

Crown Pastoral Land Tenure Review

Lease name : KYEBURN

Lease number : PO 197

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.

March

06



DUE DILIGENCE REPORT CPL PRE TENURE REVIEW ASSESSMENT STANDARD 6:

KYEBURN PASTORAL LEASE

File Ref: CON/50239/09/12495/A Report No: DN0011 Report Date: 19/3/2001

Office of Agent: Dunedin LINZ Case No: TR01/40 Date sent to LINZ: 19/3/2001

RECOMMENDATIONS

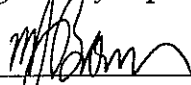
1. That the Commissioner of Crown Lands or his delegate **note** this Due Diligence Report which has been prepared in accordance with the Pre Tenure Review Assessment Standard;
2. That the Commissioner of Crown Lands or his delegate **note** the following incomplete actions;

An easement granted in favour of Otago Power Limited pursuant to section 60(1) of the Land Act 1948 for the passage of power lines over this lease has yet to be registered against the lease document.

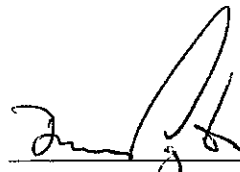
A file note records a local authorities interest in extracting gravel from a pit adjacent to the Kyeburn Road. There is no evidence of a formal arrangement having been entered into.

Plan SO 23063 is of Land to be Taken for Road and Road to be Stopped. This has not been actioned to date.

Signed by Opus



M Brown
Consultant



D Payton
Contract Manager

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



Name: MICHAEL JOHN TODD
Date of decision: 22/3/2001

1. Details of lease:

Lease Name: Kyeburn
Location: In two separate blocks; the homestead portion being situated on the plains 4 kilometres southeast of Naseby, with the run block on hill country adjacent to the Ida Range, 10 kilometres northeast of Naseby.
Lessee: HDS, MF, NS, CM, and HS Mackenzie and RN Macassey
Tenure: Pastoral Lease P.197 under section 66 of the Land Act 1948 and registered under section 83 of the Land Act 1948
Term: 33 Years from 1 July 1988 (expires 30 June 2021)
Annual Rent: \$11,700
Rental Value: \$520,000
Date of Next Review: 30 June 2010
Land Registry Folio Ref: OT386/89
Legal Description: Part Run 574 situated in Kyeburn, Maniototo and Mt Buster Survey Districts, Run 741 situated in Block I, Kyeburn, and Block IV, Maniototo Survey Districts
Area: 6586.3221 hectares

2. File Search

Files held by Agent (Knight Frank (NZ) Ltd) on behalf of LINZ:

File Reference	Volume	From	To
Po 197	3	30/6/1982	28/8/1998
Po 197	4	23/9/1998	30/6/2000
Po 197	5	1/7/2000	Current

Files held by Agent (Opus International Consulting) on behalf of LINZ:

File Reference	CON/50239/09/12495/A-ZNO		
Volume	1		
First Folio Number	1		
Date	1/11/2000		
Last Folio Number	-		
Date	Current (comprises extracts of Tenure Review Files).		

Other relevant files held by LINZ:

File Reference	Volume	From	To
P 197	1	1940	1969
P 197	2	1969	1982

3. Summary of lease document:**Terms of lease***Stock Limitation in the Lease*

4730 Sheep

Commencement Date

1 July 1988

Special Provisions

The Crown has retained a right to enter onto the property to maintain, inspect, repair or reconstruct water-races, drains and all other works that the Minister deems necessary for the supply of water to any land.

Area adjustments

The area and description of the lease as shown in the Computer Interest Register under the Land Transfer Act (OT386/98) is not correct. The surrender of Section 1 Block I, Mount Buster Survey District and Section 1 SO Plan 23004 has been overlooked.

Registered interests*Mortgages:*

925549.5 To ANZ Banking Group (New Zealand) Limited (February 1997)

Mining Agreements:

A Mining Permit, embodied in Register 9D/480 (February 1997), has been registered against the lease. This is a 10 year licence expiring 6 March 2004.

Unregistered interests

An easement in favour of Otago Power Limited was approved [CCL Case No. 00/45 of 11 January 2000] pursuant to section 60 of the Land Act 1948 for Power Lines over the lease. An offer has been made but there is no confirmation that it has been accepted. Consequently, formal documentation has not been completed.

4. Summarise any Government programmes approved for the lease:

A search of the file indicates that there are no Government programmes approved in the lease.

5. Summary of Land Status Report:

A Land Status Report was undertaken by Opus International Consultants Limited on 5 December 2000. This confirms the status of the land as Crown Land under the Land Act 1948, pursuant to section 66 of the Land Act 1948, and registered under section 83 of the Land Act 1948.

The following items were identified for consideration in the Context of Due Diligence:

1. The area and description in the lease document do not match the registered surrenders of land from the lease.
2. It may be necessary to ascertain if Hut Creek, Fraters Creek, Green Gully, Browns Creek, Robertsons Creek, Little Kyeburn, and other streams within the Pastoral Lease could be subject to section 24 of the Conservation Act 1987.
3. The file indicates that there is a gravel pit adjacent to Little Kyeburn Road on this lease. No formal agreements from the Commissioner of Crown Land or the Minister of Commerce have been found.
4. Plan SO 23063 is of Land to be Taken for Road and Road to be Stopped. This has not been actioned to date.

A copy of the Land Status Report is attached as Schedule A to this report.

6. Review of topographical and cadastral data:

A review of the topographical and cadastral plans attached to the Land Status Report reveals there are no communication sites, long distance transmission lines, or treatment sites on the property.

A possible local authority power supply crosses Run 741 and Part Run 574. The topographic map indicates the presence of a monument, Sergeant Garvies Cairn at the northern boundary of Part Run 574, along Hut Creek. This cairn is a memorial to the death of a local member of the Mounted Constabulary.

There are a number of huts, water races and old gold workings contained throughout the northern block of Part Run 574.

There is no indication that the water races still carry water, and given that the area was extensively mined for gold around the turn of the century, it is probable that these water races are have been decommissioned.

The topographic map indicates there is an airstrip along the northern boundary of the southern block of Part Run 574.

From the topographical map, there are no apparent discrepancies between the legal, and the physical (fence lines) boundaries.

7. Details of any neighbouring Crown or conservation land

North Block

	<i>Legal Description</i>	<i>Status</i>	<i>Owner</i>
<i>North</i>	Part Run 362B	Pastoral Lease	Awakino Stations Limited.
<i>South</i>	Not Applicable		
<i>East</i>	Section 1 SO 23004 Section 1 Block I Mt Buster Survey District	Land Set Aside for Conservation Purposes Crown Land subject to the Land Act 1948	Department of Conservation Commissioner of Crown Lands
<i>West</i>	Crown Land along Guffies Creek situated in Mount Buster Survey District	Crown Land Reserved from Sale, section 58 Marginal Strip, Land Act 1948	Department of Conservation

South Block

	<i>Legal Description</i>	<i>Status</i>	<i>Owner</i>
<i>North</i>	Not Applicable		
<i>South</i>	Not Applicable		
<i>East</i>	Crown Land Block IV Maniototo Survey District	Subject to the provisions of Marginal Strips, section 24 Conservation Act 1987	Department of Conservation
	<i>Legal Description</i>	<i>Status</i>	<i>Owner</i>
<i>West</i>	Not Applicable		

8. Summarise any uncompleted actions or potential liabilities:

An easement in favour of Otago Power Limited was granted pursuant to section 60(1) of the Land Act 1948 for Power Lines over this Pastoral Lease (January 2000). The relevant file documents indicate the easement crosses

Part Run 574. This easement has yet to be registered against the lease. Copies of file information have been attached as Appendix 1 to this report.

The file indicates that there is a gravel pit adjacent to Little Kyeburn Road on this lease. No formal agreements from the Commissioner of Crown Land or the Minister of Commerce have been found. Copies of relevant file information have been attached as Appendix 2 to this report.

The status check has indicated that Survey Office Plan 23063 being Land to be Taken for Road and Road to be Stopped has not been actioned to date. A copy of SO 23063 has been attached to this report as Appendix 3.

APPENDIX 1



Our Ref: Po197
(A9223)

LAND RESOURCES DIVISION

13 January 2000

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

Mr D Dunlop
Otago Power Limited
P O Box 109
BALCLUTHA

Dear Sir

RE: APPLICATION FOR EASEMENT - KYEBURN STATION

I wish to advise that the Commissioner of Crown Lands delegate has approved your request for an easement over part of Kyeburn Station under Section 60 (1), Land Act 1948 subject to:

- (a) The term of the easement being in perpetuity.
- (b) The payment of a single fee of plus GST (*this will be invoiced in due course*).

The easement document you provided is being legally checked and I will contact you again when I receive advice on this.

Please contact me if you require further information or wish to vary this approval in any way.

Note that this consent is issued under the Land Act 1948 and does not imply consent under any other legislation. It is your responsibility to obtain any other necessary consents.

Please note that under the provisions of Section 17, Land Act 1948 you have the right to apply for a rehearing of the Commissioner's decision. Section S17(1) states:

17. Application for rehearing - (1) Any person aggrieved by any decision of the Commissioner or any determination of an administrative nature by the Commissioner may, within 21 days after being notified of that decision or determination, apply to the Commissioner for a rehearing, and the Commissioner may, at any time within one month after receiving the application, grant a rehearing of the case if he/she thinks that justice requires it, and on the rehearing may reverse, alter, modify, or confirm the previous decision or determination in the same case:

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Malawi
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Singapore
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Spain
Sweden

Tanzania
The Netherlands
United Kingdom
United States
of America
Zimbabwe

Postal Address:

P O Box 27, Alexandra

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

INTERNATIONAL PROPERTY CONSULTANTS

Provided that the Commissioner shall not grant a rehearing where the decision or determination relates to the allotment of land to any person other than the person aggrieved unless that land has been allotted by the Commissioner pursuant to the powers conferred on him/her by section 54 of this Act.

