# Preliminary Report on
# Te Atiawa/Ngāti Awa ki Kapiti
# Public Works Case Studies

**31 May 2018**

**A Report Commissioned by the Crown Forestry Rental Trust**



**Heather Bassett**

# Contents

**List of Tables**



## Maps and Illustrations

# Introduction

## Authors

The report into the use of the Public Works Act in the Porirua ki Manawatū Inquiry District is being researched and written by historians Heather Bassett and Richard Kay. Heather has a BA(Hons) degree majoring in history from Waikato University, and Richard has BA degree from Otago University and a MA(Hons) degree in history from Waikato University. Together, Bassett Kay Research has worked in the field of research for Treaty of Waitangi claims since 1995, and completed 40 historical research reports. Dr Terence Green provided some research assistance gathering documents from Archives New Zealand in Wellington.

A number of previous research reports by Bassett Kay Research have dealt with issues relating to the compulsory acquisition of Māori land under the Public Works Act and similar legislation. These reports have examined the Crown acquisition of Māori land for aerodromes, quarries, rifle ranges, railways, schools, scenic reserves, water supply purposes, motorways and roads, sewage ponds, telecommunications purposes, transmission lines, and harbour works. We are experienced with researching Crown policy and practice regarding a wide range of public works acquisitions.

## Scope of Preliminary Report

Bassett Kay Research is currently writing a larger report on Public Works Issues in the Porirua ki Manawatū (PKM) Inquiry district, along with compiling a spreadsheet of every proclaimed acquisition of land under the Public Works Act in the district. That project has been commissioned by the Crown Forestry Rental Trust as part of the technical research programme approved by the Waitangi Tribunal.

In December 2017 when the Tribunal set a hearing schedule for the Te Atiawa / Ngāti Awa ki Kapiti claims to be heard, it was evident that the full draft PKM Public Works Report would not be completed in time for the claims particularisation process. Instead a suggestion was made to make chapters concerning the particular Te Atiawa / Ngāti Awa ki Kapiti claims available. In consultation with Crown Forestry Rental Trust, it was proposed in Progress Report 4 to submit a preliminary report specific to

Te Atiawa / Ngāti Awa ki Kapiti public works claims prior to the main report being completed (though it will later be integrated into the wider report).

As such, this preliminary report is strictly limited to evidence relating to specific cases raised in the Te Atiawa / Ngāti Awa ki Kapiti statements of claim (along with some matters raised during consultation on the public works report) as listed below. It does not include more general material relating to public works legislation and policy. Therefore while presenting a basic case study style narrative, it does not provide the wider context and supporting information, particularly regarding the legal framework. This will need to be taken into consideration when the report is presented as evidence at a Te Atiawa / Ngāti Awa ki Kapiti hearing and subject to cross examination. We anticipate that legislation and policy matters will be dealt with when the full PKM Public Works Issues report is presented at a generic district-wide hearing.

The case studies included in this report are:

- The acquisition and disposal of Paraparaumu Airport;
- Three scenic reserves: Paraparaumu Scenic Reserve; Hemi Matenga Scenic Reserve; and Queen Elizabeth Park;
- Roading issues: particularly the land taken to layout the initial road network (and railway line); land taken in the 1950s for the proposed motorway; and issues relating to the Kapiti Expressway;
- Whitireia Land taken from Otaki and Porirua Trusts Board;
- Waikanae Town Centre; and
- Miscellaneous takings: some information is presented in the final chapter on other takings which have been covered in the general research. This includes the post office and school at Waikanae, Paraparaumu school, and land by the Waikanae River taken soil and river conservation.

A draft version of this report was circulated in mid-April 2018.

***A Note on Nomenclature***

We understand that different claimant groups have their own preferences for how they describe their iwi identification. For the purposes of this preliminary report we have adopted the phraseology used by the Waitangi Tribunal when issuing directions for the hearing schedule – ‘Te Atiawa / Ngāti Awa ki Kapiti’.

# 1. Paraparaumu Airport

## 1.1 Acquisition of Airport

### 1.1.1 Background and Land Taken in 1939

*1.1.1.1 Background*

In 1936, as part of an investigation into the suitability of the Wellington Airport at Rongotai, a committee and the Controller of Civil Aviation recommended that an emergency aerodrome be established at Paraparaumu.[1] The Paraparaumu land was classified as poor sandy land which was considered ideal for aerodrome purposes. In 1935 the area had been identified as the best site in the district because of the following features:

> It is well clear of the hills, and the power lines on Beach Road and Wharemoukou Road would not be troublesome.
> The surface is broken up into low grass-covered sand hills and small swampy areas, the height from swamp to top of sand hills being six or seven feet. The swampy areas have a good bottom, unlike most of the swamps in the locality which have several feet of spongy peat.
> The area is used for grazing sheep and dry cattle, being too dry in summer for dairying.[2]

The initial plan for the aerodrome was as an alternative to Wellington Airport when poor visibility and high winds were a problem at Rongotai.

The initial proposal was for approximately 287 acres of land from the Ngarara block, all of which, apart from 31 acres, was in Māori ownership.[3] According to Gallen, in his report for Paraparaumu Airport Ltd, initial Crown policy in regard to emergency landing grounds was 'to lease them out on a peppercorn rental with the owners able to graze land in return for improvements such as fencing, levelling and grassing'. However, this policy changed with the prospect of war, which meant that an aerodrome was considered a 'strategic installation', which necessitated securing the freehold.[4]

---

[1] J. Wood to Minister of Public Works, 30 August 1938, ACHL 19111 W1/678 23/381/49/0, ANZ Wellington [DSCF 5288].
[2] H.H. Sharp, District Engineer to Permanent Head Public Works, 11 November 1935, Public Works File 23/381/154, Rawhiti Higgott Papers [IMG 2658].
[3] Assistant Land Registrar to Assistant Under Secretary Public Works, 2 October 1936, ACHL 19111 W1/678 23/381/49/0, ANZ Wellington [DSCF 5291-5292].
[4] 'A History of the Taking of the Land for the Core Paraparaumu Aerodrome Under the Provisions of the Public Works Act 1928' A.F.J. Gallen for Paraparaumu Airport Ltd, March 2008, p. 4 [IMG 2077].

*1.1.1.2 Notice of Intention to Take Land 1938*

At the end of August 1938 it was decided to issue a notice of intention to take the land. The land intended to be acquired had been reduced to 257 acres. The instruction to the Land Purchase Officer said it was 'considered desirable' to acquire the freehold, because 'as much of the area is native owned land, the usual 'Agreement' for the use of the land for aerodrome purposes over a period of years does not seem practicable'.[5] This suggests that Gallen's explanation above only applied to European land, and there was no mention of defence considerations factored into the decision to acquire the freehold.

At this stage the intention was to acquire the land as an emergency landing field, but it was noted that it was likely the site could be developed as a 'first class licensed field' as an alternative to Wellington Airport, and to serve the local area.[6] On 13 September 1938 Cabinet approved the proposed emergency landing ground at Paraparaumu.[7] Cabinet approved an estimated budget of £5,000 to acquire the land.[8]

In October 1938 a notice of intention to take the 257 acres 3 roods 9 perches at Paraparaumu for the purposes of an aerodrome was published in two Wellington newspapers. The schedule identified the areas to be taken as:

- Ngarara West B7 Subdivision 2A 30a 0r 0p
- Ngarara West B7 Subdivision 2B 30a 0r 0p
- Ngarara West B7 Subdivision 1 90a 0r 0p
- Part Ngarara West B5 107a 3r 9p.[9]

Three of the four subdivisions were Māori Freehold Land, while Ngarara West B7 Subdivision 2A was European Land, owned by G.W. MacLean. The block had been

[5] Minute for the Land Purchase Officer, 11 August 1938, from Public Works File 23/381/49, Rawhiti Higgott Papers [IMG 2544].
[6] ibid
[7] J. Wood to Minister of Public Works, 30 August 1938, ACHL 19111 W1/678 23/381/49/0, ANZ Wellington [DSCF 5288].
[8] G. Wakelin to Under Secretary, 12 October 1938, ACHL 19111 W1/678 23/381/49/0, ANZ Wellington [DSCF 5286].
[9] *Dominion*, 26 October 1938; *Evening Post*, 26 October 1938, ACHL 19111 W1/678 23/381/49/0, ANZ Wellington [DSCF 5283]; see also, Paraparaumu Aerodrome – plan of area to be acquired, ACHL 19111 W1/678 23/381/49/0, ANZ Wellington [DSCF 5289].

purchased in 1924 from Te Ata Ihakara by the lessee at the time, R.G. MacLean, for £500.[10]

Public Works Department records listed the registered owner of Ngarara West B7 Subdivision 2B at this date as Hoani Ihakara. However, he was deceased and successors had been appointed in the Native Land Court. In 1938 the block was owned by Te Wanikau Teira (twelve years old), Tahu Wiki Teira (ten years old), Utiku Heketa Teira (eight and a half years old). These owners were all minors, and Paoka Hoani Taylor was trustee for their interests at the time of taking. The land was leased to R.G. MacLean at £22-10-0 per annum for 21 years from 14 October 1923.[11]

Ngarara West B7 Subdivision 1 was owned by Kaiherau Takurua. A Native Land Court title search described her as 'a person under mental difficulty', and the block was vested in the Native Trustee, with the power to lease the land for up to ten years. The land was leased to M.G. MacLean for ten years for £53 per annum from 14 October 1933.[12] Before she had leased the block to MacLean, in 1922 Kaiherau had written to two of her sons, saying that the current lease was due to expire. There was still money owing on a mortgage, and MacLean wanted to take a new lease, but she would not agree to a new lease 'to a Pakeha' until she had heard from her children. She also said that when 'all expenses are paid' she would lease it to her children.[13]

Part Ngarara West B5 was owned by Pirihiria Te Uru, Takiri Akuhata Eruini (aka M. Love), and the successors to deceased owner Irihapeti Retimana Pitiro, were Te Korenga-o-te Tanga Tare Rangikauhata, Peti Tare Rangikauhata and Ropata Tare Rangikauhata.[14] The land was leased to brothers W.H. and R.H. Howell for 42 years from 27 July 1907 at £18-17-0 for the first 21 years and £29-12-6 for the balance of

[10] C.V. Fordham, Registrar, Ikaroa District Native Land Court & Māori Land Board, Wellington to Engineer-in-Chief & Under Secretary, Public Works, Wellington, 10 November 1938, ACHL 19111 W1/678 23/381/49/0, ANZ Wellington [DSCF 5277-5278].
[11] ibid; see also, certificate of title, 14 July 1924, AAQB 889 W3950/71 23/381/49/0 pt 1, ANZ Wellington [DSCF 5673].
[12] C.V. Fordham, Registrar, Ikaroa District Native Land Court & Māori Land Board, Wellington to Engineer-in-Chief & Under Secretary, Public Works, Wellington, 10 November 1938, ACHL 19111 W1/678 23/381/49/0, ANZ Wellington [DSCF 5277-5278].
[13] Kaiherau Tamati to Te Kore, 27 January 1922 [and translation], Wai 609 Documents [IMG 2218, 2222].
[14] N.E. Hutchings, Assistant Under Secretary to Ivor Prichard, Solicitor, Waitara, 9 August 1939, ACHL 19111 W1/678 23/381/49/0, ANZ Wellington [DSCF 5260].

the term. William and Riwai Howell were Māori farmers who ran a successful dairy farm and piggery on various Ngarara West B leasehold blocks.[15]

As well as being advertised in the newspapers the notice of intention was posted to:

- P.H.Taylor in Waitara as trustee for Ngarara West B7 Sub 2B;
- Native Trustee in Wellington for Ngarara West B1; and
- Pirihira Te Uru, Te Korenga-o-te Tanga Tare Rangikauhata, Peti Tare Rangikauhata and Ropata Tare Rangikauhata in Paraparaumu, and the Wellington solicitors for Takiri Akuhata Eruni.[16]

The covering letter sent with the copy of the notice of intention simply stated: 'Forwarded herewith please find notice of intention to take, for the above purposes, an area of 107 acres 3 roods 9 perches being part of Ngarara West B No. 5 Block. You are part owner of this property. Kindly acknowledge receipt of the enclosed notice.'[17]

The notice itself said there were 40 days for any objections to be made. P.H. Taylor (as trustee for the owners of Section 2B) responded to the notice to take the land, objecting to it being taken from her children, and proposing instead that the land be leased by the Crown:

> I regret that it is your department's intention to take my children's land at Paraparaumu being Ngarara West B7 Subdivision 2B Block for their father left for them this piece of land to provide a living for them. This is the only piece of land from which my children obtain any revenue. I would like to know whether instead of taking the land you would take a lease of same. If this proposition does not meet with your approval what are you offering as the sale price?...Your intention to take this land I consider an injustice to my children.[18]

[15] J. Brosnan, Chief Land Purchase Officer, Public Works, Wellington, 'Application for Ministerial Approval: Compensation for Land Taken and Land Injuriously Affected: Paraparaumu Aerodrome: Howell Brothers', no date [October 1943], AAQB 889 W3950/71 23/381/49/0 pt 2, ANZ Wellington [DSCF 5126-5127].
[16] H. Watkinson, District Engineer, Public Works, Wellington to the Permanent Head, Public Works, Wellington, 28 October 1938, ACHL 19111 W1/678 23/381/49/0, ANZ Wellington [DSCF 5282].
[17] H. Watkinson, District Engineer, Public Works, Wellington to Pirihira te Uru (Epiha), Paraparaumu, 28 October 1938; personal correspondence attached to 28 January 2018 letter supplied by Mrs P. Love Erskine, Paraparaumu.
[18] Translation of te reo Māori letter from Paoka Hoani Taylor, Auckland to Minister of Public Works, Wellington, 6 January 1939, ACHL 19111 W1/678 23/381/49/0, ANZ Wellington [DSCF 5273-5275].

The Minister responded 'I have carefully considered your suggestion' to lease the land but 'as a considerable amount of work will be carried out by the Government on the land, and for other reasons', it was 'essential' to obtain the freehold. He explained that compensation would be heard by the Native Land Court, which would fully consider the rights of the children.[19]

Taylor instructed solicitor Ivor Prichard to act for the owners of Ngarara West B7 Subdivision 2B. Prichard asked the Public Works Department for a list of owners of other blocks being taken and the names of their solicitors so valuations could be made.[20]

Peti Tare Rangikauhata acknowledged receipt of the notice to take the land and asked for the government valuation of Part Ngarara West B5.[21] The government valuation of 1936 was £1,625 for Part Ngarara West B5 and the Assistant Under Secretary for Public Works said there was 'no objection' to giving this information to Rangikauhata.[22]

*1.1.1.3 Arrangements with European Owner and Lessees*

The notices of intention to take were personally served on the lessees of the blocks.[23] The lessees of Ngarara West B5, William and Riwai Howell, signed an agreement allowing potential tenderers to enter the property in October 1938, and in January 1939 agreed to allow Public Works to enter the land to clear gorse and deepen drains in preparation for the aerodrome.[24]

In October 1938 the Crown entered negotiations with the Pakeha owner of Ngarara West B7 Subdivision 2A, for both the taking of the block, and for their leasehold

[19] Unsigned file copy of letter, Minister of Works to Paoka Hoani Taylor, Auckland, 20 January 1939, ACHL 19111 W1/678 23/381/49/0, ANZ Wellington [DSCF 5272].
[20] I. Prichard, Solicitor, Waitara to District Engineer, Wellington, 27 March 1939, ACHL 19111 W1/678 23/381/49/0, ANZ Wellington [DSCF 5267].
[21] H. Watkinson, District Engineer, Public Works, Wellington to Permanent Head, Public Works, Wellington, 7 November 1938, ACHL 19111 W1/678 23/381/49/0, ANZ Wellington [DSCF 5280].
[22] N.E. Hutchings, Assistant Under Secretary to District Engineer, Public Works, Wellington, 17 November 1938, ACHL 19111 W1/678 23/381/49/0, ANZ Wellington [DSCF 5279].
[23] H. Watkinson, District Engineer, Public Works, Wellington to Permanent Head, Public Works, Wellington, 1 November 1938, ACHL 19111 W1/678 23/381/49/0, ANZ Wellington [DSCF 5281].
[24] Agreement – W. & R. Howell with Minister of Public Works, Witness, J. Brosnan, Public Servant, Wellington, 11 October 1938, ACHL 19111 W1/678 23/381/49/5 pt 1, ANZ Wellington [DSCF 5139, 5138, 5137].

interests in the other Māori-owned blocks. The Crown offered the MacLeans £850 compensation for the loss of both their freehold and leasehold land. The MacLean estate countered with a claim of £1,050 which consisted of £600 for the 30 acres freehold of Ngarara West B7 Subdivision 2A and compensation of £400 for the surrender of the leases for 120 acres and £50 for interference with their farming operation.[25] Public Works considered £600 for the land and £60 for interference 'reasonable' but the £400 for the lease surrender was considered too high and Works assessed the sum to be £235-16-3.[26] A sum of £1,000 was negotiated as compensation.[27]

Ngarara West B5 was leased by brothers William and Riwai Howell, who operated a lucrative dairy farm on the 500 acre block. Compensation for the loss of the lease of 108 acres from their dairy operation was negotiated by the Public Works Department. In April 1939 the Howell brothers signed an agreement for their leasehold interest to be acquired for £800.[28]

*1.1.1.4 Proclamation Under the Public Works Act 1939*

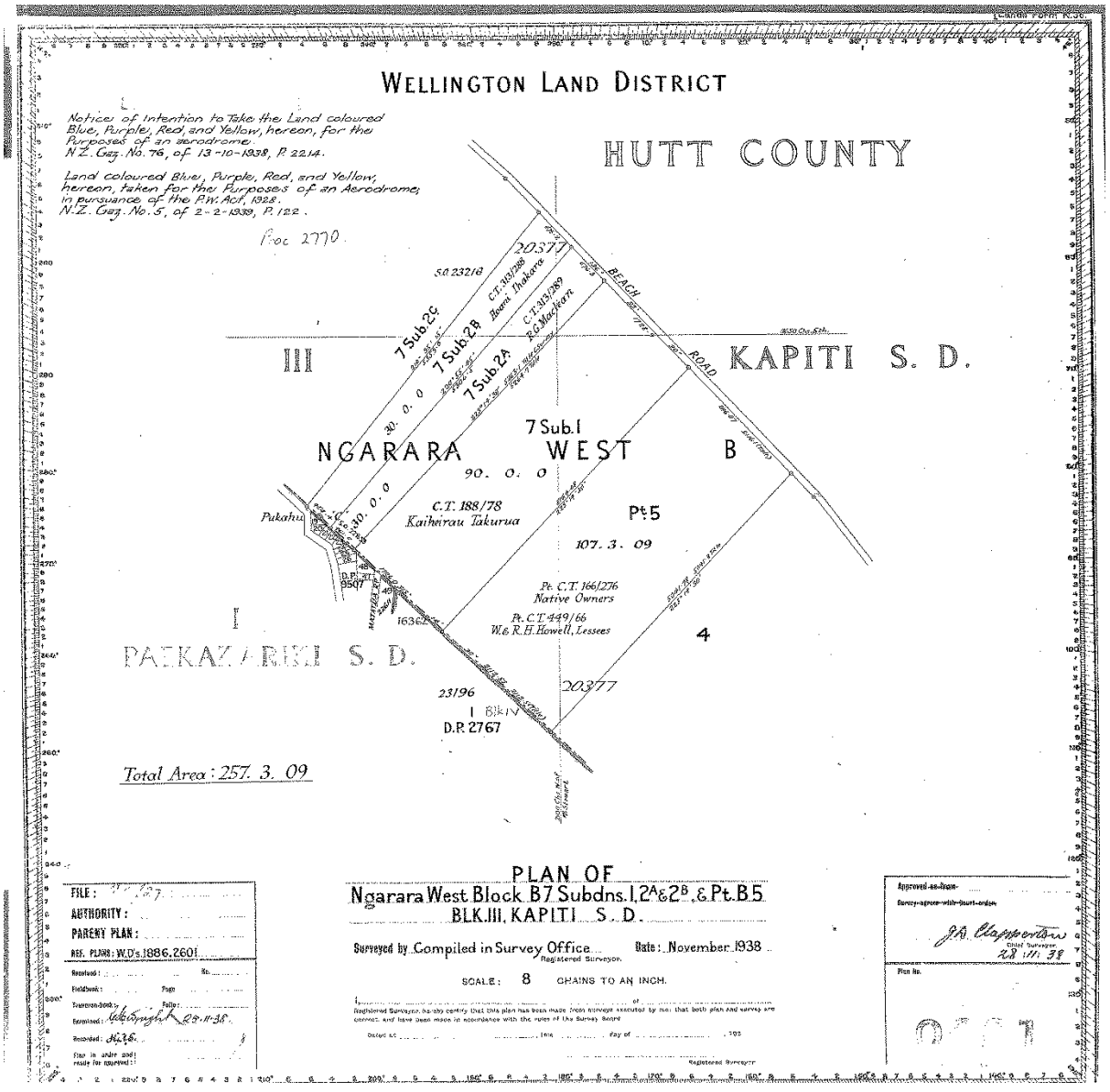
On 31 January 1939 the proclamation was signed taking the land under the Public Works Act 1928.[29] Although earlier correspondence referred to the land being taken for an emergency landing ground, the actual proclamation simply said the taking was for the purposes of 'an aerodrome'. The proclamation was to take effect from 1 April 1939. The land taken was the same as that listed in the notice of intention:

- Ngarara West B7 Subdivision 2A 30a 0r 0p
- Ngarara West B7 Subdivision 2B 30a 0r 0p
- Ngarara West B7 Subdivision 1 90a 0r 0p
- Part Ngarara West B5 107a 3r 9p.

The area taken is shown in Figure 1.

[25] M. & R. MacLean, Paraparaumu to Permanent Head, Public Works, Wellington, 17 October 1938, ACHL 19111 W1/678 23/381/49/0, ANZ Wellington [DSCF 5285].
[26] J. Wood, Engineer-in-Chief & Under Secretary, 27 October 1938, ACHL 19111 W1/678 23/381/49/0, ANZ Wellington [DSCF 5284].
[27] J.B. Brosnan, Public Works to Under Secretary, 11 January 1939, ACHL 19111 W1/678 23/381/49/0, ANZ Wellington [DSCF 5269].
[28] J.B. Brosnan to Under Secretary, 28 April 1939, ACHL 19111 W1/678 23/381/49/5 pt 1, ANZ Wellington [DSCF 5135].
[29] NZG, 2 February 1939, p. 122.

**Figure 1: Land Taken for Paraparaumu Aerodrome 1939[30]**




[30] Survey Office Plan SO 20216.

Earthmoving work to level the land for a landing strip started in June 1939. In July 1939 there was a public demonstration of the capabilities of the relatively new earthmoving machinery. It was reported at this time that there were no plans for the landing-ground to be developed into an airport, and that the purpose was purely as an emergency-landing ground if planes could not land at Rongotai in Wellington:

> It is not proposed to erect buildings; the field will presumably return to grazing and will simply be one of the chain of passive fields set out by the aerodrome branch of the Public Works Department from end to end of the Dominion, preferably not used at all by passenger and mail machines but essential should emergency arise.
> The field has, of course, a clear place in the system of air defence.[31]

#### *1.1.1.5 Compensation for Māori Land Taken*

Compensation for the three Māori-owned blocks was awarded by the Native Land Court in accordance with the requirements of the Public Works Act. There is some evidence that the amount of compensation was negotiated with owner 'representatives' before the Native Land Court hearings. After the compensation awards were made the Assistant Under Secretary of Public Works said that 'With regard to the areas of 30 acres and 90 acres … the representatives of the native owners arrived at verbal agreements with the Department as to the compensation acceptable to them and the Court was asked to confirm such agreements.'[32] However, it remains unclear whether any of the actual owners took part in these discussions. The 'representative' for the owner of Ngarara West B7 Subdivision 1 was the Māori Trustee, in whom the block was vested. The owners of Ngarara West B7 Subdivision 2B were represented by their solicitor, Prichard. In the week before the compensation case was to be heard, he proposed to inspect the block, and then confer with the Land Purchase Officer to agree on a sum before the hearing. He anticipated that since an agreement had been reached with the MacLeans for Subdivision 2A, that if his inspection confirmed they were of a similar value, that compensation could be agreed on that basis.[33] MacLean had accepted £600 for the freehold of 2A, which was the same size as 2B.

---

[31] Extract from *Evening Post*, 17 July 1939, from Public Works File 23/381/49, Rawhiti Higgott Papers [IMG 2541].
[32] N.E. Hutchings, Assistant Under Secretary to Registrar, Ikaroa District Māori Land Board, Wellington, 1 September 1939, ACHL 19111 W1/678 23/381/49/0, ANZ Wellington [DSCF 5259].
[33] Ivor Prichard, Solicitor, Waitara to District Engineer, Public Works, Wellington, 22 May 1939, ACHL 19111 W1/678 23/381/49/0, ANZ Wellington [DSCF 5265].

On 30 May 1939 the Māori Land Court held a compensation hearing for Ngarara West B7 Subdivision 2B.[34] Judge Shepherd ordered the owners were to be compensated £611 with interest of 5 percent per annum from 13 June 1939 until payment was made to the Ikaroa District Māori Land Board on behalf of the owners. An additional £25 for costs and expenses of the owners was to be paid to the board.[35] The total payment was £647-2-8 which consisted of the compensation and interest payment of £11-2-8 and costs.[36] The compensation money was to be administered by the board under Section 552 of the Native Land Act 1931 on behalf of the owners. Section 552 allowed the board to retain compensation money as a trust fund. Presumably this was ordered by the court as the owners were minors. At the end of October Prichard wrote to the Public Works Department asking if the compensation money had been paid.[37] Three weeks later he was informed that the voucher for payment had been forwarded to Treasury on 9 November, and that the funds should now have been received by the Māori Land Board.[38]

On 28 June and 13 July 1939 the Māori Land Court held the compensation hearing for Ngarara West B7 Subdivision 1. The block was owned by Kaiheirau Takirau for whom the Native Trustee was trustee and lessee. The Native Trustee had instructed its solicitor to accept £1,890 as compensation and the court was asked to confirm the offer. The land earned £53 annual rent and the lease had four and a half years to run and the present value of the rental was £209. The land was valued at £23 per acre with the 'total of both values = £1871. Agreed to compromise of £1890 = equal to £21 pa [per acre] for the 90 acres'. Haughey for the Native Trustee claimed that from 'point of view owner will be in equally good position' whether she received rent or compensation.[39] Judge Shepherd ordered £1,890 compensation plus interest of 5 percent per annum from 13 August 1939 until payment was made to the Native

[34] Otaki MB 60, 30 May 1939, pp. 332-334.
[35] Judge G.P. Shepherd, Judgment, Ngarara West B7 Subdivision 2B, ACHL 19111 W1/678 23/381/49/0, ANZ Wellington [DSCF 5252-5253].
[36] G.W. Matthewson, Public Works, Wellington, 8 November 1939, ACHL 19111 W1/678 23/381/49/0, ANZ Wellington [DSCF 5250].
[37] Ivor Prichard, Solicitor, Waitara to the Under Secretary Public Works Department, Wellington, ACHL 19111 W1/678 23/381/49/0, ANZ Wellington [DSCF 5248].
[38] Assistant Under Secretary, Public Works, Wellington to Ivor Prichard, Solicitor, Waitara, ACHL 19111 W1/678 23/381/49/0, ANZ Wellington [DSCF 5247].
[39] Wellington MB 31, 28 June 1939, p. 316 [DSCF 5141].

Trustee on behalf of the owner. The lessees, M. and R. MacLean, were awarded the agreed £1,000 compensation for all their freehold and leasehold interests in this and other blocks.[40] Cabinet approved payment of compensation for Ngarara West 7B Subdivisions 1 and 2B on 20 October 1939.[41] The total payment was £1,913-0-10 which consisted of the compensation and interest of £23-0-10.[42]

While agreements were reached in the above two cases, Public Works was unable to negotiate an agreement with the owners of Ngarara West B5, and the compensation hearing was contested. In June 1939 the Native Land Court held a compensation hearing for Ngarara West B5. Solicitor D.G. Morison represented the owners and said that they disputed the Crown's freehold valuation of the block.[43] The valuer for the owners, Herbert Leighton, said the climate in the area of Paraparaumu provided a longer growing season making 'it good early and late country' for lambing ewes. Ngarara West B5 was sheltered from wind and frosts by Kapiti Island and it was the 'Best Block in district as regards quality of land'. The land had been ploughed and had potential as a market garden. Leighton said demand for land between Foxton and Paekakariki was good and if advertised on the open market would quickly sell but he said the 'land not available for purchase' – owners won't sell'.[44] There was a cowshed valued at £150, and Leighton estimated Ngarara West B5 was worth at least £30 per acre but believed demand, comparative values and its proximity to Paraparaumu would make it ideal as a small farm. He noted 28.5 acres of B5 was valued at £40 per acre which was said to average out to be £31 per acre.[45] Under Crown cross-examination he said it was not comparable with adjoining land because it was much better. He would not vary his valuation to be in 'accord' with the 'purpose for which valuation made'. Leighton provided the court with a compensation figure of £3,395-17-6.[46]

[40] Judge G.P. Shepherd, Judgment, Ngarara West B7 Subdivision 1, ACHL 19111 W1/678 23/381/49/0, ANZ Wellington [DSCF 5254-5255].
[41] N.E. Hutchings to Minister of Public Works, 11 October 1939, ACHL 19111 W1/678 23/381/49/0, ANZ Wellington [DSCF 5251].
[42] G.W. Matthewson, Public Works, Wellington, 8 November 1939, ACHL 19111 W1/678 23/381/49/0, ANZ Wellington [DSCF 5249].
[43] Wellington MB 31, 28 June 1939, pp. 317-318 [DSCF 5142].
[44] ibid, p. 319 [DSCF 5143].
[45] ibid, p. 320 [DSCF 5143].
[46] ibid, p. 321 [DSCF 5144].

Another valuer, Victor Williamson, said Ngarara West B5 was worth £32 per acre. He valued the cowshed at £150 and agreed the land was good quality which he thought would 'readily' sell for £34 per acre.[47] Both Leighton and Williamson included a cowshed in their valuations which was based on values for a dairy farm. Williamson presented the court with a compensation figure of £3,665-8-3.[48]

District Valuer, Richard Self for the Public Works Department valued Ngarara West B5 at £18 per acre (£1,915) and a total value of £2,035 which equated to £18-17-6 per acre.[49] He valued the cowshed at £120. He said that there remained areas of swamp and gorse and the pasture was not first class and was unsuitable for market gardening. The sand-hill portion he did not value because he considered it to be 'useless'.[50] Local valuer, Frank Duncan said Ngarara West B5 was worth approximately £15 per acre with a capital value of £2,035.[51] Duncan also explained the government valuation in 1936 in which he had assisted Self. Duncan also gave a number of comparative examples of sales of similar land in the district.[52]

Judge Shepherd noted there was a 'wide divergence' between the claimant and Public Works' valuations.[53] The court found more generally in line with the owners' valuations. It considered the land to be worth £30 per acre and awarded total compensation of £2,426-11-0 to be paid to the Ikaroa District Māori Land Board under Section 552 of the Māori Land Act 1931.[54] The sum of £78-18-0 was added to the compensation to pay solicitors fees of £60 and valuation costs of £18-18-0.[55]

An example of how the District Land Board operated under Section 552 when it came to distributing the compensation to the owners is on file. In November 1939 Mr H. Jackson complained on behalf of his wife Korenga Rangikauhata who had approached the Registrar about the payment of her share of the compensation for land taken from Ngarara West B5 for Paraparaumu Aerodrome. He said they were aware that the

[47] ibid, pp. 321-323 [DSCF 5144-5145].
[48] ibid, p. 330 [DSCF 5148].
[49] ibid, p. 324 [DSCF 5145].
[50] ibid, pp. 325-326 [DSCF 5146].
[51] ibid, pp. 326-327 [DSCF 5146-5147].
[52] ibid, pp. 327-328 [DSCF 5147].
[53] Wellington MB 31, 16 August 1939, p. 367 [DSCF 5150].
[54] ibid, p. 369 [DSCF 5151].
[55] ibid, pp. 369-370 [DSCF 5151].

compensation had been paid and he wanted to know 'why is it she cannot draw on some of the amount due to her.' On visiting the trust office Rangikauhata was initially told 'she could have no money'. She asked if she could have a furniture order and the Registrar agreed to £8 for second hand furniture. Her husband queried whether the Registrar had second hand furniture in his house.[56] The Registrar responded that Rangikauhata's share of the compensation was £264, and because her house was borer-ridden he had told her she should wait until she had a better home, and gave her an £8 order for second hand furniture and he concluded: 'It is, of course, understood, that all compensation moneys must be subject to a degree of restriction in order to ensure that some lasting benefit may be conferred by its expenditure.'[57] The Native Minister Frank Langston advised H. Jackson there had been a misunderstanding. The Registrar, he said, was concerned about putting new furniture into a 'borer-ridden' house and he concluded that every consideration would be given for a request for payment for something of a 'real and lasting benefit.'[58]

### 1.1.2 Subsequent Additional Land Taken 1940-1954

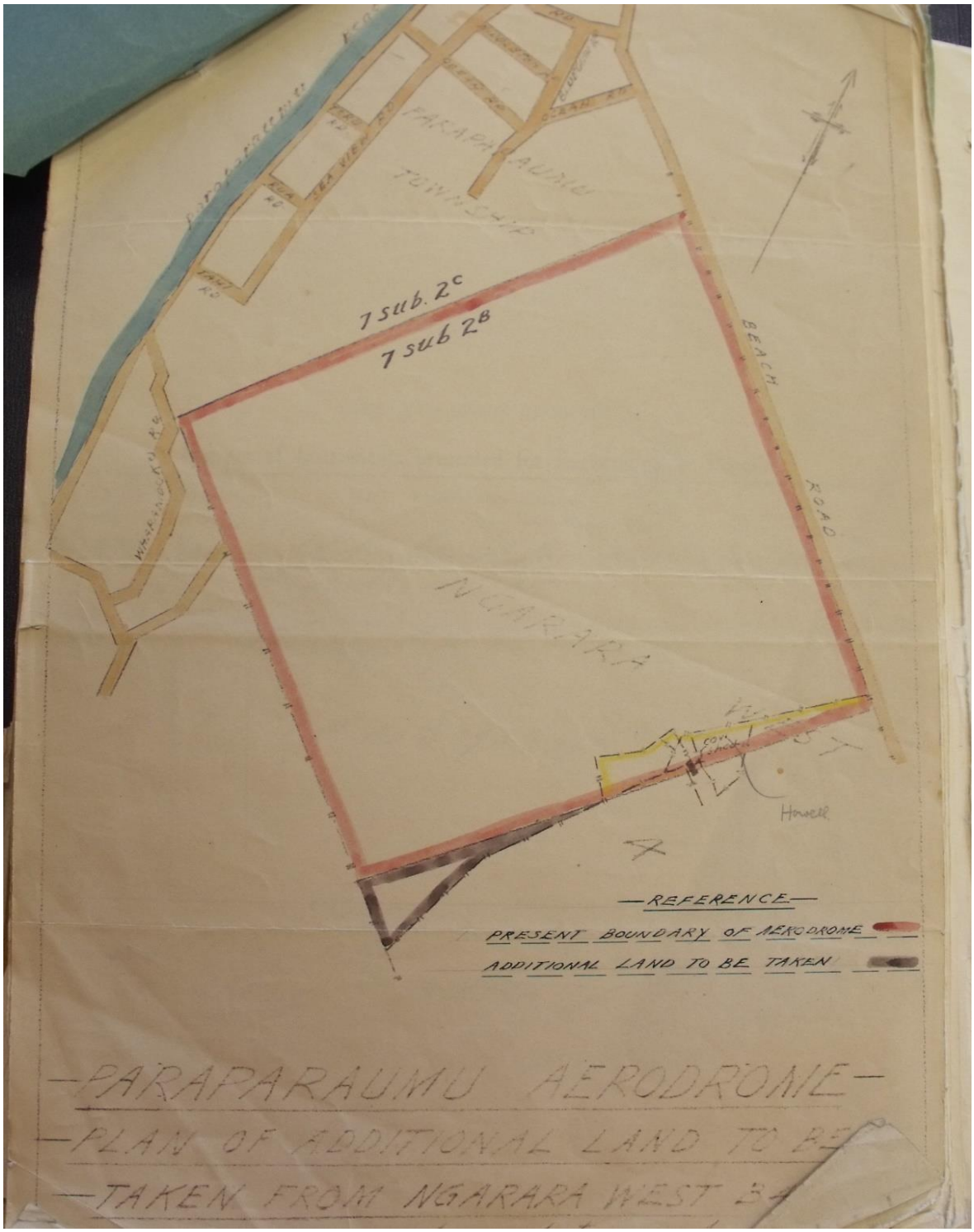
#### *1.1.2.1 1940 - Ngarara West B4*

A small area of additional land was acquired in 1940, due to a misunderstanding about the location of the Howell's cowshed. When the aerodrome was proclaimed in 1939 it was thought that the cowshed lay wholly on subdivision B4 (and therefore outside the land taken), however, it was then realised that it was situated on both B5 and B4.[59] It was initially proposed to take a small area of B4 in exchange for revoking the proclamation over the portion of B5 including the cowshed (see Map below).[60] This would therefore not affect the compensation already paid to the Howell's for their leasehold interest. However, when it was realised that compensation had already

[56] H. Jackson, Korenga Rangikauhata (Mrs Jackson), Paraparaumu to B. Semple, Minister of Public Works, 28 November 1939, ACIH 16036 MAW2490/176 38/1/1 pt 1, ANZ Wellington [DSCF 0741-0743].
[57] C.V. Fordham, Registrar to Under Secretary, Native Department, Wellington, 15 December 1939, ACIH 16036 MAW2490/176 38/1/1 pt 1, ANZ Wellington [DSCF 0739].
[58] F. Langstone, Native Minister to H. Jackson, Paraparaumu, 20 December 1939, ACIH 16036 MAW2490/176 38/1/1 pt 1, ANZ Wellington [DSCF 0738].
[59] J.D. Brosnan to Under Secretary, 9 June 1939, ACHL 19111 W1/678 23/381/49/5 pt 1, ANZ Wellington [DSCF 5134].
[60] See also, Survey Office Plan SO 20377.

been awarded for the area taken from B5 it was decided to not partially revoke that proclamation.[61]

**Figure 2: Land to be Taken from Ngarara West B4 1940[62]**




[61] [illegible] to Mr Brosnan, 19 March 1940, ACHL 19111 W1/678 23/381/49/5 pt 1, ANZ Wellington [DSCF 5245].
[62] Paraparaumu, Plan of Additional Land to Be Taken from Ngarara West B4, ACHL 19111 W1/678 23/381/49/0, ANZ Wellington [DSCF 5421].

A notice of intention to take 6 acres 3 roods 14.5 perches from Ngarara West B4 was issued in March 1940.[63]

The registered owner of Ngarara West B4 was Teira te Ngarara, but he was deceased. The successors in equal shares were Mouti Erueti Mira Teira, Ngahina Metapere Teira, Ngapera Taupiri Teira and Maikara Karo Teira who was a minor at that time.[64] While the Native Land Court had appointed successors, they had not been registered as owners under the Land Transfer system. This technicality may have meant that the appointed successors were not served with the notice of intention. The District Engineer did receive the names of the successors, along with their addresses (in Waitara), and while he forwarded this information to the Permanent Head of Public Works, he noted:

> As advised verbally by the Proclamation Branch the Notices of Intention are not being served on the present unregistered owners and the above information is merely for the possible use of the Land Purchase Officer.[65]

We have not viewed any record to suggest that the Land Purchase Officer did indeed contact the unregistered owners. The lessees, W. and R. Howell, were served with the notice of intention on 26 April 1940. At this time it was reported that the land was not occupied by any Māori burial ground, and was used for grazing.[66]

The additional area was proclaimed as taken under the Public Works Act on 29 July 1940. The proclamation declared that 6 acres 3 roods 14.5 perches of Ngarara West B4 was acquired by the Crown for 'an aerodrome'.[67]

The land was leased for 42 years from 27 July 1907 to W. and R. Howell.[68] The annual rental was £31-10 for the first 21 years and £46-10 for the balance of the term.

---

[63] NZG, 11 April 1940, p. 705.
[64] H. Watkinson, District Engineer, Public Works, Wellington to Permanent Head, Public Works, Wellington, 23 April 1940, ACHL 19111 W1/678 23/381/49/0, ANZ Wellington [DSCF 5243].
[65] ibid
[66] H. Watkinson, District Engineer, Public Works, Wellington to Permanent Head, Public Works, Wellington, 6 May 1940, ACHL 19111 W1/678 23/381/49/0, ANZ Wellington [DSCF 5242].
[67] NZG, 25 July 1940, p. 1741.
[68] District Land Registrar, Land and Deeds Registry Office, Wellington to Permanent Head, Public Works, Wellington, 6 December 1939, ACHL 19111 W1/678 23/381/49/0, ANZ Wellington [DSCF 5246].

The government valuation of the nearly seven acres to be acquired, as at 15 August 1940, gave a capital value of £198. Curiously, the capital value was made up wholly of improvements, being £43 for fencing and £155 for drainage. The unimproved value was therefore assessed as 'nil'.[69]

In October 1940 the Native Land Court held a compensation hearing for Ngarara West B4. There were no owners present or represented at the hearing, nor was there any evidence presented about the value of the land from the owners' viewpoint. Leighton, the valuer appointed by the Crown said that half the area was good land and the other half was of 'little value'. He had arrived at his valuation of £15 per acre by valuing the good land at £30 per acre, but assigning no value at all to the poor land because it was full of stumps and lumber and 'to bring it into cultivation would cost more than it was worth'.[70] The valuer also said that the owners should be entitled to half the value of the fencing. Judge Gilfedder noted that the valuer valued half the land as 'worth nothing' and the 'Court finds it difficult to believe that any land in this locality has no value but the witness is very definite on this point.'[71] The court said that given no other evidence had been presented from the owners it had to accept the evidence in the government valuation and in the valuer's testimony. The court ordered compensation in line with the suggestion of Public Works, being £149-9-10, which included £46-5-0 for fencing. The court also ordered that no interest was to be paid from the date of vesting to the award of compensation, and that the compensation under Section 552 of the Native Land Act 1931 was to be paid to the Māori Land Board.[72] In October Public Works approved payment of £149.[73]

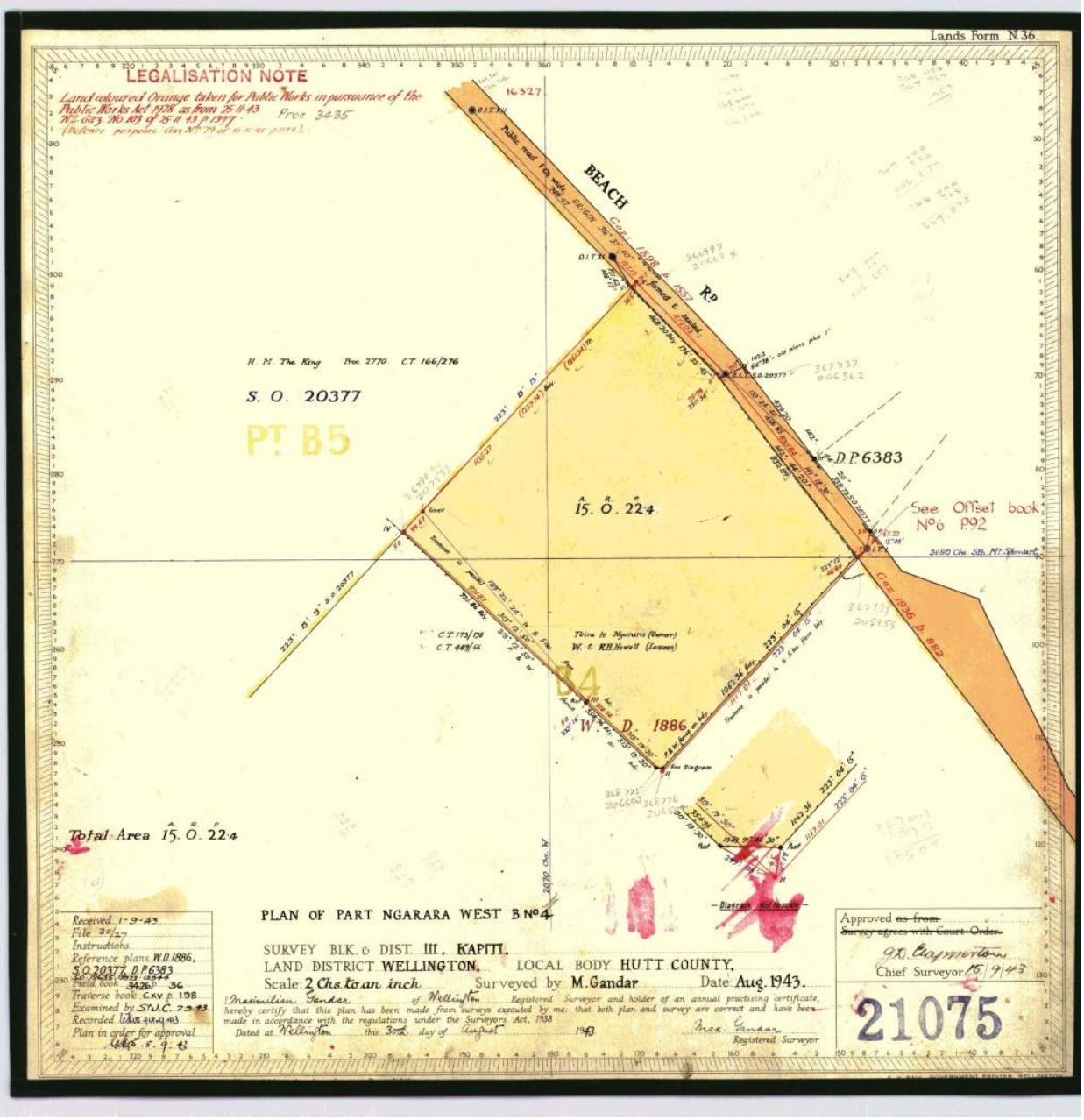
*1.1.2.2 1943- Ngarara West B4*

In early 1942 it was decided to establish a Royal New Zealand Air Force [RNZAF] station at Paraparaumu Aerodrome, and transfer part of the flying school from Ohakea.[74] In April 1942 work was getting underway on extending the east to west

[69] L. Crosbie, for Valuer General, Valuation Department, 22 August 1940, AAQB 889 W3950/71 23/381/49/0 pt 2, ANZ Wellington [DSCF 5302].
[70] Otaki MB 61, 3 October 1940, pp. 221-222 [DSCF 5153].
[71] ibid, pp. 222-223 [DSCF 5153-5154].
[72] ibid, pp. 223-224 [DSCF 5154].
[73] J.B. Brosnan to Under Secretary, Public Works, 7 October 1940, AAQB 889 W3950/71 23/381/49/0 pt 2, ANZ Wellington [DSCF 5300].
[74] Acting Aerodrome Engineer to Brosnan, Public Works, 23 February 1942, AAQB 889 W3950/71 23/381/49/0 pt 2, ANZ Wellington [DSCF 5343].

runway, which was roughly parallel to Beach Road (now Kapiti Road). The aerodrome authority informed Public Works that the extended runway necessitated acquiring further land from Ngarara West B4.[75]

**Figure 3: Land Taken from Ngarara West B4 1943[76]**




The required land was part of the block leased by the Howell brothers from the successors to Teira te Ngarara (as above). In May 1942 a notice was issued to the

[75] Acting Aerodrome Engineer to Wakelin, Public Works, 30 April 1942, AAQB 889 W3950/71 23/381/49/0 pt 2, ANZ Wellington [DSCF 5342].
[76] Survey Office Plan SO 21075.

Howell's that the Public Works Department planned to enter the land for 'Defence purposes'.[77] A similar notice was sent to G. MacLean, the lessee of Ngarara West B7 Subdivision 2C, which the department planned to temporarily enter 'for the clearing of obstructions' [perhaps tree felling in the runway area], but not to actually take any land.[78] It does not appear that similar notices were sent to the Māori owners of either block.

An extended negotiation took place with the Howell brothers about compensation for the land to be taken, along with remedial action to relocate farm buildings and compensation for adverse impact on other parts of their leasehold property. Following the mix-up over the location of the cowshed in the original 1939 taking, the Howell's had been permitted to continue using approximately ten acres of the aerodrome land which included the cowshed and farm access. Airport authorities wanted to prevent them using this land in the future, which meant the cowshed had to be moved and re-erected, and a new access way to the cowshed and house had to be constructed. Public Works agreed to carry out this work (with some contribution from the Howells). There was a piggery on the land taken, and the Howell's sought compensation for the loss of that operation. In addition spoil had been taken from a further six acre area, which required remediation into grass. An agreement was reached in September 1943. The lessees agreed to accept a total of £500 compensation for the impact of the taking on their dairy farm and piggery, and the adverse impact on the six acres used for spoil. That amount was calculated on the basis of the impact on farm earnings. In addition to the £500 compensation, the estimated cost to the department to relocate the cowshed and other work was £663-10-0. The agreement was approved by the Minister in November 1943.[79]

The Land Purchase Officer argued that the cost to the department of relocating the cowshed and associated works was less than if the Howell's had pursued a compensation claim through the Native Land Court for the various impacts, including things like noise and dust disturbance for the house. He also commented that the

[77] District Engineer, Public Works, Wellington to Riwai Howell, Paraparaumu, 19 May 1942, AAQB 889 W3950/71 23/381/49/0 pt 2, ANZ Wellington [DSCF 5340].
[78] File note on ibid.
[79] J. Brosnan, Chief Land Purchase Officer to Assistant Under-Secretary Public Works, 20 September 1943, ACHL 19111 W1/678 23/381/49/5 pt 1 [DSCF 5120-5121].

relatively straightforward negotiated settlement made it simpler to assess the compensation for the Māori owners:

> If a settlement of this nature were approved, there would be little difficulty in assessing the reversionary compensation for the native owners, it being readily seen that the farm, although losing the piggery side of the business, is still a going concern with no diminution of rent except for the actual area taken, viz. 15 acres approximately.
> If all phases of this claim were fully argued, I am of the opinion that no less compensation would be awarded for the lessees' interest than the settlement set forth above, and fairly heavy costs and expenses would in addition have to be paid by the Crown, especially when it came to the reversioners' [owners] interest.[80]

This seems to be implying that if the lessees had sought full compensation for all the impacts of the land takings and defence works, then the owners too would have received more compensation. However, it could also mean that if the Public Works Department had not carried out the relocation and remedial works, the overall value of the property would have been further diminished.

The additional land was taken by a proclamation issued in November 1943. The gazette notice said that 15 acres 0 roods 15.4 perches was taken from Ngarara West B4 as from 25 November 1943.[81] In line with common practice throughout the war, the purpose of the acquisition was only given as 'for public works'. This was presumably for security reasons, so that the enemy would not be so readily able to identify the location of new strategic infrastructure. In these cases, after the war ended new gazette notices were issued which retrospectively applied the specified purpose to the taking. In the case of Ngarara West B4 a gazette notice was issued in December 1945 which declared the purpose of the taking as for 'Defence purposes'.[82]

While the departmental file labelled 'Maori Owners' contains details of the Howell negotiations, which were concluded prior to the taking, there is no record of any contact being made with the Māori landowners either before the taking or soon after. Due to wartime emergency powers there was no requirement to issue a notice of

[80] J. Brosnan, Chief Land Purchase Officer to Private Secretary, Minister of Finance, 4 November 1943, ACHL 19111 W1/678 23/381/49/5 pt 1 [DSCF 5124-5125].
[81] NZG, 25 November 1943, p. 1397.
[82] NZG, 13 December 1943, p. 1554.

intention. The registered owner was still recorded as Teira te Ngarara, who was deceased.[83]

In December 1943 the Public Works Department submitted the necessary application to the Native Land Court for compensation to be assessed, and asking for the names and addresses of the owners.[84] However, the compensation case was not prosecuted during the war, although it appears some steps were taken to get a valuation in 1945-1946. In November 1946 a valuer reported that the land was owned by Moti Taylor, Uma Taiaki and Miria Taylor, all of whom lived in Waitara. His report referred to a previous inspection of the property in January 1945. He assessed the capital value of the 15 acres at £425, with an unimproved value of £300 and improvements of £125.[85]

While a valuation had been obtained, for some reason the compensation case did not proceed. It was only in 1951, after a subsequent compensation award for another taking from Ngarara West B4 (see below), that officials realised that compensation had never been awarded for the 15 acres taken in 1943.[86] A special government valuation was obtained in 16 January 1952, which was £2,230.[87]

The compensation hearing was held nearly nine years after the land was taken in May 1952. The minutes suggest that the Crown and solicitor for the owners had come to an agreement before the hearing. The Ministry of Works representative, Skinner, explained that the land had been taken in 1943. He referred to the award in 1940 of £149 for six acres taken from the block, but conceded: 'The Minister appreciates that a higher rate should be paid in regard to the present application and suggests a sum of £3,500 would be a reasonable assessment for all purposes'.[88] Simpson, for the owners,

[83] 'A History of the Taking of the Land for the Core Paraparaumu Aerodrome Under the Provisions of the Public Works Act 1928' A.F.J. Gallen for Paraparaumu Airport Ltd, March 2008, p. 13 [IMG 2089].
[84] Commissioner of Works, Wellington to District Commissioner of Works, Wellington, 21 September 1951, R.G. Wall to J.D. Brosnan, Public Works, Wellington, 19 November 1942, ACHL 19111 W1/678 23/381/49/5 pt 1 ANZ Wellington [DSCF 5113].
[85] R.G. Wall to J.D. Brosnan, Public Works, Wellington, 19 November 1942, ACHL 19111 W1/678 23/381/49/5 pt 1 ANZ [DSCF 5114].
[86] C. Langbein, District Commissioner of Works to Commissioner of Works, Ministry of Works, 10 September 1951, ACHL 19111 W1/678 23/381/49/5 pt 1, ANZ Wellington [DSCF 5111].
[87] J. Skinner, Assistant Purchase Officer and A.T. Bell, District Land Purchase Officer, Ministry of Works, Wellington to District Commissioner of Works, 21 May 1952, ACHL 19111 W1/678 23/381/49/5 pt 2, ANZ Wellington [DSCF 5157].
[88] Wellington MB 38, 16 May 1952, pp. 155-156 [DSCF 5183].

said they were in agreement with the Crown about total compensation although they disagreed about how the sum was assessed. Valuers for both the Crown and the owners gave evidence about how they had reached their valuation. Norman Mackie for the owners valued B4 at £209 per acre, based on other Crown awards, giving a valuation of £3,186 plus loss of rent of £180 and injurious affection of £180, being a total of £3,497.[89] Government valuer, Charles Moreland, said he valued the land 'as in 1943' at £2,230 and had 'made no allowance for injurious affection or for undue loss of frontage.' He concluded that £3,500 would 'reasonably' cover any compensation claim, presumably allowing for interest for the previous nine years. Judge Whitehead agreed and awarded £3,500 compensation, plus solicitor's costs of £42 and valuer's fees of £36-15-6.[90] The Ministry of Works recommendation for payment of the compensation award confirmed that the total amount included an allowance for 4 percent interest from the date the land was taken. Payment was approved on 17 May 1952.[91]

*1.1.2.3 1949 - Ngarara West B4*

In 1948 the Air Department decided that the north-south runway needed to be extended to accommodate larger planes. One factor in this decision was a Royal Tour scheduled for March 1949, because the King's plane required a longer runway (the tour was subsequently cancelled due to the King's poor health).[92] The land required was approximately five acres of Ngarara West B4 (adjoining the land taken in 1940). The block was still leased to the Howell brothers, who signed an agreement in June 1948 allowing the Public Works Department to enter the land for the purposes of constructing a runway extension and clearing obstructions to the landing path.[93] The 1948 valuation of the five and half acres was a capital value of £165, with no improvements.[94]

---

[89] Wellington MB 38, 16 May 1952, pp. 155-156 [DSCF 5183].
[90] ibid, p. 156 [DSCF 5183].
[91] J. Skinner, Assistant Purchase Officer and A.T. Bell, District Land Purchase Officer, Ministry of Works, Wellington to District Commissioner of Works, 21 May 1952, ACHL 19111 W1/678 23/381/49/5 pt 2, ANZ Wellington [DSCF 5157].
[92] District Engineer to Commissioner of Works, 26 June 1948, AAQB 889 W3950/71 23/381/49/0 pt 2, ANZ Wellington [DSCF 5316].
[93] F. Langbein, Acting Commissioner of Crown Works to District Engineer, Ministry of Works, Wellington, 3 September 1948, AAQB 889 W3950/71 23/381/49/0 pt 2, ANZ Wellington [DSCF 5311].
[94] Valuation, for Valuer General, Valuation Department, 30 July 1948, AAQB 889 W3950/71 23/381/49/0 pt 2, ANZ Wellington [DSCF 5313].

