident between the fenced and legal boundaries, or the formed and legal road the forms the eastern boundary of the lease.

7. Details of any neighbouring Crown or conservation land

Neighbouring Crown or Conservation Lands are detailed as follows:

	Legal Description	Status	Owner/Lessee
North	Section 1 SO 23791	Land Held for Conservation Purposes	Department of Conservation
	Run 760	Pastoral Lease (Grafton Hills)	Her Majesty the Queen/ RN Tamblyn
	Crown Land Block X Teviot Survey District	Marginal Strip	Department of Conservation

South	Run 592A	Pastoral Lease (Silver Birch)	Her Majesty the Queen / PB & BR Johnston
West	Crown Land Block IV Wart Hill Survey District	Marginal Strip	Department of Conservation
	Crown Land Block XII Whitcoomb Survey District	Marginal Strip	Department of Conservation
	Crown Land Block VI Whitcoomb Survey District	Marginal Strip	Department of Conservation

There is no indication that any of these parcels should be included in the tenure review.

8. Summarise any uncompleted actions or potential liabilities:

The lease renewal has yet to be registered. Consequently it has not been converted to Landonline. File records indicate that there have been delays in getting the duplicate title released from the Lessee's lawyer. Schedule B contains copies of the relevant file records.

The Department of Conservation has obtained the approval of the Lessees for the grant of a common law licence over part of the lease. At present the documents are with the Lessee's lawyers for comment and execution. This action was initiated as a sub-lease. However as there are no grounds to grant a sub-lease for other than grazing purposes, which is not the proposed use, a common law licence is to be put in place. The file note enclosed as Schedule C to this report implies that the CCL has consented to this common law licence. At the time of preparation of this report, there were no records on file outlining the specifics of this licence.

Schedule A – Land Status Report

OPUS INTERNATIONAL CONSULTANTS LIMITED
"RELEASED UNDER THE OFFICIAL INFORMATION ACT"
DUNEDIN OFFICE

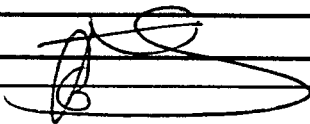
Project Number 6NLITR.02/ 266YD

This report has been prepared on the instruction of Land Information New Zealand in terms of Contract No: 50269 dated September 2001 and is undertaken for the purposes of Tenure Review in terms the Crown Pastoral Land Act 1998.




LAND STATUS REPORT for Moa Hills				LIPS Ref 12570
Property	1	of	1	

Land District	Otago
Legal Description	Run 751 Block X Teviot SD, Blocks XII and XIII Whitecoomb SD and Blocks IV and V Wart Hill SD.
Area	3589.5616 ha
Status	Crown Land under the Land Act 1948 subject to Pastoral Lease P.314
Instrument of title /lease	OT 2D/788
Encumbrances	None noted.
Mineral Ownership	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 1848 Kemp Purchase
Statute	Land Act 1948 and Crown Pastoral Land Act 1998

Data Correct as at	7 March 2002
Certification Attached	
Prepared by	Garry Patrick 
Crown Accredited Agent	Opus International Consultants Ltd, Dunedin

Peer Reviewed by J Kirk

 7 / 3 /2002

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 under the Land Act 1948 subject to Pastoral Lease



Max Haydn Warburton

Chief Surveyor

Land Information New Zealand, Dunedin.

14 / 3 /2002

LAND STATUS REPORT for Maa Hills <small>RELEASED UNDER THE OFFICIAL INFORMATION ACT</small>				LIPS Ref 12570
Property	1	of	1	

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.

A current search of OT2D/788 is not available at the time of preparation of this report. Landonline has treated the lease as cancelled since no renewal appears to have been registered.

Files were not available for due diligence at time of preparation of status report.

LAND STATUS REPORT for Moa Hills				LIPS Ref 12570
Property	1	of	1	

Research Data: Some Items may be not applicable

SDI Print Obtained	Yes.
NZMS 261 Ref	G43.
Local Authority	Central Otago District Council.
Crown Acquisition Map	Kemp.
SO Plan	SO 13876 of Feb 1966 being a plan of Run 751. Sighted but not relevant to status – SO 18405 [Roothing] and SO 8785 [Mining].
Relevant Gazette Notices and / or Computer interest register.	None noted.
CT Ref / Lease Ref	CL OT2D/788 – current lease. CL OT337/114 – a Licence to Occupy Crown Land for Pastoral Purposes issued 1/3/1937.
Plan Index	Sighted. Notes SO 13876 and 18405 [Survey Protection plan for legal road adjoining east side of Run 751].
Legalisation Cards	No card found.
Statutory Actions (Landonline)	No statutory actions noted.
CLR	Sighted. Supports Pastoral classification.
Allocation Maps (if applicable).	G43 DoC, SOE and Proposed SOE Claims maps sighted. Nothing noted.
VNZ Ref - if known	28472/29700
Crown Grant Maps	N/A
If Subject land Marginal Strip: a) Type [Sec 24(9) or Sec 24(3)]	a) Sec 24(3) for Pomahaka River adjoining.
b) Date Created	b) Feb 1966
c) Plan Reference	c) Coloured pink on SO 13876.