If you wish to apply for a rehearing, please notify this office within 21 days of the date of this letter. Your application should clearly state the grounds on which you wish to apply for a rehearing.

Yours faithfully



K R Taylor
Manager, Alexandra
KNIGHT FRANK (NZ) LIMITED

KNIGHT FRANK
ALEXANDRA
11 JAN 2000
RECEIVED



F. simile

To: Ken Taylor
 Company: Knight Frank (NZ) Limited
 Alexandra
 Fax No: (03) 448-9099
 From: Mike Todd
 Crown Property Contracts
 Date: 11 January 2000
 Page 1 of: 1
 Our Ref:
 Your Ref:

Christchurch Regional
 Office
 Torrens House
 195 Hereford Street
 Private Bag 4721
 DX WP20033
 Christchurch
 New Zealand
 Tel 64-3-379 9793
 Fax 64-3-366 6422
 DDI 64-3-364 59#
 E-mail
 #@linz.govt.nz
 Internet
 http://www.linz.govt.nz

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Subject: PASTORAL SUBMISSIONS

The recommendations in the following submissions have been approved by Mike Todd under delegated authority from the commissioner of Crown Lands.

<u>Property or Applicant</u>	<u>Subm'n No.</u>	<u>Approved</u>	<u>Case No.</u>	<u>Subject</u>
Otago Power Ltd	A9223	11/01/2000	00/455	Easement ✓

I have sent the draft Deed of Easement for a legal check. I expect that some modifications will be required and will advise you in due course.

Mike Todd

Noted DJ.

**SUBMISSION TO
COMMISSIONER OF CROWN LANDS**

Application for an Easement

Submission No A9223

KF REF: Po197

CCL REF:

CASE NO:

Property Name: Kyeburn Station

Lessee: H D S, M F, N S, C M & H S Mackenzie
& R N Macassey

Location: Kyeburn, 4 kms southeast of Naseby

Date of Request:

An initial request was made to Land Information New Zealand on 28 July 1999. This request did not contain sufficient information and two further requests for information were required. The complete request was received on 28 October 1999.

Nature of Request:

Otago Power Limited have applied for consent to an easement to enable the reconstruction of an 11 KV power line across part of Kyeburn Station. This request is for grant of an easement under Section 60 (1), Land Act 1948.

Consultation with DoC:

A letter requesting consultation was sent to the Department of Conservation in Dunedin on 29 October 1999.

DoC Response:

A written response was received from the Area Manager Central Otago on 29 November 1999 advising that in his view there are no inherent values, which it is desirable to protect for conservation reasons, that will be adversely affected by the proposal.

Further Consultation:

No further consultation is recommended.

Affected Parties:

The lessees are affected parties and in accordance with Crown Pastoral Land Standard 2 a letter seeking consultation was sent to them on 29 October 1999. A letter was received from N A Mackenzie (*manager*) on behalf of the proprietors of Kyeburn Station on 18 November 1999. A letter advised that there was no objection to Otago Power realigning the power line as detailed on the map enclosed with our letter of 29 October 1999.

The letter further advised that they had verbally advised the Otago Power representatives that moving the line nearer and adjacent to the Naseby-Dansey Pass road is more convenient for their operations.

The issue of compensation as provided for under the Land Act 1948 appears to have been addressed by Clause 3 of the draft Deed of Grant attached to this submission.

There are no other affected parties who should be consulted.

Available information:

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

Inherent values and the desirability of protecting them:

The Director General of Conservation delegate has advised that there are no inherent values that it is desirable to protect from a conservation perspective. We are aware that overhead power lines do impact on the landscape, but in the current circumstances of relocating an existing line, the new line will probably have less impact on these values. We are not aware of any other inherent values that may be affected by the proposal.

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

The proposed facility will if anything aid the farming operation by relocating an existing power line to a more appropriate line close to the road. This has been noted by the lessee's representative in the correspondence.

Valuation for Compensation:

The property has not been re-inspected for this purpose. The rent review valuation completed as at 30 June 1998 provided the following values:

Capital Value
Land Exclusive of Improvements
Lessee Improvements

The values are re-assessed for compensation purposes as follows:

Capital Value
Land Exclusive of Improvements
Lessee Improvements
Lessee Interest

We believe that there is no change to these values as a result of this current application. As noted previously the applicant and the lessees have come to some arrangement regards compensation.

Market Rate for Fee:

There is no market evidence of fees paid for overhead power line easements. An assessment of the market for underground communications cables has shown to be between and per metre across freehold land. Given the shared interest between lessee and lessor we believe the Crown interest in such proposals to be between and per metre. The rights being granted in terms of the overhead line and the likely impact on the Crown estate is such that we believe the rates for this overhead line would be something less than that set out above. We are therefore proposing a fee of per metre capitalised to infinity at 10% to be reasonable. As the proposed length of the line is approximately 1500 metres this would equate to a rate of per annum which would capitalise to a one-off fee of (*plus GST*).

Term of Agreement:

The application is for an easement in perpetuity. This would seem to meet the normal requirements of electricity reticulation.

Conclusion:

In the past electricity reticulation has been protected by other legislation. Commercial power companies are now becoming aware that any new or relocated lines may require easements under the appropriate other legislation.

We believe an easement should be charged for the creation of this right, and it is suggested a one-off fee of (*plus GST*).

This is one of the first such applications we have received and there is little information on which to base any realistic fee. The fee proposed above may come as something of a surprise to the electricity company as such fees have not been payable in the past.

We see no case for compensation to the lessee in terms of the Land Act 1948 as the lessee's interest in the lease is not reduced by the granting of this easement.

We have identified no inherent values that this proposal will affect and see no impediments to the easement being granted.

RECOMMENDATIONS:

- (1) That you approve the grant of an easement in favour of Otago Power Limited over part of Po197, Kyeburn under Section 60 (1), Land Act 1948 subject to:
 - (a) The term of the easement being in perpetuity.
 - (b) The payment of a single fee of (*plus GST*).
- (2) That the attached draft Deed of Easement be referred to LINZ Legal Services in accordance with Section 9.1 of Crown Pastoral Land Standard 2.

Signed for Knight Frank (NZ) Limited

Consultant / /

~~10~~

Manager 5/1/1999

G Holgate / /

Approved/Declined

Commissioner of Crown Lands / /

APPENDIX: (Available information assessed):

- (1) Original application dated 28 July 1999 sent to Land Information New Zealand and associated referrals to this office..
- (2) Acknowledgement of request dated 11 August 1999 and seeking further information.
- (3) Information received 26 August 1999 without any covering letter.
- (4) Letter of acknowledgement dated 9 September 1999 requesting further information.
- (5) Letter dated 27 October 1999 supplying the information requested for the processing of the application, and including a draft Deed of Easement.
- (6) Acknowledge of request dated 29 October 1999.
- (7) Request for DoC consultation dated 29 October 1999.
- (8) Request to lessees for consultation dated 29 October 1999.
- (9) Response from lessees dated 18 November 1999.
- (10) Response from DoC dated 29 November 1999.
- (11) Check list.

Appendix F - Checklist

Request for Consent file reference: Pc 197 (A9223)

Name of Pastoral Lease/Occupation Licence: Kyeburn Station

The following is a checklist only. Different rules apply to different situations. However, if you are unable to answer each question affirmatively the question and concerns arising must be referred to the CCL.

The Recommendation	Yes
1. Have you identified the specific power the CCL is acting under?	✓
2. Is the person with the legal power the one who is making the decision?	✓
3. Are you satisfied that no question of bias arises?	✓
4. Have you identified persons prejudicially affected by the proposed decision/ action (if any)?	✓
5. If so, have they, with the prior instructions of the CCL, been fully informed of the nature of the proposal and given an opportunity to make representation about it?	NA
6. Has proper consideration been given to their representation?	NA
7. Is this apparent from the recommendation?	N/A
8. If the affected persons have not been fully consulted have you brought this to the attention of the CCL so that he or she can take legal advice on this issue?	NA
9. Have you checked that your facts are accurate?	✓
10. Have you taken into account all relevant matters?	✓
11. Are these apparent from the recommendation?	✓
12. Have you ensured that none of the considerations are improper or irrelevant?	✓
13. If you have not been consistent with previous practice and/or expressed policy or representations made, have you brought this to the attention of the CCL so that he or she can take legal advice on this point?	N/A

14. Have you considered the particular merits of the case and not simply applied a predetermined policy?	✓
15. Is this apparent from your recommendation?	✓
16. Have you clearly set out all the reasons for your recommendation?	✓
The Decision	
17. Has the ultimate decision-maker entirely accepted your recommendation?	
18. If not, has the need for further consultations to be carried out before the decision is finally made been considered?	
19. Are you satisfied that, from an objective standpoint, all interested persons have been treated fairly and the decision is a reasonable one?	
20. Are you satisfied the decision-maker's reasons are proper?	
21. Are those reasons apparent from the papers?	
The Letter of Advice	
22. Does the letter properly record the consultations which have been carried out and/or the submissions which have been received?	
23. Does the letter properly record the reasons for the decision either by reference to an attached "approved" recommendation or in the body of the letter itself?	

Knight Frank
Name of Agent

K R Taylor
Name of person completing on behalf of Agent

KNIGHT FRANK
ALEXANDRIA
19 NOV 1999
RECEIVED

Kyeburn Station
R D 3 Ranfurly
Central Otago

November 18 1999

The Manager
Knight Frank LTD
41-43 Tarbert Street
Alexandra

Dear Mr Taylor

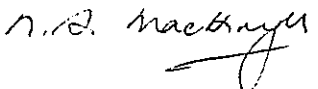
RE: APPLICATION BY OTAGO POWER TO COMMISSIONER OF CROWN LANDS
GRANT OF EASEMENT.(P.O. 197).

