

Crown Pastoral Land Tenure Review

Lease name : THE BEECHES I

Lease number : PO 175

Due diligence report (including status report) - Pt 1

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.

September 04

DUE DILIGENCE REPORT

CPL PRE TENURE REVIEW ASSESSMENT STANDARD 6:

File Ref: Po175 **Report No:** AT1073 **Report Date:** 31 January 2002
LINZ Ref: 12486
Office of Agent: Alexandra **LINZ Case No:** **Date sent to LINZ:** 31/1/2002

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 which require action by the Manager of Crown Property Contracts.
 - 2.1 The current action underway to replace Memorial 955680 (*easement to convey water - incorrectly registered*) needs to be completed.
 - 2.2 The Compensation Certificate 392949 (*Crown forfeiting a water right from the Pigburn in exchange for a pipeline easement that has an allowance for a stock water draw - off point for the Beeches*) will need to be cancelled when the Memorial 955680 above is replaced.
 - 2.3 The Status Report map shows a marginal strip on the Upper Pigburn and the lease boundary as well away from the actual stream boundary as marked on the topo map. This may well be only a map distortion but needs to be verified.
 - 2.4 An error in Registration 761385 (*lease renewal in 1990*) being the rental value listed as \$167,000 instead of \$75,000 remains uncorrected. The lease rental set in 2001 in effect makes the error irrelevant but leaves the historic documentation with a error.

Signed by Knight Frank (NZ) Limited:



 P Diver:

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

 Name:
 Date of decision:

(1) Details of lease:

Lease Name: Beeches 1

Location: Located on the western slopes of the Rock and Pillar Range south of Waipiata township in the Maniototo District. The Pigburn forms the western boundary and Riverslea Pastoral Lease is to the east. The homestead and buildings associated with this run are located on adjacent freehold land. Ranfurly, some 20 km distant, is the local service centre and Dunedin some 170 km the nearest main centre.

Lessee: Andrew William Weir as to ½ share, Stuart Gerard Weir as to ½ share.

Tenure: Pastoral Lease under the Land Act 1948 and Crown Pastoral Land Act 1998. Pastoral Lease Number 175.

Term: 33 years from 1 July 1990 to 30 June 2023.

Annual Rent: \$1,237.50 (*ex GST*) - subject to ¼% rebate for prompt payment.

Rental Value: \$55,000

Date of Next Review: 1 July 2012

Land Registry Folio Ref: OT 386/60

Legal Description: Part Run 204B and Sections 25 and 26 Block IV Upper Taieri Survey District situated in Blocks IV and VIII Upper Taieri and Blocks I and V Rock and Pillar Survey Districts, being all the land contained in Instrument of Title OT386/60.

Area: 1067.5607 ha.

(2) File Search:
Files held by LINZ Christchurch:

<i>File Reference</i>	<i>Volume</i>	<i>First Folio</i>	<i>Date</i>	<i>Last Folio</i>	<i>Date</i>
Po175 –SDN-01	1	1	20/10/1909	143	26/1/1973
Po175	2	144	29/1/19673	267	1/2/1993

Files held by Agent in Alexandra 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>
Po175	3	268	4/5/1990	346	11/6/2000
Po175	4	1	18/7/2000	37	9/11/2000
Con/50268/09/12486/A-ZNO-		no number	27/9/2000	no number	19/11/2001

With the exception of a very few missing folios the records are complete. Confidence is held that all important data has been searched.

Pastoral Licence 1341 was issued over Run 204B (3280 acres) on 1 March 1910 for 14 years to Alured G Mathias. The lease (now No 1698) was renewed for a further 35 years from 1 March 1924 to his son Frank Mathias. In 1925 subdivision of some 695 acres and transfer to F Roberts occurred. This land is a block against the Pigburn that was unused by the Beeches and was transferred to the neighbour (Run 404A). The lease area was thus reduced to 2585 acres and a rental reduction made.

Frank Mathias sold to his son G H Mathias in 1946.

In 1957 the lease was transferred to a company “The Beeches Pastoral Company Limited” with shares held by G H Mathias, his wife and his wife as trustee for their children. The company at this time also held an additional 1044 acres of freehold land adjacent.

In 1957 the pastoral lease was issued for 33 years from 1 July 1957 for a term of 33 years. A small mining reserve of 72 acres 2 roods and 20 perches (Section 25) and a miscellaneous licence of 52 acres 0 roods 20 perches (Section 26) were amalgamated into the pastoral lease. A 40 acre riverbank reserve on the Pigburn was deducted from the lease under Section 58 land Act 1948.

