

Crown Pastoral Land Tenure Review

Lease name: MUZZLE STATION

Lease number: PM 027

Public submissions - Pt 1

These submissions were received as a result of the public advertising of the preliminary proposal for tenure review.

March

04

*Clarence Reserve
Inland Rd. 17.
Haikoura.
4/01/04.*

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Crown Pastoral Land ACT 1998

Muzzle Tenure Review Notice Of Preliminary Proposal

I am making this submission concerning the above proposal for Tenure Review that the Commissioner of Crown Lands has put to Colin Allen Nimmo and Christina Anne Nimmo, Lessee of the Muzzle Pastoral Lease, under Section 43 of the Crown Pastoral Land Act 1998.

I submit that the Crown does not 'own' the 'unused Crown Land concerned; Part Run 230, Kaitarau, Tone, Greenburna and Acheron Survey Districts (12,000 hectares subject to survey)' formerly known as Clarence Reserve Station Pastoral Lease.

My submission is based on the following facts;

1. The Crown did not pay \$1,400,000.00 for Clarence Reserve Station following the surrender of the Lease by the Trustees of my husband's Estate, Family Trust and farming companies, Mr A.P.M. Macalister and D.P. Cameron.
2. The said Trustees did not own the Title to Clarence Reserve Station Pastoral Lease; It was owned by a company Clarence Reserve Limited of which my husband, Roy Athol Cameron, owned the majority of the fully paid up shares.
3. A.P.M. Macalister and D.P. Cameron were Executors of my husband's Estate, they did not have the right to surrender the Lease of Clarence Reserve. Although technically later moves were made by the Trustees to own, they could/should not own in their own right.
4. The Crown had no right to the land on the Eastern side of the Seaward Kaikoura Range as this land was still held by a Deed of Grant, and had not been submitted to the Land Transfer Act 1952 at the time of my husband's death, 11th January, 1993.
5. The Pastoral Lease was rolled over at its expiry, 1989, and the land held by the Deed of Grant was part of the bargaining process entered into by my husband and the Crown, the agent for this process at that time Landcorp.
6. Part of this land held by the Deed of Grant was promised to me, Janet Audrey Cameron, in a Matrimonial Property Agreement, signed by both my husband and I, and witnessed for both of us, 9th October, 1992.
7. It was a conditional Agreement which Landcorp were aware of, and at the time of my husband's death, these conditions had either been carried out or had become obsolete.
8. Also in the Matrimonial Property Agreement was a 'written right of first refusal' to the property owned by both parties.

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9. I was refused entry to the meetings with Landcorp,DOC, and the Trustbank Canterbury following my husband's death, although prior I had been an integral part of the refinancing of Clarence Reserve Ltd. and my husband had made his intentions clear to all parties concerned that I WAS an integral part of the Tenure Review process.

10. I submit that my husband signed, ^{and sealed} the Land Improvement Agreement and Rabbit and Land Management Agreement mid-1992, and these were finalised by the signing of the Deeds by the Canterbury Regional Council 7th January, 1993, four days' prior to his death. This information was withheld from me by all lawyers concerned, including the Trustees and was only revealed 8 years' later.

11. I submit that the Land Improvement Agreement and Rabbit and Land Management Agreement was changed to include the land on the Eastern side of the Kaikoura Ranges after my husband's death, as late as November 1993, after the Matrimonial Property Agreement had gone through the term in which an effort should have been made to perfect it. It was changed for monetary reasons which affected both the Estate and the Crown.

12. My husband signed the above Agreements on the understanding that the land on the Eastern side of the Seaward Kaikoura would not be subjected to the restrictions of the Agreements. This was blatantly flouted, the reason being a section owned by my husband, fully paid for, situated nearly opposite the Clarence Reserve homestead, formerly the site of Lynton Downs School-house on the Inland Waimu highway.

13. Roy Athol Cameron signed these Agreements on the understanding that the Freehold would be given for the retirement of land in the POL to the DOC, under the 1948 Land Act, the Clarence Reserve being the third property to come up for review under this Act.

14. My husband requested a Special Lease which would see three areas in the POL put into the Pastoral Lease, the rest of the POL to be retired to DOC control. It is my understanding that the former Pastoral Lease is held today by a Special Lease, that it is not 'unused Crown Land' but that it is in fact grazed by stock belonging to Mr Colin Nimmo.

15. I submit that the dealings with my husband and Landcorp concerning the land pertaining to retirement by DOC were 'tardy' to the point that the livelihood of this Cameron family was threatened and that we were subjected to unnecessary stress which has not abated to this day.

16. I submit that the land pertaining to retirement to DOC had a decision made on it well before my husband's death even though it was alleged that a decision was 'under review' after his death, i.e. advertisement of Clarence Reserve Station public auction.