The Proprietors of Kyeburn Station have no objection to Otago Power realigning the power line as detailed on the map enclosed with your letter of 29 October 1999.

As outlined verbally to Otago Power Representatives moving the line nearer and adjacent to the Naseby-Dansey Pass Road is more convenient for our operations.

Thank you for your information.

Yours faithfully



N S Mackenzie
Manager

Our Ref: Po197
(A9223)

LAND RESOURCES DIVISION

29 October 1999

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

Tony Perrett
The High Country Tenure Review Manager
Department of Conservation
P O Box 5244
DUNEDIN

Dear Sir

**RE: OTAGO POWER - APPLICATION TO COMMISSIONER OF CROWN
LANDS FOR GRANT OF EASEMENT OVER KYEBURN PASTORAL
LEASE.**

We advise that we act as agent for the Commissioner of Crown Lands with respect to the above matter.

Otago Power Limited has applied to the Commissioner for the grant of an easement pursuant to Section 60(1) of the Land Act 1948 and the Commissioner is considering whether to grant the easement.

The Commissioner's action in deciding whether to grant an easement is a discretionary action by the Commissioner pursuant to Section 18(3) of the Crown Pastoral Land Act 1998, Before taking a discretionary action the Commissioner must consult with the Director-General of Conservation.

Furthermore, in taking the action, the Commissioner must comply with Section 18(2) of the Crown Pastoral Land Act and take into account:

- (a) The desirability of protecting the inherent values of the land concerned (other than attributes and characteristics of a recreational value only), and in particular the inherent values of indigenous plants and animals, and natural ecosystems and landscapes; and
- (b) The desirability of making it easier to use the land concerned for farming purposes.

The Commissioner is also required to take into account the views expressed by any person or body consulted.

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United Kingdom
United States
of America
Zimbabwe

Postal Address:

P O Box 27, Alexandra

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

INTERNATIONAL PROPERTY CONSULTANTS

We are delegated to act on behalf of the Commissioner in initiating certain elements of the consultation process.

We now advise that we wish to consult with you regarding the action of the Commissioner in determining whether to grant an easement pursuant to Section 60(1) of the Land Act 1948. To assist you in the consultation process, we enclose all the information supplied with the application including the draft easement document (yet to be approved by the Commissioner).

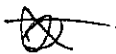
We wish to meet with you or receive from you your views and thoughts relating to the Commissioner's action. In particular the Commissioner wishes to identify any inherent values on the property concerned as set out in Section 18(2)(a) and the likely effect of the activities applied for on such inherent values. You may wish to comment on any other matters you think appropriate.

If you wish to inspect the area concerned, please contact Ken Taylor in the Alexandra office of Knight Frank, who will convey the request to the lessee. Please note that if you wish to discuss this request for the Commissioner's consent with the lessee, this should not be done unless you have first notified Ken Taylor who will then attend the inspection.

Would you please provide your views and advice to Ken Taylor in the Alexandra Office of Knight Frank in accordance with the timelines set down in your Department's Standard Operating Procedure. Upon receipt of your advice, we will convey such advice to the Commissioner for consideration in accordance with the Crown Pastoral Land Act.

We thank you for your assistance.

Yours faithfully
KNIGHT FRANK (NZ) LIMITED



K R Taylor
Manager, Alexandra



Our Ref: Po197
(A9223)

LAND RESOURCES DIVISION

29 October 1999

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

H S, M F, N S, and C M Mackenzie & R N Macassey
C/- N S Mackenzie
Kyeburn Station
Ranfurly
RD 3
CENTRAL OTAGO

Dear Mr Mackenzie

RE: OTAGO POWER - APPLICATION TO COMMISSIONER OF CROWN LANDS FOR GRANT OF EASEMENT

We advise that we act as agent for the Commissioner of Crown Lands with respect to the above matter.

Otago Power Limited has applied to the Commissioner for the grant of an easement pursuant to Section 60 1) of the Land-Act 1948 and the Commissioner is considering whether to grant the easement.

The Commissioner's action in deciding whether to grant an easement is a discretionary action by the Commissioner pursuant to Section 18 (3) of the Crown Pastoral Land Act 1998. Before taking a discretionary action the Commissioner may consult you.

Furthermore, in taking the action the Commissioner must comply with Section 18 (2) of the Crown Pastoral Land Act and take into account:

- (a) The desirability of protecting the inherent values of the land concerned (*other than attributes and characteristics of a recreational value only*), and in particular the inherent values of indigenous plants and animals, and natural ecosystems and landscapes; and
- (b) The desirability of making it easier to use the land concerned for farming purposes.

We are delegated by the Commissioner to initiate certain elements of the consultation process.

We now advise that we wish to consult with you regarding the action of the Commissioner in determining whether to grant an easement pursuant to Section 60 (1) of the Land Act 1948. To assist you in the consultation process, we enclose a copy of the application.

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Italy
Japan

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Nigeria
Singapore
Spain
Sweden

Tanzania
United Kingdom
United States
of America
Zimbabwe

Postal Address:

P O Box 27, Alexandra

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

INTERNATIONAL PROPERTY CONSULTANTS

We wish to meet with you or receive from you your views and thoughts relating to the Commissioner's action. The Commissioner is interested in your views regarding the impact of the proposals on the matters the Commissioner must take into account:

- The desirability of protecting the inherent values of the land.
- The desirability of making it easier to use the land concerned for farming purposes.

You may wish to comment on any other matters you think appropriate.

Would you please provide your views and advice to Ken Taylor in the Alexandra Office of Knight Frank within 20 working days of 29 October 1999 ie by 26 November 1999. The Commissioner is also obliged to consult with the Director-General of Conservation in considering the application for easement. The timeframe of 20 working days is the standard consultation period agreed to between the Commissioner and the Department of Conservation. If you consider this does not provide you with sufficient time please advise and we will ask the Commissioner whether in your case the consultation period should be extended. You will need to ask for an extension before 12 November 1999.

Any payment proposed to be made by the applicant to you as part of any agreement with you regarding a possible grant of easement by the Commissioner will be taken into account by the Commissioner in any subsequent assessment of compensation under Section 177 of the Land Act 1948.

If you have not responded to this letter by 26 November 1999 or by any extended period agreed to by the Commissioner, we are instructed to proceed to prepare and present a submission to the Commissioner regarding the application for an easement, and that submission will note that no response was received from you within the stated timeframe.

Upon receipt of your advice we will convey such advice to the Commissioner for consideration in accordance with the Crown Pastoral Land Act.

We thank you for your assistance.

Yours faithfully
KNIGHT FRANK (NZ) LIMITED



K R Taylor
Manager, Alexandra

DRAFT
22 October 1999

Parties
COMMISSIONER OF CROWN LANDS
(the Grantor)

OTAGO POWER LIMITED
(the Grantee)

DEED OF GRANT OF EASEMENT

 **Chapman Tripp**
Barristers & Solicitors NEW ZEALAND

DEED OF GRANT OF EASEMENT

Date:

PARTIES

- (1) COMMISSIONER OF CROWN LANDS appointed under section 12A(1) of the Survey Act 1986 (*the Grantor*)
- (2) OTAGO POWER LIMITED (*the Grantee*)

BACKGROUND

- A The parcel of land described in the Schedule to this Deed is vested in the Grantor pursuant to the Land Act 1948 (*the Grantor's Land*).
- B The Grantee wishes to establish a new electricity transmission line which passes over the Grantor's Land (*the Line*) as shown on the plan annexed.
- C In order to enable the Grantee to establish the Line the Grantor has agreed to grant a right to convey electricity over those parts of the Grantor's Land described in the Schedule (*the Easement Land*).

BY THIS DEED the parties agree as follows:

1 DEFINITIONS AND CONSTRUCTION

1.1 Defined Terms

In this Deed (including the Background), unless the context requires otherwise:

Commencement Date means the date of this Deed;

Deed means this Deed of Grant of Easement as it may be amended, modified, novated or added to from time to time;

Easement Land means the land vested in the Grantor pursuant to the Land Act 1948 and being the area described in the Schedule over which the Line is intended to pass and on which structures are to be erected;

Grantee means the Grantee, its servants, agents, employees, workers and contractors, and any licensee, lessee or tenant of the Grantee;

Grantor's Land means that parcel of land vested in the Grantor pursuant to the Land Act 1948 and described in the Schedule;

Lessee means the lessee of the Grantor's Land as detailed in the Schedule;

Pastoral Lease means the pastoral lease of the Grantor's Land held by the Lessee and, more particularly described in the Schedule;

1.2 Construction

In the construction of this Deed, unless the context requires otherwise:

Clauses and Schedules: references to a Clause or a Schedule is to a clause or schedule of this Deed;

Headings: headings and subheadings appear as a matter of convenience and shall not affect the construction of this Deed;

Person: a reference to any person includes a reference to the person or representatives, successors and permitted assigns of that person;

Singular, Plural and Gender: the singular includes the plural and vice versa, and words importing any gender include the other gender;

Statutes: references to any statute include any modification or re-enactment of that statute, any legislation enacted in substitution for that statute, and all regulations, orders-in-counsel and other instruments from time to time issued or made under that statute;

Writing: references to "written" and "in writing" include any means of visible reproduction.

2 GRANT OF EASEMENT

2.1 In consideration of:

2.1.1 the sum of \$1.00 paid to the Grantor by the Grantee; and

2.1.2 the Grantee's adherence to the terms of this Deed,

the Grantor grants to the Grantee the right in perpetuity, to convey electricity (*the Easement*) over the Easement Land, commencing on the Commencement Date.

2.2 The Easement will permit but not compel the Grantee to erect and maintain electric power lines and supporting structures for the purpose of conveying electric power over the Easement Land.