LAND STATUS REPORT for Moa Hills

LIPS Ref 12570

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Property 1 of 1

Research – continued

If Crown land – Check Irrigation Maps.	G43 Sighted. Nothing found.
Mining Maps	1) G43 Item 3 Gold Application 41-447 expires 23/7/2006 registered as 9D/553. – This relates to bed of Pomahaka Riverbed. 2) Application 39-133 expired 8/10/99. Registered as 9D/592. Not a current interest in Landonline.
If Road a) Is it created on a Block Plan – Section 43(1)(d) Transit NZ Act 1989 b) By Proc	a) SO Plan N/A b) Proc Plan c) Gazette Ref
Other Relevant Information a) Concessions – Advice from DOC or Knight Frank. b) Subject to any provisions of the Ngai Tahu Claims Settlement Act 1998 c) Mineral Ownership d) Other Info	a) No DoC Concessions over lease area. b) The Pomahaka River adjoining Run 751 is subject to a Deed of Statutory Acknowledgement pursuant to the Ngai Tahu Claims Settlement Act 1998 [Schedule 52 – defined on SO 24726] c) Either <input checked="" type="checkbox"/> 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 Kemp Purchase of 1848. <input type="checkbox"/> Contained in [provide evidence]. d)

Schedule B – File Records dealing with the lease renewal

Our Ref: Po314

LAND RESOURCES DIVISION

23 November 2001

Knight Frank House
41 - 43 Tarbert Street, Alexandra
Telephone: (03) 448 6935
Facsimile: (03) 448 9099

Anderson Lloyd Caudwell
Barristers & Solicitors
Private Bag 1959
DUNEDIN

ATTENTION: G R THOMAS

Dear Sir

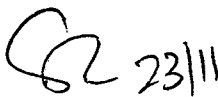
RE: RENEWAL OF LEASE - MOA HILLS - MICHELLE & DEANS

I refer to previous correspondence, in particular my letter of 8 February 2001.

Please advise if the misplaced lease has been located and when registration of the renewal will be completed.

Thanking you in anticipation.

Yours faithfully
KNIGHT FRANK (NZ) LIMITED


Suzanne Smith
Property Officer

*Phoned again
23/11/02 - spoke
to Margaret - Mr Thomas'
PA. they will get back
to me ...*

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Postal Address:
P O Box 27, Alexandra

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

INTERNATIONAL PROPERTY CONSULTANTS

Our Ref: Po314



8 February 2001

LAND RESOURCES DIVISION

Anderson Lloyd
Barristers & Solicitors
Private Bag 1959
DUNEDIN

Knight Frank House
41 - 43 Tarbert Street, Alexandra
Telephone: (03) 448 6935
Facsimile: (03) 448 9099

ATTENTION: G R THOMAS

Dear Sir

RE: RENEWAL OF LEASE - MOA HILLS

I refer to previous correspondence regarding lease renewal for the above pastoral lease which expired on 31 December 1998.

When I last spoke to you in late October 2000, you advised that the lease document had been misplaced. You advised that you would get in touch with Caudwells as they were involved with the last dealing on the lease.

You also confirmed that you still held the lease renewal documents.

Could you please advise of any progress made in locating the misplaced lease.

Thank you.

Yours faithfully
KNIGHT FRANK (NZ) LIMITED

82 8/2.

Suzanne Smith
Property Officer

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USA

Postal Address:

P O Box 27, Alexandra
Knight Frank (NZ) Limited
(An LPL Group Company)

INTERNATIONAL PROPERTY CONSULTANTS

Ref: Po314

3 May 2000

Anderson Lloyd
Barristers & Solicitors
Private Bag 1959
DUNEDIN

ATTENTION: G R THOMAS

Dear Sir

RE: RENEWAL OF LEASE - MOA HILLS

We refer to previous correspondence regarding the renewal of Moa Hills pastoral lease currently being leased by P H Deans, R Smollet, L J Stewart and R T Michelle.

To date we have received no response to our letter of 29 October 1999. Please urgently advise whether any progress is being made with this renewal of lease.

Yours faithfully
KNIGHT FRANK (NZ) LIMITED





Suzanne Smith
Property Officer

Phoned Alloyd 27/7.
Mr Thomas away until
7/8.
Asked his sec. to check
file & call me back

CAUDWELLS.



24/10/00 Finally spoke to Mr Thomas. He advised that he had got my various messages & letters & apologised for not returning my calls. He advised that they were unable to find the title. The last dealing they had with it involved Caudwells, but the solicitor @ Caudwells had since left. Mr Thomas advised that he would go back to Caudwells to see if they could locate it. He also confirmed that they still held the lease renewal documents.  BLM again for 14/11.