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17. I submit that the documents sent to me under the 'Official Information Act' were incomplete, there being copies of dealings done on property in Central Otago which I presumed were 'proofs' but which had nothing to do with Clarence Reserve Station. I submit that I paid over \$400.00 for this 'information'.

18. I submit that it was stated by the person representing the Commissioner of Crown Lands in producing this information that "no information has been withheld".

19. I submit that the dealings between the Executors of my husband's Estate and Landcorp acting for the Crown, were 'tardy' in that Clarence Reserve Station was finally the subject of the 1998 Crown Pastoral Act, burdened unnecessarily by a 'modified' Tenure Review, which my husband had not signed for, but which saw the Crown benefit and left my family and myself bereft.

19. I submit that, with respect, the Crown has stolen Clarence Reserve Station, that the Commissioner of Crown Lands used the powers which he held, to advantage the position of the Crown and to disadvantage the position of my family, in the absence of my husband.

20. I submit that this was achieved by giving freehold title to the land on the Eastern side of the Seaward Kaikoura Ranges, pending title, which took a period of two years, while the survey was completed, and agreeing to sell only to a company, Morven Farm Kaikoura LTD, a company formed by my husband, which did not own shares in Clarence Reserve Ltd. In this way the Crown could effectively waive having to pay \$1,400,000.00 for Clarence Station, and hopefully thought that the public of N.Z. in particular the 'green' sector would be satisfied. Landcorp at that time had 'conveniently' revealed to the public through the news medias, that this was the case, although neither myself nor my children knew anything of the sale to the Crown at this time!

21. I submit that DOC has never received the land promised for retirement by my husband, that it has remained in the control of LINZ.

22. I submit that Colin Allen Nimmo and Christina Anne Nimmo have no right to the land described as 'unused Crown Land concerning Part Run 230, Kaitarau, Tone, Greenburn and Acheron Survey Districts (12,000 hectares subject to survey). I submit that this land in fact belongs to me, as the widow of Rdy Athol Cameron, with a 'written right of first refusal'.

22. I submit that I wish to take this up with the Crown at the earliest opportunity and enclose an Order for Redress which I filed in the High Court, but which was ignored, the excuse being that Landcorp had become Knight Frank therefore it (Landcorp) COULD be generated.

Witness - *Caroline A Cameron* (AC)

Janet A Cameron

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Royal Forest and Bird Protection Society
PO Box 2516
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9 February 2004

DTZ NZ Ltd
PO Box 142
Christchurch
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Dear Sir/Madam

**SUBMISSION ON PRELIMINARY TENURE REVIEW PROPOSAL FOR
MUZZLE, CLARENCE VALLEY**

1. INTRODUCTION

The Royal Forest and Bird Protection Society (Forest and Bird) is New Zealand's oldest and most active voluntary conservation organisation. Formed in 1923 the Society has around 38,000 members in 56 branches around New Zealand. This submission is on behalf of the Society's Central Office and the national organisation. Individual branches may also make submissions.

The Society's constitution requires it to:

"take all reasonable steps within the power of the Society for the preservation and protection of indigenous flora and fauna and natural features of New Zealand for the benefit of the public including future generations."

"Protection of natural heritage includes indigenous forests, mountains, lakes, tussocklands, wetlands, coastline, marine areas, offshore islands and the plants and wildlife found in those areas."

2. PRELIMINARY PROPOSAL

Forest and Bird understands the preliminary proposal to be

1) Restoration or retention to full Crown ownership and control as:

a) as conservation area - 10,865 ha - CA 1 - green wash on plan in

Appendix 2 of preliminary proposal.

b) as conservation area - 3,684 - CA 5 - green wash in plan.

2). Restoration or retention in Crown control (Clarence Reserve)

a) as conservation area subject to an access easement concession - 318 ha - CA2 buff wash in plan.

b) as conservation area subject to grazing and tourism concession - 8,316 ha CA 3 and CA 4 - buff wash in plan.

3). Freehold disposal to CA and CA Nimmo.

- a) 6,791 ha – part yellow and part blue wash on plan.

3. SPECIFIC ISSUES OF CONCERN

3.1.1 Lack of consultation and poor process and outcome

In 1992/93 NGOs such as Forest and Bird and Federated Mountain Clubs were consulted on the purchase of Clarence Reserve and indicated their strong interest in the future management of Crown land in the Clarence Valley. It was understood that the Crown would be likely to allow grazing of areas with no conservation values on Clarence Reserve (through for example a special lease). Forest and Bird supported any such grazing being done by the Muzzle lessees because this would increase that property's economic viability and avoid any freeholding on the Muzzle.

