

**OFFICIAL**

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A Report Commissioned by the Waitangi Tribunal  
for the Taranaki claim (Wai 143)  
concerning

## ROHUTU

*by Suzanne Woodley*

*June 1995*

Any conclusions drawn or opinions expressed  
are those of the author

## 1 Note about the Author

My name is Suzanne Woodley. I completed a Bachelor of Arts majoring in sociology at Canterbury University in 1987 and am currently working part time towards a History Honours degree at Victoria University. I have been working at the Waitangi Tribunal as a researcher since February 1992. Prior to this I worked as a claims administrator for the Tribunal for eighteen months. I have completed exploratory reports for the Tribunal on the Sewerage Rates claim (Wai 115), the Whangarae 1C claim (Wai 184), the Manaia 1C claim (Wai 148), the Manaia 1B and 2B claim (Wai 285), the Tuhua claim (Wai 158) and the Matakana Island claims (Wai 228 and 266). I was commissioned by the Tribunal to produce reports on this and other Taranaki "ancillary" or discrete claims.<sup>1</sup>

## 2 Location

The Maori owned Rohutu block, legal description Waitara East Section 81, block 1, Waitara Survey District, is situated near the eastern head of the Waitara River. The block was 22 acres (8.9 hectares) in size when the Crown grant for the block was first issued in 1884.

The block lying adjacent to section 81 is section 15, block 1, Waitara Survey District. It lies to the west of Rohutu and its western boundary is the Waitara River. This area is currently vested in the New Plymouth District Council. It is 5 acres and 3 roods (2.327 hectares) in size.

## 3 The Claim

There appear to be three issues which concern the Te Ati Awa claimants:

The first is how section 15 passed out of Maori hands given that the adjoining Rohutu block is Maori land and that section 15 is, according to the claimants, an urupa. The claimants have always assumed that this area was part of the Rohutu block and was Maori land. The second issue is the damage caused to the urupa(s) through the building of baches. Today the Rohutu block (and adjacent section 15) are covered by approximately 20 beach baches. Some, according to Shane Hunt, encroach upon their urupa. "Desecration [he said] is there to be seen". The third issue is that subdivisions have been made and baches built on the block without the permission of the owners. The baches are also not being serviced by the local authority, that is, the bach builders are servicing themselves.<sup>2</sup>

Rohutu is apparently no longer used as an urupa.<sup>3</sup>

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<sup>1</sup> This commission is attached as appendix 1

<sup>2</sup> Aroha Harris *Notes of Visits to Owaie Marae to Meet Aila Taylor, Ted Tamati and Moki White on 21 and 23 May 1991* and Oral Evidence of Shane Hunt, 11 April 1991, tape 9b, Waitangi Tribunal Division Wellington

<sup>3</sup> *ibid*

## 4 Background

At the Waitangi Tribunal Taranaki hearing held April 1991 at Owae Marae, Waitara; Alex Watson, Alice Doorbar, Shane Hunt, Jim O'Carroll, Tiri Nowell and Peter Adds presented evidence to the Tribunal concerning the Otaraua hapu of Te Ati Awa. Their evidence, both written and oral, included details of some of the important urupa and settlements within the Otaraua rohe. Rohutu was one such urupa.

Rohutu was described by the Otaraua claimants as "probably the most important waahi tapu in Otaraua - certainly one of the oldest". They stated that it was once a pa "and the location of Ngarue".<sup>4</sup> (The Waitara river was named Whaitara nui a Ngarue in commemoration of the journey of Ngarue's son Whare Matangi to Waitara to find his father.<sup>5</sup>) Tuwhare from Kawhia who, along with Tamehana Tarapipi Takanini and Ahipene from Waikato, came over to Taranaki as peacemakers during the unrest which preceded the Taranaki Wars, is buried at Rohutu.<sup>6</sup>

The Manukorihi hapu of Te Ati Awa also identify with Rohutu; the relationship between Manukorihi and Otaraua being, according to Moki White, "complexly interwoven". They share a common ancestor Te Tuitimoeroa. The Manukorihi hapu state that Rohutu was one of the three main areas set aside for urupa. Rohutu has also been described as a fishing pa.<sup>7</sup>

In evidence given to the Waitangi Tribunal, claimant Shane Hunt stated that he was born at Rohutu and recalled that in the early 1950s representatives of the township came to collect rates. Shane Hunt's mother grasped an axe to prevent this happening "such was the feeling of tapu at that time that still prevails today". To Shane Hunt's knowledge no rates were collected.<sup>8</sup>

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<sup>4</sup> Watson, O'Carroll, Doorbar, Hunt, Nowell and Adds, *Evidence from the Otaraua hapu of Te Atiawa*, Waitangi Tribunal Record of Documents for Taranaki Claim, (Wai 143), document D12, p 9

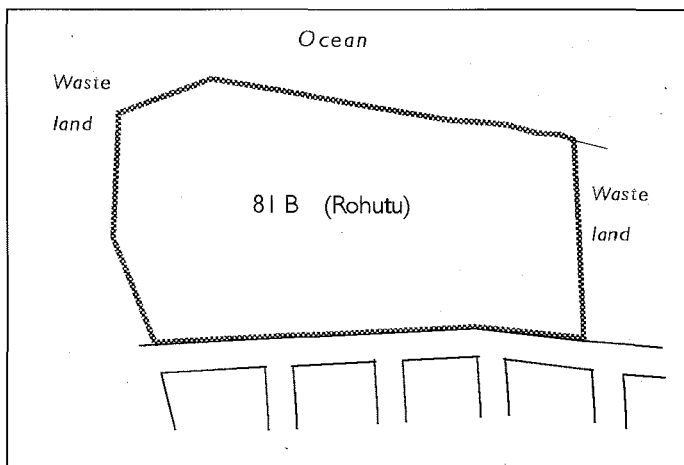
<sup>5</sup> Moki White and Morgan Moana nui Akiwa Watson *Submission for the Manukorihi hapu*, Waitangi Tribunal Record of Documents, Taranaki Claim (Wai 143), document D15, p 28

<sup>6</sup> Aroha Harris *Notes of Visits to Owae Marae to Meet Aila Taylor, Ted Tamati and Moki White on 21 and 23 May 1991*, p 1

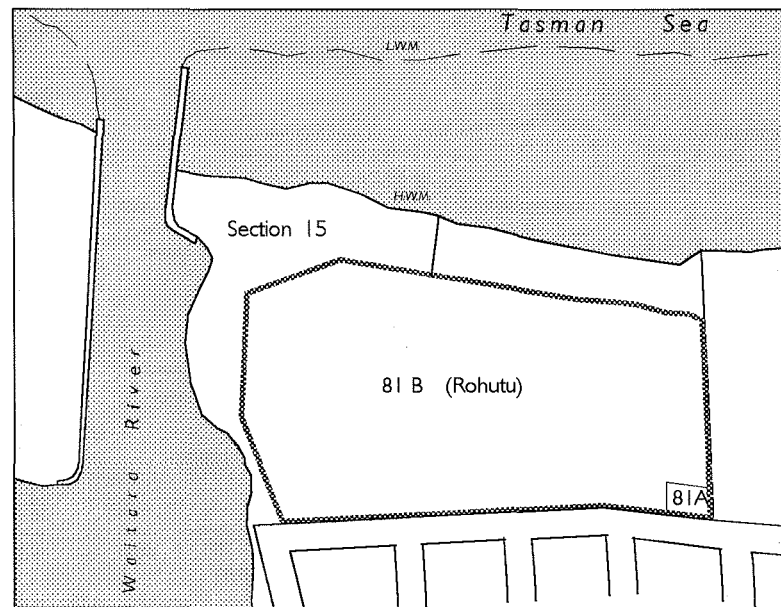
<sup>7</sup> Watson, O'Carroll, Doorbar, Hunt, Nowell, Adds, *Otaraua Muru Me Te Raupatu Presentation*, Waitangi Tribunal Record of Documents, Taranaki Claim (Wai 143), document D12, 1991, p 4 and Moki White and Morgan Moana nui Akiwa Watson *Submission for the Manukorihi hapu*, Waitangi Tribunal Record of Documents, Taranaki Claim (Wai 143), document D15, 1991, pp 25-26

<sup>8</sup> Oral Evidence of Shane Hunt, 11 April 1991, tape 9b, Waitangi Tribunal Division Wellington

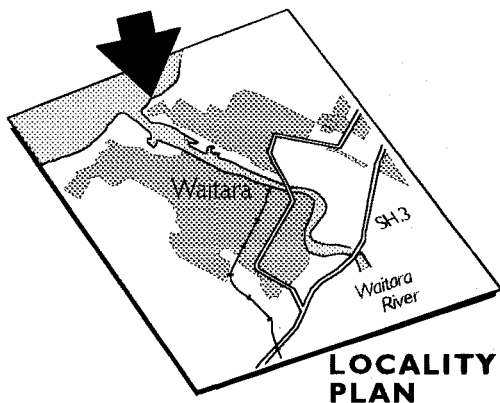
Map: Noel I larris



1884 - (as -per Certificate of Title)



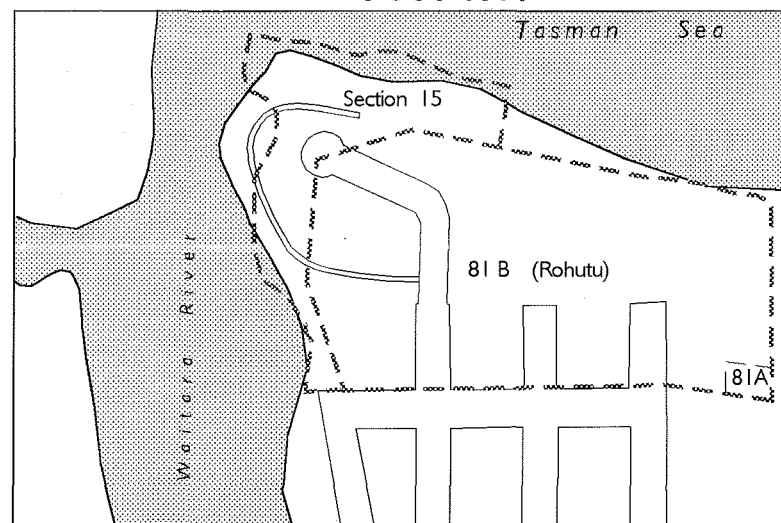
POST 1931



LOCALITY PLAN

Rohutu

200 m



PRESENT DAY

## 5 Rohutu (Section 81) Block History

### 5.1 Crown Grant

A Crown grant (No. 5286) was issued pursuant to the West Coast Settlement North Island Act 1880 and the West Coast Settlement Reserves Act 1881 for the then 22 acre Rohutu block (section 81) on 28 October 1884. The owners were listed as Enoka Tatairau (younger brother of Wiremu Kingi Te Rangitake<sup>9</sup>) Eruera Kingi te Pehi, Horiana Kingi, Rako, Parete Teira, Te Mira Teira, Paranihi, Ropoania Patukakariki, Hori Kokako and Matiu Ngahina.<sup>10</sup> Enoka Tatairau, Eruera Kingi te Pehi and Horiana Kingi were all also owners of the Manukorihi block.

