

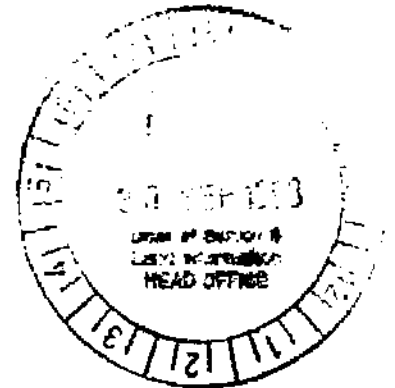
Our Ref: P250/1

Your Ref: 5200-014-001



27 September 1993

Commissioner of Crown Lands  
Office of Crown Lands  
Department of Survey & Land Information  
CPO Box 170  
WELLINGTON



Dear Sir

**RE: REVIEW OF TENURE - WAIORAU**

Thank you for your fax of 9 March 1993.

The application for tenure review was advertised in the Otago Daily Times, Southland Times, Mountain Scene and Mirror newspapers between 10 and 17 April 1993. The advertising was accompanied by press releases. Details of the proposal were also sent to the 46 parties who had previously provided submissions in relation to Waiorau.

We are pleased to provide the following report on the matters raised and revised recommendations. We have not re-submitted the property details contained in our earlier report.

### **PUBLIC SUBMISSIONS**

Twenty nine submissions were received from a variety of individuals, institutions and groups. These are summarised in the attached schedule. The vast majority (24) supported the proposal, two with some suggested changes. A further four sought clarification or changes to the proposal. There was only one out right objection, and even in this case clarification or changes to the proposal would have made it more acceptable. Most groups saw merit in the proposal but indicated that they would not like to see Waiorau setting a precedent in the tenure change process.

Following the closing date for public submissions, Landcorp and DOC met with representatives from PANZ, PLC, RFBPS, FMC and OTMC to discuss their concerns. These discussions were extremely fruitful. Although they had indicated a hard line position on paper, they were open to discuss the issues and indicated that they would like to see a deal occur on the Pisa Range. It is important to note however that there are broad philosophical differences of opinions involved and these may not be totally reconcilable. From the submissions and discussions four major areas of concern emerged. These are:

ALEXANDRA OFFICE  
4 LIMERICK STREET  
PO BOX 27  
ALEXANDRA NZ  
PHONE 01-448 8928

- Freeholding above 1,000m and Class VII land
- Public access
- Terms and extent of the recreation permit
- Conservation Covenant

Following on from the N.G.O's meeting Landcorp and DOC met Mr Lee to discuss the submissions and the four major points above and to try and resolve these issues.

## **SPECIFIC ISSUES**

### **1 FREEHOLDING, ABOVE 1,000 M AND OVER THE CLASS VII LAND**

The N.G.O's have a philosophical view point that no Class VII or VIII or land over 1000 m can be classified in a category that would allow it to be freeholded. In the discussions there was however some acceptance for the main activity area being recognized as "Commercial Land".

The Nordic skiing, and vehicle testing and other commercial uses generally occur between the Meg River and the snow line fence at the top of the front face. This area meets the criteria of commercial land and indeed will be identified as such in the Queenstown Lakes District Plan.

Below the snowline fence the majority of the land has been OSTD at some point and with the presence of hieracium on the area, inputs will continue. Therefore while this area does include an area of Class VII land it is not at risk from farming, is capable of improvement and can be considered farm land. I also note that Land Settlement Board and Catchment Authority policies relating to land unsuitable for reclassification generally added the tag "severely eroded" to Class VII. The land proposed as farm land in this instance is in no way 'severely eroded'.

We are therefore happy to promote area "b" on the attached plan as "commercial land" and land below this as "farm land". We will then recommend these areas as freehold. Area "B" will also be subject to a conservation covenant with no grazing and control of development for landscape purposes.