At the time Forest and Bird expressed its strong opposition to any freeholding of Crown land in the Clarence Valley because of the ecological fragility of the land, the high recreational and landscape values of the river and catchment, high ecological values, and the management conflicts and problems likely to result from creating an enclave of freehold land in such a remote landscape of predominantly public protected land

The Crown has not kept faith with those original discussions and understandings. It has failed to consult with NGOs or invite public views before making fundamental changes to understandings about the future management regime in the Clarence valley.

The Preliminary Proposal and the ability to freehold a third of Muzzle pastoral lease and gain a 30 year grazing concession over the majority of Clarence Reserve (8,316 ha out of 12,000 ha) at a modest rental has substantial benefits to the lessees at the expense of the public interest. Nor does it provide a fair financial return to the Crown.

Muzzle Station is a distinctive property because of its remoteness, extent of public land in the Clarence Valley, high ecological values, dryland environment, and vulnerability to land degradation. There is no evidence in the preliminary proposal that it can sustain intensive grazing or any increase in stock numbers without major change to existing vegetation cover through oversowing and topdressing. An innovative and unique solution is needed to promote ecologically sustainable management. The preliminary proposal and its typical division between freehold and conservation land does not achieve this. The failure to consult NGOs has meant alternative options have not been considered adequately.

3.1.2 Inappropriate process for Clarence Reserve

There was no formal advice to NGOs or the public that the Christchurch regional office of Forest and Bird is aware of that LINZ and DoC had decided to consider the future management of Clarence Reserve as an integral part of tenure review on Muzzle. The preliminary proposal is the first indication of this. This combination of two large areas in one proposal without public consultation is inappropriate, especially as it has been the practice with other tenure reviews (eg The Gorge and Scotsburn) to advertise them separately even where a common lessee links them.

The submission deadline should have been significantly longer given that two large properties have been combined

The public notices advertisement for tenure review did not make clear that it involved a combination of Muzzle and Clarence Reserve. It referred to tenure review of the Muzzle pastoral lease with no mention of Clarence Reserve. (Legal descriptions are not particularly useful for alerting people to the actual land involved). Members of the public who may have wanted to make submissions on Clarence Reserve are unlikely to have been aware of the opportunity and their involvement denied.

In Forest and Bird's view the public has been seriously misled by the process LINZ and DoC have adopted and their lack of transparency and openness.

Clarence Reserve was purchased for conservation nearly a decade ago. By not gazetting Clarence Reserve promptly as conservation land, and failing to keep the public informed of departmental proposals for its future management, DoC and LINZ have prevented effective public involvement in the future of public protected land. The absence of effective public consultation on the granting of significant use rights for 30 years over public conservation land is a serious concern.

Decision sought

Do not proceed any further with the current tenure review proposal for Muzzle. Organise meetings with public interest NGOs and the public to consult over Muzzle and Clarence Reserve and develop an alternative proposal. Further public consultation is appropriate given its absence to date and the purchase of Clarence Reserve for conservation land. Delays in gazetting it because of bureaucratic incompetence or inertia should not be used to prejudice public involvement as it appears to have been.

Do not proceed with current Clarence Reserve proposal. Re consider as above and subsequently re-advertise an amended designation and grazing concession over Clarence Reserve separately for public submissions. Prepare a conservation resources, land status and due diligence reports so the public are better informed on the ecological, recreation and other values, and follow a similar process to that used for tenure review. Alternatively (and more appropriately) use the process normally used for considering and granting concessions under the Conservation Act.

3.2 Extensive area proposed for freeholding

The freeholding of 6,791 ha on Muzzle is strongly opposed for the following reasons:

- The drylands of the Muzzle are ecologically fragile and unlikely to be suitable for long term grazing. The impacts of 150 years of burning and grazing are obvious with major changes in indigenous vegetation cover. Tall and short tussock grasslands, which were once extensive over the property, have been significantly reduced. Continued management oversight by the Crown with the ability to control stock numbers and land use changes (eg cultivation) are needed to ensure ecologically sustainable management. The proposed retention in Crown ownership of all of Clarence Reserve (including hill country areas with significant weed problems) evidence of the Crown's recognition that such land is unsuitable

for freeholding. It is inappropriate to apply a different standard across the river and allow freeholding.