The West Coast Commission reports do not mention the reservation of Rohutu specifically (apart from in the list of reserves). Enoka, Horiana, Te Rako and Eruera however, are mentioned as having an interest in a piece of land at Orangi (also near the Waitara river). The Commissions report though mentions that the Rohutu block was to be "absolutely inalienable".<sup>11</sup>

The area was described in the Grant for Rohutu as consisting of:

All that parcel of land in our provincial district of Taranaki in our Colony of New Zealand containing by measurement twenty two (22) acres more or less being the section numbered eighty one (81) Waitara East Suburban Waitara Survey District, Bounded towards the North East by Waste land ... 939.5 links towards the south east by the Waihi Road ... 2015.3 links, towards the west by waste land .... 1975.3 links, towards the north west by the Ocean be all the aforesaid linages more or less.<sup>12</sup>

Thus much of the northern boundary (the ocean side) is high water mark. This is what Hinde, McMorland & Sim state is the requirement for all land Crown granted and bounded by the sea.<sup>13</sup> The western boundary (the river side) however, is not high water mark as a

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<sup>9</sup> *Reports of the Royal Commission appointed under the Confiscated Lands Inquiry and Maori Prisoners' Trials Act, 1879, Minutes of Proceedings and Evidence and Appendices*, AJHR 1880, G2, p 30

<sup>10</sup> These names may be spelt incorrectly, the Grant being difficult to read.

<sup>11</sup> *Reports of the Royal Commission appointed under the Confiscated Lands Inquiry and Maori Prisoners' Trials Act, 1879, Minutes of Proceedings and Evidence and Appendices*, AJHR 1880, G2, p 30

<sup>12</sup> Grant to Enoka Tatairau and others, section 81, Waitara East suburban Waitara Survey District, Crown Grant Register T 19, p 148, Grant No 4021, Department of Survey and Land Information (DOSLI) New Plymouth and Certificate of title volume 17, folio 62, Land and Deeds New Plymouth

<sup>13</sup> See Hinde, McMorland & Sim *Introduction to Land Law* (Butterworths 1986), p 201

different set of principles appear to apply to land bounded by rivers.<sup>14</sup> Instead there is a small area between high water mark and the western boundary of Rohutu described as waste land. This now forms a small portion of section 15, the exact size of which is not stated.

## **5.2 Determination of Shares**

As with all West Coast Settlement Reserves, Rohutu (or section 81), was vested in the Public Trustee pursuant to the West Coast Settlement Reserves Act 1882 and the West Coast Settlement Reserves Amendment Act 1902.

On 24 November 1902, Native Land Court Judge Edger considered an application from the Public Trustee which asked the Court to determine the relative shares and interests of the owners of the Rohutu block.<sup>15</sup> The Court ordered a number of successions and that all shares be declared equal. The minutes noted that the area of the block was 22 acres and that the land was "all sand".<sup>16</sup>

On 21 February 1916 a freehold order was issued by the Native Land Court pursuant to the West Coast Settlement Reserves Amendment Act 1913. Eleven people were declared owners.<sup>17</sup> They were: Hemi Keepa (2 shares), Wiremu Kingi Keepa (2 shares), Parete Teira (3 shares), Eka Horapapera and Paranihi Rore (one share), Te Rua Kureawa (one share), Metapere Brown (one quarter of a share), Kapo Moki (one quarter of a share) and Rahunga Rangitake, Tangiwharau Rangitake and Rawinia Rangitake (one sixth of a share each).<sup>18</sup> Both Hemi Keepa and Wiremu Kingi were also owners, and subsequent sellers of the Manukorihi block.

Rohutu was thereafter no longer vested in the Public Trustee.

## **5.3 Attempted acquisition of Rohutu block**

In March 1944, an attempt was made by the Waitara Borough Council to compulsorily acquire Rohutu (section 81) for a recreation reserve. Ivor Prichard<sup>19</sup>, counsel for the Waitara Borough Council, wrote to the Under Secretary of the Native Department explaining

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<sup>14</sup> An interpretation of which would need to be supplied by a legal expert.

<sup>15</sup> Order of Native Land Court concerning determination of relative shares and interests of the owners of the Rohutu, 24 November 1902, Rohutu block order file, TAR 497, Whanganui Maori Land Court

<sup>16</sup> Taranaki Maori Land Court Minute Book No 7, 24 November 1902, p 203

<sup>17</sup> Freehold order concerning Rohutu block, 21 February 1916, Rohutu block order file, TAR 497, Whanganui Maori Land Court

<sup>18</sup> These names were difficult to read hence possible misspellings of names. Taranaki Maori Land Court Minute Book No 25, 21 February 1916, p 17

<sup>19</sup> Ivor Prichard subsequently became a Maori Land Court Judge

that the land should be acquired because "shacks or rather beach cottages" had been erected on the land "without reference to any road frontage and without any legal tenure". The Council had also ascertained that the houses had, without its knowledge, joined on to the Borough water supply. Mr Prichard concluded that it was obvious that unless something was done a slum area would develop. This was something they had avoided on the western beach of the Waitara River with the removal of "sea-side shacks which were a disgrace to the Borough".<sup>20</sup>

An application for consent to take the land under section 15 of the Public Works Act 1928 was made to the Minister of Native Affairs on 20 April 1945. However, no subsequent reply from the Minister, or for that matter any other correspondence on the matter, is on the file. It is apparent though that the taking did not proceed given that the land (save for one rood) still remains in Maori ownership.

#### 5.4 Partition

Only one portion of the block has ever been sold. On 24 June 1957 the Court heard an application from Rawinia Rangitake, an owner of Rohutu. She was "desirous of providing her son Edward Eriwata with a site for a dwelling".<sup>21</sup> On 27 February 1958, pursuant to section 176 of the Maori Affairs Act 1953, Maori Land Court Judge Gerard O'Malley partitioned section 81 (Rohutu). Seventeen acres, two roods and eighteen perches or 7.1275 hectares was awarded to 32 owners and one rood awarded to Edward Eriwata. The one rood known as section 81A was then sold to the Waitara Golf Club (Inc), and the sale registered at Land and Deeds on 21 August 1959.<sup>22</sup>

#### 5.5 Section 438 Trust

On 6 December 1960 the remainder of the Rohutu block (81B) was vested in trustees pursuant to section 438 of the Maori Affairs Act 1953.<sup>23</sup> The trustees were David Keepa, Edward Brown and Ngahina Metapere Teira. The trust order stated that the trustees could subdivide the land into building allotments (subject to the approval of the Maori Land Court), sell or lease such allotments and arrange for the installation of a sewage disposal system, water supply and electricity.<sup>24</sup>

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<sup>20</sup> Ivor Prichard, solicitor for Waitara Borough Council to Under Secretary Native Department, 9 March 1944, Maori Trustee file entitled *Rohutu block grant 5286*, MA-MT 1, 1/99, National Archives Wellington

<sup>21</sup> Taranaki Maori Land Court Minute Book No 66, 24 June 1957

<sup>22</sup> Taranaki Maori Land Court Minute Book No 67, 27 February 1958

<sup>23</sup> Taranaki Maori Land Court Minute Book No 71, 6 December 1960, pp 80-82

<sup>24</sup> Section 438 Trust Order concerning Rohutu block, Rohutu Block Order file, TAR 497, Maori Land Court, Whanganui

Maori Land Court records indicate that there were 33 owners of Rohutu in February 1958.<sup>25</sup>

The decision to vest the land in trustees was made after several hearings and meetings between the owners. During the course of the meetings concern was expressed by owner David Keepa that permission had been by another owner Te Mira Rarete Teira for various people to build the "numerous" beach houses on the land. (A note on the Maori Land Court plan of the area stated that there were "some 35 dwellings plus outbuildings on western half of the block".<sup>26</sup>) Some people also lived permanently on the block. Mr Keepa stated that Mr Teira had collected rents and paid the rates but had not distributed the remainder of the rents among the other owners. It was suggested that this may have been because in 1960 rents collected were approximately £160 and the rates about £141. Mr Teira stated that he had looked after the land for some time and that he had had to allow houses to be built to get money to pay for the rates. Rating, Mr Keepa said, was based on capital value and whenever houses were built on the block, the rates increased.<sup>27</sup>

The erection of buildings on Rohutu had been noted as early as 1944. The Registrar of the New Plymouth Maori Land Court in New Plymouth stated in September 1944 that a local owner who had since died had "arranged with various Europeans (believed to be Stratford residents) to erect dwellings on this land without any payment for any rights to do so". He also said that the erection of the buildings had been done without the knowledge or permission of the other owners and that the Borough Council had no knowledge of the people who had set up on the land. The Borough Council stated too that no rates were paid and that there was no record of the occupants. In 1944 the Native Department stated that there were six beach cottages on the land valued at £600.<sup>28</sup>

In response to these concerns it was proposed (in 1960) that Rohutu be divided into three as two of the owners wanted to partition their interests out. The remaining area was then to be subdivided with the possibility of some of the land being sold. Because of this desire to partition, one of the first meetings of owners did not agree to the resolution to vest the land in trustees. However, it was later decided by the owners in December 1960 that it was more practical to "subdivide according to the scheme plan" prepared by surveyor Mr Kinkaid. According to Mr Kinkaid it would not be possible to "cast the most desirable subdivision" if the area was divided into three first. He stated that roading would also increase if a three way subdivision was made. The scheme plan meant that owners could be awarded sections and that some of the subdivisions could be sold if this was desired. It was noted that the subdivision would exclude any burial ground or other wahi tapu.<sup>29</sup>

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<sup>25</sup> Taranaki Maori Land Court Minute Book No 67, 27 February 1958

<sup>26</sup> Rohutu title binder, Maori Land Court Whanganui

<sup>27</sup> Taranaki Maori Land Court Minute Book No 70, 15 September 1960, pp 343-346

<sup>28</sup> Registrar of Native Land Court to Under Secretary of Native Department, 13 September 1944, Maori Trustee file entitled *Rohutu block grant 5286*, MA-MT 1, 1/99, National Archives Wellington

<sup>29</sup> Maori Land Court Minute Book No 71, 6 December 1960, pp 80-82

Maori Land Court records indicate that no area within the Rohutu block has been alienated since the purchase by the Waitara Golf Club of one rood in 1959.

## 5.6 Erosion

The area of the Rohutu block has changed. In 1884 when the block was Crown granted, the area of Rohutu was recorded as 22 acres. The area was also recorded as 22 acres in 1902 and 1916. By 1958 however, when the area was partitioned, Rohutu was recorded as consisting of 17 acres, 3 roods and 18 perches (7.1275 hectares), which is 4 acres and 22 perches less. The explanation for this appears to be erosion. A newspaper article written in the early 1950s stated that the measurement from the rear boundary to the seafront was only 576 feet which contrasted with the 1300 feet figure recorded in 1884. The newspaper stated that this meant that more than half of the area had been washed away.<sup>30</sup>

In the 1950s much concern was expressed by the owners of Rohutu and, judging by the number of letters to the editor of the local newspaper, much of the Waitara community, regarding the erosion of the sea frontage of Rohutu or what others called the eastern Waitara beach. The owners of Rohutu were also concerned that the erosion would affect their burial grounds and the "historic Ngarue Hill".<sup>31</sup> Those concerned about the erosion argued that it was gravel extraction which caused the erosion. After much discussion on the issue, including the involvement of the Minister for the Marine Department, it was announced that no shingle could be removed from a specified area on the eastern Waitara beach.<sup>32</sup>

## 6 Section 15

### 6.1 Vesting of Section 15 in Waitara Harbour Board

As stated, the almost six acre area now known as section 15 was not included with the Crown Grant for the Rohutu block (section 81). In fact according to the Department of Survey and Land Information:

Section 15 appears to be the area of seabed/rivermouth which became dry land due to formation of training walls along the Waitara River at its mouth. It lies between what was shown as High Water mark in 1884 and the High Water mark of the early 1900s.