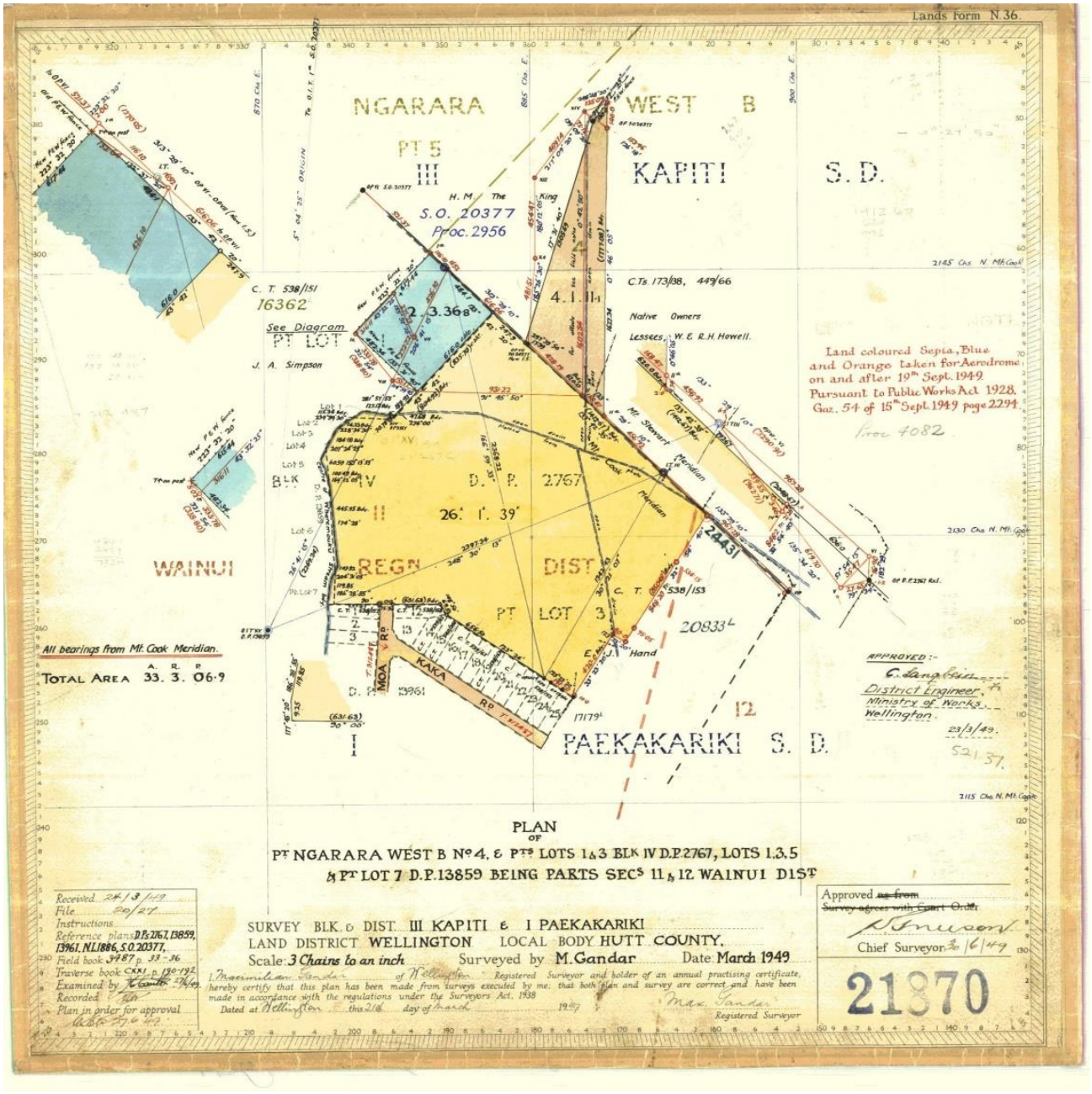
In June 1948 Works informed the Māori Affairs Department about the proposed taking. The registered owners were Mouti Erueti Mira Teira (Taylor), Ngahina Metapere Teira (Taylor), Ngapera Taupiri Teira (Taylor), and Maikara Karo Teira (Taylor) who was deceased. Two of the surviving owners lived in Waitara, while the other was in Rotorua.[95] The Under Secretary for Māori Affairs replied: 'There seem to be no reasons of policy or expediency why this land should not be taken, particularly as the owners are absentees and the land is leased.'[96]

A notice of intention to take the land was issued at the beginning of July 1948.[97] The notice said it was intended to take approximately 5 acres 2 roods from Ngarara West B4 for an aerodrome. The notice was served on 'the Teira family at Waitara' on 26 July 1948, at which time they signed consents for the department to enter the property before it was taken.[98] No objections were received to the notice of intention.[99]

The land was taken by proclamation effective from 19 September 1949 for the purposes of an aerodrome.[100] While the notice of intention had said that 5.5 acres were to be taken from Ngarara West B4, the area actually taken was reduced slightly to 4 acres 1 rood 11.1 perches. The proclamation also took two areas of European-owned land adjoining B4 at the same time (with a total area of approximately 29 acres). The area taken from Ngarara West B4 is the triangular shape shown in orange at the top of the survey plan below.

[95] District Engineer to Under Secretary, Māori Affairs, 16 June 1940, AAQB 889 W3950/71 23/381/49/0 pt 2, ANZ Wellington [DSCF 5317].
[96] G.P. Shepherd, Māori Affairs, Wellington to Commissioner of Works, Wellington, 14 July 1948, AAQB 889 W3950/71 23/381/49/0 pt 2, ANZ Wellington [DSCF 5314].
[97] NZG, 8 July 1948, p. 863.
[98] District Engineer to Acting Commissioner of Works, Ministry of Works, Wellington, 17 August 1948, AAQB 889 W3950/71 23/381/49/0 pt 2, ANZ Wellington [DSCF 5312] and 'Agreement to entry for Construction Purposes' 26 July 1948, AAQB 889 W3950/71 23/381/49/0 pt 3, ANZ Wellington [DSCF 5458].
[99] Acting Commissioner of Works to District Engineer, Ministry of Works, Wellington, 13 September 1948, AAQB 889 W3950/71 23/381/49/0 pt 2, ANZ Wellington [DSCF 5311].
[100] NZG, 19 September 1949, p. 2294. Three small sections of European land (totalling nearly 3 roods) were also taken for the purposes of the same runway extension by NZG, 26 May 1949, p. 1209.

**Figure 4: Land Taken from Ngarara West B4 1949[101]**




In December 1949 the Public Works Department submitted an application for compensation to be assessed to the Māori Land Court.[102] In August 1950, over a year after the land was taken, the Ministry of Works started taking steps to have a date set for the compensation hearing, in response to a request from the owners 'for an early

[101] Survey Office Plan SO 21870.
[102] Gallen, p. 24.

hearing of compensation'.[103] The compensation hearing took place on 10 August 1951.[104] A special government valuation for the Crown valued the land taken at £150, or approximately £34-16s per acre. The valuation submitted on behalf of the owners was £50 per acre, which equated to £216 in total. The court awarded £185 compensation, along with £15 for legal fees.[105] Public Works authorised the £200 payment in October 1951.[106]

*1.1.2.4 1954 - Part Ngarara West B7 Subdivision 2C*

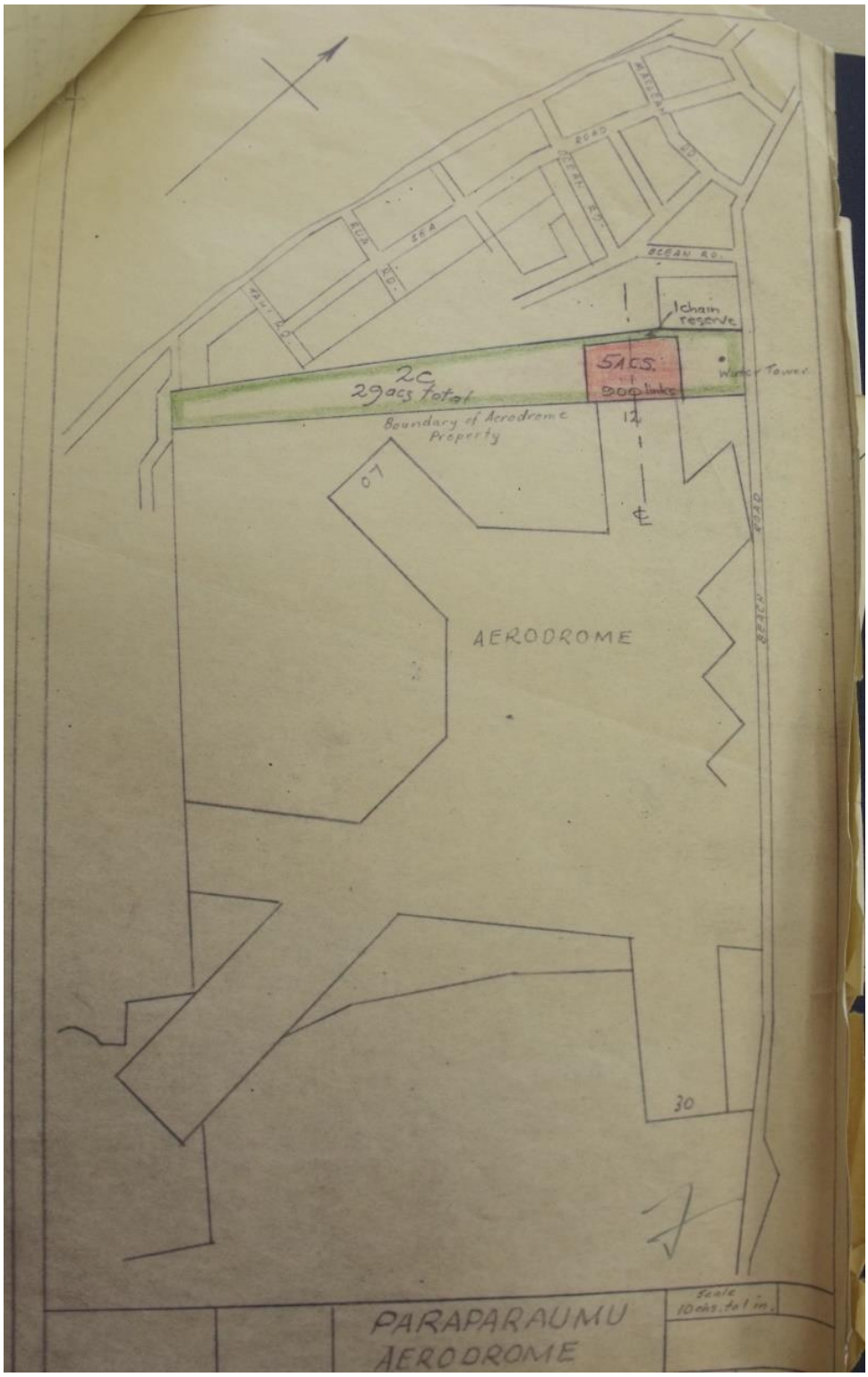
The additional airport takings outlined above were all to the south-east of the original aerodrome. Teoti Tapu [George] Ropata owned Ngarara West B7 Subdivision 2C which ran the full length of the north-western boundary. His property was affected by Air Department plans for enlarging the aerodrome, which had earmarked 10.5 acres of the block for purchase if the expansion went ahead. Ropata was planning to subdivide the block for residential purposes but could not readily proceed until a decision was made on possible aerodrome requirements. In response to pressure from Ropata's agent for a decision, the Aerodrome Engineer considered that even if the north western runway itself was not extended on to Ropata's property, that it would be necessary to impose height restrictions against buildings and trees on the runway approach line. The engineer advised it would be better to purchase the land because the potential compensation for any restriction against building which impacted on his subdivision plans would be not much less than purchasing the required land.[107]

As an alternative the Ministry of Works recommended reducing the amount of land to be required to a five acre area directly in line with the runway, and leaving a strip at the rear to allow the rest of the block access to Beach Road.[108] This would still allow Ropata to subdivide the block. The proposed area to be taken is shown on the following sketch plan of land to be acquired from Ngarara West B7 Section 2C.

---

[103] C. Langbien, District Engineer, to Commissioner of Works, Ministry of Works, Wellington, 10 August 1950, AAQB 889 W3950/71 23/381/49/0 pt 3 [DSCF 5445].
[104] Wellington MB 38, 10 August 1951, pp. 71-72.
[105] G. Mays, Land Purchase Officer, A. Bell, District Land Purchase Officer, Ministry of Works to Commissioner of Works, 21 August 1951, ACHL 19111 W1/678 23/381/49/5 pt 1, ANZ Wellington [DSCF 5112].
[106] Commissioner of Works, Wellington to Ikaroa Māori Land Board, Wellington, 4 October 1951, AAQB 889 W3950/71 23/381/49/0 pt 3, ANZ Wellington [DSCF 5431].
[107] Aerodrome Engineer to Commissioner of Works, 12 May 1952, AAQB 889 W3950/71 23/381/49/0 pt 3, ANZ Wellington [DSCF 5430].
[108] E.R. McKillop, Commissioner of Works to Air Secretary, Air Department, Wellington, 4 June 1952, AAQB 889 W3950/71 23/381/49/0 pt 3, ANZ Wellington [DSCF 5425].

**Figure 5: Land Proposed to be Taken from Ngarara West B7 2C 1952**[109]




[109] Sketch plan of land proposed to be acquired from Ngarara West B7 Subdivision 2C [1952], AAQB 889 W3950/71 23/381/49/0 pt 3, ANZ Wellington [DSCF 5425].

The land agent representing Ropata was informed that while a final decision about the possible development of the aerodrome had yet to be made, that an area of five acres was 'of vital concern to the aerodrome, more particularly for ensuring that the approaches to one of the exisiting runways is kept clear of buildings or other obstructions that might otherwise affect the safety of flying from the aerodrome'.[110]

Nevertheless, budget reasons meant the Works Department did not want to acquire the land until it became necessary. Works informed the Hutt County Council of its interest in protecting the runway approach, and asked to be advised should Ropata submit a scheme of subdivision for approval. Furthermore, it requested the council to not take any action on such application until the Ministry had time to consider if it needed to take action.[111]

In November 1952 the Commissioner of Works opened negotiations to purchase the five acre area, and asked what price Ropata wanted.[112] In response, Ropata's land agent, Morrah said that Ropata would sell the land for £4,000. Ropata wanted to build a house with the payment, and planned to sell the residue of subdivision 2C as a potential residential subdivision once the Crown's plans were confirmed.[113]

The special government valuation made on 6 May 1953 gave a capital value of £2,000 for the land. The valuation was made on the basis that the land could be used for development into housing sections.[114] As a result Works considered that Ropata's claim for £4,000 was 'considerably on the high side'.[115] In August 1953 Works informed the Air Department that it was negotiating the purchase of the land, but that compensation would have to be assessed by the Māori Land Court. Works pointed out that while the five acres was valued at £2,000 there could also be a claim for injurious

[110] W.S. Goosman, Minister of Works to L.W. Morrah, Land Agent, 5 June 1952, AAQB 889 W3950/71 23/381/49/0 pt 3, ANZ Wellington [DSCF 5424].
[111] E.R. McKillop, Commissioner of Works to County Clerk, Hutt County Council, 11 November 1952, AAQB 889 W3950/71 23/381/49/0 pt 3, ANZ Wellington [DSCF 5422].
[112] E.R. McKillop, Commissioner of Works to L.W. Morrah, Land Agent, Waikanae, 25 November 1952, AAQB 889 W3950/71 23/381/49/0 pt 3, ANZ Wellington [DSCF 5422].
[113] L.W. Morrah, Licensed Land Agent, Waikanae to Commissioner of Works, Wellington, 6 December 1952, AATE W3401/33 20/2/0/11, ANZ Wellington [DSCN 5177].
[114] C.H. Moreland, District Valuer to District Commissioner of Works, Wellington, 6 May 1953, AATE W3401/33 20/2/0/11, ANZ Wellington [DSCF 5175].
[115] C. Langbein, District Commissioner of Works, Wellington to Commissioner of Works, 14 August 1953, AAQB 889 W3950/71 23/381/49/0 pt 3, ANZ Wellington [DSCF 5416].

affection on the value of the residue of the block. Accordingly he suggested they should allow up to £3,000, 'although every endeavour will be made to keep the compensation below this figure'.[116] Ministerial approval to take the land by agreement was given in January 1954.[117]

In June 1953 Ropata signed consent to the Crown to acquire five acres by proclamation with compensation to be assessed by the Māori Land Court.[118] In July 1954 Morrah wrote to the Prime Minister to complain that the purchase had not yet been completed. He explained that Ropata had an outstanding rates bill which could not be paid until compensation was settled, and that the Hutt County Council was threatening to take legal action. According to Morrah, an agreement had been reached to sell the block for £2,000, but this was annotated with a comment that the Land Purchase Officer said no agreement had been reached. Morrah also argued that in the time since the Crown had first expressed interest in taking some of the block, that land values had fallen, which would affect the sale price of the remainder of the block. He requested the matter be completed as soon as possible.[119]

Works had taken steps to get the required land surveyed in March 1954, but illness had delayed completion of the plans.[120] Negotiations were entered into with solicitors acting for Ropata. Works suggested that in order to speed up the process the requirement to issue a notice of intention, and then wait 40 days, could be avoided if Ropata submitted a written consent for the land to be taken. Ropata did sign a consent which was witnessed by his solicitor, and forwarded to the Māori Land Court for confirmation under Sections 222 and 224 of the Māori Affairs Act 1953.[121]

---

[116] E.R. McKillop, Commissioner of Works to Air Secretary, Air Department, 21 August 1953, AAQB 889 W3950/71 23/381/49/0 pt 3, ANZ Wellington [DSCF 5415].
[117] Director of Civil Aviation to Commissioner of Works, 6 January 1954, AAQB 889 W3950/71 23/381/49/0 pt 3, ANZ Wellington [DSCF 5414].
[118] T.T. Ropata to Commissioner of Works, Wellington, 29 June 1953, AATE W3401/33 20/2/0/11, ANZ Wellington [DSCF 5174].
[119] Morrah's letter to the Prime Minister was cited in E.R. McKillop, Commissioner of Works to District Commissioner of Works, Wellington, 22 July 1954, AAQB 889 W3950/71 23/381/49/0 pt 3 ANZ Wellington [DSCF 5412].
[120] Minister of Works to L.W. Morrah, Waikanae, 2 September 1954, AATE W3401/33 20/2/0/11, ANZ Wellington [DSCF 5167].
[121] District Solicitor, Ministry of Works to Judge of the Māori Land Court, Hastings, 8 September 1954, AATE W3401/33 20/2/0/11, ANZ Wellington [DSCF 5165-5166].

The proclamation taking the land was issued in November 1954. It declared that 5 acres 1 rood 7.5 perches of Ngarara West B7 Subdivision 2C was taken for the purposes of an aerodrome.[122]

Six months later an agreement was reached on the amount of compensation. Ropata agreed to accept £2,635 plus legal and valuation costs of £36-5-0.[123] In May 1955 the Māori Land Court heard the compensation application. Maye, for the Crown, said the government valuation was worth £2,000, but an agreement had been reached to pay £2,635 and legal and valuation expenses of £36-5-0. Kember, Ropata's solicitor, confirmed the agreement. The Māori Land Court made the compensation award accordingly.[124] Public Works approved payment in July 1955.[125]

**Table 1: Summary of Land Taken for Paraparaumu Airport 1939-1954**

| Date | Block | Area Taken | Owner(s) | Purpose |
|---|---|---|---|---|
| 1/4/1939 | Ngarara West B7 Sub 2B | 30a 0r 00p | Desc of Hoani Ihakara | Aerodrome |
| 1/4/1939 | Ngarara West B7 Sub 2A | 30a 0r 00p | R.G. MacLean (purchased 1920s) | Aerodrome |
| 1/4/1939 | Ngarara West B7 Sub 1 | 90a 0r 00p | Kaiherau Takurua | Aerodrome |
| 1/4/1939 | Pt Ngarara West B5 | 107a 3r 09p | P. te Uru and others | Aerodrome |
| 23/7/1940 | Pt Ngarara West B4 | 6a 3r 14.5p | Successors to Teira te Ngarara | Aerodrome |
| 23/11/1943 | Pt Ngarara West B4 | 15a 0r 22.4p | Successors to Teira te Ngarara | Defence |
| 30/5/1949 | Lot 14 DP 13961 | 0a 0r 32p | E. Rowland | Aerodrome |
| 30/5/1949 | Lot 12 DP 13961 | 0a 0r 33.42p | H.F. Rowland | Aerodrome |
| 30/5/1949 | Lot 13 DP 13961 | 0a 0r 34.55 | F. Brown | Aerodrome |
| 19/9/1949 | Pt Ngarara West B4 | 4a 1r 11.1p | Successors to Teira te Ngarara | Aerodrome |
| 19/9/1949 | Pt Lot 1 Blk IV DP 2767 | 2a 3r 26.8p | J.A. Simpson | Aerodrome |
| 19/9/1949 | Pt Lot 3 Blk IV DP 2767 & Lots 1, 3 & 5 & pt Lot 7 DP 13859 | 26a 1r 39p | E.J. Hand | Aerodrome |
| 4/10/1954 | Pt Lot 1 Blk IV DP 2767 | 12a 0r 00.6p | J.A. Simpson | Aerodrome |
| 13/11/1954 | Pt Ngarara West B7 Sub 2C | 5a 1r 07.5p | T.T. Ropata | Aerodrome |

[122] NZG, 22 November 1954, p. 1788.
[123] J.A. Scott & Kember, Solicitors, Wellington to District Commissioner of Works, Wellington, 19 May 1955, AATE W3401/33 20/2/0/11, ANZ Wellington [DSCF 5163].
[124] Wellington MB 39, 27 May 1955, p. 391.
[125] District Land Purchaser, Wellington to District Commissioner of Works, 13 July 1955, AATE W3401/33 20/2/0/11, ANZ Wellington [DSCF 5160, 5159].

In total, an area of 331 acres 1 rood 10.87 perches was taken for the airport at Paraparaumu. Of this amount, 259 acres 1 rood 24.5 perches were in Māori ownership at the time the land was taken.

## 1.2 Disposal of Paraparaumu Airport 1980-1995

The following section explains how the Paraparaumu Airport land was transferred from the Crown to private ownership. The airport had been acquired under the Public Works Act for a public purpose, and under ordinary circumstances, it would cease to be considered as required for public purposes if it passed out of Crown ownership. Under the Public Works Act 1981, if land was no longer required for public purposes, Sections 40 and 41 required the land to be offered to the former owner, or their successor, to purchase before being sold on the open market. Section 40 is quoted in full below, but it should be noted that the 1981 Act did provide some exceptions to the offer back requirement, namely that the land could be used for a different public purpose, or did not need to be offered back if it was considered unreasonable or impractical to do so. These were to become key issues for the descendants of the former Māori owners of the airport land.

Section 40 of the Public Works Act 1981 stated:

> **40. Disposal to former owner of land not required for public work –** (1) Where any land held under this or any other Act or in any other manner for any public work –
> (a) Is no longer required for that public work; and
> (b) Is not required for any essential work; and
> (c) Is not required for any exchange under section 105 of this Act –
> the Commissioner of Works or local authority, as the case may be shall endeavor to sell the land in accordance with subsection (2) of this section, if that subsection is applicable to that land.
>
> (2) Except as provided in subsection (4) of this section, the Commissioner or local authority shall, unless he or it considers that it would be impractical, unreasonable or unfair to do so, offer to sell the land by private contract to the person from whom the land was acquired or to the successor of that person, at a price fixed by a registered valuer, or, if the parties to agree, at a price to be determined by the Land Valuation Tribunal.
>
> (3) Subsection (2) of this section shall only apply in respect of land that was acquire or taken –
> (a) Before the commencement of this Part of this Act; or
> (b) For an essential work after the commencement of this Part of this Act.

(4) Where the Commissioner or local authority believes on reasonable grounds that, because of the size, shape, or situation of the land he or it could not expect to sell the land to any person who did not own land adjacent to the land to be sold, the land may be sold to an owner of adjacent land at a price negotiated between the parties.

(5) For the purposes of this section, the term 'successor', in relation to any person, means the person who would have been entitled to the land under the will intestacy of that person had he owned the land at the date of his death; and, in any case where part of a person's land was acquired or taken, includes the successor in title of that person.[126]

### 1.2.1 Government Policy to Devolve Aerodromes

By the 1980s the airport was considered a 'minor facility' mostly used by local aero clubs and small operators. The Civil Aviation Flying Unit had ceased to use the facilities and the landing charges were not meeting the full operational costs. Some of the airport land was leased for residential (Avion Terrace), grazing and commercial purposes (along Kapiti Road). In 1988 the government decided that the Ministry of Transport no longer needed to operate the aerodrome, and that it should be disposed of as a surplus asset.[127] Various options were investigated, as part of which Landcorp prepared a proposal to make the aerodrome more economically viable by using 'surplus' areas to redevelop an industrial park (or sell land to a developer for an industrial park) and to create a residential subdivision on the western side.[128]

After the 1990 general election the government introduced a capital charge on Crown assets to encourage government departments to dispose of unnecessary or underperforming assets. At this time the overall policy framework factors which decided the aerodrome should be sold were that civil aerodromes should be run as businesses; government departments should not be running businesses; profitable state owned businesses should be corporatized and either operated by the state or privatised; and that state owned businesses that were not commercially viable should be sold on the open market.[129]

---

[126] Section 40 Public Works Act 1981.
[127] 'Report of the Controller and Auditor-General: Inquiry into the Sale of Paraparaumu Aerodrome by the Ministry of Transport', September 2005, pp. 16-17.
[128] Landcorp, Paraparaumu Aerodrome Proposal for Air Transport, December 1989, ABJZ 16127/238 1999/231 pt 2, ANZ Wellington [IMG 1474-1481].
[129] 'Report of the Controller and Auditor-General: Inquiry into the Sale of Paraparaumu Aerodrome by the Ministry of Transport', September 2005, p. 6.

The Ministry of Transport advised Cabinet in March 1991:

> Expedited disposal of [the Crown's] aerodromes has become imperative because the Ministry does not believe it can generate sufficient revenue from the aerodromes to meet return requirements expected to be set under the proposed capital asset charging regime [due to be implemented in July 1991]. The problem in earning sufficient revenue stems from the return target that is expected to be set as well as an over-valuation of the aerodrome assets on the Ministry's balance sheet.[130]

The new National government confirmed the previous decision that the airport was a surplus asset for disposal. A number of factors were taken into account by the Ministry when considering whether the airport met the criteria for sale. One option considered was to improve the financial return of the airport while retaining Crown ownership by selling off surplus land. This option would have triggered procedures under the Public Works Act to offer the land to former owners to purchase, which officials said might jeopardise continued operations as an airport. If viable, the government wanted the airport to continue operation so it preferred to sell the 'aerodrome as a going concern and let the market (and/or the local community) decide about its continued operation.'[131]

Ministry officials also argued that if Paraparaumu Aerodrome ceased operations any remaining regional airports would be placed under pressure to take up the workload.[132] The March 1991 memorandum to Cabinet explained the potential risks:

> The closure of Paraparaumu, with 50,000 aircraft movements annually, would place an increased strain on general aviation traffic in the Wellington region. It is likely that this traffic would either shift to Wellington International airport, or possibly Palmerston North or Masterton airports. Wellington International airport, with 120,000 movements annually, is already experiencing problems with airways congestion at peak hours, and these problems would be compounded. There would be increased risk to aircraft safety, if Wellington were to be required to absorb increased general aviation traffic from Paraparaumu, especially following the increase in commuter airline traffic stemming from the recent withdrawal of Friendship services by Air New Zealand.
>
> The Airways Corporation also considers that Paraparaumu should be retained and has stressed its importance in relieving general aviation congestion at New Zealand's main domestic hub.[133]

[130] ibid, pp. 17-18.
[131] ibid, p. 18.
[132] ibid, p. 19.

Following the Ministry advice, Cabinet authorised the Ministry of Transport to enter into negotiations with Wellington International Airport Ltd over a possible sale of Paraparaumu airport. Official advice recognised that some of the airport land was surplus to operational requirements which would be taken into account when assessing the commercial viability.

In July 1991 the Minister of Transport advised Cabinet:

> Paraparaumu is unlikely to be commercially viable although it could be after an extensive land rationalisation programme [meaning disposing of surplus land]. However, there has been interest shown in its purchase for continued use as an aerodrome but prospective purchasers are also likely to have in mind the development potential of the surplus land. On balance, I believe that the best option for Paraparaumu would be sale on an open market basis.[134]

In July 1991 Cabinet decided that the airport should be sold with the requirement that keeping the airport operational was a condition of the sale.[135]

In July 1991 Cabinet considered the implication of Treaty of Waitangi claims affecting Paraparaumu Aerodrome. A memorandum from the Minister of Transport Rob Storey to the Cabinet Committee on Enterprise, Growth and Employment examining the disposal of the Ministry of Transports aerodromes stated:

> As you are aware, the disposal of any Crown land is complicated by the possibility of Treaty claims. There are claims in existence over Paraparaumu and it is understood that claims will be forthcoming in respect of Ardmore.
>
> Where there is the possibility of Crown-owned land being subject to the Treaty of Waitangi claims, Manatu Maori are of the view that the Crown should avoid disposal of any of the Ministry's aerodromes until any claims are resolved. Retaining ownership of such land allows the Crown to use it as compensation should any claims involving the land be successful. Obviously, once sold, the Crown is no longer in a position to use the land for compensation. However, Manatu Maori have also acknowledged that it would be unreasonable to impede the sale of the Ministry of Transport's aerodrome land, preventing the Ministry realising its financial objectives. Therefore, Manatu Maori have recommended that, in order to allow sale to proceed, the Airport Authorities Act should be amended to set in place memorial

---

[133] ibid, pp. 18-19.
[134] Minister of Transport to Cabinet, July 1991, cited in 'Report of the Controller and Auditor-General: Inquiry into the Sale of Paraparaumu Aerodrome by the Ministry of Transport' September 2005, p. 19.
[135] 'Report of the Controller and Auditor-General: Inquiry into the Sale of Paraparaumu Aerodrome by the Ministry of Transport September 2005', p. 19.

> provisions similar to those in the State Owned Enterprises Act 1986 which would allow the Crown to resume ownership of land transferred to airport companies should it be required to satisfy recommendations of the Waitangi Tribunal.
>
> The Justice Department is of the view that disposal of the Ministry's aerodromes, especially Milford Sound, should be put on hold to allow for Cabinet consideration of a substantive paper on the disposal of Crown assets and Treaty of Waitangi claims.
>
> I am reluctant to recommend changes to the Airport Authorities Act of an ad hoc nature to aid disposal. It is essential that the Government develops an overall policy in respect of Treaty of Waitangi implications for the sale of Crown owned land. Any changes to the Airport Authorities Act should only be considered in the context of that policy, but it could be some time until such a policy is finalised. It is also noted that memorial provisions would have major implications for airport companies already in existence. Major policy issues are raised because, unlike SOEs, the Crown does not wholly own these companies, land transferred to them was not solely Crown land, and future privatisation of the companies is possible.[136]

On 1 August 1991 Cabinet decided:

> Agree that, pending resolution of Treaty claims and amendments to the Airport Authorities Act 1966, the land comprising Ardmore, Chatham Islands and Paraparaumu Aerodromes should be retained in Crown ownership and prepared for sale.[137]

Concerns about the implications of the Public Works Act 1981 when Crown assets were being sold were 'noted in most 1991 Cabinet papers.' For example memorandum to the Cabinet Committee on Enterprise Growth and Employment in August 1991 stated:

> Public Works Act 1981
>
> 10. In addition to Treaty of Waitangi issues. DOSLI has strongly recommended that the Airport Authorities Act 1966 be amended prior to the transfer of any further Crown land to airport companies. It is of the view that the Act does not satisfactorily protect the rights of former owners who had land acquired for the purpose of establishing the aerodromes. While the Airport Authorities Act allows the Crown to transfer land to an airport company without invoking the offer-back sections of the Public Works Act, these sections are also intended to apply if an airport company then decides to

[136] W. Rob Storey, Minister of Transport, Memorandum for the Cabinet Committee on Enterprise, Growth and Employment, no date [July 1991], ABGX 16127/239 1999/231/ pt 4, ANZ Wellington [IMG 1624-1630].
[137] CEG(91)(137), cited in 'Report of the Transport and Industrial Relations Committee, Hon Mark Gosche, Chairperson, May 2004', on Petition 1999/231 of Ross Sutherland and 584 others, p. 54.

> on-sell land. The State Owned Enterprises Act 1986 establishes a similar regime for SOEs.
>
> 11. DOSLI, however, are strongly of the view that the Airport Authorities Act is inadequate to transfer land to an airport company because of an apparent conflict between that Act and the Public Works Act in that a "public work", even if a "Government work" as in the Airport Authorities Act, must be operated by the Crown or a local authority. This view casts doubt on the past transfer of land to existing airport companies (excluding Auckland and Wellington), and despite what is intended, allows an airport company to on-sell land, by-passing offer-back. Accordingly, it is my recommendation that no further Crown land be transferred to airport companies until the issue has been thoroughly investigated and the Airport Authorities Act has been strengthened as necessary.[138]

On 7 October 1991 Cabinet decided to amend the Airport Authorities Act:

> agreed, in order to protect the rights of former owners, that:
>
> (i) the Airport Authorities Act 1966 be amended; and
> (ii) the Articles of Association of the Ardmore and Paraparaumu Airport companies stipulate that the Public Works Act 1981 provisions be followed in respect of the disposal of land that was compulsorily acquired under this Act;[139]

This Cabinet decision led to Section 3A(6A) of the Airport Authorities Act.[140] In 1992 the Airport Authorities Act 1966 was amended to allow the transfer of land which had been compulsorily acquired to an airport company formed under the Act. The Crown's interest in the airport company could then be sold, without affecting the Public Works Act offer back rights of the former owners. This meant that if the sale proceeded before any land was declared surplus it was considered unnecessary for the Ministry of Transport to contact former owners of the land as their offer-back rights would still be protected under private ownership.

The new Section 3A(6A) of the Airport Authorities Act which came into force on 10 August 1992 of the Civil Aviation Amendment Act 1992 said:

---

[138] GEG(91)137, cited in 'Report of Transport and Industrial Relations Committee, Hon Mark Gosche, Chairperson, May 2004', on Petition 1999/231 of Ross Sutherland and 584 others, p. 64; see also, p. 51.
[139] CAB(91)M41/3f), cited in 'Report of Transport and Industrial Relations Committee, Hon Mark Gosche, Chairperson, May 2004', on Petition 1999/231 of Ross Sutherland and 584 others, p. 64; see also, pp. 51-52.
[140] 'Report of Transport and Industrial Relations Committee, Hon Mark Gosche, Chairperson, May 2004', on Petition 1999/231 of Ross Sutherland and 584 others, p. 64; see also, p. 51.

> Nothing in sections 40 to 42 of the Public Works Act 1981 shall apply to the transfer of land to an airport company under this Act, but sections 40 and 41 of that Act shall after that transfer apply to the land as if the airport company were the Crown and the land had not been transferred under this Act.[141]

In short, the idea was that the Crown could sell its interests to an airport company without the former owners' rights under the Public Works Act being affected. The Auditor General subsequently explained that:

> This provision largely mirrored section 24(4) of the State-Owned Enterprises Act, which applied sections 40 to 42 of the Public Works Act to surplus land held by State Enterprises. But land transferred by the Crown to State enterprises was also protected by the Treaty of Waitangi (State Enterprises) Act 1988 and by memorials placed on certificates of title, providing that the Waitangi Tribunal could order its return to Māori. No such protection was inserted in the Airport Authorities Act.[142]

As a result of concerns about the costs to government to run the aerodrome in 1993 the Ministry of Transport and Treasury concluded that aerodromes, including Paraparaumu should be sold. A recommendation was put to Cabinet that it:

> direct the Ministry of Transport, subject to fulfilling the Crown's obligations under the Treaty of Waitangi and the Public Works Act, to offer for sale:
> i the shares in an airport company established for each core aerodrome by:
> EITHER
> - tender of the open market (preferred option):
>
> OR
> - negotiation with use groups;
>
> ii the surplus assets by tender on the open market where separate disposal is expected to maximize return;
>
> agree that there be no restriction on purchasers designed to prevent the closure of the aerodromes …[143]

The government was concerned that the preferred option could lead to the aerodrome being closed, but also considered negotiating a sale to a local user was not acceptable. Instead in April 1993 Cabinet decided to transfer the airport assets to an airport company (Crown entity), and then sell the Crown shares in the company by

[141] ibid, p. 24.
[142] ibid, p. 24.
[143] ibid, p. 20.

negotiation or closed tender to user/and or local groups which were likely to keeping the airport running:

> Directed the Ministry of Transport, subject to fulfilling the Crown's obligations under the Treaty of Waitangi and the Public Works Act, to offer for sale the shares in an airport company established for each core aerodrome by negotiation with user groups and/or local groups, or by restricted tender involving user groups and/or other local groups.[144]

### 1.2.2 Consultation with Māori 1989-1995

The Ministry of Transport was aware that Sections 40 and 41 of the Public Works Act 1981 and the principles of the Treaty of Waitangi required it to consult with Māori.[145] In accordance with the potential for offer-back procedures, in December 1988 the Ministry of Transport asked the Lands Department to begin an investigation of ownership history of the aerodrome land. While referring to acting under Section 40, the request also specified that the Lands Department should not go as far as offering the land back to former owners at this stage.[146]

In 1989 a series of Section 40 reports were prepared for each of the blocks, which looked at the circumstances surrounding the acquisition, and whether they required the land to be offered back to the former owners if it was declared surplus. In June 1990 a summary identified fifteen land parcels as making up the aerodrome land of which 130 hectares had compulsorily been acquired. Seven parcels were identified as Māori freehold at the time of taking.[147] In the cases of Ngarara West B7 Subdivision 1, Ngarara West B4, and Ngarara West B5, the report said that if the land was declared surplus an offer back would be required. In the case of Ngarara West B7 Subdivision 2C it was considered to be exempt from the offer back requirements 'on the grounds that it would be unreasonable to do so'. This was because the owner had offered the land for purchase by the Crown and consented to a sale agreement. For both Ngarara West B7 Subdivision 2A and 2B, both had been partly exempted because they included the Avion Terrace housing area, and were occupied by the

[144] Cited in 'Report of the Controller and Auditor-General: Inquiry into the Sale of Paraparaumu Aerodrome by the Ministry of Transport September 2005', p. 20.
[145] 'Report of the Controller and Auditor-General: Inquiry into the Sale of Paraparaumu Aerodrome by the Ministry of Transport September 2005', p. 7.
[146] Property Officer, Ministry of Transport to Acting Director-General of Lands, 8 December 1998, MOT 76/20/0 vol 7, NZTA, Wellington [IMG 1991-1992].
[147] District Manager/Chief Surveyor, Department of Survey and Land Information, 26 June 1990, Rawhiti Higgott Papers [IMG 2551-2553].

Meteorological Service, and an overall decision in both cases had been delayed until any decision was made about what land could be declared surplus.[148]

LINZ were asked to identify (but not make contact with) the former owners of the land, but in May 1991 it claimed that this would be a difficult task without approaching people to confirm whether or not they were former owners or their successors.[149]

On 21 March 1991 the Minister of Transport issued a press release that the Ministry of Transport planned to sell seven aerodromes. The statement said that the Ministry's role was regulation while the operation of aerodromes was a commercial undertaking. The Minister said that before any decision was made the government wanted to consult with interested parties, and that a range of options were being considered:

> Possible options could be corporatisation of viable airports, followed by sale of shares, or direct sale of an aerodrome to an airport company or local authority.
> That would preserve the rights of former owners under the Public Works Act 1981, should the new owners wish to dispose of aerodrome land in the future.
> For some airports, it may be possible to arrive at a structure which would allow local communities to control and run their airports in a way best suited to their needs.[150]

Two representatives of former owners approached the Ministry of Transport independently. One was Mrs Lake [nee te Teira, a descendant of Ihakara te Ngarara]. In mid-May the Lake whanau concerns were supported by Ati Awa ki Whakarongotai Inc who had lodged claims Wai 88 and Wai 89, which include the airport. The chair complained they had not been notified about the potential sale, and stated they would be assisting the Lake whanau.[151] He was told that no final decision had yet been made by the Crown to sell the airport. He said that their objection would be noted, and advised that officials planned to meet with Mrs Lake.[152] In June 1991 Mrs Lake and

[148] Summary [no date], attached to Suzanne M. Blatch, for District Manager, Lands Department to Ian Marlow, Air Department, 6 June 1991, MOT 76/20/0 vol 5, NZTA, Wellington [IMG 1926-1932].
[149] Suzanne M. Blatch, for District Manager, Lands Department to Ian Marlow, Air Department, 6 June 1991, MOT 76/20/0 vol 5, NZTA, Wellington [IMG 1925].
[150] Office of the Minister of Transport, News Release, 21 March 1991, MOT 76/20/0 vol 7, NZTA, Wellington [IMG 1984-1985].
[151] Ati Awa ki Whakarongotai Inc to Ministry of Transport, 13 May 1991, Rawhiti Higgott Papers [IMG 2588].
[152] Stewart Milne, Acting General Manager, Ministry of Transport to Ati Awa ki Whakarongotai Trust Inc, Rawhiti Higgott Papers [IMG 2587].

her solicitors met with officials about the possibility of the family being offered the land. They asked for further information about any agreements made at the time the land was taken, and whether the rights of former owners would be protected if the government sold the airport.[153] Later that year the Ministry of Transport forwarded her the former certificates of title for the land taken for the airport.[154]

The other was Mrs Erskine. On 7 August 1991 Mrs P. Erskine of Paraparaumu wrote and supplied her home phone number to N. Mowatt the Controller Domestic Air Services:

> Recent publicity regarding the proposed sale of the Paraparaumu Airport has prompted me to write to your Department.
>
> I am a descendant of the original owners of Ngarara West B 5 Block and have been waiting for some correspondence or otherwise from Air Transport with regards the proposed sale. Section 40 of the Public Works Act states this should be so.
>
> Enclosed is a copy of a letter received from the Public Works Department, Wellington, dated 28th October 1938 to support my claim. I look forward to hearing from your Office as it appears that a claim has been made to the Waitangi Tribunal by the Ngati Toa people claiming original ownership.[155]

She enclosed a copy of the notice of intention to acquire Ngarara West B5 which was sent to her mother, Pirihira te Uru in 1938. In response, Transport told her that no decision had yet been made to sell or close the airport, and that the Ministry was discussing with other government agencies how to protect the rights of former owners under the Public Works Act.[156]

The Transport Department was also approached at this time by the Ngahina Trust, which owned the adjoining Ngarara West E block. Ngarara West E was a consolidation of the Ngarara West B blocks between the airport and the main road, and included the residue of Ngarara West B4 which had had parts taken for the airport. The trust said that all the former owners of land taken for the airport or their

[153] File note, Tee & McCardle, 27 June 1991, Rawhiti Higgott Papers [IMG 2572].
[154] John Edwards, Acting General Manager, Air Transport to Mrs H.E. Lake, 30 September 1991, MOT 76/20/0 vol 3, NZTA, Wellington [IMG 1809].
[155] Mrs P. Erskine, Paraparaumu to Nigel Mowatt, [Mouat] Controller Domestic Air Services, Lower Hutt, 7 August 1991; personal correspondence supplied by Mrs P. Love Erskine, Paraparaumu on 28 January 2018.
[156] Acting General Manager, Air Transport to P. Erskine, 19 August 1991, Rawhiti Higgott Papers [IMG 2577].

successors were beneficiaries of the trust. The trust had a proposal for the Crown which would allow the airport to keep operating, while returning it to Māori ownership. The trust stated that any sale to an airport company would trigger the offer back provisions of the Public Works Act. It recognised that an airport company would want to continue to operate the airport, and therefore proposed a compromise whereby the former Māori owners were given the freehold title to the airport with a long-term lease to the Crown. This would allow the Crown to sell the airport by transferring the lease while the land remained in Māori ownership.[157]

After the Airport Authorities Act had been amended, in May 1993, on advice from the Crown Law Office, Treaty of Waitangi Policy Unit, Department of Justice and Te Puni Kokiri the Ministry of Transport decided to consult only with groups who had lodged Waitangi Tribunal claims to the area where the aerodrome was located.[158] This decision was made on the grounds that the amendment to the Airport Authorities Act meant it was unnecessary to contact the successors to the former owners because their offer-back rights were supposed to be protected. However, while their rights were supposedly protected, if the land passed out of Crown ownership it would no longer be available as part of a potential Treaty settlement package, which is why claimants were contacted.

NZTA identified five Waitangi Tribunal claimant groups whose claims included Paraparaumu Aerodrome: Runanga ki Muaupoko; Tama-i-uia Ruru; Raukawa Trustees; Te Runanga o Ngati Toa Rangatira; and Ati Awa ki Whakarongotai. Some of these claims were not specific to the aerodrome but covered a larger rohe which included Paraparaumu. The claimant groups were sent a letter on 14 May 1993 which stated:

> The Government…has decided that the Ministry of Transport should offer the aerodromes, including Paraparaumu, for sale to the current aerodrome users and/or nearby international airports and/or local authorities. However, before disposing of the aerodrome the Ministry of Transport must fulfil the Crown's obligation under the Public Works Act and the Treaty of Waitangi.

[157] Oakley Moran to Acting General Manager, Department of Transport, 16 May 1991, Rawhiti Higgott Papers [IMG 2580-2581].
[158] 'Report of the Controller and Auditor-General: Inquiry into the Sale of Paraparaumu Aerodrome by the Ministry of Transport September 2005', p. 25.

> Development of Disposal options for disposing of the aerodrome has been difficult because the majority, if not all of the aerodrome land is subject to the Public Works Act, which requires any land that is no longer required by the Crown for public works to first be offered back to its former owners prior to any sale on the open market. Acceptance by the former owners of the offer back under the Public Works Act may have led to closure of the aerodrome, and the loss of a worthwhile aviation facility.
>
> In order to allow the aerodrome to remain operational, the Government has decided that the aerodrome will be formed into an airport company which will then be sold. The Airport Authorities Act allows for land to be transferred to an airport company without requiring the land to first be offered back to the former owners. However, if the airport company should later wish to sell land at Paraparaumu which it no longer requires for aerodrome purposes, it will be required to offer the land back to the former owners in accordance with the Public Works Act.
>
> In recognition of the Crown's Treaty of Waitangi obligation of good faith, the Ministry of Transport seeks the comments of the iwi and hapu that may be affected by the proposal for the sale of Paraparaumu aerodrome, before inviting any tenders. If you have any concerns about the proposed timetable or you wish us to provide you with further information, please contact me without delay.
>
> Any submissions you wish to make should be forwarded to the Ministry of Transport by 1 July 1993, but as a first step we would be grateful if you could indicate before the end of May whether or not you wish to comment.[159]

Claimant group Ati Awa ki Whakarongotai Incorporated responded to the 14 May letter before the 1 July deadline. On 28 June 1993 they briefly told Transport:

> 1. Ati Awa are happy to support their whanau who are the descendants of the original owners of the airport land in their quest for the return of any surplus land under section 40 of the Public Works Act.
> 2. Their [sic] are concerns regarding the payment for improvements when that land is returned both immediately and in the future.
> 3. Their [sic] are concerns with the limitations placed upon the land usage after it is returned.
> 4. Their [sic] are concerns about the lack of detail available to the Iwi in order to make informed decisions on this matter.[160] [Emphasis added]

This was accompanied by a more detailed submission from Ati Awa ki Whakarongotai, which explained that if any land was returned as part of a settlement,

[159] Nigel Mouat for Secretary of Transport: to Te Pehi Parata, Chairman, Ati Awa ki Waikanae Committee; to Tama-i-uia Ruru, Levin; to Whata Karaka Davis, Chairman, Raukawa Trustees; to Akuwhata Wineera, Te Runanganui o Toa Rangatira; to Tamihana Tukupua, Muaupoko Runanga, 14 May 1993, MOT 76/20/0 vol 3, NZTA, Wellington [IMG 1833-1840].

[160] 'Report of the Controller and Auditor-General: Inquiry into the Sale of Paraparaumu Aerodrome by the Ministry of Transport September 2005', p. 26.

they would not be in a position to purchase the improvements on the land without government assistance. They asked for more information and time to prepare a response, and indicated they would be looking into whether they could be involved in the tender process.[161]

At the same time as making contact with Waitangi Tribunal claimants, Transport wrote to Mrs Lake, who had approached them as a descendant of a former owner. She was told that selling the land as an airport company safeguarded the former owners' interest. She was assured that if the private company later wanted to sell part of the aerodrome land 'it will be required to offer the land back to the former owners in accordance with the Public Works Act. Consequently, the position of former owners and their descendants will be unaffected' [Emphasis in original].[162] One of her children responded in April 1994 that while they were still researching the ownership of the land, they wanted to register their interest in the airport land.[163]

In August 1993 the Treaty of Waitangi Policy Unit advised Transport because it had transferred the aerodrome land to an airport company it would mean this land would be unavailable for use in a Treaty settlement. It explained that this situation could place the Crown in breach of the Treaty Principle that the Crown should not place impediments to redressing grievances. Crown Law advised Transport to further consult with claimant groups in order to comply with its Treaty obligations. Once this was done it could be decided whether a mechanism was needed to ensure that the title transfers did not make a barrier to settling Treaty breaches.[164] Transport was advised to establish what special significance the claimant groups placed on the land. If the land was not of special significance an exchange would be possible. It was also told to establish whether the claimants would continue to be satisfied with the land being used as airport if they had 'ownership or control of the underlying title'. When the

[161] Te Pehi Parata, Chairperson, Ati Awa ki Whakarongotai Incorporated to Rob Storey, Minister of Transport, 28 June 1993, MOT 76/20/0 vol 3, NZTA, Wellington [IMG 1829-1830].
[162] Secretary for Transport to Mrs Lake, 17 May 1993, MOT 76/20/0 vol 3, NZTA, Wellington [IMG 1831].
[163] Nora Pidduck, Paraparaumu to Nigel Mouat, Ministry of Transport, 21 April 1994, MOT 76/20/0 vol 3, NZTA, Wellington [IMG 1807-1808].
[164] 'Report of the Controller and Auditor-General: Inquiry into the Sale of Paraparaumu Aerodrome by the Ministry of Transport September 2005', p. 26.

claimants were the 'immediate' previous owners of land declared surplus, they were protected by Section 3A(6A) of the Airport Authorities Act.[165]

Accordingly, in October 1993 Transport wrote again to the claimant groups and asked four questions:

> a Do you claim that the land upon which the aerodrome is located is of particular significance? Is it for example wahi tapu?
> b Does your claim extend to the whole of the land upon which the aerodrome is located or simply part of that land, which part?
> c Do you accept that the land should continue to be used as an airport, given that there is limited land in the vicinity available for airports and that the provision of airport facilities is of wider benefit to the community?
> d In your claim to the Waitangi Tribunal (WAI 88) you have referred to the Paraparaumu Airport but given no particulars of the basis of the claim to that piece of land. Has any research been commissioned or completed in respect of particular claim to the aerodrome?[166]

The Raukawa Trustees responded that they did not have a claim on the aerodrome, and advised that the appropriate 'tangata whenua' group to deal with was Te Ati Awa ki Whakarongotai.[167] Te Runanga o Toa Rangatira wanted to participate in discussions about the airport disposal.[168] Te Runanga ki Mua-Upoko said they had concerns about the disposal of the airport and would forward further information after their next meeting.[169] Tama Ruru advised that his claim did not include the airport but that another claimant, Thompson Takapua, might be interested in the issue.[170]

By early 1994 three claimant groups, Te Ati Awa ki Whakarongotai, Te Runanga ki Mua-Upoko, and Te Runanga O Toa Rangatira had indicated they wanted the land retained in Crown ownership for potential return. In early February 1994 the manager of the Air Services Division of the Ministry of Transport drew up a memorandum outlining the Crown's options for dealing with the claimants. He explained:

---

[165] ibid, p. 26.
[166] Nigel Mouat, Head Domestic Air Services to Te Pehi Parata, Chairperson, Ati Awa ki Whakarongotai Inc, 7 October 1993, MOT 76/20/0 vol 3, NZTA, Wellington [IMG 1815-1816].
[167] Rupene M.T. Waaka, Chairman, Raukawa Trustees to Nigel Mouat, Te Manatū Waka, 12 October 1993, MOT 76/20/0 vol 3, NZTA, Wellington [IMG 1828].
[168] Matiu Rei, Executive Director, Te Runanga o Toa Rangatira, no date [c. October 1993], MOT 76/20/0 vol 3, NZTA Wellington [IMG 1827].
[169] Brian Rose, Runanga ki a Mua-Upoko Inc, 16 October 1993, MOT 76/20/0 vol 3, NZTA, Wellington [IMG 1825].
[170] Tama Ruru, Levin to Nigel Mouat, Ministry of Transport, 17 December 1993, MOTS 76/20/0 vol 3, NZTA, Wellington [IMG 1821].

> In general, the concern that has been expressed by claimants seems to relate to the prospect that the disposal of the aerodromes will alienate the aerodrome land from Crown ownership while there are claims outstanding. Consequently, should any of the claimants be successful with their claim, the Crown would not be in a position to restore the land to Maori ownership.[171]

After considering and dismissing various options, he argued that the underlying Section 40 offer back right of the former owners would mean that ultimately the airport land would remain unavailable to be used as part of a Treaty settlement package, because should the Crown decide it was surplus to requirements, the former owners would have preference. He then referred to the Crown's general policy regarding the disposal of surplus Crown assets, and the 'consultative clearance mechanism' used by the Crown to assess whether such assets needed to be land banked for future Treaty settlements or could be disposed of. In particular, the decision regarding retaining Crown assets for settlement required claimant groups to establish that the particular site had a 'special significance' for them. If not, it was considered that other land or assets could be used in a future settlement. The memorandum concluded:

> The aerodromes must be sold as going concerns through the airport company sales vehicle because of the implications of the Public Works Act disposal for the aerodromes. As s. 40 will continue to take precedence over any claims, no matter what action is taken by the Crown to preserve ownership of land short of special legislation cancelling the rights of former owners, the claimants will never have any guarantee that land ownership could be transferred to them. As well, it is clear that Government policy puts emphasis on establishing protective mechanisms only for those assets which are surplus and overcome the substitutability principle.
>
> In light of these points, the Ministry should proceed to tender if, following reasonable efforts to ascertain the nature and type of Treaty claims, no particular significance attaching to the claim has been ascertained.[172]

In line with this recommendation, Mouat wrote again to the chair of Ati Awa ki Whakarongotai, asking for a response to the October request for further information about the significance of the airport land for their claim. He said that if he did not receive a reply by the end of March he would assume they did not have anything

[171] John Edwards, HDAS to MAS, Ministry of Transport, 11 February 1994, ABGX 16127/238 1999/231 pt 1, ANZ, Wellington [IMG 1427-1431].
[172] ibid [IMG 1427-1431].

further to add.[173] A similar letter was sent to Te Runanga o Toa Rangatira and Runanga ki Mua-Upoko Inc. In response, the chair repeated his previous advice that Ati Awa ki Whakarongotai would hand over the negotiations to the family of the former owners, once again informing the Crown that they were the proper people to deal with.[174]

At the end of February 1994 the Minister of Transport was updated on how the need to consult with claimant groups had delayed the potential tender offer:

> Under the Treaty, there are three general principles that the Crown is expected to observe. The three principles are that the Crown should act reasonably and in good faith, that it should make well informed decisions, and that it should avoid creating impediments to redressing claims. A number of claimants have expressed concerns with the proposed disposal but not in great detail. The Ministry has therefore sought more specific information from the various claimants but with mixed success. Given the time that has elapsed, on Crown Law advice, the Ministry has recently written to the various claimants giving March 25 as a final deadline for the receipt of the additional information requested. In general terms, the thrust of the Ministry's approach is to identify whether or not the aerodromes have particular significance for the claimants. If not, the Crown could consider other forms of redress such as monetary compensation should any of the claims be eventually proven following the sale of the aerodromes.[175]

In May 1994 Transport had received no further written comments from the claimant groups and it asked the Crown Law Office for further advice. They were advised to meet with the claimants or make offers to meet the claimants and try to establish their interests and whether they agreed to the continued use of the land as an aerodrome. With the help of Te Puni Kokiri meetings were held between Transport and the claimant groups.