- Continued grazing is likely to require considerable over sowing and topdressing and the associated degradation and destruction of indigenous vegetation and its replacement by an exotic sward.
- Freeholding means there is no certainty that vegetation decline; soil erosion, weed and pest spread will be managed effectively.
- It would create an enclave of freehold land in a large area of protected conservation land. This risk considerable tension between possible future tourism development (for example) and public recreational use and amenity values. By air Muzzle is close to the sizeable tourist nose of Kaikoura. An upmarket tourist lodge on freehold land with regular helicopter access could significantly compromise the wild and remote character of the area as enjoyed by rafters, kayakers and trampers.
- Freeholding is based on a very short-term perspective that assumes current land use and management will continue when this may change substantially with any new owner. Freeholding creates an incentive for land use change (if not by current holders, by future owners). The preliminary proposal fails to take a long-term view and look at the consequential changes in land management or to consider the needs of future generations (40 –100 years hence).
- There is no information or evidence that freeholding would promote ecologically sustainable management as the CPLA requires. There is no analysis of the impacts of current stocking and grazing levels, how this affects indigenous vegetation cover, water quality. There is no discussion of how changed land uses (eg forestry or deer, viticulture or subdivision into lifestyle blocks, or irrigation for pasture or horticulture development) would affect inherent values and whether they would promote ecologically sustainable management. The current lessees may not intend this but new owners may. The proposed Kaikoura District Plan contains few controls on land uses such as forestry or indigenous vegetation clearance, or deer. It and the Resource Management Act provide no certainty that sustainable management, let alone ecologically sustainable management will be promoted.

Decision sought

Do not proceed with current tenure review proposal.

Undertake a whole property purchase and buy out the lessees' interest in the pastoral lease entirely so that no freeholding occurs ; then:

- a) if necessary grant the current lessee a grazing concession on Muzzle under the Conservation Act for a 10-20 year term, with no right of renewal. The boundaries of any grazing concession should exclude all of the recommended areas for protection in the original Conservation Resources Report (Harding, 1994).
- a) Fence the upper boundary of a new grazing concession on Muzzle, between it and adjacent ungrazed conservation land

- b) Make the term of any grazing concession on Clarence Reserve the same as any grazing concession on Muzzle.

3.3 Significant inherent values not protected

3.3.1 Muzzle

LINZ and DoC have failed to recognise and protect significant inherent values and propose to freehold, rather than protect, all of three Recommended Areas for Protection and sizeable part of four others. The way in which the recommendations of the Conservation Resources Report (CRR or designations report)¹ have been ignored is disappointing... None of the material provided to Forest and Bird under the Official Information Act provides any reasons or justification for freeholding these areas. Presumably it is because the lessees seek to maximise grazing land. The failure to protect recognised areas of significant inherent value is inconsistent with section 24(b) CPLA and is opposed. The areas proposed for freeholding which deserve protection include:

- **Part of RAP 2 Dart Stream Shrublands.** The CRR (p 19) describes these as “*providing a relatively intact corridor of forest/shrubland habitat between the mountains of the Inland Kaikoura Range (RAP 1) and the lower altitude shrublands and forest of Bluff Station and Jam Stream catchment across the Clarence River, forming a vital link between the Inland and Kaikoura Ranges*” (emphasis added). The proposal to freehold the lower south-eastern corner of this RAP severs this link and the connecting corridor.
- **Part of RAP 4 -Ravine Stream catchment.** The CRR (pp20-21)² identified “*the entire catchment of ravine Stream, including the lower gorge, upper basin and slopes, and adjacent limestone hogback*” as deserving protection. The CRR describes its significance as including: it being “*the best opportunity on the property, and perhaps in the ecological district, to protect a full sequence of limestone landforms, particularly a hogback ridge and their associated vegetation*”. It has the “*densest and largest Aciphylla glaucescens / silver tussock community on the property.*” The proposed freeholding the lower part of the gorge and the eastern side of the hogback will not protect this sequence and ignores the importance of the hogback ridge. Once again significant inherent values are proposed to be sacrificed for grazing. The CRR also notes that the area has recreational values as an easy and interesting walking route between Dart Stream and Muzzle Stream.

The exclusion of part of the Ravine Stream catchment fails to recognise the need for connectivity in the landscape by having a corridor between present and proposed conservation land on the Seaward Kaikoura Ranges, the bed of the Clarence River and the Inland Kaikoura Range.

¹ Harding, M (Dec 1994) *Conservation Values of Muzzle Station*

² Harding, M (Dec 1994) *Conservation Values of Muzzle Station*

The whole area also deserves protection because it is a rare opportunity to protect some of the Chalk Range, which has high ecological values. The whole range is currently unprotected and grazed, except for a small covenant on its northern end.

