ARAPAWA

The Path of Smoke

A report commissioned by the Waitangi Tribunal

Joy Hippolite
March 1998

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Chapter 1

Introduction

This report summarises the alienation of Maori land on Arapawa Island, and, in particular, part of Oamaru Native Reserve.

The Claim

The claim (Wai 124) relates to Arapawa Island and was received on 22 February 1990. It was submitted by Neville Karira Watson Tahuaroa for himself and on behalf of the descendants of Rihari Tahuaroa.

The claim concerns the Sounds Foreshore Reserve fronting Oamaru 2A3, which is an urupa, and Oamaru part 1B1, both part of the Oamaru Native Reserve on Arapawa Island. It also concerns a reserve adjoining the Oamaru Native Reserve, known as the Watering Place Reserve.

The claimant states that he and the descendants of Rihari Tahuaroa are prejudicially affected by:

- the Department of Conservation's failure to protect the urupa against erosion;
- a proposal by DOC to exchange the Watering Place Reserve with land adjacent to the reserve;
- the need for him to pay rental for the foreshore reserve fronting his property at part 1B1.

Mr Tahuaroa has asked for the return of the land known as the foreshore reserve fronting both the family urupa and his property, and for the return of the Watering Place Reserve, which are currently Crown lands administered by the Department of Conservation.

The Location

Arapawa Island lies on the eastern side of the outer Queen Charlotte Sound (see figure 1). It is an area of about 7,300 hectares. Arapawa or Arapaoa, means the path of smoke, so named on account of the frequency of fog over the northern part of the island which appeared like smoke when crossing from the North Island. The Oamaru Maori block occupies the northern face of the island. It is bordered by Sounds Foreshore Reserve and, on the eastern side, by a scenic reserve. The Watering Place Reserve is the southern border of the Oamaru Maori block (see figure 2). The area under claim is Oamaru Part 1B1, 2A3 (Urupa) and Section 136, Block XXII, Gore Survey District, all situated in East Bay.