A plan of the harbour reserves drawn in about 1905 (SO 3643) shows this land as Crown Land.<sup>33</sup>

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<sup>30</sup> Taranaki Daily News, 15 October 1951

<sup>31</sup> *ibid*, 15 October 1951

<sup>32</sup> Marine Department Waitara - removal of material, erosion file, M 1, 4/2941, National Archives Wellington

<sup>33</sup> Correspondence from CS Bruce of the Department of Survey and Land Information and Tribunal staff, 10 February 1995  
SO Plan 3643, Department of Survey and Land Information Wellington

Waitara Harbour Board files also indicate that section 15 was considered Crown land prior to 1910.<sup>34</sup>

But it does not appear that all of what is known as section 15 was the area described by DOSLI as between high water mark in 1884 and high water mark of the early 1900s. As stated on page 3 and 4 of this report, a small portion, described as waste land in 1884, between the high water mark of 1884 and the western boundary of Rohutu, also forms part of section 15.<sup>35</sup>

Thus it would appear that section 15 was made up of the waste land described in the certificate of title of Rohutu as well as the area formed when training walls were erected in the early 1900s. The map on page 3 shows this.

In 1910, pursuant to the Waitara Harbour Board and Borough Empowering Act 1910, section 15 was vested in the Waitara Harbour Board.<sup>36</sup> The land was vested, together with approximately 270 acres of other Waitara lands, as an endowment upon trust for the construction and maintenance of a bridge over the Waitara River and for the maintenance of the banks and improvement of the river. Section 15 is described in the schedule to the 1910 Act as:

... all that piece of land in Block I, Waitara Survey District, containing 5 acres, be the same a little more or less, and bounded as follows: generally towards the south and east by Native Reserve 81, Waitara West District, Block I, Waitara Survey District; again towards the south-east by Howard Street to the Waitara River; towards the south-west and west generally by the east bank of the Waitara River to high-water mark; and thence generally towards the north by high-water mark to the north-east corner of the before-mentioned Native Reserve 81.<sup>37</sup>

The Act provided for "the rebuilding and future control of the bridge over the Waitara River, and to vest certain lands in the Waitara Harbour Board".<sup>38</sup> The Act also replaced the Waitara Harbour District and Empowering Act of 1907 which constituted the Waitara Harbour District and conferred certain powers on the Waitara Harbour Board.

No certificate of title was issued for any portion of section 15 until 1931. According to the Land Registry Office in New Plymouth there are two possible explanations for this. One is that any Crown Grant that may have been issued was not registered with the Land Registry Office as sometimes happened. The other is that no title was ever issued for section 15 until

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<sup>34</sup> Marine Department file entitled *Waitara Harbour Endowment*, M 1, 3/2/10, National Archives Wellington and Marine Department file entitled *Local Waitara Harbour Board*, M 1, 3/6/10, National Archives Wellington

<sup>35</sup> Plan SO 531, Department of Survey and Land Information Wellington

<sup>36</sup> Marine Department Waitara Harbour endowment file, M 1, 3/2/10, National Archives Wellington

<sup>37</sup> Waitara Harbour Board and Borough Empowering Act, 1910, schedule

<sup>38</sup> *ibid*, title

it was vested in the Board.<sup>39</sup> Given that the appellation "section 15" was not given until after the land was vested in the Board and that Crown land did not necessarily require a Crown Grant at this time, a Crown Grant may well have never been issued. DOSLI also state that their Crown Grant records do not show any grant to have been issued to anyone for this area prior to 1931.

## 6.2 Accretion

It has been established by DOSLI then that prior to the 1900s, most of the dry land where section 15 is now located was seabed and/or river mouth, and that as a result of the erection of training walls along the Waitara River mouth, the area became dry land. The area was then considered Crown land and in 1910 vested in the Waitara Harbour Board. Questions could then include: On what basis did the Crown assume title to section 15? Was this accretion and if so, who should legally have owned it? If it was not accretion then what was it?

According to Hinde, McMorland & Sim, accretion occurs where:

... the sea, or tidal water, or lake water recedes gradually and imperceptibly from the land, or where a river gradually and imperceptibly moves away from one bank, adding to the land by depositing shingle and silt, or where, by gradual and imperceptible means, windswept sand is deposited along the water boundary thus increasing the area of the land.<sup>40</sup>

In such cases, Hinde et al continues:

... the new land belongs to the owners of the parcels of land to which it is added.<sup>41</sup>

That the accretion belongs to the owner of the adjacent land is thus clear. What is not clear is whether the way in which section 15 was formed can be defined as accretion as per the doctrine of accretion, given that its formation was caused by artificial means. Hinde et al state that the doctrine also applies:

... whether the change is caused by natural means or artificial means lawfully employed provided that the change is not the direct result of deliberate reclamation, for a landowner is not entitled to accretions brought about by works done expressly for the purpose of reclaiming land.<sup>42</sup>

Unfortunately no information has been located concerning the actual erection of the training walls on the Waitara River and whether the work was done "expressly for the purpose of

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<sup>39</sup> As per telephone conversation between Waitangi Tribunal staff and Land and Deeds, New Plymouth staff, 2 December 1994

<sup>40</sup> Hinde, McMorland & Sim *Introduction to Land Law, 2nd edition* (Butterworths, 1986), p 202

<sup>41</sup> *ibid*, p 202

<sup>42</sup> *ibid*, p 203

reclaiming land".

Hinde et al also state that for the doctrine to apply the building up of the soil must be "slow and gradual as to be in a practical sense imperceptible". If the change is sudden, for example because of an earthquake or "by a flooded river suddenly breaking its banks and carving out for itself a new course", then the doctrine of accretion does not apply. This then also raises questions about the doctrine's applicability to section 15 given that the change may or may not have been sudden.

Hinde et al conclude:

The principle that there may be a movable freehold applied to Land Transfer land, and if registered proprietors think they are entitled to an accretion they may have their land, together with the accretion, surveyed and may apply to the Registrar for the amendment of their certificates of title.<sup>43</sup>

It should be noted that David Alexander, who gave evidence in regard to the Ngai Tahu ancillary claims, stated that gaining title to accretion was not merely a formality:

... it is the subject of inquiry by the District Land Registrar and requires statements by surveyors etc (eg that it has developed gradually and imperceptibly and is deemed to be permanent land) before a title will issue.<sup>44</sup>

### 6.3 Current Status

Section 15 and other land vested in the Waitara Harbour Board in 1879 and 1910 was vested in the New Plymouth District Council in January 1992. It is difficult to gauge from the certificate of title whether the leasing arrangements mentioned in the certificate of title include section 15 as the certificate of title is inclusive of the 140 acre section 14 which lies on the other side of Rohutu. The Waitara Golf Club currently leases section 14 but it would be unlikely that section 15 is leased to the club given its size and location. Information concerning the current use of the land has not yet arrived from the District Council.

### 6.4 Presence of Urupa on section 15

In 1944 when the Waitara Borough Council was attempting to acquire Rohutu compulsorily, the issue of urupa being located on Rohutu and section 15 was raised. Counsel for the Council Mr Prichard stated:

It was once suggested that there is a grave or graves on the land. The Council has not been able to ascertain whether this is correct - the block is only sand covered in most places with lupins. I asked the local owner some 2 years ago, regarding the alleged grave and his reply

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<sup>43</sup> *ibid*, p 203

<sup>44</sup> David Alexander *Crown Response to Factual Aspects of the Ngai Tahu Ancillary Claims Draft Report*, Waitangi Tribunal Record of Documents (Wai 27), document AB 35, March 1994, p 34

was that such a grave, if it existed at all, was on an adjoining section already owned by the Waitara Harbour Endowment Trust. ... If a grave were located the Counsel would see that it were properly fenced etc but its considered opinion is that no grave exists.<sup>45</sup>

No area has ever been reserved by the Maori Land Court as an urupa on either section 15 or Rohutu.

## **7 Conclusions/Issues**

### **7.1 Ownership of section 81**

The main issue of this claim is why the almost six acre area (section 15) adjacent to Rohutu (section 81) is not Maori land especially given that section 15 is thought to contain urupa. Up until recently when a title search of the land was made, the claimants thought that section 15 was part of the Rohutu block. It appears from the evidence provided by DOSLI that most of the area only became dry land in the early 1900s by virtue of the erection of training walls along the Waitara River mouth. A small portion of section 15 however, was described as "waste land" in 1884. It is apparent that the Crown considered section 15 to be Crown land prior to its vestment in the Waitara Harbour Board in 1910 although no Crown Grant or certificate of title was issued for section 15 prior to 1931.

Questions to consider include:

- 1 On what basis did the Crown assume ownership of section 15 after the erection of the walls and prior to the 1910 Act?
- 2 On what basis did the Crown assume that section 15 was not the property of the adjacent land owners?
- 3 Should in fact section 15 have been vested in the Maori owners given the doctrine of accretion?

(A legal opinion is required in order to state whether or not the area was accretion as per the doctrine outlined in *Hinde et al* and described on pages 10 and 11.)

### **7.2 Urupa located on section 15**

The fact also remains that the claimants state that urupa are located on section 15. The Council was aware of this view in 1950 but dismissed it (see above). Given the Crown's obligation under the Treaty of Waitangi to protect what is important to Maori, should the protection of this site be given some priority?

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<sup>45</sup> *ibid*

### **7.3 Encroachment of Baches**

As for the concern by the claimants that baches are encroaching on the Rohutu block and on urupa located within the Rohutu block, this appears to have occurred at least as early as the 1940s and continued without checks until 1960. The evidence suggests that permission to build the baches was given by one owner only. This was before the land was vested in trustees pursuant to section 438 of the Maori Affairs Act 1953. The evidence also suggests that the section 438 trust was so ordered to control the adhoc erection of such houses. The section 438 trust allows too for the erection of buildings as well as the protection of urupa.

It is doubtful whether this issue falls within the responsibilities of the Tribunal.

Current concerns about the erection of new buildings could well be dealt with by the Maori Land Court.

## **Appendices**

1. Terms of Commission
2. Map showing Te Ati Awa ancillary claims completed by author

## Appendix 1

## WAITANGI TRIBUNAL

CONCERNING the Treaty of  
Waitangi Act 1975

AND  
CONCERNING Wai 143 claims

DIRECTION COMMISSIONING RESEARCH

Pursuant to clause 5A(1) of the second schedule of the Treaty of Waitangi Act 1975, Suzanne Woodley of Wellington is commissioned to prepare research reports concerning the following matters in respect of the Taranaki claims:

- i) The twenty-three ancillary claims lodged to date by the claimants
- ii) Twentieth Century alienations

This commission commenced on 1 July 1993 and ends on 30 March 1994 at which time the work completed (in word perfect format) will be filed. The filing date however is subject to amendment in the light of other urgent tasks which may be allocated to the commissionee.

The report may be received as evidence and the commissionee may be cross examined on it.