Following a meeting with Te Runanga o Toa Rangatira on 21 November 1994 the claimants placed on record with the Department of Transport their overall position in respect to aerodrome land:

---

[173] Nigel Mouat, Head, Domestic Air Services to Pehi Parata, Chair, Ati Awa ki Whakarongotai Inc, 25 February 1994, Rawhiti Higgott Papers [IMG 2566].
[174] Pehi Parata, Chair, Ati Awa ki Whakarongotai Inc to Nigel Mouat, Head, Domestic Air Services, 1 March 1994, Rawhiti Higgott Papers [IMG 2567].
[175] John Bradbury, Acting Secretary for Transport to Minister of Transport, 28 February 1994, MOT 76/20/0 vol 3, NZTA, Wellington [IMG 1817-1818].

> Should Ngati Toa be successful in its Treaty Claim the most appropriate form of compensation is land. We have reconsidered our view on becoming part-owner in the new airport company and have decided to keep this option open.
>
> We are in favour of the airport continuing in its present function and that any lands so disposed of be used exclusively for that purpose. We do not agree that the successful tenderer should determine the amount of lands required. Any excess lands not then required may appreciate in value thereby causing more difficulty in returning the lands, under the Public Works Act to the previous owners. We fail to understand why the Ministry as an experienced airport operator, cannot determine the requirement for the airport to function. Thus, lands surplus to requirements will be available for treaty compensation.[176]

Te Ati Awa ki Whakarongotai met with officials at the end of September 1994. Following the meeting the Secretary for Transport wrote to them to record the discussion and seek a final response. He reiterated that the interests of the Lake whanau would be protected under the Airport Authorities Act, and that the Ministry was determined to withdraw from the airport. He asked whether Te Ati Awa ki Whakarongotai would be willing to accept other land or compensation if their claim was upheld in the future, and also sought their opinion as to whether or not the airport should continue to function.[177] A similar letter was also sent to representatives from Runanga ki Mua-Upoko, after a meeting with them on 21 October 1994.[178]

On 22 November 1994 the chair of Te Ati Awa ki Whakarongotai told the Secretary for Transport that the claimant group's interest in the aerodrome was now in the hands of a representative of the Lake whanau, Mr Taiaki. The Secretary recorded that they supported the continued operation of the airport, and were prepared to accept other land as compensation if their claim was successful. He also recorded that Te Ati Awa ki Whakarongotai had told him about an urupā within the boundaries of the airport. However, the Secretary had then contacted Mr Taiaki, who reportedly told him that there was not an urupā on the airport land, and that the nearest one was 'now under the Maori old peoples' home'.[179]

---

[176] 'Report of the Controller and Auditor-General: Inquiry into the Sale of Paraparaumu Aerodrome by the Ministry of Transport September 2005', p. 29.
[177] Russell Armitage, for Secretary for Transport to Te Pehi Parata, Chairperson, Te Ati Awa ki Whakarongotai, 3 October 1994, MOT 76/20/0 vol 3, NZTA, Wellington [IMG 1795-1796].
[178] Russell Armitage, for Secretary for Transport to Mrs Williams, Runanga ki Mua-Upoko, 21 October 1994, Blue Folder from Office of Auditor General, NZTA, Wellington [IMG 1901-1902].
[179] Russell Armitage, Secretary for Transport to Te Pehi Parata, Ati Awa ki Whakarongotai Inc, 22 November 1994, Rawhiti Higgott Papers [IMG 2564]. Mr Taiaki may have been referring to the

In December 1994 Transport officials told the Ministry of Transport the consultation process was complete and the Ministry had decided to go ahead with offering the airport for sale by tender:

> The three basic principles under the Treaty are that the Crown should act reasonably and in good faith, should make informed decisions, and should avoid creating impediments to redress. In the Ministry's view, these principles have been adhered to; the consultation process has been extensive and claimants have had every opportunity to express their views. After taking into account the views that have been expressed, the Ministry has decided to proceed with the calling of tenders for the sale of both these aerodromes. During the process, advice was sought from Te Puni Kokiri, the Treaty of Waitangi Policy Unit in the Department of Justice, and the Crown Law Office and all concur with the recommendation to proceed to tender.
>
> The reasons for this decision are as follows:
>
> - All claimant groups considered that the aerodromes should continue to function.
> - There was no evidence submitted to the Ministry which indicated that any areas of special significance, as interpreted under the Crown protection mechanism, were located within the aerodromes' boundaries.
> - Based on the responses of those groups who met with the Ministry, it was the Ministry's view that it would be possible to meet any successful claim by the use of substitute land or in some cases other compensation.
> - There were considerable limitations in the way the aerodrome land could be used for the settlement of any claims, other than as a going concern, due to the implications of the offer back provisions of the Public Works Act.
> - Transferring the aerodromes as a going concern to settle claims would have to be delayed until the various issues had been resolved before negotiations with the Crown could commence. These issues are: which is the rightful claimant group, which is the rightful claim, and what compensation, if any, is considered appropriate. This possibility of these being resolved would be some time away.
> - There is an urgent need for commercial management of the aerodromes to enable decisions about the long term future to be made. It would be unreasonable for aerodrome users and local residents to delay this any longer.[180]

The Minister approved the recommendation. The decision was communicated to the three claimant groups, Runanga ki Mua-Upoko, Te Runanga o Toa Rangatira, and Ati

---

Ngarara West B10 block, which adjoined Ngarara West B7 Sub 2C, and was marked as a cemetery on ML 1886 and DP 22985.

[180] John Bradbury, Secretary for Transport to Minister of Transport, 12 December 1994, MOT 76/20/0 vol 3A, NZTA, Wellington [IMG 1883-1885].

Awa ki Whakarongotai, in a letter which contained the same reasons given in the advice to the Minister above.[181]

On 7 February 1995, prior to commencement of the tender process, solicitors for Mrs Lake approached Transport about the intended sale. Transport responded that the airport was being sold as a going concern and Section 3A(6A) of the Airport Authorities Act meant there would still be protection for former owners:

> should Paraparaumu Airport Ltd determine any land to be surplus in the future, or the land ceases to be used for a public work, the company must satisfy the offer-back provisions of the Public Works Act.[182]

On 17 February 1995 Transport issued an Information Memorandum for tenderers which clarified that the land would not be subject to resumption in the future for Treaty claims settlements:

> The Crown believes that it has properly discharged its Treaty of Waitangi duties concerning disposal of the land by extensively consulting with interested Maori. A protection mechanism will not be invoked to protect the as yet unproven claims after alienation of the land from the Crown.
>
> Accordingly, once the Aerodrome land has been transferred to Paraparaumu Airport Limited, it will not be available to satisfy existing or future Maori claims.[183]

In May 1995 Cabinet was asked to approve the order that would make Paraparaumu Airport Limited a company under the Airport Authorities Act 1966. The recommendation assured Cabinet that the Crown had met its obligations under the Treaty of Waitangi:

> The sale process has involved extensive consultation with relevant Maori interests under the guidance of the Office of Treaty Settlements and the Crown Law Office. Those organisations are satisfied that the Crown has complied with its Treaty duties.[184]

---

[181] N.D. Mouat, Head, Domestic Air Services: to Brian Rose, Runanga o Mua-Upoko Inc; to Matiu Rei, Te Runanga o Toa Rangatira Inc; to Te Pehi Parata, Ati Awa ki Whakarongotai Inc, 14 December 1994, MOT 76/20/0 vol 3A, NZTA, Wellington [IMG 1877-1882].

[182] Nigel Mouat, Head, Domestic Air Services to Tee & McCardle, Paraparaumu, 15 February 1995, Rawhiti Higgott Papers [IMG 2569-2570].

[183] 'Report of Transport and Industrial Relations Committee, Hon Mark Gosche, Chairperson, May 2004' on Petition 1999/231 of Ross Sutherland and 584 others, p. 54.

[184] John Bradbury, General Manager, Air Services to Minister of Transport, 2 May 1995, Wai 609 Documents, [IMG 2128-2133].

The recommendation also gave the assurance that the transfer to the airport company would not trigger the offer-back requirements under Sections 40 and 41 of the Public Works Act, which would 'continue to apply to the land as if each Airport Company were the Crown'.[185]

In April 1995 Transport were approached by Te Whanau o Ngarara who were the descendants of a former owner. They said they had learnt of the aerodrome sale through the news media. On 13 April George Jenkins and Ra Higgott met with Transport representatives. Officials supplied an explanation of the sale process and the Section 3A(6A) of the Airport Authorities Act, and they gave an assurance that the rights of former owners would be protected:

> However, sections 40 and 41 of the Public Works Act will apply to the Company's land as if the Company were the Crown and the land had not been transferred to the Company. The practical effect will be that the Company will need to satisfy the offer-back provisions contained in the Public Works Act if it either decides to sell any land or the land ceases to be used as a public work. In other words, the former owners (and their descendants) retain their rights under the Public Works Act after the Ministry has sold the airport.[186]

A note produced by Transport following the meeting said Te Whanau a Ngarara were concerned about the sale because they believed the Crown deprived them of their offer back rights and they argued that the use of the airport had changed over the years from a 'defence' and 'emergency' field to a 'recreational' airfield. They asked for a delay of the sale process while they researched the matter.[187]

This was followed by a letter on 19 April from Huirangi Lake, on behalf of the 'descendants of Puketapu Hapu'. They argued that the airport land was no longer required for the purposes it was taken:

> The original purposes for Paraparaumu Airport were stated as defence and as a back up for Rongotai. The requirement of the land taken by crown proclamation to serve these purposes has since been exhausted by the crown

[185] John Bradbury, General Manager, Air Services to Minister of Transport, 2 May 1995, Wai 609 Documents, [IMG 2128-2133].
[186] Nigel Mouat, John Bradbury, Air Services, Meeting with George Jenkins and Ra Higgott, 11 April 1995, Rawhiti Higgott Papers [IMG 2589].
[187] Cited in 'Report of the Controller and Auditor-General: Inquiry into the Sale of Paraparaumu Aerodrome by the Ministry of Transport September 2005', p. 33.

> and these purposes have not been served for some time and will continue not to.[188]

They asked for the land to be returned to the rightful owners without cost, and asked for the sale to be halted to allow their representatives, George Jenkins and Ra Higgott, time to prepare a further submission. In response, the General Manager of Air Services said as Mrs Lake's letter was intended as a claim under the Public Works Act, he had forwarded it to the Commissioner of Crown Lands, who held responsibility for land no longer required for public purposes. However, the General Manager also pointed out that land taken for public works was not offered back if it was still required for 'any' public work, even if the original purpose had changed. He also referred to Section 3A(6A) of the Airport Authorities Act which allowed the land to be sold without first being offered back.[189] The general manager did forward Mrs Lake's letter to the Commissioner of Crown Lands, as notification of a claim under Section 40 of the Public Works Act. In doing so, he also advised the commissioner that tenders for the airport were due to close in two days.[190]

On 4 May 1995 Ra Higgott, on behalf of 'the concerned descendants of the Puketapu Hapu', wrote to the Minister of Transport asking for a meeting to discuss their concerns about the possible change of ownership and the implications for the descendants of the original landowners.[191]

On 16 May the Lands and Survey Department responded to the April letters from George Jenkins. The response explained that the transfer to an airport company under the Airport Authorities Act 1996 meant that Section 40 of the Public Works Act did not apply and the Lands and Survey Department was not required to consider offering the land to 'the person from whom it was taken or the successor to that person'.[192]

---

[188] Huirangi E. Lake to Nigel Mouat, Air Services, Ministry of Transport, 17 April 1995, MOT 76/20/0 vol 4, NZTA, Wellington [IMG 1866].
[189] J. Bradbury, General Manager, Air Services to George Jenkins, Waikanae, 19 April 1995, MOT 76/20/0 vol 4, NZTA, Wellington [IMG 1864].
[190] ibid [IMG 1865].
[191] Ra Higgott, Waikanae to Minister of Transport, 4 May 1995, Wai 609 Documents [IMG 2134].
[192] D.A. Levitt, for Director General, Lands and Survey to George Jenkins, 16 May 1995, Wai 609 Documents [IMG 2137-2138].

The Minister of Transport declined to meet with the Puketapu representatives. He pointed out that Ministry of Transport staff had had 'previous consultations' with Mrs Lake, her legal representatives and other family representatives and that the 'advice consistently given to the family by the Ministry has been that the rights of the former owners and their successors will remain protected under new ownership'.[193] He also pointed out that any future offer back to the former owners or their successors would be at current market value. The reason he gave for declining to meet with the whanau was that it was important that the commercial sale went ahead without any perception of political interference, which meant that Ministers and Members of Parliament should avoid personal involvement. He instead suggested that they seek a meeting with the General Manager of Air Services.

On 19 May 1995 NZTA officials met for four hours with the Puketapu representatives. The Ministry's notes of the meeting record that the former owners were concerned that they had not known about the sale before April 1995, and that the use of the land had changed from the purpose for which it was taken. Officials said they were surprised that the Puketapu representatives had been unaware of the sale 'given the regular and recent communication' with the one former landowner. They explained that consultation had only been with those who had made claims to the Tribunal, and 'there had never been any intention to consult former owners because of Section 3A (6A) of the Airport Authorities Act'. The Puketapu representatives said Transport had been dealing with groups with no traditional claim to the aerodrome, while a moral obligation existed to consult with the former owners. Transport said the sale process was too far along to stop, and that the land was still going to be used as an airport. The Puketapu representatives questioned why they had not been given the opportunity to tender for the airport themselves.[194]

Following the outcome of the meeting the Puketapu representatives took legal advice. Their solicitors asked Transport to make it very clear to any successful tenderer of their responsibilities under Section 3A(6A) of the Airport Authorities Act and to

[193] Maurice Williamson, Minister of Transport to George Jenkins, 11 May 1995, Wai 609 Documents [IMG 2139-2140].
[194] Sale of Paraparaumu Aerodrome, Meeting on 19 May 1995, Rawhiti Higgott Papers [IMG 2601-2603].

inform them of the concerns of the former Puketapu owners.[195] Transport now pointed out that the land had been obtained from several freehold owners, (both Māori and European) and not from Hapu as suggested' and stated:

> Regardless of your clients' views, it is a fact that five Iwi have lodged claims with the Waitangi Tribunal regarding the aerodrome land and the Ministry was specifically instructed by the Government to consult with any claimants. We see a clear distinction between the Crown's obligation under the Treaty of Waitangi and the rights of your clients under the Public Works Act, and understand this is accepted by your clients.[196]

The tender process went ahead as explained below. When the sale was confirmed there were a further round of meetings and unsuccessful attempts by Māori to halt the process.

### 1.2.3 Sale Process 1995

Crown officials were told to complete the sale by 30 June 1995. The two main considerations of the sale process was the need for the aerodrome to continue operating and maximise the returns from the sale.[197] As both considerations were not mutually exclusive, considering a future buyer might want to sell land to maximise profits, various options including caveat on the title restricting the use of the land to aerodrome purposes were discussed by officials, but there was concern such an action would restrict government's efforts to maximise price. The government wanted both considerations met, so it was decided to restrict the tender process to those who demonstrated a commitment to keeping the aerodrome in operation 'for the foreseeable future'.[198]

The valuation of the airport was to be on the basis that it was 'a going concern' and Ernst & Young were contracted to operate the tender process. The 1992 valuation was on a 'discounted cashflow' basis with future income and cost assumptions and cash flow projection to be made over a fifteen year period. As a 'going concern' the Paraparaumu Aerodrome was assessed to be worth $1.6 million, with land value

[195] D.M. Howden, Cain & Co to Nigel Mouat, Ministry of Transport, 22 May 1995, Rawhiti Higgott Papers [IMG 2604].
[196] N.D. Mouat, Head, Domestic Air Servies to D.M. Howden, Cai & Co, 23 May 1995, 76/20/0 vol 5, NZTA, Wellington [IMG 1935-1936].
[197] 'Report of the Controller and Auditor-General: Inquiry into the Sale of Paraparaumu Aerodrome by the Ministry of Transport September 2005', p. 42.
[198] ibid, p. 43.

which might be surplus to requirement of $700,000.[199] Ernst & Young were to evaluate the tenders and make a recommendation to the Secretary of Transport, but in practice government officials and private contractors worked together.[200]

Initially the interested parties were the Kapiti Coast District Council, Wellington International Airport Limited and the Paraparaumu Airfield Users Group. There was public concern about a development-led tender and Transport was confident that the term 'user' would help determine the tenderers' eligibility.[201] Later groups that expressed an interest and made tenders were Kapiti Avion Holdings, Kapiti Regional Airport Limited, and Paraparaumu Aerodrome Development Consortium. Wellington International Airport while the district council decided not to tender.[202] The two final contenders in the tender process were Kapiti Avion Holdings and Kapiti Regional Airport Limited. Kapiti Avion Holdings was a partnership between four local businessmen (M.C. Cole, W.N. Doak, M.B. Mainey and D.L. Hayward) who were aerodrome users who expressed a desire to retain the aerodrome for community benefit. They had initially approached the district council for their involvement but the council had declined. Kapiti Regional Airline Limited included the flying school, an air charter business and the local aero and gliding clubs.[203]

The main criteria when considering the successful tenderer were their commitment to the continuation of the airport; financial resources; commercial expertise; and intentions in regard to aerodrome development.[204] An Information Memorandum was prepared and it gave consideration to the surplus land and said tenders for the operational areas and any lesser area would 'without prejudice' be considered.[205] The government's preference however was to sell the aerodrome area as a single asset.

On 2 May 1995 Kapiti Avion Holdings made a bid of $1.7 million for the aerodrome conditional on a staggered series of payments over 12 months and the 'Ministry

[199] ibid, p. 44.
[200] ibid, p. 46.
[201] ibid, p. 47.
[202] ibid, p. 49.
[203] ibid, p. 50.
[204] ibid, p. 48.
[205] ibid, p. 49.

giving an indemnity against claims under the Treaty of Waitangi.'[206] Kapiti Regional Airport Limited had also made a bid of $1.5 million which took into account the aerodrome and the potential for surplus land which: 'Their research into the previous ownership history of the land had indicated that realising some of the potentially surplus land would be a complex exercise.'[207] They attached a condition that 'Crown would deliver the surplus land in a form which would enable it to be sold and the increased [tender] price recouped.' On 5 May Kapiti Avion Holdings agreed to withdraw its conditions on the terms of payment and the 'proposed indemnity over Treaty claims' in return for a reduced price of $1,650,000.[208] The sale and purchase and share transfer agreements were executed on 23 May 1995.[209]

On 30 May 1995 solicitors acting for Mrs Erskine, Mrs M.U. Parata and Mr T. Love, descendants of the former Māori owners of Ngarara West B5 wrote to the to the Ministry of Transport seeking assurances that that the airport was going to continue to operate, and that their rights were protected if the airport closed. They also asked for confirmation that there had been no other uses of the land which would have triggered the offer back provisions, especially in relation to leases of sites to non-aviation related businesses.[210] On the question of whether any of the airport land was surplus to requirements officials later advised the Minister:

> *Former Owners' Concerns*
> Representatives of some of the former owners believe there is surplus land which should be given back. They also believe they should have been given the opportunity to tender for the aerodrome.
> Some of the aerodrome land may appear under-utilised, but this does not make it surplus, particularly if a long-term view is taken. It would have been inappropriate for the Ministry to have arbitrarily reduced the landholding prior to the tender process. Prospective purchasers were given the option of tendering for a lessor area but none did so.
> In determining those who could tender, the Government was concerned to see continued operation and targeted groups most likely to keep the aerodrome open.[211]

[206] ibid, p. 52.
[207] ibid, p. 53.
[208] ibid, p. 54.
[209] ibid, p. 56.
[210] Richard Cathie, Kensington Swan to Secretary for Transport, 30 May 1995, plus annotation, MOT 76/20/0 vol 5, NZTA, Wellington [IMG 1923-1924].
[211] Draft Reply, Question of Oral Answer Due: 27 June 1995, MOT 76/20/0 vol 8, NZTA, Wellington [IMG 1846-1848].

On 19 June Te Whanau a Ngarara representatives met with Kapiti Avion Holdings and Mouat from the Ministry of Transport. Mouat's brief notes of the meeting indicate that much of the discussion was about whether any of the airport land was surplus to requirements and not being used for airport purposes. Mouat also noted that he confirmed that the Ministry had not given any 'consideration' to allowing former owners to bid for the land.[212] Following the meeting Mouat wrote to confirm the Ministry's position, saying that the sale would not be halted or postponed, and would go ahead on the settlement date of 30 June 1995. The Ministry rejected Te Whanau a Ngarara argument that some of the land was surplus, saying instead: 'We accept that some of the land may appear under-utilised, but this does not make it surplus land'.[213] In regard to leases of land along Kapiti Road Mouat said that the majority were for aviation purposes, but some non-aviation leases had been granted if no other tenant was interested. He considered that the non-aviation leases and rental of Avion Terrace houses to the public (see below) did 'not affect the continued use of the aerodrome land for a public work'. He summarised the Ministry's position:

> … the Crown is not obliged to consult with former landowners as sufficient protection exists for them under the Public Works Act. That protection remains. We believe that any decisions as to whether or not aerodrome land is surplus (including houses and land for the time-being currently leased) is a matter for the new owners. [214]

In 2005 George Jenkins, of Te Whanau a Ngarara, gave an account of the meeting to the Auditor-General:

> We immediately asked to be recognised as eligible tenderers, as users of Paraparaumu Aerodrome, since two of our families were tenants of Paraparaumu Airport houses situated in Avion Terrace. We were denied. We intended to make a bid in conjunction with existing airport users because it was *clearly the best option to ensure continued operation of the aerodrome and satisfy the needs of the Crown and the Community*, This is because we were informed that the Ministry was operating the aerodrome at a loss, and that its continued viability rested on the ability of an Airport Authority to develop the business of an airport.
>
> …

[212] Notes of Meeting 19 June 1995, Lindale, and Te Whanau a Ngarara Opening Statement, 19 June 1995, MOT 76/20/0 vol 6, NZTA, Wellington [IMG 1968, 1960-1961].
[213] N.D. Mouat, Head, Domestic Air Services to Te Whanau a Ngarara, 22 June 1995, Wai 609 Documents [IMG 2145-2146].
[214] ibid

> I refute any argument that our capacity was insufficient to effectively partake in the tender process. As I refer to below, there was never any intention to investigate that possibility.[215] [emphasis in original]

On 29 June 1995 a group of former owners sought a High Court injunction to stop the sale proceeding the following day.[216] They were unsuccessful in their application. Judge Neazor cited Section 3A(6A) of the Airport Authorities Act, Judge Neazor said:

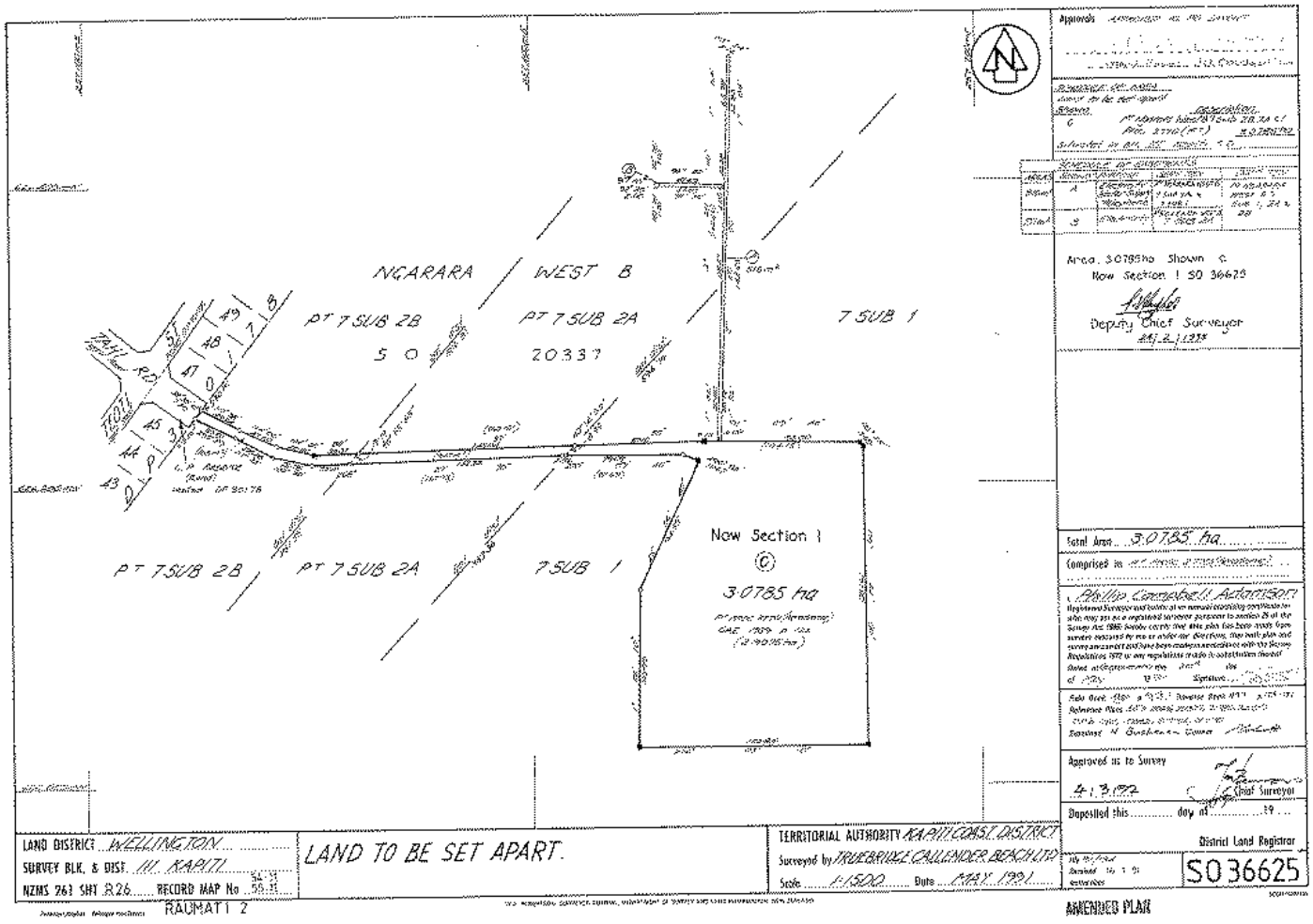
> It is in my view perfectly clear that the plaintiffs' interest in being able to repurchase the land (if they are entitled to do so) is protected by that subsection once the land is transferred, as is proposed to be, to the second defendant [PAL]. If the second defendant tries to dispose of it, or if in the hands of the second defendant events occur which would trigger the entitlement under s40 if the land was still held by the Crown, the plaintiffs' rights would be unchanged. Whatever rights they have today they would have then; whatever rights they have today in respect of the valuation on the basis of which the land would be offered for sale would be (in terms of legal entitlement) the same, as it would continue to enure to the amount of the same statutory terms.[217]

A small area of land within the airport has remained in Crown ownership. This is the site of a weather reporting station. Weather reporting from the aerodrome commenced in 1943 and between 1947 and 1959 the Meteorological Service ran a weather station which was moved to a new observatory site in August 1987.[218] In February 1993 an area of 3.0785 hectares was set apart for Meteorological Purposes.[219] The site was described as being Part Ngarara West B7 Subdivision 2A, 2B and 1. Figure 6 shows that the weather station itself is situated on the former Ngarara West B7 Subdivision 1 block, and the access way runs through the former Subdivisions 2A and 2B. Today the appellation of the site is Section 1 SO 36625, and it is vested in the Meteorological Service of New Zealand. This site is subject to Section 27B of the State-Owned Enterprises Act 1986, providing for the resumption of land on recommendation of the Waitangi Tribunal.[220]

---

[215] George Jenkins, Chairperson, Te Whanau a Ngarara to Office of the Controller and Auditor General, 15 March 2005, POAV 3/9, NZTA, Wellington [IMG 2002-2006].
[216] 'Report of the Controller and Auditor-General: Inquiry into the Sale of Paraparaumu Aerodrome by the Ministry of Transport September 2005', p. 35.
[217] enure, *Law*, come into operation, take effect; The Judgment, Jackson & Ors v The Attorney-General, Paraparaumu Airport Limited, Kapiti Avion Holdings Limited and Kapiti District Council, (unreported oral Judgment of Neazor J dated 30 June 1995, Wellington High Court Registry, CP No. 149/95), Rawhiti Higgott Papers [IMG 2628-2636].
[218] J.S. Falconer, Brief History Paraparaumu, 16 November 1987, ABLO W4117/20 20/2/13 pt 2, ANZ Wellington [IMG 1441-1442].
[219] NZG, 18 February 1993, p. 470.
[220] QuickMap title information CT WN4C/187.

**Figure 6: Plan of Meteorological Service Land at Paraparaumu Airport**[221]




[221] Survey Office Plan SO 36625.

## 1.3 Inquiries and Airport Developments 1995-2018

Once the airport passed out of Crown ownership, the actions (or omissions) of the private owners are not within the jurisdiction of the Waitangi Tribunal. However, in the more than twenty year period since the sale, Crown agencies have been repeatedly requested to investigate the way the airport was sold, and/or to take steps to ensure that it either remains operational, or that any land not used for airport purposes is offered back to descendants of the former owners. The focus of this section is on how the assurances given by the Crown to representatives of former owners that their rights would be protected should airport land be surplus to requirements have operated under private airport ownership.

Key events of the previous twenty years are summarised in this section, but events, such as changes in zoning and environment court hearings, are not examined in detail. The 'Local Government Issues Report' by Suzanne Woodley includes details about the various rezoning applications and hearings between 1995 and 2012.[222] Woodley considers the issues relating to how the changes in zoning have permitted some of the original airport land to be used for residential and non-aviation commercial purposes. She also covers the numerous objections to this process by Te Whanau a Ngarara and other Māori groups.

Many of the claimants along with their legal counsel were personally involved in these events and will be able to provide personal accounts and more details to the Tribunal. Yvonne Mitchell and Rawhiti Higgott made kindly allowed us to use their personal correspondence records from the period.

### 1.3.1 Sale of Avion Terrace

In the 1950s an area of land at the south-west corner of the airport was developed into housing for airport staff. A new street, called Avion Terrace was constructed, and eight houses were built. Avion Terrace and the house sites were on land which had formerly been part of Ngarara West B7 Subdivisions 2A and 2B.

[222] Suzanne Woodley, 'Porirua ki Manawatū Inquiry District: Local Government Issues Report', Crown Forestry Rental Trust, June 2017, pp. 670-704.

In 1984 the Crown was planning to sell the sections. Individual titles were being surveyed and the tenants were to be given the option to purchase.[223] The houses were owned by the Ministry of Transport and were to be transferred to Lands and Survey for sale.[224] As part of this process officials prepared a recommendation that it was not necessary to first offer the land back to the former owners, on the grounds that 'the Crown has erected a number of fully serviced dwellings on the land hence it is considered impractical to offer the land back'.[225] The recommendation and proposed sale were approved, but the majority of the sections were not sold at that time.[226] Lands and Survey continued to administer leases of the properties.

In 1996, not long after the airport had been sold by the Crown, Paraparaumu Airport Limited (PAL) sold 11.9 hectares at Avion Terrace to KTS Property Development Limited for $885,000. Avion Terrace was not offered back to the original land owners or their successors even though Te Whanau a Te Ngarara was well known to the airport company. The company decided to interpret its obligations regarding Section 40 of the Public Works Act in terms of it not being necessary to offer back the land if it would be 'impractical, unreasonable, or unfair to do so.'[227] Questioned by a journalism student airport owner Murray Cole when asked about whether the offer back provisions were applied in the case of the Avion Terrace sale said: 'Avion Terrace was not required as an offerback as it was impracticable to do so due to Houses built over boundaries [i.e. couldn't cut the houses up!]'.[228] Further evidence regarding the sale of Avion Terrace can be found below in the discussion of the Select Committee investigation.

---

[223] D.N. Fisher, Assistant Land Purchase Officer, Ministry of Works & Development to Secretary, Ministry of Transport, 23 February 1984, AAQB 889 W3950/71 23/381/49/0 pt 1, ANZ Wellington [DSCN 5634-5636].

[224] D.N. Fisher, Assistant Land Purchase Officer, Ministry of Works & Development to Secretary, Ministry of Transport, 20 March 1984, AAQB 889 W3950/71 23/381/49/0 pt 1, ANZ Wellington [DSCN 5630-5632].

[225] D.N. Fisher, Assistant Land Purchase Officer, Ministry of Works & Development to Secretary, Ministry of Transport, 23 February 1984, AAQB 889 W3950/71 23/381/49/0 pt 1, ANZ Wellington [DSCN 5634-5636].

[226] One section, on Wharemauku Road, was declared Crown land before the passage of the Public Works Act 1981, and subsequently sold, I.F. Marlow, Advisor Airport Administration to R.A. Jolly, Department of Land and Survey Information, 27 November 1995, MOT 76/20/0 vol 8, NZTA, Wellington [IMG 1855-1865].

[227] 'Report of Transport and Industrial Relations Committee, Hon Mark Gosche, Chairperson, May 2004' on Petition 1999/231 of Ross Sutherland and 584 others, p. 50.

[228] Cole, Murray email, August 2003; in, A. Morison, N. Churchouse, S. Wikaira, 'The Seizure of Paraparaumu Airport Wai 609', 29 August 2003, Massey Journalism School, ABGX 16127/238 1999/231 pt 3, ANZ Wellington [IMG 1547].

The Avion Terrace houses were removed by the development company which subdivided the land into smaller sections. The airport financial accounts for the year ended 31 March 2001 showed a sale profit of $850,000.00 being realised in the year ended 31 March 2000 as well as a realisation of an earlier revaluation of that asset of $35,500 with a total profit of $885,500. At this time Avion Terrace was the only land that had been sold by the company.[229]

In April 1999 Jim Stewart, George Jenkins with other Te Whanau a Ngarara occupied the disputed land at Avion Terrace.[230] They were charged by Police but on 30 June 2000 the charges were withdrawn.[231]

### 1.3.2 Ministry of Transport Objection to Removing the Open Space Zoning 2000-2001

As noted above, more information can be found in the report on 'Local Government Issues' about the various applications by the airport owners to change the zoning of the airport land to allow for commercial and other developments. The airport had been zoned as 'open space', and the company applied to have that changed. Te Whanau a Ngarara and other Māori objected to the zoning changes on the grounds that they could interfere with the offer back rights of the former owners if any land was no longer required for airport purposes.[232]

The Crown too recognised that the actions of the Paraparaumu Airport Limited (PAL) might breach its responsibilities under the Airport Authorities Act. However, as the quote below recognised, the Crown had failed to provide a mechanism to ensure that airport owners complied with those responsibilities. As part of a review of the Public Works Act, the Minister for Land Information, Trevor Mallard, wrote to the Minister

[229] 'Report of Transport and Industrial Relations Committee, Hon Mark Gosche, Chairperson, May 2004' on Petition 1999/231 of Ross Sutherland and 584 others, p. 42.
[230] Photograph, *Evening Post* and *Dominion Post*, 19 April 1999, Ross Giblin, Ref No EP/1999/1096; in 'The Dominion Post Collection, Alexander Turnbull Library'.
[231] *New Zealand Herald*, 30 June 2000.
[232] For example, Submission in Respect of the Proposed Private Plan Change Paraparaumu Airport (Paraparaumu Airport Ltd) from Te Whanau a Ngarara Inc, [no date – 2000], JPAR 02/1, NZTA, Wellington [IMG 2025-2028].

of Transport, Mark Goshe, that the previous government (which had implemented the sale) had become concerned about the outcome of the Paraparaumu sale:

> I am advised that Land Information New Zealand's interest in this Bill arose after Ministers in the previous government became concerned over the disposal of surplus Public Works Act land by Paraparaumu Airport Company. The former owners, Te Whanau A Te Ngarara, complained that they were not offered back the land and questioned the airport company's compliance with, and the enforcement of, the offer back provisions in the Airport Authorities Act 1922. Ministers were particularly concerned because of the associated potential for allegations of a contemporary Treaty breach and directed officials to address the problem of airport company compliance with their statutory offer-back obligations.[233]

However, the problem was that the legislative framework set up when the airport was disposed of had shortcomings:

> Although these provisions were similar to those built into the State Owned Enterprises Act of 1986, the Crown Research Institutes Act of 1992, and some other legislation providing for the transfer of public works out of central Crown control, they are different in one key respect. Unlike the above mentioned entities that need to come to LINZ for exercise of the statutory decision relating to offer back, the airport companies (like local authorities) are themselves responsible for executing the offer back requirements.
> Furthermore, the 1986 and 1992 amendments to the Airport Authorities Act give no guidance to airport companies as to when they must consider airport land surplus and execute the offer back. Clearly, the Public Works Act 1981 could not have foreseen the privatisation forces of the mid-1980s.[234]

Paraparaumu Airport Ltd (PAL) applied to the Kapiti District Council to rezone the airport to allow recreation, residential and industrial and service activities. Such was the concern at the Ministry of Transport that it decided to lodge its own submission against the zone change. The submission was made on the grounds that the proposed residential, business and industrial areas clearly were 'not being developed for airport purposes' and that PAL had therefore failed to meet its statutory obligations to under-take an offer back process for those areas.[235]

In 1991 the Kapiti Coast District Council appointed commissioners to hear changes to the district plan. Commissioners P.T. Cavanagh (QC) and S. Kinnear held hearings at

[233] Trevor Mallard, Acting Minister of Land Information to Mark Goshe, Minister of Transport, 12 June 2000, JPAR 02/1, NZTA, Wellington [IMG 2029-2030].
[234] Trevor Mallard, Acting Minister of Land Information to Mark Goshe, Minister of Transport, 12 June 2000, JPAR 02/1, NZTA, Wellington [IMG 2029-2030].
[235] Alistair Bisley, Secretary for Transport to Kapiti District Council, 6 November 2000, JPAR 02/1, NZTA, Wellington [IMG 2017-2018].

Paraparaumu between 6 and 10 August and 24 and 25 October 2001. Murray Cole, from PAL, told the commission he was unable to identify who were the descendants of the original Māori owners.[236] Te Whanau a te Ngarara, Kapakapanui Te Ati Awa ki Whakarongotai and Ngati Komako Hapu presented the commission with evidence. Te Whanau a Te Ngarara asked the commission to rule about the relevance of their claim in terms of Section 40 of the Public Works Act, while Te Ati Awa ki Whakarongotai opposed the proposed district plan in its entirety.[237] Ngati Komako expressed concerns about Section 40 of the Act and the airport's ability to offer back surplus land. On 8 August 2001 Rodney Moffat speaking for the MacLean family told the Kapiti Coast District Council that rezoning should be postponed until the former owners' rights were clarified 'because, we were under the impression, that the land had to be offered back, if not used as an airport. In the case of Avion Terrace, this was not so.'[238]

In discussing the preliminary issues the commissioners said a number of submissions questioned whether the hearing could proceed because it concerned a change of plan which changed the 'core' business of the airport and made land available as surplus in terms of Section 40. They argued this change of purpose meant it should be offered back to the original owners or their successors.[239] The commissioners considered the issue 'not relevant' because the plan changes were about 'zoning issues' and 'not land ownership'. This meant the issue to be addressed by the commission was 'therefore whether the proposed zoning change would be consistent with the purposes and principles of the [Resource Management] Act.' They also said zoning of land was 'permissive (s9 RMA)' and does not require identification of owners and that the Kapiti Coast District Council did not have the authority to investigate questions of

[236] Proposed Change 18 Kapiti Coast District Plan Request by Paraparaumu Airport Ltd to introduce airport, industrial service and residential zones, 20 December 2001, ABGX 16127/238 1999/231 pt 3, ANZ Wellington [IMG 1496].
[237] P.T. Cavanagh (QC), S. Kinnear, Commissioners Hearing Paraparaumu, 6-10 August and 24-25 October 2001, ABGX 16127/238 1999/231 pt 3, ANZ Wellington [IMG 1509].
[238] R. Moffat, Otaki Gorge to Kapiti Coast District Council, 8 August 2001, ABGX 16127/238 1999/231 pt 2, ANZ Wellington [IMG 1469-1471].
[239] Proposed Change 18 Kapiti Coast District Plan Request by Paraparaumu Airport Ltd to introduce airport, industrial service and residential zones, 20 December 2001, ANZ Wellington [IMG 1492].

land ownership.[240] The commissioners found in favour of the application and the Kapiti District Council resolved to change the district plan.[241]

### 1.3.3 Transport and Industrial Relations Select Committee Report

In 1999 Ross Sutherland and 584 others petitioned Parliament to legislate to safeguard the long term viability of Paraparaumu Airport as a fully operational facility. They asked for no airport land to be sold, including being offered back to former owners, only with the consent of the regional council. They also requested that the promises made by the current airport owner made to the Crown be honoured in full.[242]

In 2003 the Transport and Industrial Relations Select Committee held an inquiry into the petition by Ross Sutherland and others about the sale of Paraparaumu Airport. The petition raised concerns from different groups about the ongoing operation of the airport including the issue of Māori rights:

> The [airport] owners are flouting the law by ignoring the owners' (mainly Maori) rights. The entitlements of the original owners are a good deal clearer in this situation under the provisions of the Public Works Act than for lands currently the subject of Waitangi Tribunal Claims.[243]

The Select Committee report covered many aspects relating to consultation, the sale and tender process, and the subsequent actions of the airport company. Among the evidence presented to the committee were submissions about the way that the company had disposed of the Avion Terrace land.

PAL argued before the Select Committee that it had complied with its legal requirements regarding the sale of Avion Terrace:

> Investigation was completed by Impact Legal, and confirmed that an offer back was impracticable (under the terms set out in the exception to the offer back provisions contained in section 40 of the PWA). The committee's attention is also drawn to the change in use by the Crown in the 1960s, such that the land has been occupied by a Residential Housing Estate since that date.

---

[240] ibid

[241] Decision on plan change 18 Paraparaumu Airport, 20 December 2001, ABGX 16127/238 1999/231 pt 3, ANZ Wellington [IMG 1488].

[242] 'Report of Transport and Industrial Relations Committee, Hon Mark Gosche, Chairperson, May 2004' on Petition 1999/231 of Ross Sutherland and 584 others, p. 69.

[243] 'Report of Transport and Industrial Relations Committee, Hon Mark Gosche, Chairperson, May 2004' on Petition 1999/231 of Ross Sutherland and 584 others, p. 45.

> The Housing Estate was built over the original land boundaries and offer back in 1998 was impracticable without destroying some house properties.[244]

As well as Avion Terrace, Lots 12, 13 and 14 at Kaka Road, which were formerly European land, were also subsequently sold but in these sales PAL complied with the 'offer back' requirements under Section 40 of the Act.[245]

On 24 July 2003, solicitor G.D. Pearson made a written submission on behalf of R. Moffat that there had been no offer back to the former owners:

> Mr Cole stated that all four parcels of land that had been sold have all been offered back in full compliance with the law. This claim is untrue. Enquiries with Te Whanau A Te Ngarara Inc and the descendants of the MacLean family (refer Moffat papers) reveal no offer back has been made. Furthermore, the Leprosy Foundation is taking action due to a failure to comply with the requirement to offer back lawfully.[246]

Pearson was referring to the 2003 case of Pacific Leprosy Foundation versus Attorney General and Paraparaumu Airport Limited.[247] The foundation said it was the successor for 4.8386 hectares of land acquired by the Crown in 1954 from J.A. Simpson for the aerodrome and which PAL decided in 1999 it no longer required. The foundation argued that as at 1 February 1982 the Crown was under an obligation to offer to sell the land to the foundation under Section 40 but it did not. Although PAL had offered the land to the foundation under Section 40, the offer was not accepted and the foundation then registered a caveat against the land. The foundation went ahead with the court action to acquire the land at its 1982 valuation when, it argued, the Crown offer back should have made.[248]

Further evidence that the Avion Terrace properties had not been offered back was supplied by Matthew Love-Parata, Chairperson of Te Whanau a Te Ngarara Incorporated. Love-Parata referred to their unsuccessful attempt to halt the sale in the

---

[244] Paraparaumu Airport Ltd to the Transport and Industrial Relations Select Committee, 7 April 2004, ABGZ 16127/239 1999/231 pt 6, ANZ Wellington [IMG 1670-1674].
[245] Report of Transport and Industrial Relations Committee, Hon Mark Gosche, Chairperson, May 2004' on Petition 1999/231 of Ross Sutherland and 584 others, p. 64; see also, p. 49.
[246] G.D. Pearson, Counsel for Petitioners, Submission for the Petitioner, 29 July 2003, ABGZ 16127/239 1999/231 pt 2, ANZ Wellington [IMG 1461-1465].
[247] Wellington Registry, CP 170/02.
[248] 'Report of Transport and Industrial Relations Committee, Hon Mark Gosche, Chairperson, May 2004' on Petition 1999/231 of Ross Sutherland and 584 others, p. 49. Research has not revealed the outcome of this case. According to Leo Watson, the Crown reached a confidential settlement with the Leprosy Foundation, personal communication, 8 March 2018.

High Court, and Justice Neazor's comments that their rights under the Public Works Act would be protected. However, Te Whanau a Te Ngarara 'have been unable to stop the current owner from selling land and buildings (Avion Terrace). The current owner has not offered surplus (with or without buildings) back to our group or as required under the offer back provisions of the Public Works Act.'[249] Love-Parata said that the whanau supported the continued operation of the airport facility, but that there were 'large tracts of land not required for the running of an aerodrome', which should be offered back to the former owners. He also made a comment which expressed the concern of both the Pakeha and Māori groups associated with the petition: 'The airport was sold as an on-going concern with the intent to continue as an airport. It was not sold as a property developers opportunity'.[250]

In December 2003 G.L. Jenkins provided an affidavit on behalf of Te Whanau a Te Ngarara and the descendants of R.G. MacLean to the Select Committee. Jenkins said: 'no part of that land formerly known as Avion Terrace was offered back to any person, either represented Te Whanau a Ngarara Incorporated in this matter or not, and I refute any claim by the airport authority having the effect that any of this land was offered back.'[251] Similarly, Rodney Moffat, a descendant of R.G. MacLean, the Pakeha farmer and owner of Ngarara West B 72A made a statement that they first became aware of the sale of Avion Terrace after the event through a friend, and had received no prior notification from PAL.[252]

In May 2004 the Transport and Industrial Relations Select Committee inquiry reported on the Ross petition. The Select Committee recommended that the government hold an inquiry into the sale process to investigate 'whether any land found to be surplus to requirements, and had been compulsorily acquired in the 1930s to form the airport, had been offered back to the previous owners.' The Select Committee said: 'We believe that, following recent restructuring, the ministry's focus by this time was limited to policy issues and that it did not fully consider strategic

[249] M. Parata-Love, Chairman, Te Whanau A Te Ngarara Inc to R. Taylor, Friends of the Airport, 30 April 2003, ABGX 16127/238 1999/231 pt 2, ANZ Wellington [IMG 1467].
[250] ibid
[251] Affidavit, G.L. Jenkins, Waikanae, signed in presence of, E. Cameron, Solicitor, Waikanae, 10 December 2003, ABGX 16127/238 1999/231 pt 3, ANZ Wellington [IMG 1484-1487].
[252] Rodney Hugh Moffat to Whom it May Concern, no date [2003], ABGX 16127/238 1999/231 pt 2, ANZ Wellington [IMG 1486].

issues relating to the sale of Paraparaumu Airport.' The Select Committee found the airport had been sold under value, Crown processes were flawed, and that the interests of Te Whanau a Ngarara were not adequately protected. The committee noted that the assumption that Māori interests would be protected through Sections 40 and 41 of the Public Works Act was 'unfounded'.[253] In respect to Te Whanau a Ngarara interests in Avion Terrace it found:

> To date there have only been small parcels of land disposed of by PAL since it acquired the airport. The land known as Avion Terrace was sold shortly after acquisition and PAL did not make an offer-back to the original land owners or their successors.[254]

### 1.3.4 Report of the Auditor General 2004

Following the recommendation of the Select Committee, on 19 October 2004 the Minister of Transport asked the Controller and Auditor General, K.B. Brady, to undertake an inquiry. The Inquiry into the sale of Paraparaumu Aerodrome by the Ministry of Transport under Sections 16 and 18 of the Public Audit Act 2001 produced the 'Report of the Controller and Auditor-General: Inquiry into the Sale of Paraparaumu Aerodrome by the Ministry of Transport'. The Auditor-Generals inquiry focused on two issues:

> -consultation with Māori and formers owners of the airport land; and
>
> -the sale of the aerodrome by a restricted tender process. [255]

Although the Auditor General said that Transport was correct to seek the advice of other departments about obligations under the Public Works Act and the Treaty of Waitangi it should have contacted the former owners:

> Former Māori owners and the hapū were, it appears, effectively the same group. Contacting the former owners (including non-Māori owners) would have provided additional assurance that all those with an interest in the sale had been identified and, where appropriate, informed of their rights under section 3A(6A). In this case, the Ministry needed to consider the implications of both the Public Works Act and the Treaty. It acted correctly by seeking advice from other departments. But it did have an opportunity to identify the full range of affected interests, by seeking more information about former owners of the land as well as claimants. Section 3A(6A) of the Airport

[253] 'Report of Transport and Industrial Relations Committee, Hon Mark Gosche, Chairperson, May 2004' on Petition 1999/231 of Ross Sutherland and 584 others, p. 11.
[254] ibid, p. 64.
[255] K.B. Brady, Controller and Auditor General, 'Report of the Controller and Auditor-General: Inquiry into the Sale of Paraparaumu Aerodrome by the Ministry of Transport September 2005'.

> Authorities Act protected the rights of former owners. It would have been desirable, at the least, to have informed them of the proposed sale and of the protection of their Public Works Act rights by section 3A(6A).[256]

The Auditor General also pointed out some 'lessons' learned from the investigation, including a need for any department to be clear on how the Crown's Treaty partnership affects its work. When selling or transferring Crown-owned land he said it is important to consider the implications of both the Public Works Act and the Treaty. He said:

> The events leading up to the sale provide a useful case study of what depth of consultation can be required in terms of the Treaty, the need to consider the full range of Māori interests that may be affected, and the need to keep an open mind on how those interests might best be addressed.[257]

The Auditor General said Transport believed it had consulted adequately with Māori about the sale but a condition of the Māori claimant groups agreeing to the sale of the aerodrome land had '2 important riders':

> Māori were keen to see the aerodrome continue in operation as an aerodrome, as a public good asset. Their approach to the sale would have been quite different were the aerodrome likely to close. There were also indications that Māori interests would be interested in being involved in the running of the aerodrome, as an alternative to closure.
>
> There was ongoing concern about 'surplus' aerodrome land, and a clear indication that Māori would expect surplus land to be returned to former owners.[258]

While the Auditor General's report was critical of several aspects of the Māori consultation process, its overall findings were that: 'The Ministry's approach was consistent with the legislation applicable at the time', and that the 'approach of contacting Tribunal claimants was acceptable at the time'.[259] These conclusions were based on legislative and policy guidelines, rather than examining the issues in terms of the Treaty of Waitangi relationship.

[256] 'Report of the Controller and Auditor-General: Inquiry into the Sale of Paraparaumu Aerodrome by the Ministry of Transport September 2005', p. 67.
[257] ibid p. 12.
[258] ibid, p. 62.
[259] ibid, pp. 7-8.

### 1.3.5 Airport Developments

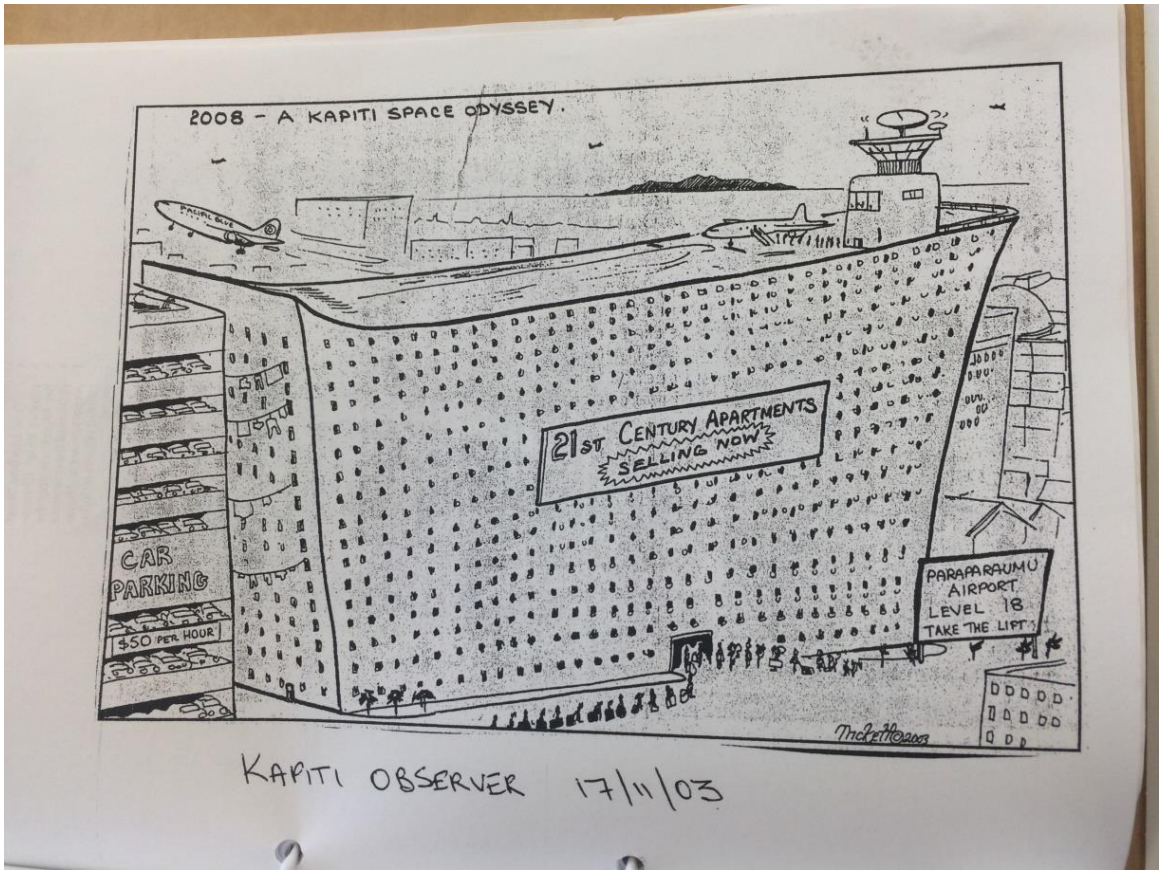
In 2006 the airport was sold again at a considerable profit to Paraparaumu Airport Holdings Ltd (PAL). The price was reported to have been 'well under $40 million'. The company was owned by businessman Noel Robinson who proposed a thirty year development plan, which included an airport upgrade, new terminal, along with a commercial business park. The proposed commercial developments raise the question as to whether some of the airport land was surplus to requirements, and thus should have been offered back to the representatives of the former owners. PAL and subsequent owners have argued that commercial developments were necessary in order to maintain the economic viability of the airport.

The development plan was subject to Environment Court hearings in 2008 and 2009. In 2008 the Kapiti Coast District Council approved the redevelopment application to change the district plan to allow commercial development. That decision was appealed by the Paraparaumu Airport Coalition, but the coalition lost this case and the redevelopment was approved.[260] Again the court considered that it did not have the statutory jurisdiction to satisfy the Māori owners concerns about Section 40 of the Public Works Act.[261]

The following satirical cartoon from the *Kapiti Observer* expresses local concerns that the development plans for the airport were more concerned with commercial developments rather than operating as an airport.[262]

[260] Paraparaumu Airport Coalition Incorporated v Kapiti Coast District Council W077/2008 NZENvC 320 (5 November 2008).
[261] See, Cammack v Kapiti Coast District Council W069/2009 [2009] NZEnvC 222 (2 September 2009); Cammack v Kapiti Coast District Council W82/2009 [2009] NZENvC 282 916 October 2009; Paraparaumu Airport Coalition Incorporated v Kapiti Coast District Council W077/2008 NZENvC 320 (5 November 2008).
[262] *Kapiti Observer*, 17 November 2003, ABGX 16127/238 1999/231 pt 3, ANZ Wellington [IMG 1555].