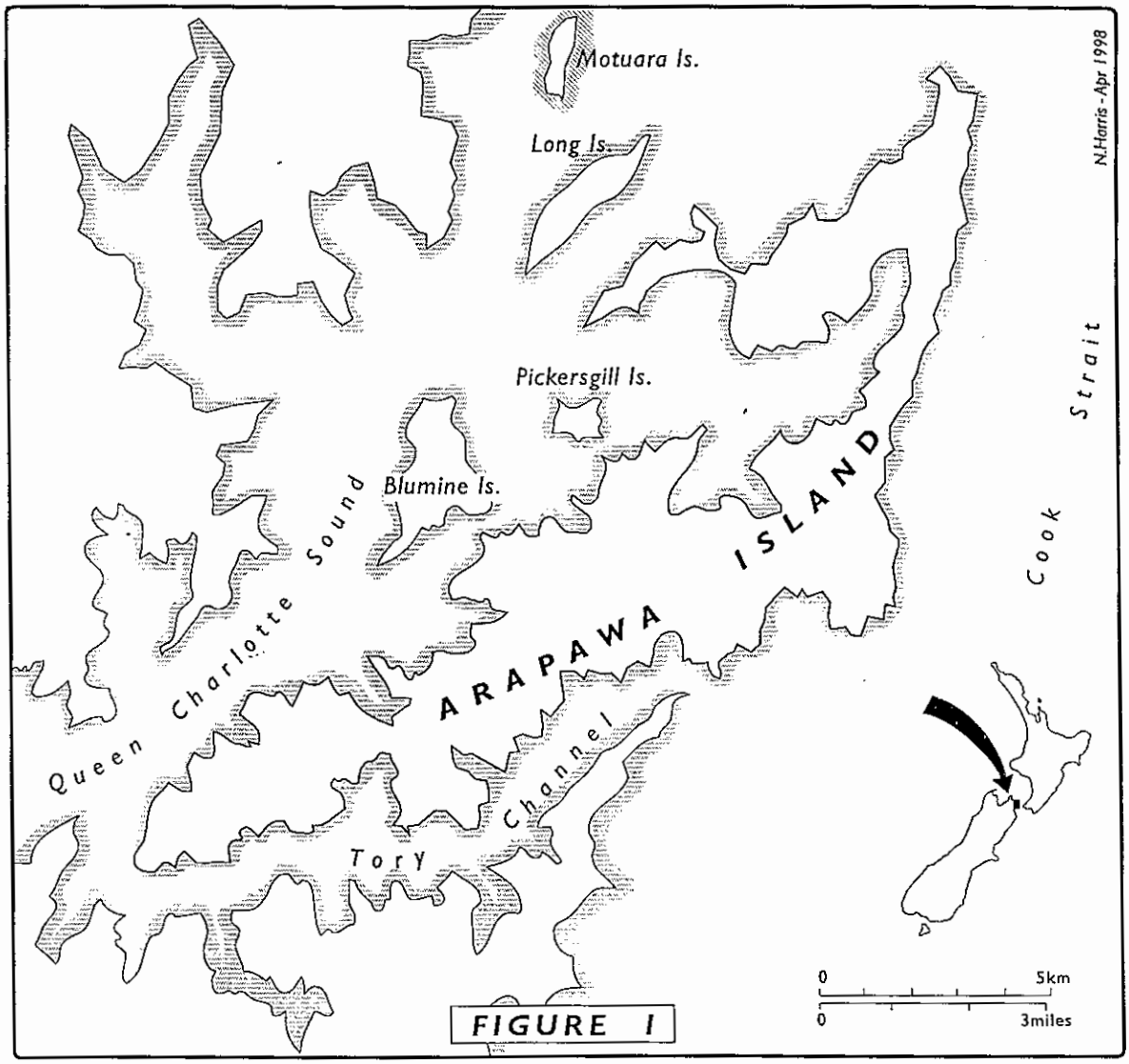
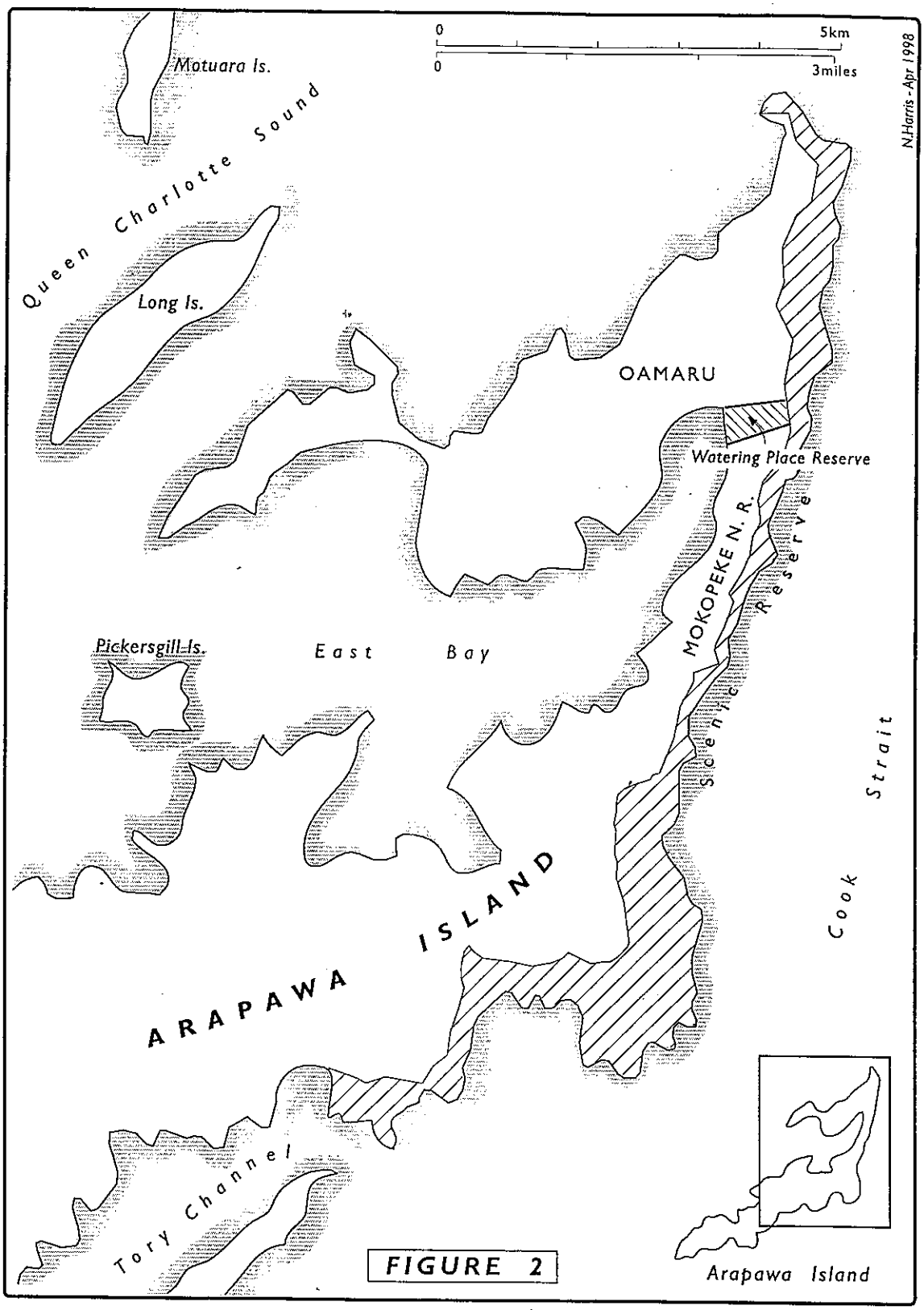


FIGURE 1


0
5km
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3miles
N.Harris - Apr 1998
Matuara Is.
Queen Charlotte Sound
Long Is.
OAMARU
Watering Place Reserve
MOKOPEKE N. R.
Scenic Reserve
Pickersgill Is.
East Bay
Cook Strait
ARAPAWA ISLAND
Tory Channel
Arapawa Island