This resulted in the final lease area of 2638 acres.

Base stock limitation of 900 wethers May to December on the top country and 500 hoggets April May on the lower country was set (no usual 10 % allowance is contained in lease document).

In 1962 the Maniototo County Council applied to remove gravel for roading from a lower portion of the lease on the northern boundary against Section 25. Consent from The Beeches Company was withheld because of a historical grievance about road maintenance. In 1963 final formal agreement was reached (Folio 127) and approval granted. No evidence of a term of the licence was found or any termination report but approval contained a condition that the agreement would lapse if the manager of the property M R Hay relinquished his position. This in effect means that the licence lapsed in the late 1970’s.

A personal stock exemption was granted in 1969 for:

Races and Redhills:

Not more than 1000 dry sheep for 8 months from September until April inclusive.

Whiteclaims, Grass Runs, Thatch and Lookout:

Not more than 1200 sheep, plus 50 cattle.

A 53 chain windbreak proposal by the Otago Catchment Board was approved in 1970.

An application to reclassify was made in 1973 but was declined.

A 750 ha on-site aerial oversowing proposal in advance of a farm plan was approved in 1973.

A personal stock exemption was granted in 1973 for:

Races and Redhills:

1200 dry sheep for 8 months from September until April inclusive.

Whiteclaims, Grass Runs, Thatch and Lookout:

Not more than 1500 sheep all year (*including not more than 1000 breeding ewes*).

Plus 100 cattle (*including not more than 60 breeding cows*).

Retrospective approval to cultivate was also made at this time.

A personal exemption to increase cattle numbers to 105 cattle (*including not more than 80 breeding cows*) was granted in 1975.

A Catchment Board Conservation Farm Plan was entered into in 1975, which involved cattleproofing, conservation fencing and on-site oversowing and tree planting. No retirement or off-site grazing or destocking was involved. A legal agreement was registered against the lease in 1976 but discharged in 1992.

A livestock incentive scheme loan taken up in 1976.

Approval to cultivate 25 ha in the Grass Runs Paddock was given in 1977.

The Otago Catchment Board notified that Water Race Licence Number 3511 Naseby Registry across Section 25 was granted to C P Johnston Limited in 1977.

A second application to reclassify was made in 1981 but was declined.

A Rural Bank Loan was taken out in 1981 to finance development.

All works under the farm plan were completed by 1981 with some minor pole planting and fencing not done.

The first approach to obtain a pipeline easement for the Waipiata Youth Centre (*about to be sold*) across the lease was made in 1981.

Approval was granted in 1982 for some excavating of a race intake.

In 1982 The Beeches Pastoral Company Limited transferred ownership to Peter Mathias, his wife Gwyneth Mathias and NZI Co Limited (*as trustee for descendants of Peter Mathias*) and was liquidated.

From 1982 - 1986 prolonged negotiations were undertaken to establish a water race easement from the Pigburn across Section 18, Part Run 204B in favour of D V and W A MacDonald, J N and T N Aitken and C E Lloyd. The intake area was unstable and a number of alternatives were evaluated with a final decision being to pump for a short distance in a pipeline to an open race. A separate easement to cross conservation land was also obtained. The easement was registered on the lease document in 1985.

While not affecting the lease, a drafting note on folio 227 draws attention to a formed but not legal road crossing Section 10 (*lease in perpetuity - 544*) and any disposal action should look into the situation.

The lease was renewed from 1 July 1990 for 33 years without change to terms or conditions and the rental value was accepted by the holder.

The lease was sold to R W, D G, G M and I J Manson - equal shares (*four brothers who held a 2000 ha property near Paerau*). They also purchased half share in the adjacent higher run P212 (*known as Beeches II*) and its freehold. The properties were to be run independently. Ross Manson was approved as manager for P175.

A severe rabbit outbreak in 1992 saw the whole of The Beeches I lease poisoned.

In 1993 the Chief Surveyor identified marginal strips under Part IV Conservation Act 1987 (*Section 24 (3) and 24 (9)*) on the lease along the full length of the Pigburn as it affects the lease (*folios 266 and 268 - SO plans 12392 and 1827*).

The lease was sold to A W and S G Weir (*equal shares*) in 1997 and the transfer approved subject to a rabbit survey and control programme being executed and a bond for the work issued by the vendors. This condition caused a flurry of legal correspondence and inspection reports as the Mansons objected to it. The Mansons embarked on ground control work to avoid expensive aerial poisoning and applied for a review of the conditions. The requirement was rescinded but the already completed inspection report was to be provided to the Commissioner of Crown Lands.