**Figure 7: 2003 Cartoon about Airport Redevelopment**[263]




Te Whanau a Ngarara and other Māori groups continued to oppose development proposals on the grounds that any land not required for airport purposes should be offered back to the owners. The Mayor of the Kapiti Coast District Council and the local Member of Parliament became involved in mediating negotiations between representatives of the former owners and PAL.[264] In April 2009 Member of Parliament, Darren Hughes, put together a settlement offer to take to the Crown. However, in 2010 the Attorney General advised that the Crown would not engage in negotiations.[265]

In 2012 a private agreement was reached between Te Whanau a Ngarara and Paraparaumu Airport Ltd. A condition of the agreement was that the amount paid remains confidential. The agreement itself does not prevent claims regarding the sale

[263] ibid
[264] This section is largely based on papers held by Yvonne Mitchell and her lawyer, and personal communication from Leo Watson.
[265] Leo Watson, Personal Communication, 8 March 2018.

of the airport by the Crown being pursued through the Waitangi Tribunal. During the course of negotiating this agreement, a further limitation on the rights of descendants of the former owners was revealed, which has in turn led to further grievances. The Public Works Act refers to the 'successor' of former owners, which has a particular legal interpretation. Section 40(5) says that for the purposes of an offer-back of land no longer required a successor 'means the person who would have been entitled to the land under the will or intestacy of that person'.[266] Furthermore, the LINZ 'Standard for disposal of land held for a public work' says:

> 9.1 If there are no exemptions to the requirement to offer back, the vendor agency must make reasonable efforts to identify and locate the former owners or their successor, and make the offer back to the that person.
> …
> 9.3 If the former owner has died, the vendor agency must provide LINZ with:
> (a) verification of the death of the former owner and the identity of their successor, which may include a will, grant of probate, birth and death certificates or other evidence,
> (b) an interpretation of the will of the former owner, prepared by a lawyer, taking into account the definition of successor in s 40(5) of the PWA, or
> (c) if the former owner died intestate, and interpretation of the provisions of the Administration Act that applied at the date of the death of the former owner, taking into account the definition of successor in s40(5) of the PWA.[267]

Rather than the tikanga Māori viewpoint of descendants through whakapapa, the Crown interpretation of 'successors' is limited to actual individuals named in the will of the former owner and further limited to only one generation. Legal counsel will be better able to provide the Tribunal with the relevant legislative and case law on this issue.

The result was that most of those who were grand-children of the former owners were not entitled to participate in the settlement agreement. Some grand-children were entitled, because their parent had pre-deceased the former owner, and thus they themselves were technical 'successors'. Regardless of the rights or wrongs of the interpretation of 'successors', it should be remembered that prior to the sale in 1995 Crown officials gave assurances that 'the position of the former owners and their

[266] Section 40(5) Public Works Act 1981.
[267] Land Information New Zealand, 'Standard for disposal of land held for a public work' LINZS15000, 13 November 2009, https://www.linz.govt.nz/regulatory/15000.

descendants will be unaffected'. [emphasis added] [268] We have not viewed any official correspondence with Māori which made it clear that only legal 'successors' would be entitled to a first offer on surplus land, even though some correspondence used the term 'successor'.

Since 2012 commercial properties have been constructed on the eastern edge of the airport land. They include a supermarket and large hardware chain store (with an 18 year lease), along with a large carpark. These businesses are sited on the 15 acre area of land originally acquired from Ngarara West B4 in 1943. Figure 8 shows the boundaries of the land originally taken overlaid on a recent aerial photograph.

[268] Secretary for Transport to Mrs Lake, 17 May 1993, MOT 76/20/0 vol 3, NZTA, Wellington [IMG 1831].

**Figure 8: Boundaries of Land Taken for Paraparaumu Airport[269]**


[269] Map drawn by Clinton McMillan, Crown Forestry Rental Trust, boundaries taken from Survey Office Plans SO 20216, SO 20377, SO 21075, DP 13961, SO 21870, SO 23196, SO 23216.

In 2012 ownership of the airport changed again, with the Todd Property Group forming Kapiti Coast Airport Holdings. In November 2017 further development of the airport site was approved by the Kapiti Coast District Council when the council changed restrictions on the district plan.[270] Kapiti Coast Airport Holdings continues to plan for an extensive business park development called Kapiti Landing. It is clear from their website advertisement that many non-airport related activities are planned on a large area of the airport land:

> New Zealand's most extraordinary business park:
> $5 million airport upgrade, 125 hectares of land, 300,000m$^2$ of developable area, 25 hectares of landscaped parks ….
> Whether your business requires 300m$^2$ or 30,000m$^2$, Kapiti Landing can provide purpose built that exactly fit your commercial requirements ….
> Kapiti Landing will have a range of amenities suited to its purpose. It is the intention to include restaurants and cafes, paths for walking and cycling; outdoor artworks and more than 4,000 car parks ….
> The perimeter of the airport and business park is softened and beautified with a 15 hectare buffer zone of walking paths, mountain bike tracks, art and sculptures, parks and distinctive landscape features.[271]

The description is accompanied by the following illustration:

**Figure 9: 'Paraparaumu Landing' Artist's Impression**[272]

The most recent development as to the viability of Kapiti Coast Airport was the announcement by Air New Zealand in early 2018 that it would no longer be operating

[270] Virginia Fallon and Joel Maxwell, Stuff, 3 November 2017, https://www.stuff.co.nz/business/property/98512674/chocks-away-major-development-on-cards-at-kpiti-airport-as-planning-restrictions-lifted
[271] http://www.kapiticoastairport.co.nz/Kapiti-Landing-Business-Park.html
[272] ibid.

commercial passenger flights at Paraparaumu. At the time of writing talks were underway with Chatham Air about whether it could provide a passenger service.

## 1.4 Summary of Issues

A total of 259 acres of Māori land was taken for Paraparaumu Airport, along with 72 acres of European land.

The origin of Paraparaumu Airport lay in plans to create an emergency landing ground as a backup for both Wellington and Palmerston North airports. However, during planning it was also envisaged that it could later develop into a fully operational aerodrome. Both the notice of intention and the proclamation taking the land in 1939 stated it was for the purposes of 'an aerodrome', without any mention of emergency landing ground. All the subsequent additional takings were also for the purposes of 'an aerodrome', with the exception of 15 acres taken from Ngarara West B4 in 1943 for 'defence' purposes.

In the case of emergency landing grounds (which were essentially levelled into landing strips and then grazed) on Pakeha land it was general practice to lease rather than acquire the freehold of the land. In the case of Paraparaumu three out of the four blocks affected were owned by Māori. This led officials to decide that it was necessary to take the land under the Public Works Act. After receiving the notice of intention to take the land, the trustee for one group of owners objected strongly to her children being dispossessed, and raised the possibility of a lease rather than sale. However, this option was rejected.

Notices of intention to take the land were served on the owners, with the exception of the one owner whose affairs were administered by the Māori Trustee. Without examining any Māori Trustee records, no comment can be made about whether or not she, or her whanau, were informed the land was being taken. For two out of three of the blocks the amount of compensation was negotiated by legal representatives with the Public Works Department, before being confirmed by the Native Land Court. The Māori owners of Ngarara West B7 Subdivision 2B received a similar amount for their land as the Pakeha owner of Subdivision 2A, which was the same size. In the third case, a prior agreement could not be reached and the court heard evidence from

valuers for both parties. The court awarded an amount in between the values claimed by the owners and Public Works. Compensation was paid by the Crown to the Māori Land Board or Māori Trustee to be held on behalf of the owners. The board/trustee then had the paternalistic role of deciding when and how the compensation was made available to the owners.

In the case of approximately 7 acres taken from Ngarara West B4 in 1940 the notice of intention was not served on the owners. The Native Land Court had appointed successors to the deceased owner, however, the successors had not been registered on the land transfer system certificate of title. It was the practice of the Public Works Department at that time to only serve notices on registered owners. Although this was partly a wartime exigency, it was prejudiced against the Native Land Court title system. In this case the department had also managed to locate and contact the successors when the land was being taken in 1938/39, and should have been able to at least send them a notice. Questions remain as to whether the owner knew that the land had been taken at all. They were not represented at the compensation hearing, although they had used legal representation in 1939. Futhermore no valuation was submitted on their behalf. This led to the Judge awarding compensation in accordance with the Crown's valuation evidence, even though he expressed some scepticism.

Further land was taken from Ngarara West B4 in 1943. Again, there is no record on file that the owners were contacted either before or after the land was taken. Extended negotiations took place with the leaseholders regarding compensation for the effect on their farming operation, along with the provision of mitigation measures. Although Public Works did make the necessary application to the Native Land Court for a compensation hearing soon after the taking, the matter seems to have then been completely overlooked. It was not until compensation was being awarded for a subsequent taking that officials realised they had failed to pay for the 1943 acquisition. Compensation was eventually awarded in 1952, nearly nine years after taking. When further land was taken from the block in 1949 the owners were served with notices of intention and signed consents.

The final acquisition of Māori land was from Ngarara West B7 Subdivision 2C. In recent times this transaction has been characterised as a willing sale by the owner.

This is based on the fact that the owners offered the land to the Crown and signed agreements to sell. However it must be remembered that the reason Ropata offered the land was because it was known that the airport was interested in expanding, and that was preventing Ropata from making other arrangements for his entire block. He made the offer to sell to seek finality, so he could get on with subdivision plans. He similarly signed the consent to sell, on advice from officials, in order to speed up the compensation process, because he needed payment to meet a rates bill. In the 1990s, when Lands and Survey produced Section 40 reports regarding whether or not land had to be offered first to the owners if it was declared surplus, in the case of Ngarara West B7 Subdivision 2C, it reported that because the owner was a willing seller, there was no requirement to offer back the land to the former owner or successor.

Crown policy regarding the privatisation of state assets led to the decision to sell Paraparaumu Airport, which struggled to generate sufficient revenue. However, political considerations also meant the Crown preferred to ensure that the airport continued to operate as a local facility. This created a difficulty because under Section 40 of the Public Works Act if land acquired for a public purpose was no longer required, the Crown had to first offer to sell it back to the former owners. The Crown choosing to sell the airport would mean it was no longer required for public purposes, but officials feared the requirement to offer the land to the owners would be incompatible with the joint goal of keeping the airport operating.

This assumption led to the passage of legislation which permitted the Crown to transfer ownership to an airport company, without first offering the land to the former owners. However, this assumption was based on the view that Māori ownership would close the airport, and denied former owners the opportunity of forming a joint venture to finance purchasing the airport and the development of surplus land. An early approach by a Māori trust which proposed a lease-back to the Crown was rejected, and we have seen no evidence that similar options were explored.

Parts of the airport land had long been used for non-aviation related purposes. Commercial properties were leased along Kapiti Road, houses were built on Avion Terrace (initially for airport staff, but later leased privately), and parts of the outer area were grazed or used by groups such as a pony club. When the Crown offered the

airport for sale by tender, it chose not to first exclude those areas which were not being used for airport purposes and declare them surplus. Instead it was argued that tenderers could choose to tender for only part of the land, or that it would be better for the new owner to decide what areas it required for airport operations. This decision again denied the former owners (many of whom supported keeping the airport open) the opportunity to purchase and develop the residential and/or commercial land. For example, some descendants of former owners were renting houses on Avion Terrace. If that land had been declared surplus, there may have been the opportunity for it to have been used by the whanau and hapū of the land as a papakainga area.

Once the Crown had passed the amendment to the Airport Authorities Act which was supposed to preserve the Section 40 rights of former owners after the airport was sold, the Crown saw its duty under the Treaty of Waitangi as solely relating to those groups who had Waitangi Tribunal claims over an area including the airport. It did not consider its Treaty responsibilities to the descendants of former owners. This led to a somewhat misguided focus on dealing with groups with broad claims over the area and a long period spent getting groups without direct links to the airport site to sign off on its disposal. The claimant group with the most direct link to former owners, Te Ati Awa ki Whakarongotai repeatedly told the Crown that it should be dealing with the descendants of the former owners. Officials kept in touch with the family of one woman who had expressed her interest as the daughter of a former owner, but not the other. As NZTA had instructed Lands and Survey not to identify the former owners and their successors, NZTA seems to have failed to realise that more than one family was involved. It took no steps to check whether those they were in contact with represented all of the original blocks, which explains why officials were surprised when Te Whanau a Ngarara and other descendants of former owners objected to the sale at the last minute.

Whenever the issue was raised of the rights of the former owners, officials repeatedly gave explicit assurances that their rights would be protected under private ownership by Section 3A 6(A) of the Airport Authorities Act. However, subsequent events have demonstrated that the Crown failed to provide sufficient legal protection of the rights of former owners. In particular, there are no legislative enforcement measures to

ensure the airport owners comply with their Section 40 obligations, and no definition of what should be considered ‘surplus’ land.

Representatives of the former owners were denied a High Court injunction to prevent the sale of the airport on the basis of the supposed protection of the Airport Authorities Act. Similarly, they have found themselves unable to prevent re-zoning of the land to allow for non-aviation uses. The Airport Authorities Act also did not prevent the new owners of the airport immediately selling the Avion Terrace land, without first offering it to the former owners. Unlike other land sold under the State-Owned Enterprises Act, the terms of the sale of the airport mean that the land cannot be resumed as part of a Treaty settlement package.

The current owner of the airport is continuing with plans for commercial developments. Although a financial settlement was privately negotiated by the company, only some of the descendants of the former owners were eligible to receive the settlement payment. The legal definition of ‘successor’ to the former owner limits the offer back right to successors under a will or intestacy, and to only one generation. Therefore, most grandchildren of the former owners do not have any rights under the law to have the opportunity to purchase any surplus land. We have not seen any evidence that this technicality was conveyed to the descendants of former owners when they were given written assurances that their rights would be protected under the Airport Authorities Act.

## 2. Scenic and Recreation Reserves

### 2.1 Paraparaumu Scenic Reserve

Paraparaumu Scenic Reserve was established largely on the Ngarara West C7 and Muaupoko A2 blocks. Both blocks had been owned by Hannah Field, who was part Māori, and who had died in 1904. Her will left the 187 acre area as a bush reserve, but the will was not recognised by the Native Land Court, which awarded the blocks to her half-sister.[273] In 1905, the local Member of Parliament, who was also Hannah Field's brother in law, instead proposed that it be acquired by the Crown as a scenic reserve.

In August 1905, following a query about establishing a scenic reserve near Paraparaumu from the Prime Minister, the Surveyor General J.W. Marchant asked S.P. Smith, chairman of the Scenery Preservation Commission, to have the proposed reserve inspected.[274] S.P. Smith advised the Surveyor General who was also a scenery commissioner to attend the site visit so the boundaries could be pointed out. He also said a meeting of the Native Land Court might be necessary. Marchant agreed to attend the site visit.[275] Marchant and scenery preservation officer W.W. Smith visited the property on 5 September.[276]

W.W. Smith provided the Scenery Preservation Commission with a report on his inspection of the Paraparaumu bush area known locally as the 'bird reserve'. His report also included an interview with local land owner and Member of Parliament W.H. Field. Smith and Marchant approached the proposed reserve through Ngarara West A Section 53 (20 acres owned by J.A. McGrath) which fronted the 'bird reserve'. They obtained a view of the entire reserve area from the trig station. Smith said the 'area is a very typical and beautiful piece of West Coast bush now very rare near the Railway line, and, in the opinion of the Commissioners who inspected it, is

[273] W.W. Smith, Department of Tourist and Health Resorts to Chairman, Scenery Preservation Commission, New Plymouth, 1905, AECB 8615 TO1/59 1905/333, ANZ Wellington [DSCF 5236-5238].
[274] J.W. Marchant, Surveyor General to S.P. Smith, Chairman, Scenery Preservation Commissioners, 25 August 1905, AANS 6095 W5491/342 4/1016, ANZ Wellington [DSCF 5107].
[275] File note, 4 September 1905, on, S.P. Smith, Chairman, Lands and Survey, Commission appointed under Scenery Preservation Act 1903, New Plymouth to Surveyor General, 30 August 1905, AANS 6095 W5491/342 4/1016, ANZ Wellington [DSCF 5106].
[276] W.A. Marchant, Surveyor General to S.P. Smith, Matai Moana, New Plymouth, 28 September 1905, AANS 6095 W5491/342 4/1016, ANZ Wellington [DSCF 5105].

well adapted for acquiring as a Scenic reserve.' He said access to the bush reserve could be taken through Ngarara A2 Section 2 Subdivision 1 (owner Rameke Watene te Awhio) and he noted Ngarara A2 Section 1 of approximately four acres was bequeathed by Hannah Field to a Pakeha named Watters 'for life who now resides on it. It is now a very old orchard.'[277]

Smith explained the history of the title situation:

> At present time there is considerable complications respecting the ownership of the larger areas proposed to be reserved. The late Mrs Field bequeathed it to the State as a bird reserve. Subsequently the legality or validity of the will was challenged by relatives, and on it being tested in the Native Land Court the Judge awarded it to a Muaupoko woman who sold it to Mrs Jepson. This lady is now negotiating its sale to Mr Hadfield whose 6000 acre block adjoins it.
> On calling on Mr Field M.H.R. to obtain information as to the urgency of the Government acquiring it that gentleman stated in the meantime negotiations for its sale are suspended. Meanwhile Mr Field is of opinion that the Government should move with the matter of acquiring it to prevent its further disposal and probable destruction. Mr Field further stated that Mr Hadfield is negotiating for the purchase of the property at £4 per acre. If submitted to auction he (Mr Field) would be prepared to bid up to £6 per acre for the whole area.[278]

Mrs Ellen Jepson/Ereni Tepihana was a half-sister to Hannah and whom the Native Land Court acknowledged as the successor to the Hannah Field Estate. W.H. Field told the commissioners that he intended to preserve 30 acres. The commission resolved to recommend to the Governor to acquire parts of Muaupoko A2 (100 acres), less an area of 4 acres occupied by Watters, making it 96 acres and a further 185 acres of Ngarara West C Part 7 and a half chain roadway through the Muaupoko block for scenic purposes.[279] It was considered essential that the land be gazetted as scenic reserve under the Public Works Act so the bush was protected from felling.[280]

The Superintendent explained to the Minister of Tourist and Health Resorts:

---

[277] W.W. Smith, Department of Tourist and Health Resorts to Chairman, Scenery Preservation Commission, New Plymouth, 1905, AECB 8615 TO1/59 1905/333, ANZ Wellington [DSCF 5236-5238].
[278] ibid
[279] Scenery Preservation Commission, twelfth interim report, No 265, n/d, AECB 8615 TO1/59 1905/333, ANZ Wellington [DSCF 5235].
[280] T.E. Donne, Superintendent to Under Secretary, Public Works, 1 November 1905, AECB 8615 TO1/59 1905/333, ANZ Wellington [DSCF 5234].

> The area in question is still Native land, although the title is somewhat involved and if acquired it will be necessary to take action by Order in Council issued under Section 88 of The Public Works Act.[281]

Sir Joseph Ward was told that the Native Land Court had 'upset' the will of Hannah Field and allowed her land to go to a relative instead of being set aside as a bird reserve. Jepson's certificate of title had not been issued and surveyors were completing plans so it could be 'gazetted as early as possible in accordance with Cabinet direction.'[282]

In November 1905 the Tourist Department asked Lands and Survey to take Parts Muaupoko A2 Section 1 and Ngarara West C Part Section 7, along with a narrow access strip under the Public Works Act for scenic purposes. H.J. Blow, Under Secretary for Public Works, said because the work was urgent Lands and Survey should immediately engage a surveyor.[283] C.A. Mountfort began to survey the area for a 'bird reserve'. On 1 December 1905 a notice of intention to take 185 acres of Ngarara West C Part 7 and 98 acres of Muaupoko A2 Section 1 for scenic purposes was gazetted.[284] The notice and accompanying plan were to be displayed at the Paraparaumu Post Office, and 40 days were allowed for objections in writing.

On 18 December 1905 C.B. Morison a solicitor acting on behalf of Ereni Tepihana/Ellen Jepson lodged a claim for compensation for Ngarara West C Part Section 7 (185 acres). Jepson would accept £745 for the land which was the price she had negotiated for its sale to H.J. Hadfield. W.H. Field had also offered to purchase the land on a number of occasions for more money than this sum.[285] Hadfield had agreed to pay Jepson £4 an acre for the 185 acre block and had made a down payment to Jepson of £80. He agreed to withdraw his purchase if his down payment money was repaid. The Crown was willing to pay Jepson the amount suggested if the Native

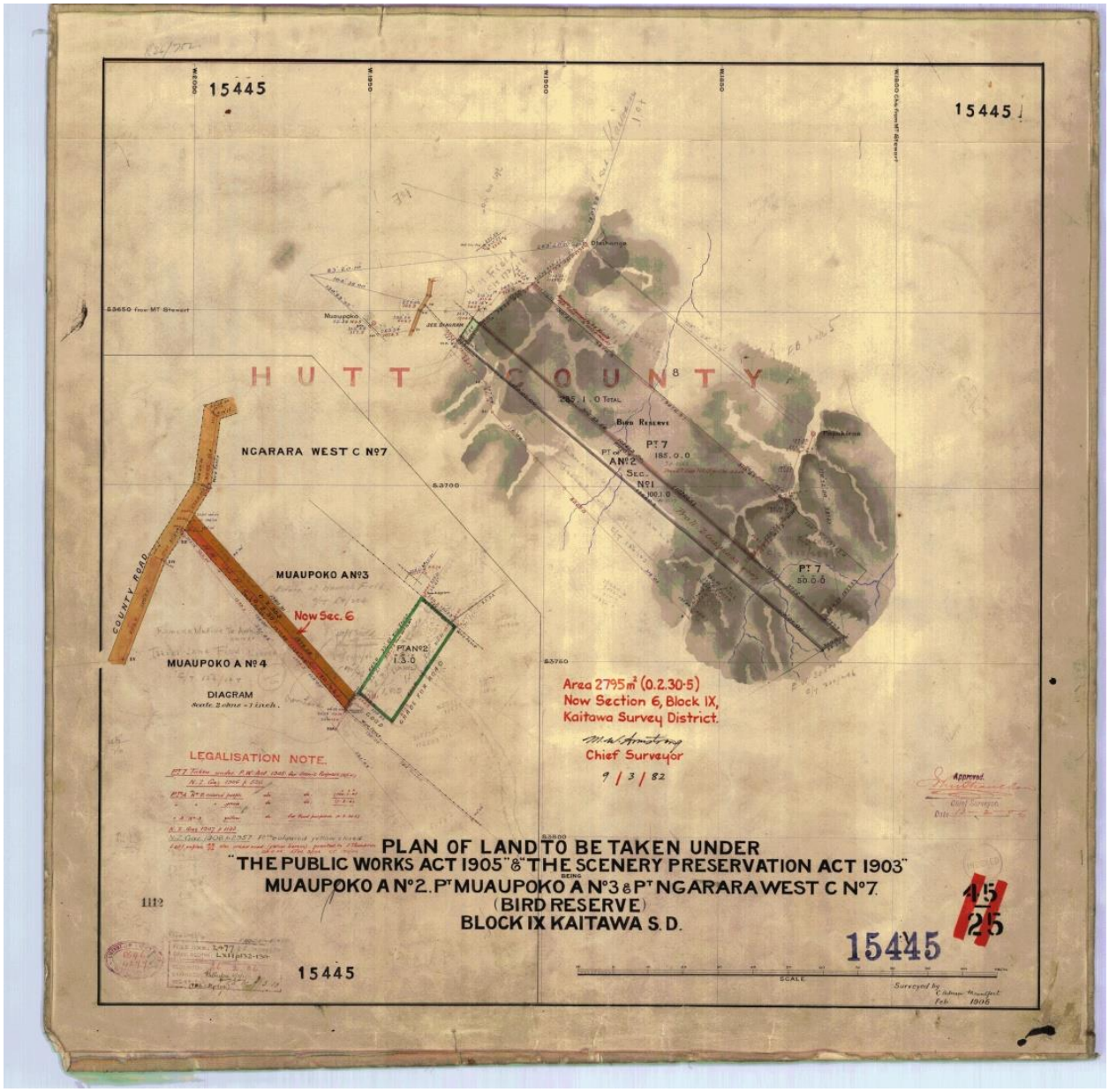
[281] T.E. Donne, Superintendent to Minister, Tourist and Health Resorts, Wellington, 17 October 1905, AECB 8615 TO1/59 1905/333, ANZ Wellington [DSCF 5233].
[282] T.E. Donne to Sir Joseph Ward, Dunedin, 14 November 1905, AECB 8615 TO1/59 1905/333, ANZ Wellington [DSCF 5232].
[283] H.J. Blow, Under Secretary, Public Works, Wellington to Chief Surveyor, Wellington, 2 November 1905, AANS 6095 W5491/342 4/1016, ANZ Wellington [DSCF 5102]; see also, Copy of Tracing accompanying Mr Blow's letter No 156/106 PW 1095/6611, AANS 6095 W5491/342 4/1016, ANZ Wellington [DSCF 5103].
[284] NZG, 1 December 1905, p. 2771.
[285] C.B. Morison, Solicitor, Wellington to Sir J. Ward, 18 December 1905, AECB 8615 TO1/59 1905/333, ANZ Wellington [DSCF 5229-5231].

Land Court provided her with a certificate identifying her as sole owner.[286] It was agreed a £300 down payment would be made.[287] The Audit Office initially declined to make this payment until the Crown received clear title to the land.[288] The compensation hearing for this land indicated Jepson did receive an advance of £300.[289]

On 15 February 1906 Ngarara West C Part Section 7 (185a 0r 0p) was gazetted as scenic reserve under the Public Works Act 1905 and the Scenery Preservation Act 1903.[290] The area taken is shown on Figure 10, along with subsequent takings:

[286] H. Thompson to Under Secretary, 4 January 1906, AECB 8615 TO1/59 1905/333, ANZ Wellington [DSCF 5227].
[287] T.E. Donne, Superintendent to Under Secretary, Public Works, 15 January 1906, AECB 8615 TO1/59 1905/333, ANZ Wellington [DSCF 5226]; see also, H.J. Blow, Under Secretary, Public Works to Superintendent, Tourist Department, 2 February 1906, AECB 8615 TO1/59 1905/333, ANZ Wellington [DSCF 5223].
[288] T.E. Donne, Superintendent to Under Secretary, Public Works, 7 February 1906, AECB 8615 TO1/59 1905/333, ANZ Wellington [DSCF 5222]; see also, file note on, [DSCF 5221].
[289] Wellington MB 15, 6 April 1906, p. 26.
[290] NZG, 15 February 1906, p. 536.

**Figure 10: Land Taken for Paraparaumu Scenic Reserve[291]**




On 6 April 1906 the Native Land Court heard the compensation claim for Part Ngarara West C Section 7 (185 acres). Morison appeared for Jepson and told Chief Judge Jackson Palmer that his client was the sole successor to Hannah/Hana Field and: 'The price was agreed upon between my client & the Govt. at £4 per acre 185 acres.' He presented the court with the government proclamation and a letter (158/832) of 22 March 1906. The sum of £4 per acre amounted to £740 and the advance payment of £300 left a balance of £440 to be paid. Thomson for the Crown

[291] Survey Office Plan SO 15445.

agreed with the sum and consented to Morison being paid costs of £5-5s. The court made and signed an order that it was 'satisfied Mrs Jepson is the owner.'[292]

The acquisition of the rest of the reserve and access way did not take place until the next year because of complications regarding access, and land exchange arrangements. The plan was to take the access way from Muaupoko A3, in exchange for which a small portion of Muaupoko A2, which contained a house (shown in green on Survey Office Plan SO 15445), would be vested in the owners of A3.[293] However, there was no power at the time for such exchanges to be made under the Scenery Preservation Act. W.H. Field objected to an access way being surveyed through his wife's land in Muaupoko A3, which bisected an orchard and in January 1906 he told Mountfort to stop surveying. He said the Native Land Court had already made an order for a road alongside the one the surveyor had pegged.[294] Field told the Chief Surveyor that a right of way had been surveyed on the ground along the south western boundary of Muaupoko 3. The Chief Surveyor discovered:

> This right of way…is an Order of the Native Land Court, plans of which have been referred through the Registrar to the Judge of the Native Land Court for definite instructions as to Order, particulars of which have not reached this office. From this you will gather that the right of way has yet to be legalized.[295]

Blow, for Public Works, said the plan would also need to show an access road and identify an existing cottage (now occupied/owned by J. Warrilow) and orchard on Muaupoko A2 which once taken for the reserve it would be vested in the owner of Muaupoko A3.[296]

On 27 March 1907 three areas of the Muaupoko block were proclaimed taken for the scenic preservation purposes and a road.[297] They were: Muaupoko A2 Section 1 (100a

[292] Well MB 15, 6 April 1906, p. 26; see also, W.C. Kensington, Under Secretary, Lands and Survey to Under Secretary, Public Works, Wellington, 23 July 1905, AANS 6095 W5491/342 4/1016, ANZ Wellington [DSCF 5098].
[293] H.J. Blow, Under Secretary, Public Works, Wellington to Chief Surveyor, Wellington, 19 January 1906, AANS 6095 W5491/342 4/1016, ANZ Wellington [DSCF 5099].
[294] J.W. Marchant, Surveyor General to Chief Surveyor, Wellington, 18 January 1906, AANS 6095 W5491/342 4/1016, ANZ Wellington [DSCF 5104].
[295] Stauchon, Chief Surveyor, Lands and Survey, Wellington to Surveyor General, Wellington, 19 January 1906, AANS 6095 W5491/342 4/1016, ANZ Wellington [DSCF 5100-5101].
[296] H.J. Blow, Under Secretary, Public Works, Wellington to Chief Surveyor, Wellington, 19 January 1906, AANS 6095 W5491/342 4/1016, ANZ Wellington [DSCF 5099].
[297] NZG, 4 April 1907, p. 1133.

1r 0p); Muaupoko A2 Section 1 (1a 3r 0p) which were both taken for scenic purposes, along with and Muaupoko A3 (2r 30.5p) taken for road purposes to provide access to the reserve.

On 3 July 1907 the Native Land Court held a compensation hearing for Muaupoko A2 Section 1. Thompson for Public Works said the Crown had paid £4 per acre for Part Ngarara West C Section 7 (185 acres) which adjoined these areas and the Crown was prepared to pay that price again. He said the sum of £4 per acre was what H.J. Hadfield had offered Jepson. The block was long and narrow which he said would make fencing costly. He agreed to provide the court with a government valuation.[298] There were no improvements on the land and the valuation was £306. Compensation was fixed by the court at £4 per acre.[299] At that rate the total compensation was £408.

In June 1907 Field complained that the taking of Muaupoko A3 (2r 30.5p) severed an area adjoining his property. The Under Secretary said that if this was the case the land should be revested in the owners. The proposed road as noted cut through Field's orchard.[300] In July 1907 Field told the Minister of Lands:

> The Native Appellate Court, in dealing with the late Mrs Hannah Field's Will, cut off a strip, half a chain wide, along the South western boundary of Muaupoko A No. 3 (my late brother's orchard), from the County Road Eastwards, and awarded it to Ereni Tepihana, in order to give her access to land at the back – since acquired by the Government as a Scenic Reserve. In return for this half chain strip, the Court decreed that an area of Sec. 1 of Muaupoko A. No 2 (also part of Mrs Hannah Field's estate) and now taken as part of the Scenic Reserve should be added to the back of the orchard property.[301]

Field wanted the Native Land Court instruction implemented. He explained Ereni Tepihana/Ellen Jepson had received title for the access route (Part Muaupoko A3) to her land which she had subsequently sold to Field for approximately £30. Public Works, as noted, had taken the back of the orchard for the road and he asked that the

[298] Otaki MB 47, 3 July 1907, pp. 230-231.
[299] Otaki MB 47, 15 July 1907, p. 279.
[300] Under Secretary, Public Works, Wellington to Under Secretary, Lands, 4 June 1907, AANS 6095 W5491/342 4/1016, ANZ Wellington [DSCF 5084]; see also, Plan of Bird Reserve Block IX Kaitawa SD, [DSCF 5083].
[301] W.H. Field, MHR, Wellington to Minister of Lands, Wellington, 23 July 1907, AANS 6095 W5491/342 4/1016, ANZ Wellington [DSCF 5080].

government take the purchase from Tepihana as the access road to the reserve and leave the orchard intact.[302]

In March 1908 the Under Secretary recommended that the Crown purchased Part Muaupoko A3 (2r 30.5p) that Field had purchased from Tepihana.[303] Although Field wanted an exchange for this area the Crown preferred to purchase the land and offered £30.[304] The Minister said if Field agreed the Crown would revest the land in the Māori owners of Muaupoko A3.[305] Although Field was annoyed with this decision which he said was not important for the bird reserve but was 'an integral part of the orchard property'. He said with the road the boundary was now three feet from the back wall of the cottage. He said he would accept a monetary payment but argued time and effort and interest meant he should receive more money.[306] The Minister offered Field £34 and asked whether he would pay half the cost of fencing between his property and the reserve.[307] The exchange was implemented, and the 2 roods 30.5 perch road and 1 acre 3 roods of scenic reserve which included the cottage were transferred on 18 February 1909.[308]

## 2.2 Hemi Matenga Memorial Park

Throughout the first part of the twentieth century the Crown was interested in reserving bush areas around Waikanae for scenery preservation. Wi Parata owned Lot 5 Part Ngarara West C41 (805 acres), which was located on a hill above Waikanae Railway Station. In the end the scenic reserve was not acquired by the Crown through the use of either the Public Works Acts or the Scenery Preservation Acts and was instead obtained as a reserve contribution for the subdivision of other lands held by the Hemi Matenga Estate. Nevertheless, the history of the Crown's interest in

[302] W.H. Field, MHR, Wellington to Minister of Lands, Wellington, 23 July 1907, AANS 6095 W5491/342 4/1016, ANZ Wellington [DSCF 5080-5082].
[303] W.C. Kensington, Under Secretary to Under Secretary, Public Works, 31 March 1908, AANS 6095 W5491/342 4/1016, ANZ Wellington [DSCF 5077].
[304] Under Secretary, Public Works to Under Secretary, Lands, 8 May 1908, AANS 6095 W5491/342 4/1016, ANZ Wellington [DSCF 5073].
[305] R. McNab, Minister of Lands to W.H. Field, 14 May 1907, AANS 6095 W5491/342 4/1016, ANZ Wellington [DSCF 5072].
[306] W.H. Field, MHR to Minister of Lands, Wellington, 9 June 1908, AANS 6095 W5491/342 4/1016, ANZ Wellington [DSCF 5069-5071].
[307] R. McNab, Minister of Lands to W.H. Field, MP, 25 June 1908, AANS 6095 W5491/342 4/1016, ANZ Wellington [DSCF 5067-5068].
[308] A.D. McLeod, Minister Scenery Preservation, Wellington to W.H. Field, 7 December 1926, AANS 6095 W5491/342 4/1016, ANZ Wellington [DSCF 5057-5058].

acquiring and reserving the block has been included in this report as it is a very large area of land which has been raised as an issue by the claimants.

In September 1902 it was reported that Wi Parata had offered to 'preserve the bush upon and convert into a public domain or reserve' the forest-clad hill above Waikanae.[309] The article said that 'the terms proposed by Wi Parata' might require a special Act of Parliament, but did not specify what terms he envisaged. It was reported that Parata had met with the Minister of Lands and Native Affairs along with the local Member of Parliament, W.H. Field.

The next year, the Scenery Preservation Act 1903 was passed which established a Scenery Preservation Commission and allowed the Crown to take land under the Act and the Public Works Act for scenery preservation purposes. During the debate on the bill Field made reference to bush areas he was preserving, and to other areas in his district, including 'the bush hill at Waikanae', that 'would inevitably be destroyed' without scenery preservation legislation.[310]

In 1904 three areas of land near Waikanae were recommended for scenery reservation by the Scenic Preservation Commission.[311] They were Ngarara 7 (235 acres), Ngarara 23 and 24, and an area referred as 'Wi Parata's land Resoln 201'. Ngarara West C23 (100 acres) was 'two miles inland from Waikanae Railway Station, and suitable for picnics.'[312] The land was leased by H.R. Elder and part of the area in question was called Elder's Bluff.[313] The board decided it was necessary to purchase Elder's Bluff because it was private land which was not used by tourists.[314]

In regard to Parata's land Local Member of Parliament W.H. Field asked the Minister of Lands in the House 'whether you would take steps to acquire it from the native

[309] *Evening Post*, 1 September 1902, Rawhiti Higgott Papers [IMG 2659-2660].
[310] NZPD, 1903, vol 126, p. 712.
[311] A. Hogg, Library General Assembly to S.P. Smith, Chairman, Scenic Preservation Commission, 29 June 1904, AANS 7613 W5491/987 RES 7/3/24, ANZ Wellington [DSCF 5812].
[312] Scenery Preservation Commission, Resolution 202, n/d, AANS 7613 W5491/987 RES 7/3/24, ANZ Wellington [DSCF 5809].
[313] Plan Ngarara West C No 23, AANS 7613 W5491/987 RES 7/3/24, ANZ Wellington [DSCF 5808]; see also, Proposed Scenic Reserve [DSCF 5801].
[314] Surveyor General to Under Secretary, 2 March 1907, AANS 7613 W5491/987 RES 7/3/24, ANZ Wellington [DSCF 5802].

owners, and you replied that as it belonged to the representatives of the late Wi Parata, who had expressed his intention of donating it as a scenic reserve, the Government as yet taken no steps in the matter.'[315]

The land proposed for a scenic reserve was Ngarara West C41 and Field in Parliament question time suggested the 'Hill in question is likely soon to pass from Native to European Hands, when doubtless the bush will be destroyed and the district and the colony will suffer an irreparable loss'.[316] Stauchon the Chief Surveyor said 'I understood personally from the late Wi Parata that he had an intention of donating it for the purpose stated above' being scenic reserve.[317]

In October 1906 Hemi Matenga made it clear in a letter to the *Evening Post* that he was preserving the bush himself and resented Field's involvement:

> I see by your issue of the 8th inst. that Mr. Field M.H.R., is urging the Government to acquire the bush-clad hill near Waikanae. I think it would have been a better course for Mr. Field to have taken, if he had first enquired who was likely to succeed to that part of my late brother's land, and to have first interviewed the new owner. Wi Parata was always anxious to preserve the forest, and when granting any leases of the flat land he made stringent provisions for the preservation of the forest on the slopes. I have myself always urged upon him the advisability of saving the forest on that land, and now that I have succeeded to it under the provisions of his will, I intend to preserve the forest with the same care. I, however, resent the course adopted by Mr. Field in publicly urging the Government to acquire the land without first speaking to me about it-I am, etc. HEMI MATENGA. Waikanae, 12 October, 1906.[318]

Further Crown attempts to acquire Ngarara West C41 were made six years later. In 1912 the Inspector of Scenic Reserves said the lessee Mr Elder was 'agreeable' to the Crown's acquisition of Elder's Bluff and noted that: 'Now that Mr Matenga is dead and his estate in the hands of trustees, it seems an opportune time to again negotiate

[315] Under Secretary, Department of Lands, Wellington to Minister of Lands, 2 November 1906, AANS 7613 W5491/987 RES 7/3/24, ANZ Wellington [DSCF 5803-5804].
[316] Under Secretary, Lands, Wellington to Commissioner of Crown Lands, Wellington, 6 October 1906, ADXS 19483 LS-W1/486 24681, ANZ Wellington [DSCF 5298]; see also, map Ngarara West C41 estate of late Wi Parata, [DSCF 5297].
[317] Stauchon, Chief Surveyor, Wellington to Under Secretary, Lands, Wellington, 6 October 1906, ADXS 19483 LS-W1/486 24681, ANZ Wellington [DSCF 5296].
[318] *Evening Post*, 15 October 1906, ADXS 19483 LS-W1/486 24681, ANZ Wellington [DSCF 5295].

for the acquisition of the bush'. The trustee was Nelson resident P. Webster.[319] No further action appears to be taken at this time.

In 1929 the Minister of Education had representation from the Nelson Bush and Bird Preservation who were concerned about the destruction of bush areas around Waikanae.[320] Lands and Survey asked for more detail about the exact area and no more action appears to have been taken at this time.[321]

In 1936 it was noted that approximately 800 acres of land owned by the 'Martini' [sic] estate had not been reserved and it was the 'only piece of virgin bush of any extent adjacent to the railway between Wellington and New Plymouth, and its destruction would be inexcusable.'[322] The area was Lot 5 Part Ngarara West C 41 (995a 3r 20p). The area the Crown wanted to reserve was 810 acres of bush. The remainder of the block was in grass. The registered owner at this time was Thomas Neal of Nelson, who was the executor of the Estate of Wi Parata Waipunahau.[323] A 1930 valuation had an unimproved value of £960, with improvements of £200 for fencing, making a total of £1,160. The Commissioner of Crown land recommended that Lot 5 be obtained by the Crown for scenic purposes.[324]

The Under Secretary for Lands and Survey noted:

> Under Section 264 of the Native Land Act, 1931, as amended by Section 46 of the Native Land Amendment Act, 1936, the provisions of Part XIII of the Native Land Act relating to alienation of native land apply to the area. Any negotiations for its acquisition would therefore have to be conducted through the Native Department, and I recommend that you approve of that Department being asked to approach the owner with a view to ascertaining if he is willing to sell, and if so at what price.[325]

---

[319] Inspector of Scenic Reserves, Lands and Survey, Wellington to Under Secretary, Lands, Wellington, 26 July 1912, AANS 7613 W5491/987 RES 7/3/24, ANZ Wellington [DSCF 5800].
[320] Minister of Education, Wellington to Minister Scenery Preservation, 17 April 1929, AANS 7613 W5491/987 RES 7/3/24, ANZ Wellington [DSCF 5799].
[321] G.W. Forbes, Lands and Survey, Wellington to H. Atmore, 29 May 1929, AANS 7613 W5491/987 RES 7/3/24, ANZ Wellington [DSCF 5798].
[322] A.H. Burgess, Waikanae to L.G. Lowry, Member of Parliament, Wellington, 4 June 1936, AANS 7613 W5491/987 RES 7/3/24, ANZ Wellington [DSCF 5797].
[323] Map, Lot 5 DP 3433 being Pt Ngarara West C No. 41 Blocks V, VI, IX, X Kaitawa Survey District, AANS 7613 W5491/987 RES 7/3/24, ANZ Wellington [DSCF 5795].
[324] Commissioner of Crown Lands, Lands and Survey, Wellington to Under Secretary, Lands, 28 September 1936, AANS 7613 W5491/987 RES 7/3/24, ANZ Wellington [DSCF 5794].
[325] Under Secretary, Lands and Survey, Wellington to Minister Scenery Preservation, 7 May 1937, AANS 7613 W5491/987 RES 7/3/24, ANZ Wellington [DSCF 5793].

The Scenery Preservation Board agreed Lot 5 should be acquired for scenic purposes.[326] The Native Department were asked to approach the owner about their willingness to sell and their price.[327] The sole trustee T. Neale said he was in favour of a sale and: 'I do wish also to promote the interests of the Crown in securing the area…..The first step would be to try and arrive at the terms and conditions they would suggest, and I, representing my trust, could accept.'[328] Neale subsequently said he would not offer to sell the land 'but if the Crown, under their powers, proceeds to acquire it, I would not oppose them.'[329] Consideration was given to taking the land under the Public Works Act.[330] The Commissioner of Works said the land should be taken under the Public Works Act for more than the government valuation of £1,050 for 810 acres.[331] However, nothing further seems to have happened at this time.

The Crown finally obtained the long desired reserve in 1954 without using the Public Works Act. The Hemi Matenga Estate was in the process of subdividing parts of the estate land for residential purposes. The trustees proposed gifting the bush reserve area in order to meet the requirements of Section 12 of the Land Subdivision in Counties Act 1946 to set aside public reserves:

> There is a an area of Native bush along the western slopes of the hill which has been preserved over the years and the Trustees feel that this bush should be preserved as a Public Reserve and suggest it be set aside with suitable access for that purpose.[332]

The letter suggests that the trustees had been preserving the bush area in accordance with the intention Hemi Matenga as stated in 1906 without the need to transfer it to

[326] File note, 25 February 1938, Resolution No. 884, on Under Secretary, Lands and Survey, Wellington to Minister Scenery Preservation, 7 May 1937, AANS 7613 W5491/987 RES 7/3/24, ANZ Wellington [DSCF 5793].
[327] W. Robertson, Under Secretary, Lands and Survey to Under Secretary, Native Department, Wellington, 13 May 1937, AANS 7613 W5491/987 RES 7/3/24, ANZ Wellington [DSCF 5792].
[328] T. Neale, Trustee Estate late Hemi Matenga, Nelson to C.A. Campbell, Under Secretary, Native Department, Wellington, 12 June 1937, AANS 7613 W5491/987 RES 7/3/24, ANZ Wellington [DSCF 5791].
[329] T. Neale, Trustee Estate late Hemi Matenga, Nelson to C.A. Campbell, Under Secretary, Native Department, Wellington, 22 June 1937, AANS 7613 W5491/987 RES 7/3/24, ANZ Wellington [DSCF 5790].
[330] Under Secretary to Commissioner of Crown Lands, Wellington, 8 November 1937, AANS 7613 W5491/987 RES 7/3/24, ANZ Wellington [DSCF 5789].
[331] Commissioner of Crown Lands, Lands and Survey, Wellington to Under Secretary, Lands, 15 November 1937, AANS 7613 W5491/987 RES 7/3/24, ANZ Wellington [DSCF 5788].
[332] Fletcher and Moore, Solicitors, Nelson to Surveyor General, Wellington, 20 September 1954, Rawhiti Higgott Papers [IMG 2664].

the Crown or seek legal reserve status up until that time. The gift of the reserve was intended to meet the reserve requirements of two subdivisions planned at the time and also 'any future subdivisions' of the Estate's land at Waikanae.[333] Section 12 of the Land Subdivision in Counties Act 1946 provided that an area of land equivalent to at least 3 perches for each residential allotment of less than 2 acres had to be provided as a public reserve.[334]

On 25 November 1954 a Deed of Agreement with the trustees of the Hemi Matenga Estate transferred approximately 720 acres of Part Section 41 Ngarara West C, along with two rights of way, to the Crown for the purposes of a scenic reserve.[335] The Director General of Lands and Survey elaborated: 'The reserve is intended to be a contribution in respect of a subdivision already carried out and for future subdivision of the land still held by the owners.'[336] The transfer to the Crown was registered on 15 May 1956.[337]

It was recommended that the Minister of Lands dedicate Part Ngarara West C41 under Section 14 of the Reserves and Domains Act 1953 as a scenic reserve to be known as the Hemi Matenga Scenic Reserve.[338] It was noted that the Deed of Agreement referred to the reserve as the Hemi Matenga Memorial Park.[339] The trustees were A.F. Blackburn and T.H. Webber.[340]

A gazette notice was issued proclaiming the reserve on Part Lot 1 Part Ngarara West C41 (805 acres) as a scenic reserve subject to Part IV of the Reserves and Domains Act 1953. The reserve was gazetted with the name Hemi Matenga Memorial Park.[341]

---

[333] Chief Surveyor, Wellington to Surveyor General, 12 November 1954, Rawhiti Higgott Papers [IMG 2666].
[334] Section 12 Land Subdivision in Counties Act 1946, as amended by Section 4 Land Subdivision in Counties Amendment Act 1954.
[335] Deed dated 25 November 1954, Rawhiti Higgott Papers [IMG 2672-2675].
[336] D.M. Grieg, Director General, Lands and Survey, Wellington to Minister of Lands, 15 November 1956, AANS 7613 W5491/987 RES 7/3/24, ANZ Wellington [DSCF 5778].
[337] Head Office Committee, Definition of purpose of reserve and naming of scenic reserve, 1956, AANS 7613 W5491/987 RES 7/3/24, ANZ Wellington [DSCF 5784].
[338] ibid
[339] D. Webb, Commissioner of Crown Lands, Lands and Survey, Wellington to Director General, Lands, 4 September 1956, AANS 7613 W5491/987 RES 7/3/24, ANZ Wellington [DSCF 5779].
[340] Deed of Agreement, A.F. Blackburn, T.H. Webber and for the Crown, Minister of Lands, Commissioner of Crown Lands, 25 November 1954, AANS 7613 W5491/987 RES 7/3/24, ANZ Wellington [DSCF 5780-5783].
[341] NZG, 20 November 1956, p. 1660.

We have seen no explanation for the increase in size between the 'approximately 720 acres listed in the deed of transfer and the 805 acres gazetted, though it may be accounted for by a survey finding that the area was larger than earlier thought.

As noted above, the legislation governing land subdivision required a public reserves contribution equivalent to 3 perches per residential allotment. In 1958 an official calculated that the area of the Hemi Matenga Estate land which was available for subdivision meant that the amount of land required for public reserves was approximately 46 acres. However the Assistant Commissioner argued on a potential land value basis that the 805 acre bush reserve did not have the same monetary value as the residential land, although he did acknowledge that even if the Crown had accepted a 46 acre public reserve, it would likely have purchased the scenic reserve as well:

> In summing up the position it does seem that Hemi Matenga Estate has, in one sense, made a very good bargain with the Crown in handing over the bush area in lieu of reserves under the Land Subdivision in Counties Act. On the other hand the Crown has also made a very good bargain because it has secured a very acceptable bush area as a scenic reserve and really at no cost to itself. Again, had an area of 46 odd acres been set aside there seems to be no doubt in my mind that pressure would have been on the Crown to acquire the bush area.[342]

## 2.3 Queen Elizabeth Park

In May 1941 Cabinet approved the proposed purchase of 900 acres between Raumati South and Paekakariki to be set aside as a recreation reserve.[343] Most of this area was in European ownership by that time, but it also included parts of the Wainui Māori reserve and Whareroa reserve. At this stage, the proposal was for Lands and Survey to negotiate to purchase the land, rather than acquire it under the Public Works Act.[344] However, because the land was being used as a military camp, questions of compensation had complicated negotiations, and no land had been acquired by October 1944. The Minister of Lands directed that if negotiations could not be

[342] E. McKenzie, Assistant Commissioner of Crown Lands to Webb, Head Office, Lands and Survey, 26 February 1958, Rawhiti Higgott Papers [IMG 2676].
[343] Secretary to the Treasury to Permanent Head, Public Works Department, 26 May 1941, ABKK 889 W4357/318 50/695 pt 1, ANZ Wellington [DSCF 5409].
[344] Secretary to the Treasury to Under Secretary, Lands and Survey Department, 12 June 1941, ABKK 889 W4357/318 50/695 pt 1, ANZ Wellington [DSCF 5408].

concluded, compulsory acquisition should be considered.[345] A proposal was underway to subdivide part of the desired land at Raumati South for residential purposes.

The Native Land Purchase Officer report focussed on obtaining the Pakeha farmers' leases as the first step to obtaining the land for the park. He said the 'Wainui Blocks' were owned by a number of Māori living in different parts of the country of whom none lived on the block. The blocks were leased, with the exception of a small area, to the Smith family who had negotiated an agreement for their leasehold areas to be purchased and vested in the Crown. He suggested that in the first instance the Crown should try to negotiate with the Māori owners for these blocks and if this was 'impracticable', acquire them under the Public Works Act. He had been unable to find any records on the Whareroa reserve. The records were 'missing' and he recommended: 'If it would not offend Maori sentiment, this area should be acquired and the matter will be investigated further when possible.'[346]

In June 1943 an inspection was made of the land, which was immediately north of the United States Military Corp campground. It was noted there was a Māori burial ground on the property. The inspection found that the area had been 'used quite extensively' for field operations with filled and unfilled weapon pits, and vehicle tracks causing soil erosion. Overall the damage was 'not great' and it appeared the block was no longer being used by military personnel.[347]

As far as the Public Works Department was concerned, because the block was leased, it was only the lessee who was due compensation for the temporary use of the land by the military. The block was leased by H.D. and A.F. Smith, who had already negotiated a settlement for the impact on their farming operation. The Chief Land Purchase Officer considered that as the Māori owners had still been receiving their full rent, they had not been affected by the military use of the property. He did note that the matter of reinstating the property to its original condition would be arranged at the end of the war. He expected that if this satisfied the lessees and the owners

[345] Under Secretary, Lands and Survey Department to Under Secretary, Public Works Department, 12 October 1944, ABKK 889 W4357/318 50/695 pt 1, ANZ Wellington [DSCF 5407].
[346] Land Purchase Officer to Under Secretary, Public Works, Wellington, 22 July 1946, ABKK 889 W4357/318 50/695 pt 1, ANZ Wellington [DSCF 5389-5392].
[347] W.A.P, Lt Col, Central Military District to C.M.D Headquarters, Wellington, 16 June 1943, ACHL 19111 W1/812 23/698/1/10, ANZ Wellington [DSCF 5488].

continued to receive the same rent, the matter would be settled.[348] The solicitors for the owners responded that if the 'satisfactory reinstatement' occurred after the war there would be no claim for compensation.[349]

The Public Works Department then sought valuations for approximately 750 acres of general land, along with Wainui B3B and Wainui B3A, which were Māori land. It was acknowledged that although the land had been used for military exercises and campground, the valuations were to be for the original state of the land before military use (as the owners were entitled to have the land restored or compensation paid for damages).[350]

A government valuation of Whareroa Native Reserve/Pa (18a 3r 20p) as at 3 January 1945 gave a capital value of £4,005, which included improvements of £5 for fencing.[351] The government valuation of Wainui B3B2 (37a 1r 38p) as at 3 January 1945 gave a capital value of £2,655 with an unimproved value of £2,550 and improvements of £105. The owners' interest was assessed at £2,065, and the lessees interest £590. The lease was for a 21 years term from 1941 for £16-10s for the first 10 years, and then 5 percent of government valuation at 1 January 1957.[352]

In February 1945 a committee report produced by the Lands and Survey Purchase Officer, Public Works Purchase Office and the Town Planner decided to proceed with negotiating for the purchase of the European owned areas. The committee recommended the purchase of approximately 864 acres. It was aware that the area was about to become more desirable for housing developments and that land values would increase:

> The recent electrification of the railway and provision of a modern State highway has greatly affected values, which will become fully apparent only after the war. It is considered by the Committee that access to the sea-front

[348] Chief Land Purchase Officer, Public Works Department to O. & R. Beere, Solicitors, Wellington, 21 October 1943, ACHL 19111 W1/812 23/698/1/10, ANZ Wellington [DSCF 5487].
[349] R. Beere to Chief Land Purchase Officer, Public Works Department, 22 October 1943, ACHL 19111 W1/812 23/698/1/10, ANZ Wellington [DSCF 5486].
[350] Under Secretary, Public Works to Valuer General, 6 October 1944, ABKK 889 W4357/318 50/695 pt 1, ANZ Wellington [DSCF 5406].
[351] Government Valuation, Whareroa Native Reserve, 3 January 1945, ABKK 889 W4357/318 50/695 pt 1, ANZ Wellington [DSCF 5404].
[352] Government Valuation, Wainui B3B2 Block II Paekakariki, 3 January 1945, ABKK 889 W4357/318 50/695 pt 1, ANZ Wellington [DSCF 5403].

with full adjacent recreational facilities should be preserved at the present time in the public interest.[353]

The committee recommended the acquisition of four properties where the owners were agreeing to sell at an average value of £36 per acre, and that negotiations continue to acquire two other areas, to be taken compulsorily if necessary.[354]

One year later and the Crown had successfully negotiated to purchase 1,916 acres from four European landowners. In some cases the purchase included hill country not strictly required for the park, but where the vendor wished to sell the whole property rather than just the flat land.[355] There were still seven areas of land the Crown wished to acquire, including 76 acres of Māori land on the coast, much of which was leased to the Smith family. The Under Secretary for Public Works commented: 'It is unlikely that this land could be purchased by negotiation'.[356]

The Māori Land Court supplied the following information on the Māori-owned blocks the Crown wished to acquire:

- Wainui B3B2 (37a 1r 38p) originally had four owners being R.K. Hemara, T.U.M. Campbell, H. Campbell, and M. Horomona of whom the court had two addresses with one in Taranaki and the other in Lower Hutt. Wainui B3B2 was leased to H.D. and A.F. Smith for 21 years from 1941 at £16 per annum for first 10 years, then 5 percent of Government Valuation for remainder of term.[357]
- Wainui B2 (16a 2r 35p) was solely owned by Miriona Mutu (Mrs Budge) for whom the court claimed it had no address. Part of Wainui B2 (14a 2r 35p) was leased to H.D. and A.F Smith for 21 years from 1939 at £16-10-6 per annum for first 10 years and then 5 percent of government valuation for remainder of term. The whole block was mortgaged by Budge under a Native

[353] Land Purchase Inspector, Lands and Survey and Chief Land Purchase Officer, Public Works to Minister of Lands, 19 February 1945, ABKK 889 W4357/318 50/695 pt 1, ANZ Wellington [DSCF 5399-5402].
[354] ibid
[355] Under Secretary Public Works to Secretary of the Treasury, 29 January 1946, ABKK 889 W4357/318 50/695 pt 1, ANZ Wellington [DSCF 5397-5398].
[356] ibid
[357] P.A. Dudson, Registrar to Under Secretary, Public Works, Wellington, 9 July 1946, ACHL 19111 W1/812 23/698/1/10, ANZ Wellington [DSCF 5485]; see also, Particulars of title, [DSCF 5468].