- Part of RAP 5 Dead Horse Gully Wetland – (c220 ha) This RAP involves part of the upper catchment of Dead Horse Gully including a wetland and its tussock/shrublands catchment. A sizeable part of the RAP is proposed for freeholding and the sustainable management covenant is not designed to protect inherent values. It is significant because as the CRR notes *“it is the only significant wetland or seepage on the property and one of very few wetlands in the ecological district”* (p22). Fencing was recommended yet is not proposed. Freeholding it, and continued grazing will not protect the wetland values.
- All of RAP 8 Cow Stream Limestone (c10 ha) This small limestone scarp and associated shrublands in upper Cow Stream have been totally ignored and all are proposed for freeholding. The CRR (p33) notes that it is significant as *“the southernmost exposure of Amuri Limestone”*, because it *“represents transition from limestone scarp community to shrubland on limestone talus”* and it contains the nationally rare *Cheesemania stellata*. *“It is a small but significant area of native vegetation which has considerable potential if fenced from stock. It has limited potential as grazing land.”*
- Part of RAP 9 Carters Knob Tussock Grasslands (c 300ha) The CRR describes this as *“the best remnant broad-leaved snow tussock grasslands on the property, representative of the tall tussock grassland that were once far more widespread on the property.”* Despite this, much of the lower south-eastern part of this RAP is proposed for freeholding. Continued grazing will cause the gradual loss of individual tussocks.
- All of RAP 10 Gridiron Volcanics (c50ha) All of this RAP, comprising steep slopes beside the Clarence River, south of Ottley Stream, is proposed for freeholding despite it being *“the most extensive exposure of Gridiron Volcanics at low altitude on the property”*, *“A good example of lower altitude mixed native shrubland”* and *“The only extensive area of basalt scree”* (p 26). As the CRR notes the area *“has no significant grazing value as it is mostly steep slopes with open rock and scree of thick shrubland.”* There is not justification for freeholding.
- All of RAP 11 Raoulia Flat (c60ha) All of this RAP is also proposed for freeholding despite the CRR describing it as significant as *“representative of riverbed and plant communities and riverbird habitat of the Clarence Valley”* and a *“plant community contains species typical of harsh arid conditions, and not found elsewhere on the*

property.” (CRR, p 27) and as being weed free. It has no grazing value yet is proposed for freeholding.

Decision sought

Include all of the Recommended Areas for Protection outlined in Harding (December 1994) and noted above as conservation land with no grazing. Provide new fencing as recommended in the CRR. Do not proceed with freeholding.

3.3.2 Clarence Reserve

There is no certainty that conservation values on Clarence Reserve are protected given the extensive area proposed for grazing and the lack of any substantive information on how or why the boundaries between CA 3 and 4 and CA 5 were arrived at.

No conservation resources report has been provided for Clarence Reserve which identifies conservation values to help determine whether the boundaries between CA 3 and CA 4, and CA 5 are appropriate and the extent to which grazing over CA 3 and CA 4 will degrade significant inherent values.

The failure to follow any clear or transparent process for management decisions on Clarence Reserve, either the Land Act or the Conservation Act is opposed.

Decision sought

Do not proceed with Clarence Reserve concession and re-consider the Muzzle and Clarence Reserve proposals. Subsequently re-advertise Clarence Reserve proposal for public submissions with more information. See 3.1.2 above.

3.4 Lack of fencing and stock trespass onto conservation land

Failure to fence the upper boundary of the proposed freehold on Muzzle may result in stock grazing and degrading values on adjacent conservation land. Earlier proposals (eg plan 2 Muzzle easement (DoC) and Fencing Plan – Report 1 (29/9/99) proposed considerable new fencing (eg Red Hill to The Carriage Drive, across the head of Cow Stream) between existing current fences. The preliminary proposal and lack of fencing appears designed to have the Crown spend as little as possible on fencing and protecting conservation values. This is opposed.

The sustainable management covenant appears to be a device for the Crown to avoid fencing costs, rather than a mechanism to protect inherent values or promote ecologically sustainable management. As the drafting instructions note³: “*the (sustainable management) covenant is not for the protection of inherent values on the land over which the covenant is to be placed. **The boundary lines have been agreed on the basis that fencing is not required and management can minimise stock moving onto the proposed conservation land on the Inland Kaikoura Range, if a suitable legal agreement such as the sustainable management covenant is applied...***”

³ Submission 1 Consultation report and drafting instructions for preliminary proposal attached to Letter from Ray Ward Smith to Murray Mackenzie, DTZ 4 July 2003, Submission CPL Preliminary Proposal Standard 8 Subm No. R3112, Date 4 July 2003 at p 5.

On the basis with experience with grazing adjacent to conservation land in many other areas Forest and Bird is not confident that stock will not drift onto conservation land. The Crown would have better control on the impacts of stock on adjacent land if the freeholds area was conservation land and grazed under a grazing concession. Stock numbers could be regulated and if necessary grazing end when the concession expired. The remoteness of the upper slopes of the Inland Kaikouras makes monitoring of stock trespass difficult and enforcement of the covenant conditions unlikely.

Decision sought

Retain area proposed for freeholding as Crown land (preferably conservation land with a grazing concession if necessary) with no rights of renewal.

Provide for fencing of boundary between ungrazed conservation land and grazed conservation land with costs shared equally between concession holder and LINZ as part of tenure review outcome.