2.3 Once power lines and supporting structures have been erected the actual area of the Easement Land and route of the Line will be deemed to be the route agreed by the Grantor and the Grantee.

3 ACKNOWLEDGEMENT BY LESSEE

- 3.1 The Grantee confirms that it has, prior to the date of this Deed, entered into an agreement with the Lessee recording receipt by the Lessee of a payment from the Grantee, which amount is acknowledged by the Lessee to be paid in lieu of the payment of any compensation by the Grantor pursuant to section 60(1) of the Land Act 1948.
- 3.2 The agreement recording the matters set out in clause 3.1 above contains an acknowledgement by the Lessee of its waiver of any right it may have to any compensation from the Grantor in respect of the grant of the Easement.

4 EASEMENT COVENANTS

- 4.1 The Grantee shall have the right from time to time and at all times to:
- 4.1.1 maintain, repair, operate, use, renew, inspect, upgrade, construct, change the size and capacity of, remove and replace;
- 4.1.2 survey and investigate in respect of:

the Line or part of the Line over or under the Easement Land.

For the purposes of this Deed the term "*Line*" includes any wire or conductor used for the transmission of electricity and includes, without limitation, any insulator, tower, pole, ground stay, supporting structure, cross-arm, foundation, casing, tube, tunnel, fixture or other equipment or materials used for supporting securing, enclosing, surrounding and protecting the Line and also includes, without limitation any tower or pole mounted transformers, fuses, fuse holder, automatic switches, voltage regulators, capacitors or other instrument or device used in association with the Line for the purposes of facilitating the transmission of electricity through the Line.

- 4.2 The Grantee shall have the right to convey, send and transmit electricity and communications and all associated signals, waves or impulses over, in, across and through the Line.
- 4.3 The Grantee shall have the right to allow the Line to hang freely over the Easement Land.
- 4.4 The Grantee shall have the right to free and unfettered access over and through the Easement Land for the purpose of carrying on its electricity generation business from time to time and shall at all times have the right of access to and from any part of the Easement Land over the Grantor's Land for the purpose of exercising any of the powers granted under this Deed at any time and with or without any

vehicles, machinery or equipment, tools, cables, and materials of any kind, provided such vehicles are not prohibited by the Grantor, acting reasonably.

- 4.5 The Grantee shall have the right to construct and shall be required to maintain on the Easement Land all such tracks deemed necessary by the Grantee for the exercise of its rights and interests granted under this Deed and causing the minimum of disturbance to the Grantor, its land, forestry and other property in doing so. Where such tracks are constructed, the Grantee shall, as far as practicable ensure that it remains on such tracks when passing over the Easement Land. The Grantee shall comply with any reasonable requests of the Grantor in relation to the appropriate level of maintenance and repair to be carried out on such tracks.
- 4.6 The Grantor shall be required to cut or trim any such trees or vegetation encroaching onto or over the Easement Land to the extent necessary to keep the Line and supporting structures free from interference. Where the Grantor fails to keep the Easement Land free of such trees or vegetation, the Grantee shall have the right to clear, at the cost of the Grantor, the Easement Land of any vegetation or trees (including those which encroach or overhang the Easement Land) by any means which the Grantee may consider necessary in the following circumstances:
- 4.6.1 Where such vegetation or trees breach any statutory or regulatory requirements or standards, or codes of practice, or otherwise breach generally accepted engineering standards as to the minimum clearances from the Line.
- 4.6.2 Where such vegetation or trees impede the Grantee's access over the Easement Land.
- 4.6.3 Where such vegetation or trees are, or are likely to be, in the reasonable opinion of the Grantee a danger or hazard to the safety or operation of the Line, including the air space above, under and beside the Easement Land.
- 4.7 Neither the Grantor or the Grantee shall at any time do permit or suffer to be done any act whereby the rights powers licences and liberties of the other party hereto may be interfered with or affected in any way.
- 4.8 The Grantee shall use all reasonable endeavours to cause as little disturbance and disruption to the carrying on of the normal business operations of the Grantor although the Grantor accepts that this provision shall not prevent, restrict or hinder the Grantee from carrying out its business in a normal manner consistent with the rights granted to it in this Deed.

5 ADDITIONAL OBLIGATIONS OF THE GRANTEE

- 5.1 The Grantee will at all times ensure that whenever it opens and/or unlocks gates on the Grantor's Land it will ensure when leaving the Grantor's Land that such gates are closed, and where applicable, locked.
- 5.2 In the event that damage or disturbance to the Grantor's Land occurs as a result of the Grantee's permitted activity on the Grantor's Land, the Grantee will restore, as far as practicable, the Grantor's Land to its former condition.
- 5.3 The Grantee shall make good any damage caused by it to tracks, fences, gates, drains, buildings or other structures on the Grantor's Land.
- 5.4 The Grantee is obliged to compensate the Grantor to the extent of the Grantor's loss if there is any damage to stock on the Grantor's Land caused by the Grantee's acts or omissions.
- 5.5 In exercise of the rights contained in this Deed, the Grantee will at all times have due regard to the use by the Grantor of the Grantor's Land and will not unduly interfere with stock, crops, trees, fences or other structures or otherwise unduly obstruct the Grantor in its use of the Grantor's Land. While the approval of the Grantor will be obtained in all practical cases prior to the Grantee entering upon the Grantor's Land, the Grantor acknowledges that in emergency or fault conditions, this may not always be possible.
- 5.6 The Grantee shall not enter onto the Grantor's Land for any purpose other than that permitted by this Deed.

6 OWNERSHIP OF THE LINE

The Grantor acknowledges that the Line and all improvements shall remain the property of the Grantee. In the event that the Grantor fails to remove the Line and all improvements at the termination of the grant of the Easement, the Grantor shall be entitled to remove the Line and all improvements and reinstate the Easement Land to its original condition, all at the cost of the Grantee.

7 REGISTRATION

- 7.1 If the Grantee requires the Easement to be registered the Grantee will, at the Grantee's cost, cause a survey of the route of the Easement to be completed and will prepare an easement in registrable form incorporating the terms of this Deed.
- 7.2 The Grantor will sign all plans and documents necessary to register such easement and will make available the titles to the Grantor's Land to enable registration.

8 INDEMNITY

- 8.1 The Grantee indemnifies the Grantor against any loss, claim, damage, costs, expense, liability or proceeding suffered or incurred at any time by the Grantor by reason of any act or omission of the Grantee in connection with this Deed, or any breach by the Grantee of its obligations, undertakings or warranties contained or implied by this Deed.
- 8.2 The Grantee shall enter into and keep current a public liability policy for any claims arising out of this indemnity.

9 EXCLUSION OF GRANTOR'S LIABILITY

The Grantor shall not be liable to the Grantee in contract, tort or otherwise in relation to any aspect of this Deed, regardless of whether such claim arises as a result of direct or consequential loss to the Grantee.

10 GRANTOR'S RIGHTS OF DELEGATION

All rights, benefits and obligations of the Grantor arising under this Deed may be exercised by any person duly appointed by the Grantor PROVIDED THAT the exercise of any such rights, benefits or obligations by that person shall not limit the liability of the Grantor in the performance or observance of the provisions of this Deed.

11 SALE OF LAND

- 11.1 The Grantor agrees that pending registration of the Easement the Grantee may register a caveat over the Grantor's Land to protect its rights under this Deed. The Grantee agrees to consent to any charges which the Grantor wishes to create over the Easement Land.
- 11.2 The Grantor will not sell, lease or otherwise dispose of any interest in the Grantor's Land which could prevent the said Easement being registered in favour of the Grantee and will bind any subsequent holder of an interest in the Grantor's Land to register the said Easement.

12 SURRENDER

The Grantee shall be entitled at any time to surrender at its own cost all or any part of the Easement granted to it pursuant to this Deed. The Grantor shall, at the cost of the Grantee, execute any deed of surrender upon the request of the Grantee.

13 ASSIGNMENT

The Grantee shall be entitled to transfer or assign its rights and obligations under this Deed as to the whole or any parts of the Easement Land. In any such case upon the assignee or transferee becoming liable under this Deed or notifying the Grantor that it has assumed the relevant obligations of the Grantee under this Deed, the provisions of this Deed shall cease to be binding upon the assignor or transferor in respect of the Easement Land but without prejudice to the assignor's or transferor's liability for any antecedent breach of covenant under this Deed.

14 DISPUTES

- 14.1 In the event of any dispute arising between the parties in respect of or in connection with this Agreement, the parties shall, without prejudice to any other right or entitlement they may have under this Agreement or otherwise, explore whether the dispute can be resolved by use of the alternative dispute resolution technique of mediation. The rules governing such techniques shall be agreed between the parties or as recommended by the New Zealand Law Society or as selected by the Chairman of the New Zealand Chapter of LEADR (Lawyers Engaged in Alternative Dispute Resolution).
- 14.2 In the event the dispute is not resolved within twenty eight days of written notice by one party to the other of the dispute (or such further period agreed in writing between the parties), either party may refer the dispute to arbitration under the provisions of the Arbitration Act 1996.

15 NOTICES

All notices and communications under this Deed shall be delivered personally, sent by prepaid post or by facsimile to the following addresses:

Grantor: Commissioner of Crown Lands
[]

Telephone: []
Fax: []

Grantee: Otago Power Limited
92 Charlotte Street
BALCLUTHA

Telephone: 03 418 4950
Fax: 03 418 3228

or to such other address as either party shall notify to the other. Delivery shall be deemed to have occurred when delivered personally or sent by registered mail or facsimile.

16 SEVERABILITY

If any part of this Deed is held by any court or administrative body of competent jurisdiction to be illegal, void or unenforceable, such determination shall not impair the enforceability of the remaining parts of this Deed.

17 NO WAIVER

17.1 A waiver of any provision of this Deed shall not be effective unless given in writing, and then it shall be effective only to the extent that it is expressly stated to be given.