In 1998 the owners of the former Waipiata Youth Centre (*I D McDonald and Co*) applied for a water supply easement across the lease and the neighbouring “Riverslea Po178” that was originally protected as a mining privilege but had lapsed. The supply had originally been an open race but was now completely piped and underground. It is defined on SO 21966. The easement was *conditionally approved subject to the documentation being approved as acceptable to the Crown*. The actual deed presented was not acceptable to the Crown and a protracted period of legal dialogue on clauses ensued. The documentation was registered on the lease by the applicant’s solicitor in 1998 *before the Crown’s agreement to the document was obtained*.

The revised document is currently under action and now appears to have been agreed to and has been forwarded to the applicant's solicitor for signature before returning for the CCL's signature. It is assumed that the existing registered easement will be cancelled and replaced by the revised document.

An error in Registration 761385 (*lease renewal in 1990*) being the rental value listed as \$167,000 instead of \$75,000 was brought to the attention of the Land Titles Office (*folio 346*) but they declined to action any correction (*folio 1 Volume 4*).

A valuation report (*folio 345*) mentions an archaeological site west of the Hamilton diggings and a haybarn that could actually be on the adjacent freehold land.

The rental review for 11 years from 1 July 2001 being \$1,237.50 plus GST on a rental value of \$55,000 was accepted by the lessee.

Consent to topdress and sow seed was approved in 2001.

(3) Summary of lease document:

Terms of lease:

The commencement date of the pastoral lease on Crown files is in agreement with the Lease Document (*OT386/60*).

The lease was issued on 1 July 1957 under the Land Act 1948 for a term of 33 years. The lease was renewed for a further 33 years commencing on 1 July 1990.

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

No non-standard conditions are recorded.

Original Lease Stock Limit:

900 wethers May to December
500 hoggets of April and May

(NB: No 10 % allowance is contained in lease document).

Personal Stock Exemption:

None currently exists - not applied for by new holders.

Renewals and variations:

761385 Memorial renewing the term of the lease registered on 22 March 1991. (*Renewing the term for a further period of 33 years commencing on 1 July 1990 and fixing (for the first 11 years) the annual rent at \$1,125.00 calculated on a rental value of \$167,000.*)

An error contained in this registration being “rental value of \$75,000” not the \$167,000 listed was brought to the Titles Office Land Information attention (folio 346) who stated they had no corrective responsibility for drafting errors (folio 1 Volume 4). The error remains on the lease document but has been superseded by a rental review in 2001 and has no effect.

5115126.1 Departmental dealing to correct the within title for omission of Part IVA Conservation Act 1987 memorial pursuant to Memorandum of Renewal 761385 – 27 November 20001 (*self explanatory*).

Area adjustments:

None have been made.

Original lease area = 2638 acres
Metric equivalent = 1067.5607 ha

Registered interests:

Mortgages:

929862.3 Mortgage to Westpac Banking Corporation – 15 May 1997.

Other Interests:

- 392949 Compensation Certificate pursuant to Section 17 Public Works Amendment Act 1948 – 4 October 1972 (*Crown forfeiting a water right from the Pigburn in exchange for a pipeline easement which has an allowance for stock water draw-off point for The Beeches*).
- 645939/1 Transfer being a grant of a right to water (*together with incidental rights*) – 24 October 1985 (*from the Pigburn across Section 18, Part Run 204B in favour of D V and W A MacDonald, J N & T N Aitken and C E Lloyd*).
- 916504.1 Certificate pursuant to Section 417 (2) Resource Management Act – 19 September 1996 (*in favour of T R Johnston one race affecting Sections 25 and 26 Block IV Upper Taieri Survey District from the Pigburn. Later transferred to Vance Holdings by Memorial 916504/3*).
- 935468.1 Certificate pursuant to Section 417 (2) Resource Management Act 27 August 1997 (*in favour of S G and A W Weir, a short race from the Pigburn across Section 25 Block IV Upper Taieri Survey District*).
- 937292.1 Certificate pursuant to Section 417 (2) Resource Management Act 30 September 1997 (*in favour of Vance Holdings Limited for a race from the Pigburn across Section 25 Block IV Upper Taieri Survey District*).
- 955680.1 Transfer grant of easement to convey water – 8 October 1998 (*in favour of J D , F D and O McDonald for a pipeline from the Capburn against Gorge Road in the north eastern corner of Run 204B. This is the incorrectly registered easement that a replacement for is currently being finalised*).

No electricity agreement is registered on the lease.

No mining or prospecting license or permit is registered.

No recreation permits are issued affecting the lease.