3.5 Access issues

3.5.1 Legal road

The land status report shows a paper road running most of the length of the property to around about the Muzzle homestead site with breaks in it, legal road adjacent to part of Bluff Stream and another stream. The legal roads do not provide, however, for any practical access.⁴ The future status of the legal road line is unclear. It is not outlined on the Preliminary Proposal plan map and appears to be proposed for disposal as freehold land. This is strongly opposed. Future demand for public access and recreational use cannot be predicted with any certainty. Retaining existing legal roads provides the option of forming it as a foot or vehicle track in future.

Decision sought

Ensure existing legal road is not included in area to be disposed of by freehold.

3.5.2 Access easements

The creation of an access easements c-d-e-f-g; i-j-k, l-m-n-o rather than a legal road is opposed as not providing the security of access provided by a legal road.

Decision sought

Change the access easement to a legal road in favour of foot, mountainbike and horse access. Dogs should be banned.

3.6 Marginal strips or public conservation land on true left of Clarence River

The status report shows marginal strips along the Clarence River and several streams. These are not shown on the preliminary proposal. While new marginal strips do not take effect until the freehold is transferred to the current lessee, identifying and mapping them as part of the preliminary proposal would assist the general public (who do not get the status report). It would enable gaps in public access to or along waterways to be determined and additional marginal strips or other access

⁴ Due Diligence Report, November 2003 at page 2.

mechanisms sought if necessary. It would also provide a check to ensure marginal strips are established.

There is no point in DoC and the Commissioner preparing and using voluminous SOPs for tenure review if these do not ensure that s24 of the Conservation Act is implemented and marginal strips are laid off as an integral part of the tenure review process. The field inspection, legal checking and survey costs should be a legitimate part of tenure review.

The reservation of marginal strips wider than 20 metres or a wide strip of public conservation land along Clarence River and on Bluff River, Dart Stream, Red Hill Stream is appropriate for the following reasons:

- The national importance of the Clarence River for kayaking and rafting and the popularity of the river especially during summer with use of riverbank areas for camping.
- Major land use change (eg oversowing and topdressing, planting of forestry) on the riverbank would fundamentally change the recreational experience and the natural character of the river. Marginal strips with no private use rights can safeguard existing values.
- The absence of any public conservation land to provide a connection across the Clarence Valley between the Inland and Seward Kaikoura Ranges.
- Riverbank areas have high inherent values for recreation, public access and public amenity (eg enjoyment of landscapes), and as being at the land/water interface. They are strategically important because of this.
- The failure to carry through the original DoC recommendations,⁵ which would have seen land adjacent to the river between Spray Stream and Ottley Stream ; and on the true left of Darcy Stream, protected as conservation land.
- The original DoC recommendation was to have a sizeable marginal strip on Bluff Stream to connect the Bluff Hill conservation area with the higher altitude conservation lands.⁶
- Marginal strips help protect indigenous vegetation and landforms, against clearance, and earthworks, safeguard the natural character of waterways and can buffer water quality from the impacts of adjacent land uses.

The Director-General of Conservation's delegate in saying "*there is no need to investigate the reservation of marginal strips wider than 20 m for this property*"⁷ No reasons or explanation are provided. The D-G's delegate has failed to consider the high recreational use of the river, and the value of wider marginal strips for enhancing public access. Rafters typically spend four or five days on the river with popular overnight stops at Muzzle Homestead, Goose Flat (Clarence Reserve), Ravine Hut and the Dart River.⁸ Increased use of the river in future may lead to other areas being used to avoid crowding.

⁵ Map prepared 5 March 1999 "Muzzle Recommendations".

⁶ Map prepared 5 March 1999 "Muzzle Recommendations".

⁷ Letter Mike Clare to R. Ward-Smith 10 June 2003. Appendix 2 Drafting Instructions

⁸ Harding, M (Dec 1994) Conservation Values of Muzzle Station at p 12.

Decision sought

Mark proposed marginal strips on the Preliminary Proposal maps and ensure these are set off.

If any freeholding proceeds provide for a 200 metre marginal strip or additional conservation area of equivalent width along the length of the Clarence River. A wide marginal strip or strip of public land would recognise the high inherent values (including public recreational values of the land adjoining the river), future demand for improved access, and the strategic importance of riverbank areas

Provide for a wide marginal strip along Bluff Stream as originally sought by DoC (Recommendations Map, 5 March 1999)

4. Clarence Reserve - Concessions procedures of Conservation Act

Sections 65, 66 and 68 of the Crown Pastoral Land Act (CPLA) allow concessions to be granted on land “*designated to be restored to Crown ownership*”. Forest and Bird understands that after much delay Clarence Reserve was gazetted as conservation land in 2002-2003, so has already been restored. Accordingly the provisions of the Conservation Act, particularly Part IIB Concessions apply in relation to the proposed grazing concession over Clarence Reserve, rather than the CPLA.