FIGURE 2

Chapter 2

Maori Occupation of Arapawa Island

Archaeological evidence

According to Michael Trotter of the Canterbury Museum, East Bay is one of the more important areas of archaeological sites in the Marlborough Sounds. Pits, mounds, middens and artifacts attest to an occupation dating back many centuries. Trotter judges the occupation of East Bay to date back to the early period of prehistory often called "moa-hunter", although there is no evidence of actual moa hunting on the island. The moa-hunter period was some six hundred years ago. Other archaeological sites, closer to the area under claim, although essentially of Maori occupation, showed very strong European cultural influence.[1]

Evidence of Maori Settlement

The German naturalist, Ernst Dieffenbach, examined the East Bay in 1839 and noted three Maori villages. The first one was in Otanerau Bay, which he called Otanarua. Here were Maori "plantations" and on the beach "were some huts, the occasional habitations of the wandering agriculturists". At the head of East Bay was "the village of Mokupeka", which stood on "a spacious beach surrounded by hills" and where the Maori were growing wheat, taro and potatotes. The sides of the hills appeared, to Dieffenbach, to be eligible for vineyards, sheltered as they were from the east and south winds.[2] According to Trotter, this must be the easternmost part of East Bay, not the place now called Mokopeka.[3] This places it in the area currently under claim, next to the Watering Place Reserve. A 1990 report prepared by the Department of Survey and Land Information,

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[1] Report on site survey of East Bay, Arapawa Island, Queen Charlotte Sound, Res 8/8/3/3, vol 6, Department of Conservation, Head Office, pp 2-3

[2] Dieffenbach, pp119-121

[3] op cit, p 3; Res 769, Watering Place Reserve, DOC, Nelson

noted that this area provided an ideal sheltered bay for restocking ships with water, and other supplies, around the turn of the century.[4] This, however, would have to have been on the days when the severe southerlies were not blowing. One former resident described how the East Bay acts like a wind tunnel and the southerlies roar through the bay.[5] Betty Rowe also describes the effect of the 'Old Man Southerly'.

> Frigid winds gather from the south, lift above the hills around us and roar with unbelievable ferocity across the bay. One tenses with the approaching rumble which resembles a runaway freight train and, with closed eyes, waits for the impact. Sometimes the wind crackles and snaps as it whips through the high grass on the hills, leaving echoes like the sound of rifles being fired. Accompanied by rain, the Old Man whips, stings and beats all into submission, inspiring awe and sometimes fear. He has turned several boats upside down on our mooring and sent a large dinghy hurtling through space on to our front lawn ... Trees bow deeply to him as he passes, then snap to attention, limbes dangling and broken. We have been swept off our feet as we met him coming around a bend in the track and, on one very bad night, he knocked the chimney off the roof.[6]

According to Phillipson, Te Atiawa[7] claimed the whole of Totaranui (Queen Charlotte Sound) as its primary conquerors, and by right of continuous occupation by representatives of their hapu from 1832 to the present day. After the campaign against the Kaiapoi Ngai Tahu in 1831-32, Te Rauparaha and his allies stopped at Te Awaiti (Tory Channel) for a major hui at which Te Rauparaha divided the eastern Te Tau Ihu lands among his followers. This action was sometimes called a 'tuku' and at others a 'rohewhetanga', or laying out of boundaries, and it allotted territory as far west as

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[4] Report on research of Crown records for the Maori Land Information Office, Department of Survey and Land Information, Blenheim, June 1990, p 1

[5] per comment, Margaret Hippolite, 6 August 1997

[6] Betty Rowe, *Arapawa - Once upon an island*, The Halcyon Press, Auckland, 1988, pp 56-57

[7] The names Te Atiawa and Ngati Awa are used interchangably throughout this report. Ngati Awa was the name used in official documents in the nineteenth century, Te Ati Awa is what the iwi call themselves these days.

Wakapuaka. The Sounds were divided between Ngati Toa and Te Atiawa, with Ngati Toa receiving Te Hoiere (Pelorus Sound) and Atiawa obtaining Totaranui and Arapaoa (Arapawa). The beneficiaries of the tuku to Te Atiawa were Te Manu Toheroa (Puketapu), Reretawhangawhanga (Manu Korihi), Tamati Ngarewa (Hinetuhi), and Huriwhenua (Rahiri).[8]

[8] G A Phillipson, The Northern South Island District Report, (District 13), Working Paper: First Release, Waitangi Tribunal, June 1995, p 31