The Registrar is to send copies of this direction to

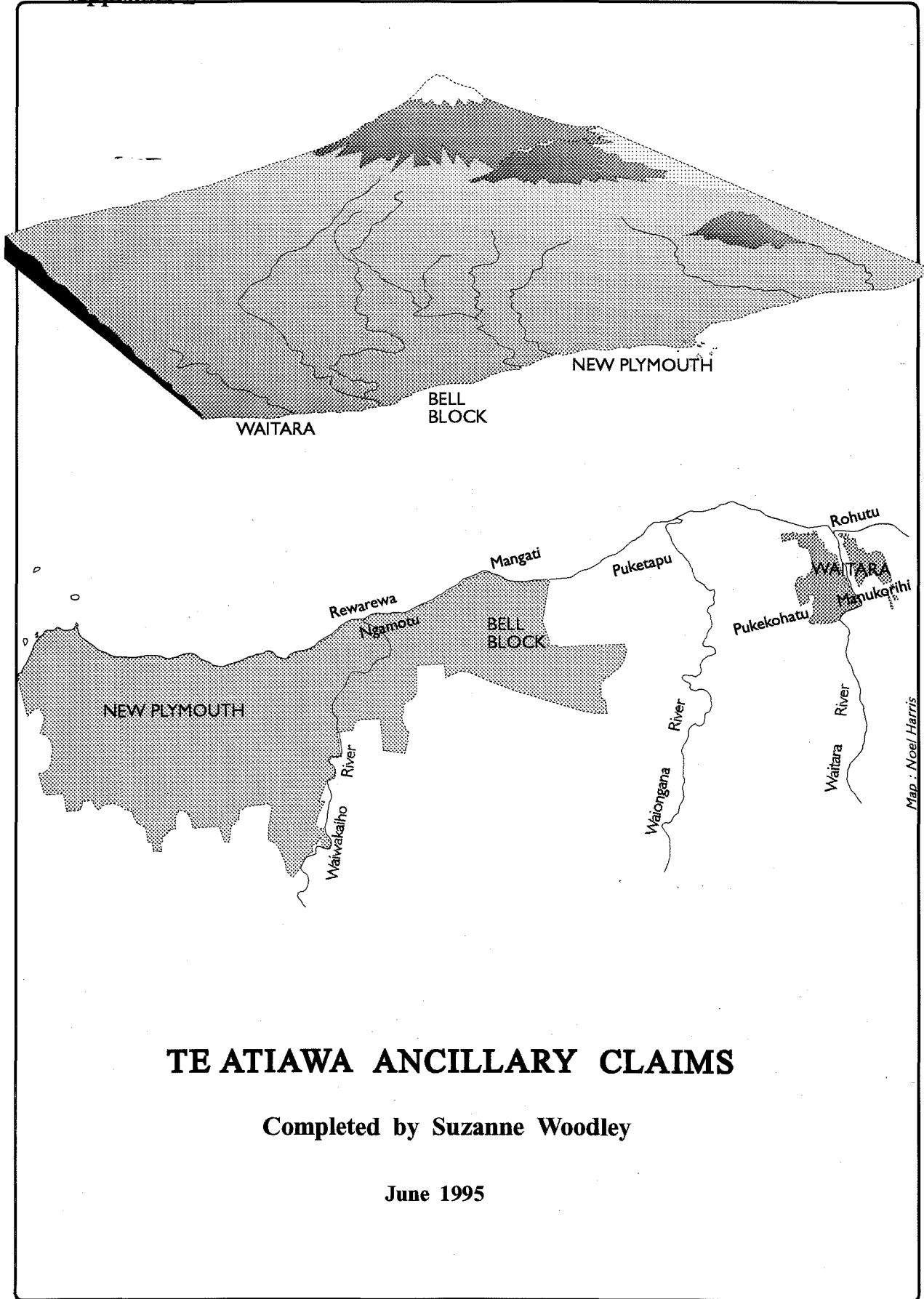
Wai 143 Claimants  
Crown Law Office  
Crown Forest Rental Trust  
Phillip Green  
National Maori Congress  
NZ Maori Council  
Suzanne Woodley

Dated at Wellington this 20<sup>th</sup> day of August 1993



Chief Judge ETJ Durie  
Chairperson  
WAITANGI TRIBUNAL

Appendix 2



**TE ATIWA ANCILLARY CLAIMS**

Completed by Suzanne Woodley

June 1995

## Bibliography

### Primary Sources

Certificate of Title 136/146, Lands and Deeds, New Plymouth

Grant to Enoka Tatairau and others, section 81, Waitara East suburban Waitara Survey District, Crown Grant Register T 18, p 148, Grant No 4021, Department of Survey and Land Information (DOSLI) New Plymouth

Lands and Survey Department file entitled *Sections 14 & 15, block I, Waitara Survey District*, LS 1, 44504, National Archives Wellington

Maori Affairs file entitled *Waitara East section 81b, Rohutu 1961-68*, AAMK 869, 74r, 5/9/163, National Archives Wellington

Maori Land Court file entitled *Waitara East Section 81 (Rohutu) block order file*, TAR 497, Whanganui Maori Land Court

Maori Trustee file entitled *Rohutu Block Grant 5286*, MA-MT 1, 1/99, National Archives Wellington

Marine Department file entitled *Waitara Harbour Endowment*, M 1, 3/2/10, National Archives Wellington

Marine Department file entitled *Waitara*, M 1, 3/4/38, National Archives Wellington

Marine Department file entitled *Local Waitara Harbour Board*, M 1, 3/6/10, National Archives Wellington

Marine Department file entitled *Membership of Waitara Harbour Board 1913-31*, M 1, 3/7/23, National Archives Wellington

Marine Department file entitled *Waitara - removal of material, erosion*, Waitara Borough Council, 1936-54, M 1, 4/2941, National Archives Wellington

Marine Department file entitled *Reports on New Zealand Harbours by Sir John Cooke 1878-80*, M 1, 3/13/743, National Archives Wellington

Marine Department file entitled *Waitara Harbour, limit of port*, M 1, 3/13/470, National Archives Wellington

SO plans 4435, 3643, 531 and ML plan 1453, Department of Survey and Land Information Wellington

Taranaki Maori Land Court Minute Book No's 7, 25, 70 & 71

## **Unpublished Secondary Sources**

Alexander, David *Crown Response to Factual Aspects of the Ngait Tahu Ancillary Claims Draft Report*, Waitangi Tribunal Record of Documents (Wai 27), document AB 35, March 1994

Harris, Aroha *Notes of Visits to Owae Marae to Meet Aila Taylor, Ted Tamati and Moki White on 21 and 23 May 1991*

Hunt, Shane Oral Evidence, 11 April 1991, tape 9b, Waitangi Tribunal Division Wellington

Watson, Doorbar, O'Carroll, Hunt, Nowell and Adds, *Evidence from the Otaraua hapu of Te Atiawa*, Waitangi Tribunal Record of Documents for Taranaki Claim, (Wai 143), document D12

Moki White and Morgan Moana nui Akiwa Watson *Submission for the Manukorihi hapu*, Waitangi Tribunal Record of Documents, Taranaki Claim (Wai 143), document D15

Papers concerning the Taranaki claim from various sources, Waitangi Tribunal record of documents (Wai 143) document I8, October 1992

## **Appendix to the Journal of the House of Representatives (AJHR's)**

*Reports of the Royal Commission appointed under the Confiscated Lands Inquiry and Maori Prisoners' Trials Act, 1879, Minutes of Proceedings and Evidence and Appendices*, AJHR 1880, G2

## **Acts**

Waitara Harbour Board and Borough Empowering Act 1910

## **Published Secondary Sources**

Hinde, McMorland & Sim *Introduction to Land Law, 2nd edition* (Butterworths, 1986)

<b>Document Bank</b>	<b>Page No.</b>
Certificate of title 136/146 (section 15)	1
Certificate of title 17/62 (section 81)	5
Extracts from Title Binder No.2, Maori Land Court Whanganui	7
Extracts from Waitara East - section 81 Block order file, TAR. 497, Maori Land Court Wanganui	10
Extracts from Maori Trustee file concerning Rohutu, MA-MT 1/99 National Archives Wellington	19
Extract from Marine Department file, M1 3/6/10 National Archives Wellington	23
Office of Crown Lands to Waitangi Tribunal, 10 February 1995	26

## DOCUMENT BANK

# SEARCH COPY

136 / 146

[Land and Deeds—4.]

[Form B.]

## NEW ZEALAND.



Reference: Vol. , Folio  
Transfer No.  
Application No.

Register-book, 146  
Vol. 136, Folio 136

Order for N/C No. 1874  
Section 9 of the Waitara Harbour Board  
and Borough Empowering Act, 1910.

### CERTIFICATE OF TITLE UNDER LAND TRANSFER ACT.

This Certificate, dated the ninth day of September, one thousand nine hundred and thirty one under the hand and seal of the District Land Registrar of the Land Registration District of Taranaki Witnesseth that  
THE WAITARA HARBOUR BOARD

is seized of an estate in fee-simple (subject to such reservations, restrictions, encumbrances, liens, and interests as are notified by memorial under written or endorsed hereon, subject also to any existing right of the Crown to take and lay off roads under the provisions of any Act of the General Assembly of New Zealand) in the land hereinafter described, as the same is delineated by the plan hereon bordered green, be the several admeasurements a little more or less, that is to say: those together All that parcel of land containing, One hundred and forty five acres and three roods more or less being Sections Fourteen (14) and Fifteen (15) Block One (1) Waitara Survey District as an endowment for the abovementioned Board for the purposes for which it is constituted and subject to the provisions of the Harbours Act 1908.



*Harold*  
District Land Registrar.

Lease No. 1536 of Lot 2 DP 5374 the Waitara Harbour Board to Thomas Henry Rattenbury Term 21 years from and inclusive of 22<sup>nd</sup> October 1931 produced 17<sup>th</sup> Dec 1932 at 2.30 oc.  
Lease No. 17042 of Lot 1 Plan 5374 the Mayor Councillors and Burgesses of the Borough of Waitara to William John Yearbury - Term 10 years from 16<sup>th</sup> January 1943 - produced 17<sup>th</sup> Dec 1942 at 10.10 oc.

N. No. 4654 Order of the Court of Review affecting Lease 1536 produced 20.12.38 at 10 oc.  
Transfer No. 72071 of Lease No. 17042 William John Yearbury to Arthur John Bishop of Waitara, produced 31<sup>st</sup> July 1944 at 11.24 o'clock.

N. 5902 by virtue of section 5 of the Waitara Harbour Act 1910 the above described land as vested in the Mayor Councillors and Burgesses of the Borough of Waitara for municipal purposes subject to section 9 of the said Act entered 2<sup>nd</sup> May 1941 at 9.30 oc.  
Transfer No. 10724 of Lease No. 17042 to Emma Mary Bishop - as executrix entered 21<sup>st</sup> March 1946 at 11.15 o'clock.

Transfer No. 77997 Emma Mary Bishop of Lease No. 17042 - produced 22<sup>nd</sup> October, 1947, at 10.57 o'clock.  
Transfer No. 69467 of Lease No. 1536 Thomas Henry Rattenbury to Olive Mary Garnitt produced 18<sup>th</sup> September 1942 at 2.01.