BLM 17/5/00 

Phoned again
20/9. Mr Thomas
to get back to
me 6/4. 22/9.

PH 034 773973

LAND RESOURCES DIVISION

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41 - 43 Tarbert Street, Alexandra
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Knight Frank (NZ) Limited
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INTERNATIONAL PROPERTY CONSULTANTS

**MEMORANDUM OF RENEWAL AND VARIATION
OF PASTORAL LEASE**

IN THE MATTER of the Land Act 1948

AND

IN THE MATTER of Pastoral Lease No P314 registered in Volume 2D Folio 788 Otago District Land Registry from **HER MAJESTY THE QUEEN** to **PETER HAMILTON DEANS, RUSSELL SMOLLET AND LESLIE JAMES STEWART (1/2 SHARE) AND RICHARD THOMAS MICHELLE (1/2 SHARE)**

- (1) Pursuant to Section 170 of the Land Act 1948 the term of the abovementioned lease registered in **Volume 2D Folio 788 Otago Land Registry** is renewed for a term of 33 years commencing on the **1st day of January 1999**. The covenant to pay rent and the rental value contained in the lease is hereby varied by deleting the said covenant and substituting the following:

Yielding and paying therefore for the first 11 years of the said term unto the Commissioner of Crown Lands (or his Agent) the annual rent of **\$1875.00 plus GST** calculated on a rental value of **\$125,000.00** payable without demand by equal half yearly payments in advance on the first day of January and the first day of July in each and every year during the said period of 11 years and for the next two successive periods of 11 years of the said term a rent determined in respect of each of those periods in the manner provided in Section 132A of the Land Act 1948.

Save as hereby expressly varied all the covenants conditions and restrictions contained or implied in the said Memorandum of Lease shall remain in full force.

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N WITNESS WHEREOF the parties have hereunto subscribed their names this
14th day of July 1990.

SIGNED for and on behalf of HER MAJESTY)
THE QUEEN by ~~the Commissioner of Crown~~)
~~Lands~~ in the presence of: ROBERT WILLIAM LYSAGHT)

R.W. Lysaght
~~Commissioner of Crown Lands~~
PURSUANT TO A DELEGATION
FROM THE COMMISSIONER
OF CROWN LANDS

Signature of Witness: 

Name of Witness: _____

Occupation: _____

Address: _____

MICHAEL JOHN TODD CONTRACT MANAGER C/- LINZ, CHRISTCHURCH

SIGNED by **PETER HAMILTON**)
DEANS as Lessee)
in the presence of:)

Signature of Witness: _____

Name of Witness: _____

Occupation: _____

Address: _____

SIGNED by **RUSSELL SMOLLET**)
as Lessee in the presence of:)

Signature of Witness: _____

Name of Witness: _____

Occupation: _____

Address: _____

SIGNED by **LESLIE JAMES**)
STEWART as Lessee)
in the presence of:)

Signature of Witness: _____

Name of Witness: _____

Occupation: _____

Address: _____

R

SIGNED by **RICHARD THOMAS**)

MICHELLE as Lessee)

in the presence of:)

Signature of Witness: _____

Name of Witness: _____

Occupation: _____

Address: _____

2

***Schedule C – File Note indicating Commissioner of Crown Lands consent to the
issue of a Common Law Licence to the Department of Conservation***

Po 314

7

"RELEASED UNDER THE OFFICIAL INFORMATION ACT"

Ken Taylor

From: Grant Webley [gwebley@linz.govt.nz]
Sent: Monday, December 10, 2001 11:07 AM
To: Ken Taylor
Subject: Re: Uncompleted non discretionary actions

Hi Ken

Re your Moa Hills enquiry

The CCL has now responded to Bob Lysaght's enquiry - his reply was -

"Please request Murray MacKenzie to remove the Moa Hills entry from the schedule and for Knight Frank to note their file that the Commissioner of Crown Lands has appropriately dealt with the issue, but it was not a sublease matter".

Cheers
Grant

Grant Webley
Crown Property Management
Land Information New Zealand

DDI (03) 364 5951
Fax (03) 365 9715

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>>> "Ken Taylor" <ken.taylor@knightfrank.co.nz> 25/11/01 20:18:31 >>>
Hi Murray

Having just completed the fortnightly report we note two actions which were submitted to you a considerable time ago for which we have no record of a decision/response.

Submission A8152 related to a sublease of part of Po314, Moa Hills (LIPS 12570). This submission was sent to you on 8 June 1999.
Submission A0170 related to an RMA consent for mining over part of Po241, Ben Nevis (LIPS 12522). This submission was sent to you on 18 December 2000.

Can you please advise if a decision has been made in relation to these requests.

Ken Taylor
Knight Frank (NZ) Limited
PO Box 27, Alexandra
Phone 03 448 6935 or 025 367 728
Fax 03 448 9099

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