

Crown Pastoral Land Tenure Review

Lease name : MT NIMROD

Lease number : PT 094

Due Diligence 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.

This report is released under the Official Information Act 1982.

December

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

MT NIMROD PASTORAL LEASE

File Ref: CNO/50214/09/12710/A-ZNO-01 Report No: CH0006 Report Date: **11/11/2000**

Office of Agent: **CHRISTCHURCH** LINZ Case No: 00/ Date sent to LINZ: **16/11/2000**

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:
 - a) Registration of the Partial surrender of parts of the lease (9.1280 hectares of Part Run 305 as shown on SO 13163). Other documentation to complete the exchange agreement entered into in 1981 including the formal reservation of areas for inclusion into the Mt Nimrod Scenic Reserve.
 - b) Gazettal (jointly with the Department of Conservation) of Section 1, SO 19190 (487.7800 hectares) for conservation purposes.
3. That the Commissioner of Crown Lands or his delegate **note** the following potential liability identified as a result of the file search:
 - Contamination issues brought about by the closure of the Upper Pareora Closed Landfill that is situated on the lease.
4. That the Commissioner or his delegate note the following matters:
 - a) The situation in respect of the unexecuted and unregistered Run Plan as a consequence of formal surrender.
 - b) That marginal strips along lesser waterways shown as topographical features only on SO's 3209, 3210 and 15163 would have to be defined by survey on disposition.

Signed by Agent:



Name: R. J. Ross

Opus International Consultants Limited

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

Name:

Date of Decision: / /

1. Details of Lease

Lease Name: Mount Nimrod

Location: The property is located at the northern end of the Hunter Hills some 25 km south west of Timaru on Back Line Road.

Lessee: Graham Bradley PATTERSON.

Tenure: Pastoral lease pursuant to Section 66 of the Land Act 1948 and registered under Section 83 of the Land Act 1948.

Term: 33 years from 1 July 1995 (Expires 30 June 2028).

Annual Rent: \$2,550.00

Rental Value: \$170,000.00

Date of Next Review: 1 July 2006.

Land Registry Folio Ref: CL 529/224 (Canterbury Land Registry).

Legal Description: RS 41210 and 41211, Part Reserve 3346 and Parts Run 305 situated in Blocks III, IV, VII and VIII Nimrod Survey District.

Area: 1816.2647 hectares.

1. 2. File Search:***Files held by Agent (Knight Frank (NZ) Ltd) on behalf of LINZ:***

File Reference	Volume	First Folio No.	Date	Last Folio No.	Date
<i>Pt O94</i>	<i>1</i>	<i>121</i>	<i>Aug 1933</i>	<i>248</i>	<i>13/12/63</i>
<i>Pt O94</i>	<i>2</i>	<i>251</i>	<i>Dec 1961</i>	<i>375</i>	<i>Jan 1982</i>
<i>Pt O94</i>	<i>3</i>	<i>375</i>	<i>Feb 1982</i>	<i>307</i>	<i>31/03/94</i>
<i>Pt O94</i>	<i>4</i>	<i>-</i>	<i>31/03/94</i>	<i>-</i>	<i>30/06/00</i>
<i>TR Pt094.01</i>	<i>1</i>	<i>1</i>	<i>14/10/97</i>	<i>8</i>	<i>29/09/98</i>
<i>TR Pt094.01</i>	<i>2</i>	<i>9</i>	<i>24/11/98</i>	<i>23</i>	<i>22/12/99</i>
<i>TR Pt094.03</i>	<i>-</i>	<i>-</i>	<i>26/07/99</i>	<i>-</i>	<i>03/08/99</i>
<i>TR Pt094.04</i>	<i>-</i>	<i>-</i>	<i>4/11/99</i>	<i>-</i>	<i>04/11/99</i>

***Files held by Agent (Opus International Consultants) on behalf of LINZ:
(Containing folios dated from)***

File Reference	CON/50214/09/12710/A-ZNO-02
Volume	1
First Folio No.	1
Date	August 2000
Last Folio No.	-
Date	Current

Other relevant files held by LINZ:

File Reference	Volume	First Folio No.	Date	Last Folio No.	Date
<i>CPA/0816414/01-ZCH</i>	<i>1</i>	<i>11</i>	<i>16/09/98</i>	<i>-</i>	<i>Current</i>
<i>CPL/04/10/12710-ZCH</i>	<i>1</i>	<i>1</i>	<i>01/03/97</i>	<i>-</i>	<i>Current</i>

Other Files (Lands and Survey/DOC Files)

File Reference	Volume	First Folio No.	Date	Last Folio No.	Date
13/34	1	-	17/12/1957	-	7/06/1983
13/34	2	162	12/04/1978	263	2/05/1983
13/34	3	265	May 1983	312	25/07/1988

3. Summary of Lease Document [CL 529/224]:***3.1 Terms of Lease***

The original Pastoral Lease was registered on 22 May 1963 as CL 529/224. The lease over 1816.2647 hectares was varied and renewed for a further 33 years from 1 July 1995. It was transferred to Graham Bradley Patterson (by Memorandum of Variation A 208665/4 registered on 5 December 1995) The annual rental for the first 11 years is \$2,550.00 per annum calculated on a Rental Value of \$170,000.00. Other terms and conditions of the lease remain unaltered.