Chapter 3

The Purchase of Land

The New Zealand Company

The first major alienation of Maori land in the district took place in 1839, before the signing of the Treaty of Waitangi. The New Zealand Company claimed to have purchased land on the southern shores of Cook's Strait by two deeds of purchase from the Maori. The first of these deeds was executed at Kapiti, on 25 October 1839, by the chiefs Rauparaha, Rangihaeata, Hiko and others, members of the Ngatitoa tribe. This deed purported to sell 20 million acres of land in the Cook Strait area, including the whole of the future Nelson and Marlborough provinces. The boundaries were described in terms of degrees of latitude, and the deed included a long list of the districts being sold in both islands. The second deed was executed at Queen Charlotte Sound, on 8 November 1839, by a large number of the resident Ngatiawa tribe. It conveyed virtually the same districts to the company as the Kapiti deed had claimed to do. The Kapiti and Queen Charlotte Sound deeds formed the basis for the New Zealand Company's claim to have purchased the whole of Te Tau Ihu o te Waka a Maui.[9]

The Spain Commission, however, which was appointed by the Colonial Office to investigate the validity of pre-Treaty purchases of Maori land, concluded that the company had a right to parts only of Tasman and Golden Bays. Further purchases, by the Crown, were necessary to complete the company's Nelson titles.[10] This included the Wairau purchase, 1846-47 and the Waitohi purchase, 1847-50. In August 1853 the government set in motion its final large land purchase in Te Tau Ihu o te Waka a Maui. Governor Grey planned to extinguish all Maori rights to the top of the South Island, as well as the

[9] Mackay's Compendium, vol 1, Part II, p 3; Phillipson, pp 47-48
[10] Phillipson, pp 67-68

West Coast, in return for cash and "subject to certain reservations". These reserves were intended to provide no more than "subsistence" for the resident Maori.[11]

The Waipounamu purchases

The first transaction was signed on 10 August 1853 between "the chiefs and people of Ngati Toa", on behalf of themselves and their "relatives and descendants" and Donald McLean, Land Commissioner, on behalf of the Queen of England. They agreed to "entirely and for ever transfer our land at Waipounamu" to the Queen. The purchase price was £5000, £2000 of which was paid that day, the rest to be divided between themselves and Te Atiawa, Ngati Koata, Ngati Rarua, Rangitane and Ngai Tahu, "who, conjointly with ourselves, claim the land". "[C]ertain places" were to be reserved for those residing on the land but "the extent and position of the lands" were to be decided by the governor, not the people themselves.[12] This was the first in a complex series of transactions which became known as the Waipounamu purchase. As Phillipson points out, these did not involve a piece by piece sale of blocks or districts, with a clear definition of boundaries, rather they were a blanket cession of all the rights of an iwi over any and all land in the South Island.[13]

With Grey's departure in 1853, Donald McLean was left to finalise the arrangements on his own. These were not expected to take much time, but "circumstances which could neither be foreseen nor obviated" interfered to prevent this.[14] Those "circumstances" being, not the least, the objections of the resident Maori to the right of Ngati Toa to sell all the land.[15] McLean had to make separate arrangements with each of the iwi. These transactions have been fully detailed by Grant Phillipson in his Rangahaua Whanui report.[16] It is not intended to go into them again in this report except to mention them

[11] Mackay, vol I, p 14
[12] ibid, p 308
[13] Phillipson, p 128
[14] Mackay, p 300
[15] ibid, pp 294, 301
[16] G A Phillipson, The Northern South Island District Report, (District 13), Working Paper: First Release,

briefly, in the context of the 1856 Ngati Awa deed. It was out of this purchase that the Oamaru Native Reserve was made.

In 1854 McLean proceeded to Taranaki to purchase all the interests of those Ngati Awa who had departed the Sounds for good. A sum of £900 was paid to extinguish their title to the top of the South Island. On 2 March 1854, £200 was paid at Ngamotu. A further £500 was paid on 10 March 1854 and another £200 was paid on 24 November. As well, McLean paid the chief Tamati Wiremu Kingi and Heaira Pikiwata £100 for their claims in the Queen Charlotte Sound.[17]

After a year of buying up the rights of non-residents, McLean's only approach to the communities in occupation was to send surveyors in to make reserves. In November 1854, Charles Brunner, the government surveyor, was sent to the South Island to mark off the reserves agreed to in the August 1853 deed. He had the assistance of a Mr Jenkins of Nelson, as interpreter, but "owing to the jealousy evinced on the part of some of the natives to the Ngatitoa sale, these officers were unable, except in a few instances, to effect any permanent adjustment of the matter".[18]

At Te Awaiti, they met with Ngawheua, or Whitikau, "an old Ngatiawa chief ... one of the oldest residents in Queen Charlotte Sound". Ngawheua told them he was not willing to part with any of the land in the Tory Channel as "he required it all for his own people, and never thought of parting with it".[19] On being reminded that the whole of the Sound had been sold to the government, Ngawheua replied:

[17] Mackay, vol I, pp 301, 308-10
[18] ibid, pp 14-15
[19] ibid, p 298

> My land is not sold, nor has any one but myself a right to sell it; and I have never been asked to do so by the Government. When I sell it I shall make my own bargain and receive the money for it into my own hand, or it shall never go.[20]

Others were willing to sell, if they were offered a fair price, and on the condition that they choose their own reserves.

