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## LGOIMA

When releasing responses to previous LGOIMA requests, names and contact details of individual requestors will be withheld to protect their privacy.

Information requested by the media, lobby groups, public sector organisations and MPs will always be published, while information specific to an individual or their property will not generally be published.

<b>Request from:</b>	Private Individual
<b>Information requested:</b>	Ross recreation reserve
<b>Response from:</b>	Simon Bastion, Chief Executive

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Private Individual  
Via Email:

Dear Private Individual

**Official information request for official agreements pertaining to sign-off of the Ross Recreation Reserve and Grimmond Avenue at the cessation of Birchfields Ross Mining operations.**

I refer to your official information request dated 02 December 2020 for official agreements pertaining to sign-off of the Ross Recreation Reserve and Grimmond Avenue at the cessation of Birchfields Ross Mining operations.

As stated on 9 December we partially transferred your request to the West Coast Regional Council under section 12 of LGOIMA as aspects dealt with by the West Coast Regional Council are not held by us but are believed to be held by the West Coast Regional Council.

Part of the information you have requested is enclosed.

However, we have decided to refuse your request for information which relates to official agreements pertaining to sign-off of the Ross Recreation Reserve and Grimmond Avenue under section 17 (e) of LGOIMA as the document alleged to contain the information requested does not exist or, despite reasonable efforts to locate it, cannot be found.

There is no charge in supplying this information to you.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or freephone 0800 802 602.

**Council has adopted a Proactive Release Policy and accordingly may publish LGOIMA responses on the Council Website at <https://www.westlanddc.govt.nz/lgoima-responses>.** The collection and use of personal information by the Westland District Council is regulated by the Privacy Act 2020. Westland District Council's Privacy Statement is available on our website [here](#)

If you wish to discuss this decision with us, please feel free to contact Mary-anne Bell, Senior Administration Assistant at [LGOIMA@westlanddc.govt.nz](mailto:LGOIMA@westlanddc.govt.nz), 03 756 9091.

Sincerely,



**Simon Bastion** | Chief Executive

SB/MB

Encl: 20.21.41 File Note

# MEMORANDUM

**DATE:** 18 February 1999  
**TO:** General Manager  
**FROM:** Manager: Planning & Regulatory

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## COMPLAINT OF I. GILL: OMBUDSMAN

1. Mining Licence 32 3273 was granted on the 15 December 1994 for a term of 30 years. (Note that this is a mining licence and not a mining permit.)
2. Attachment 'A' shows a diagram of the licence area outlined in yellow, the Jones Creek storm channel shown in red and the Gill residence shown in blue. The proposed access to the dump is shown by a black dotted line and the approximate dump location is indicated in green. Attachment 'A' also includes the conditions under which Mining Licence 32-3273 was issued.
3. Attachment 'B' is the conditions of consent of the Minister of Conservation. Much of the land in Mining Licence 32-3273 is Conservation land and this is attached for your information only and it not necessarily germane to the complaint by Gill.
4. Attachment 'C' is a copy of a letter from Ian Gill dated 7 June 1996 in which he asked for information concerning the status of the Thomas mining application (ML 32-3273). The attachment also has a copy of my response to the Gill request.
5. Attachment 'D' is a series of letters and enclosures relating to the construction of the access to the dump and associated issues.
6. Attachment 'E' is the Land Information Memorandum that was issued to Gill in April 1996.
7. Condition 27 of the licence provides that access to the Ross dump is to be maintained at all times. This was required in order that parts of Grimmond Avenue could be mined.
8. Condition 20 of the licence provides that no mining activities are permitted within 10 metres of the trees abutting the western boundary of the Ross recreation reserve between Grimmond Avenue and the northern boundary of Section 513. This area is essentially the Jones Creek storm channel. (Please note the Mining Licence includes the area designated as the Jones Creek storm channel.) The Jones Creek storm channel is vested in the Crown.