TABLE 1

## LAND USE CAPABILITY

	Class IV	Class V	Class VI	Class VII	Class VIII	Total	%
<b>DOC Land</b>							
Unencumbered	0	5	0	1921	1692	3618	53
Rec Permit	<u>0</u>	<u>0</u>	<u>0</u>	<u>315</u>	<u>85</u>	<u>400</u>	<u>6</u>
<b>Total</b>	0	5	0	2236	1777	4018	59
<b>Freehold</b>							
Commercial (with covenant)	0	30	0	975	45	1050	16
Farmland (with covenant)	0	0	80	70	0	150	2
Farmland	<u>232</u>	<u>0</u>	<u>835</u>	<u>468</u>	<u>0</u>	<u>1535</u>	<u>23</u>
<b>Total</b>	<u>232</u>	<u>30</u>	<u>915</u>	<u>1513</u>	<u>45</u>	<u>2735</u>	<u>41</u>
<b>TOTAL</b>	<b>232</b>	<b>35</b>	<b>915</b>	<b>3749</b>	<b>1822</b>	<b>6753</b>	<b>100</b>
		3%	1%	14%	55%	27%	100%

## 2 PUBLIC ACCESS

A number of groups raised the issue of a road toll for parties who wished only to use the proposed DOC estate. They felt it was unfair that they should pay the full field fee of \$20 per person. On previous occasions this issue had been debated at length with the lessee. No solutions had been reached because Mr Lee indicated that the road servicing the field was 75% of his total investment on the hill and was an on going major cost. Therefore in theory a road toll should be \$15 per person. He was also concerned about vehicles being left on the hill overnight and uncertainty of the owners where abouts. These latter points are management issues that still have to be resolved, however Mr Lee has agreed to move on the road toll issue in order to be seen to be realistic and will therefore charge groups wishing to go directly on to the DOC estate a commercial road toll only. These groups will be allowed to park on the field and move directly through his Nordic ski field on to the DOC estate. This arrangement for public access up the road to the DOC estate will be formalised by a legal easement.

Free foot access up the road will not be available, as the Lessee considered the access up Tuohys Gully to provide better foot access. Access up the road is thirteen kilometres. Also people walking up any ski field road are regarded as a public safety risk with vehicles moving up or down a narrow icy road.

Mention in the submissions and discussions highlighted that Tuohys Gully was in fact legal access already and therefore the lessee was giving nothing away. While theoretically correct Mr Lee was keen to make this access practical and workable. This has been achieved with his cooperation and that of his adjoining neighbour.

Also the Meg hut will become a DOC hut which makes the southern end of the range very accessible. From the Meg hut it is approximately 1 hour to the tops, and from here the whole range is very accessible. Some submissions indicated the opposite but from having walked the country we hold a contrary view. It was also obvious some submitters were not familiar with the range, as they had not been there for some time.

Free access to the remaining huts was also requested by some groups, but others indicated that this was not an issue. The other huts will be available to the public, but they will have to book and pay the Waiorau Nordic ski area a normal hut fee. No huts will be locked, so in emergency situations they will be freely available.

In summary the easement will cover the following:

- 1 The easement will be over the formed road access from the legal road at the Waiorau homestead to the skifield car park for vehicular traffic and from the skifield car park to the Meg River for foot access only.
- 2 The access will be available at all times when it is reasonable to have the road open. Road opening is subject to weather and surface conditions.
- 3 Access on the road will be available on payment of a commercial road toll.
- 4 All vehicles on the property are there at vehicle owners risk and the land occupier accepts no liability for damage. Unoccupied vehicles left overnight in the car park must have displayed in the windscreen a card giving the intentions of the occupier(s).
- 5 For safety reasons pedestrian use of the road is not permitted.

### 3 RECREATION PERMIT

This document caused concern because it had not been fully explained to the principle groups. It was also a late departure from an earlier proposal for a concession under the Conservation Act.

The Recreation Permit was seen as extending over the whole DOC estate under Waioarau exclusive use. It was explained that the Recreation Permit was in fact for a spur below the Bob Lee hut, (area "C" on the attached plan). Public access will be freely available through the permit area.

If any extension to the Recreation Permit is required it would go through the normal DOC process. This explanation removed concerns about the Recreation Permit. A draft recreation permit is attached to this submission.

#### **4 CONSERVATION COVENANT - AREA B**

This area under the proposal will be freehold land under a Conservation Covenant that will protect the ecologically and landscape values. Concern was expressed about the validity of a covenant and its enforceability, to date DOC does not share these concerns.

Three groups argued for a special lease over this area as they were opposed to freeholding. It was argued that the majority of the area had high ecological values and should be given special treatment.

DOC had previously reassessed the ecological values and redefined the RAP. This RAP boundary now include all the land on the true left of the Roaring Meg including similar plant communities that exist on the proposed freehold land. One area of wetlands at the northern end of the property still has high conservation values and is treated very specifically under the proposed Conservation Covenant. The remaining area has landscape value, but from a pure conservation view point it is highly modified, with a series of tracks and huts scattered throughout. The covenant which seeks to manage future work will protect the broader public interest.