17.2 A failure, delay or indulgence by any party in exercising any power or right shall not operate as a waiver of that power or right. A single exercise or partial exercise of any power or right shall not preclude further exercises of that power or right or the exercise of any other power or right.

18 GOVERNING LAW

This Deed shall be governed by and construed in accordance with New Zealand law.

SIGNED by the Commissioner of)
Crown Lands)

in the presence of:

Name:

Occupation:

Address:

CANADIAN GO POWER LIMITED *by:*

Director

Director

SCHEDULE

1. Description of the Grantor's Land

2. Description of the Easement Land

3. Details of Lessee

4. Details of Pastoral Lease:

Number:

Registration Details:

Land District:



Our Ref: Po197

LAND RESOURCES DIVISION

9 September 1999

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

The Manager
Otago Power Limited
P O Box 109
BALCLUTHA

ATTENTION: DAVE DUNLOP

Dear Sir

RE: EASEMENT - KYEBURN STATION

Thank you for your application for an easement received on 26 August 1999.

Unfortunately your application is still incomplete.

- (1) The draft Deed of Easement has not been adequately completed as the text supplied to you was largely a series of prompts to be used. I am returning a copy with the items to be completed marked. I suggest that you obtain the services of a solicitor to assist with this.
- (2) The application fee is Your cheque is therefore returned for amendment.

Please contact me if you wish to discuss any aspect of this application.

Yours faithfully
KNIGHT FRANK (NZ) LIMITED

K R Taylor
Manager, Alexandra

<p>Corporate Offices</p> <p>Auckland Wellington Christchurch</p> <p>13 Offices Nationwide</p>	<p>International</p> <p>Australia Belgium Botswana China France Germany</p>	<p>Hong Kong India Italy Japan Malawi Monaco</p>	<p>Nigeria Portugal Singapore South Africa Spain Sweden</p>	<p>Tanzania The Netherlands United Kingdom United States of America Zimbabwe</p>	<p>Postal Address: P O Box 27, Alexandra</p> <p>Knight Frank (NZ) Limited (An LPL Group Company)</p> <p>INTERNATIONAL PROPERTY CONSULTANTS</p>
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Appendix A - Advice to person/body seeking easement

Consent of lessee not required

The Commissioner does not require the consent of the lessee to the grant of an easement under the Land Act 1948. All decisions regarding the grant of the easement are reserved to the Commissioner. There can therefore be no suggestion that any indication of consent or otherwise to the grant of an easement by the lessee represents consent by the Commissioner

Consultation

The CCL must consult with the Director-General of Conservation before deciding whether or not to grant an easement. The CCL may instruct the Agent to undertake consultation with affected parties and other bodies or persons, in addition to consultation with the lessee/licensee.

Payment for grant of right

A lump sum fee or royalty payment will have to be paid. This will generally be based on the standard market rate.

Depending on the length of term of the easement the Commissioner may elect (at his or her discretion) to have regular 'rent' reviews as appropriate - for example, 3 yearly rent reviews.

Term of easement

The Crown will in most cases not grant a perpetual easement. In general the maximum term the Crown will grant is approximately 25 years. This will depend on factors such as the natural lifetime of the works whether it be for private use or public good.

Lessee/licencee entitlement to compensation

According to section 60(1) of the Land Act 1948, where the Commissioner grants an easement in respect of land held under lease or licence, the lessee or licencee is entitled to compensation for any reduction in the value of the lease or licence.

Calculation of compensation

The calculation of compensation is governed by section 177 of the Land Act 1948, which provides that claims for compensation are to be dealt with under the Public Works Act 1981. There is, however, an expectation that the parties will attempt to negotiate an agreement before using the procedure set down in the Public Works Act.

Non-exclusive

In general, exclusive arrangements will not be granted by the Crown.

Grantee's Indemnity

If the Commissioner decides to grant an easement (with or without the lessee's or licensee's consent) an indemnity from the Grantee will be required to cover an compensation payable under section 177 of the Land Act by the Commissioner of Crown Lands.

If easements must contain an indemnity to protect the Crown against any liability resulting from the easement or works on the easement area.

Survey

If the Commissioner of Crown Lands agrees to grant the easement sought and the applicant wishes to register the easement, the easement must be defined according to the standards of the Registrar-General of Land for registration before the Commissioner will execute the easement.

Legal check

All easement documents will be required to be legally checked by LINZ Legal Services - the reasonable legal costs of such checking will be met by the applicant.

Amounts payable

The following costs relating to the grant of easement by the Commissioner are recoverable:

- Any fee payable as consideration for the grant of easement, whether as an annual or one-off payment, will be assessed by the Commissioner with regard to the nature of the easement sought and the current market value of the right created by the easement.
- The Land Act Regulations govern the payment of fees for disbursements and production fees and a fee for every deed of grant of easement of plus GST. (Reg 29 Land Act Regulations 1949)
- The Commissioner can recover the cost of work carried out by the Department under the Land Act (including the giving of advice and/or LINZ's legal costs if any) additional to the work necessary to process an accurate and correctly presented application for a document at the hourly rate of plus GST (Reg 37A Land Act Regulations 1949)

Incorporation of terms

The easement prepared by the applicant (if the Commissioner has decided to grant the easement sought) will incorporate the terms accompanying this advice.

Appendix B - Application Form for Easement pursuant to section 60(1) of the Land Act 1948

Name and description of lease/licence: Easement Corridor for the Conveyance of Electricity

Name of applicant: OTAGO POWER LIMITED

Contact details for applicant:

- Address 92 CHARLOTTE ST
BALCLUTHA
- Phone 03 4184950
- Fax 03 4183228

Details of easement proposed

Comprehensive statement of easement right proposed including activity proposed, structures and equipment required to carry out activity: Easement Corridor for conveyance of Electricity for an overhead power line, 10 metres wide with right of access for construction and maintenance of said line.

Term (in years) of easement proposed: _____

Location of easement: _____

(Attach plan of easement accurately illustrating the location of the proposed easement)

To facilitate consideration of your application it is helpful if you provide the following information:

- Have you entered into any discussions with the lessee/licensee regarding the proposed easement? YES/~~NO~~
- If yes, please set out the details of any agreement with the lessee/licensee. If your agreement is in writing, please attach a copy.

Lessee gave verbal approval.

(The consent of the lessee/licensee is not required by the Commissioner in deciding whether or not to grant an easement. However, as the lessee/licensee will be

onsulted about the application as part of the consultation process in the Crown Pastoral Land Act, you may wish to contact the lessee/licensee and advise the lessee/licensee of your intention to seek an easement.)

- Describe the impact of the rights which would be created, if the easement was granted, on the inherent values of the land (s 18(2)(a) Crown Pastoral Land Act 1998)

As the line is to replace an existing line on the property, there should be no affect on the inherent value of the land.

- Describe the impact of the rights which would be created, if the easement was granted, on the use of the land for farming purposes (s 18(2)(b) Crown Pastoral Land Act 1998)

Same as above.

- Describe any possible adverse effects

None

- Where there are any adverse effects, what do you propose to do to reduce or ameliorate them? *N/A*

- If a decision is made by the Commissioner to grant an easement, will you seek to register it?

No

- Is there any other information that you wish to provide in support of the application?

No



Attachment

Terms of easement required by Commissioner of Crown Lands

Parties

Grantor: The Commissioner of Crown Lands pursuant to the Land Act 1948

Grantee: [] CITAGO POWER LIMITED

Background

A full statement of the nature of the easement sought, and the purposes of the easement, and an acknowledgement that the Grantor has agreed the easements sought on the terms and conditions now stated.

Deed of agreement

Interpretation clause

The following terms need to be defined:

- * • Commencement Date
- * • Deed
- * • Easement Land (with reference to a map attached)
- * • Grantee (to include servants, agents, employees, workers and contractors, any licensee, lessee or tenant of the Grantee)
- * • Grantor's Land
- * • Lessee
- * • Pastoral lease (including number, Registration details and Land District)

Construction clause

* A statement of the terms of construction of the Deed

Grant of rights

* A statement of the rights granted with reference to the term of the easement including expiry date. (As a general rule, no grants in perpetuity will be made by the Commissioner)

Consideration

- * • A statement of the amounts payable to the Commissioner for the grant of the rights set out, and including any provisions for review appropriate to the circumstances
- * • A statement that the Grantee observe the obligations imposed on it by the Deed

Payment of compensation to lessee

* A statement to the following effect:

The Grantee has entered into an agreement with the Lessees recording receipt by the Lessee of a payment from the Grantee, which amount is acknowledged by the Lessee to be paid in lieu of

the payment of any compensation by the Grantor pursuant to section 60(1) of the Land Act 1948, and that agreement records the Lessee's waiver of their right to any compensation from the Grantor in respect of the grant of easements in this Deed

(This clause is to be included if the lessee/licensee has not been compensated for reduction of value under sections 60(1) and 177 Land Act)

Obligations of the Grantee

1. Statement of the conditions and obligations governing the grant of rights under the Deed, incorporating:

- * • Remaining on the tracks of the easement land
 - * • Not use vehicles prohibited by the Grantor
 - * • Keep gates locked
 - * • Take reasonable precautions to guard against danger on the Grantor's land
 - * • Not cause damage or disturbance to the surface of the Grantor's land and/or restore to former condition if damage or disturbance as a result of activities permitted by Deed
 - * • If Grantee causes any damage, maintain and repair tracks, fences, gates, drains, buildings or other structures
- * 2. Obligation to compensate if damage to stock on Grantor's land
- * 3. No obstruction of Grantor or agents employees and contractors of the Grantor
- * 4. Prohibition on carrying out any activity other than those permitted by Deed
- * 5. Comply with statutes and regulations

Access Track

* Maintenance provision for access track. When track required by Grantee for permitted activities, Grantee to maintain and repair at its expense. Grantor to decide on standard of maintenance and repair.