Transfer No. 87556 of Lease 17042 William James Nicoll to Waitara Golf Club (Incorporated) at Waitara produced 26<sup>th</sup> August 1962 at 11.42 oc.  
*over.*

136 / 146

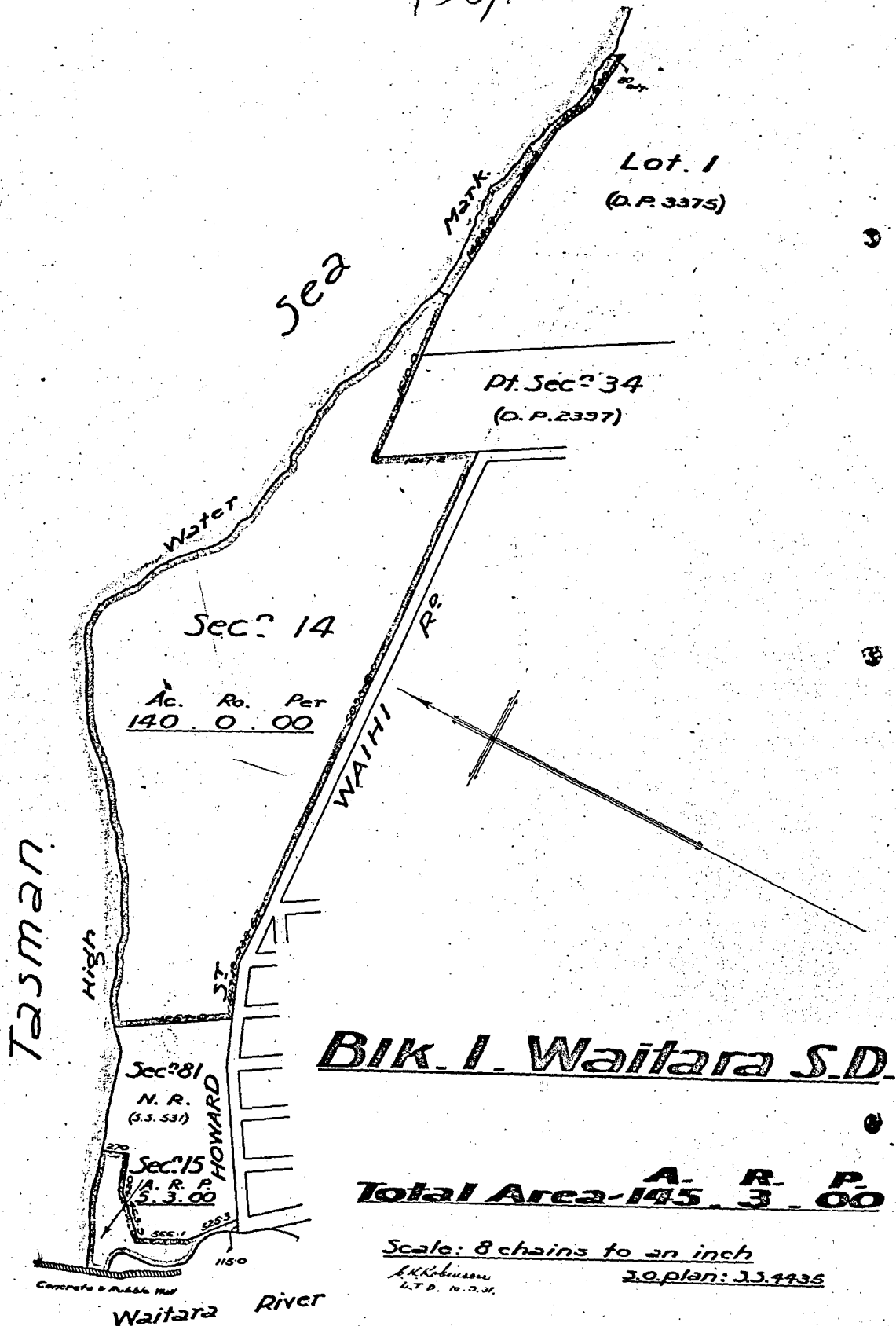
25 November 1994

REGISTER

2

SEARCH COPY

136/146



Bik. I. Waitara S.D.

Total Area 145.3.00

Scale: 8 chains to an inch

A. Robinson  
L.T.D. 10.2.31

J.J. plan: J.J. 4935

56.7829

EQUIVALENT METRIC  
 AREA IS 58.9829 ha.  
 GE 413403.5 | 250  
 58.9579 ha

# SEARCH COPY

Lease 18370 of Lot 1 DP 5374 the Waitara Golf Club (Incorporated) Term 21 years from and inclusive of the 16th day of July 1952 with Right of Renewal produced 26th August 1952 at 11.45c

336115.1 Application to record the vesting of the within land in the North Taranaki District Council subject to all existing encumbrances - 6.11.1986 at 10.33 o'c

Lease 18507 of Lot 2 DP 5374 the Waitara Golf Club (Incorporated) Term 21 years from and inclusive of 18th December 1953 at 10.55c

Mortgage 336933 of Lease 203014 to The New Zealand Golf Association (Incorporated) - 4.12.1986 at 9.04 o'c

Mortgage 96858 of Lease 18370 Waitara Golf Club incorporated to the Bank of New Zealand - produced 23.1.58 at 10.30c

Transmission 355868.1 of the interest of Endell Wanklyn of Lease 211909 to Alleyne Gillman Barnitt and Arthur William Middleton as survivors - 24.11.1988 at 10.56 o'c

Transfer 104722 of Lease 18507 Olive May Barnitt to Ian Charles Barnitt of Waitara former - produced 29.10.59 at 10.35c

Transfer 355868.2 of Lease 211909 to Alleyne Gillman Barnitt, Ian Gace Vickers and John Cameron Middleton - 24.11.1988 at 10.56 o'c

Lease 123780 of lease 18507 all the registered leases to Alleyne Gillman Barnitt Term 3 years less 1 day from 19th day of April, 1962 - produced 23.7.62 at 10.56 o'c

362355.2 Variation of Mortgage 336933 - 20.7.1989 at 9.00 o'c

THIS REPRODUCTION (ON A REDUCED SCALE) CERTIFIED TO BE A TRUE COPY OF THE ORIGINAL REGISTER FOR THE PURPOSES OF SECTION 215A LAND TRANSFER ACT 1952.

*[Signature]* D.L.R.  
of Lot 1 DP 5374

Lease 203014/in renewal of Lease 18370 to Waitara Golf Club (Incorporated) Term 21 years from and including 16.7.1973 with fencing covenant and option to renew - produced 12.6.1973 at 10.30 o'c

Transmission 378146 of Lease 211909 to Ian Gace Vickers and John Cameron Middleton as survivors - 31.1.1991 at 11.41 o'c

Transfer 384608 of Lease 211909 to Edward Ronald Wilson - 20.9.1991 at 11.15 o'c

Mortgage 96858 of Lease 203014 to Bank of New Zealand - produced 29.1.1958 at 10.32 o'c

387756 Application vesting the within land in The New Plymouth District Council subject to all existing encumbrances - 20.1.1992 at 9.01 o'c

of Lot 2 DP 5374 A.L.R.

Lease 211909/to Alleyne Gillman Barnitt, Endell Wanklyn and Arthur William Middleton Term 21 years from and including 22.10.1974 with Fencing Covenant and Right of Renewal - 4.4.74 at 9.55 o'c

411413.1 Evidence of the stopping of portion of East Quay adjoining the within land shown F on S.O. 13392 containing 4783 square metres now known as Section 1 S.O. 13392 - 9.6.1994 at 1.30 o'c

Mortgage 215331 of Lease 203014 to Bank of New Zealand Savings Bank Limited - 26.6.1974 at 8.19 o'c

J4/1063

25 November 1994

4

SEARCH COPY

136/146

413403.5. GAZETTE EXTRACT DECLARES THE  
PART OF THE WITHIN LAND CONTAINING 250  
SQUARE METRES AND SHOWN C ON S.O. PLAN  
13392 IS HEREBY ACQUIRED FOR SOIL  
CONSERVATION AND RIVER CONTROL  
PURPOSES AND VESTED IN THE TARANAKI  
REGIONAL COUNCIL - 10.8.1994 AT 9.17  
O'C

  
A.L.R..



17/62

...the West Coast Settlement Reserves  
...and "The West Coast Settlement  
...Act Amendment Act, 1902," the  
...land is vested in the Public Trustee.

*H. Whittomb*

Transmission No. 2404. Under and by virtue  
of the Statute in that behalf made in  
Parliament made in the 31st year of His  
Majesty's said Majesty King Edward VII.  
bearing title "The Land Transfer Act, 1902,"  
and in that behalf made in the 4th year  
of His Majesty King George V. bearing  
title "The Land Transfer Act Amendment  
Act, 1904," the said land became  
vested in the Public Trustee on the 4th  
day of July 1904, at 10 o'clock.

District Land Registrar.

Partition Order 102671 western part of  
Section 81A (Robuta) Block in Edward  
Eriwata (the younger) m. a. produced  
6/7/52 at 2.15 o'clock  
241/43

*H. Whittomb*  
D.L.R.

ENTERED at 2 o'clock on the 12<sup>th</sup>  
day of November 1882

*H. Whittomb*

District Land Registrar



Registration District of Taranaki

DATED 28<sup>th</sup> October 1882

22 A — R. — P.

Grant

TO

*Enoch & others and others*

THIS REPRODUCTION (ON A REDUCED SCALE)  
CERTIFIED TO BE A TRUE COPY OF THE  
ORIGINAL REGISTER FOR THE PURPOSES OF  
SECTION 215A LAND TRANSFER ACT 1952.

*H. Whittomb* D.L.R.

ENTERED in Reg. No. A

Folio 57

*H. Whittomb*

COMMISSIONER OF CROWN LANDS.

ENTERED on Record this 20<sup>th</sup>  
day of Oct 1882

Reg. No. 119

Folio 148

*H. Whittomb*

UNDER SECRETARY FOR CROWN LANDS.



**PARTITION ORDER**

The Maori Affairs Act 1953

Section 176

**Taf. N. B. 67/165**  
IN THE MAORI LAND COURT  
OF NEW ZEALAND,

**Aotea** DISTRICT.

IN THE MATTER OF the partition of the land known as

**Waitara East Section 81 (Robutu)**

Blocks

heretofore held under

**Freehold order**

dated the

**21st**

day of

**February**

19 **16.**

At a sitting of the Court held at

**New Plymouth**

on the

**27th**

day of

**February**

19 **58.**

before

**Gerard Michael O'Malley**

, Esquire, Judge.

IT IS, as part of the said partition, HEREBY ORDERED AND DECLARED that the several persons whose names appear in the first column of the Schedule ~~endorsed hereon or~~ annexed hereto, and therein numbered one to **32**

both inclusive, are the owners, in the relative shares or proportions set out in the second column of the said Schedule, of that part of the said land, containing

*17 acres 2 roods 18 perches*  
**waitara East Section 81 B (Robutu)**

named by the Court

and which part is particularly delineated on the plan attached hereto.

As witness the hand of the Judge and the seal of the Court.