Housing Act. A court order of 14 May 1945 vested 1 rood in J.M. Ellison as a house site. This area had at this time not been surveyed.[358]

- Whareroa Pa - At this time the court Registrar noted that the file for the Whareroa reserve was missing.[359]

In July 1946 the Land Purchase Officer reported that further agreements had been reached, including with the Smith family, who leased the Wainui Māori blocks. One condition was that if the Crown purchased the area H. Smith was offering, it would also take over their leases of the adjoining Māori land. Regarding the Wainui blocks, he advised that they were owned by 'a number of Natives in different part of the country. None of the Natives live on the land which is leased'. He felt it was 'obviously advisable' for the land to be acquired for the proposed park, and suggested that attempts should be made to negotiate a purchase, but that it might be necessary to acquire these areas under the Public Works Act. He also reported that while the records relating to the ownership of Whareroa Reserve were missing that 'If it would not offend Māori sentiment, this area should be acquired'.[360]

At this time a total of 2,070 acres had been purchased, of which 1,315 acres were between the highway and the sea which was the location for the proposed park. The Crown still wished to acquire a further 355 acres, including 57 acres of Māori land. In August 1946 Cabinet approved the proposal to negotiate the purchase of the 355 acres, and if necessary for land to be subsequently taken under the Public Works Act. At that time it was known that one of the European blocks would have to be compulsorily acquired.[361]

In September 1946 the solicitor for the owners of Wainui B3B2 was asked whether they would agree to sell to the Crown. If so, they were asked to further agree to the land being proclaimed as taken under the Public Works Act subject to compensation being settled by agreement and approved by the Native Land Court, or compensation

[358] ibid; see also, Particulars of title, [DSCF 5467].
[359] ibid [DSCF 5485].
[360] Land Purchase Officer to Under Secretary, Public Works, 22 July 1946, ABKK 889 W4357/318 50/695 pt 1, ANZ Wellington [DSCF 5389-5392].
[361] Commissioner of Works to Minister of Works, 23 July 1946, ABKK 889 W4357/318 50/695 pt 1, ANZ Wellington [DSCF 5388].

determined by the court.[362] The solicitors responded: 'We are instructed by the Natives to say they agree to a proclamation being issued vesting the land in the Crown, subject to compensation being fixed by agreement or by the court'.[363] There is no further information to confirm whether the solicitors had contacted all four of the owners.

The owner of Wainui B2, (16a 2r 35p) Mrs Budge, told the Public Works Department that the solicitor was not acting for her, and that she did not wish to sell the B2 block, because there were family graves on it.[364]

On 6 March 1947 Public Works asked the Māori Land Court whether the Whareroa reserve file has been found, and 'whether there is likely to be any objection from Native owners to its acquisition by the Crown under the provisions of the Public Works Act 1928.' The Under Secretary for Public Works noted that the Crown now owned the surrounding lands.[365]

On 18 March 1947 the Māori Land Court forward the minutes of the title award for Whareroa Pa. On 7 April 1886 it was awarded in three divisions to Ngāti Mutanga (7 named owners), Ngāti Maru (17 named owners), and Puketapu (5 named owners).[366] The Ngati Mutanga owners were: Poihipi Hikairo, Tuku te Raponga, Maikara te Ropunga, Te Maihea Naenae, Enoka Hokireinga, Mata Naenae and Naera Taupunga.[367] The Ngati Maru owners were: Hermaia te Rua, Reweti te Rua, Ripini Haeretuterangi, Roka Hikairo, Wirape Taukawa, Kararurangi, Te Whita, Horopapera Rurangi, Teira te Mapuna, Rakorako, Kamaru, Raruhi Taukawa, Hone Haeretuterangi, Ihakara Rangawhenua, Rota Takirau, Wi Takana Takirau and Hemara

[362] Under Secretary, Public Works Department to O. & R. Beere, 4 September 1946, ACHL 19111 W1/812 23/698/1/10, ANZ Wellington [DSCF 5484].
[363] R. Beere to Under Secretary, Public Works Department, 10 September 1946, ACHL 19111 W1/812 23/698/1/10, ANZ Wellington [DSCF 5483].
[364] Annotation, 5 March 1947, on, R. Beere to Under Secretary, Public Works Department, 10 September 1946, ACHL 19111 W1/812 23/698/1/10, ANZ Wellington [DSCF 5483]; see also, Particulars of title, [DSCF 5467].
[365] N.E. Hutchings to Registrar, Ikaroa District Māori Land Board, Wellington, 6 March 1947, ACHL 19111 W1/812 23/698/1/10, ANZ Wellington [DSCF 5481].
[366] Extract from Wellington MB 2, 7 April 1888, pp. 254-255; On, ACHL 19111 W1/812 23/698/1/10, ANZ Wellington [DSCF 5480].
[367] Well MB 2, 7 April 1888, pp. 254-255; on, ACHL 19111 W1/812 23/698/1/10, ANZ Wellington [DSCF 5480].

Rangawhenua.[368] The Puketapu owners were: Tamati te Wakapake, Romangunuku, Arama Karaka, Pirimona te Kahukino and Whiwha.[369]

The Registrar said that most of the owners are deceased and 'it would appear that all the owners and their probable successors live or lived in the Wanganui and Taranaki districts'. He therefore could not advise whether or not the Māori owners would object to the land being acquired under the Public Works Act.[370]

When the Under Secretary for Public Works reported to the Lands Department on the progress of the acquisitions he said he had not obtained any information about the legal status of Whareroa Pa. Instead information had been gained from the neighbouring Pakeha farmer:

> Mr L.S. Smith, who owned the adjoining land until it was purchased by the Crown, states that he has known the area since boyhood and, to his knowledge, no one has ever displayed any interest in it and he grazed it in conjunction with his adjoining land. I think, therefore, your Department could take possession of it but it would be inadvisable to place any permanent improvements on the area until the question of taking the land under the Public Works Act has been decided.[371]

One of the Pakeha landowners, Mrs Brown, had consistently refused to sell her land for the park, and in July 1947 a notice of intention to take the 50 acre block was issued.[372] Mrs Brown, who lived in Dannevirke, objected on the grounds that the land had sentimental value because it belonged to her father, she planned to live on it when she retired, and there was also timber on the land she wanted to use for fencing and firewood.[373] Her objections were rejected on the grounds that the compensation would cover the loss of timber and the land would be compensated under the Act, and while it was 'regretted' that she would lose the property which had a sentimental value to her, the block was 'essential' for the proposed park.[374] Her solicitors then lodged a

[368] Well MB 2, 7 April 1888, pp. 254-255.
[369] ibid
[370] Registrar, Native Land Court, Wellington to Under Secretary, Public Works Department, 18 March 1947, ACHL 19111 W1/812 23/698/1/10, ANZ Wellington [DSCF 5479].
[371] Under Secretary, Public Works to Under Secretary for Lands, 18 March 1947, ABKK 889 W4357/318 50/695 pt 1, ANZ Wellington [DSCF 5384-5385].
[372] NZG, 4 July 1947, p. 858.
[373] M.D. Smith, Solicitor to Minister of Works, 29 July 1947, ABKK 889 W4357/318 50/695 pt 1, ANZ Wellington [DSCF 5380].
[374] Minister of Works to Lloyd & Smith, September 1947, ABKK 889 W4357/318 50/695 pt 1, ANZ Wellington [DSCF 5382].

claim for £2,513 compensation for the loss of the land, prior damage, and two years' rent for use during the war.[375] The department agreed to pay that amount.[376] Part Lot 15 Part Sections 6, 21 and 22 were proclaimed as taken for better utilisation on 20 October 1947.[377]

The plans required to accompany the notice of intention to take the Māori land to be acquired for the park were drawn up in April 1948.[378] The location of Māori graves on Wainui B2 was noted.[379] The owner of Wainui B2, Mrs Budge sought assistance from E. Tirikatene (Member of the Legislative Council) to retain ownership of Wainui B2. She explained her plans to provide house sites for her children, and that she was not interested in exchanging the land for land elsewhere:

> I said NO my people were all buried there, and were born and bred there. I am the last of a big family – my parents, uncles and aunts, cousins and all, are buried there, besides my grandparents made my parents and the rest of their family promise this land as 'whenua here, not to be sold, but can be leased'.
> The small portion of land is worth more to me, than 100 acres elsewhere. I value my people who are lying there and I have no desire to sell, exchange at any price.[380]

In response, the Minister of Works assured Tirikatene that no further steps would be taken without consulting Mrs Budge, and 'giving her wishes every consideration', and that the acquiring the land was 'in abeyance' in the meantime. He also said Mrs Budge had been told the burial ground would be protected, and proposed excluding it from any future land acquisition. The Crown had already acquired the leasehold interest of the Smith family, which meant it had occupation of the property for the remaining 12 years of the lease, which may explain why the department was content to delay any compulsory acquisition in the hope that Mrs Budge would agree to sell in the future.[381]

---

[375] Lloyd & Smith to Permanent Head, Public Works, 14 October 1947, ABKK 889 W4357/318 50/695 pt 1, ANZ Wellington [DSCF 5378-5379].
[376] Land Purchase Officer to Lloyd & Smith, 22 October 1947, ABKK 889 W4357/318 50/695 pt 1, ANZ Wellington [DSCF 5377].
[377] NZG, 14 October 1947, p. 1668.
[378] District Engineer to Chief Surveyor, 5 May 1948, ABKK 889 W4357/318 50/695 pt 1, ANZ Wellington [DSCF 5374].
[379] ibid
[380] Miriona Utu Budge to Hon. E. Tirikatene, 18 May 1948, ACHL 19111 W1/812 23/698/1/10, ANZ Wellington [DSCF 5477-5478].
[381] Minister of Works to Hon. E.T. Tirikatene, 8 June 1948, ACHL 19111 W1/812 23/698/1/10, ANZ Wellington [DSCF 5475].

The Ministry of Works also notified the Māori Affairs Department of its plans for the three Māori blocks it wished to include in the park:

- 'Wainui Native Reserve' [sic - the Whareroa Pa block] the Minister of Works explained that no successors had been appointed since the original 1886 title order. He further said that 'from enquiries made by this Department that none of the Maori owners or their successors have shown any interest in the land or entered upon it in living memory'. While the acquisition of the block was currently 'in abeyance', the Minister said it was likely that permission would be sought in the future to take the land under the Public Works Act;
- Wainui B3B2 – negotiations would be entered into with the owners, who had indicated through their solicitor they were willing to sell to the Crown;
- Wainui B2 – the Minister explained Mrs Budge's objections, and that the Crown would not be taking action at that time, but commented that it would 'undoubtedly be necessary for the Crown to ultimately acquire the area'.[382]

The next month Tirikatene reported that Mrs Budge had again met with him about the Wainui block. He had suggested that perhaps it could be exchanged for other land, to which he said Mrs Budge 'was inclined to agree' as long as the burial ground could be protected. He suggested the department should enter into negotiations with her.[383]

In 1948 Māori Affairs said Whareroa Pa (18a 3r 20p) could be taken for the park. The title order of 7 April 1888 had three subdivisions of 1 to 5, 2 to 14 and 3 to 8 of which each subdivision had 5 owners. As noted, Part 1 was in favour of the 'Puketapu tribe', Part 2 in favour of 'Ngati-Maru tribe' and Part 3 'Ngati-Mutunga Hapu' and: 'These orders…have not been be [sic] signed nor are the areas of each part shown.'[384] The Under Secretary of Māori Affairs gave permission for the Crown to acquire the block, based on advice from the Registrar of the Māori Land Court that 'there seems to be no special reasons of policy or expediency why this land should not be taken.'[385]

---

[382] Minister of Works to Under Secretary, Department of Māori Affairs, 17 June 1948, ACHL 19111 W1/812 23/698/1/10, ANZ Wellington [DSCF 5473-5474].
[383] Hon. E.T. Tirikatene to Minister of Works, 6 July 1948, ACHL 19111 W1/812 23/698/1/10, ANZ Wellington [DSCF 5472].
[384] Particulars of title, Māori Land Court, P.H. Dudson, 13 July 1948, ACHL 19111 W1/812 23/698/1/10, ANZ Wellington [DSCF 5466].
[385] Shepherd, Under Secretary, Māori Affairs Department to Commissioner of Works, 23 July 1948, ACHL 19111 W1/812 23/698/1/10, ANZ Wellington [DSCF 5465]; see also, Particulars of title, [5466].

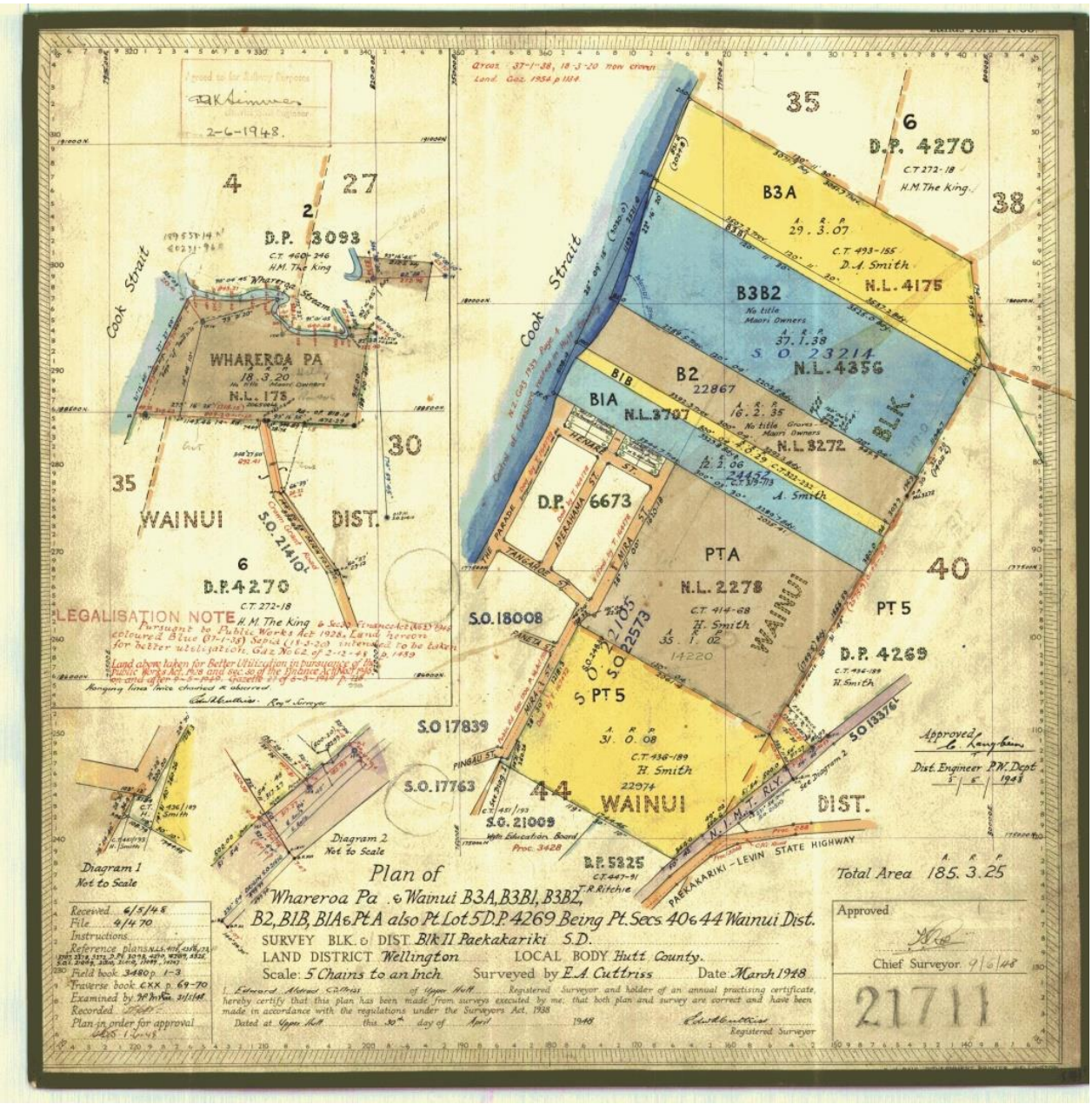
A notice of intention was issued on 30 November 1948 to take Wainui B3B2 (37a 1r 38p) and Whareroa Pa (18a 3r 20p) for 'better utilisation'.[386] The Minister of Works was advised that the land was required 'mainly as a recreation reserve', and that 'the Department of Māori Affairs has advised that it sees no reason why these areas should not be taken'.[387] The Ministry of Works file records that the notice of intention was delivered to the Māori Affairs Department.[388] Although contact had been made with representatives of the owners of Wainui B3B2, there is no record of any further steps being taken by the Ministry of Works to contact the potential owners of the Whareroa Pa reserve. The notice was advertised in the *Evening Post* and *Southern Cross*.[389] No objections were received in response to the notice of intention.[390]

In 1948 a valuation report for Wainui B3B2 considered it 'suitable' for subdivision, but dismissed valuing it on that basis on the grounds of potential access and town planning issues and other alternative subdivision sites. The valuer instead referred to surrounding sales/compensation accepted and came up with total value of £2,040 'based on surrounding sales.'[391]

In May 1949 Wainui B3B2 (37a 1r 38p) and Whareroa Pa (18a 3r 20p) were proclaimed as taken under the Public Works Act for 'Better Utilisation'.[392] The areas taken are shown in Figure 11.

[386] NZG, 30 November 1948, p. 1489.
[387] District Engineer to Acting Commissioner of Works, 16 October 1948, ABKK 889 W4357/318 50/695 pt 1, ANZ Wellington [DSCF 5370].
[388] District Engineer to Commissioner of Works, 23 March 1949, ABKK 889 W4357/318 50/695 pt 1, ANZ Wellington [DSCF 5364].
[389] *Evening Post*, extract, 9 December 1948, *Southern Cross*, extract, 9 December 1948, ABKK 889 W4357/318 50/695 pt 1, ANZ Wellington [DSCF 5362-5363].
[390] District Engineer to Commissioner of Works, 18 March 1949, ABKK 889 W4357/318 50/695 pt 1, ANZ Wellington [DSCF 5363].
[391] H.E. Leighton Ltd, Valuer to O. & R. Beere, Solicitors, Wellington, 5 October 1948, ACHL 19111 W1/812 23/698/1/10, ANZ Wellington [DSCF 5462].
[392] NZG, 9 May 1949, p. 978.

**Figure 11: Land Taken for Queen Elizabeth Park 1949[393]**




In 1948 the Māori Land Court Registrar contacted the Public Works Department when Mrs Budge's daughter applied for a mortgage from Māori Affairs to build on one of the house sites on Wainui B2. The Registrar wanted to know if permitting the house to be built would interfere with Crown's plans for the land:

> as it is known that the Crown is interested in acquiring the whole of this area for a recreation ground, it occurs to me that to allow further building operations without your knowledge and consent might cause embarrassment to

[393] Survey Office Plan SO 21711.

> all concerned when the time arrives for the Crown to take over the land and settle the question of compensation.[394]

The Commissioner of Works was pleased with the action taken by the Registrar, and in return confirmed that allowing a house to be built was undesirable when the Crown definitely intended on buying the land in the future:

> The Crown definitely desires to acquire the whole area of 16 acres 2 roods 35 perches. The acquisition is not at present urgent and because Mrs. Budge objects to the acquisition of her land by the Crown the matter has been left temporarily in abeyance, but the Crown has either acquired or is in process of acquiring adjoining sections.
>
> No detailed proposals for the use of the area at Paekakariki have yet been drawn up, but it is considered that it will be necessary to acquire Mrs. Budge's area at some time in the future. This Department would, therefore, not like to see any further buildings erected upon the land and if you are able in any way to prevent this being done I would be obliged.
>
> In the normal course under such circumstances the Department would take steps to acquire the property in question under the compulsory provisions of the Public Works Act, but in view of Mrs. Budge's strong objections to losing her land it is not proposed to take any compulsory action unless and until this becomes absolutely necessary.[395]

It is interesting to note that while the Crown obviously still planned to acquire the land, the hope was that Mrs Budge would eventually agree to sell, and that compulsory acquisition could be avoided in the face of her opposition.[396] So while willing to respect her objections to the land being taken, her objections did not actually change the Crown's desire to acquire the land. It is tempting to speculate whether the Crown would have been so accommodating if it had not already obtained leasehold occupation of the land.

There is nothing further relating to the acquisition of the Wainui B2 from Mrs Budge on the Public Works Department file. However, in 1953 Part Wainui B2 (16a 2r 25p) was declared Crown land under Section 454 of the Māori Land Act 1931.[397] This

[394] Registrar, Māori Land Court, Wellington to Commissioner of Works, 14 December 1948, ACHL 19111 W1/812 23/698/1/10, ANZ Wellington [DSCF 5461].
[395] F. Langbein, per, Acting Commissioner of Works to Registrar, Māori Land Court, Wellington, 22 December 1948, ACHL 19111 W1/812 23/698/1/10, ANZ Wellington [DSCF 5460].
[396] F. Langbein, per, Acting Commissioner of Works to Registrar, Māori Land Court, Wellington, 22 December 1948, ACHL 19111 W1/812 23/698/1/10, ANZ Wellington [DSCF 5460].
[397] NZG, 21 October 1953, p. 1788.

form of proclamation was for land purchased by the Crown, and made no reference to the Public Works Act. The land purchase file is not held at Archives New Zealand which means that research cannot confirm the extent to which the potential acquisition of the land under the Public Works Act was a factor in the negotiations to purchase the block. As part of the purchase an area of ten perches was set aside as a Māori Reservation as a burial ground, which remains in Māori ownership.[398] The residue of Wainui B2 purchased by the Crown was part of the 1,563 acres set apart as the Queen Elizabeth Park recreation reserve.[399]

## 2.4 Summary of Issues

At the beginning of the twentieth century local Member of Parliament, M.H. Field, was prominent in promoting the acquisition of Māori land for scenic reserves to preserve the bush-clad hillsides. He was the driving force behind the Crown deciding to acquire Paraparaumu Scenic Reserve, which had a complicated ownership, involving members of his Māori wife's family. After the notice of intention to take the land was issued, the legal owner had her solicitor negotiate compensation which was equivalent to the amount she had been previously offered to sell the block.

The history of Hemi Matenga Scenic Reserve shows that both Wi Parata and Hemi Matenga clearly intended to protect the native bush on the large hillside overlooking Waikanae. It is equally clear that they objected to the Crown taking the land under the Scenery Preservation Act. From at least 1902 Wi Parata, Hemi Matenga, and the subsequent estate trustees, preserved the bush on the land themselves, without requiring Crown involvement. This was despite repeated Crown interest in purchasing or compulsorily acquiring the land throughout the first half of the twentieth century. The reserve was eventually transferred to the Crown by the Hemi Matenga Estate as a compromise agreement so that the estate, which was undertaking a residential subdivision, could both meet its reserve requirements under the Land Subdivision in Counties Act, and maximise the area of residential subdivision. The actual amount of land which would have been required was a maximum of 46 acres, so the 800 acre area transferred was far greater. On the other hand 46 acres of residential land may have had a greater financial value than the 800 acre bush reserve.

[398] NZG, 21 October 1953, p. 1736.
[399] NZG, 6 September 1954, p. 1435.

The Māori reserves at Paekakariki were part of the land used for military training during World War Two. Wainui B2 and Wainui B3B2 were leased to Pakeha at the time. No compensation was paid to the owners for the temporary occupation and use of the land on the grounds that they continued to receive rent. The owners agreed, through their solicitor, on the proviso that the condition of the land was reinstated. When the Crown decided to acquire the land for Queen Elizabeth Park (most of which was in European ownership) it tried to do so by negotiation rather than compulsory acquisition. The owners of Wainui B3B2 agreed to the land being taken under the Public Works Act and compensation being assessed by the Māori Land Court. However, the sole owner of Wainui B2 was quite adamant that she wished to retain the block, as its status as ancestral land was important to her and because of a whanau urupa on the block. The Crown was initially able to delay acquisition in accordance with her wishes because it had already acquired the leasehold. The Māori Land Court worked with the Crown to prevent a house being built for the owner's daughter on the block. It appears the Crown eventually successfully negotiated to purchase the block, on the condition of excluding the urupa, which has been retained as Maori reservation, surrounded by the parkland. In the case of the third block acquired for Queen Elizabeth Park, Whareroa Pa, the Crown did not contact any owners or local Māori about the acquisition. The block was still in the legal ownership of those awarded title in 1886. After being advised that the registered owners were deceased, and that any of their successors were likely to be absentee owners, based in Taranaki, the land was taken by proclamation. The notice of intention to take the land was sent to the Māori Land Court.

## 3. Roading

The data compiled for the PKM Public Works Takings Spreadsheet shows that land taken for roading is the most common form of Public Works taking from the Te Atiawa / Ngāti Awa ki Kapiti lands. It is not possible to detail every single acquisition in the Ngarara and other blocks. Instead this section focuses on the earliest road lines, which laid out the main routes through Māori land in the Kapiti area, and more recent acquisitions. The circumstances surrounding the laying off of the first main roads from Plimmerton to Waikanae, and Beach Road [now Kapiti Road] in Paraparaumu are outlined. Then the taking of land from Paekakariki Māori Reserve in 1939 is briefly discussed, in response to a claimant query. The section then looks at the plans for the western bypass, or 'sandhills' motorway, which were first notified in the mid-1950s, and eventually became the Kapiti Expressway. It focuses on the acquisition of Ngarara West A26A2 in 1958, which is subject to a discreet claim, and the twenty first century objection by Patricia Grace to prevent land being taken from Ngarara West A25B2A.

This section does not discuss in detail the land taken for the Wellington-Manawatū Railway line/Main Trunk Railway. As a district-wide issue, the arrangements made between the Crown and the Wellington-Manawatū Railway Company which allowed the company to purchase and otherwise acquire land will be discussed in the district-wide report. For the purposes of this preliminary report, the following section gives basic information about the first arrangements to provide Ngarara land for the railway, and preliminary figures on the amount of land used for railway purposes.

### 3.1 Early Roads and the Railway Line 1880s-1890s

In October 1880 Hutt County Council representatives met with Māori at Waikanae to discuss forming an inland (as opposed to along the beach) road from Paekakariki to Otaki. The *Evening Post* reported that the meeting was 'of a not very satisfactory character' because Māori would only consent to a road being built if 'there were no taxes of any kind imposed on them "forever".[400]

[400] *Evening Post*, 23 October 1880.

### 3.1.1 Wellington and Manawatū Railway Company Land

While inland roading over Māori land did not take place until the mid-1890s (see below), the Wellington to Manawatū railway line provided the first major transport infrastructure in the mid-1880s. Most of the Māori land used for the railway line in the Kapiti District was not acquired by the Crown under the Public Works Act, but rather through purchase negotiations and arrangements made by the Wellington and Manawatū Railway Company. After the Crown had abandoned its own plans to construct the line in 1880, the Railway Construction and Land Act 1881 empowered the company to construct the line.

At the end of June 1884 representatives of the railway company attended a large hui at Waikanae. The *Evening Post* reported that a map of the land the company required for the railway was presented and discussed and that Wi Parata spoke in agreement with the proposal:

> Wi Parata made an eloquent harangue in reply and expressed the desire of the tribe to facilitate the making of the railway, and welcomed it because it would bring great good to his people. At the same time, he wished it to be understood that the tribe had resolved to hold their lands in tribal interest and allow no subdivision. Whatever boon the railway brought was for the benefit of all. After two hour's speechifying, Wi Parata stated that the tribe were agreed to give a free right-of-way for the railway – a distance of nearly seven miles – through their lands, and that he would, on their behalf, sign an agreement to that effect.[401]

The railway line was completed when the last spike was driven in at a ceremony on 3 November 1886 at Otaihanga.[402]

While Wi Parata had signed an agreement to sell, the actual transfer of land to the company was delayed while the ownership and subdivision of the Ngarara block went through the Native Land Court, and then subsequent appeals and re-hearings. The process used to transfer the land for the railway line was that when the Native Land Court was partitioning the block, the areas purchased by the company were set aside as separate 'Railway Reserve' subdivisions which could then be transferred to the company. The subsequent transfer was facilitated by the court awarding the Railway Reserve blocks to one or two individuals. For example Ngarara West A4 Railway

[401] *Evening Post*, 30 June 1884.
[402] *Evening Post*, 3 November 1886.

Reserve was awarded to Wi Parata solely when the block was partitioned in May 1887.[403]

The following table shows the amounts of land set aside as Railway Reserve in the Native Land Court awards, along with two subsequent acquisitions of Māori land under the Public Works Act.

**Table 2: Land used for the Main Trunk Railway Line**[404]

| Block | Area Taken | Type of Acquisition | Year |
|---|---|---|---|
| Ngarara West A4 RR | 47a 3r 03.5p | Railway Reserve | 1887 |
| Ngarara West B1 RR 1 | 1a 2r 30p | Railway Reserve | 1906 |
| Ngarara West B1 RR 2 | 1a 3r 32p | Railway Reserve | 1906 |
| Paekakariki 1A RR | 5a 1r 08p | Railway Reserve | 1896 |
| Paekakariki 2A RR | 9a 0r 37p | Railway Reserve | 1902 |
| Whareroa Reserve 2 | 2a 2r 34.6 | | ? |
| Ngarara West B2A | 0a 1r 01.6p | Public Works Act | 1942 |
| Part Paekakariki 2B2 | 33a 1r 29p | Public Works Act | 1951 |

### 3.1.2 Early Road Lines Taken under Warrant by the Governor

In the late nineteenth century there were a number of means whereby the Crown could obtain Māori land for roading purposes, both with, or without paying compensation, including:

- Governor's Warrant – up to five percent of the area of a block could be surveyed and set aside as a road without compensation, this applied to both Māori and European land.
- Native Land Court road line order – up to five percent of the area of a block could be declared a road without compensation.
- Various sections of the Public Works Act.

The Public Works Takings Spreadsheet being compiled for the Porirua ki Manawatū Inquiry District is based on acquisitions that were published in the *New Zealand Gazette*. However, although some road warrants and Native Land Court orders were gazetted, there does not seem to have been any consistency about whether or not they were gazetted. This means that any total figures provided based on the spreadsheet

[403] Otaki MB 7, 14 May 1887, p. 257.
[404] The table is compiled from Walghan Partners, 'Block Research Narratives: Ngatiawa Edition', 29 March, 2018, along with information from the PKM Public Works Takings Spreadsheet.

will be an underestimate of the total amount of land taken for roading purposes. In order to capture more of the roading acquisitions other sources have been consulted. An Index of Warrants for Roads over Māori Land included the following takings from the Ngarara blocks (although the index itself is not comprehensive).

**Table 3: Ngarara Block Road Warrant Index**[405]

| Block | Total Area | 5% | Area Taken | Date Warrant Exercised |
|---|---|---|---|---|
| Ngarara West | 29500a | 1475a | 17a 1r 33p | February 1892 |
| | | | 18a 3r 18p | March 1894 |
| Ngarara West A2 | | | 0a 3r 34p | December 1895 |
| Te Ngarara West | | | 10a 0r 17p | May 1896 |
| | | | 3a 1r 01p | April 1896 |
| | | | ? | December 1904 |
| Te Ngarara | 45250a | 2262a | 20a 2r 22p | |

Further details about the implementation of some of the warrants in the table can be found in the case studies below. The main road lines laid out through the use of those warrants (and subsequent Native Land Court orders or proclamations) largely came to define the main roads through the district, included what was to become State Highway 1. At various times road widening, realignments and minor deviations resulted in many small takings from adjoining blocks.

The 'Block Research Narratives' report being compiled by Walghan Partners includes information on road lines laid off under the Māori land legislation by the Māori Land Court. Again the takings identified through the 'Block Research Narratives' research process are unlikely to be complete. The takings identified in that report are listed in the table below:

**Table 4: Land Taken for Roads Identified in Block History Research**[406]

| Block | Area Taken | Purpose | ML Plan |
|---|---|---|---|
| Ngarara West A3C ROW | 0a 2r 18.5 | Road | ML 4590 |
| Ngarara West A14C | 2a 2r 08p | Road | ML 2823 |
| Ngarara West A78E16 | 0a 1r 27.6 | Road | ML 4604 |
| Ngarara West C13 | 2a 1r 00p | Road | ML 1130 |
| Ngarara West C17 | 7a 0r 00p | Road | ML 1130 |
| Ngarara West C19 | 0a 2r 00p | Road | ML 1130 |

[405] AFIH 22877 W5687 box 253 Index of Warrants for Roads over Māori Land, Archives New Zealand Wellington.
[406] Walghan Partners, 'Block Research Narratives: Ngatiawa Edition', 29 March 2018, p. 51.

| | | | |
|---|---|---|---|
| Ngarara West C20 | 4a 2r 00p | Road | ML 1130 |
| Ngarara West C21 | 3a 0r 00p | Road | ML 1130 |
| Ngarara West C23 | 17a 1r 23p | Road | ML 1130 |

*3.1.2.1 Ngarara West C - Waikanae Hutt Road 1893*

In December 1891 the Chief Surveyor applied for a Governor's Warrant for surveyor N.F. Haszard to take and peg roads in Ngarara West from the Waikanae Railway Station.[407] Haszard was instructed that before starting the work he was to inform the owners about what he was doing and invite them to inspect the roads lines. If required by the owners he was to provide authorisation for the work by presenting the Governor's Warrant. On the finished plan Haszard was told to certify he had taken the delineated roads under the warrant and supply a date. He was told to try to ensure access to the remainder of the block could still be obtained once the roads were taken.[408]

Haszard presented a notice to leading owner Wi Parata in English and Te Reo Māori. The English version said:

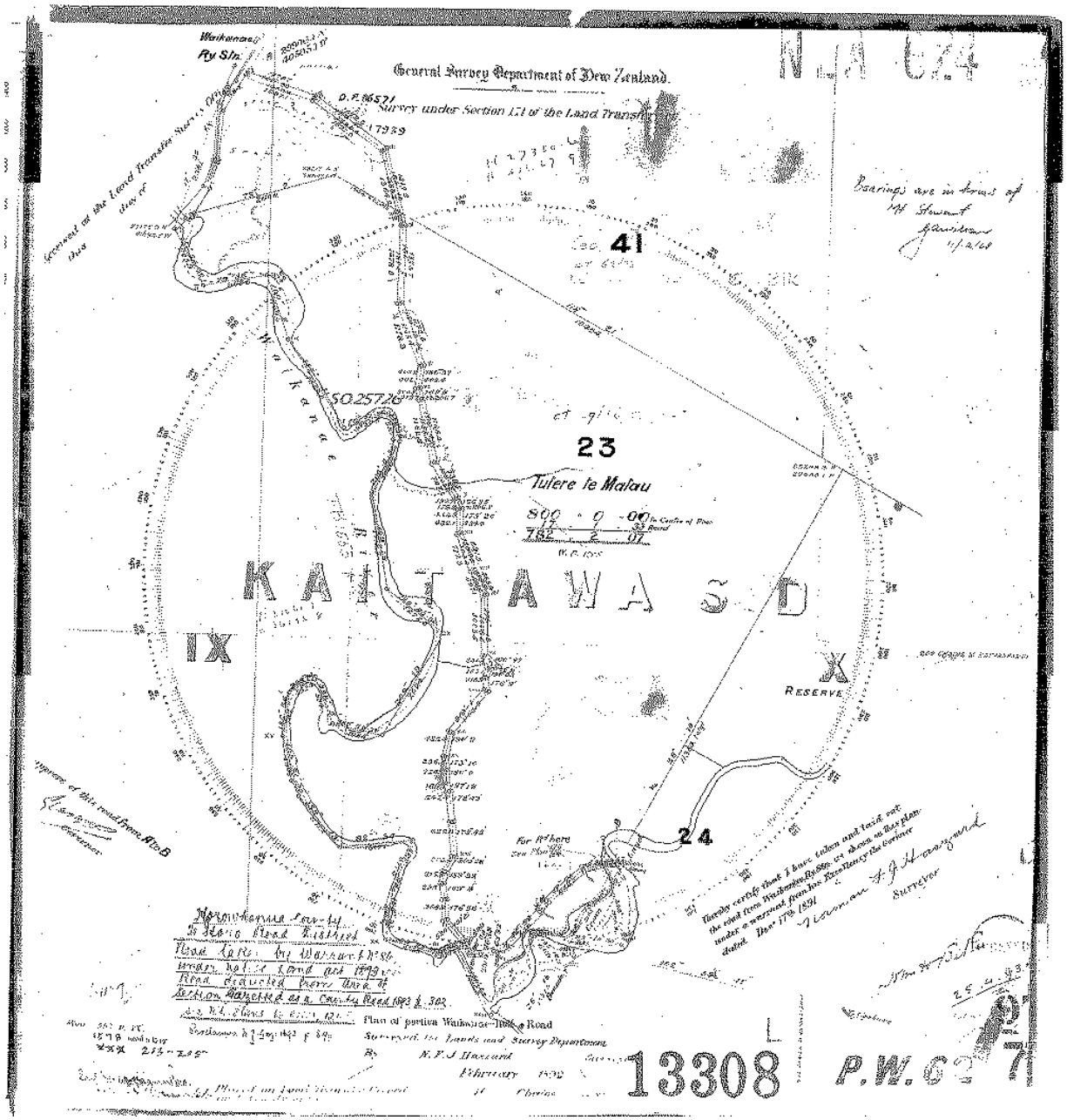
> I have the honor to inform you that I am about to enter upon the Ngarara Block in the District of Wellington for the purpose of laying off roads through the same, in conformity with a warrant issued in my name, under the Native Lands and Public Works Acts, by His Excellency the Governor The Earl of Onslow, dated 17th day of December 1891.[409]

In February 1892 Haszard sent the Survey Office plans for road access to Crown land and returned the warrant and notices served on the owners. The plan also identified Section 23 (800 acres) which belonged to owner Tutere te Matau whose section bounded Crown land.[410] In March Haszard said although the main road from Waikanae Railway Station did not pass through any cultivations it did pass through grassed areas.[411]

[407] Chief Surveyor to Surveyor General, 8 December 1891, ADXS 19483 LS W1/148 6439, ANZ Wellington [P 1160456].
[408] Governor's Warrant, N.F. Haszard, Waikanae, 19 January 1892, ADXS 19483 LS W1/148 6439, ANZ Wellington [P 1160458].
[409] N.F. Haszard, Surveyor to Wi Parata, Waikanae, 21 January 1892, ADXS 19483 LS W1/148 6439, ANZ Wellington [P 1160459].
[410] N.F. Haszard, Waikanae to Survey Office, 7 February 1892, ADXS 19483 LS W1/148 6439, ANZ Wellington [P 1160460].
[411] N.F. Haszard, Waikanae to J.H. Baker, Assistant Surveyor General, Wellington, 18 March 1892, ADXS 19483 LS W1/148 6439, ANZ Wellington [P 1160461].

In April 1893 instructions were given to prepare a gazette notice which required checking that the surveyor had the 'proper authority' and had 'Taken road in due form'.[412] A gazette notice declaring the laying off of the Waikanae-Hutt road through Ngarara West C Subdivisions 41 and 23 under the Native Land Court Act 1886 was issued in June 1893.[413] The notice said a total of 21 acres 1 rood 28 perches was taken from both blocks. The road line is shown in Figure 12.

**Figure 12: Ngarara West C Road Line 1893**[414]




[412] File note, to, Black, on, N.F. Haszard, Waikanae to J.H. Baker, Assistant Surveyor General, Wellington, 19 April 1893, ADXS 19483 LS W1/148 6439, ANZ Wellington [P 1160461].
[413] NZG, 15 June 1893, p. 896.
[414] Survey Office Plan SO 13308.

*3.1.2.2 Ngarara West A/Muaupoko - Hutt County Road 1895*

In March 1892 the Hutt County Council applied to the Commissioner of Crown Lands for a Governor's Warrant so that surveyor F. Bennett could lay off roads in 'Ngarara Blk 9 Waikanae & Muaupoko Blk 9 Waikanae'.[415] No immediate action was taken to issue a warrant and the council subsequently asked about the situation with the warrant.[416] In August 1892 the council was told the Surveyor General would issue a 'warrant under the hand of His Excellency the Governor to take roads through the Muaupoko block'.[417] The road was to pass through Muaupoko A Nos. 1 to 9 and Muaupoko B.[418]

In September 1892 surveyor Bennett was issued with a Governor's Warrant which included his authorisation to lay off roads and instructions on how to proceed when dealing with the owners of the Muaupoko block. Bennett received a standard form of instructions that said:

> I have the honour to forward herewith a warrant under the hand of His Excellency the Governor, authorizing you to take and lay off roads in the Blocks described in the Schedule hereunder…..
>
> Before starting the work you will be good enough to inform the owners or occupiers of the land of what you are about to do (forms herewith), and invite their inspection of the road or roads as they are laid out, producing the Governor's warrant if desired.
>
> You will place on the finished plan a certificate that you have taken the road or roads thereon under the warrant, quoting the date, and forward the plan here for the Governor's signature, and state the exact date when the road was formally taken.
>
> As complaints have been received from the Natives that the roads taken through their lands are sometimes not only injurious to their properties but in some cases unnecessary, you will please take care to ascertain beforehand that the position of any road you intend to take, as affecting the Block it intersects, is so far as you know the best, and selected in such a way that it can, where necessary, be continued to give access to land beyond.

[415] F.A. Malt, Chairman, Hutt County Council, Wellington to J.H. Baker, Commissioner of Crown Lands, Wellington, 30 March 1892, ADXS 19483 LS W1/164 7143, ANZ Wellington [P 1160399].
[416] F.A. Malt, Chairman, Hutt County Council, Wellington to J.H. Baker, Commissioner of Crown Lands, Wellington, 2 August 1892, ADXS 19483 LS W1/164 7143, ANZ Wellington [P 1160401].
[417] Surveyor General, Lands and Survey, Wellington to Chairman, Hutt County Council, Wellington, 10 August 1892, ADXS 19483 LS W1/164 7143, ANZ Wellington [P 1160403].
[418] Schedule, n/d, ADXS 19483 LS W1/164 7143, ANZ Wellington [P 1160402].

> Please return the warrant as soon as it has been acted upon, together with copies of the notices sent by you to the owners or occupiers of lands.[419]

The above instructions from Surveyor General, S.P. Smith also included an explanation to the Assistant Surveyor General of his role in this procedure:

> When the Governor has approved of the Roads, the plans will be recorded by you, so that dealings under the Land Transfer or Deeds Registry Act may shew the Roads taken. A description will also be prepared and sent to this Office for insertion in the Gazettes.[420]

On record there are copies of notices sent out by Bennett for the owner's signature. These copies in a number of instances are unsigned and undated.[421] As noted the notice was on one sheet in English and then Te Reo Māori. The English version read:

> Sir,
>
> I have the honour to inform you that I am about to enter upon the…for the purpose of laying off roads through the same, in conformity with a warrant issued in my name, under the Native Lands and Public Works Acts, by His Excellency the Governor The Earl of Onslow, dated the…

The Te Reo Māori version on the same sheet read:

> Ehoa,
> Tena koe He Kepu atu tenei naku kia koe, kia mohio ai Koe Ka haere ake ahau Kirunga ki te…kit e re rou i peira Kea rite ki ta te waraati a His Excellency te Kawana
> i puta mai nei i runga i taku ingoa i paro i nga Tiere mo nga Whenua Maori mo nga Mahi Numui o te Koroni hoki i te….[422]

Bennett was piecemeal in sending out notices to owners and was asked by officials to follow up on owners he had overlooked in Muaupoko and Ngarara West. In 1892 notices were addressed to H.S. Hadfield (Sections 3, 4, 8 and Muaupoko B), Mrs H. Field (Sections 3, 4), E. Hohika, E. Enoka (Section 7), Mrs C. McGrath (Section 52), Kahutatara (Section 50), K. Kahutatara (Section 53), L. Hohiki, I. Tuhata (Section 5), W.H. Field (Section 48), C.B. Morison (Section 47).[423] At this time Bennett had not

---

[419] J.H. Baker, Assistant Surveyor General, Lands and Survey, Wellington to F. Bennett, Surveyor, Otaki, 13 September 1892, ADXS 19483 LS W1/164 7143, ANZ Wellington [P 1160405].
[420] S.P. Smith, Surveyor General, General Survey Office to Assistant Surveyor General, Wellington, 2 September 1892, ADXS 19483 LS W1/164 7143, ANZ Wellington [P 1160404].
[421] Notices to Muaupoko and Ngarara West A owners, ADXS 19483 LS W1/164 7143, ANZ Wellington [P 1160416-1160432].
[422] Copy of notice, ADXS 19483 LS W1/164 7143, ANZ Wellington [P 1160422].
[423] Notices, ADXS 19483 LS W1/164 7143, ANZ Wellington [P 1160406, 1160416-1160424, 1160426, 1160428, 1160430, 1160431].

identified all the owners and subsequent notices were set to other owners as they became known to the surveyor. The road also passed through the land of W. Tamati (Section 49), M.T. Mehu (Section 56), Tangotango (Section 54), and H. Tamihana.[424]

In April 1894 Bennett supplied a plan for part of the 'Hutt County Road from the Waikanae River to the southern boundary of section No 1 Paraparaumu'. The plan was accompanied by a list of some of the owners.[425] A series of form notices had been served on owners along the route of the road. Bennett was asked to supply verified copies of the notices sent to the owners as per his instructions.[426]

In May 1894 Inia Tuhata of Otaihanga objected to the road running through Ngarara West A Section 5. The road included a deviation into part of Tuhata's land and through an area which had recently been fenced. The deviation also brought the road close to the back door of her new seven roomed house and she objected because she had built the house with regard to the original road line. She said the road was 'inconvenient' and 'oppressive'. Tuhata's solicitors claimed the road line did not reflect the road line pegged by the council's surveyor and there was also a shed on the actual road line which was owned by their client.[427]

At this time the Assistant Surveyor General again asked Bennett to provide the signed notices served on the owners that were to accompany the plan for the road.[428] In mid-November the Assistant Surveyor General said Bennett's list of owners remained incomplete. Bennett was asked to provide a record that notices had been sent to C.B. Morison (Section 47), W. Tamati (Section 49), Kahutatara (Section 50), W. te Mehu (Section 56), and Tangotango (Section 54). Verified copies of these notices were required by Lands and Survey before the road plans could be approved. Baker asked:

[424] Schedule through which Hutt County Road passes, n/d, ADXS 19483 LS W1/164 7143, ANZ Wellington [P 1160433].
[425] F. Baker, Otaki to J.H. Baker, Wellington, 30 April 1894, ADXS 19483 LS W1/164 7143, ANZ Wellington [P 1160407].
[426] J.H. Baker, Assistant Surveyor General, Lands and Survey, Wellington to F. Bennett, Otaki, 8 May 1894, ADXS 19483 LS W1/164 7143, ANZ Wellington [P 1160408].
[427] Morison & Atkinson, Solicitors, Wellington to Chief Surveyor, Wellington, 17 May 1894, ADXS 19483 LS W1/164 7143, ANZ Wellington [P 1160409-1160410].
[428] J.H. Baker, Assistant Surveyor General to F. Baker, Otaki, 8 May 1894, ADXS 19483 LS W1/164 7143, ANZ Wellington [P 1160408].

> Why did you not attend to the plain instructions given you about these notices? I am now notifying the various local bodies their plans cannot be passed until you comply with the instructions given you.[429]

Bennett obtained some of the signed notices and said that Te Mehu had sold to W.A. Field on whom a notice had been served.[430] Bennett also served a notice at this time on C.B. Morison and Kahutatara.[431] A few days later Bennett sent Baker a signed copy of Kahutatara's notice.[432] In late November 1894 the Assistant Surveyor again reprimanded Bennett that it was 'most unsatisfactory again and again to get you to send in your work' and it 'gives me perfectly unnecessary trouble in the matter.'[433]

Bennett's road line was proclaimed through a series of separate gazette notices. In August 1895 a gazette notice was published under the Native Land Court Act 1894 that the following road line had been laid off in August 1894, as per the warrants of 17 March and 1 September 1892.[434] The following areas of land were taken from the following blocks:

**Table 5: Ngarara West A and Muaupoko Land Taken for Road 1895**[435]

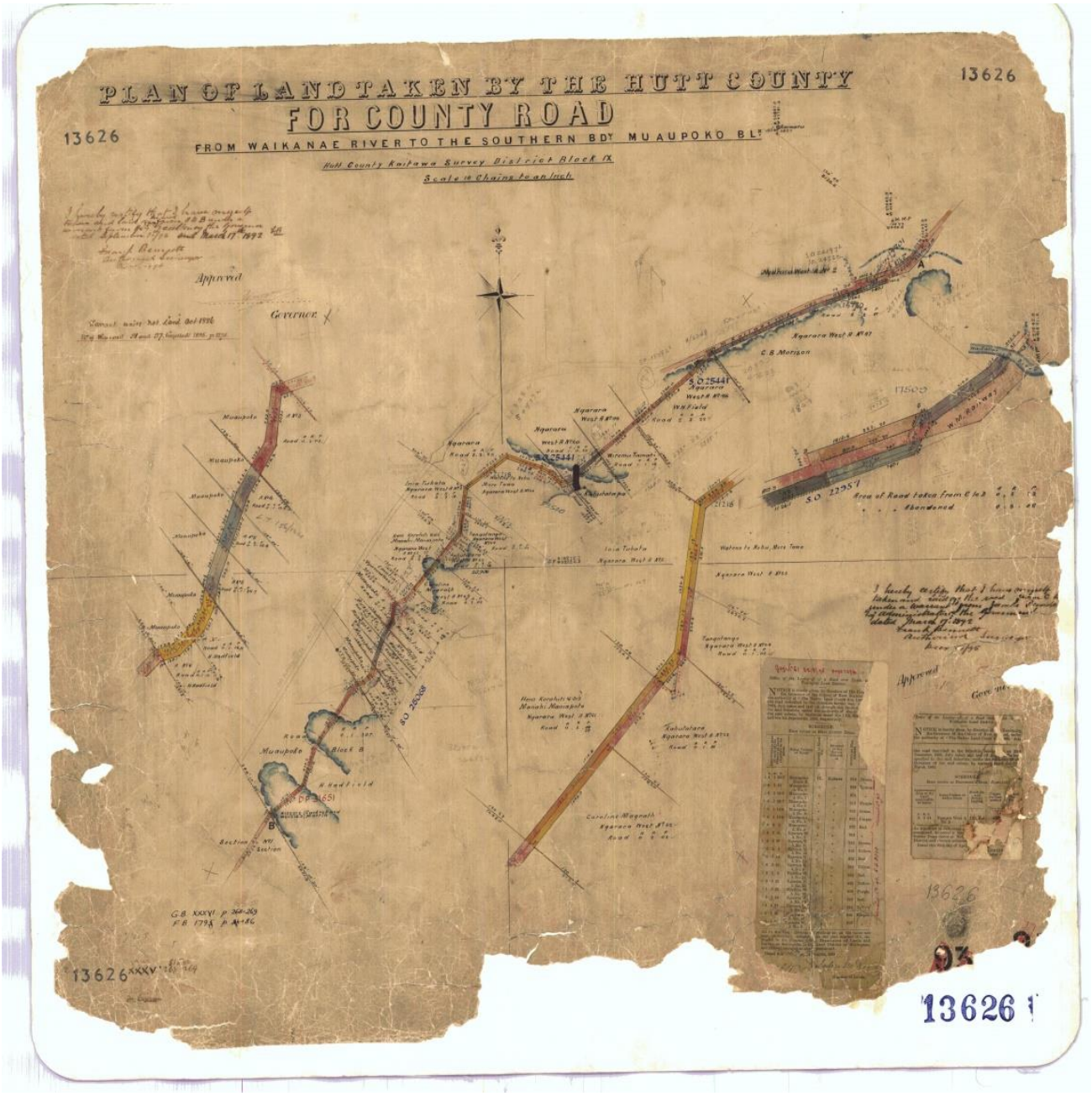
| Block | Area Taken | Ownership |
|---|---|---|
| Muaupoko B | 4-1-30.7 | European |
| Muaupoko A8 | 0-1-12 | European |
| Muaupoko A7 | 0-1-18.6 | European |
| Muaupoko A6 | 0-1-26.7 | Māori |
| Muaupoko A5 | 0-1-16.8 | Māori |
| Muaupoko A4 | 0-1-13.9 | Māori |
| Muaupoko A3 | 0-3-03 | Māori |
| Ngarara West A7 | 0-2-16 | Māori |
| Ngarara West A51 | 0-3-20 | Māori |
| Ngarara West A52 | 0-2-03 | European |
| Ngarara West A53 | 0-1-18 | Māori |
| Ngarara West A5 | 0-3-18 | Māori |
| Ngarara West A54 | 0-1-02 | Māori |
| Ngarara West A55 | 3-2-25 | Māori |

[429] J.H. Baker, Assistant Surveyor General, Lands and Survey, Wellington to F. Bennett, Otaki, 18 November 1894, ADXS 19483 LS W1/164 7143, ANZ Wellington [P 1160411].
[430] F. Bennett, Otaki to J.H. Baker, 19 November 1894, ADXS 19483 LS W1/164 7143, ANZ Wellington [P 1160412].
[431] F. Bennett, Otaki to J.H. Baker, 23 November 1894, ADXS 19483 LS W1/164 7143, ANZ Wellington [P 1160414].
[432] F. Bennett, Otaki to J.H. Baker, 29 November 1894, ADXS 19483 LS W1/164 7143, ANZ Wellington [P 1160415].
[433] J.H. Baker, Assistant Surveyor General to F. Bennett, Otaki, 28 November 1894, ADXS 19483 LS W1/164 7143, ANZ Wellington [P 1160413].
[434] NZG, 20 August 1895, p. 1274.
[435] ibid

| | | |
|---|---|---|
| Ngarara West A50 | 1-0-35 | Māori |
| Ngarara West A49 | 1-1-18 | Māori |
| Ngarara West A48 | 2-3-22 | European |
| Ngarara West A47 | 5-1-16 | European |
| Ngarara West A2 | 0-3-25 | Māori |

The road line is shown on Figure 13.

**Figure 13: Land Taken from Ngarara West A and Muaupoko Block 1893 and 1896**[436]




[436] Survey Office Plan SO 13626.