#### **5 CONCERNS RAISED BY MR LEE**

Two other concerns were raised by Mr Lee during discussion.

The first related to removal of human waste. Mr Lee has already noticed this as a concern where parties camp/snow cave away from facilities. In other parts of the world this has become a major issue. DOC recognise this as a management issue on their estate and will address it in this situation. Options include restricting overnight camps to the vicinity of facilities, requiring waste to be buried and requiring waste to be removed to disposal sites.

The second related to the transfer of the Meg Hut to DOC. This transfer will be tied to assurances by DOC relating to removal of waste, including the toilets, maintenance of the facility and personal use by the Lee family.

## GENERAL COMMENTS

The question often raised is why a special lease does not cater for Mr and Mrs Lees requirements. The answer is simple as there is a need for security of tenure to raise capital against. There is no major company to offer collateral. Other ski areas may operate on leases, but have a major company backing them up (eg Mount Cook Line, Helicopter Line). Mr Lee requires freehold title as security to protect his asset and to move into the future.

Under freehold title this land will be zoned commercial by the Queenstown Lakes District Council, and consent procedures will apply. The Council are adamant that future development must comply with District Plan provisions. It is our opinion that a Conservation Covenant and the Resource Management Act will provide adequate protection for this freehold area.

The covenant document is in draft form and will be reworked to meet the management requirements highlighted during the public process. It has also been agreed with Mr Lee to extend the covenant boundary down to the snowline fence to give greater protection over the hill.

The discussions highlighted a genuine desire by all parties to see this deal implemented. Mr Lee believes that all parties have a good deal, and at one point hinted he was disinclined to move from his original position. However in discussing the issues he believed it was beneficial to accommodate some of the public wishes. These have been outlined above.

It is important to note that Otago Conservation Board at its meeting of 27 November 1992 supported this tenure change proposal and the minutes express a degree of delight by several board members. The Regional Conservator of DOC in Otago, Jeff Connell believes this is an excellent deal and is very keen to see it progress. The implementation of this tenure exchange would be a flag ship for all concerned.

It is also worth noting the overwhelming support from the public. Of the 29 submissions received, 24 were in favour of the proposal including some of the public groups.

Finally discussions with Mr and Mrs Lee and the N.G.O's have resolved many concerns to a point where we believe this is an excellent deal for the public, conservationists and the Lessee. We are aware that there will still be some objections, but short of abandoning a very worthwhile outcome these remaining concerns cannot be met. We are confident that the proposal can proceed within the intent of the Land Act 1948.

Recommendation submitted  
for approval please  
having regard to lands  
advise dated 21/10/93, 15/2/  
and 28/2/94. Bullen

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**RECOMMENDATIONS**

- 1 That you accept the surrender of Po250 Waiorau from 31 December 1993 under Section 145, Land Act 1946.
- 2 That you approve the issue of a recreation permit under Section 66A Land Act 1948 over the area shown as "C" on the attached plan per the attached draft.
- 3 That an area of approximately 4018 hectares be reserved under Section 167, Land Act 1948 and transferred to the Department of Conservation.
- 4 That an area of approximately 1685 hectares be reclassified as farm land, and a further area of approximately 1050 hectares be reclassified as Commercial Land in terms of Section 51, Land Act 1948.
- 5 That the area of 2735 hectares be preferentially allocated to Nordic Ski Area Ltd under Section 54, Land Act 1948 on freehold title for a purchase price of \$40,000 plus GST.
- 6 That you agree to a conservation covenant over areas "A" and "B" shown on the attached map as negotiated between the Department of Conservation and Mr Lee.
- 7 That Landcorp arrange survey.
- 8 That the lessee meet all survey costs (estimated at \$34,000 plus GST) associated with the proposal and obtain the necessary resource consents at it's cost.
- 9 That RPo11 be cancelled as at 31 December 1993.

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Submission Prepared by:

*Kenneth R Taylor*

*Mike Clare*

**K R Taylor  
Manager  
LANDCORP PROPERTY LIMITED**

**Mike Clare  
for Regional Conservator  
DEPARTMENT OF CONSERVATION**

Attached: Plan  
Draft Recreation Permit  
Draft Conservation Covenant  
Copy of Public Comments

**APPROVED**  
*J. Edwards*  
COMMISSIONER CROWN LANDS  
1 MARCH 94