At Onamaru (Oamaru) on the north-eastern tip of the island, Brunner and Jenkins met with members of the Puketapu and Ngati Rahiri tribes. The principal speakers were "Heremaia, Te Matenga, Aminarapa, Tamati Waka, Hoani Koenaki, Wiremu Paratene, Hori Patene, and Rihari [Tahuaroa?]". Jenkins told them the object of their visit, reminding them that they had already signed a deed by which they agreed to sell the whole of the Sound, that a price had been fixed by themselves, the Ngati Toa chiefs, and Donald McLean, and that all that remained to be done now was the laying off of reserves for them.[21]

They told Jenkins that they would not accept a reserve from the government until the money for the land was paid into their own hands. According to Jenkins, they were willing to sell the greater part of their land, but would, once again, choose their own reserve.[22] Jenkins concluded his report by stating that the people were all anxious to meet with McLean in Nelson.

However, throughout the year of 1855, McLean was tied up with the purchasing of land in the Wairarapa and Hawke's Bay and by the "disturbances" in Taranaki. It was not until October 1855 that he went to Nelson.[23]

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[20] ibid
[21] ibid, p 299
[22] ibid
[23] ibid, p 301

From November 1855 to March 1856, a series of purchase deeds were signed in order to extinguish native title to the land in the Marlborough/Nelson region (except for reserves).[24]

DATE	IWI	INTEREST	PRICE (£)
10-13 November 1855	Ngati Rarua and Ngati Tama	ceding all claims to land in the South Island	600
1 February 1856	Rangitane	to extinguish all claims to land in the South Island	100
9 February 1856	Ngati Awa	conveying all claims to land in the South Island	500
16 February 1856	Ngati Kuia	ceding claims to Kaituna, Te Hoiere and all other places in the South Is.	100
5 March 1856	Ngati Koata	ceding claims in the Nelson Province	100
6 March 1856	Ngati Tama	ceding claims to land at Motupipi and Takaka, Province of Nelson	60
7 March 1856	Ngati Tama	ceding claims in Massacre Bay, Province of Nelson	110
7 March 1856	Ngati Tama and Ngati Rarua	ceding claims to land at and adjacent to Separation Point, Province of Nelson	150

This report is concerned with the 9 February 1856 deed, of Ngati Awa, conveying all their claims to land in the South Island.

McLean described how after paying Rangitane £100 to extinguish all their claims to land in the South Island, at Wairau, he sailed on to Tory Channel and Queen Charlotte Sound, "a portion of the country inhabited chiefly by the Ngatiawa".[25] The people assembled at

[24] ibid, pp 312-19
[25] McLean to Colonial Secretary, 7 April 1856, Mackay, vol I, p 302

Waikawa to meet him, where, after several debates, which lasted for some days, he was able to effect a final settlement of their claims for a sum of £500, on 9 February 1856.

"Large and extensive reserves" were made for Ngati Awa on the shores of Queen Charlotte Sound.[26] McLean understood the economic and cultural importance of this part of the country for Ngati Awa. From its "past associations ... as the scene of many hard-fought battles and of final conquest", as well as a resort for whaling vessels from different parts of the world, with whom they carried on a lucrative trade, to its well-sheltered bays and harbours that provided year-round supplies of fish.[27] He admitted, however, that the chief reason the resident Ngati Awa got such supposedly generous reserves in the Sound was to induce them to remain in the district. This was to prevent them from returning to their former possessions at Taranaki, which they seemed disposed to do, and which would possibly complicate the land question in that province.[28]

The reserves for Ngati Awa were pointed out to them by Jenkins, the interpreter, and Henry Lewis, the government surveyor, and marked red on the map accompanying the deed.[29] One of these was the Oamaru Native Reserve, which was estimated at 2500 acres,[30] part of which is the subject of this claim. The map also shows areas that were marked for public reserves. These were coloured green on the map. One such area is situated between the Oamaru and Mokopeke Native Reserves and it later became the Watering Place Reserve.

[26] Mackay, vol I, p 15
[27] ibid, p 302
[28] ibid
[29] Deed Marlborough 7, LINZ Heaphy House (see figure 3)
[30] Mackay, vol II, p 338