The Conservation Act does not appear to have been followed. There is no description of the potential effects of grazing as required by section 17S for example. No first determination report has been provided considering the application against the matters the Minister is required to consider under section 17U Conservation Act.

Forest and Bird opposes the proposed grazing concession being granted for 30 years. It is a huge area with a tiny area (CA 5) supposedly protected for conservation.⁹ There is no evidence that conservation values will in fact be protected. There is no information about the impacts of grazing or the values of the area to be grazed. The lack of fencing between CA 3 and 4 and CA 5 also makes stock trespass into CA 5 likely.

Significant Government funds were spent by the Nature Heritage Fund in purchasing Clarence Reserve. It was widely publicised as being a significant conservation initiative, and NGOs welcomed it as such. The public appears to have been misled and the expenditure in vain, given that the bulk of the property is now proposed to be grazed and farmed for the next 30 years. Such a long concession term provides no opportunity to protect conservation values.

Hearing

Forest and Bird wishes to be heard at a hearing under the Conservation Act on the proposal for the grazing, tourism and easement concessions over conservation land on Clarence Reserve

⁹ Appendix 5(a) grazing & Tourist Concession, Schedule 1 clause 5.

Decision sought

Do not proceed with Clarence Reserve concession and re-consider the Muzzle and Clarence Reserve proposals. Subsequently re-advertise Clarence Reserve proposal for public submissions with more information . See 3.1.2 above.

Eugenie Sage
Regional field officer
For Conservation Manager

23 FEB 2004

20 February 2004



L 15

The Manager
DTZ New Zealand Limited
Land Resources Division
P O Box 564
TIMARU

Attention: R A Ward-Smith

Dear Sir

MUZZLE TENURE REVIEW

Please find enclosed a copy of the submission by Crown Minerals, Ministry of Economic Development, in respect of Muzzle Tenure Review.

The submission was passed by Hon Duynhoven to Hon Tamihere on 21 January 2004, however, Jean Greedy of LINZ here in Wellington has asked me to forward a copy of the submission directly to you as she is uncertain whether or a not a copy has been passed down the line to you.

If you need to discuss the matter please do not hesitate to call me.

Yours sincerely

Barry Winfield
Senior Advisor Petroleum and Minerals Policy



**Office of Hon Harry Duynhoven
MP for New Plymouth**

Minister of State
Associate Minister of Transport
Associate Minister of Energy

21 JAN 2004

Hon John Tamihere
Minister for Land Information
Parliament Buildings
WELLINGTON

Dear John

You are well aware of my concerns regarding the process of High Country Land Tenure Review that is currently being undertaken by Land Information New Zealand. My main concern relates to the fact that there is currently no formal place in the tenure review process for the consideration of the land's mineral value or potential and as a consequence potentially prospective land is passing into the Conservation estate or into private ownership without any consideration of its mineral value.

Although nothing has been formalised as yet, I am encouraged by the discussions that have been held to date and I am optimistic that the potential mineral wealth of land under review will in due course be given the status in the process that it deserves.

In the interim, my officials from Crown Minerals have been keeping a watching brief on the reviews that are being undertaken and have been advising me accordingly. I have recently been made aware that the Commissioner of Crown Lands has invited public submissions on the tenure review of the Muzzle Pastoral Lease and adjacent unused Crown land which occupy a combined area of some 29,750 hectares in inland Marlborough. My officials have advised me that the northeast part of the area is prospective for base metals and I have asked them to prepare a submission outlining the mineral potential of the lease.

Attached is the submission.

I would be grateful if you could please bring the submission to the attention of the Commissioner.

Yours sincerely

Hon Harry Duynhoven
Associate Minister of Energy

encl.



13 January 2004

Commissioner of Crown Lands

SUBMISSION BY CROWN MINERALS ON THE MUZZLE TENURE REVIEW

Background

1. The Commissioner of Crown Lands has invited submissions on a preliminary proposal for tenure review to Colin Allen Nimmo and Christina Anne Nimmo as lessees of the Muzzle pastoral lease.
2. The Crown Pastoral Land Act 1998 provides a framework for tenure review of high country land in the South Island. In order to gain ownership of the land leaseholders may request that their lease be considered for tenure review.
3. Muzzle tenure review involves a total of 29,750 hectares of land located on the inland Kaikoura Range, north of the mid-Clarence River, in inland Marlborough. The area comprises the Muzzle Run of 17,920 hectares and 12,055 ha of adjacent unused Crown Land.
4. It is proposed that 14,549 hectares be restored or retained in full Crown control as conservation area, 8,634 hectares be restored or retained in Crown control as conservation area subject to concessions and 6,791 hectares be freeholded.