In December 1896 a notice was published in the *New Zealand Gazette* that a road-line had been laid off through Ngarara West A2 (3r 34p) on 23 December 1895. This was portion C to D shown on Survey Office Plan SO 13626 above.[437]

*3.1.2.3 Whareroa 1, 2, 3, 4 Paekakariki 1896*

This land had originally been native reserve but was subsequently brought under the provisions of the Native Land Court Act 1886 and subdivided among individual owners. The certificates had not been issued. The Surveyor General was asked because the land had been native reserve and certificates had not been issued how the road should be taken.[438] The Surveyor General said the land to be taken for roads 'rights reserved under the above Act, may be exercised as from the date of the order made by the court.'[439]

On 17 July 1893 the Assistant Surveyor General applied to the Surveyor General for a Governor's Warrant on behalf of the Governor for surveyor Bennett to proceed with work in Whareroa 1, 2, 3 and 4.[440] Bennett was provided the warrant the following day.[441] As per standardised instructions Bennett was told to inform and invite the owners to inspect the road lines and, if asked, produce the warrant and provide the necessary documentation for the Governor's signature with the eventual objective being the gazetting of the land taken. An addendum to the instructions says: 'Forms of Notice to be served on Native Owners attached hereto.'[442]

Records for July 1893 from the Native Land Court registers identified Whareroa 1 with eight owners; Whareroa 2 five owners; Whareroa 3 two owners; and Whareroa 4 seven owners.[443] There were no addresses attached but Bennett was told a notice

[437] NZG, 24 April 1896, p. 657.
[438] Memorandum, S.P. Smith, Surveyor General, Lands and Survey, Wellington, 30 May 1893, ADXS 19483 LS-W1/227 10086, ANZ Wellington [DSCF 5853].
[439] S.P. Smith, Surveyor General, Lands and Survey, Wellington to Assistant Surveyor General, 2 June 1893, ADXS 19483 LS-W1/227 10086, ANZ Wellington [DSCF 5852].
[440] Assistant Surveyor General to Surveyor General, 16 June 1893, ADXS 19483 LS-W1/227 10086, ANZ Wellington [DSCF 5851].
[441] W.H. Baker, Assistant Surveyor General, Lands and Survey, Wellington to F. Bennett, Otaki, 18 July 1893, ADXS 19483 LS-W1/227 10086, ANZ Wellington [DSCF 5847].
[442] Surveyor General, General Survey Office, Wellington to F. Bennett, 8 July 1893, ADXS 19483 LS-W1/227 10086, ANZ Wellington [DSCF 5850].
[443] List of owners Whareroa 1, 2, 3, 4, 17 July 1893, ADXS 19483 LS-W1/227 10086, ANZ Wellington [DSCF 5848].

given to two leading owners in each block would be sufficient contact and to inform any lessees about the road.[444]

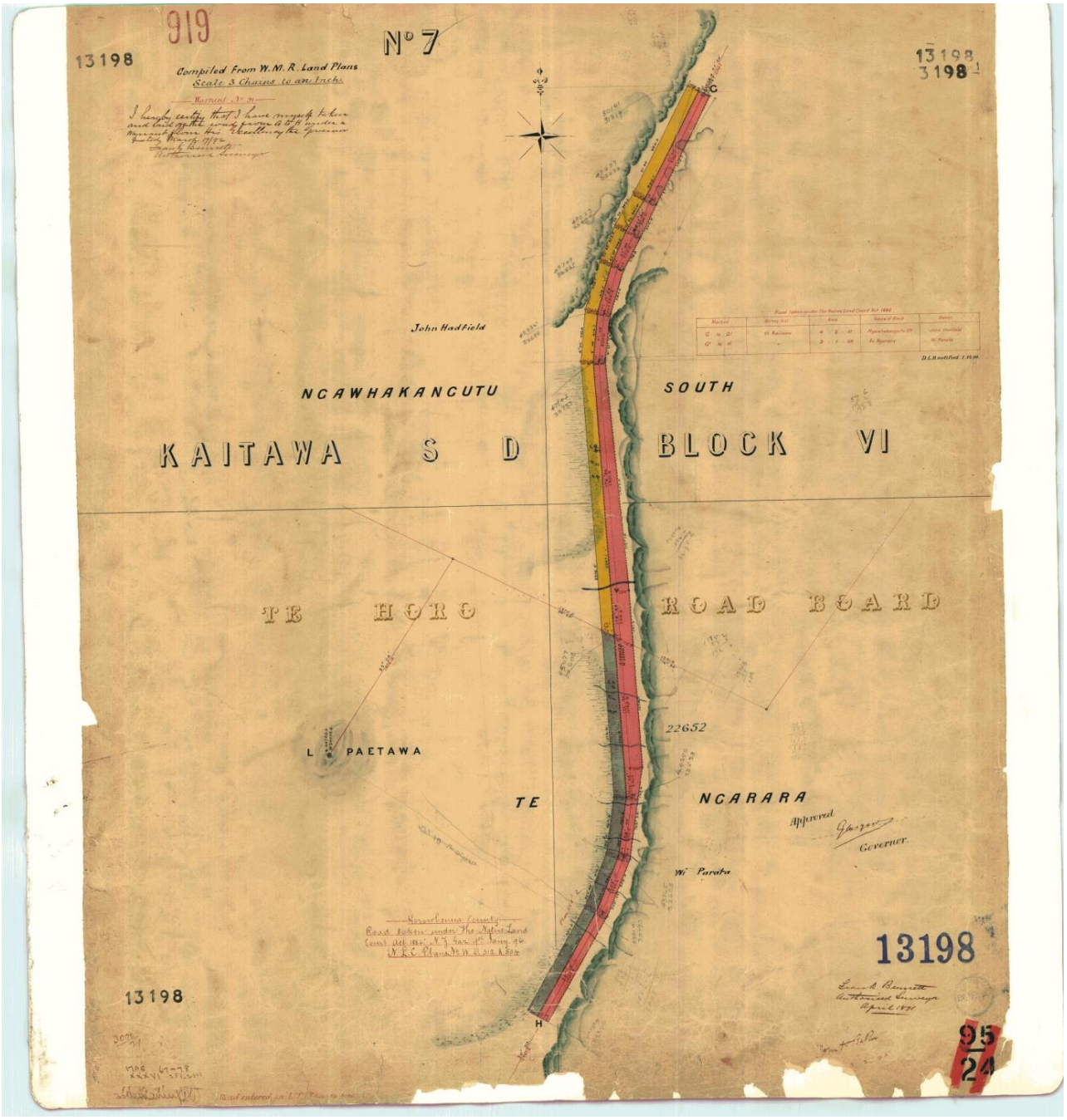
In 1896 a gazette notice was issued for land taken under the Public Works Act 1894 for the Paekakariki to Paraparaumu Road. Most of the road was acquired through European blocks, but 1 rood 20 perches was taken from Whareroa 1; and 1 acre 1 rood 25 perches from Whareroa 2.[445]

*3.1.2.4 Ngarara West A Section 78, 1897*

In January 1896 a notice was issued that a road line had been laid off through the Ngawhakangutu and Ngarara block under the Native Land Court Act 1886.[446] The notice only referred to the 'Te Ngarara' block, rather than any subdivisions. A total of 20 acres 2 roods 22 perches were taken for the road. The road line is shown across three plan sheets in Figures 14-16.

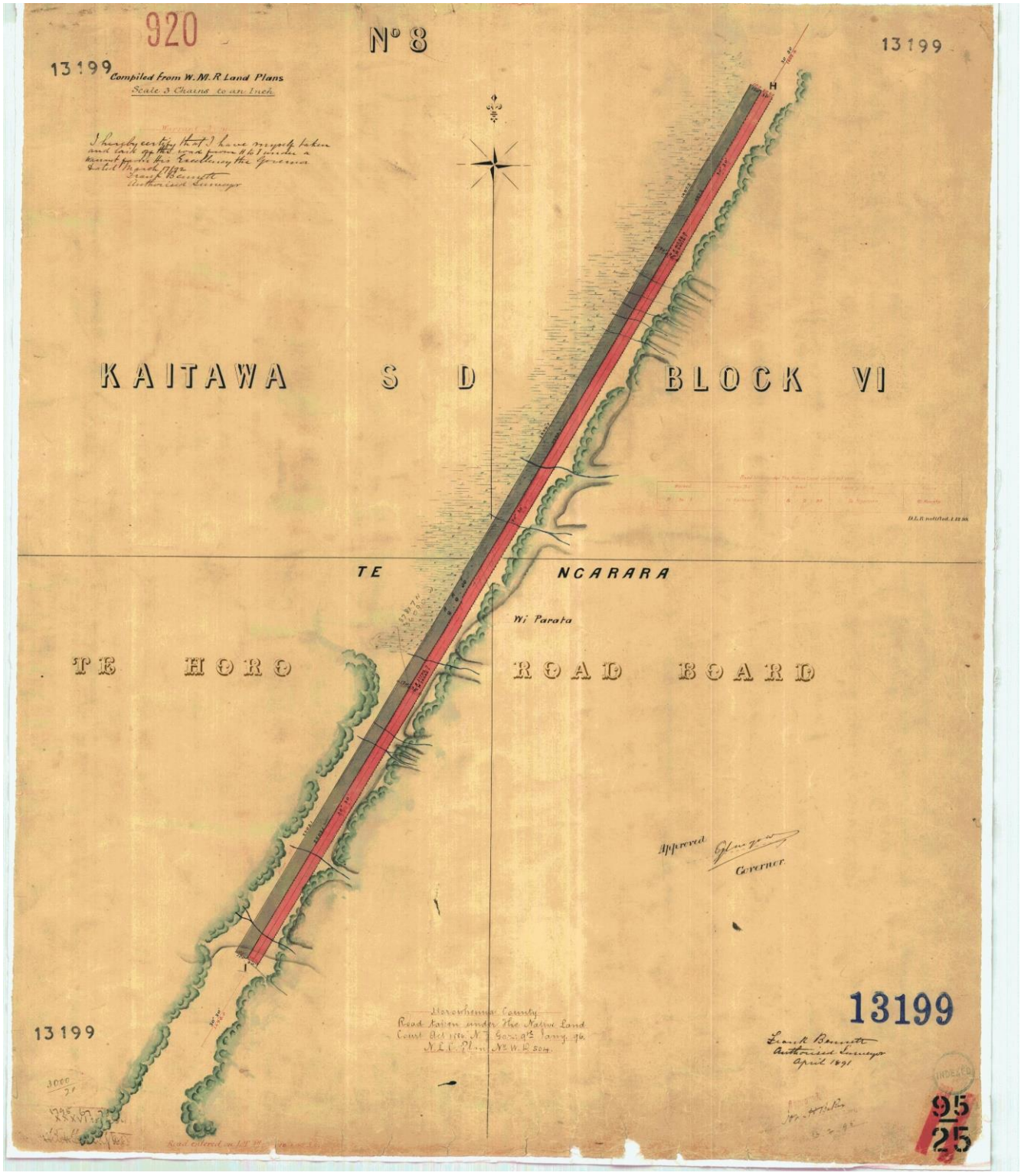
[444] File note, on Assistant Surveyor General, Wellington to F. Bennett, Otaki, 18 July 1893, ADXS 19483 LS-W1/227 10086, ANZ Wellington [DSCF 5847].
[445] NZG, 8 October 1896, p. 1667.
[446] NZG, 9 January 1896, p. 11.

**Figure 14: Land Taken for Road from Te Ngarara 1897, Sheet 1**[447]



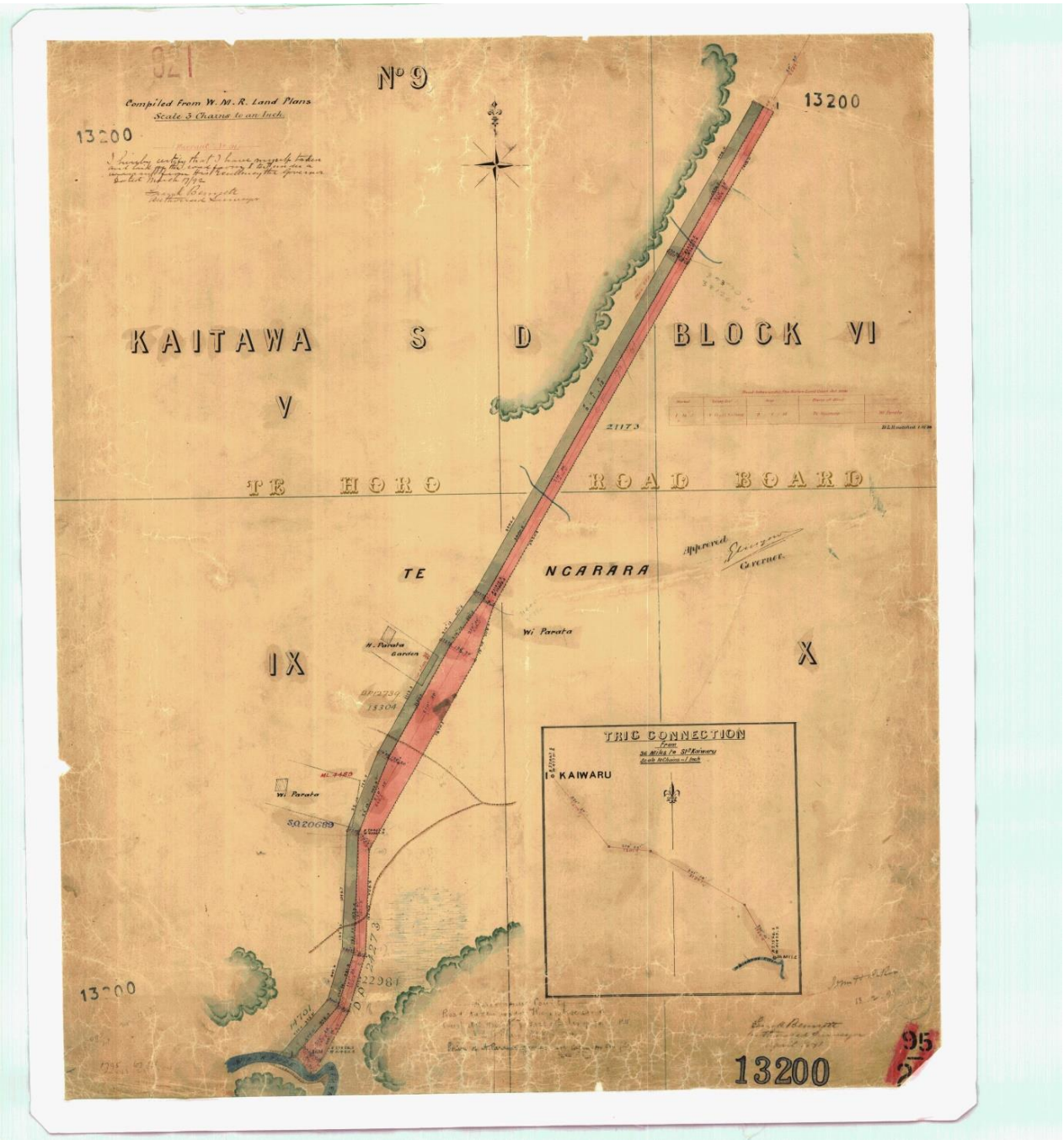

[447] Survey Office Plan, SO 13198.

**Figure 15: Land Taken for Road from Te Ngarara 1897, Sheet 2**[448]




[448] Survey Office Plan SO 13199.

**Figure 16: Land Taken for Road from Te Ngarara 1897, Sheet 3**[449]




It can be seen on Survey Office Plan SO 13200 above that the road line passed through the garden of Hira Parata. Land occupied by gardens or orchards, buildings and the like could not be compulsorily acquired without the consent of the Governor. This meant that a new notice had to be issued taking that section under the Public

[449] Survey Office Plan SO 13200.

Works Act 1894 rather than the Native Land Act 1886.[450] In June 1897 an area of 34.7 perches of Ngarara West A Section 78 was proclaimed as taken for the main road at Waikanae.[451] On the same date, a notice was issued under Section 14 of the Public Works Act 1894 that the Governor consented to the land being taken.[452]

In April 1900 Judge A. Mackay held a compensation hearing for Ngarara West A Section 78.[453] The Horowhenua County Council had applied under Section 90 of the Public Works Act 1894 for the Native Land Court to determine compensation for Section 78. When the case first came before the court there were differences of opinion on the value of the land and the case was postponed while valuations were made. Claimant Hira Parata claimed £100 and damages to a garden. This involved the removal of fruit trees and a hedge on either side of the road and fences and a gate leading to a house. Bennett said the value of the damage was £25 to £30 but other valuations were higher. J. Stevens also provided a valuation about the damage to the front of the property and loss of cultivations and shelter belt protection.[454] He estimated the value to be £150. A further valuation was made by G. Bethune who took into consideration land value, loss of shelter trees and the cost of removing and erecting new fences and gates at £110. The fruit trees were independently valued by Mr Grapes at £46. Judge Mackay decided that the new valuations vindicated Parata's claim and explained that a valuation became more complicated when damages occurred because of compulsory acquisition. The Judge took into account the value of the property taken and injurious affection which he called 'consequential damage.'[455] He said the land taken by the council was 'an appurtenant' to the adjacent house occupied by Hira Parata and cited English case law which considered 'house' to include shed and garden and court yard which were necessary for the enjoyment of the house. He noted Parata asked to be compensated for the portion taken and this was done on the basis of its condition at time of taking.[456]

[450] S.P. Smith, Lands and Survey, Wellington to Chief Surveyor, Wellington, 25 June 1897, ADXS 19483 LS W1/275 12637, ANZ Wellington [P 1160453].
[451] NZG, 17 June 1897, p. 1187.
[452] ibid
[453] Well MB 9, 6 April 1900, pp. 331-336.
[454] ibid, p. 332.
[455] ibid, p. 333.
[456] ibid, p. 334.

Judge Mackay noted that under New Zealand statute law:

> ornamental grounds or lands occupied by orchards, gardens, or buildings which are especially excepted from compulsory taking within the Public Works Act excepting with the consent of the Governor in Council in manner prescribed.
>
> In assessing the value of compensation to be paid for land taken Section 69 of 'The Public Works Act 1894' provides that the amount to be paid shall be the value at the time it was first entered upon for the purpose of constructing or carrying out the public work. No definition is however furnished as to what is to [be] considered as an act of entry on such land whether the survey of the road line is to be deemed a sufficient entry, or whether the term is to be construed to mean the actual commencement of the works.
>
> Under sub-section 4 of section 18 the land taken for a road does not vest in Her Majesty or the Local Authority until after a day named in the Proclamation.
>
> In the case under consideration a Proclamation dated the 14th day of June 1897 was issued by the Governor in Council…[457]

Judge Mackay then decided no right of entry existed prior to 14 June 1897 and deemed this to be date from which the value should be fixed. He said ornamental land was of higher intrinsic value than agricultural land. Although there had been no comparable sales in the area the court decided that the claim of £100 was not unreasonable and awarded a further sum of £13-12-0 costs.[458]

*3.1.2.5 Ngarara West - Waikanae Beach Road 1901*

In September 1895 the Te Horo Road Board asked for a Governor's Warrant to be issued so a road through Ngarara West from the railway station to Waikanae Beach could be surveyed.[459] The road from the coast passed twice through the Waikanae Stream.[460]

In May 1896 surveyor H.A. Field was issued a Governor's Warrant to survey the road from the beach to the railway station.[461] To enable Field to commence work

[457] Well MB 9, 6 April 1900, p. 335.
[458] ibid, p. 336.
[459] Clerk, Te Horo Road Board, Otaki to Chief Surveyor, Wellington, 20 September 1895, ADXS 19483 LS W1/291 14120, ANZ Wellington [P 1160386].
[460] See plan, ADXS 19483 LS W1/291 14120, ANZ Wellington [P 1160390].
[461] Surveyor General, Lands and Survey, Wellington to Assistant Surveyor General, Wellington, 30 May 1896, ADXS 19483 LS W1/291 14120, ANZ Wellington [P 1160394]; see also, McKenzie,

immediately the Surveyor General issued a warrant 'under clause 72 of the Native Land Court Act 1894, which now gives you the same power over land adjudicated on by the Court as was given under previous Acts for purely Native Lands.'[462] Smith authorised Field immediate entry to Ngarara West to make the survey for the road.[463] Smith also thought it advisable to get the Governor's Warrant in the usual way.[464] A Governor's Warrant was also issued.[465]

In June 1896 Field had pegged and chained the road from the station to the beach and issued notices to the owners.[466] In 1901 the Engineer for Works received and approved the plans for the Waikanae Beach Road.[467]

*3.1.2.6 Ngarara West B - Beach Road 1898*

In May 1893 the Commissioner of Crown Lands was asked to provide a surveyor to lay off a road in Ngarara West B through Māori land which would provide access to Paraparaumu Beach.[468] There were concerns that unless the work commenced the right to take the road would lapse on 3 June 1896 and those living in the settlement of Paraparaumu would not have right of way access to the beach, which was also access out of the settlement.[469]

In December the District Surveyor said he had been accompanied by an owner over the Ngarara West B block. According to the District Surveyor the owner said 'due notice should be given to the owners before the surveyor goes upon the ground' and claimed the owners would offer no opposition. He had noticed a grave near the road

---

Minister of Lands, Authorising the Taking and Laying-off of Roads over Native Land in the Wellington Provincial District, 26 May 1896, [P 1160393].

[462] Assistant Surveyor General to Surveyor General, n/d, ADXS 19483 LS W1/291 14120, ANZ Wellington [P 1160387].

[463] S.P. Smith, Surveyor General, Wellington, 15 May 1896, ADXS 19483 LS W1/291 14120, ANZ Wellington [P 1160388].

[464] S.P. Smith, Lands and Survey, Wellington to Assistant Surveyor General, 14 May 1896, ADXS 19483 LS W1/291 14120, ANZ Wellington [P 1160389].

[465] Governor's Warrant, 26 May 1896, ADXS 19483 LS W1/291 14120, ANZ Wellington [P 1160393]; see also, warrant instructions, [P 1160394].

[466] H.A. Field, Surveyor, Wellington to Assistant Surveyor General, Wellington, 1 June 1896, ADXS 19483 LS W1/291 14120, ANZ Wellington [P 1160395].

[467] Chief Surveyor to Engineer, Roads, Bridges Division, Wellington, 11 April 1901, ADXS 19483 LS W1/291 14120, ANZ Wellington [P 1160396].

[468] J.A. Wilson to Commissioner of Crown Lands, Wellington, 12 May 1893, ADXS 19483 LS W1/234 10595, ANZ Wellington [P 1160561]; see also, S.P. Smith, Surveyor General, Lands and Survey, Wellington to Assistant Surveyor, Wellington, 5 October 1893, [P 1160562].

[469] File note, S. Smith, District Surveyor, 15 November 1893, ADXS 19483 LS W1/234 10595, ANZ Wellington [P 1160560]; see also, above cited, [P 1160561].

which ‘could easily be avoided’.[470] The surveyor said the road could not be straight to the beach because of sand hills and a swamp.[471]

In March 1896 the Hutt County Council asked the Minister of Lands to take further Ngarara West B land for roads to connect Otaihanga Railway Station with the Manawatu County Road. They wanted areas of land along-side the railway and in the western corner of the township and near the beach.[472] The land was owned by Ihaka te Ngarara and others and £40 was made available as ‘compensation’. It was noted that part of the Ngarara Beach road through Ngarara West B block had already been surveyed by Bennett.[473] Bennett had surveyed from the western point (Section 5) of the Paraparaumu Block to the sea, in Ngarara West B block. He had also surveyed a road running alongside the railway line south of the town through the Ngarara West B block.[474]

In April 1896 Hutt County councillor H. Field presented the Assistant Surveyor General with arguments in support of a road through Ngarara West B block which would connect with the main road and connect Wellington with the coastal settlements. He argued the construction of the road would ‘materially enhance the value of the Ngarara West B block’ because it was near the town of Paraparaumu and recognised as potentially valuable for residential subdivision. Roads, he argued, would ‘facilitate the subdivision of the block’. He claimed such a subdivision was ‘contemplated by the owners’ and the road would also provide access for the owners. Field said before the construction of the railway the land had been ‘£2 to £3 per acre…the value has increased to something like ten times that amount’ and ‘is not in any way attributable to any effort of the owners of this land’ and on this basis £40 was a ‘fair price’. He asked that the road be taken as directly as possible to ‘meet the

[470] Smith, District Survey Office, District Surveyor, Wellington to Assistant Surveyor General, Wellington, 14 December 1893, ADXS 19483 LS W1/234 10595, ANZ Wellington [P 1160564].
[471] Smith, District Survey Office, Wellington to Assistant Surveyor General, Wellington, 15 November 1893, ADXS 19483 LS W1/234 10595, ANZ Wellington [P 1160565].
[472] G. Brown, Chairman, Hutt County Council, Wellington to Minister of Lands, Wellington, 16 March 1896, ADXS 19483 LS W1/234 10595, ANZ Wellington [P 1160566].
[473] H.D. Atkinson, Clerk, Hutt County Council, Wellington to Assistant Surveyor General, Wellington, 16 April 1896, ADXS 19483 LS W1/234 10595, ANZ Wellington [P 1160567].
[474] J.H. Baker, Assistant Surveyor General to F. Bennett, Otaki, 14 May 1896, ADXS 19483 LS W1/234 10595, ANZ Wellington [P 1160572].

convenience of owners' and concluded that no objections existed to the road to the beach.[475]

In May 1896 Bennett was authorised under Governor's Warrant to survey this road and told to follow usual process when dealing with the owners. He was told that Field was dealing with the owners over the £40 'compensation' and the Governor would not approve the plan 'until it is known that the Natives have been fairly dealt with [.]' He was to survey a 'short piece of road connecting Otaihanga Railway Station with the Manawatu County Road, which Councillor Field says has been arranged with the Natives'. He had limited time to complete the work as the warrant lapsed on 2 June.[476] In a post script to these instructions Bennett was told:

> Since writing the above Inia Tuhata, through her solicitors, Mr Morison, objects to the road being taken, unless an alleged agreement with the County Council for the deviation of the County Road, is carried out. It is also stated that the land is cultivated, and if this is so, the road cannot be taken without the consent of the owners. Mr. Morision will endeavour [sic] to arrange matters with Mr. Field and Inia. In the meantime do not take the road till further advised.[477]

In May 1896 Bennett provided the plan for the first part of the Paraparaumu Beach road to Section 5. He and Field and the owners had walked the line of the road and 'were quite satisfied with it.'[478] In June 1896 the Assistant Surveyor General said Lands and Survey had received the Ngarara West B block road plan. However, Bennett's work was reprimanded:

> The notices have not been dated, which of course renders them valueless in the event of their ever being required in a Court of Law.
>
> In all your surveys you give this Department perfectly unnecessary work and trouble by not carrying out ordinary matters necessary for the proper finishing of your work, which if you continue doing, I must ask the local bodies to employ another surveyor who will give more attention to details.
>
> I return your notices for dating; if it is necessary at any time hereafter to prove these notices were served, how are we to do so without any date of serving?

[475] H.A. Field, Councillor, Whareroa Riding, Wellington to Assistant Surveyor General, Wellington, 15 April 1896, ADXS 19483 LS W1/234 10595, ANZ Wellington [P 1160569-1160571].
[476] J.H. Baker, Assistant Surveyor General to F. Bennett, Otaki, 14 May 1896, ADXS 19483 LS W1/234 10595, ANZ Wellington [P 1160572-1160573].
[477] J.H. Baker, Assistant Surveyor General to F. Bennett, Otaki, 14 May 1896, ADXS 19483 LS W1/234 10595, ANZ Wellington [P 1160572-1160574]; see also, map, [P 1160575].
[478] F. Bennett, Otaki to J.H. Baker, 25 May 1896, ADXS 19483 LS W1/234 10595, ANZ Wellington [P 1160576].

> Will you also please advise as to when the other plans will be in, and also the warrant. The right having now lapsed there can be no object in your retaining it longer.[479]

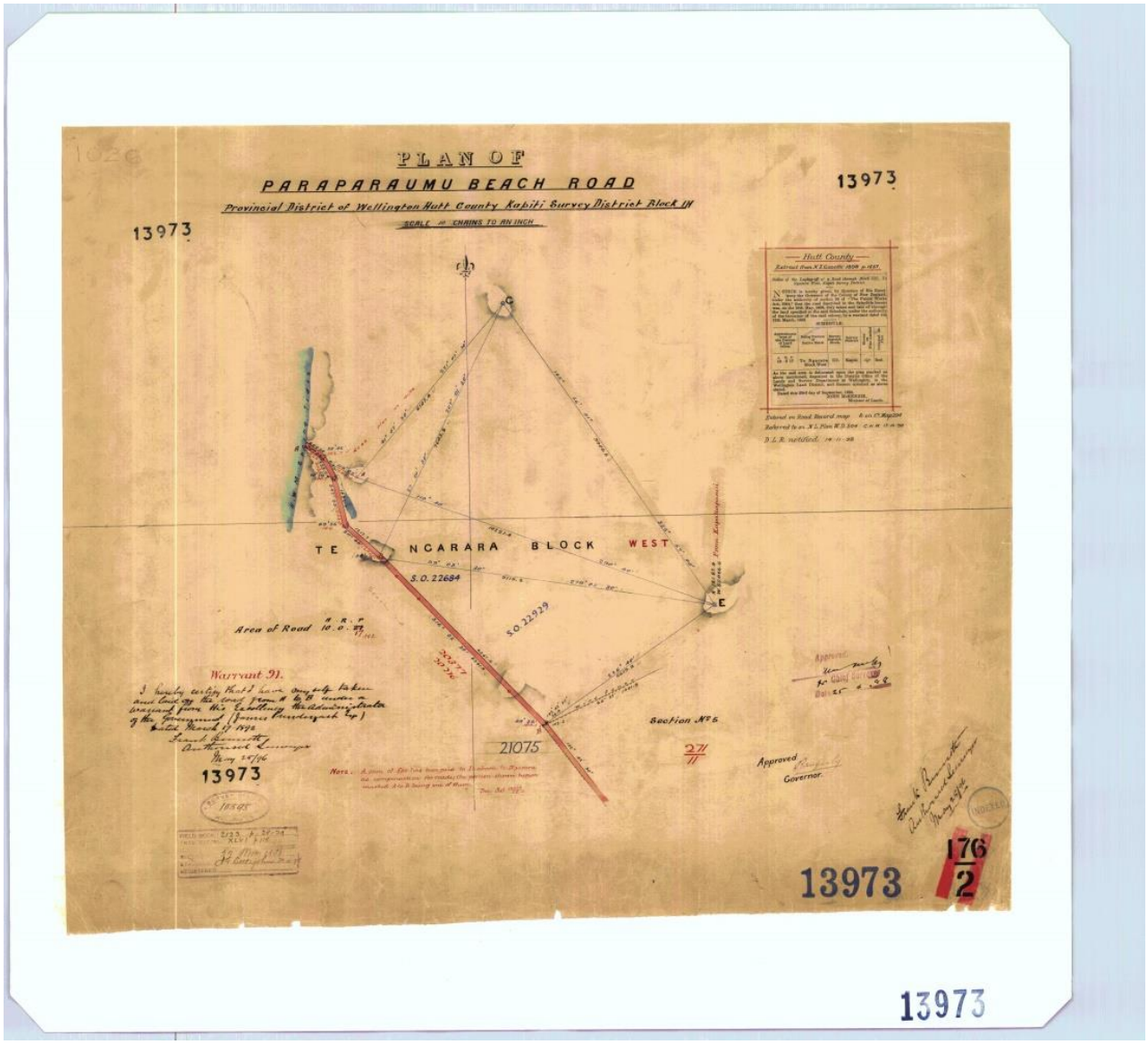
In response Bennett said he had dated the notices and returned them with the warrant to Lands and Survey. It is unclear whether he had dated these notices in the presence of the owners. He said in regard to the second survey he reminded the Assistant Surveyor General that in May he had been advised because of Tuhata's objections and the cultivations on the land not to take the road at that time.[480] Bennett was told to make the plan, supply the notices and it would not be sent to the Governor until the £40 had been paid to the owners.[481] The road was officially laid out on 25 May 1896.[482]

In April 1898 Lands and Survey was told that Ihaka te Ngarara had received £50 on 16 October 1896 for the road in the presence of H. Field and a voucher for this sum had been made.[483]

In September 1898 a notice that a road had been laid out through 'Te Ngarara Block West' was published in the *New Zealand Gazette*. The road was taken under Section 92 of the Public Works Act 1894, and the amount of land acquired was 10 acres 17 perches.[484] The road is shown on Figure 17.

[479] J.H. Baker, Assistant Surveyor General to F. Bennett, Otaki, 17 June 1896, ADXS 19483 LS W1/234 10595, ANZ Wellington [P 1160582].
[480] F. Bennett, Otaki to J.H. Baker, 22 June 1896, ADXS 19483 LS W1/234 10595, ANZ Wellington [P 1160583].
[481] J.H. Baker, Assistant Surveyor General to F. Bennett, Otaki, 6 July 1896, ADXS 19483 LS W1/234 10595, ANZ Wellington [P 1160584].
[482] Chief Surveyor to Moorehouse & Hadfield, Solicitors, Wellington, 22 March 1898, ADXS 19483 LS W1/234 10595, ANZ Wellington [P 1160589].
[483] F. Brady, Chairman, Hutt County Council, Wellington to Chief Surveyor, Wellington, 15 April 1898, ADXS 19483 LS W1/234 10595, ANZ Wellington [P 1160586].
[484] NZG, 23 September 1898, p. 1557.

**Figure 17: Land Taken for Road from Ngarara West B 1894[485]**




*3.1.2.7 Paekakariki 2B2 Road 1939*

In October 1939 a gazette notice taking Paekakariki 2B1 (2a 1r 8p) and Part Paekakariki 2B2 (5a 2r 35p) for a road was issued.[486] Paekakariki 2B2 was Māori land and 2B1 was European land owned by E.F. Smith.[487] The acquisition was for part of the new coastal State Highway between Plimmerton and Paekakariki, and took all the land between the existing railway line and the coast.[488] As a middle line

[485] Survey Office Plan SO 13973.
[486] NZG, 16 October 1939, p. 2672.
[487] District Land Registrar, Land and Deeds Registry, Wellington to Permanent Head, Public Works, Wellington, 27 October 1939, ACHL 19111 W1/1133 41/187/1 pt 1, ANZ Wellington [P 1160374].
[488] SO Office Plan SO 20383.

proclamation for the State Highway had already been issued, the Public Works Department was not required to issue a notice of intention to take the Māori land. While the land was taken for the specified purpose of a 'road', at the time the land was taken, Works intended to use part of the land as a site to be leased for a tearoom [today it is the site of the current Fisherman's Table Restaurant].[489]

At the end of October the Public Works Department made the necessary application to the Native Land Court for a compensation hearing.[490] As noted part of area taken from Paekakariki 2B2 was to be used as a tearoom and it was decided that the survey of the 'Tearoom site should not be done until this court is settled, as it might otherwise prejudice this Departments offer.' The court case was referring to the Native Land Court hearing to determine the compensation.[491] The Assistant Under Secretary said the 'Tearoom site should, however, not be surveyed until the compensation for the taking of subdivision 2B2 has been settled by the Native Land Court.'[492]

### 3.2 Ngarara West A26A2 - Sandhills Motorway 1950s

In the mid-1950s various proclamations were issued defining the middle line of a proposed motorway designed to bypass Paraparaumu and Waikanae townships. The proposed route lay along the largely undeveloped sandhill area to the west of the townships.

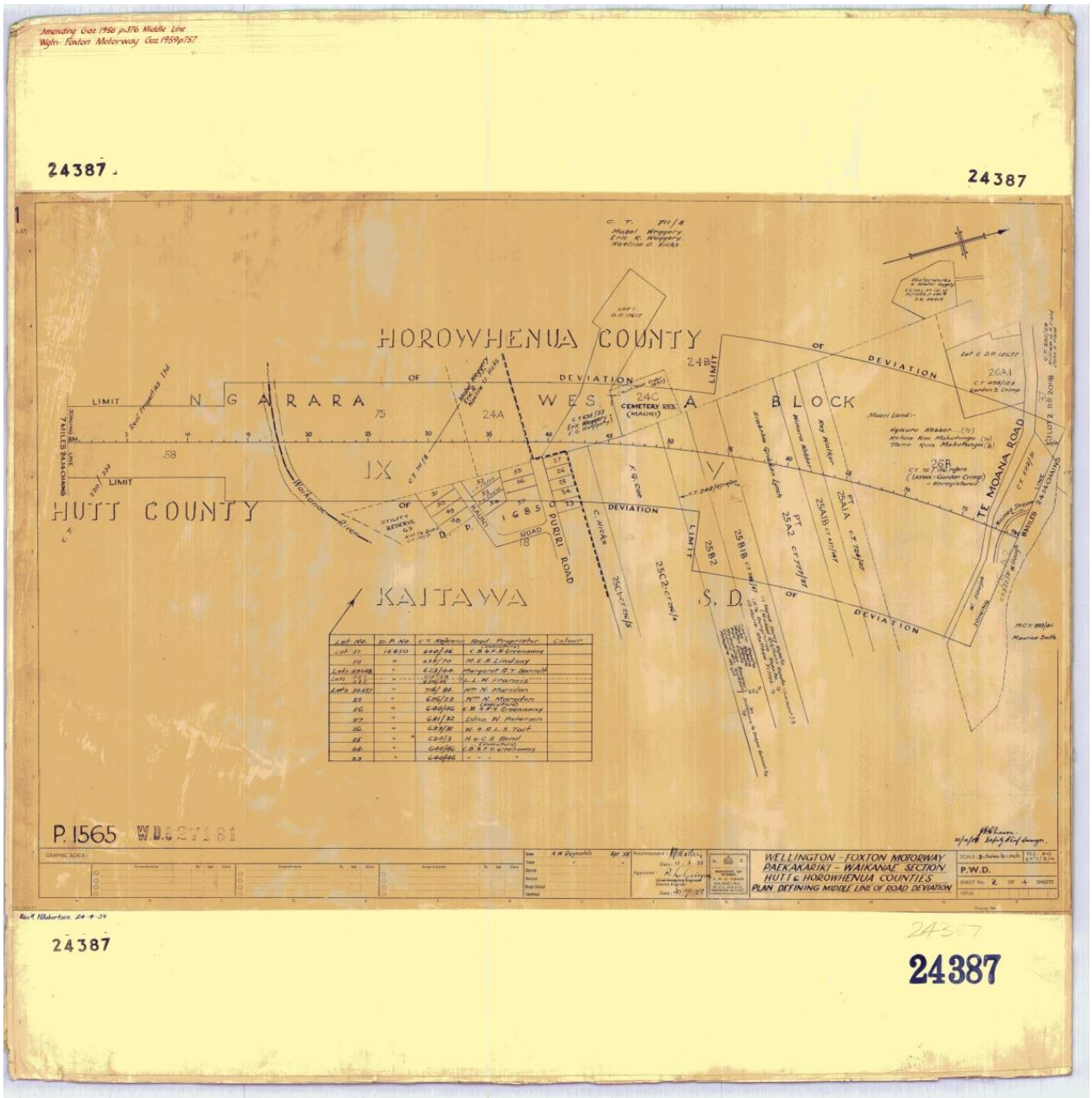
Despite the designation, the motorway itself was not constructed during the twentieth century. However the existence of the middle line proclamation did lead to the Public Works Department acquiring some land along the route. The potential for land to be compulsorily acquired limited the options for landowners, who would have been unwilling to invest in developing their block and/or unable to attract other buyers

[489] H. Watkinson, District Engineer, Public Works, Wellington to Permanent Head, Public Works, Wellington, 4 October 1939, ACHL 19111 W1/1133 41/187/1 pt 1, ANZ Wellington [P 1160367].
[490] N.E. Hutchings, Assistant Under Secretary, Public Works, Wellington to Registrar, Ikaroa District Native Land Court, Wellington, 30 October 1939, ACHL 19111 W1/1133 41/187/1 pt 1, ANZ Wellington [P 1160372].
[491] H. Watkinson, District Engineer, Public Works, Wellington to Permanent Head, Public Works, Wellington, 14 May 1940, ACHL 19111 W1/1133 41/187/1 pt 1, ANZ Wellington [P 1160380-1160381].
[492] Assistant Under Secretary to District Engineer, Wellington, 27 May 1940, ACHL 19111 W1/1133 41/187/1 pt 1, ANZ Wellington [P 1160382].

should they wish to sell. In such circumstances affected owners offered it to the Crown for purchase.

The route cut through many Māori-owned blocks, including the Ngarara West A24C urupa (Takamore). Some of the affected blocks are showing in Figure 18 which shows the portion of the proposed route between the Waikanae River and Te Moana Road:

**Figure 18: Land Subject to Motorway Middle Line Proclamation at Waikanae 1958[493]**




[493] Survey Office Plan SO 24387.

One of the Māori land blocks along the route of the motorway middle line proclamation was Ngarara West A26A2 (7a 2r 3p), owned by W. Hough. The block is shown on the far-right of Survey Office Plan SO 24387 above, on the northern side of Te Moana Road. In May 1957 G.S. Crimp, aware that the highway from Paekakariki would pass through Hough's property, offered to purchase Ngarara West A26A2 for '£800 plus commission to him'.[494] Hough responded: 'my price is (One thousand pounds) up to and not beyond Mr J. Field's right-of-way.'[495]

On 3 April 1958 Hough informed Public Works that he understood that they intended to take Ngarara West A26A2 for roads. He asked: 'As your Department's proposal has spoilt any chance I had of selling the property, would your Department be prepared to negotiate a sale now, or failing that, give me an assurance that the property will not be taken over by your Department.'[496] As noted above Hough had received an offer and made a counter offer for A26A2 in 1957.

The Commissioner of Works was informed of Hough's approach and he was asked to approve the taking of Ngarara West A26A2 as Māori land under the Public Works Act.[497] A file note says the 'proposal to take was approved by Legal'.[498]

Public Works advised Hough on 24 April 1958 that his property was situated on the intended route of the Wellington Foxton motorway but the route had not been proclaimed and it would be several years before construction began. On 5 May 1958 he was advised because his land was Māori-owned the 'normal method of acquisition was to take under the Public Works Act - compensation being settled in the Land

[494] P.W. Lindsay, Land & Estate Agent, Raumati South to H.A. Kennard, Solicitor, Wellington, 27 May 1957, AAZZ 889 W4923/211 71/9/0/98, ANZ Wellington [DSCF 5522].
[495] W. Hough, Taupo to Luckie Hain Wiren & Kennard, Solicitors, Wellington, 25 June 1957, AAZZ 889 W4923/211 71/9/0/98, ANZ Wellington [DSCF 5523].
[496] W. Hough, Taupo to Purchase Officer, Ministry of Works, Wellington, 3 April 1958, AAZZ 889 W4923/211 71/9/0/98, ANZ Wellington [DSCF 5531].
[497] P.L. Laing, District Commissioner of Works, Ministry of Works, District Office, Wellington to Commissioner of Works, 24 April 1958, AAZZ 889 W4923/211 71/9/0/98, ANZ Wellington [DSCF 5530].
[498] File note, 1 February 1958 on P.L. Laing, District Commissioner of Works, Ministry of Works, District Office, Wellington to Commissioner of Works, 24 April 1958, AAZZ 889 W4923/211 71/9/0/98, ANZ Wellington [DSCF 5530].

Court'. According to the District Commissioner of Works: 'The owner replied in due course agreeing to his land being taken…'.[499]

On 10 September 1958 Mr Solomon made an offer to purchase Part Ngarara West A26A2 for £1,000.[500] Hough accepted Solomon's offer.[501] On the same day Crimp made an offer to purchase the remainder of A26A2 for £250.[502] In October 1958 a notice of intention to take Ngarara West A26A2 for better utilisation was gazetted.[503] The notice taking Ngarara West A26A2 (7a 2r 3p) under the Public Works Act for better utilisation was issued in April 1959.[504]

In June 1959 Hough claimed £1,250 compensation which equated to £166-13-4 per acre.[505] The Minister of Works declined the claim and applied to the Māori Land Court for compensation to be assessed.[506] Law firm, Luckie Hain Wiren & Kennard, under instruction from Hough, asked Public Works to 'release the owner from any obligation to consent to the land being taken under the Public Works Act.' They were declined and told the Crown would proceed with the proclamation.[507]

In August 1959 the Māori Land Court heard the compensation application for Ngarara West A26A2. The court was told that 'on 20/4/58 owner wrote that any roading proposals would spoil prty' and the owner agreed to land being taken. Kennard for Hough said his client had received several offers amounting to £1,250 for the land.[508]

---

[499] L.C.E. Malt, District Commissioner of Works, Ministry of Works to Commissioner of Works, Wellington, 20 August 1959, AAZZ 889 W4923/211 71/9/0/98, ANZ Wellington [DSCF 5520-5521].
[500] W.L. Ellingham, Atkinson Dale Ellingham & Jenkins, Wellington to Luckie Hain Wiren & Kennard, Solicitors, Wellington, 10 September 1958, AAZZ 889 W4923/211 71/9/0/98, ANZ Wellington [DSCF 5526].
[501] Typed copy of Telegram of acceptance on file says: 'Date Stamped 27.8.58.', which being a month prior to the offer date may be a typo, AAZZ 889 W4923/211 71/9/0/98, ANZ Wellington [DSCF 5525].
[502] G.S. Crimp, Wellington to Luckie Hain Wiren & Kennard, Wellington, 10 September 1958, AAZZ 889 W4923/211 71/9/0/98, ANZ Wellington [DSCF 5527].
[503] NZG, 16 October 1958, p. 1388.
[504] NZG, 16 April 1959, p. 479.
[505] W. Hough, C/- Luckie Hain Wiren & Kennard, Wellington to Minister of Works, Wellington, 20 June 1959, AAZZ 889 W4923/211 71/9/0/98, ANZ Wellington [DSCF 5529].
[506] F.M. Hanson, Commissioner of Crown Works, Ministry of Works, Wellington to W., Hough, C/- Luckie Hain Wiren & Kennard, Wellington, 17 July 1959, AAZZ 889 W4923/211 71/9/0/98, ANZ Wellington [DSCF 5528].
[507] L.C.E. Malt, District Commissioner of Works, Ministry of Works to Commissioner of Works, Wellington, 20 August 1959, AAZZ 889 W4923/211 71/9/0/98, ANZ Wellington [DSCF 5520-5521].
[508] Otaki MB 67, 12 August 1959, p. 37; see also, AAZZ 889 W4923/211 71/9/0/98, ANZ Wellington [DSCF 5532-5537].

Public Works Land Purchase Officer, Warmington, said Ngarara West A26A2 was unsuitable for residential subdivision and was worth £630.[509] District Valuer, S. Steedman said the land would require bridge access to make it suitable for subdivision and 'I do not know of any comparable sales supporting a £1200 other than the two I have named' which he said were not comparable. Under cross examination Steedman said he was unaware of the offers Hough had received and would not believe the £1,000 offer 'until I have seen it signed up.'[510]

When Kennard asked Hough to give evidence about the offers Warmington for Public Works objected to the inclusion of offers as evidence. He argued on the grounds that it was legally inadmissible and produced prepared notes that cited several Australian and Canadian case law examples. This indicates he was aware Hough had been made private offers for his land and had come to court with a plan for this evidence to be excluded. The court allowed the evidence concerning the offers to be admitted.[511]

Hough said Ngarara West A26A2 was the only land he solely owned and he received an offer of £800 for it in May 1957 from Crimp a nearby farmer which he did not accept because he believed the land was worth more. He said Crimp increased his offer to £900 which he also refused. In August 1958 he received an offer of £1,200 from Solomon which he accepted.[512] Under cross examination Hough said he was aware that the proposed motorway would go through his land but he had no idea when the work would take place. He said: 'I cannot say that the offers were made with the knowledge that the offerors would get their money back on taking'.[513]

Waikanae Land Agent, W. Harvey for Hough said that if it was rezoned residential, the seven acres could be cut into three sections and sold for £600 each. He said nearby land had quarter acre sections for sale at £500 and he felt the 'offer of £1250 was a

[509] Otaki MB 67, 12 August 1959, p. 375-376.
[510] ibid, p. 376-377.
[511] ibid, p. 378.
[512] ibid, pp. 378-379.
[513] ibid, p. 380.

reasonable one.'[514] Under cross examination he did not give any comparable valuations and acknowledged he was not a registered valuer.[515]

Judge Jeune was unable to rule on the admissibility of the Crown submission to have the offers excluded from evidence so he reserved his decision and asked counsel to provide written submissions on these questions of law.[516] Crown Law provided the Māori Land Court with a written submission.[517] Kennard for Hough also provided Judge Jeune with a written submission.[518]

In May 1960 Judge Jeune's reserved decision for Ngarara West A26A2 was delivered. The Judge said the Crown case was based on the view that the land was worth £630 and it required Hough to prove the land was of a greater value which he had attempted to do by presenting offers he had received for the land since 1957 which the Crown objected to as being inadmissible. Judge Jeune said this tactic took the 'owner's counsel by surprise' and he added:

> The Court will require in future that if any legal point is to be raised the Court and Counsel be accorded the courtesy of having such propounded by Counsel properly qualified to argue his submissions sufficiently to advise the Court adequately on the law. This should be noted by the Applicant for future practice.[519]

The Judge found that the evidence of Hough's land agent showed an 'absence of preparation' and his estimates for the three sections valued at £600 reflected the proposed offer of £1,250. In Jeune's opinion this 'had little effect as [to] contradicting the valuer of the Applicant [Crown] and was no help to the Court.' The Judge dismissed Hough's valuer on the grounds that he was trying to convey a figure for the land that approximated the offer and the fact that he was unqualified. The Judge said the whole case for the owner relied on the two offers of £800 and £1,000 that were not

[514] ibid, p. 381.
[515] ibid, p. 382.
[516] ibid, p. 383.
[517] 'Wellington-Foxton Motorway – William Hough Admissibility of Offers as Evidence of Market Value', G.W. Matthewson, Crown Solicitor, Crown Law Office, Wellington to Commissioner of Works, 1 September 1959, AAZZ 889 W4923/211 71/9/0/98, ANZ Wellington [DSCF 5517-5513, 5512-5509].
[518] H.A. Kennard, Submission by Counsel for William Hough, copy, no date, AAZZ 889 W4923/211 71/9/0/98, ANZ Wellington [DSCF 5507].
[519] Reserved decision of Judge Jeune for Ngarara West A26A2, Wellington, 2 May 1960, AAZZ 889 W4923/211 71/9/0/98, ANZ Wellington [DSCF 5499].

accepted because the Minister would not release Hough from his prior 'agreement' with the Crown. Counsel for the owner said the £1,250 would have been accepted by Hough if the Minister had not held the owner to his 'agreement'. Jeune said too much was made of this agreement with the Crown.[520] He said no binding agreement had been made and: 'In the opinion of the Court what the solicitors for the owner should have done was promptly to accept the two offers by…executing manner required by Statute an acceptance, and obtaining confirmation. This could have been done at Levin in October 1958 or at Wellington in January 1959. The notice of intention of October 1958 would not have affected the position.' The court acknowledged it was easy to be wise after the event 'but it was entirely his own fault that the owner had not converted the offers into concluded sales before the taking.'[521]

Judge Jeune said that there had been no need for the Crown to take Ngarara West A26A2 for a road which would not be 'constructed there for some twenty years' and in the interim the land would not be paying rates and would be growing noxious weeds. He said: 'The owner talked the Ministry into taking and the wheels have commenced the cumbersome process' and the 'Country's money has been unnecessarily spent on taking this land.'[522]

Judge Jeune concluded that the only valuation for the land had been produced by the government valuer (£630). The court made an additional payment. The court found that the owner had been injuriously affected by being unable to bring the 'lessee of the rear land to heel' and the court awarded £800 including interest to the owner. Full costs were not awarded and the Crown was ordered to pay the former owner's solicitor £8-8-0.[523]

The Commissioner of Crown Works did note that an addition to the value of the land (£630 GV) had been made in the form of injurious affection. He said no claim for injurious affection regarding the lessee had been made during the court hearing but because the additional sum was small he did not want to delay the settlement with a

[520] ibid [DSCF 5500].
[521] ibid [DSCF 5503].
[522] ibid [DSCF 5504].
[523] ibid [DSCF 5504].

legal challenge. Works decided to pay the amount awarded by the court.[524] In May 1960 Public Works authorised the payment of £808-8-0 to the former owner's solicitors.[525] In August 1960 the solicitors received payment of the sum.[526]

### 3.3 Kapiti Expressway

This report has included examples of Māori land taken for public works since at least the 1890s, but that is not to say that the use of the Public Works Act is only an historical issue for Te Atiawa / Ngāti Awa ki Kapiti. The most recent large-scale public infrastructure development in the Kapiti region, the Kapiti Expressway, has involved local Māori in years of legal proceedings and consultation rounds in efforts to minimise the amount of Māori land it was originally proposed to acquire.

The Kapiti Expressway is one of three 'roads of national significance' designed to alleviate congestion on State Highway 1 north of Wellington. The section from Raumati South to Peka Peka, known as Mackays to Peka Peka or M2PP, was designed to run to the west of the existing State Highway 1, and thus avoid delays and local traffic through Paraparaumu and Waikanae. The proposed expressway route required the Crown acquisition of numerous private properties, and was opposed by many affected local groups. This section will examine the impact on two blocks of Ngāti Awa / Te Atiawa land which lie along the route of the expressway between the Waikanae River and Te Moana Road at Waikanae. Many of the legal proceedings relating to confirming the line of the expressway were matters concerning the Resource Management Act, and were dealt with in the Environment Court. How the Crown has dealt with resource management, and environment and heritage issues are outside the scope of this report, and most cases have therefore not been closely examined in this section. The exception is Patricia Grace's successful action in the Environment Court, which had implications for the interpretation of the application of the Public Works Act to Māori Reservation land.

[524] F.H. Hanson, Commissioner of Works to Registrar, Māori Land Court, Wellington, 27 May 1960, AAZZ 889 W4923/211 71/9/0/98, ANZ Wellington [DSCF 5496].
[525] D. Warmington, Land Purchase, Ministry of Works, Wellington to L.C.E., Malt, District Commissioner of Works, Wellington, 18 May 1960, AAZZ 889 W4923/211 71/9/0/98, ANZ Wellington [DSCF 5497-5498].
[526] Departmental record of payment to Luckie Hain Wiren & Kennard, 4 August 1960, AAZZ 889 W4923/211 71/9/0/98, ANZ Wellington [DSCF 5495].

The expressway grew out of the earlier proposal for a motorway line outlined in the section above. While construction of the motorway had not proceeded in the twentieth century, local authorities had at various times pushed for the by-pass route in various forms and with various options for the exact line of the road. In the late 1990s this developed into a proposed 'Western Link Road'. In 1997 the Kapiti Coast District Council issued a notice of requirement to designate the proposed Western Link Road. The proposal was confirmed by an independent hearing commission in 1998. However, this led to a series of appeals under the resource management consent process. Between 1998 and 2006 there were two hearings by appointed commissioners, two cases in the Environment Court and two High Court challenges. Final designation of the route of the Western Link Road was not approved until July 2006.[527]

The New Zealand Transport Authority (NZTA) was similarly developing plans for a four lane expressway along the same route as the proposed Western Link Road. In December 2009 NZTA confirmed the preferred route followed the already designated Western Link Road corridor. In 2010 the route was declared a 'road of national significance' under the National government's policy to prioritise a select number of large scale roading projects.

As mentioned in the previous section, the original motorway middle line proclamation in the mid-1950s had included a large proportion of Ngarara West A24C block, which was an urupa. In 1965 Māori had objected to the proposed acquisition.[528] In 1969 the two acre block was declared a Māori Reservation 'for the purposes of a burial ground for the common use and benefit of the Atiawa Tribe'.[529]

When the route of the expressway was confirmed it did not include land from the urupa reservation. However, the two acre reservation itself was only part of a wider area of great significance to Te Atiawa / Ngāti Awa ki Kapiti, known as Tuku Rakau. The expressway route included land to the south of the boundaries of the reservation,

[527] *Save Kapiti Incorporated v New Zealand Transport Agency* [2013] NZHC 2104, 19 August 2013, p. 2.
[528] Extract from Otaki MB 75, 6 November 1969, folios 24-25, AAMK 869 W3074/722j 21/1/258, ANZ Wellington [IMG 1419].
[529] ibid

which is a wahi tapu known as the 'Maketu Tree'. At that time the land on which the wahi tapu is situated was owned by the council, but the Takamore Trust sought to have it protected from motorway (or other) development and included in the Takamore Wahi Tapu area. A report on the application written by Bruce Stirling provides a very full history of the cultural and historical significance of the Tuku Rakau area, along with information on the trust's application to have the Maketu Tree site excluded from the motorway through both Environment Court and Historic Places protection mechanisms.[530] It is not considered necessary to duplicate that material in this report.

As part of the Takamore Trust's proactive approach, in March 2012 it signed a Memorandum of Understanding with NZTA to establish a framework for negotiations.[531] Members of the Takamore Trust who were involved in the negotiations may be able to present evidence to the Tribunal on their views of the process, and the impact of the final outcomes.

In April 2012 NZTA applied for 29 resource consents and a notice of requirement to build the Mackays to Peka Peka Expressway. Under Section 149J of the Resource Management Act 1991 a Board of Inquiry was appointed by the Minister for the Environment to hear the application. In April 2013 the board issued its decision which confirmed the notice of requirement and granted the resource consents, subject to certain conditions.[532] The board was dealing with matters under the Resource Management Act, rather than the Public Works Act, but it did make some comments regarding the views of Māori objectors:

> [1027] Te Ati Awa ki Whakarongotai suggested that NZTA should seek to avoid all impacts on Maori freehold land, Maori owned general land and Maori reservations along the extent of the proposed expressway and that the iwi are prepared to support Maori landowners where impacts on their land interests are unavoidable.
> [1028] We note Te Ati Awa ki Whakarongotai concerns and encourage NZTA to continue its engagement with Maori land owners, however, we acknowledge this matter is outside our jurisdiction....