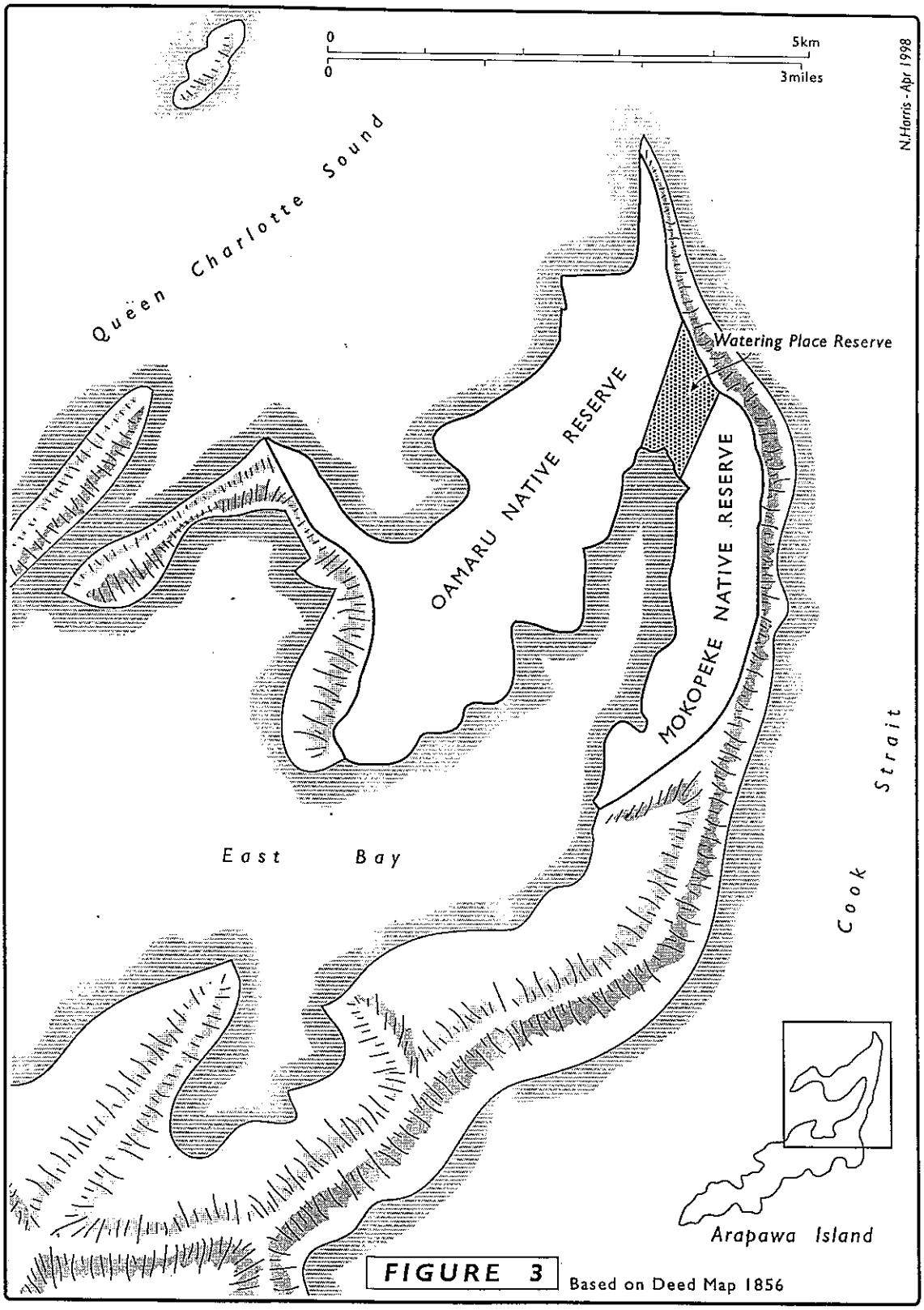

FIGURE 3 Based on Deed Map 1856

Chapter 4

The Watering Place Reserve

Land which had been purchased by the Crown, and which had not been granted for old land claims, or was not required for native reserves, was reserved or disposed of as Waste Land of the Crown. Provincial administrators were responsible for the reservation or disposal of waste land within their province and regulations were passed within the provinces to govern the disposals.[31]

In 1857 the Watering Place was set apart as a reserve. The superintendent of the Nelson Province directed that the land described in the schedule as being Waste Lands of the Crown be reserved "as a watering-place, and for other purposes". As already noted, this area was described as an ideal sheltered bay for restocking ships with water and other supplies (see page 5). The reserve is described as containing about 80 acres (32.3748 ha) and located at Onauku, East Bay, Queen Charlotte Sound.[32] The legal description for this area is now section 136, Block XXII, Gore Survey District.

The Queen's Chain

In 1990, the Department of Survey and Land Information prepared a report on the area under claim for the Maori Land Information Office. According to this report, at some stage, between 1880 and 1900, there should have been a plan drawn showing the reserve as section 136.[33] The report does not explain why this should be but adds that the plan appears to be missing. The report further states that the plan would have also set aside a one chain strip of road along the water's edge of Onauku Bay. In order to provide free public access to the foreshore of the sea in the Queen Charlotte Sound, it was the Crown's

[31] DOSLI 1990, p 3; see *Nelson Gazette* 1856, pp 63-69
[32] *Nelson Gazette* 1857, pp 51-52
[33] DOSLI report, p 8

policy to retain a strip of land, approximately one chain back from high water mark, when disposing of any adjoining Crown land.[34] This was commonly known as the "Queen's chain". The DOSLI report, however, produces no evidence to show when this one chain strip, in front of the Watering Place reserve was reserved, or why it was necessary in this particular case, as the Crown already owned, and retained, the land. It was a common practice, though, to reserve a chain strip in front of a Crown reserve.