Ownership of structures

* If Grantee does not remove structures (to be described) installed for purposes of easement at the end of the term of the easement, Grantor can remove and restore land to pre-easement condition and recover costs incurred from the Grantee

Costs

* Grantee bears all costs for preparation and registration of deed and installation of structures required for purposes of rights created by easement.

Indemnity

* An indemnity incorporating the following terms:

The Grantee hereby indemnifies the Grantor against any loss, claim, damage, costs, expense, liability or proceeding suffered or incurred at any time by the Grantor in connection with this Deed or as a direct result of the exercise by the Grantee of its rights under this Deed, or any breach by the Grantee of its obligations, undertakings or warranties contained or implied by this Deed.

Exclusion of Grantor's Liability

A statement incorporating the following:

No liability for the Grantor in contract, tort, or otherwise in relation to any aspect of this Deed, (extending to consequential loss, anything arising directly or indirectly from the Deed, any activity of the Grantor on the Grantor's land).

Termination

- The Grantor may bring the Deed to any end on notice (period of notice to be fixed by Grantor). On termination, Grantee to remove structures and restore Grantor's land to pre-easement conditions).

- Failure to restore by Grantee, Grantor may restore land, remove structures and recover costs from Grantee.

Registration

The Deed, or a Memorandum of Transfer incorporating the terms of the Deed may be registered and both parties will do all things necessary to enable registration.

Grantor's rights of delegation

A clause incorporating the following:

All rights, benefits and obligations of the Grantor arising under this Deed may be exercised by any person duly appointed by the Grantor PROVIDED THAT the exercise of any such rights, benefits or obligations by that person shall not limit the liability of the Grantor in the performance or observance of the provisions of this Deed.

Disputes

A suitable disputes resolution clause incorporating reference to the over riding application of section 17, Land Act 1948.

Notices

A suitable notices provision.

Severability

A clause to the effect that, where any part of the Deed of Easement is held to be illegal, void, or unenforceable, such determination shall not impair the enforceability of the remaining parts of this Deed which shall remain in full force.

Any other clauses

Any other clauses required by the Commissioner if appropriate with regard to the land and the activity to be undertaken

Attestation clause

SIGNED by the Commissioner)
Of Crown Lands)
)
)
in the presence of)

OTAGO POWER LIMITED

SIGNED by [state name])
)
in the presence of)

[Signature]
.....
CHIEF EXECUTIVE *(Murray)*
[Signature] *(David Duntop)*

(execution by Grantee to be in accordance with Property Law Act 1952



Our Ref: P0197
(A9223)

LAND RESOURCES DIVISION

11 August 1999

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

The Manager
Otago Power Limited
P O Box 109
BALCLUTHA

ATTENTION: DAVE DUNLOP

Dear Sir

RE: 11 KV RECONSTRUCTION, UPPER KYEBURN AREA

I refer to your letter of 28 July 1999 to Land Information New Zealand, Dunedin. This letter has been referred to me as an enquiry for consent of the Commissioner of Crown Lands to an easement over pastoral lease land.

In order to progress this matter please complete the attached easement application form and submit the required application fee of *(plus GST)*. I also enclose for your information some guidance notes provided by the Commissioner of Crown Lands.

Please return the completed application to this office and we will report to the Commissioner of Crown Lands on the matter.

Please contact me if you require further information.

Yours faithfully
KNIGHT FRANK (NZ) LIMITED

K R Taylor
Manager, Alexandra

Corporate Offices

Auckland
Wellington
Christchurch

13 Offices Nationwide

International

Australia
Belgium
Botswana
China
France
Germany

Hong Kong
India
Italy
Japan
Malawi
Monaco

Nigeria
Portugal
Singapore
South Africa
Spain
Sweden

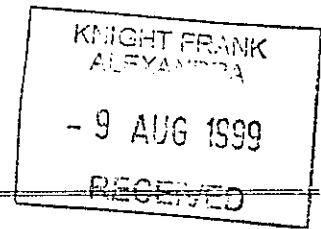
Tanzania
The Netherlands
United Kingdom
United States
of America
Zimbabwe

Postal Address:
P O Box 27, Alexandra

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

INTERNATIONAL PROPERTY CONSULTANTS

A9223



INTEROFFICE MEMO

DATE: AUGUST 6, 1999
TO: KEN TAYLOR
FROM: GEOFF HOLGATE
SUBJECT: REQUEST FOR EASEMENT

Attached copy of letter from LINZ refers.

Please check that the request/application relates only to pastoral lease land. If it relates to other land please advise LINZ accordingly, and advise them that we will require specific instruction to undertake work on other than pastoral lease land.

Please process the request/application over pastoral lease land as per CPL Standard 2 Easements on Crown Pastoral Land.

Yours faithfully
KNIGHT FRANK (NZ) LIMITED

A handwritten signature in cursive script that reads "Geoff Holgate".

GEOFF HOLGATE
National Manager, Land Resources

Our Ref: -CPL/04/11/12495-ZCH

Your Ref:

Noted	CAS 8/3
Action by	CM
Recorded	
By/Up date	
File Ref	



4 August 1999

Mr G Holgate
Knight Frank (NZ) Limited
P O Box 142
Christchurch

Dear Sir

Kyeburn Station : 11 KV Reconstruction

I enclose a copy of letter from Otago Power in respect of a request to re-route an existing power line on Kyeburn Station.

Would you please consider the proposal and provide a recommendation.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Murray Mackenzie'.

Murray Mackenzie
Crown Property Contracts

Christchurch Regional Office
 Torrens House
 195 Hereford Street
 Private Bag 4721
 DX WP20033
 Christchurch
 New Zealand
 Tel 64-3-379 9793
 Fax 64-3-365 9715
 OOI 64-3-364 5944
 E-mail
 mmackenzie@linz.govt.nz
 Internet
 http://www.linz.govt.nz

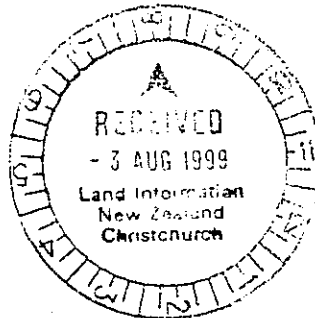


**OTAGO
POWER
LIMITED**

92 Charlotte Street, P.O. Box 109 Balclutha,
Phone 03 • 418 4950 Fax 03 • 418 3228
Email: opl@otagopower.co.nz

Wednesday, 28 July 1999

The Manager
Land Information New Zealand
John Wickcliffe House
265 Princes Street
Dunedin



Dear Sir/Madam,

Re: 11kV reconstruction, Upper Kyeburn Area

This Company plans to reroute an existing Power Line, as shown on the enclosed plan, and we wish to create an easement corridor over the property.

This property is Crown Land and is currently leased by Mr N. S. Mackenzie of Kyeburn Station.

If you have no objections to our proposal, could you please sign and return both copies of the Deed of Grant.

If you need further information or have any questions, please call me in the first instance.

Thank you for your co-operation.

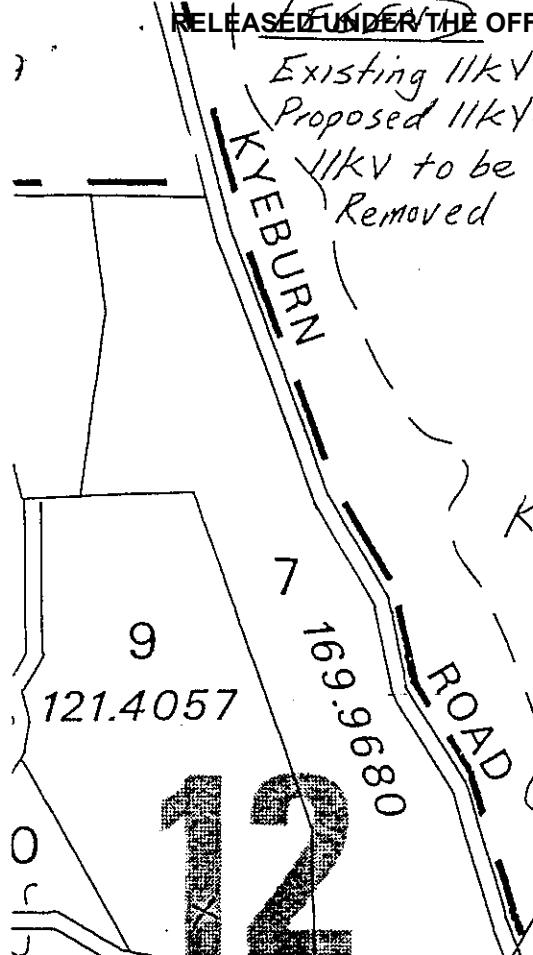
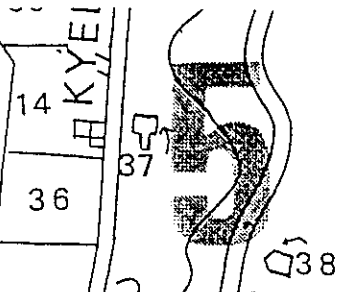
Yours faithfully,