*[Handwritten signature]*



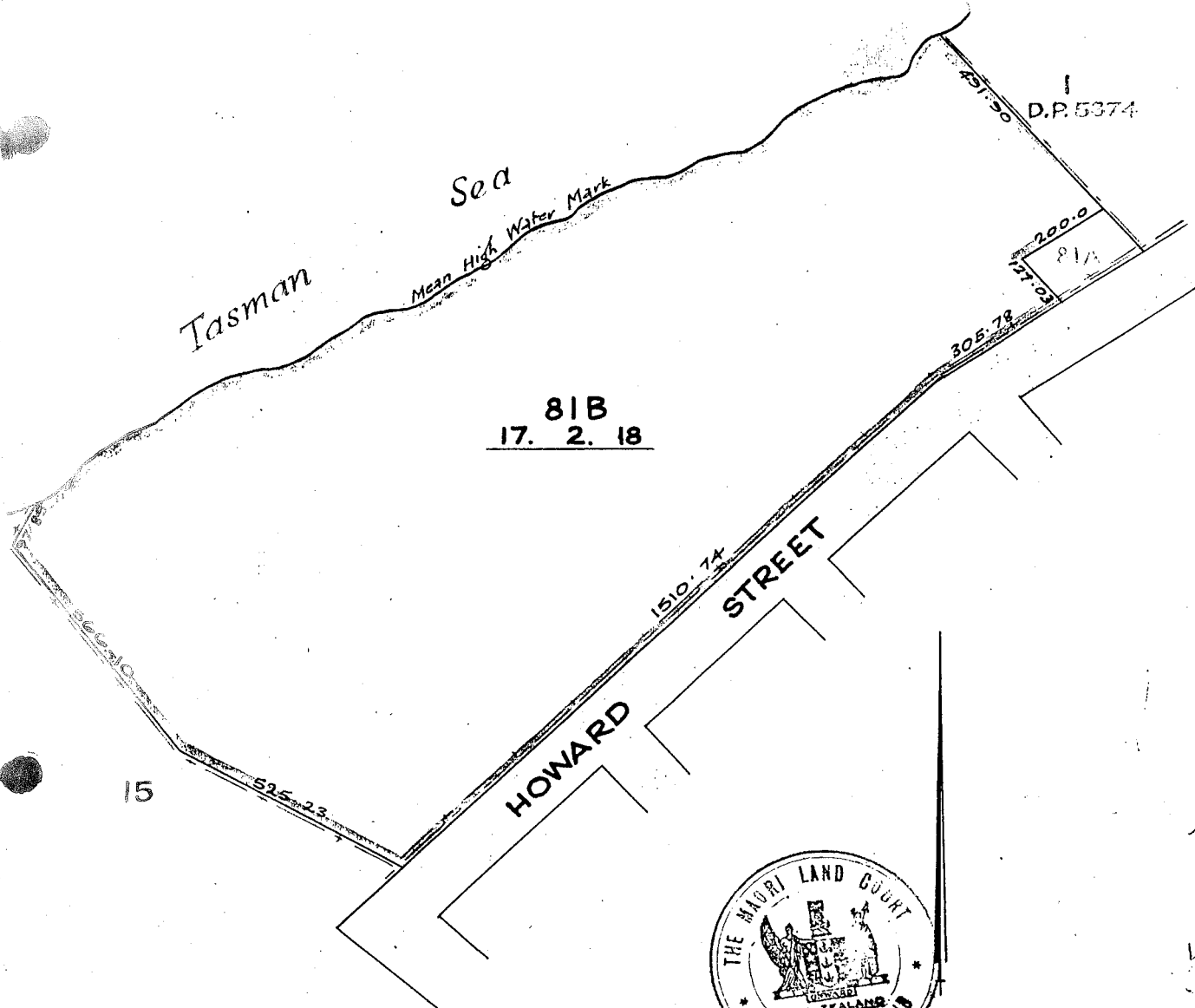
*[Handwritten signature: G. M. O'Malley]*  
Judge.

Fee charged:

*[Handwritten marks]*

# TARANAKI LAND DISTRICT AOTEA M.L.C DISTRICT

Note:- Plan shows some 25 dwellings plus outbuildings on western half of block.



SEC. 81B WAITARA EAST DIST.  
BLOCK 1 WAITARA S. D.

Scale: 3 chains to an inch

C.T. 14/62

M.L. 1453

W.A.P.

TAR. 497

WALTARA EAST SECTION 81

(ROHUTU)

BLOCK

~~GRANT 5286~~ - ORDER FILE

Grant 5286 - Block 15

TAR.M.B. 71/80-82

In the Maori Land Court  
of New Zealand  
Aotea District

The Maori Affairs Act 1953 Section 438

IN THE MATTER of Waitara East  
Section 81B  
(Rohutu)

AT a sitting of the Court held at New Plymouth on the 6th day of December 1960 before James Alister Fraser, Esquire, Commissioner.

UPON hearing the application of David Keepa for an order under the provisions of Section 438 of the Maori Affairs Act 1953 vesting in trustees upon certain trusts the Maori freehold land comprising 17 acres 2 roods 18 perches known as Waitara East Section 81B (Rohutu) AND there being on the part of the beneficial owners or any of them no objection to the making of the order IT IS HEREBY ORDERED that the said land be and the same is hereby vested in DAVID KEEPA of New Plymouth, Farmer, EDWARD BROWN of Waitara, Labourer and NGAHINA METAPERE TEIRA of Waitara, Married Woman to be held upon and subject to the undermentioned trusts for the benefit of the beneficial owners of the said land namely UPON TRUST

- (1) TO subdivide the said land into building allotments in such manner as the trustees may deem expedient and the Maori Land Court approve and to sell or lease any such allotments or to transfer any of such allotments to any of the beneficial owners of the said land in full or partial satisfaction of such beneficial owner's share in the said land with power to dedicate any parts of the said land as roads or reserves and generally do all such things as may be necessary to comply with the requirements of the Minister of Lands the local authority or the Town and Country Planning Appeal Board under the Land Subdivision in Counties Act 1946 and with further power to arrange with any local authority for the installation of a sewerage disposal system, water supply and supply of electric current for the benefit of the said land and to expend monies for any such purpose.
- (2) TO disburse or otherwise use the purchase monies or rent received under any such sale or lease or any other income received from the said land for the benefit of the beneficial owners or such of them as the trustees may from time to time determine;
- (3) TO keep proper books of account in which shall be recorded all receipts and payments relating to the said land and to prepare a Balance Sheet as at the 31st day of March in each year in which shall be shown all assets and liabilities of the trustees relating to the said land;
- (4) TO submit such books of account together with a copy of the Balance Sheet as at the immediately preceding 31st day of March to the Registrar of the Court for perusal in the month of April in each year;
- (5) TO summon a general meeting of the beneficial owners in the month of May in each year by notice in writing sent by ordinary post to the last known place of abode of each beneficiary at least 14 days before the date of such meeting;
- (6) TO place before such general meeting a full report of the trustees' transactions during the year ended on the immediately preceding 31st day of March;
- (7) TO apply to the Court after each such general meeting for an order in terms of Section 438 (8) of the Maori Affairs Act 1953 varying this order in accordance with any resolution passed at such general meeting where such resolution concerns the replacement of any trustee or trustees or other variation in the terms of the trust;

(8) TO keep proper minute books in which shall be recorded the proceedings of all general meetings of beneficial owners and of all meetings of the trustees;

(9) TO keep a nominal roll of the beneficial owners showing thereon the place of abode of each owner so far as the same shall be known;

(10) TO appoint as Secretary to the trustees a public accountant or solicitor

AS WITNESS the hand of the Deputy Registrar and the Seal of the Court.



*[Handwritten signature]*

*[Handwritten signature]*

DEPUTY REGISTRAR.

Acting under Authority \_\_\_\_\_ pursuant to Section 34 of the Maori Affairs Act, 1953.

Approved:

*[Handwritten signature]*

MINISTER OF MAORI AFFAIRS.

**PARTITION ORDER**

The Maori Affairs Act 1953

Section 176

Tar. M.B. 67/165

*10 D.L.R.  
N-3-  
30-6-59*

IN THE MAORI LAND COURT  
OF NEW ZEALAND,  
Aotearoa DISTRICT.

IN THE MATTER OF the partition of the land known as  
**Waitara East Section 81 (Rohutu)** Block  
heretofore held under **Freehold order**  
dated the **21st** day of **February** 19 **16**.

At a sitting of the Court held at **New Plymouth**,  
on the **27th** day of **February** 19 **58**,  
before **Gerard Michael O'Malley**, Esquire, Judge.

IT IS, as a part of the said partition, HEREBY ORDERED AND DECLARED  
that **Edward Briwata (the younger) m.a.** *transferred to N. Aitana J. 1/10/58*  
of **Waitara** *Exchange of Section 81  
No. 81/58 3/7/58  
Till Notice No 165*  
is the owner of that part of the said land, containing  
*0 acres 1 rood 00 perches*  
named by the Court **Waitara East Section 81A (Rohutu)** Block,  
and which part is particularly delineated on the plan attached hereto.

As witness the hand of the Judge and the seal of the Court.

*am*

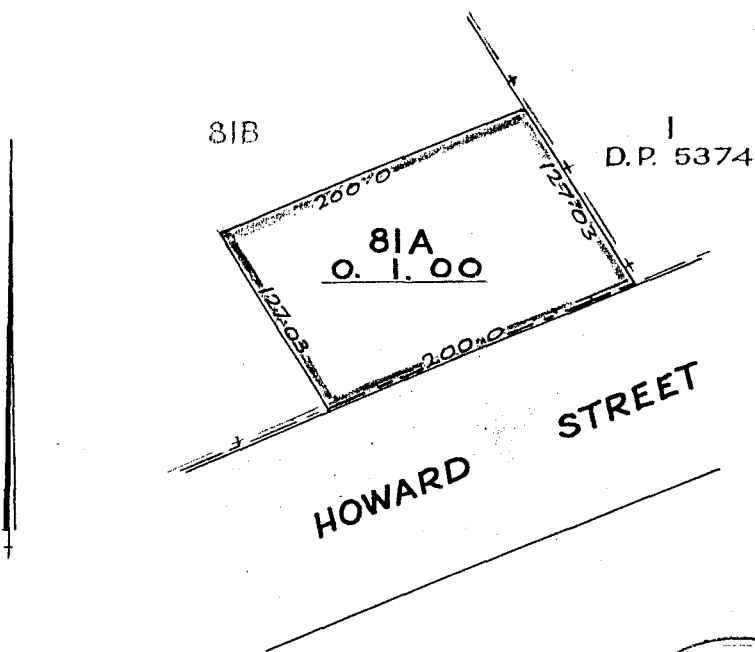
*Gerard M. O'Malley*  
Judge.



Fee charged:

*[Signature]*  
c.3.

TARANAKI LAND DISTRICT  
AOTEA M.L.C. DISTRICT



*J. M. Mally*

SEC. 81A WAITARA EAST DIST.  
BLOCK I WAITARA S.D.

Scale : One chain to an inch

*27.18/62*

M.L. 1453

*21/12/62*

*N.L. 25/17*  
**FREEHOLD ORDER.**

*Under the West Coast Settlement Reserves Amendment Act, 1913.*

THE NATIVE LAND COURT  
NEW ZEALAND  
GOTEA DISTRICT

IN THE MATTER of the Native Land Act, 1909, and the amendments thereof; and

IN THE MATTER of the West Coast Settlement Reserves Amendment Acts, 1913 and 1914; and

IN THE MATTER of a block of land known as

*Rohutu*

and heretofore held under Crown grant, Index No. *5286*.

Vol. , fol of the

Register.

AT a sitting of the Court held at *Opunake*  
on the *21<sup>st</sup>* day of *February*, 191*6*, before  
John Bain Jack, Esquire, a Judge of the said Court, in pursuance of the  
jurisdiction conferred by the said Acts:

It is hereby ordered and declared that the persons whose names appear  
in the first column of the Schedule endorsed hereon, or annexed hereto, and  
therein numbered one to *Eleven*, are (subject to the Memorandum of  
Lease noted in the margin hereof) the owners in the shares or proportions  
set out in the second column of the said Schedule of that part of the said  
land containing \_\_\_\_\_ acres

\_\_\_\_\_ roods \_\_\_\_\_ perches, being *Rec 81*  
*Waikura East Rururban*, Block  
*Waikura* Survey District, and which part is delineated in  
plan endorsed hereon. *to be called Rohutu Block*

As witness the hand of the Judge and the seal of the Court.

Registered No. \_\_\_\_\_  
Public Trustee to  
Memorandum of Lease: \_\_\_\_\_

Judge.

*88P*  
*W.P.M.*

N.P.

497

THE NATIVE LAND COURT ACT, 1894, and its Amendments; and The West Coast Settlement Reserves Act, 1892, Sections Fourteen, Fifteen, Sixteen, and Seventeen.