Stock Limitation in Lease

2100 sheep (including 1520 Breeding Ewes).

Commencement date

1 July 1995.

Other Provisions

Notation that the lease is subject to the provisions of Section 58 of the land Act 1948.

A copy of the lease is attached as *Appendix 1*.

3.2 Area Adjustments

No. A208665/1 Partial Surrender of Section 1, SO 19190 (Area – 487.7800 hectares) with no alteration to the Rental Value or annual rent but a reduction in the stock limitation from 2255 sheep (1650 Breeding ewes) to 2100 sheep (including 1520 Breeding ewes). Refer to clause 8.2

No. A208665/2 Certificate of Alteration incorporating Sections 41210 and 41211 (Area – 1.7189 hectares) as at 1 July 1983 without alteration to terms of lease (SO 15163). Area of balance lease = 1816.2647 hectares. Refer to clause 8.1

3.3 Registered Interests***Mortgages***

Mortgage 975769/4 to the Rural Bank Limited - now National Bank (registered 29 January 1992).

3.4 Unregistered Interests***Recreation Permits***

A search of available records did not reveal the existence of any Recreation permits.

Land Improvement Agreement

There are no Land Improvement Agreements or similar types of agreements registered against the Lease.

A Land Improvement Agreement was entered into between the lessee and the South Canterbury Catchment Board now Environment Canterbury. According to the latter there is no documentary evidence of the agreement ever having been executed but a subsidy was granted and they confirm that the terms and conditions of the agreement have been fulfilled and works completed.

On 13 January 1993, an agreement was entered into between the lessee and the Crown for the surrender of the 600 hectares (subject to fencing and survey).

The surveyed area Section 1, SO 19190 487.7800 ha was partially surrendered from the lease effective from 1 July 1995. Registered as A208665/1. (*See current copy of lease – Appendix 1*). No action would appear to have been taken to date to formally declare the land to be held for Conservation purposes.

A copy of the unregistered LIA and the surrender Agreement are attached as Appendix 2.

Unsecured Debts

None known.

4 Summarise any Government programmes approved for the lease:

There is no Land Improvement Agreement registered against the title and the property was not involved in the Rabbit and Land Management programme.

However in 1985 the lessee and the South Canterbury Catchment Board entered into a Land Improvement Agreement that secured a Soil and Water Conservation Plan (unregistered and unexecuted). This Agreement entailed the retirement and surrender some 600 hectares (now Section 19190 487.7800 ha) of Class VIIe land by the construction of 6300 metres of retirement fence and oversowing and topdressing of 150 hectares.

5. Summary of Land Status Report:

A Land Status Report was undertaken by Knight Frank (NZ) Limited on 10 November 1999 under Contract 50178. This shows the status of the land is Crown Land subject to the Land Act 1948, leased pursuant to Section 66 of the Land Act 1948 and registered under Section 83 of the same Act

The Land is subject to Pt IVA of the Conservation Act and the minerals remain with the Crown, since the land has never been alienated. The land will be subject to Part IVA of the Conservation Act 1987 on any disposition. The report noted the following issues:

- 1) Legal road formation of part of Back Line Road is not contiguous with the current cadastral boundaries.
- 2) Reconciliation of boundary fencing can only be identified upon survey.
- 3) Current definition of Pt Run 305 & Pt Reserve 3346 and area, made up of plans by deduction. RS 41210 & 41211 adequately defined.
- 4) Part Reserve 3346 (10.8p – SO 11051) although included in the area, has been omitted from description since 1984. Certificate of Alteration 788632A.
- 5) Lease file (volume 4) identifies a former rubbish dump site on the isolated area of Pt Run 305 (formerly Pt RS 36220, area 50-1-00 on SO 3210).

Minerals remain with the Crown, since the land has never been alienated since acquisition by the Crown.

A copy of the Land Status Report is attached as *Appendix 3*.

6. Review of Topographical and Cadastral Data:

Both maps attached to the Land Status Report show there are no radio or television repeater sites, power transmission lines, huts, airstrips, water races or historic sites on this property.

6.1 Marginal Strips

The Land Status Report records that Lease 529/224 is subject to the provisions of Section 58 of the Land Act (Marginal Strips). White Rock River forms part of the boundary while other lesser streams are clearly depicted on SO 3209, 3210 and 15163 as a topographical feature without a strip having been laid off.