Dave Dunlop
DESIGN OFFICE SUPERVISOR

Ack
To RIF &
process in
terms of Standards,
instructions - file
AD

Existing 11kV
Proposed 11kV
11kV to be
Removed

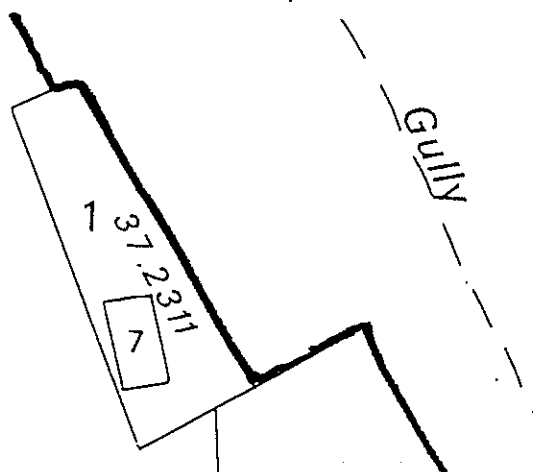
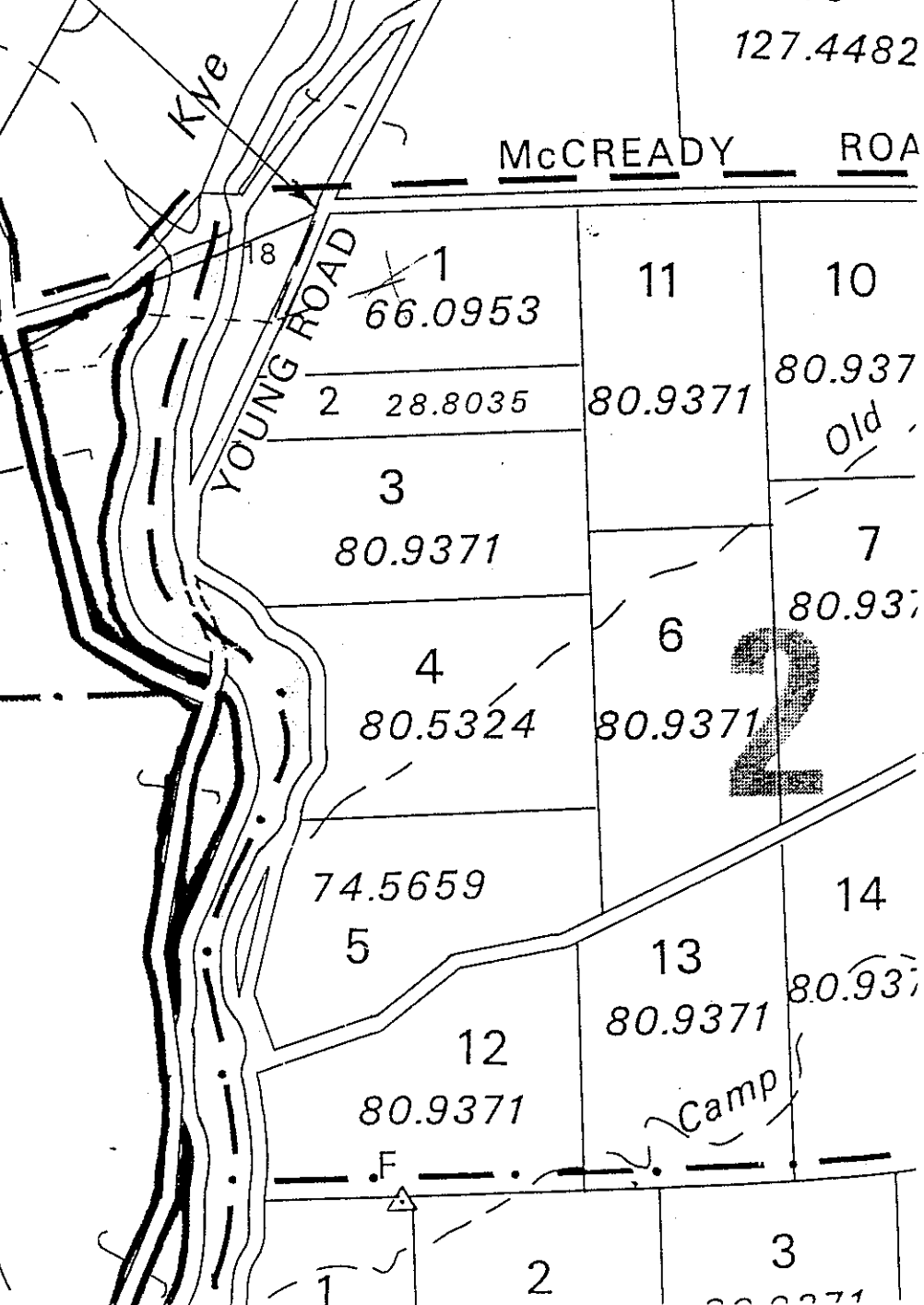
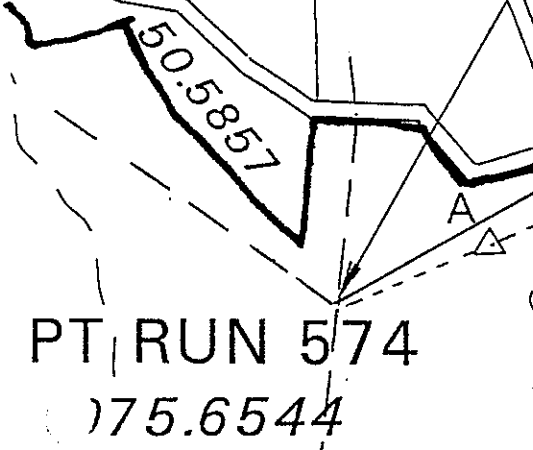
33
140.8053



KYEBURN S.D.

New 11kV line route

McCREADY ROAD



Parties
OTAGO POWER LIMITED
[the "Company"]

LAND INFORMATION NEW
ZEALAND

[the "Owner"]

DEED OF GRANT

DEED OF GRANT

PARTIES

- (1) **OTAGO POWER LIMITED** at Balclutha [the "Company"]
- (2) The person named and described in the First Schedule hereto together with all assignees [the "Owner"] being the registered proprietor(s) of the land described in the Second Schedule hereto [the "Land"]

BACKGROUND

- A The Company wishes to establish a new electricity transmission line [the "line"] as shown on the plan annexed which line passes over the land.
- B The easement corridor over which the line is to pass and on which structures are to be erected is set out on the attached plan but the final easement line will be determined when full plans for the line have been determined.
- C Under this agreement the Owner agrees to grant the right of the Company to enter into the Land, to finalise the easement line and to create a perpetual easement in favour of the Company over the land.

BY THIS DEED the parties agree as follows:

1. THE GRANT

- 1.1 The Owner grants to the Company the right in perpetuity to an easement over part of the Land for the purpose of erecting and maintaining thereon electric power lines and supporting structures for the purpose of conveying electric power ("the Easement").
- 1.2 Once power lines and supporting structures have been erected the actual route will be deemed to be the route agreed by the Owner and the Company.
- 1.3 The Easement will permit but not compel the Company to erect and maintain electric power lines and supporting structures for the purpose of conveying electric power over that part of the Land described in the Easement.
- 1.4 The Easement will require the landowner to cut or trim any vegetation or trees encroaching onto or over the Easement to such extent as may reasonably be necessary to keep electric power lines and supporting structures free from interference.
- 1.5 The Easement will permit the Company and its servants and agents reasonable access with or without vehicles and machinery over other parts of the Land for

DEED OF GRANT

the purpose of erecting or maintaining the power lines supporting structures pursuant to clause 1.3 or cutting or trimming vegetation or trees pursuant to clause 1.4.

- 1.6 In exercise of the access rights contained in clause 1.5 the Company will at all times have due regard to the use by the Owner of the Land and will not unduly interfere with stock, crops, trees, fences or other structures and will make good any damage to the Land as soon as reasonably practicable. The value of any damage to be assessed by mutual agreement or the services of an independent assessor. The approval of the Owner of the Land or Occupier will be obtained in all practical cases prior to entering upon the property. In emergency or fault conditions, this may not always be possible.

2 REGISTRATION

- 2.1 If the Company requires the Easement to be registered the Company will at its cost cause a survey of the route of the Easement to be completed and will prepare an easement in registrable form incorporating the terms of this agreement.
- 2.2 The Owner will sign all plans and documents necessary to register such easement and will make available the titles to the Land to enable registration.

3 SALE OF LAND

- 3.1 The Owner agrees that pending the creation of the easement the Company may register a caveat over the land to protect the rights under this agreement. The Company agrees to consent to any charges which the Owner wishes to create over the Land.
- 3.2 The Owner will not sell, lease or otherwise dispose of any interest in the Land which could prevent the said easement being created in favour of the Company and will bind any subsequent holder of an interest in the Land to create the said easement.

4 INDEMNITY

- 4.1 The Company agrees to indemnify and keep indemnified the Owner against all claims demands actions proceedings and losses suffered by the Owner by reason of any negligence act or omission in carrying out the erection and maintenance of the line. The Company shall enter into and keep current a public liability policy for any claims arising out of the above indemnity.