One possible explanation for reserving this strip is the decision to lease the land. Attached to the DOSLI report is a copy of correspondence relative to an early lease over section 136, granted to Thomas Watson [claimant's grandfather?] in 1903.[35] Mr Watson had been leasing the property prior to 1903, on a year to year basis, and was now looking for a long term lease. His lease, however, remained a year to year one. Leasing may restrict access to the land while a chain reserve would still ensure public access to the foreshore. One of Mr Watson's letters, dated 31 December 1903, noted that a chain reserve was in place at this time.

The report assumes that the Watering Place reserve originally went down to the water's edge. The reserve was originally gazetted as *about* 80 acres. The current records, however, show the area to the waters edge as being 83 acres, that is, the 80 acres of the reserve plus the one chain strip (of 3 acres or 1.2141 hectares).[36] The DOSLI officer was unable to resolve the discrepancy and neither am I. It may just be that the reserve was not surveyed at the time and that 80 acres was only an approximation.

By 1925 the chain strips in the Marlborough and Queen Charlotte Sounds were being called road reserves, even though, technically, they were not roads. In 1890 it had been directed that all reserves along the banks of rivers, streams, lakes and seashore be coloured burnt sienna on the survey plans, similar to public roads, although there was no explanation for why this had been done. In 1917, the surveyor general held that the

[34] Res 8/8/2/24, DOC Head Office
[35] DOSLI report, refer to 3.8.1
[36] see figure 4

colouring of a reserve along the foreshore in sienna constituted it a road, even though they had never been in use for road purposes.[37] Over the years many settlers and owners of seaside residences in the Sounds had started to erect dwellings on these road reserves. In time, some of these owners began to regard the land as belonging to them, right down to the sea, and objected to other people "trespassing" there. In 1925 the Commissioner of Crown Lands drew the attention of the Under Secretary for Lands to this fact.[38] The commissioner was anxious to ensure that the control of these areas remained with the Crown. He saw no harm in leasing these areas to the adjoining land owners, provided that Crown control was guaranteed, and pulbic rights of access were protected. He thought an empowering clause, inserted in the "Reserve, etc. Enabling Act" or a Land Laws Amendment Bill, would achieve this. The commissioner saw no reason why the Crown should not gain some pecuniary benefit from the arrangement, considering that the only portion of land which was of any value was Crown land. Much of the adjoining private owners' land was hillside country of very little value.

The commissioner's resolve was strengthened by the Marlborough County Council's actions. The council intended giving occupants of seaside cottages some right to occupy the road reserves, even though the council had no legal authority to do so. The commissioner thought that this would complicate matters, and possibly lead to political interference in some way, although he did not specify how it would do so. He recommended that the Department of Lands take immediate steps to declare all the road reserves to be government roads under section 103(2) of the Public Works Act 1908, in order that the government be in full control of these strips. This would prevent the erection of any further buildings, at least until the policy to be adopted in dealing with these issues was finalised.[39]

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[37] Commissioner of Crown Lands to the Under Secretary for Lands, 12 June 1925, W1, 43/248, National Archives
[38] ibid, 18 May 1925
[39] ibid, 12 & 20 October 1925