[530] Bruce Stirling, 'Review Report for a Wahi Tapu Area: Takamore Wahi Tapu Area', New Zealand Historic Places Trust, August 2011.
[531] Memorandum of Understanding and Heads of Agreement in Relation to a Contract for Services, The New Zealand Transport Agency (NZTA) – Waka Kotahi and the Takamore Trustees, 5 March 2012.
[532] *Save Kapiti Incorporated v New Zealand Transport Agency* [2013] NZHC 2104, 19 August 2013, p. 1.

> [1085] Ms Grace gave evidence that she opposed the Project and supported the Takamore Trust submission. Ms Grace also advised that she owns land that is within the Tuku Rakau village area and that the expressway will cut through her land. In her evidence Ms Grace said she had been served a Public Works Act notice in regards to the Crown acquiring a piece of her land. As previously discussed the acquisition of land by the Crown is a matter outside our jurisdiction.[533]

### 3.3.1 Ngarara West A25B2A – Grace v Minister for Land Information

Two other blocks of Māori-owned land in the Tuku Rakau area were affected by the Kapiti Expressway. On the other side of the expressway from Takamore Urupa lay two long narrow blocks: Ngarara West A25B2B (owned by an Ahu Whenua trust) and Ngarara West A25B2A (owned by Patricia Grace). While the Takamore Trustees were able to work with NZTA to mitigate the impact and negotiate an acceptable outcome, Grace had to take action in both the Māori Land Court and Environment Court to prevent any of her ancestral land being acquired.

A notice of intention to take 983m$^2$ from Ngarara West A25B2A was signed 6 June 2013.[534] The notice said the land was required for 'construction of State Highway 1 Wellington Northern Corridor (Mackays to Peka Peka Expressway)…..More particularly the land is required for road and state highway'.[535] The notification sent to the owners further explained the reason for the proposed taking:

> The reasons why the Minister for Land Information considers it reasonably necessary to take your interest in the Land … are to cater for increasing traffic volumes and to improve the safety and efficiency of State Highway 1 and the local road network.[536]

Grace had declined to negotiate an agreement for the sale of the block to the Crown for the purposes of the Expressway because she was unwilling 'to part with any of the land other than, perhaps, to other Māori who share her links with the land and its former Māori owners'.[537]

---

[533] *Final Report of the Board of Inquiry Concerning a Request for Notice of Requirement and Applications for Resource Consents to Allow the Mackays to Peka Peka Expressway Project*, cited in *Grace v Minister for Land Information*, [2014] NZEnvC 82, p. 4.
[534] NZG, 2013, p. 2154.
[535] ibid
[536] *Grace v Minister for Land Information* [2014] NZEnvC 82, p. 2.
[537] ibid

Although the notice said the land was required for road and state highway, the proposed design did not actually use Grace's land for the highway itself, but rather it was proposed to run the accompanying cycleway/shared pathway over the block. The actual requirement was to construct batters on the side of the cutting where the highway ran between Grace's land and Takamore Urupa. The cycleway would be constructed along the top of the batters.[538]

*Māori Land Court Case*

As a means to protecting Māori ownership of her block, in May 2013 Grace applied to the Māori Land Court for Ngarara West A25B2A to be declared a Māori Reservation under Section 338 of Te Ture Whenua Māori Act 1993 (TTWMA). The reservation was to be for the benefit of the descendants of Wiremu Parata Te Kakakura as a place of cultural and historical significance 'and/or', a wahi tapu of special significance according to tikanga Māori. A similar application was also lodged by the Pitama trust for the Ngarara West A25B2B block, but did not proceed. The application was heard in March 2014.

At the same time Grace also pursued action through the Environment Court. The Māori Land Court and Environment Court cases were closely related, as designating the block as a Māori Reservation would have an impact on how it was treated by the Environment Court. Judge Isaac considered the legal issues relating to the relationship between the Public Works Act and Te Ture Whenua Māori Act, specifically whether a notice of intention to take land under the Public Works Act had any impact on an application for a Māori Reservation under Section 338 of Te Ture Whenua Māori Act. At the heart of the matter was Section 338(11) which said:

> (11) Except as provided in subsection (12) of this section, the land comprised within a Maori reservation shall, while the reservation subsists, be inalienable, whether to the Crown or to any other person. [sub(12) allowed for granting lease or occupation rights for up to 14 years].

As Section 338(11) specifically mentioned the land was inalienable to the Crown, the issue was whether a declaration under Section 338 would mean the Crown could not compulsorily acquire the land. Judge Isaac said that the Transport Agency was correct

[538] ibid, p. 3.

to be concerned that declaring a reservation would prevent part of the land being acquired. The judgment laid out his reasons, including:

> Next, there is no provision in the PWA that states the Crown may acquire land subject to a Māori reservation. More importantly, there is nothing in TTWMA, and specifically nothing in s 338(11) that states that Māori reservations are subject to the PWA.
>
> Further, with respect to the submission by counsel for the Transport Agency as to the definition of "inalienable" in this context, in my view counsel blurs the clear and unambiguous meaning of s 338(11) and the overall purpose of the legislation. As Judge Harvey has said in the *Gibbs* case, s 338(11) is unequivocal. Land that has received the overlay of Māori reservation status is inalienable as against the Crown.
>
> The words "inalienable against the Crown" mean simply that. No other meaning can be attributed to those words and notwithstanding the submission by counsel for the Transport Agency, I cannot stretch the meaning of "inalienable" to mean "alienable". "Alienation" under TTWMA is "every form of disposition of Māori land", apart from the listed exceptions. Compulsory acquisition by the Crown under the PWA is not a listed exception. In short, s 338(11) means that once a Māori reservation status has been recommended and gazetted, the Crown cannot acquire this land.
>
> This interpretation accords with the purpose of TTWMA. The preamble and ss 2 and 17 set out the principle purposes of the Act. These include the retention and utilisation of Māori land in the hands of its owners, whānau and hapū as the cornerstone or fundamental principle that must guide the Māori Land Court when considering all applications that come before it. Mrs Grace's application is no different from any other in this regard.[539]

The application was for the whole Ngarara West A25B2A block (5770m$^2$) to be declared a reservation. Evidence was given about the significance of the Tuku Rākau papakainga, and that the land in question was the last vestige of the land held by Wi Parata Te Kakakura at Waikanae. Grace's submission explained the significance of the land to her whanau:

> The land in question, as part of the area known as Tuku Rakau, is where Wiremu Parata Te Kakakura and his people settled and lived for many years. It is waahi tapu, being where people lived their lives, harvested resources, established their wharenui and wharemate, their urupa, their homes and gardens. It is where they constructed their birthing shelters, buried the whenua and secreted the pito of their offspring. It is where they discussed, negotiated and made important decisions for life and survival. It is a historic place, a place of archaeological interest and is likely to include an area of human interment. I say 'likely' because we have been told that burials took place in

[539] *Grace – Ngarara West A25B2A* (2014) 317 Aotea MB 294-295.

> the upper parts of the land – which makes sense to me because it is the high, safe ground.[540]

NZTA objected to the Section 338 application, partly on the grounds that it was not necessary to declare the whole block a reservation. NZTA did concede that part of the block was of cultural and historical significance:

> the Tuku Rākau land, of which the Grace land forms a part, is of cultural and historical significance to Mrs Grace. Mrs Grace's customary association with the land, and the manner in which she derived her title and interest, is not in dispute. The Transport Agency does not oppose Mrs Grace's application so far as it relates to the land not sought for the expressway.[541]

However, NZTA argued that it was not necessary to reserve the entire block, and that the portion intended to be used for the expressway was not especially significant. It argued that 'tangible' evidence was required to establish that the area sought included burial sites, and that the 'physical evidence' was contradictory.

In response Grace told the court that NZTA was 'obsessed' with establishing the precise location of significant places, such as Wi Parata's house, rather than acknowledging 'that it is the connection between places and people of the area as a whole that contribute to the cultural and historical significance of her land'.[542]

Judge Isaac did not accept the arguments put forward by NZTA:

> It should also be noted that the evidence and submissions presented by the Transport Agency do not dispute the historical background to Mrs Grace's land and the wider Waikanae area. Nor do they dispute that Tuku Rākau was located in the vicinity of the Grace land. The only aspect of the application that is challenged is as it relates to the 983m2 of Mrs Grace's land required for the expressway.
>
> Looking at all the evidence before me in relation to all of Mrs Grace's land, the distinction created by the Transport Agency and Vector between a portion of Mrs Grace's land compared to all of her land is arbitrary and false.[543]

The Judge went on to note that witnesses from NZTA agreed the land was of cultural and historical significance:

---

[540] ibid 297.
[541] ibid 277.
[542] ibid 275.
[543] ibid 299.

> Therefore, when faced with such compelling evidence given in respect to this application, I am satisfied that the entirety of Mrs Grace's land is a place of cultural and historical significance and a wāhi tapu in accordance with tikanga Māori to Mrs Grace and Te Atiawa ki Whakarongotai.
>
> This is one of the vestigial blocks of Wi Parata's land remaining in the ownership of his descendants. Wi Parata was a man who donated a large amount of land for development in the form of railways, churches, schools, and the Waikanae township. This land has been in continual Māori ownership and control since before 1840. It has special significance not only for the descendants of Wi Parata, but also for Te Atiawa ki Whakarongotai, and has been protected though the generations to the present time. This protection should continue into the future.[544]

Further to the cultural and legal arguments NZTA also argued that the 'context' of the overall expressway works had to be taken into account:

> The land is sought to be acquired for a road of national significance. The upgrade to State Highway 1 is required to sustain urban growth in the region, reduce congestion, improve travel times and improve road safety. The proposal to upgrade was first raised in the late 1940s/early 1950s. The Transport Agency has been in an extended period of discussions and consultation with affected parties, and has actively sought to engage with Mrs Grace. The requisite consultations, design works and plans, and consents have been put in place. The Board of Inquiry was satisfied that alternative routes, consultation and cultural mitigation had been sufficiently addressed. A notice under s 18 of the Public Works Act 1981 (PWA) was issued in respect of the part of Mrs Grace's land sought for the expressway. This was followed by unsuccessful attempts to negotiate and discuss the proposal with Mrs Grace. A s 23 PWA notice was issued when no agreement could be reached with Mrs Grace to acquire the land. The acquisition of this land is the least invasive in terms of land take, and has the least impact on Māori freehold land. Mitigation proposals have been agreed upon with the Takamore Trust to address concerns and compensate for taking of land. Construction has already commenced on other parts of the expressway upgrade and further delay will hinder work.[545]

It further submitted that the cost of an alternative route which avoided Grace's land would be 'around $10 to $15 million' if it was even feasible. However, during the hearing a NZTA witness stated they were looking at a potential small realignment. The court was also advised that different options were being considered, which Judge Isaac considered appeared to be feasible. The Judge commented that an alternative option which avoided Grace's land would be in accordance with Te Ture Whenua Māori Act. The Judge felt that was a matter which should be left for the Environment

[544] ibid 299-300.
[545] ibid 281.

Court to consider, as not of primary importance for a Section 338 application.[546] The Judge then made the order under Section 338 that Ngarara West A25B2A should be set aside as a Māori Reservation for the benefit of the descendants of Wiremu Parata Te Kakakura.[547]

*Environment Court Case*

The Environment Court heard Grace's objection four days after the Māori Land Court issued its judgment, and then released its report on 8 April 2014. The effect of the Māori Land Court Section 338 order was a recommendation that the Chief Executive of Te Puni Kokiri declare the block a Māori Reservation by proclamation in the *New Zealand Gazette*. Thus at the time of the Environment Court case, the Māori Land Court had granted Grace's application for a reservation, but that reservation had yet to be bought into effect.

The Environment Court report addressed the potential impact of the block being declared a reservation under Section 338 of Te Ture Whenua Māori Act. It quoted the Māori Land Court judgment which had concluded that land reserved under Section 338 was completely inalienable, even to the Crown. In terms of the scope of the Environment Court inquiry, which included deciding whether it would be 'fair, sound or reasonably necessary' for the land to be taken, the Environment Court concluded that if the gazette notice was issued, the taking would not be 'sound':

> [15] That being so, if and when the Chief Executive of Te Puni Kokiri does arrange for the appropriate Gazette notice, the taking of the land will not be *sound* as a matter of law and, consequently, the Notice of Intention and the Minister's reasons for wishing to compulsorily acquire the land will both become redundant. If the land cannot be alienated, even if Mrs Grace and/or its Trustees wish to do so, then plainly the Expressway, or at least this portion of its cycleway and pathway (and batters, a matter we shall come to) will have to avoid Mrs Grace's land - even the possibility of some kind of easement to allow for construction of the batters is prohibited by Te Ture Whenua Maori Act.[548]

If the gazette notice had been issued, that point alone would mean the Environment Court report would not be required. However, as the matter was still subject to possible appeals, the court went on to consider other aspects of the case, most

[546] ibid 295.
[547] ibid 300.
[548] *Grace v Minister for Land Information* [2014] NZEnvC 82, p. 8.

particularly the question as to 'adequacy of consideration of alternative sites, routes or other methods'.

There were public claims that avoiding Grace's land would cost in the vicinity of sixteen million dollars, a claim repeated in the closing submission by counsel representing the Minister.[549] However, the evidence heard by the Environment Court did not support that claim. NZTA's project manager said the proposed route had been chosen on the grounds that it avoided encroaching on Takamore Urupa, and took the least amount of land from Grace. The sixteen million dollar figure had come from one of the other options explored, but that was clearly the most expensive option, and the project manager said it was the least favoured possibility. Similarly, it was claimed shifting the entire route east or west to completely avoid both Takamore and Grace's land would be very expensive and possibly not feasible. However, in December 2013 another option was developed by the design team which was 'a quite minor realignment of the carriageway, within the existing designation'. The alternative proposal would avoid requiring land from either Grace or the Takamore Urupa, and would possibly cost less than 2.3 million. The Environment Court estimated that would be 0.4% of the entire construction cost for the M2PP project.[550]

The last minute proposal would not allow for an adjacent cycleway/shared pathway, but the Environment Court pointed out that there were other sections along the expressway where the route of the shared pathway diverted from the expressway to neighbouring streets and the like.[551]

The information about the new proposal led the Environment Court to conclude that there was a potential alternative route:

> Our conclusion on the question in subparagraph (b) must then be that there is at least one potential alternative route (within the existing designation corridor) available that can avoid the taking and use of any of Mrs Grace's land. Until it came to light in the course of the hearing before us, it had never been suggested to Mrs Grace, and there is no trace of it, or anything having a similar effect, being given any, let alone *adequate*, consideration as a means of achieving the Minister's objectives. We acknowledge that the cost of adopting

[549] ibid, p. 10.
[550] ibid, p. 12.
[551] ibid, p. 12.

> it is not insignificant, but in the context of the other issues we shall discuss it might at least have been given adequate consideration.[552]

When considering the question of whether the taking was 'fair', the Environment Court report laid out background material about the history of Wi Parata Te Kakakura and the significance of the land to his descendants. This repeated much of the evidence given in the Māori Land Court hearing, including pointing out the extent that Wi Parata and Te Atiawa had already contributed land for public use. The block was now a last rare remnant of Wi Parata's land, and was owned by one of his direct descendants. It was Grace's desire to protect the land for future generations that led to the application for a reservation. These circumstances meant it was not '*fair,* to regard this piece of land as an asset which an owner may use so as to extract maximum value'.[553]

Considering the background the Environment Court concluded 'that it would not be *fair* to compulsorily take this land, particularly when an alternative route or method is available, making the taking unnecessary.'[554]

Overall, the Environment Court found that the proposed taking did not meet any of the criteria under Section 27(4)(d):

> It is plainly not, in our view, *reasonably necessary* to take this land to achieve the Minister's objectives. Those objectives can be achieved without having to acquire the Grace land at all, within the existing designation and within the area of land already owned by the Crown. Any additional construction cost incurred will be partly, perhaps wholly, offset by not having to pay compensation for the Grace land. If it would not be *fair* to do so, nor *reasonably necessary* to do so, it cannot possibly be *sound* to do so.[555]

It therefore reported that the taking should not proceed any further.

While Grace was successful, and no land was actually acquired from Ngarara West A25B2B, the neighbouring Ngarara West A25B2B block, administered by an Ahu Whenua Trust, did lose land to the expressway. On 5 December 2013 a proclamation was issued taking 4150m$^2$ for the purposes of a road, along with 12m$^2$ for the

[552] ibid, pp. 12-13.
[553] ibid, p. 18.
[554] ibid, pp. 18-19.
[555] ibid, p. 19.

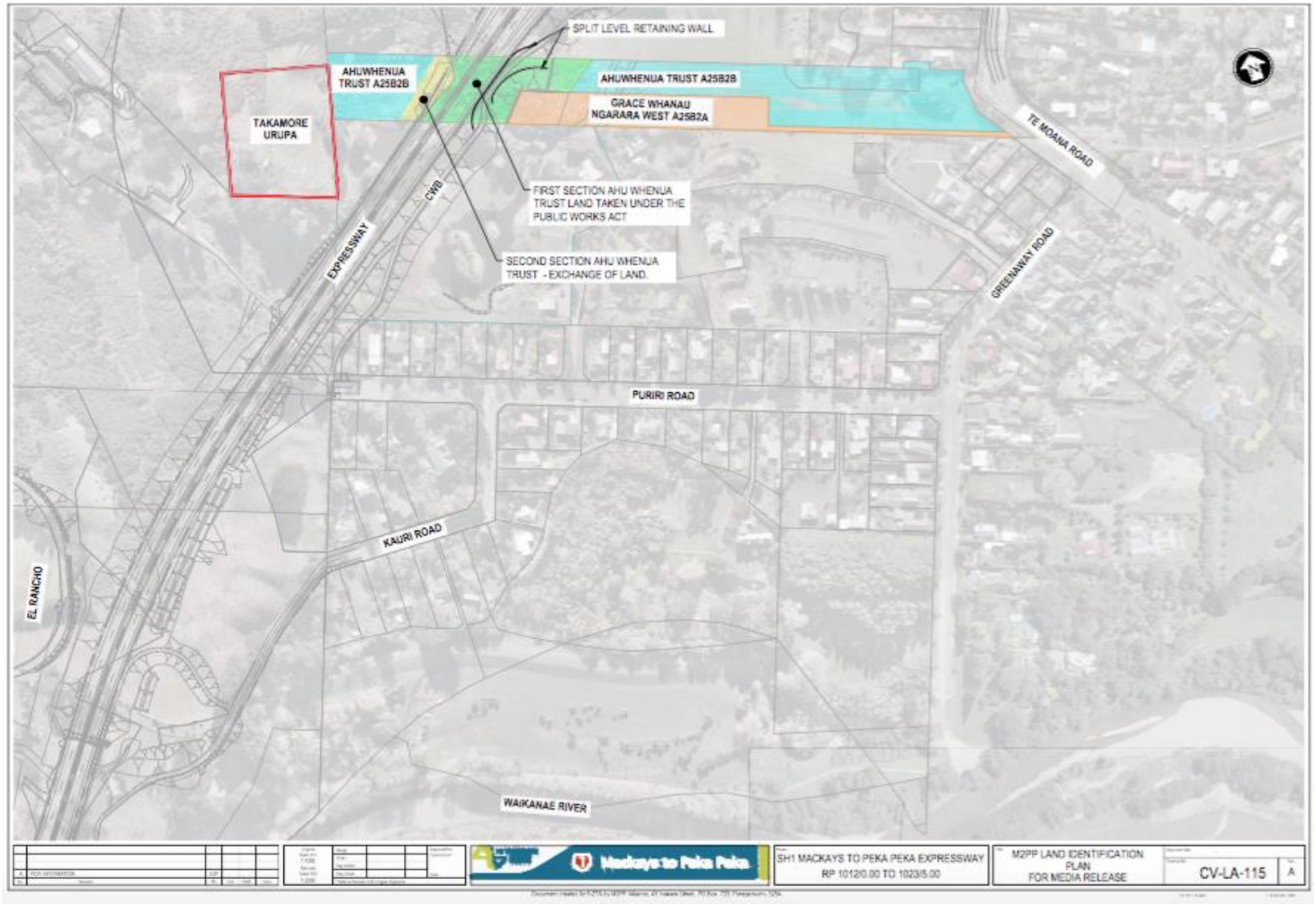
'functioning indirectly of a road'.[556] This area (shown in green on Figure 19 below) effectively cut the block in half, and cut the link from the Te Moana Road side of the block to Takamore Urupa. In February 2015 an agreement was signed between the Ahu Whenua trust and the Crown transferring a further area of land to the Crown 'in trust' for roadway purposes, while remaining Māori Freehold Land.[557] This area is shown in yellow on the map below.

Some of the background to this arrangement is given in a 2015 panui from Te Atiawa ki Kapiti:

> The first section (marked 'first section Ahu Whenua Trust taken by Public Works Act' on the attached map) was taken through the Public Works Act in December 2013. Compulsory acquisition of the first parcel of Ahu Whenua Trust land severed the Trust's physical connection to the Takamore urupa. This area known as Tuku Rakau has such cultural and historic significance to the Trust that in the ordinary course of events it would be viewed by the Trust as inalienable.
> The NZ Transport Agency has apologised for any actions and omissions that have damaged the unique relationship between the Trust's landowners, the Tuku Rakau area and all of the waahi tapu therein. And expressed regret that, while having engaged with the sole trustee in good faith as the landowners' representative, it could have engaged more meaningfully with all of the Trust's landowners in respect of the acquisition of the land.
> This apology signified the beginning of a restored and enduring relationship between the Trust's land owners and the Transport Agency, based on mutual trust and cooperation, good faith and respect for the Treaty of Waitangi and its principles. 2. Agreement around a second smaller piece of Ahu Whenua Trust land occurred because the Transport Agency needed to find a way to realign the expressway. This has happened through an exchange of land (marked 'second section of Ahu Whenua Trust exchanged land' on the attached map) and has allowed the route to move slightly to the west with minimal disruption to affected landowners, the waahi tapu area and the local community.[558]

[556] NZG, 12 December 2013, p. 4567.
[557] Memorial Schedule, Ngarara West A25B2B and Section 9 Survey Office Plan 459355 and Section 1 Survey Office Plan 491799, Māori Land Online.
[558] Update on Expressway and whanau land in Waikanae, 3 September 2015, Te Atiawa ki Kapiti, http://teatiawakikapiti.co.nz/wp-content/uploads/2015/09/Ropata-Grace-Media-Te-Atiawa-iwi-panui-FINALdoc.pdf

**Figure 19: Land Taken from Ngarara West A25B2B for Kapiti Expressway**[559]




[559] Update on Expressway and whanau land in Waikanae, 3 September 2015, Te Atiawa ki Kapiti, http://teatiawakikapiti.co.nz/wp-content/uploads/2015/09/Ropata-Grace-Media-Te-Atiawa-iwi-panui-FINALdoc.pdf

The Kapiti Expressway has since been constructed and opened for use in February 2017. Claimant groups may be able to inform the Tribunal about the construction process and any involvement in the design process of the final landscaping and mitigation measures.

### 3.4 Summary of Issues

Māori land for the main trunk railway line was not acquired by the Crown under the Public Works legislation. Rather, the private Wellington and Manawatū Railway Company negotiated agreements to lay off the railway line over the Ngarara and other blocks. The agreements were then confirmed by Native Land Court awards and subsequent legal transfers. In 1883, at a large hui in Waikanae, Wi Parata agreed to the company's plan for the railway line. A total of approximately of 68 acres of Māori land between Waikanae and Pukerua Bay was initially set aside as the Railway Reserve. A further 33 acres were subsequently taken under the Public Works Act.

The first major road lines from Waikanae to Paekakariki, and from the inland settlements of Waikanae and Paraparaumu to the coast road, were also not taken using the powers of the Public Works Act. Rather, warrants were issued by the Governor to lay off road lines over Māori land, and the road lines were subsequently proclaimed under the provisions of the Native Land Acts 1886 and 1894. These measures allowed up to five percent of a block to be laid off for roading purposes. Under the warrants there were specific requirements for the surveyor to meet with owners on the ground and present them with the warrant. In some cases, the surveyor failed to properly meet the requirements and was required to subsequently gain the proper certifications from the owners. The road lines were supposed to avoid 'occupied' land, such as houses, cultivations or orchards. Hira Parata successfully sought compensation for a road line which passed through a garden area in front of his house. Another owner objected to the way a road line interfered with a fence line.

The early roads eventually developed into State Highway 1 which ran through the towns of Paraparaumu and Waikanae. In the 1950s plans were made for a new motorway running through the sandhills between the inland townships and coastal settlements. From the mid-1950s a series of middle line proclamations were issued. The existence of the middle line notifications affected owners' decisions about what

to do with their land and limited options for development or sale. It was in this context that the owners of Ngarara West A26A offered to sell his block to the Crown for the proposed motorway. The owner subsequently disputed the compensation offered by the Crown, based on other purchase offers he had received.

Motorway and by-pass proposals by local authorities and central government continued to threaten Māori ownership of a number of blocks, including the Takamore Urupa reserve. Māori land owners and other representatives were involved in decades of legal proceedings and consultation rounds in efforts to minimise the amount of Māori land it was originally proposed to acquire. The proposals eventually became the Kapiti Expressway. The trustees of the Takamore Urupa were involved in a long struggle to protect not only the reserve block, but also adjoining wahi tapu which were no longer in Māori ownership. As a result, the Takamore Trust entered into a Memorandum of Understanding with NZTA and managed to avoid land alienation and be involved in decisions about mitigating the effects of the expressway.

However, although NZTA was willing to work with the Takamore Trust, it still persisted in wanting to acquire land from two neighbouring Māori blocks. When it failed to negotiate an agreement, a notice of intention was issued. As a result of taking action in the Māori Land Court and the Environment Court, one owner successfully prevented any land being taken. This required the land to be declared a Māori Reservation. While that case was successful, NZTA did still acquire land from the neighbouring block.

## 4. Whitireia Land Taken from the Otaki and Porirua Trusts Board

The acquisition of land at Whitireia, Porirua, has been included in this preliminary report because it has consistently been raised as a case study by some Te Atiawa claimants, and identified as one of the Te Atiawa claim issues by Tribunal staff. We have not attempted any investigation of the customary rights to Whitireia and have no opinion on the nature of any claims Te Atiawa / Ngātiawa make to that location in Porirua. It is our understanding that it has been included in one statement of claim because of its general links with Wi Parata Te Kakakura, and his role with the donation of the Otaki and Porirua and Trusts lands. The Otaki and Porirua Trusts Board was the owner of the land at the time it was taken, which means there are other iwi and claimant groups affiliated with the board who will more than likely be interested in the case.

In July 1938 the Public Works Department was told that the National Broadcasting Service wanted to acquire eight acres of Subdivision 2 Onepoto Block at Titahi Bay for a radio receiving and transmitting station.[560] The land owner, Mr Marshall did not want to sell because it would make other land in the block unusable. He was however prepared to sell Lot 2 (21a 2r 38p) of Onepoto Block for £1,650. Public Works believed the price was too high and suggested that the land could be taken under the Public Works Act.[561]

Instead, part of the land held by the Porirua College Trusts Board at Whitireia, titled 'College Reserve' was selected as a site. The trust board had leased the land to A. Emmett. In September 1938 the Broadcasting Service arranged a sublease of lessee A. Emmett's land for use as a receiving station.[562] Emmett was paid £1 per annum for the remaining period of his lease.[563] The trust board agreed to the arrangement and to the

[560] James Shelley, Director, National Broadcasting Service, Wellington to Permanent Head, Public Works, Wellington, 6 July 1938, AAQB 889 W3950/358 24/2495/1 pt 1, ANZ Wellington [IMG 0180].
[561] J. Wood, Engineer in Chief to Director, National Broadcasting Service, Wellington, 15 September 1938, AAQB 889 W3950/358 24/2495/1 pt 1, ANZ Wellington [IMG 0179].
[562] S.T. Sprott, Diocesan Secretary, Wellington to Under Secretary, Public Works, Wellington, 30 September 1938, AAQB 889 W3950/358 24/2495/1 pt 1, ANZ Wellington [IMG 0178].
[563] E.H. Wakelin to Under Secretary, 7 November 1938, AAQB 889 W3950/358 24/2495/1 pt 1, ANZ Wellington [IMG 0177].

erection of aerials and buildings. The Broadcasting Service was able to operate on the site without acquiring the land at that time.

Further land at Titahi Bay was required by the Broadcasting Service in the 1940s. At this time, under the Otaki and Porirua Trusts Act 1943, Part College Reserve (375 acres) was vested in the Otaki and Porirua Trusts Board. The board consisted of ten members appointed by the Governor General, of whom five were nominated by the Church of England; four by the Raukawa Marae Trustees; and one by the Minister of Education. The trust funds were to be used to provide scholarships and for general education purposes. Under the Otaki and Porirua Trusts Act 1943 (amended by Section of Amendment Act 1946) the board could not sell land without the consent of the Minister of Education and the Raukawa Marae Trustees.[564]

In 1947 Cabinet approved expenditure for alterations and extensions to the transmitter and although the trust board refused to sell land to the Crown, the work was completed without acquiring the land under statutory authority.[565]

In December 1947 the Otaki and Porirua Trusts Board was again asked to consider selling Part College Reserve and to give permission for Works staff to enter and survey the block.[566] This was at the time that the Crown embarked on a large scale housing development in the Porirua and Titahi Bay areas. The Minister of Works considered the acquisition of the reserve a 'logical extension' to a nearby acquisition from Marshall for housing purposes and asked the Minister of Education for his consent.[567] The Minister of Education responded:

> I would advise you that it is known that the Maoris concerned with this property have so far shown a great reluctance to dispose of any land.

[564] S.T. Sprott, Secretary, Otaki and Porirua Trusts Board, Wellington to District Engineer, Works Department, Wellington, 23 August 1949, AAQB 889 W3950/358 24/2495/1 pt 1, ANZ Wellington [IMG 0174].
[565] E.R. McKillop, Commissioner of Works, Ministry of Works Wellington to Minister of Works, 13 December 1954, AAQB 889 W3950/358 24/2495/1 pt 1, ANZ Wellington [IMG 0144]; see also, 'Plan of Pt College Reserve Blk XI Paekakariki SD', [IMG 0141].
[566] District Supervisor, Wellington, 19 December 1947, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1150952].
[567] C. Skinner, for, Minister of Works to Minister of Education, 2 March 1948, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1150954].

> In the circumstances I do not think it would be proper for me to give my consent until the consent of the Raukawa Marae Trustees is first forthcoming.[568]

At this time the Broadcasting Service again requested additional land at Titahi Bay for radio transmitter purposes.[569]

The Raukawa Marae Secretary Rikihana Carkeek (aka) Bunny Rikihana said a meeting would be held with Ngati Toa at Porirua.[570] Works had suggested an exchange of land was a possibility.[571] In June 1948 a meeting of the Raukawa Marae Trustees again decided they did not want to part with the land.[572]

In February 1949, although aware that the Raukawa Marae Trustees did not want to sell the reserve, the Under Secretary for Māori Affairs said he would approach the trustees about a possible sale, and he asked to be informed about what the Crown was prepared to pay for the reserve.[573] The Director of Housing Construction requested a government valuation of Part College Reserve (375 acre).[574] The block was valued as farm land with a capital value in 1948 of £5,685, with an unimproved value of £3,365 and improvements of £2,320.[575]

---

[568] R.B. Hammond, Assistant Director of Housing Construction, Wellington to District Supervisor Wellington, 22 March 1948, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1150955].
[569] W. Yates, Director, New Zealand Broadcasting Service, Wellington to Commissioner of Works, Ministry of Works, Wellington, 26 July 1949, AAQB 889 W3950/358 24/2495/1 pt 1, ANZ Wellington [IMG 0176].
[570] E.R. McKillop, Commissioner of Works to Director of Broadcasting, Wellington, 13 October 1949, AAQB 889 W3950/358 24/2495/1 pt 1, ANZ Wellington [IMG 0173]; see also, Diocesan Secretary, Wellington to District Supervisor, Housing Construction, Wellington, 3 June 1948, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1150958].
[571] District Supervisor to Rikihana Carkeek, Secretary, Otaki & Porirua Trusts Board, Wellington, 10 June 1948, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1150960]; see also, [P 1150962].
[572] R. Carkeek, Secretary, Raukawa Marae Trustees, Otaki to District Supervisor, Housing Construction, Wellington, 7 July 1948, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1150963]; see also, Secretary, Otaki and Porirua Trusts Board, Wellington to District Supervisor, Housing Construction, Wellington, 15 June 1948, [P 1150961].
[573] R.B. Hammond, Director Housing Construction, Wellington to District Supervisor, Wellington, 9 February 1949, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1150967].
[574] Director Housing Construction to District Supervisor, Wellington, 27 October 1948, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1150965].
[575] H. Stevens, District Supervisor, Ministry of Works, Wellington to Director Housing Construction, Wellington, 25 November 1948, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1150966].

In March 1951 a meeting of the Raukawa Marae Trustees again unanimously decided against selling the College Reserve.[576] In April the Commissioner of Works decided Cabinet approval would be required for the compulsory acquisition of the reserve.[577] The Director of Broadcasting asked for other options to be considered before compulsory acquisition.[578]

In October 1952 the District Commissioner reiterated the Commissioner of Works' position and said 'it appears that the property will not be offered voluntarily, it is proposed to recommend compulsory acquisition for better utilisation' for housing, broadcasting, and school purposes.[579]

In January 1953 Works again asked the Otaki and Porirua Trusts Board to help gain the consent of the Raukawa Marae Trustees to a sale.[580] The board said a sale of Whitireia land was 'contrary to the feelings of the Maori people whose ancestors donated the land.'[581] Works again suggested a land exchange was possible but this offer was not taken up by the marae trustees.[582]

In February 1953 the District Engineer broadened the scope for the need for an acquisition when he emphasised other departments required land in the area for state housing and school purposes and he suggested compulsorily taking the reserve for the purpose of better utilisation.[583] At this time all of the 375 acre reserve was leased to

[576] S.T. Sprott, Secretary, Otaki and Porirua Trusts Board, Wellington to District Engineer, Ministry of Works, Wellington, 29 March 1951, AAQB 889 W3950/358 24/2495/1 pt 1, ANZ Wellington [IMG 0172].
[577] E.R. McKillop, Commissioner of Works to Director, New Zealand Broadcasting Service, Wellington, 11 April 1951, AAQB 889 W3950/358 24/2495/1 pt 1, ANZ Wellington [IMG 0171].
[578] W. Yates, Director, New Zealand Broadcasting Service, Wellington to Commissioner of Works, Wellington, 19 June 1951, AAQB 889 W3950/358 24/2495/1 pt 1, ANZ Wellington [IMG 0170].
[579] C. Langbein, District Commissioner of Works, Wellington to District Supervisor Housing, Wellington, 20 October 1952, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1150972]; see also, 'Plan of subdivision…Otaki & Porirua Maori Trusts Block, Block I Titahi Bay', [P 1150973].
[580] C. Langbein, District Commissioner of Works, Wellington to Secretary, Otaki & Porirua Trusts Board, Wellington, 16 January 1953, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1150975].
[581] S.T. Sprott, Secretary, Otaki and Porirua Trusts Board, Wellington to District Commissioner of Works, Ministry of Works, Wellington, 21 January 1953, AAQB 889 W3950/358 24/2495/1 pt 1, ANZ Wellington [IMG 0166].
[582] C. Langbein, District Commissioner of Works, Ministry of Works, Wellington to Secretary, Otaki & Porirua Trusts Board, Wellington, 16 January 1953, AAQB 889 W3950/358 24/2495/1 pt 1, ANZ Wellington [IMG 0165].
[583] C. Langbein, District Commissioner of Works, Ministry of Works, Wellington to Commissioner of Works, Wellington, 17 February 1953, AAQB 889 W3950/358 24/2495/1 pt 1, ANZ Wellington [IMG 0164].

farmer L.W. Iggulden for a term of seven years with a right of renewal from 20 March 1953.[584]

The District Commissioner of Works noted the unsuccessful negotiations for the reserve had been going for a number of years. He reiterated a range of departments required land in the reserve. He said the marae trustees' response 'definitely close any avenue for purchase by negotiations' so a 'proclamation will be required'.[585] In July, after consultation between the departments about their requirements, it appeared 'only Broadcasting is really interested in the land'.[586] However, by December the Departments of Housing and Education had revised their positions and decided they too required land in the reserve.[587]

In March 1954 the District Supervisor for Works noted that since the inception of the 'Porirua Basin Development Scheme' it had been envisaged that all of the College Reserve block would be acquired and developed for housing purposes with the associated water and sewerage treatment and roading infrastructure. He recommended that because of the resistance to negotiating a sale, the reserve should be compulsorily acquired.[588] In May 1954 the Commissioner of Works reiterated the need for compulsory acquisition and noted that the board had recently leased the area for grazing.[589]

The Ministers of Works, Education and Broadcasting were asked to consider a joint approach to the compulsory acquisition of the land which their officials considered essential.[590] Works had for years considered Cabinet should be approached for its

[584] 'Plan of Pt College Reserve Blk XI Paekakariki SD', on AAQB 889 W3950/358 24/2495/1 pt 1, ANZ Wellington [IMG 0141].
[585] C. Langbein, District Commissioner of Works, Wellington to Commissioner of Works, Wellington, 17 February 1953, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1159077].
[586] C. Langbein, District Commissioner of Works, Wellington to Commissioner of Works, Wellington, 21 July 1953, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1150986].
[587] E.R. McKillop, Commissioner of Crown Lands, Wellington to Director of Broadcasting, Wellington, 18 December 1953, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1150987].
[588] F.C. Basire, District Supervisor, Ministry of Works, Housing Division, Wellington to Commissioner Housing and Construction, Wellington, 17 March 1954, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1150988-1150989].
[589] E.R. McKillop, Commissioner of Works to Director of Education, Wellington, 13 May 1954, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1150990].
[590] W. Yates, Director, 25 May 1954, AAQB 889 W3950/358 24/2495/1 pt 1, ANZ Wellington [IMG 0157-0158]; see also, 'Plan of Pt College Reserve Blk XI, Paekakariki SD', [IMG 0156].

consent for a compulsorily acquisition.[591] A decision to approach Cabinet was delayed while Treasury asked the Broadcasting Service whether easements over the transmitter areas would be sufficient.[592] The Broadcasting Service said easements would not provide a 'permanent solution.'[593]

In June 1954 D. Prosser a member of the Raukawa Marae Trustees and the Otaki and Porirua Trusts Board was asked to assist the Crown in acquiring the Whitireia Block.[594] At this time the Land Purchase Officer argued the need for an additional four to five acres for a school site was 'urgent'.[595]

The Commissioner of Works again recommended an interdepartmental approach to Cabinet that emphasised the urgent need for the entire Whitireia Block.[596] The Ministers' of Works, Māori Affairs, Education, Housing, and Broadcasting in September 1954 agreed to a joint approach to Cabinet. Before this approach was made Māori Affairs, Under Secretary T.T. Ropiha was again asked to informally discuss the matter with the marae trustees.[597]

The Ministers of Works and Lands decided an initial area of 89 acres would be compulsorily acquired with the remainder of the reserve being acquired at a later date.[598] The Valuation Department was asked for a new valuation of 375 acres of Whitireia.[599]

---

[591] E.R. McKillop, Commissioner of Works, Wellington to District Commissioner of Works, Wellington, 25 March 1953, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1150978].
[592] E.R. McKillop, Commissioner of Works to Director, New Zealand Broadcasting Service, Wellington, 3 August 1954, AAQB 889 W3950/358 24/2495/1 pt 1, ANZ Wellington [IMG 0152].
[593] W. Yates, Director, New Zealand Broadcasting Service, Wellington to Commissioner of Works, Wellington, 11 August 1954, AAQB 889 W3950/358 24/2495/1 pt 1, ANZ Wellington [IMG 0151].
[594] Land Purchase Officer, Wellington to D. Prosser, Porirua, 9 June 1954, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1150991].
[595] Land Purchase Officer, Wellington to Secretary, Otaki and Porirua Trusts Board, Wellington, 9 June 1954, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1150992].
[596] E.R. McKillop, Commissioner of Works to Minister of Housing, 4 June 1954, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1150993].
[597] Conference in Office of Minister of Works, 1 September 1954, AAQB 889 W3950/358 24/2495/1 pt 1, ANZ Wellington [IMG 0150].
[598] File note, A.B., 'Otaki & Porirua Trust Land', 15 September 1954, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1150998].
[599] C.L. Langbein, District Commissioner of Works, Wellington to District Officer, Valuation Department, Wellington, 19 October 1954, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1150999].

In November 1954 Māori Affairs met with eight members of the Raukawa Marae Committee. Marae committee secretary, Rikihana Carkeek said they had discussed the issue of the Crown taking the reserve in the past and had opposed selling any of the land. This remained their position, with the exception of one member who agreed the Crown could acquire five acres for the school.[600] The Commissioner of Works was advised there was 'no strong reaction' when the committee was told their land would be compulsorily acquired, nor did it appear that they 'would raise any strong objections'.[601]

In December 1954 the Commissioner of Works recommended that the Crown compulsorily acquire 5 acres for the Titahi Bay North School site; 44 acres for broadcasting purposes; and 40 acres for housing purposes. He claimed that the owners would suffer no hardship as a result of the taking, and that the return from investing the compensation payment would probably be better than annual grazing rental.[602]

In June 1955 Cabinet decided that approximately 89 acres of Part College Reserve owned by the Otaki and Porirua Trusts Board would be compulsorily taken.[603] A notice of intention to take the 89 acres of Part College Reserve for better utilisation was issued at the end of June 1955.[604] The notice and plan were displayed in the Titahi Bay Post Office.[605]

In August 1955 the Otaki and Porirua Trusts Board, at the request of the Raukawa Marae Trustees, lodged an objection to the taking and stated that the 'Raukawa Marae

[600] The members were Rikihana Carkeek, Mangu Roiri, Dave Prosser, Hema Hakaraia, Nepia Winiata, Tamati Hawea, Matenga Baker, Mita Johnson; J.A. Mills, District Officer to Māori Trustee, 5 November 1954, AAQB 889 W3950/358 24/2495/1 pt 1, ANZ Wellington [IMG 149].
[601] E.R. McKillop, Commissioner of Works, Ministry of Works, Wellington to Minister of Works, 1 December 1954, AAQB 889 W3950/358 24/2495/1 pt 1, ANZ Wellington [IMG 0148].
[602] E.R. McKillop, Commissioner of Works, Ministry of Works Wellington to Minister of Works, 13 December 1954, AAQB 889 W3950/358 24/2495/1 pt 1, ANZ Wellington [IMG 0144].
[603] NZG, 30 June 1955, p. 1042; P.L. Laing, District Commissioner of Works to Commissioner of Works, 17 June 1955, AAQB 889 W3950/358 24/2495/1 pt 1, ANZ Wellington [IMG 0161]; see also, Secretary of the Cabinet to Minister of Works, 26 January 1955, [IMG 0143].
[604] NZG, 30 June 1955, p. 1042.
[605] W.B. Russell, Chief Postmaster, Wellington to Commissioner of Works, Wellington, 19 September 1955, AAQB 889 W3950/358 24/2495/1 pt 1, ANZ Wellington [IMG 0140].

Trustees regard this land as sacred and are very adverse to being deprived of any part of it.'[606] The Minister of Works responded that the land was:

> in a very different category from ancestral lands of the Maoris which are actually occupied by them. The land being acquired by the Crown has been alienated from the Maoris under long-term lease for several years and is at present being used for farming purposes by a European lessee whose rights extend until 1967. The land is in effect an endowment to provide an income to the Board for certain trust purpose.[607]

He said the trust could fulfil its purposes using the income from the compensation payment and concluded it was in the 'public interest' that the Crown developed the land for 'essential public purposes'.[608]

The Minister therefore effectively dismissed the idea that the land was 'sacred' or an ancestral taonga, merely by virtue that it had not been in direct Māori occupation. This attitude ignored the long history of Māori protest about the way the land original was donated for education purposes but had resulted in permanent land loss, and it did not allow for Māori concept of enduring ancestral ties regardless of the legal status of the land.

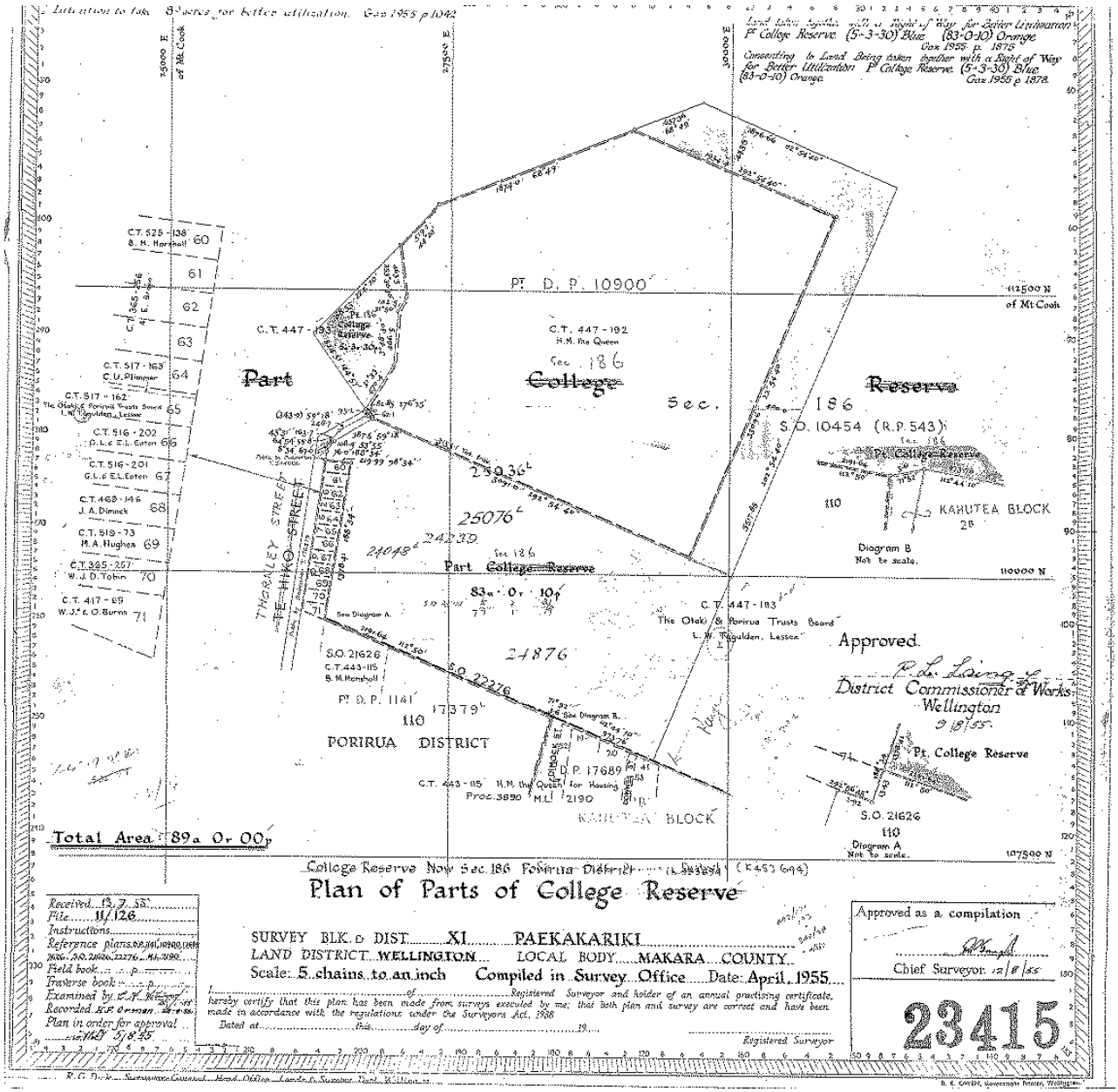
The lessee L.W. Iggulden also objected to the notice to take the 89 acres because it would make his farming operation 'virtually impossible'.[609] The Minister of Works said the objection was not well grounded and concluded any loss suffered by Iggulden would be covered by compensation.[610]

In December 1955 a proclamation taking Part College Reserve (89 acres) Block XI Paekakariki Survey District for better utilisation was issued.[611] The land taken is shown in Figure 20 below:

---

[606] Martin & Hurley, Solicitors, Wellington to Minister of Works, Wellington, 8 August 1955, AAQB 889 W3950/358 24/2495/1 pt 1, ANZ Wellington [IMG 0138-0139].
[607] W.S. Goosman, Minister of Works to Martin & Hurley, Wellington, 23 August 1955, AAQB 889 W3950/358 24/2495/1 pt 1, ANZ Wellington [IMG 0137].
[608] ibid
[609] Brandon Ward MacAndrew & Watts, Solicitors, Wellington to Minister of Works, Wellington, 5 August 1955, AAQB 889 W3950/358 24/2495/1 pt 1, ANZ Wellington [IMG 0136].
[610] W.S. Goosman, Minister of Works to Brandon Ward MacAndrew & Watts, Wellington, 20 October 1955, AAQB 889 W3950/358 24/2495/1 pt 1, ANZ Wellington [IMG 0135].
[611] NZG, 12 December 1955, p. 1875.

**Figure 20: Whitireia Land Taken for Better Utilisation 1955[612]**




The Valuation Department valued the reserve with a capital value of £16,200, with an unimproved value of £15,200 and improvements of £1,100. The 89 acres consisted of approximately 39 acres for housing; 44 acres for broadcasting; and a 5 acre school site.[613]

[612] Survey Office Plan SO 23145.

[613] H.A. Fullarton, District Commissioner of Works to Branch Manager, Valuation Department, Wellington, 12 December 1960, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1160028].

After the Otaki and Porirua Trusts Board objection failed, the board asked the Crown to purchase Part Lot 65 (35.3p), which was now unusable, as it had provided access to the area acquired by the Crown.[614] The Commissioner of Works in February 1956 sought and received Iggulden's consent to the taking.[615] Part Lot 65 was proclaimed taken for better utilisation in June 1956.[616]

In July 1956 a valuation for Part College Reserve and Part Lot 65 was being made by rural valuer N.H. Mackie. Mackie was concerned about access to the remaining land. The issue of access was not resolved at this time and due to illness a new valuer J.V. MacFarlane was engaged two years later. Iggulden wanted access over the 'Broadcasting roads' so he could move stock to the northern shores of Porirua Harbour. The Broadcasting Service did not allow access to their sites.[617]

In August 1956 the Otaki and Porirua Trusts Board claimed compensation of £19,500 for the 89 acres taken for better utilisation.[618] This sum was subsequently adjusted to account for interest during the intervening years between the taking and the payment of compensation.[619]

In September 1956 solicitors acting for the Otaki and Porirua Trusts Board were concerned that the remaining trust owned land was left without access. They said as long as the issue of access remained unaddressed compensation could not accurately be assessed.[620] They were told the trust's land would be provided with access.[621]

---

[614] Martin & Hurley, Wellington to Minister of Works, 21 September 1955, AAQU 889 W3429/527 24/2495/1 pt 2, ANZ Wellington [IMG 0260].
[615] Correspondence history College Reserve, Ministry of Works to Porirua Trusts Board, Wellington, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1160029-1160036].
[616] NZG, 18 June 1956, p. 779.
[617] Correspondence history College Reserve, Ministry of Works to Porirua Trusts Board, Wellington, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1160029-1160036].
[618] Martin Evans-Scott & Hurley, to Minister of Works, 8 August 1956, AAQU 889 W3429/527 24/2495/1 pt 2, ANZ Wellington [IMG 0257].
[619] Correspondence history College Reserve, Ministry of Works to Porirua Trusts Board, Wellington, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1160029-1160036].
[620] Martin & Hurley, Wellington to District Supervisor, Housing Division, Wellington, 28 September 1956, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1160006]; see also, [P 1160007].
[621] F.C. Basire, District Supervisor, Wellington to Martin & Hurley, Wellington, 24 October 1956, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1160008].

In July 1958 the Broadcasting Service requested an update on the compensation negotiations for the 89 acres of which 44 acres adjoined the broadcasting site.[622] The trusts' solicitors were 'pressing for settlement' and the issue of access and the re-siting of a woolshed resolved. The solicitors also claimed interest, which Works refuted.[623]

In February 1959 this situation was addressed and Iggulden was granted access. The Chairman of the Otaki and Porirua Trusts Board approved negotiations be finalised 'on the basis of an access road from Downes Road'. The Ministry of Works proposed the 'extension of Downes Street to residue of Board's land'.[624] In February 1960 the trusts' solicitor returned plans indicating a road-line acceptable to the board which gave legal access from an extension to Downes Street to the residue of the board's land.[625]

In March 1960 Iggulden's solicitor expressed concern with the ongoing delays in paying compensation and noted there was a five year limitation on filing applications for compensation.[626] An agreement was reached before the five year expiration date.[627] Compensation was not paid at this time.[628]

In July 1960 the Otaki and Porirua Trusts Board solicitor presented the Crown with a claim of £24,235 of compensation for the 89 acres.[629] The solicitor did not receive an

[622] W. Yates, Director of Broadcasting, Wellington to Land Purchase Officer, Works, 25 July 1958, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1160009-1160010].
[623] F.C. Basire, District Supervisor, Ministry of Works, Wellington to District Commissioner of Works, Wellington, 10 February 1959, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1160012-1160013].
[624] Correspondence history College Reserve, Ministry of Works to Porirua Trusts Board, Wellington, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1160029-1160036].
[625] L.C. Malt, District Commissioner of Works to District Supervisor, Ministry of Works, Wellington, 11 February 1960, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1160015]; see also, 'Plan showing location of proposed access to Māori Trust land', [P 1160016].
[626] Martin Evans-Scott & Hurley, Wellington to District Commissioner, Works, Wellington, 2 March 1960, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1160018-1160019]; see also, 'Plan showing location of proposed access to Māori Trust land', [P 1160016].
[627] Land Purchase Officer, Ministry of Works, Wellington to District Commissioner of Works, Wellington, 21 January 1961, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1160043-1160045].
[628] Marin Evans-Scott & Hurley, Wellington to District Commissioner, Works, Wellington, 2 March 1960, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1160018-1160019].
[629] Martin Evans-Scott & Hurley, Wellington to Land Purchase Officer, Ministry of Works, Wellington, 5 July 1960, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1160022-1160023].

immediate reply and in December they presented Works with an adjusted figure of £24,537.[630]

Similarly, Iggulden in December 1960 instructed his solicitor to ascertain the date of entry on the block so that interest for that period could be calculated.[631]

In December 1960 the Valuation Department provided Works with the special government valuation for the 89 acres: housing approximately 39 acres £7,350; broadcasting approximately 44 acres £7,700; school site 5 acres £1,150; making a total of £16,200.[632]

However, in January 1961 the Land Purchase Officer made an assessment that the sum of £24,551-7-4 was 'fair and reasonable' as full and final compensation settlement. The valuation of J.V. McFarlane had been £24,235 plus costs and interest. Part of the final agreement was the vesting of the access strip in the board. The valuation divided the land into residential subdivision land; rural land with urban potential; and solely rural land.[633] In February 1961 a payment of £24,559-7-8 was made to the trusts board's solicitors.[634]

When the solicitors received this payment of £24,559-7-8 from the Ministry of Works they noted that the Treasury Voucher stated it was full and final settlement for all claims. They said the board still required access rights to the broadcasting land and a chain wide strip to be vested in the board.[635] Works said both arrangements would be made. The board was granted by licence a right of access and a one chain strip under

[630] Martin Evans-Scott & Hurley, Wellington to Land Purchase Officer, Ministry of Works, Wellington, 5 July 1960, AATE W3387/25 22/1/2/27, ANZ Wellington [P 116026-1160027]; Martin Evans-Scott & Hurley to Land Purchase Officer, 15 December 1960, [P 1160037-1160038]; see also, D. Warmington, Land Purchase Officer to District Commissioner of Works, 21 January 1961, AAQU 889 W3429/527 24/2495/1 pt 2, ANZ Wellington [IMG 0252].
[631] Martin Evans-Scott & Hurley, Wellington to Land Purchase Officer, Ministry of Works, Wellington, 9 December 1960, AATE W3387/25 22/1/2/27, ANZ Wellington [P 116026-116027].
[632] J.S. Riddick, Assistant Branch Manager, Valuation Department, Wellington to District Commissioner of Works, Wellington, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1160042].
[633] Land Purchase Officer, Ministry of Works, Wellington to District Commissioner of Works, Wellington, 21 January 1961, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1160043-1160045].
[634] K.O. Stephens, Wellington to Martin Evan-Scott & Hurley, 15 February 1961, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1160049].
[635] Martin Evans-Scott & Hurley, Wellington to District Commissioner of Works, Wellington, 16 February 1961, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1160050].