DEED OF GRANT

SCHEDULE OF LAND

Full description of Land over which easement is to be granted

PT RUN 574 BLOCK 12 KYEBURN SURVEY DISTRICT

DEED OF GRANT

SECOND SCHEDULE

Full names, addresses and occupations of owners of the Land

Date:

Signed by **THE OWNER**

in the presence of:

Name:

Occupation:

Address:

DEED OF GRANT

SIGNED for and on behalf of
OTAGO POWER LIMITED

by:

Date:

Chief Executive Officer

NDR009
Issue:1
Date: 10-3-99

APPENDIX 2

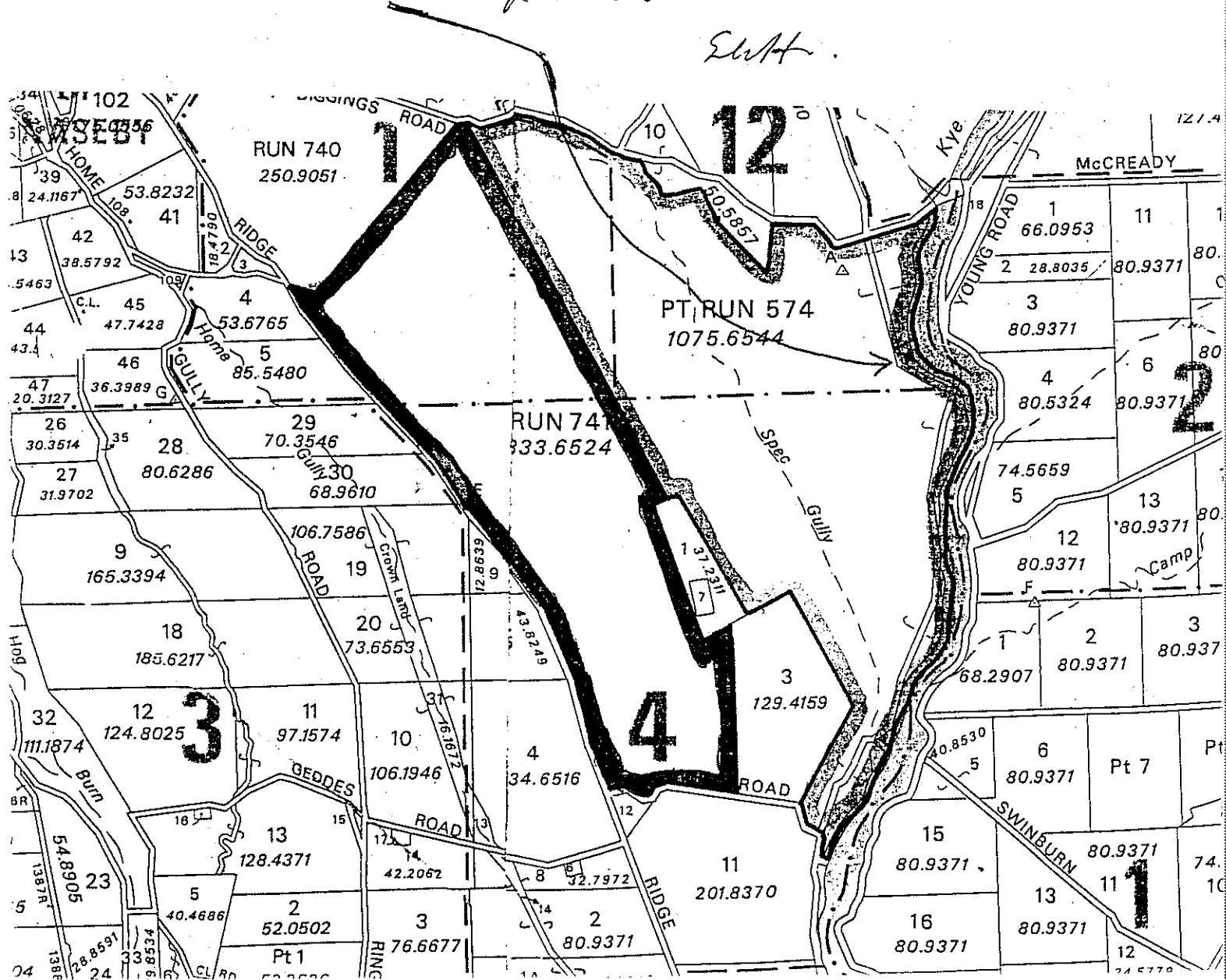
File Note

Po 197 Kyeburn Str.

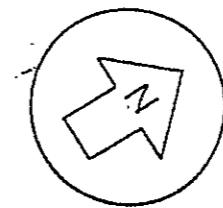
6 April 2000

Phone call from Mick McKenzie (- lessee of P. 197) who is aware that ~~the~~ a contractor acting for the District Council wants to extract gravel from a gravel pit adjacent to (Little) Kyeburn Road on the Po 197 Pastoral Lease. Mick is to inform the District Council they will need to apply for an access agreement from CCC and mining licence from Ministry of Commerce. Site of gravel pit is located at the red cross x on map below.

SLH



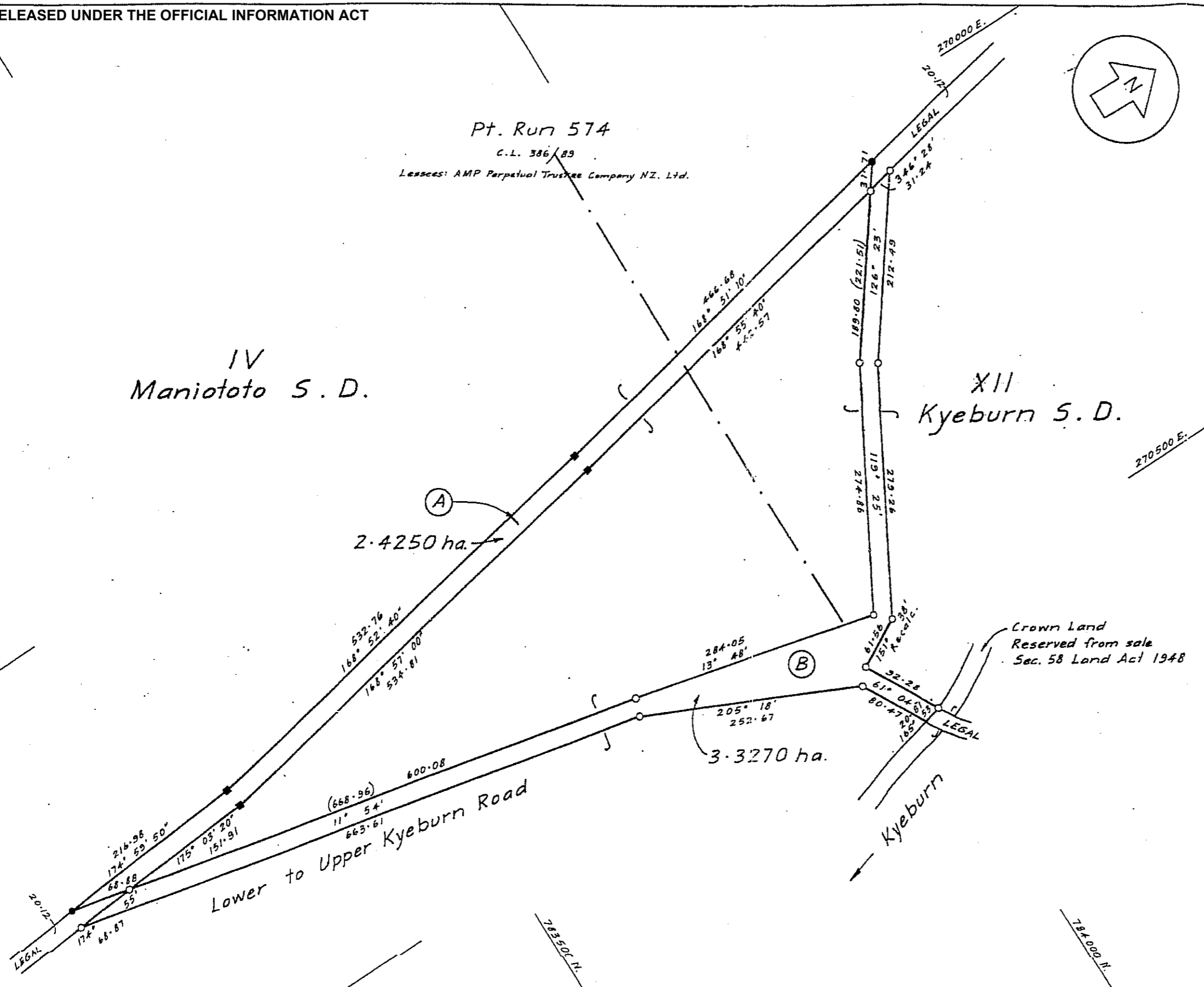
APPENDIX 3



Pt. Run 574
C.L. 386/89
Lessees: AMP Perpetual Trustee Company NZ. Ltd.

IV
Maniototo S.D.

XII
Kyeburn S.D.



Approvals		
Schedule		
Land to be Taken for Road		
Shown	Area	Description
A	2.4250 ha.	Pt. Run 574. Blk. XII Kyeburn S.D. Blk. IV Maniototo S.D. Pt. C.L. 386/89
Road to be Stopped		
Shown	Area	Description
B	3.270 ha.	Adjoining Pt. Run 574 Blk. XII Kyeburn S.D. Blk. IV Maniototo S.D. Pt. C.L. 386/89
Datum: Geodetic 1949 Circuit: Observation Point Coordinates from False Origin 700000 mN. 300000 mE.		
Total Area 5.7520 ha.		
Comprised in C.L. 386/89 Pt.		
I. George Robertson Elder Registered Surveyor and holder of an annual practicing certificate for who may act as a registered surveyor pursuant to section 25 of the Survey Act 1986 hereby certify that this plan has been made from surveys executed by me or under my directions, that both plan and survey are correct and have been made in accordance with the Survey Regulations 1972 or any regulations made in substitution thereof. Dated at Alexandra this 22... day of ... May ... 1989 Signature: <i>G.R. Elder</i>		
Field Book 2379 p. 23-24 Traverse Book 243 p. 179 Reference Plans SO 993, 783. D.P. 20707		
Examined <i>[Signature]</i> Correct <i>[Signature]</i>		
Approved as to Survey 31.17.89 <i>[Signature]</i> Chief Surveyor		
Deposited this ... day of ... 19...		
District Land Registrar		
File 9/291 Received 7.6.89 Instructions		SO 23063

LAND DISTRICT Otago
Survey Blk. & Dist. XII Kyeburn S.D.
IV Maniototo S.D.
NZMS 261 Sheet 1/41 Record Map No. R.M. 407,788

Plan of Land for Road
and Road to be Stopped

TERRITORIAL AUTHORITY Maniototo County
Surveyed by M. George & Elder
Scale 1: 3,000 Date May 1989

ID 141/1.3

W.N. HAWKEY, SURVEYOR GENERAL, DEPARTMENT OF SURVEY AND LAND INFORMATION, NEW ZEALAND

2596

FORM 015

6ML 495TR