Crown Minerals

5. Crown Minerals is the government agency that manages the New Zealand state owned oil, gas, mineral and coal resources known as the Crown mineral estate. Crown Minerals is responsible for the promotion of the mineral estate to investors, the efficient allocation of prospecting, exploration and mining rights and ensuring that the Crown receives a fair financial return on the mineral estate.
6. The Crown (on behalf of all New Zealanders) owns all in-ground petroleum, gold and silver and approximately half of the in-ground coal, non-metallic and other metallic minerals including industrial rocks and building stones.

Tenure Review

7. Crown Minerals is concerned that the land tenure review process gives no consideration to the land's mineral value and potential for mining development and that it does not recognise that existing mineral permit and licence holders have an interest in the land. As a consequence of the review process some land that is highly prospective for mineral development is passing into the Conservation estate where it will be extremely difficult, if not impossible, for

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mining companies to gain access to this land for the purpose of exploration and mining. This represents a significant loss of economic development opportunity.

8. The objectives of tenure review are set out in section 24 of the Crown Pastoral Land Act and include "*enabling reviewable land capable of economic use to be freed from the management constraints (direct and indirect) resulting from its tenure under reviewable instrument*".
9. The economic benefits from mineral development can be substantial and should not be overlooked. If the land's mineral potential and/or content can be shown to be significant then consideration should be given to the mineral value when determining future ownership and use of such land.
10. The purpose of this submission is to bring to your attention the known and potential mineral wealth of the land subject to the Muzzle tenure review and to request that this be taken into consideration when making a final decision on the review.

Geology

11. The area comprises basement Torlesse Group massive greywacke, argillite, conglomerate and basalt flow rocks with a bedded sequence of Paleocene to Miocene limestones, sandstones, conglomerates and bentonites in the Kaikoura anticline. The greywacke/argillite series is intruded by basic dykes, and, in the region of Mt Tapuaenuku, an extensive swarm of teschenite to gabbroic and norite layer sheets. The area is cut by several regional scale faults and many localised inactive faults.

Known Mineralisation

12. There are many known occurrences of copper mineralisation and several occurrences of nickel mineralisation dominantly associated with basic intrusives in the area, particularly in the area to the northeast of Junction Spur. Platinum Group Metals are strongly anomalous in layered gabbroic rocks associated with Mt Tapuaenuku. High grade limestone (Amuri Limestone – Paleocene) and bentonite are widespread in the area.
13. Crown Minerals holds nine technical reports of prospecting and exploration carried out in the area since 1969. The general conclusion is that the area is highly prospective especially for copper and nickel mineralisation. The area has low prospectivity for gold mineralisation.

Current Activity

14. There are no current permits or applications for permits in the area.

Comment

15. Exploration is a high risk business and the very nature of mineral exploration means that a company starts with a large area of land and with time it reduces the area after eliminating areas of no interest and concentrating efforts where

early reconnaissance work justifies further exploration expenditure. Progressively the size of the area will be reduced to only a fraction of the original area and more often than not, a company will fail to identify economic mineralisation and the ground will be surrendered or the permit allowed to expire. Modern day exploration techniques present no threat to the environment and yet the ultimate outcome of exploration can be the development of a mine with numerous economic spin-offs for the local economy.

16. Crown Minerals acknowledges that the transfer of land to the Department of Conservation does not preclude access to the land for the purpose of prospecting, exploration and mining. Permit holders can apply to the Department for an access arrangement under section 61 of the Crown Minerals Act. However, because the Minister of Conservation's consideration of an application for access largely relates to conservation objectives it is fair to say that it is very difficult for an exploration or mining company to secure a workable access agreement on conservation land.

Conclusion

17. The rocks of the Muzzle tenure review area host many known occurrences of copper and nickel mineralisation. The fact that there are no current permits or applications in the area can be directly attributed to the competitive nature of the international base metal market, both in terms of production volumes and prices, and accordingly the lack of a suitable market for a New Zealand based operation. While there is no interest in the prospective areas of Muzzle pastoral lease at this time, it is important that continued access to these areas be maintained should the international base metal market change whereby exploration and development options in New Zealand become more favourable.
18. The area to the northeast of Junction Spur should be recognised as being highly prospective for copper and nickel mineralisation. To provide for the future assessment of this mineral potential, it is critical that ongoing access to the land is available to exploration and mining companies. Whatever the outcome of the tenure review is Crown Minerals would want to see provision made to allow for future mineral exploration activities in this particular area.
19. Crown Minerals requests that the Commissioner of Crown Lands takes notice of the mineral potential of the land to the northeast of Junction Spur, as highlighted on the plan attached, when deciding the final outcome of the Muzzle tenure review and considers the merits of some form of transitional provisions to ensure that future explorers and developers have a right to access to land on reasonable terms for the purpose of carrying out exploration and mining activities.



Darryl Thorburn
Group Manager
Crown Minerals