9. Birchfields Ross Mining Limited undertake the mining on behalf of R. Thomas who is the holder of the licence.
10. Birchfields Ross Mining Limited proposed to position the temporary access to the dump over Jones Creek storm channel. Mr Gill was of the view that the access to the dump constituted mining activities and accordingly could not proceed in that position because it would be within 10 metres of the trees to which condition 20 refers.
11. Mr Gill phoned me on the 24 November 1998 to tell me that the mining activities had commenced within 10 metres of the trees.
12. A meeting was held onsite on the 25 November 1998. Present were: Mr Gill, Mrs Gill, Mr Birchfield, Miles Rowe (West Coast Regional Council Consents Officer) and myself. I was there for the sole purpose of ensuring that the amenity values relating to the trees were protected.
13. The meeting on the 25 November resolved that the access would be 10 metres east of the trees on the Ross recreation reserve.
14. Representations were made to Council by Resource Management Services concerning this decision and the way in which both the West Coast Regional Council and the Westland District Council were required to administer the licence and ensure compliance with the conditions (refer to Attachment 'D').
15. The outcome of these representations are fully explained in my letter to Resource Management Services dated the 22 January 1999. I also wrote to Ian Gill at the same time and advised him as to how the conditions 20 and 27 should operate. Essentially the decision was arrived at having a particular regard for Section 108 of the Crown Minerals Act.
16. It is important to appreciate that the land is being mined by virtue of a mining licence issued pursuant to the Mining Act 1971. There are no resource consents in place over any of the land for any of the activities occurring within ML 32-3273. The regimes associated with Mining Licences were not the 'consultative' regimes are that now more appropriately part of the Resource Management procedures. The conditions to the Mining Licence do not appear to require specific permission from the Council prior to any access being put in to maintain access to the Ross dump.
17. Mr Gill's specific complaint '*That Council withheld information about the roading project when requested to provide documentation*' is refuted and there is correspondence relating to this matter towards the rear of Attachment 'D'.
18. Attachment 'E' is the LIM that Gill considers to be deficient. The Land Information Memorandum has been issued pursuant to Section 44A of the Local Government Official Information and Meetings Act 1987. Section 44A does not provide for a Council to collect and maintain and disclose information relating to other properties other than to which the Land Information Memorandum refers. Section 44A does not appear to require a Council to provide information relating to undertakings that may 'affect land or the use

and enjoyment of such land' where those undertakings occur on land other than that referred to in a LIM. In any event, the mining operations would have been self evident to Gill. ML 32-3205 immediately adjacent to ML 32-3273 was in full operation and when Gill purchased his dwelling in 1996 work on ML 32-3273 had commenced. The mining operations could be readily seen and heard which could have prompted further enquiry at the time of the purchase.

19. Mr Gill has suggested that Council withheld information relating to ML 32-3273. This is quite clearly not so as evidenced by the information held in Annexure marked 'C'.
20. Mr Gill has suggested that the temporary access to the Ross dump would block his access. I see nothing on Gill's Certificate of Title or the maps relating to Jones Creek storm channel that indicate that Gill has any easement rights, and therefore access rights, over the Crown land adjacent.
21. In essence:
  - a) All the land at issue is contained within ML 32-3273.
  - b) The temporary access to the dump is entitled to be constructed by virtue of condition 27.
  - c) The temporary access to the dump cannot reasonably be argued as a 'mining activity' and accordingly may be constructed within 10 metres of the trees adjoining the Jones Creek storm channel and the Ross recreation reserve.
  - d) The access is not restricted by the Mining Licence, no Resource Consent is necessary and the only approvals required to be obtained by Birchfield are from the Crown who own the Jones Creek storm channel. The proposed dump access is not a road within the meaning of the Local Government Act 1974. It is simply a means of providing access on a temporary basis to the Ross refuse dump.
  - e) No information has been withheld and all requests made by Gill have been answered promptly with no follow up by Gill to indicate any deficiency.
  - f) The LIM has been issued in accordance with Section 44A of the Local Government Official Information and Meetings Act.
  - g) You may wish to note that no other resident between Aylmer Street or the Jones Creek storm channel has complained with regard to the construction of the road and indeed with regard to any matter concerning Mining Licence 32-3273.

**Richard Simpson**  
**MANAGER: PLANNING & REGULATORY**

RS/DM