Unregistered mortgages may exist between family members but none are known of.

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

A Catchment Board Run Plan was approved in 1976 which involved 4 km cattle-proofing, 8.5 km conservation fencing, 1.97 km windbreaks, 505 ha on-site oversowing and some open pole planting. Some windbreaks and on-site oversowing had been approved in advance of the plan. No retirement or off-site grazing or destocking was involved. A legal agreement related to this was registered on the lease in 1976 (Memorial 456241). The plan was completed in 1982 with only some minor works not done.

The legal agreement was cancelled from the lease document in 1992.

No issues affecting tenure review could be identified from this programme.

A rural bank development loan financed development during the 1980's.

No other government programmes have been identified affecting the lease.

(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 OT 386/60.

The area of the lease is confirmed as 1067.5607 ha.

It records seven encumbrances on the lease being:

- | | |
|----------|--|
| 392949 | Compensation certificate pursuant to Section 127 Public Works Amendment Act 1948 (<i>Crown forfeiting a water right from the Pigburn in exchange for a pipeline easement which has an allowance for stock water draw-off point for The Beeches</i>). |
| 645939.1 | Transfer creating easement to convey water (<i>From the Pigburn cross Section 18, Part Run 204B in favour of D V and W A MacDonald, J N and T N Aitken and C E Lloyd</i>). |
| 916504.1 | Licence for water race (<i>Section 417 RMA - in favour of T R Johnston one race affecting Sections 25 and 26 Block IV Upper Taieri Survey District from the Pigburn</i>). |

- 935468.1 Licence for water race (*Section 417 RMA-in favour of S G and A W Weir, a short race from the Pigburn across Section 25 Block IV Upper Taieri Survey District*).
- 937292.1 Licence for water race (*Section 417 RMA in favour of Vance Holdings Limited for a race from the Pigburn across Section 25 Block IV Upper Taieri Survey District*).
- 955680.1 Transfer creating easement to convey water (*In favour of J D , F D and O McDonald for a pipeline from the Capburn against Gorge Road in the north eastern corner of Run 204B. This is the incorrectly registered easement that a replacement for is currently being finalised*).

Subject to Part IVA Conservation Act 1987.

These are in agreement with the lease details section of this report.

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

The Crown retains mineral ownership.

The Status Check confirms that conservation land adjoins the lease on its northern boundary (*this is the Hamilton Diggings Reserve - see Section 7 on Conservation land*).

No UCL land is identified.

Marginal strips are identified on the full length of the Pigburn on the western boundary and within the lease (*Sections 25 and 26*). SO Plan 1827 shows the full length of the river on the boundary of run 204B and within it as marginal strip created under Section 24 (c) of the Conservation Act 1987. SO Plan 12392 shows the Pigburn on Sections 25 and 26 as being marginal strips created under Section 24 (9) Conservation Act 1987. No other marginal strips are identified. This is in accord with the findings of this Due Diligence Report

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

The status check identifies four other matters possibly requiring investigation being:

- The existence of an archaeological site on the lease (*see Section 6 for detail of site*).
- A gravel pit in possible use (*no licence to remove gravel has been in effect since the late 1970's - see file search section Paragraph 6*).
- Haybarn that could be on freehold land (*a matter of valuation significance only*).
- A Deed of Easement currently being processed(*this is addressed in this report*).

The very recent (27 November 2001) memorial correcting the omission of Part IVA of the Conservation Act on the renewal memorial is not covered by the Status Check but no issues are judged to arise from this.

No other issues arising from the report were identified.

5.2 Other Land:

No other land is covered in the Status Check.

(6) Review of topographical and Cadastral data:

The topographical map:

The topographical map shows a major water race crossing the lease. It starts in the south-western headwaters of the Pigburn then traverses north east to exit as a double race in the north east corner of the lease it is marked as “Old Water Race”.

A number of short races linking streams on the lower Pigburn Faces are marked but little sense can be made of them and it is assumed that most if not all are abandoned.

No National Grid or local supply electricity pylons cross the lease.

Two formed legal roads “Gorge Road” and “Hamilton Road” are marked skirting the northern lease boundary at the foot of the hill with Hamilton Road cutting through the lease at the Pigburn between Section 25 and Part Run 204B.

The two most northerly Sections (25 and 26) are marked as having a formed legal road (*Roberts Road*) along their western boundary and are separated by metal road that crosses the Pigburn called Hamilton Station Road. Section 26 is shown as being bounded to the north by a short section of Greer Road and to the east by Pigburn Road. Both of these are marked as un-metalled roads.