In the Native Land Court of New Zealand.

In the matter of the land known as \_\_\_\_\_

Waitara East-Suburban Section 81

and of an application by the Public Trustee to determine the relative shares and interests of the owners of the said lands.

At a sitting of the Court held at New Plymouth on the 24<sup>th</sup> day of November 1902 before Herbert Frank Edger, Esquire, Judge, and Te Whatahoro, Assessor.

It is hereby determined that the relative Shares and interests of the original owners in the said lands are as set out in the First Schedule hereto.

And it is hereby also determined that the persons named in the second column of the Second Schedule hereto, aboriginal natives, are respectively entitled to succeed, in the relative proportions specified in the said Schedule, to the State, Share, or Interest in the said lands, whereof the persons whose names are set out in the first column of the said Second Schedule respectively died entitled.

And the Court also hereby appoints the persons whose names are set out in the third column of the Second Schedule hereto, to receive the monies payable from time to time to the Native Owners under disability whose names are set out in the said Schedule opposite the names of such persons respectively.

Fees

Order

Nil.

As witness the hand of Herbert Frank Edger Esquire, Judge, and the Seal of the Court, this 24<sup>th</sup> day of November 1902.



H. F. Edger

Judge.

Robinson  
No. 5246

Grant under "The West Coast Settlement (North Island) Act 1880" and "The West Coast Settlement Reserves Act 1881"

Victoria by the Grace of God of the United Kingdom of Great Britain and Ireland  
Queen

To all to whom these Presents shall come

Greeting

Know-ye that for good considerations thereunto moving We for Us our Heirs and Successors do hereby grant unto Enoka Satairan, Guera Kingi te Pehi, Horiana Kingi, Rako, Parete Seira, Te Mira Seira, Paramihi, Rokoama Patukakariki, Hori Rokako and Matiu Ngahira Aboriginal Natives of New Zealand their Heirs and Assigns, All that Parcel of land in our Provincial District of Paranaiki in our Colony of New Zealand containing by ad-measurement Twenty two (22) acres more or less being the Section numbered Eighty one (81). Waitara East Suburban, Waitara Survey District, Bounded towards the North-East by Waste Land nine hundred and thirty nine and five tenths (939.5) links, Towards the South East by the Waikhi Road two thousand and fifteen and three tenths (2015.3) links, Towards the West by Waste Land one thousand nine hundred and seventy-five and three tenths (1975.3) links, Towards the North West by the Ocean Be all the aforesaid link-ages more or less.

As the same is delineated on the Plan drawn in the margin herof, With all the Rights and and Appurtenances thereto belonging. So Hold unto the said Enoka Satairan, Guera Kingi te Pehi, Horiana Kingi, Rako, Parete Seira, Te Mira Seira, Paramihi, Rokoama Patukakariki, Hori Rokako, and Matiu Ngahira as Tenants in Common their

(Heirs)

Heirs and assigns for ever Provided always  
that the said land hereby granted shall be inalien-  
-able by sale gift or mortgage or exchange or in  
any other way whatever

In Testimony whereof We have caused  
this our grant to be Sealed with the Seal of Our  
Colony of New Zealand.

Witness our Trusty and Well-beloved Sir Wil-  
-liam Francis Drummond Gervois Lieutenant  
General in Our Army Knight Grand Cross of our  
most Distinguished order of Saint Michael and  
Saint George Companion of our most Honourable  
order of the Bath

Governor and Commander in Chief in and  
over the Colony of New Zealand and its dependencies  
and Vice Admiral of the same at Wellington  
this Twentye eighth day of October in the Forty  
eighth year of our Reign and in the year of  
our Lord one thousand eight hundred and eighty-  
four

(signed) Wm. F. Gervois

504621

Reg. 19

Index no 5286

Entered at 2 o'clock p m on the  
12<sup>th</sup> day of November 1884

signed W. Stuart

District Land Registrar

Registration District of Paranalii

Dated 28<sup>th</sup> October 1884

22A - R - P

Grant to. Enoka Satairau and others

Entered in Reg no A

Folio 57

(signed) B. V. Whitcombe

Commissioner of Crown Lands

Entered on Record the 30<sup>th</sup> day of October 1884

Reg no J 19

Folio 148

(signed) W. J. Elliott

Under Secretary for Crown Lands

With the advice and consent of the Executive Council  
signed Forster going

clerk to Executive Council

**WAITARA SURVEY DIST**

Produced before the Maori Land Court

at NEW PLYMOUTH

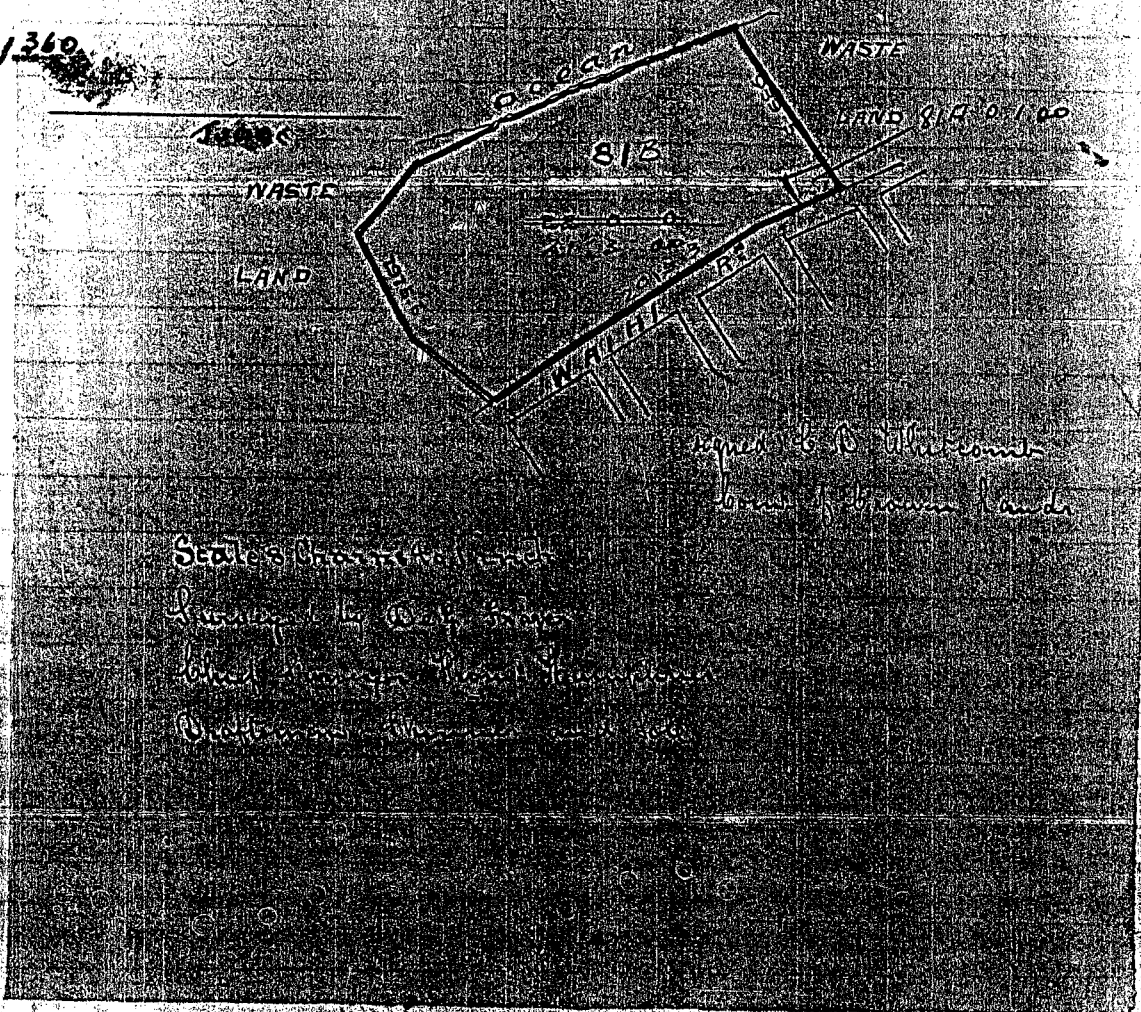
this

**WAITARA EAST SUBURBAN**

24<sup>th</sup> day of JUNE 1957

on partition of WAITARA EAST Sec 81  
block.

M. B. TARA 66 / 360



(signed) W. J. Elliott  
Under Secretary for Crown Lands

Scale's Chart of the Land  
Surveyed by W. J. Elliott  
Under the direction of the  
Under Secretary for Crown Lands

Grant 5286

20

IVOR FRICHARD, LL.B.  
BARRISTER AND  
SOLICITOR.

TELEPHONE No. 25  
P.O. BOX No. 41

Waitara,  
NEW ZEALAND.

The Under Secretary,  
Native Department,  
WELLINGTON.

9th March, 1944.

Dear Sir, ROHUTU BLOCK.

The Waitara Borough Council has instructed me to write you regarding the above block. It contains 22 acres and lies between the Borough of Waitara on the East side of the Waitara River and the sea. On the western side the Borough runs straight to the coast and owns reserves on the coast. For some strange reason the land between the Eastern part and the sea is in the County of Clifton. To reach the beach residents have in the past walked over the above block which is also known as section 81 block 1 Waitara S.D. It has a capital value of £22 (1938 valuation.)

For some years the Council has felt that it should take steps to have this Block brought within the Borough the reason being that shacks or rather beach cottages are being erected. Earlier ones were of an undesirable type but the later ones are of a more expensive type. These buildings are merely dotted on the land without reference to any road frontage and without any legal tenure. What has happened is that one of the native owners has collected a small ground rent each year. Recently the Borough Council ascertained that the houses had, without its knowledge, joined on to the Borough water supply. It is obvious that unless something is done a slum area will develop. Recently we have after years of effort, managed to secure the removal from the West beach of sea-side shacks which were a disgrace to the Borough.

The Council wished to take the block under the Public Works Act for the purposes of a recreation reserve. It is empowered to take land for such a purpose except that under section 15 of the Act no native land can be taken without the consent of the Native Minister.

The Council further asks that you investigate the position with a view to such consent being granted. In this connection it is, I think, proper to point out that it was once suggested that there is a grave or graves on the land. The Council has not been able to ascertain whether this is correct - the block is only sand covered in most places with lupins. I asked the local owner some two years ago regarding the alleged grave and his reply was that such grave, if it existed at all was on an adjoining section already owned by the Waitara Harbour Endowment Trust. If a grave were located the Council would see that it were properly fenced etc. but its considered opinion is that no grave exists.

Carried fwd.

*The Under Secretary  
I presume  
that this  
matter should  
be referred to  
the Reg. at  
Wanganui for  
his report  
& recommendations  
to be  
sent  
16.3.44*

*Mr. Haughy.  
Ask Reg. to  
report as to  
whether or not he  
knows of any  
reason why the  
Minister should  
oppose Reg's  
his consent to  
the taking of the  
land. 16/3/44*

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Brought fwd.

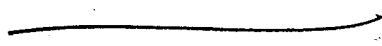
I enclose a list of the owners as awarded by a partition order of 1916. So far as the Council can ascertain none of them are alive and no successions have been granted except that Parete Teria (the local owner who collected the rents) died in January, 1943 and his interest has been succeeded to by three owners who live in this district.

Yours faithfully,

A.2  
Encl:

NATIONAL ARCHIVES OF NEW ZEALAND  
Head Office Wellington

*David Richard*



P.O. Box 447.

Wanganui, 13th. Sept., 1944.