Section 99 of the Public Works Act 1928 and the strip was vested in the board.[636] Because the right of entry was to be revocable at any time a licence instead of an easement had been granted.[637]

In December 1961 it was proposed that a further two and a quarter acres of Otaki and Porirua Trusts Board land would be taken for housing purposes.[638] In April 1963 the trust decided to visit the site of the proposed taking and expressed concern that Works had a 'master plan' to take other board land at Titahi Bay.[639] They were told that Works 'division has no other designs on the Board's land'.[640] By July 1964 an agreement had been reached between Works and the Otaki and Porirua Trusts Board that approximately two and a quarter acres of board land would be taken.[641] The area was Part Lot 64 (2a 0r 20p) which had a capital value of £2,430 and an unimproved value of £2,400.[642] A condition of the agreement was that Works would form the access way to the board's land that had been promised in 1961.[643] Works agreed to provide the access road.[644] Works were advised that the land should be compulsorily acquired because the land could only be sold with the consent of the Minister of Education and the consent of the Raukawa Marae Trustees.[645]

In September 1965 the Otaki and Porirua Trusts Board's solicitors were advised that Works had decided the area was no longer essential and asked whether the board

---

[636] H.A. Fullarton, District Commissioner of Works, Wellington to Martin Evans-Scott & Hurley, Wellington, 19 April 1961, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1160051]; see also, licence agreement, E.A. Maxwell, 18 August 1961, [P 1160052-1160053].
[637] L.J.H. [illegible], for, District Solicitor to Maxwell, 18 August 1961, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1160054].
[638] K.C. Kidd, for, District Land Purchase Officer, to Martin Evans-Scott & Hurley, Wellington, 14 December 1961, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1160060].
[639] Martin Evans-Scott & Hurley, Wellington to District Land Purchase Officer, Ministry of Works, Wellington, 3 April 1963, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1160064].
[640] F.C. Basire, District Supervisor, Ministry of Works, Wellington to District Land Purchase Officer, Wellington, 26 April 1963, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1160065]; see also, K.C. Kidd, for, District Land Purchase Officer to Martin Evans-Scott & Hurley, Wellington, 3 May 1963, [P 1160066].
[641] Martin Evans-Scott & Hurley, Wellington to District Land Purchase Officer, Ministry of Works, 8 July 1964, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1160070-1160071].
[642] D.A. Howe, District Valuer, Valuation, 20 May 1964, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1160072].
[643] K.A. Fullarton, District Commissioner of Works to District Supervisor, Ministry of Works, Wellington, 11 August 1964, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1160073].
[644] K.C. Kidd, for, District Land Purchase Officer to Martin Evans-Scott & Hurley, Wellington, 26 August 1964, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1160075].
[645] Martin Evans-Scott & Hurley, Wellington to District Land Purchase Officer, Ministry of Works, Wellington, 5 May 1965, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1160082].

would like to terminate negotiations.[646] Works justified ending negotiations on the basis that conditions placed on the transfer were 'unnecessary and unjustifiable'.[647] Works said it would complete the purchase if the board agreed to waive the condition of an access road.[648] Works was reminded that the access road was a condition of the original taking of 89 acres and they were told that the Porirua Council had no objection to the board obtaining access from a proposed new road. The board was prepared to complete negotiations for the taking of the two and a quarter acres for £2,500 with interest of 5 percent from the end of 1963, which was a period of 2 years and amounted to £250. Legal and survey expenses were added making the total sum £2,844-15-0. It was reiterated that the board preferred the land to be taken by proclamation rather than through a transfer.[649] In December 1965 solicitors for the board acknowledged and returned the agreement for the Crown to take 2 acres 20 perches.[650]

In summary, the history of the Crown's acquisition of over 89 acres of the College Reserve block at Whitireia demonstrates the Crown's persistence in compulsorily acquiring the land against the repeated objections from the owners and local Māori. Initially the Broadcasting Service was able to occupy the land under lease, but it later insisted that it needed to acquire the freehold. It was well known to officials in the various government departments which drew up plans for the land that the Raukawa Marae trustees were against the sale. Between 1947 and 1954 there was consistent opposition from the trustees. While officials seemed to realise that a negotiated agreement was preferable to compulsorily acquiring the land in the face of opposition, the failure to negotiate an agreement did not mean the taking was abandoned. The Minister's response to objection to the notice of intention used the troubled history of the block against the owners' objections. Calling it an 'endowment' did not remove original tangata whenua ties. Even after the land was taken in 1955, it took over five

[646] H.A. Fullarton, District Commissioner of Works to Martin Evans-Scott & Hurley, Wellington, 16 June 1965, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1160083].
[647] F.C. Basire, District Supervisor, Ministry of Works, Wellington to District Commissioner of Works, Wellington, 26 June 1965, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1160084].
[648] K.C. Kidd, for, District Land Purchase Officer to Martin Evans-Scott & Hurley, Wellington, 5 August 1965, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1160085].
[649] Martin Evans-Scott & Hurley, Wellington to District Land Purchase Officer, Ministry of Works, Wellington, 13 December 1965, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1160088-1160090].
[650] Martin Evans-Scott & Hurley, Wellington to Land Purchase Officer, Ministry of Works, 17 December 1965, AATE W3387/25 22/1/2/27, ANZ Wellington [P 1160091].

years to settle compensation, and the trustees had an ongoing struggle to get the Ministry of Works to provide the accessway which was a condition of 1961 compensation agreement.

## 5. Waikanae Town Centre

In the early 1970s two small blocks of land were taken for inclusion in the Horowhenua County Council's development of Waikanae Town Centre. The development proposals dated back to the mid-1960s, and largely involved purchasing land for redevelopment. The development took place right next door to Whakarongotai Marae, and has an ongoing impact on marae activities.

In 1965 the council purchased two blocks of Māori land adjoining the marae reserve, which are now a public carpark. The council acquired Ngarara West A78E2 through enforcing outstanding rates charges to have the block vested in the Māori Trustee, which then sold it to the council. More details about the rates charges, sale by the Māori Trustee, and attempts to halt the sale by the Baker whanau can be found in Suzanne Woodley's 'Local Government Issues Report'.[651]

In June 1969 Horowhenua Council issued a notice of intention to take seven small parcels of land, three of which were in Māori ownership: Ngarara West A78B9C (2r 5.95p); A78B9D (2r 5.96p); and A78B9B (2r 5.96p).[652] The purpose the land was being taken for was given as:

> for the purposes of the operative district scheme for the County of Horowhenua and for the regrouping, improvement and development of the said lands for letting or leasing or resale for commercial purposes; the Council being of the opinion that it is necessary and expedient to do so for the proper development and use of the said lands and for the improvement of areas that are too closely subdivided.[653]

The power to compulsorily acquire land for such a wide-ranging purpose was given by Section 47 of the Town and Country Planning Act 1953, which allowed councils to purchase or acquire land under the Public Works Act in accordance with an operative District Scheme.[654] Therefore, once Horowhenua County Council had zoned the land in the vicinity of Whakarongotai Marae as a town centre, it was able to compulsorily acquire the land for that purpose.

---

[651] Suzanne Woodley, 'Porirua ki Manawatū Inquiry District: Local Government Issues Report', Crown Forestry Rental Trust, June 2017, pp. 539-545, 595.
[652] NZG, 12 June 1969, p. 1104.
[653] ibid
[654] A. Eaton Hurley, Solicitor to County Clerk, Horowhenua County Council, 15 June 1967, Rawhiti Higgott Papers [IMG 2724-2726].

Ngarara West A78B9C (2r 5.95p) was owned by D.H. Parata, who lived in Kilbirnie, Wellington. He had a firm of solicitors representing him in the matter. As no objections were received to the notice of intention, in October 1969 Mr Parata was given a notice that Horowhenua County Council confirmed its intention to acquire the land. It was to be taken under the compulsory provisions of the Public Works Act 1928 and Section 47 of the Town and Country Planning Act 1953.[655] The matter then passed to the Public Works Department to implement on behalf of the council. The District Engineer reported the block was fenced and had a building and shelter trees. The land was used for grazing. The owner did not live on the land but the engineer suggested he may object to his land being taken.[656] The shed and shelter trees on the land meant the consent of the Governor General was required.[657] The consent notice was signed on 13 April 1970, and then the notice taking Ngarara West A78B9C was signed on 14 April 1970. [658] Both notices said that the land was taken for the purposes of the proper development and use of the land in accordance with the Horowhenua County Operative District Scheme. In 1970 D.H. Parata rejected a council compensation offer of $8,500 and the settlement of compensation was left to the Māori Land Court.[659] The final amount paid by the council was $9,310.[660]

Neighbouring Ngarara West A78B9D (2r 5.96p) was owned by T.W. Parata who was served notice of the council's intention in June 1969.[661] The Resident Engineer reported that the block was in pasture and fenced, but there were no buildings or gardens on the land.[662] As the block was in sole-ownership, the Māori Land Court had issued a status declaration order that it was European land, which meant that

[655] Martin Evans-Scott & Hurley, Solicitors, Wellington to District Commissioner of Works, Wellington, 3 March 1970, ABKK 889 W4357/364 53/54/1 pt 1, ANZ Wellington [IMG 0484-0485].
[656] J.A. Langbein, Resident Engineer, Porirua to District Commissioner of Works, Wellington, 18 March 1970, ABKK 889 W4357/364 53/54/1 pt 1, ANZ Wellington [IMG 0486].
[657] C.J. Tustin, District Commissioner of Works to Commissioner of Works, 24 March 1970, ABKK 889 W4357/364 53/54/1 pt 1, ANZ Wellington [IMG 0482].
[658] NZG, 27 April 1970, p. 705.
[659] J.H. Hudson, County Clerk, Confidential Report to Chairman & Members Waikanae County Town Committee & Chairman & Councillors, Horowhenua County Council, 17 June 1970, Rawhiti Higgott Papers [IMG 2719].
[660] J.H. Hudson, Report to Horowhenua County Council, 18 November 1970, Rawhiti Higgott Papers [IMG 2764-2765].
[661] Martin Evans-Scott & Hurley, Wellington to District Commissioner of Works, Wellington, 16 December 1970, ABKK 889 W4357/364 53/54/1 pt 1, ANZ Wellington [IMG 0477-0478].
[662] J.A. Langbein, Resident Engineer to District Commissioner of Works, 16 February 1971, ABKK 889 W4357/364 53/54/1 pt 1, ANZ Wellington [IMG 0480].

compensation would have been negotiated directly with Parata (or his solicitors). In June 1971 the council reported that no action had yet been taken to negotiate a settlement, as it had been decided to wait until the court had determined compensation for Ngarara West A789C as a guideline.[663] The final proclamation taking the land was gazetted April 1971.[664]

Ngarara West A78B9B (2r 5.96p) was subject to the council's notice of intention to take land for the town centre.[665] In this instance the council were able to acquire the land through negotiation rather than compulsory acquisition. The block was owned by Te Aputa Kauri. The notice of intention was served on Mrs Kauri, and a few days later she met with the county clerk. He said that the council would offer $10,000 for her land, but she complained that would not be 'barely enough' for her to buy a new home. She also requested to be able to keep occupying her home for up to three years, paying an amount equivalent in rates as rental.[666] Kauri's solicitor informed the council that she was opposed to the taking of the land, and lodged an official objection. That being said, he then said that 'without prejudice', she would sell the block to the council for $12,000, on the condition that she be allowed to continue living there for up to three years.[667] This made it clear that although she was agreeing to sell, it was an agreement made in the context of the council planning to take her land anyway. The council purchased the block on 1 April 1970, and Mrs Kauri initially continued to occupy the property, by paying rent to the council.[668] Kauri received $12,000 for the land.[669]

The council also negotiated the purchase of at least two other parcels of Māori-owned land for the town centre. One of the earliest was in 1965, when Uruorangi Paki and Tama Parata were asked whether they would be interested in selling Ngarara West

[663] J.H. Hudson, County Clerk, Confidential Report to Chairman & Members Waikanae County Town Committee & Chairman & Councillors, Horowhenua County Council, 17 June 1970, Rawhiti Higgott Papers [IMG 2720].
[664] NZG, 5 April 1971, p. 569.
[665] NZG, 11 June 1969, p. 1104.
[666] J.H. Hudson, County Clerk, Memorandum of a meeting between County Clerk and Mrs T.A.K. Kauri, 18 June 1969, Rawhiti Higgott Papers [IMG 2768].
[667] Feist, Solicitor, to J.H. Hudson, County Clerk, 30 June 1969, Rawhiti Higgott Papers [IMG 2769].
[668] J.H. Hudson, County Clerk, Confidential Report to Chairman & members Waikanae County Town Committee & Chairman & Councillors, Horowhenua County Council, 17 June 1970, Rawhiti Higgott Papers [IMG 2720].
[669] ibid [IMG 2719].

A78E1 (3 roods 21 perches) 'for Civic purposes'.[670] In light of the rezoning of their land for the civic centre, the owners asked for $2,000 for the section, which was agreed to by the council.[671] Ngarara West A78E14 (36.98 perches) was purchased from T. Parata. The area was required 'to assist in providing service lane access', to the rear of the commercial area. After Parata asked for $3,500 a final agreement was reached to purchase for $3,300.[672]

As well as the land acquired by the council for the town centre, the development of the Waikanae shopping centre has had an ongoing detrimental impact on Whakarongotai Marae. The issue of how the council changed the marae access way to the main road was raised as part of the feedback on the draft report. Although this is not strictly a Public Works Act issue (being more related to Local Government Issues), it is briefly covered below based on material supplied by Rawhiti Higgott (including papers he sourced from Kapiti Coast District Council records). Time constraints mean we have not conducted our own further research into this issue. Claimants will also be able to give their own evidence on this matter, but it may require further gap-filling research in the future.

Whakarongotai Marae is situated on the Ngarara West A78A block. In January 1952 a survey plan was presented to the Māori Land Court to complete a recommendation made in October 1948 that Māori freehold land 'with a right-of-way to the main road' being 'Sec 78A with Right-of-way appurtenant thereto' be set aside as a reserve for a marae. The marae was vested in Paioke Eruini, Wikitoria Jenkins Ropata, Hana Matenga Baker, Rangiauahi Puni Tamati, Teiaroa Ropata, Pahemata Pirihana Erihana and Tere Rauara Parata as trustees.[673] In June 1952 Ngarara West 78A (2r 30.37p) was gazetted as a Māori Reservation for the common use of Ngatiawa, Ngatitoa and Ngati Raukawa as a meeting place.[674]

[670] J.H. Hudson, County Clerk to R. Feist, Hadfield Peacock & Tripe, Solicitors, 6 April 1965, Rawhiti Higgott Papers [IMG 2762].
[671] J.H. Hudson, County Clerk to Park Cullinane & Turnbull, 5 July 1965, Rawhiti Higgott Papers [IMG 2763].
[672] Extract from Horowhenua County Council Minutes, no date [c.1970?], Rawhiti Higgott Papers [IMG 2760].
[673] Extract from Well MB, 24 January 1952, fol 128, Rawhiti Higgott papers.
[674] NZG, 16 June 1952, p. 1086.

The right of way led from the marae block through to the main road. At that time, this was the only access way which allowed vehicles to drive up to the marae (the current Marae Lane was formed as part of the town centre development – see below). While the marae is on the west of the main road, the church and burial ground used for local tangi were on the other-side of the road, over the railway lines. Among other things, the access way was used at tangi to convey the tupapaku from lying at the marae to church and/or burial services across the road.

In 1969 a confidential report was presented to the chairman and members of the Waikanae County Town Committee for a 'Commercial Centre Re-development Scheme'. The sub-committee recommended that the commercial centre was to be redesigned with a focus on carparks and service lanes. There were three propositions to include land in the commercial development plans:

> 'First: That the Marae property might become available for incorporation in the Scheme.
> Second: That failing that, vehicle access between Te Moana and Ngaio Roads through the Marae property might be arranged.
> Third: That in the last resort a cul-de-sac access from Ngaio Road could be provided.'[675]

The sub-committee also met with the marae trustees and reported that the trustees 'did not see any problem in confining the access to their property from the Highway to pedestrian access only' and they noted 'Nothing further can be done until we hear from the Maoris.'[676] Ra Higgott argues it is hard to believe that the trustees would agree to the loss of vehicle access considering the trustees and beneficial owners to his knowledge had subsequent ongoing complaints about the loss of vehicle access.[677] At this time the council were purchasing surrounding lands for the shopping centre and the chairman noted 'we shall have to pause whilst we proceed to sell off the sites...to enable us to press forward to purchase the remaining properties we require.'[678] Between 1969 and 1970 the council expended $30,028 on purchasing

[675] S.T. Barnett, Chairman, Confidential Report, Chairman & members Waikanae County Town Committee, Commercial Centre Re-development Scheme, 11 December 1969, Rawhiti Higgott papers [IMG 2716].
[676] ibid
[677] Ra Higgott personal correspondence re Te Atiawa Public Works Draft 2018, 27 April 2018.
[678] S.T. Barnett, Chairman, Confidential Report, Chairman & members Waikanae County Town Committee, Commercial Centre Re-development Scheme, 11 December 1969, Rawhiti Higgott papers [IMG 2717].

properties in Waikanae for the shopping centre. A further $51,364 expenditure on purchasing land and buildings and associated costs was estimated for the 1970 to 1971 financial year.[679]

In October 1970 Horowhenua County Council wrote to one of the marae trustees, Mrs P.J. Ellison, to explain its proposals and seek a meeting to discuss them. The County Clerk said the council was developing a shopping centre in Waikanae between the Waikanae Hotel and Ngaio Road which would have areas set aside as carparks and service lanes. Ellison was told that the council had a 'talk' with members of the marae committee about a service lane and carparks and the 'Marae Committee did impress upon the Council that this matter is one for the Marae Trustees to decide, and I was asked to get in touch with you about it to see if you and your co-trustees Mrs Haua Baker and Mrs Piki Barratt, are agreeable.' The council wanted to show the trustees the plan prepared for the shopping centre. The council clerk said he wanted to discuss the plan 'on the site of the marae at Waikanae' and proposed some meeting dates.[680] Mrs Ellison was subsequently sent a drawing of the commercial area for development and the council wanted the trustees' consent for a service lane to be constructed across the marae's eastern boundary which would be exchanged for council owned land. A toilet block belonging to the marae which was in the path of the service lane was to be demolished. The letter asked for the trustees' consent to close the existing right of way to vehicles, meaning there would only be pedestrian access between the marae with the main road.[681]

On 18 October 1970 the county clerk, J.H. Hudson met Mrs Ellison and other trustees at Whakarongotai Marae. The trustees subsequently sent a list of points that they had agreed upon with the council. They approved a strip on the marae's eastern boundary for a service lane which would result in a land exchange. They agreed to the toilets being demolished and rebuilt on marae land. The council was to build a gate on the eastern boundary and finally clause six which stated:

---

[679] J.H. Hudson, County Clerk, Confidential Report to Chairman & members Waikanae County Town Committee & Chairman & Councillors, Horowhenua County Council, 17 June 1970, Rawhiti Higgott Papers [IMG 2719].
[680] [County Clerk] to Mrs P.J. Ellison, Plimmerton, 1 October 1970, Rawhiti Higgott papers [IMG 2703].
[681] J.N. Hall, County Engineer, Horowhenua County Council, Levin to P.J. Ellison, Plimmerton, 9 October 1970, Rawhiti Higgott papers [IMG 2706-2707].

> Due to exposure of the Marae to the Public Eye the County Council undertake the erection of a Brick wall or Concrete wall on the East, North and Western Boundaries.[682]

The county clerk responded that he was surprised to hear about the wall which he said was not discussed nor could the council afford to build the wall.[683] It is also noticeable that there was no mention in the letter from the trustees of any consent to the proposal to stop vehicles using the existing right of way.

In November 1972 the Resident Engineer explained to the council's solicitors the record of correspondence with two marae trustees (Mrs Ellison and Mrs Lake) since 1 October 1970. This included a request from Mrs Lake regarding a removal of clause six regarding the wall from the agreement. It was noted that on 13 May 1971 the marae trustees engaged solicitors to act on their behalf when dealing with the council and the shopping centre development.[684]

In August 1973 solicitors acting for the marae trustees said that six or seven trustees had 're-adopted' clause six requiring the wall to be built to ensure the marae's privacy. They also required an 'alternative access' to the rear of the marae with the qualification that if the access from Te Moana Road to the marae was permanent, no alternative would be required. The marae was concerned it had no 'rights over the strip of land which is 78E17 on plan 20/624.' The trustees also required the building of a new toilet block. The solicitors concluded that if the requirements: 'are met in full, the Marae will reluctantly accept the loss of its existing vehicular right of way from the state highway. This is, of course, subject to the creation of a permanent pedestrian access way [emphasis added].' They reiterated that the marae trustees had 'never agreed' to this and 'this point is insisted upon by our clients'. They explained that no final agreement had ever been reached between the council and the trustees and given the length of negotiations it was unsurprising the trustees had adjusted their

[682] B.W. Lake, Raumati to J.N. Hall, Horowhenua County Council, Levin, 25 February 1971, Rawhiti Higgott papers [IMG 2708].
[683] J.H. Hudson, County Clerk, Horowhenua County Council, Levin to P.J. Ellison, Plimmerton, 15 March 1971, Rawhiti Higgott papers [IMG 2709].
[684] J.N. Hall, County Engineer to Martin Evan-Scott & Hurley, Solicitors, Wellington, 13 November 1972, Rawhiti Higgott papers [IMG 2710].

position.[685] It was also clear that the marae trustees were very unhappy about the situation:

> However, we must advise that the Trustees are extremely concerned at what they consider to be the interference and unsatisfactory nature of the offer of exchange. This point of view was very strongly expressed throughout the metting [sic] and we advise you of it as we feel the Marae is unlikely to consent to any exchange at all other than on the basis of this letter.[686]

In November 1974 the Māori Land Court heard the application to include additional land in the reserve and to exclude land from the reservation of Ngarara West A78A. Eaton Hurley for the council said they had yet to acquire all the land required for the shopping centre and the land exchange for the service lane. The council was to take 28.6 perches for the service lane in exchange for 25.82 perches. He said the council's 'new' plan included land from Waikanae Holdings Ltd (Waikanae Hotel) 'which will give marae access to a public road.' Pohl, representing the marae trustees, said: 'a public street provided giving legal access to the marae has not been considered by trustees but it will be for the benefit of the marae. So far as I know nobody objects to the proposals.' Judge M.C. Smith ordered that the 28.6 perches be excluded from the reserve and vested in the county and the area of 25.82 perches and 2.78 perches vested in the beneficial owners of A78A. The road over Ngarara West A78E2, A78E7 and A78 appurtenant to Ngarara West A78A was to be cancelled.[687] Ra Higgott has commented these were 'issues that hadn't been discussed with trustees as the court minutes read. The trustees were backed into a corner by council and their lawyers.'[688]

Ra Higgott further elaborates about the impact on the Whakarongotai Marae:

> I remember as a child attending functions and tangi at the marae. There was a roadway (ROW) from the state highway that ran to the front entrance of the marae and buses and cars were able to drive in and would park on land on the entrance side of the marae. This entrance was also the traditional pathway to our urupa which was across on the eastern side of the main highway (Ruakohatu urupa). We would walk and carry the coffin of our deceased across the main road…..Since the creation of the commercial shopping centre, the access we had has been cancelled, although it is now a pedestrian walkway

[685] McGrath Robinson & Co, Solicitors, Wellington to Martin Evans-Scott & Hurley, Solicitors, Wellington, 21 August 1973, Rawhiti Higgott papers [IMG 2711-2712]; see also, plan Waikanae Shopping Centre June 1974, Rawhiti Higgott papers [IMG 2713].
[686] ibid
[687] Extract from Otaki MB 78, 6 November 1974, fols 313-314, Rawhiti Higgott papers [IMG 2714-2715].
[688] Ra Higgott personal correspondence re Te Atiawa Public Works Draft 2018, 27 April 2018.

> for the community use. This was not an original permission from the marae trustees…..The council simply said that they were to cancel our right to drive on the ROW from the highway. They said we could access the marae via the new service lane that was to be formed. This has caused stress at times of tangi and special hui that we have. Manuhiri have to stand on the footpath in public…..Shop entrances open up to the ROW making our procession to the urupa quite public. This is becoming worse by the year with more traffic and pedestrians.[689]

By the 1980s it was widely acknowledged that the service lane was more than an access way for shops and the marae. Higgott says council minutes of 29 November 1986 acknowledge that the service lane had developed 'over the years into a convenient road with access between Ngaio Road and Te Moana Road.'[690] In December 1986 a notice of consent declaring Ngarara West A78A (699sqm) known as 'Marae Lane' to be gazetted as a road was issued.[691]

The marae's problems with access and privacy were further compromised and exacerbated when:

> The Greater Wellington Regional Council (GWRC) has developed a commuter car park on the south side of the marae. Commuters now use the ROW to get to the railway station causing more foot traffic.
> Car parking has now become a huge issue, especially when we have tangi as the carpark has limited hourly parking…..In the creation of GWRC carpark, the heavy machinery work (vibration) we believe, has caused the land in front of the meeting house to drop therefore water now 'ponds' and causes much distress to the people.[692]

In 2003 the council informed the marae about 'parking restrictions' for the carpark in front of the marae. Ra Higgott said previous arrangements with the council had been predicated on the understanding 'that car parking would be available to marae users' which he says is evident from the correspondence between the council, their lawyers and the marae trustees and their lawyers.[693]

In summary, the Horowhenua County Council choose to develop a town centre in the area where Wi Parata had established a Maori kainga at the end of the nineteenth

[689] ibid
[690] ibid
[691] Consent to Gazette Notice, 10 December 1986, Rawhiti Higgott papers [IMG 2718].
[692] Ra Higgott personal correspondence re Te Atiawa Public Works Draft 2018, 27 April 2018.
[693] ibid

century. Whakarongotai Marae had been relocated from its original coastal position to be near the railway station, and while European settlement was provided for on the eastern side of the railway at Parata Native Township, Wi Parata, Hemi Matenga and others had houses around the marae, with their associated church and urupa across the road. The Horowhenua County Council used a combination of its powers under the Land Subdivision in Counties Act, the Rating Act and the Public Works Act to rezone the land for a town centre, and to both purchase and compulsorily acquire sections from both Māori and Pakeha. The development has had an ongoing negative impact on Whakarongotai Marae which is now hemmed in by carparking, and lost its vehicular access to the main road.

## 6. Miscellaneous Takings

This section contains brief information on a series of miscellaneous takings. While they were not identified as case studies in the consultation process, the information that has been gathered in the course of researching the district-wide spreadsheet and report is presented here. It includes land taken in Waikanae for the school and post office; Paraparaumu school; and land taken for soil conversation and river control purposes for the Waikanae river scheme.

### 6.1 Parata Native Township: Waikanae School and Post Office

Parata Native Township was proclaimed under the Native Townships Act 1895 in August 1899.[694] The history of how the establishment of Parata Native Township and how it was administered by the Crown will be discussed in a different research report being prepared by Waitangi Tribunal staff. The following information gives brief information on the site of Waikanae Primary School and Post Office from a public works perspective. The Waitangi Tribunal research project may be able to provide further context, particularly regarding negotiations and arrangements made with the owners of the township land.

Prior to agreeing to the establishment of the township, Wi Parata had agreed to land being used for a school site, within the area which was to become the township. In October 1895 it was reported that Wi Parata had agreed to lease land at Waikanae for a school for £5 per year.[695] When Parata Native Township was subsequently surveyed, the school site became Section 43 (3 roods 35.8 perches) of the township, and was designated as an Education Reserve.[696] Under the Native Township Act 1895, sections could be set aside as reserves for public purposes, and were vested in Crown ownership without payment.[697] The school site was then vested in the Wellington Education Board. However, the site of the school was swampy, and considered unsuitable. In 1908 the Education Department informed the Native Department that 'arrangements have been made with the Native owners' to shift the

[694] NZG, 10 August 1899, p. 1587.
[695] *Evening Post,* 30 October 1895, p. 2, Papers Past.
[696] Deposited Plan DP 1031.
[697] Section 12(2) Native Townships Act 1895.

school to sections 18 and 19 of the township.[698] Special legislation was required to implement this arrangement. Section 38 of the Māori Land Laws Amendment Act 1908 empowered the Wellington Education Board to acquire Sections 18, 19 and 23 as sites for a school and teacher's dwelling. It also provided that any person with an interest in the land was entitled to compensation under the Public Works Act.[699] It appears that the 'arrangement' did not provide for the original school site to be revested in the owners. In 1915 the Education Board subdivided Section 43 into 7 smaller sections, presumably for sale as residential properties.[700]

On 25 March 1907 the Under Secretary of Public Works asked for Section 4 Parata Native Township to be surveyed so the land could be acquired by the Crown. In April Surveyor Lawe was told to peg off half the section for the post office site. In May the Under Secretary received a plan of the section and informed the Commissioner of Crown Lands that to avoid any delays it should be taken under Section 27.[701] On 20 June 1907 a gazette notice was issued taking Part Section 4 but the area was incorrect and a further gazette notice was issued in July 1907 taking 1 rood 1 perch for post office purposes.[702]

When administration of the township was transferred from the Commissioner of Crown Lands to the Aotea District Land Board in 1908 the commissioner told the president of the board that half of Section 4 Block I Parata Native Township had been taken for the post office. The commissioner had been asked by Public Works to have the land valued, and passed on the Valuer General's valuation so that the board could claim compensation on behalf of the owners.[703] In February 1909 the board sought further information about the process for seeking compensation.[704] The Commissioner

[698] Secretary, Education Department to Under Secretary, Native Department, 26 August 1908, Rawhiti Higgott Papers [IMG 2739].
[699] Section 38 Māori Land Laws Amendment Act 1908.
[700] Deposited Plan DP 3241.
[701] Outline of history of taking Section 4 Parata Native Township for post office site, n/d, ABRP 6844 W4598/59 6/2/1 pt 1, ANZ Wellington [P 1170814]; see also, [P 1170814-1170815].
[702] NZG, 26 July 1907, p. 2176.
[703] J.W. Davis, for, Commissioner of Crown Lands, Lands and Survey, Wellington to President, Aotea Māori Land Board, Wanganui, 5 November 1908, ABRP 6844 W4598/59 6/2/1 pt 1, ANZ Wellington [P 1170810].
[704] Letter to Under Secretary, Public Works, Wellington, 19 February 1909, ABRP 6844 W4598/59 6/2/1 pt 1, ANZ Wellington [P 1170807]; see also, [P 1170809].

of Crown Lands explained: 'As this township is the property of your Board the claim should be made by you.'[705]

Further instruction was supplied in March 1909 when the Under Secretary for Public Works told the clerk of the Aotea District Māori Land Board that:

> The question was then raised as to what was the proper procedure to adopt for ascertaining the amount of compensation to be paid and the question was referred to the Solicitor General who now advises as follows:-
>
> "The land was originally vested in the Crown under the Native Township Act 1895 in trust for the Native owners according to their relative shares or interests therein…The effect of the proclamation taking the land is to discharge the land from this trust but the trust attaches to the Compensation money. Although the case is not expressly provided for in the act, I think that the Native Land Court has jurisdiction under Section 22 to assess the compensation and ascertain the Native owners entitled thereto. When this is done the Crown can pay the money accordingly. If necessary a regulation could be made under Section 25 to meet the case."[706]

The Māori Land Board clerk was told the board should apply to the Native Land Court for a compensation hearing.[707] In July 1909 the board applied to the court to hold a compensation hearing for Part Section 4 (1r 0.1p) Parata Native Township taken for the post office site.[708] In June 1910 the president of the board unable to attend the hearing asked the Native Land Court to adjourn the hearing.[709] The Land Purchase Officer at this time advised the board president that the amount of compensation would be fixed at £62 which was the capitalised value of the rental at time of taking for the unexpired term of the lease 'plus the then value of the reversion based on the assessed value of £60.' It also included interest for three years at five percent for the delay in settlement.[710]

In July accounts for Parata Native Township were transferred from the Aotea District Māori Land Board to the Ikaroa District Māori Board. The board president Jack noted

---

[705] Commissioner of Crown Lands, Lands and Survey, Wellington to Clerk, Aotea District Land Board, Wanganui, 19 February 1909, ABRP 6844 W4598/59 6/2/1 pt 1, ANZ Wellington [P 1170809].
[706] H.J. Block Under Secretary, Public Works, Wellington to Clerk, Aotea District Māori Land Board, Wanganui, 19 March 1909, ABRP 6844 W4598/59 6/2/1 pt 1, ANZ Wellington [P 1170811-1170812].
[707] ibid
[708] T.W. Fisher, President, T.M. Kingi, Member to Native Land Court, 31 July 1909, ABRP 6844 W4598/59 6/2/1 pt 1, ANZ Wellington [P 1170813].
[709] J.B. Jack, President, Aotea District Māori Land Board, Wanganui to Under Secretary, Public Works, Wellington, 16 June 1910, ABRP 6844 W4598/59 6/2/1 pt 1, ANZ Wellington [P 1170816].
[710] E. Bold, Land Purchase Officer to J.B. Jack, President, Aotea Māori Land Board, Wanganui, n/d, ABRP 6844 W4598/59 6/2/1 pt 1, ANZ Wellington [P 1170817].

that two areas of land for a post office and school had been taken but the court had yet to determine compensation. He noted the rents were in some cases 'much in arrears' and the 'ownership of this Township was somewhat in doubt, and for that reason the Board has not paid out any of the accruing rents'.[711]

Jack told the Land Purchase Officer the delays were caused 'through this land now being under the jurisdiction of the Ikaroa Board, which has not held at [sic] meeting to deal with your letter until this week.' The board agreed 'to accept the sum of £62 as compensation for the area taken as a site for the Waikanae Post Office.'[712] In January 1911 the Native Land Court compensation payment was available and was to be sent to the board.[713]

In 1982 a new post office was opened in the Waikanae Town centre on the other side of the road and railway tracks on Mahara Place. In 1983 the original site was declared as taken under sections 20 and 50 of the Public Works Act 1981 for cultural and community centre purposes, and vested in the Horowhenua County Council.[714]

### 6.2 Paraparaumu School 1959

Ngarara West B2A2C was an 11 acre block that the Māori owners intended to subdivide for housing. They instructed surveyor Foster in December 1958 to produce a subdivision scheme. However, in April 1959 the Assistant Director of Education asked the Ministry of Works to commence negotiations with the Māori owners of Part Ngarara West B2A2C9 (6 acres) on the south eastern side of Beach Road at Paraparaumu. The land was owned by Mrs Kore Jackson (Korenga Rangikauhata) and Mr Mouti Taylor (Erueti Mouti Mira Teira) and had been identified as a site for a future school under the Town Planning Scheme.[715]

---

[711] J.B. Jack, Aotea District Māori Land Board, Wanganui to President, Ikaroa District Māori Land Board, Wellington, 11 July 1910, ABRP 6844 W4598/59 6/2/1 pt 1, ANZ Wellington [P 1170819].
[712] J.B. Jack, President, Ikaroa District Māori Land Board, Wellington to E. Bold, Land Purchase Officer, Public Works, Wellington, 5 September 1910, ABRP 6844 W4598/59 6/2/1 pt 1, ANZ Wellington [P 1170818].
[713] Blow, Under Secretary, Public Works, Wellington to President, Ikaroa District Māori Land Board, Wellington, 31 January 1911, ABRP 6844 W4598/59 6/2/1 pt 1, ANZ Wellington [P 1170820].
[714] NZG, 23 June 1983, p. 1930.
[715] F.M. Hanson, Commissioner of Works, Ministry of Works to Director of Education, Wellington, 17 July 1961, AAQB W4073/346 31/2233, ANZ Wellington [P 1160347-1160348]; see also, proclamation, H.A. Fullarton, District Commissioner of Works to Minister of Works [P 1160354].

In May 1960 the owners were told their land was being taken for a school. In December 1960 two owners instructed their solicitors to consent to the land being taken for a school. The Education Department intended to build Paraparaumu Primary School on Part Ngarara West B2A2C.[716]

The special government valuation for Ngarara West B2A2C was £1,510. A private valuation for the Crown valued B2A2C at £4,550 and a valuation by the Māori owners valued it at £7,755. These valuations may have been higher that the government valuation if they took the potential residential value into account. Solicitors for the owners agreed to B2A2C being taken under the Public Works Act and compensation being assessed by the Māori Land Court.[717] It was noted taking land under the Act 'is of course normal procedure with Maori land' and the 'husband of the owner has already approached this office in connection with the progress of the transaction'.[718] There were delays with the process because a drain ran through the site and the district council was not satisfied with Work's proposed solution. Despite this situation being unresolved the Minister of Education approved the land being taken under the Act.[719] In January 1962 a gazette notice taking Part Ngarara West B2A2C (6 acres) for a public school was issued.[720]

On 3 July 1962 the Māori Land Court heard the compensation case for Part Ngarara West B2A2C. The Crown presented a special government valuation of £4,905 and a private Crown valuation of £5,200. The owners had private valuations of £6,140 and £6,350. The court awarded compensation of £5,670 including £130 lump sum interest and legal costs of £244-15-6 making a total of £5,914-15-6. The sum was payable to the owner's solicitors and the Land Purchase Officer said it 'is based on a compromise of valuations…and is reasonable.' The Land Purchase Officer noted the

[716] M.S. Goddard, Resident Engineer, Porirua to District Commissioner of Works, Wellington, 8 February 1961, AAQB W4073/346 31/2233, ANZ Wellington [P 1160342].
[717] D. Warmington, Land Purchase Officer, A. Hawkins, District Land Purchase Officer, Ministry of Works to District Commissioner of Works, Wellington, 10 March 1961, AAQB W4073/346 31/2233, ANZ Wellington [P 1160343-1160344].
[718] F.M. Hanson, Commissioner of Works to Director of Education, Wellington, 21 July 1961, AAQB W4073/346 31/2233, ANZ Wellington [P 1160349]; see also, [P 1160350].
[719] A.E. Campbell, Director of Education, Wellington to Commissioner of Works, Ministry of Works, Wellington, 3 October 1961, AAQB W4073/346 31/2233, ANZ Wellington [P 1160353].
[720] NZG, 15 January 1962, p. 2.

substantial costs involved in lengthy negotiations, separate lawyers and valuers.[721] The Director of Education agreed to pay the sum awarded.[722]

### 6.3 Waikanae River Scheme

In 1960 the Soil Conservation and River Control Council gave the Manawatu Catchment Board approval to acquire the land along the Waikanae River. Areas of the river were vested in the board for the nominal figure of one shilling, while Māori land was acquired by proclamation under the Public Works Act, with compensation determined through the Māori Land Court.[723]

In 1962 the board acquired Ngarara West A3C (8a 2r 11p). A gazette notice taking the land was issued in April 1962.[724] The land was located on both sides of the river (areas of 2 roods 11 perches and 5 acres) and included the river bed (3 acres).[725] Notices of intention to take the land had been gazetted in 1959 and 1961.[726] Ngarara West A3C was owned by Patrick Paddon, Hau Tamite and others and was located off Te Moana Road. The Valuation Department placed a capital value of £215 on A3C. There were no improvements on the land. There was a royalty of 9d a cubic yard for shingle removal from the river which was payable to the Māori owners.[727] The valuer for the owners valued the land at £225. Neither of these valuations included the value of the shingle extracted. Phillips, solicitor for the owners, argued that they should be compensated for the land as a gravel pit and the court agreed stating that there 'can be no doubt that the land will produce shingle but it is impossible to say how much.' Judge Prichard noted there was a good demand for shingle for which the catchment

[721] E.L. Staples, Land Purchase Officer, Skinner, District Land Purchase Officer to District Commissioner of Works, Ministry of Works, Wellington, 17 July 1962, AAQB W4073/346 31/2233, ANZ Wellington [P 1160357-1160358].
[722] A.E. Campbell, Director of Education, Wellington to Commissioner of Works, Ministry of Works, Wellington, 26 July 1962, AAQB W4073/346 31/2233, ANZ Wellington [P 1160359].
[723] A.T. Brown, Secretary, Manawatu Catchment Board, Palmerston North to District Commissioner of Works, Ministry of Works, Wellington, 14 June 1962, AATE W3392/76 96/315000/0/3, ANZ Wellington [IMG 0657].
[724] NZG, 30 April 1962, p. 663.
[725] Sketch plan Ngarara West A3C, AATE W3392/76 96/315000/0/3, ANZ Wellington [DSCF 0654].
[726] NZG 1959/663; NZG 1961/1101.
[727] D.A. Howe, District Valuer, Valuation Department, Urban Valuation and Report, 27 May 1963, AATE W3392/76 96/315000/0/3, ANZ Wellington [IMG 0650].

board received £1,000 per annum.[728] The court awarded compensation of £450 and £21 legal costs and £9-16s witness expenses.[729]

In 1963 a gazette notice taking Parts Ngarara West A Section 21D (6a 1r 36p) for soil protection purposes was issued.[730] The registered owner was the Estate of Rameka Watene.[731] Notices of intention to take had been issued in 1962.[732] The land had a capital value of £100.[733] Works agreed to pay the Māori Trustee £320-17-9 in settlement which consisted of £200 for the land and interest of £85-16-9 and costs of £35-1. This amounted to £30 per acre which was in line with other similar settlements on the river.[734]

In June 1964 Part Ngarara West A22A1 (1r 21.4p) and Part Ngarara West A22A2 (2r 39.7p) making a total of 1a 0r 21.1p were taken for soil conservation.[735] The land was owned by H. Tamati and others. Notices of intention to take the land had been issued in 1963.[736] The entire Ngarara West A22A1 had a total capital value of $875 with an unimproved value of $850. Ngarara West A22A2 had a total capital value of $3,300 with an unimproved value of $1,700 as of 1 November 1965. The Ministry of Works had initially offered $90 to $100 for the two areas taken.[737] A file note says the '$100 offered by Works seems a bit miserable' and another in response says: 'It certainly look as if $100 is far too little'.[738] Works subsequently offered compensation of $535 for Ngarara West A22A1 and A22A2 which consisted of $60 for the land of A22A1

[728] Extract Otaki MB 70, pp. 179-184, 24 July 1963, Levin, Chief Judge Ivar Prichard, AATE W3392/76 96/315000/0/3, ANZ Wellington [IMG 0644-646].
[729] E.L. Staples, Land Purchase Officer, Ministry of Works, Wellington to District Commissioner of Works, Wellington, 1 August 1963, AATE W3392/76 96/315000/0/3, ANZ Wellington [IMG 0647].
[730] NZG, 18 March 1963, p. 327.
[731] H.A. Fullarton, District Commissioner of Works to Secretary, Manawatu Catchment Board, Palmerston North, 6 April 1966, AATE W3392/76 96/315000/0/4, ANZ Wellington [IMG 0663].
[732] NZG 1962/326; NZG 1962/944.
[733] D.A. Howe, District Valuer, Valuation Department, Urban Valuation and Report, 16 September 1963, AATE W3392/76 96/315000/0/4, ANZ Wellington [IMG 0670].
[734] E.D. Fogarty, Assistant Land Purchase Officer, Ministry of Works, Wellington to District Commissioner of Works, Wellington, 24 March 1966, AATE W3392/76 96/315000/0/4, ANZ Wellington [IMG 0665-0666].
[735] NZG, 2 June 1964, p. 872.
[736] NZG 1969/169; NZG 1963/793.
[737] J. Trevenen, Assistant District Officer to Ministry of Works, 13 November 1968, ACIH 16036 MA1/763 54/19/63, ANZ Wellington [IMG 2309-2310].
[738] File notes, on, J. Trevenen, Assistant District Officer to Ministry of Works, 13 November 1968, ACIH 16036 MA1/763 54/19/63, ANZ Wellington [IMG 2309-2310]; C.J. Tustin, District Commissioner of Works to District Officer, Māori Affairs, Palmerston North, 5 July 1968, AATE W3392/76 96/315000/0/7, ANZ Wellington [IMG 0679].

with water rights of $140 making a total of $200. Ngarara West A22A2 consisted of $160 for the land and water rights of $140 making a total of $300. This made a total of $500 with a further $35 was to cover valuer's costs. It was also suggested that rates of $21.09 owed to the catchment board be written off.[739] This sum of $535 was considered by the valuer to be a 'compromise' with the land eroded by the river and being part riverbed it was, in his opinion, 'non productive' and 'I appealed for more generous treatment than the $100, originally offered in view of the land being Maori owned etc'.[740] Settlement was executed in November 1969.[741]

[739] J.E. Lewin, District Officer, Ministry of Works, 3 July 1967, ACIH 16036 MA1/763 54/19/63, ANZ Wellington [IMG 2305]; see also, J.E. Lewin, District Officer, Māori Affairs to District Commissioner of Works, 5 February 1968, AATE W3392/76 96/315000/0/7, [IMG 0678]; E.D. Fogarty, Senior Land Purchase Officer to District Commissioner of Works, 25 March 1969, [IMG 0748]; P.L. Laing, Commissioner of Works to Secretary, Manawatu Catchment Board, 6 May 1969, [IMG 0675].
[740] J.H. Flowers to Māori Trustee, Palmerston North, 18 January 1969, ACIH 16036 MA1/763 54/19/63, ANZ Wellington [IMG 2306-2307].
[741] J.E. Lewin, District Officer, Palmerston North to Ministry of Works, 18 November 1969, ACIH 16036 MA1/763 54/19/63, ANZ Wellington [IMG 2303].

# Bibliography

## Primary Sources

### *Archives New Zealand, Wellington (ANZ)*


ACHL 19111 W1/678 23/381/49/0 Defence Works and Buildings Airports, Aerodromes and Landing Grounds – Paraparaumu Aerodrome – Legislation, 1936-1940

AAQB 889 W3950/71 23/381/49/0 pt 1 Paraparaumu Aerodrome: Legalisation 1973-84

AAQB 889 W3950/71 23/381/49/0 pt 2 Paraparaumu Aerodrome: Legalisation 1940-49

AAQB 889 W3950/71 23/381/49/0 pt 3 Paraparaumu Aerodrome: Legalisation 1949-54

ACHL 19111 W1/678 23/381/49/5 pt 1 Defence Works and Buildings Airports, Aerodromes and Landing Grounds – Paraparaumu Aerodrome – Compensation claim – Maori owners, 1938-1951

ACHL 19111 W1/678 23/381/49/5 pt 2 Defence Works and Buildings Airports, Aerodromes and Landing Grounds – Paraparaumu Aerodrome – Compensation claim – 1952

ACIH 16036 MAW2490/176 38/1/1 pt 1 Assessment of Compensation for Maori Land taken for or damaged by Public Works 1939-61

AATE W3401/33 20/2/0/11Aerodromes – Paraparaumu: Legal: Land Claims T T Ropata 1952-61

ABGX 16127/238 1999/231 pt 1 Transport and Industrial Relations Committee – Ross Sutherland and 584 others 2002-2004

ABGX 16127/238 1999/231 pt 2 Transport and Industrial Relations Committee – Ross Sutherland and 584 others 2002-2004

ABGX 16127/238 1999/231 pt 3 Transport and Industrial Relations Committee – Ross Sutherland and 584 others 2002-2004

ABGX 16127/238 1999/231 pt 4 Transport and Industrial Relations Committee – Ross Sutherland and 584 others 2002-2004

ABGX 16127/238 1999/231 pt 5 Transport and Industrial Relations Committee – Ross Sutherland and 584 others 2002-2004

ABGX 16127/238 1999/231 pt 6 Transport and Industrial Relations Committee – Ross Sutherland and 584 others 2002-2004

AECB 8615 TO1/59 1905/333 Paraparaumu Scenic Reserve 1905-1906

AANS 6095 W5491/342 4/1016 Scenic Reserves – Paraparaumu Scenic Reserve 1905-1955

AANS 7613 W5491/987 RES 7/3/24 Hemi Matenga Memorial Park Scenic Reserve 1956-74

ADXS 19483 LS-W1/486 24681 Proposed Scenic Reserve: Part of Ngarara West C No 41 [Waikanae] 1906

ABKK 889 W4357/318 50/695 pt 1 Recreation Reserve – 900 acres between Paekakariki and Raumati South (Queen Elizabeth Park) 1941-60

ACHL 19111 W1/812 23/698/1/10 Defence Works and Buildings – Special Unit Camp – Paekakariki – Wainui Native Reserve, 1943-1948

AFIH 22877 W5687 box 253 Index of Warrants for Roads over Maori Land
ACGO 8333 IA1/414/ [47] 1878/4297 From: Ernest S Thynne Chairman County Council of Manawatu, Foxton To: G S Cooper Esquire Treasury, Wellington Date: 25 September 1878 Subject: As to Otaki Ferry
ADXS 19483 LS-W1/148 6439 Waikanae Hutt Road, Ngarara West Block ; Kaitawa Survey District Blocks IX and X 1891-1905
ADXS 19483 LS-W1/164 7143 [Te] Ngarara West Block B, Hutt County Road 1892-1906
ADXS 19483 LS-W1/227 10086 Authorising Road Works – Whareroa No 1,2,3 and 4 Paekakariki SD 1893
ADXS 19483 LS-W1/275 12637 Ngarara Block - Road through Wi Parata's Land 1896-1899
ADXS 19483 LS-W1/291 14120 Waikanae beach road, Ngarara West Block 1895-1901
ADXS 19483 LS-W1/234 10595 Paraparaumu Beach Road, Paraparaumu-Waikanae Road, Ngarara West B Block 1893-1899
AAZZ 889 W4923/211 71/9/0/98 Wellington – Foxton Motorway Claim: Hough 1958-64
ACHL 19111 W1/1133 41/187/1 pt 1 Roads - Wellington Road District - Legalisation 1923-40
AAMK 869 W3074/722j 21/1/258 Burial Ground Reserves, Ngarara West A Section 24C (Burial Ground) 1969-73

AAQB 889 W3950/358 24/2495/1 pt 1 Otaki and Porirua Trust Board: Titahi Bay 1938-55
AATE W3387/25 22/1/2/27 Porirua/Titahi Bay Development - Porirua Trust Board 1947-68
AAQU 889 W3429/527 24/2495/1 pt 2 Broadcasting Stations 2YA: Land Required 1956-83

ABRP 6844 W4598/59 6/2/1 pt 1 Parata Maori Township 1908-13
AAQB W4073/346 31/2233 Paraparaumu Primary No. 2 1959-78
AAQU 889 W3428/613 25/719 Police - Waikanae Police Housing 1983-87
AATE 889 W3323/11 26/2/37/0 Paraparaumu Site for Departmental [Residence] – Maori owners 1962
AATE W3322/4 32/0/6/68 Land Taken for State Housing – Maori Housing – Paraparaumu – Maori Owners, 1964-66
AATE W3392/76 96/315000/0/3 Soil Conservation/River Control - Manawatu Catchment Board - Waikanae River Claim: Maori Owners 1962-64
AATE W3392/76 96/315000/0/4 Soil Conservation/River Control - Manawatu Catchment Board - Waikanae River Claim: Rameka Watene Estate 1963-66
ACIH 16036 MA1/763 54/19/63 Land Taken for River Control Purposes
AATE W3392/76 96/315000/0/7 Soil Conservation/River Control - Manawatu Catchment Board - Waikanae River Claim: Honai Tamati and others 1965-69

***New Zealand Transport Agency, Wellington(NZTA)***

MOT 76/20/0 vol 3 Paraparaumu Airport General 1993-1994
MOT 76/20/0 vol 3A Paraparaumu Airport General 1988-1994
MOT 76/20/0 vol 4 Paraparaumu Airport General 1995
MOT 76/20/0 vol 5 Paraparaumu Airport General 1995
MOT 76/20/0 vol 6 Paraparaumu Airport General 1995
MOT 76/20/0 vol 7 Paraparaumu Airport General 1995
MOT 76/20/0 vol 8 Paraparaumu Airport General 1995-1996
MOT 76/20/1 vol 7 Paraparaumu Airport – Acquisition and Disposal and Utilisation
JPAR-02/1 Airport Investigation Correspondence
L3/15/1 vol 1 Paraparaumu Judicial Review 1996-1998
OPAP 14/6 Paraparaumu Airport General 2003-2006
POAV 3/9 Policy Paraparaumu 2001-2005

***Rawhiti Higgott Papers***

Documents from various sources collected by Rawhiti Higgott

***Wai 609 Documents***

Legal and Personal Correspondence Records, access provided by Yvonne Mitchell

***New Zealand Gazette***

***New Zealand Parliamentary Debates***

***Appendices to the Journals House of Representatives***

***Māori Land Court Minute Books***

Wellington Minute Books
Otaki Minute Books
Aotea Minute Books

***New Zealand High Court***

Save Kapiti Incorporated v New Zealand Transport Agency [2013] NZHC 2104, 19 August 2013

***New Zealand Environment Court***

Grace v Minister for Land Information [2014] NZEnvC 82

***Newspapers***

*Evening Post*

*Dominion Post*

*Southern Cross*

*New Zealand Herald*

*Kapiti Observer*

**Secondary Sources**

***Unpublished***

Report of the Controller and Auditor-General: 'Inquiry into the Sale of Paraparaumu Aerodrome by the Ministry of Transport', September, 2005

Report of Transport and Industrial Relations Committee, Hon Mark Gosche, Chairperson, May 2004, 'on Petition 1999/231 of Ross Sutherland and 584 others'

Alexander, David, 'Public Works and Other Takings in Te Rohe Potae District', CFRT, December, 2009

Anderson, R., and K., Pickens, 'Rangahaua Whanui District 12: Wellington District, Port Nicholson, Hutt Valley, Porirua, Rangitikei and Manawatu', Wellington, 1996

Chase, Lou, 'Ngātiawa / Te Ati Awa Oral & Traditional History Report', Waitangi Tribunal, February, 2018

Gallen, A.F.J., 'A History of the Taking of the Land for the Core Paraparaumu Aerodrome Under the Provisions of the Public Works Act 1928', for, Paraparaumu Airport Ltd, March, 2008

Hearn, Terry, 'One Past Many Histories: tribal land and politics in the nineteenth century', CFRT, 2015

Marr, Cathy, 'Public Works Takings of Maori Land, 1840-1981', Waitangi Tribunal, Rangahaua Whanui Series, National Theme G, 1997 (first release)

Stirling, Bruce, 'Review Report for a Wahi Tapu Area: Takamore Wahi Tapu Area', New Zealand Historic Places Trust, August, 2011

Walzl, Tony, 'Porirua ki Manawatu Block Data Collation Project', CFRT, July, 2012

Walzl, Tony, 'Ngatiawa: land and political engagement issues c. 1819-1900', Walghan Partners, December, 2017

Walghan Partners, 'Block Research Narratives: Ngatiawa Edition', 29 March, 2018

Woodley, Suzanne, 'Porirua ki Manawatū Inquiry District: Local Government Issues Report', CFRT, June, 2017

***Published***

*Takamore Trustees v Kapiti Coast District Council* [2003] 3 NZLR 496

Baldwin, Olive, *The Celebration History of the Kapiti District: 100 years plus*, Paraparaumu, 1988

Baldwin, Olive, *Kapiti Coast: History of New Zealand's Paraparaumu beach, Paraparaumu Airport and Kapiti Island*, Paraparaumu, 1993

Cassells, K.R., *Uncommon carrier: The history of the Wellington and Manawatu Railway Company, 1882-1908*, 1994

Carkeek, W.C., *The Kapiti Coast*, Wellington, 1966

Elliot, Jacqueline, *Raumati South, heart and soul: Our community's story of our history*, Otaki, 2008

Maclean, Chris and Joan, Maclean, *Waikanae: Past and present*, Waikanae, 1988

Maclean, Chris, *Kapiti*, Wellington, 1999

Macmorran, Barbara, *In View of Kapiti: Earliest days to the 1970s*, Palmerston North, 2009

Maysmor, Bob, *North Road: Revisiting the map of the road from Johnsonville to Paekakariki drawn by Thomas Henry Fitzgerald in 1849*, Porirua, 2008

Waitangi Tribunal, *Orakei Report*, Wellington, 1987

Waitangi Tribunal, *Ngati Rangiteaorere Report*, Wellington, 1990

Waitangi Tribunal, *Turangi Township Report*, Wellington, 1995

Waitangi Tribunal, *Te Maunga Railways Land Report*, Wellington, 1994

Waitangi Tribunal, *He Maunga Rongo: Report on Central North Island Claims, Stage One*, Wellington, 2008, Volume 2