In view of LINZ letter dated 13 November 1997 regarding "Lilybank" and Ministerial Coordinating Committee/State Owned Enterprises paper 271 dated 31 March 1987 (Dept of Justice) it would appear this memorial has no substance unless a one chain strip was laid off by definition on a plan in the Chief Surveyors records.

The Section 58 strips are now deemed to be Marginal strips under the Conservation Act 1987 and are "notional" pending definition for disposition purposes.

6.2 Legal Roads - Formed and Paper

The Land Status Report records that the legal road formation of the Back Line Rd, particularly to the West, is not contiguous with the current cadastral boundaries.

6.3 Fenced Boundaries vs Legal Boundaries

There would appear to be some minor deviations however as indicated in the Land Status Report these can only be reconciled upon survey.

7. Details of any Neighbouring Crown or Conservation Land:

The Crown or Conservation land adjoining is as follows:

- a) Section 1, SO 19190 (former lease area to be declared Conservation land). Situated on W, SW boundary
- b) RS 40144 and Pt Reserve 3242 Scenic Reserves. Situated on NE & SE boundaries.

8. Summarise any uncompleted actions or potential liabilities:

8.1 Boundary Adjustments with adjoining Mt Nimrod Scenic Reserve

On 24 August 1966 the Minister of Lands approved the adjustment of boundaries of Rosewill Settlement and Mt Nimrod Scenic Reserves to include the whole of the bush within the fence-line subject to survey costs being met by the Crown and there being no alteration to the Patterson's leases (they also held Leases in Perpetuity at that time). A variation to the boundaries on the basis of the fence-lines and the natural terrain was subsequently accepted in a memo the CCL received from the DGL on 23 September 1980 (*folios 46 and 210 on 13/34*).

After long negotiations the Commissioner procured an Agreement with then lessee (*letter dated 13 January 1981 - folio 225 on P94*) which included adjustments to the Pastoral lease involving the partial surrender of 9.1280 hectares (Parts Run 305 - being 1.1510 ha and 7.9970 ha on SO 13613) and the incorporation of 1.7189 hectares (RS's 41210 and 40211 also on SO 13163) in addition to adjustments to the freehold land held.

A file note dated 9 November 1983 (*folio 278 on 13/34*) charted the actions required to complete the exchange. To progress the exchange draft Partial surrender, Memorandum of Transfer and OCT documents were referred to the lessee's solicitors for execution on 29 April 1985 (*folio 286 on 13/34*). In a file note to the Commissioner dated 22 July 1986 the Reserves Ranger, following discussions with the lessee, reported

unauthorised works in the Nimrod stream to alleviate wash out of the head-works of the Cannington – Motukaika Water Supply. As a consequence a lessee made statements about the lack of progress with the exchange as a mitigating factor in undertaking this work. Recommendations were made to establish the state of the exchange, how legally binding the executed Agreements are and for the Crown to consider the legal implications (*folios 294, 300 and 311 on 13/34*).

The Crown has completed the incorporation of RS's 41210 and 41211 into the lease (*A 208665/2*) and title has issued over RS 41212 (*CT 41C/59*) in fulfilment of the exchange (as to the Crown areas to go to the lessee's/owners) but the documentation for the areas to be surrendered for inclusion into the Scenic Reserve are as yet unexecuted and not registered. There appears to be a gap in the records since July 1996 however it is clear this is an uncompleted action.

Copies of the above folios are attached as *Appendix 4*.

8.2 Declaration of land retired and formally surrendered for Conservation purposes

Refer to statements in Clause 3.4 under Land Improvement Agreement.

Formal surrender has been registered and there would appear to be no impediment to gazettal of the land for Conservation purposes in terms of Section 7(1) of the Conservation Act 1987.

8.3 Former Rubbish Dump Area

The Land Status Report records that a former rubbish dump was situated on the isolated area of Pt Run 305 (formerly Pt RS 36220 - comprising 50.1.00 acres).

In May 1997 Royds Consultants, acting for the Waimate District Council, forwarded to Knight Frank a report it had prepared for the purpose of applying to the Canterbury Regional Council for an RMA discharge permit for the Upper Pareora Closed Landfill. Royds sought the CCL's approval to the application. The CCL approved the application based on Knight Frank advice that the closed landfill (an uncontrolled county dump) was unlikely to have significant adverse effects on the environment or be detrimental to the lease since the area had been covered with topsoil and regrassed since its closure in 1995. Because of its proximity to the Motukaika River the potential for contamination issues, albeit minor, remains. Resource consent was granted on 13 August 1999. and a *copy is attached*.

Copies of the reports / correspondence from Pt 094 are attached as Appendix 5.

APPENDICES

1. Search copy of lease document.
2. Copy of unexecuted and unregistered Run Plan (Land Improvement Agreement?) and Surrender Agreement.
3. Copy of Land Status Report.
4. Copy of relevant file folios regards 8.1 – (Boundary adjustments).
5. Copy of relevant file folios regards 8.2 – (Rubbish dump area).