A metalled road is marked as outside the western lease boundary travelling a short distance up the Pigburn Valley adjacent to Part Run 204B (*not on the legal line*).

The only farm tracking shown is a short section shown entering from the upper mountain Beeches II (*Po212*) and not linking with a any other track.

No airstrips, huts or communication sites are marked within the lease.

Some gold workings are shown at the foot of the hill within the lease above Hamilton Road and on Section 25.

The fenced boundaries appear to closely follow their legal line except in the Pigburn where most of the eastern boundary is unfenced. The Status Check map shows marginal strip on the Upper Pigburn and the lease boundary as well away from the actual stream boundary as marked on the topo map. This may well be only a map distortion but the stream itself is the boundary.

The Cadastral map:

The Marginal Strip on the Pigburn is shown as the lease boundary in the upper catchment. This then continues within the lease on the lower area of Part Run 204B and cutting through the middle of Sections 25 & 26 Block IV Upper Taieri Survey District.

Two short legal roads are shown on the north eastern and north western boundary of Part Run 204B above Hamilton Road. No formed roads are shown on these lines but as mentioned above a marked road on the topographical map on the north-western boundary of Run 204B travels up the Pigburn Valley parallel to the legal road.

All other roads noted above on the topographical map are marked on the cadastral map as legal roads.

The Proposed and Transitional Central Otago District Scheme Plan (*Map 59 Volume 2*) has a archaeological site marked south of Hamilton Road on the lease.

District Council staff were unable to give details of this site but it was identified by DoC File Keeper Wellington (*T Walton*) as a recorded site listed as gold workings. He also elaborated that some Moa bone sites had been recorded in the general vicinity of Hamiltons but did not identify any site within the lease.

These sites are protected by The Historic Places Act 1993 and should not interfere with tenure review.

The plan also identify a Schedule Activity marked as SA66 being a gravel pit called “Mathias” off Hamilton road on the lease. This recognises the use of the site for gravel extraction. Fulton Hogan Central (*the roading contractor for the council in the area*) informs your agent that no gravel has been extracted from this area for roading for many years. The file search indicates no authority for extraction exists since the approval in 1962 for gravel extraction by the Maniototo County Council which contained a condition that the agreement would lapse if the manager of the property (*Mr Hay*) relinquished his position. This in effect means that the licence lapsed in the late 1970’s.

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

A conservation reserve (*H42042*) of 16.888ha known as “Hamilton Diggings” adjoins the northern boundary of the lease as an enclave into Run 304B (*Section 70 Block 1 Rock and Pillar Survey District*). Values identified are mining history.

The Otago Conservation Land Inventory shows a marginal strip on the Pigburn within Run 204B on its lower catchment and on the boundary in the upper catchment as identified on the Status Check cadastral maps. It does not identify the marginal strip that exists through Sections 25 and 26.

No UCL areas within or adjoining the lease were identified.

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

- 8.1 The current action underway to replace Memorial 955680 (*easement to convey water - incorrectly registered*) needs to be completed.

- 8.2 The Compensation Certificate 392949 (*Crown forfeiting a water right from the Pigburn in exchange for a pipeline easement that has an allowance for a stock-water draw-off point for The Beeches*) will need to be cancelled when the Memorial 955680 above is replaced.
- 8.3 The Status Check map shows a marginal strip on the Upper Pigburn and the lease boundary as well away from the actual stream boundary as marked on the topo map. This may well be only a map distortion but needs to be verified.
- 8.4 An error in registration 761385 (*lease renewal in 1990*) being the rental value listed as \$167,000 instead of \$75,000 remains uncorrected. The lease rental set in 2001 in effect makes the error irrelevant but leaves the historic documentation with a error.

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

The original lease does not contain the normal 10% stock limit allowance.

The Proposed and Transitional Central Otago District Scheme Plan (*Map 59 Volume2*) has a archaeological site marked south of Hamilton Road on the lease. This was identified by DoC File Keeper Wellington (*T Walton*) as a gold workings.

The Proposed and Transitional Central Otago District Scheme identifies a gravel pit called “Mathias” as a Schedule Activity on the lease. This recognises the use of the site for gravel extraction. The file search indicates no authority for extraction exists since the approval in 1962 for gravel extraction to the Maniototo County Council. This agreement lapsed in the late 1970’s.

The status of some water races on north -western section of the lease is unknown and Mining Privileges associated with them may exist. Additional Section 417 Certificates under the Resource Management Act may be registered at some future date.

ATTACHMENTS:

- Schedule A. - Due Diligence Report
- Attachment 1 - Recent copy of Lease Document OT 386/60