MEMORANDUM for:-

Your ref: N.D.1903/428.

The Under-Secretary,  
Native Department,  
WELLINGTON.

NATIONAL ARCHIVES OF NEW ZEALAND  
Head Office Wellington

re: Rohutu Block Grant 5286 - Your memo. 7/9/44.

Mr. Corby's report came to hand yesterday and is as follows:-

"Re your H.O. memo dated 8.8.44, I have made further enquiries re the above land on which are erected six beach cottages, which I value as follows:-

4 cottages at £75	=	£300
2 cottages at £150	=	£300
		£600
		===

In the past, a local part-owner who is now dead, arranged with various Europeans (believed to be Stratford residents) to erect dwellings on this land without any payment for any rights to do so but this deceased Native did this without the other owners' knowledge, and collected certain unfixed rents for himself (Parete Teira). I understand that his son (Mira Teira) still collects such rents from these squatters whose cottages are fixtures to the land. The Borough Council inform me that they have no knowledge of these people - no rates paid and no record of the occupants. The cottages are at present vacant and locked up. They are evidently used as summer camping spots.

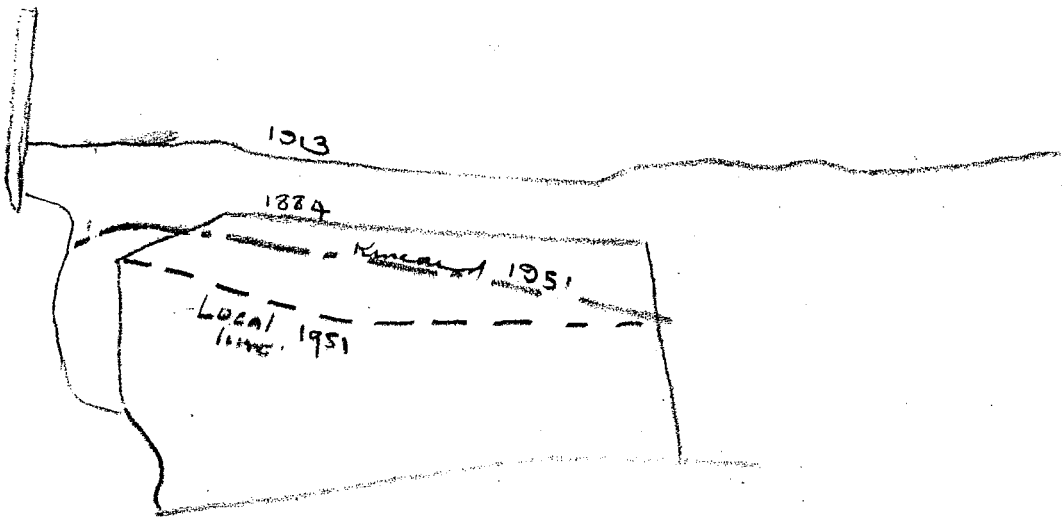
In a subsequent interview, Mr. Prichard thought that in the event of a purchase by the Council, full value would be paid for these buildings; and I presume, in addition to the £200 previously mentioned as offering for the land."

*J.P. Brooker*  
Registrar.

*Sherys:  
20 septs.  
for your directions  
Please E  
H. 10. 44*

*The Solr.  
Len.  
8/10/44*

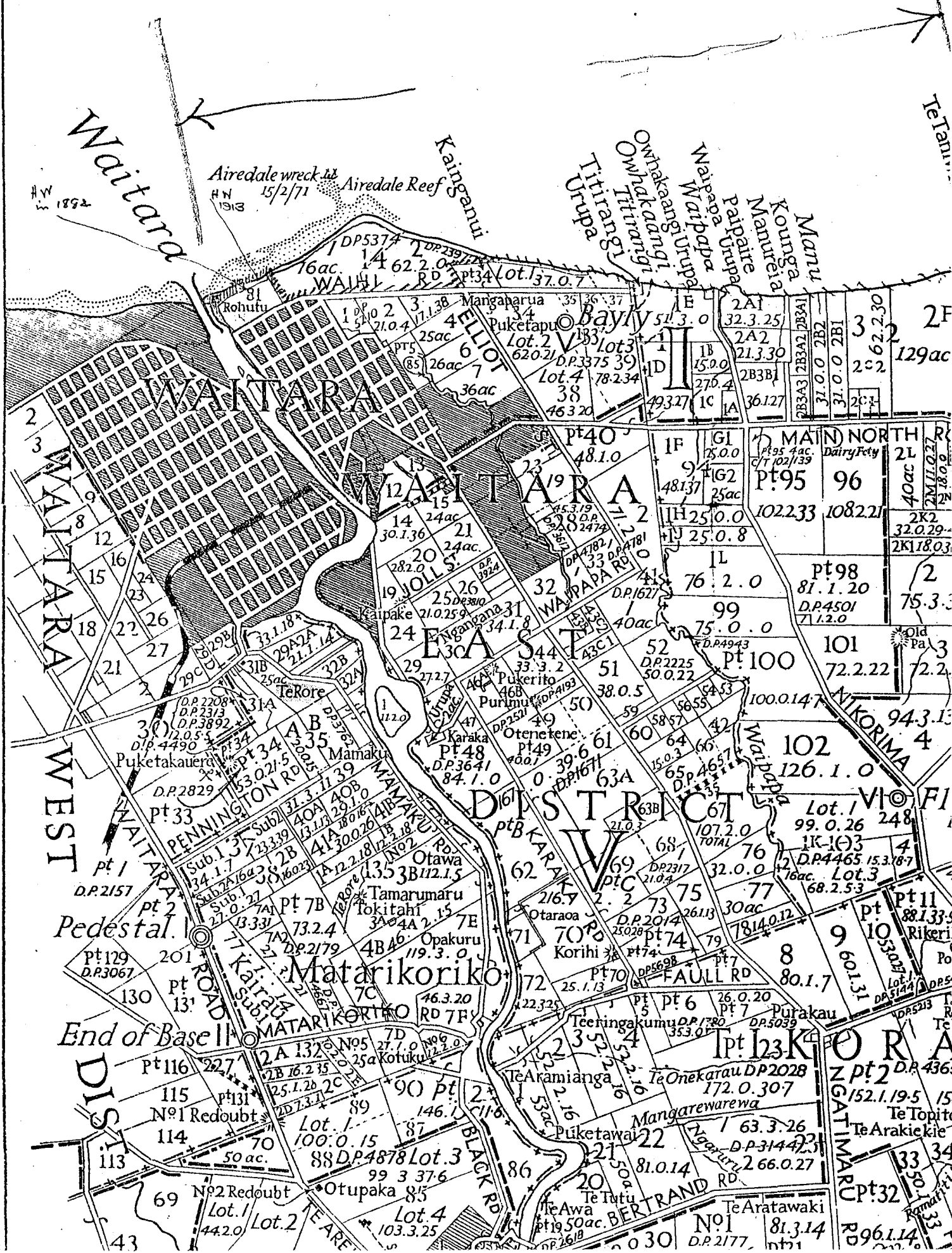
*asking  
do you see any objection to the Minister  
granting his consent to the taking of this land  
under the Act of 1928. Can you say whether  
whether or not the title is vested in the N.T.  
under the Act of 1892.  
8/10/44*



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# OTORAOA TRIBE TO PROTEST

"TARANAKI DAILY NEWS"  
Objection to shingle

removal. 5 OCT 1951

A vigorous protest is to be made by the Otoraoa tribe to the Waitara Borough Council over the removal of shingle from the beach fronting the Rohutu reserve. This action was decided on at a tribal meeting yesterday afternoon.

The legality of the council's action in taking shingle from the beach for sale is also questioned, and inquiries are being made. The council has statutory authority to remove shingle from between high and low-water marks for the purposes of the council without payment for any material taken or liability for compensation for any injury done.

The council, however, sells shingle, and, although it has the approval of the New Plymouth Harbour Board, an effort is being made to challenge the council's right to do this.

The meeting was attended by several members of the Waitara Anti-erosion Society, including its chairman, Mr. J. C. Young. The society is composed of land-owners whose properties, lying behind the reserve, will be threatened if the present process of erosion is continued.

### Objection Supported

The protest, to be lodged through the Maori Affairs Department, will take the form of support for an objection by those people whose names appear on the title deed for the land.

According to this deed, registered in 1884, the depth of the property from the rear boundary to the seafront should be 1300 feet; measurement shows that it is now only 576 feet, so that more than half has been washed away.

Of particular concern to the Maoris is the threat to their burial ground and to the historic Ngarue Hill, a mound where the first Maori settlement took place. It is believed that it is now intended to remove shingle from the beach in front of this hill, which already is close to the seafront.

Two claims form the basis of the objection to the removal of shingle: the first is that its removal is the cause of the erosion; the second is that this shingle is not washed up by the sea but is contained in the soil of the reserve and is being washed out by the erosion process.

### Built Over Centuries

The reserve, and its rich shingle content, it is stated, were built up over centuries by the Waitara River, on the east bank of which the land lies. To support this, it is pointed out that beyond the boundary of the reserve the beach is free of shingle, and a test has shown that a sample of the reserve soil will yield a good return of gravel.

In support of the claim that the erosion is caused by taking shingle, it is stated that since less shingle has been removed from one section of the beach, sand has begun to cover the bare base rocks again.

Thus, it is claimed, the high water mark is a constantly encroaching limit; as the council removes shingle, the sea, affected by the steep beach that is created, drags away more land and sifts out the shingle. The royalty value of the shingle contained in the block has been assessed by Mr. Young at £2775 an acre.

The resolution of protest at yesterday's meeting was moved by Mr. H. O'Carroll and seconded by Mr. R. Rangitaura, and carried unanimously. A committee consisting of Messrs. Rangitaura, O'Carroll, M. Taylor, E. Brown and J. C. Young was set up to deal with the question.

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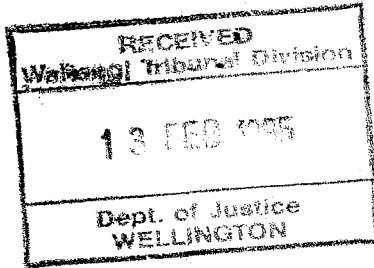
to Mr. Young 23.10.51

2775

OFFICE OF CROWN LANDS

Your Reference:

Our Reference: C/5004



New Plymouth Branch  
Hamilton Region  
Atkinson Building  
Devon Street West  
P O Box 43  
New Plymouth  
New Zealand  
Phone 0-6-758 0829  
Fax 0-6-758 5580

10 February 1995

Department of Justice  
Waitangi Tribunal Division  
P O Box 5022  
WELLINGTON

Acknowledgement letter sent

ATTENTION: SUZANNE WOODLEY

Reply follows

Thanks for information

Tena koe

**TARANAKI CLAIM - SECTION 15 BLOCK I WAITARA SURVEY DISTRICT**

With reference to your letter of 16 January 1995 regarding the status of the above land prior to 1910, when it was vested in the Waitara Harbour Board by Section 9 of the Waitara Harbour Board and Borough Empowering Act 1910.

Section 15 appears to be the area of seabed/rivermouth which became dry land due to formation of training walls along the Waitara River at its mouth. It lies between what was shown as High Water mark in 1884 and the High Water mark of the early 1900's.

A plan of the harbour reserves drawn in about 1905 (SO 3643) shows this land as Crown Land. Our Crown Grant records do not show any grant to have been issued to anyone for this area.

I hope this is of some assistance to you.

Kia ora

C S Bruce  
for **REGIONAL MANAGER**