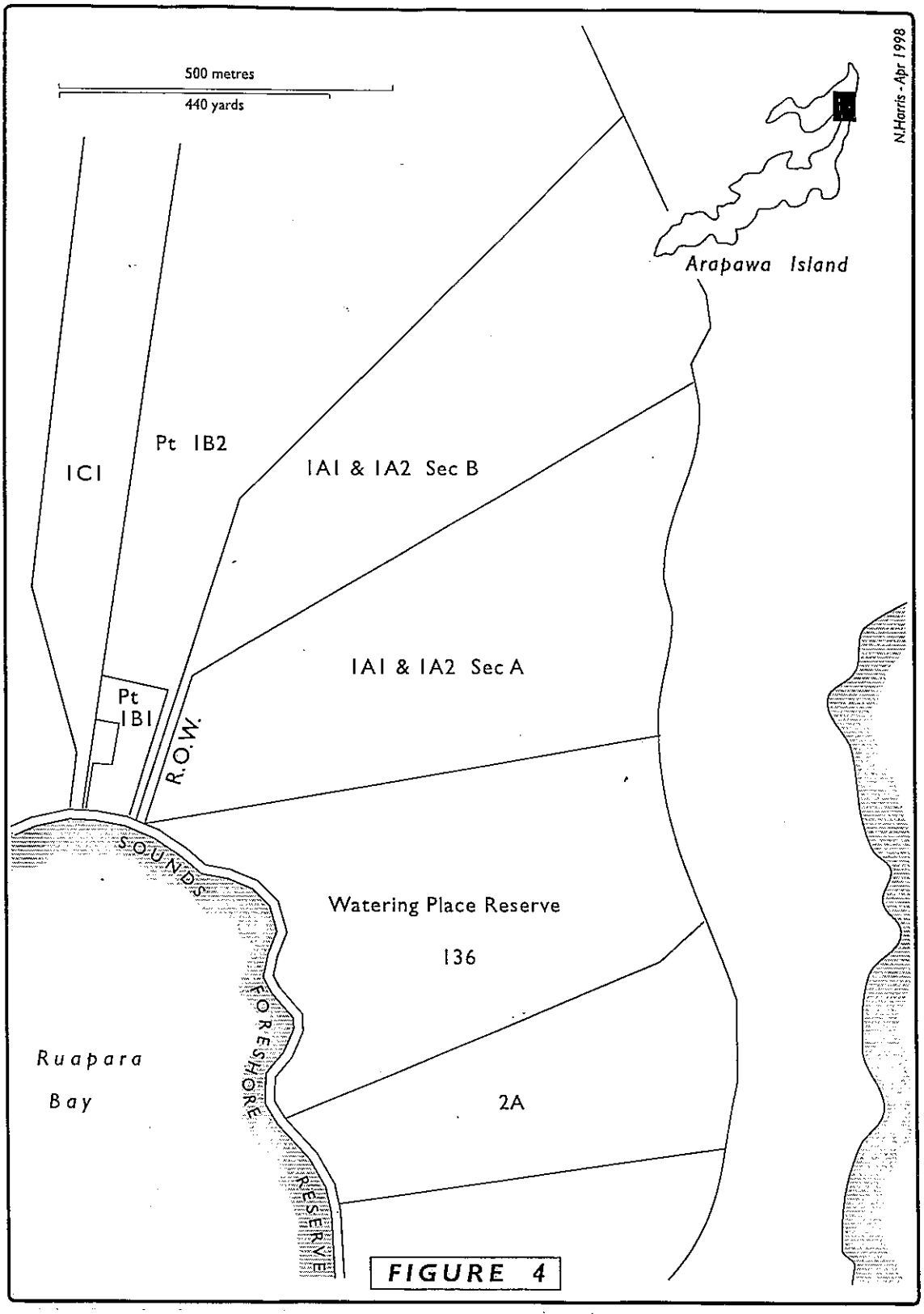
500 metres
440 yards
N.Harris - Apr 1998
Arapawa Island
1C1
Pt 1B2
1A1 & 1A2 Sec B
1A1 & 1A2 Sec A
Pt 1B1
R.O.W.
SOUNDS
Watering Place Reserve
136
FORESHORE
RESERVE
Ruapara
Bay
2A

FIGURE 4

The Resident Engineer in Nelson and the Public Works Department agreed with the commissioner's recommendation and in 1926 portions of "road" in the Linkwater Survey District, in the Marlborough Land District were declared government roads.[40] The gazette notice only covered a limited area as at the time the Department of Lands appeared to be only concerned with this area. This was where most of the activity had taken place. In 1927, however, it was decided that it was desirable to obtain jurisdiction over a more extended area than that covered by the 1926 proclamation. By now these areas were being called foreshore roads and reserves. The question of drafting clauses for inclusion in the Reserves and Other Lands Disposal Bill was also under consideration at this time. This was to ensure that the department's right to control the occupation of these reserves was not usurped by any other authority, such as the Marlborough County Council. However, no further action was taken until 1930, the matter having been held in abeyance until P R Wilkinson was appointed Commissioner of Crown Lands. It was then that the greater portion of foreshore roads in the Marlborough district were declared government roads, under the Public Works Act 1928. This included the one chain strip in front of section 136, the Watering Place reserve.[41] It was not until 1955 that these "roads" were the subject of special legislation, which authorised the declaration of these lands as Sounds Foreshore Reserves (SFR).[42]

Sounds Foreshore Reserve

This sections looks at the creation of Sounds Foreshore Reserves. It examines the rationale behind their creation and traces their development from foreshore roads to Sounds Foreshore Reserves. Much of this will become more relevant in the next chapter when we look at the administration of the Sound Foreshore Reserve fronting the Oamaru Native Reserve, which is the subject of the Wai 124 claim.

[40] W1, 43/248; *New Zealand Gazette* 1926 no 20, p 864
[41] *New Zealand Gazette* 1930, p 2294
[42] Reserves and Other Lands Disposal Act 1955

The purpose behind the creation of foreshore reserves, under section 17 of the Reserves and other Lands Disposal Act 1955, was to rationalise the control of the many areas of legal road and other areas lying on the original 'Queen's chain'. Over the years, adjoining owners and lessees had continued to occupy this area as part of their own property. This was because usually these strips were the only reasonably flat land available along the foreshore of the sea and they were frequently used as sites for the erection of houses, boatsheds, woolsheds, fences and other improvements. Until the 1955 Act, by law, these encroachments, by adjoining owners and lessees, had constituted a legal trespass. Generally the encroachments had done little harm but it was felt necessary to exercise some form of control to ensure that the right of the public to use the land along the foreshore of the sea was preserved. The Sounds area, by this time, had become very popular with the holidaying public for camping and picnicking and the government wanted to ensure that the public right to use these areas was not prejudiced by indiscriminate erection of seaside cottages, jetties, etc.[43]

Section 17 of the 1955 Act enabled the Minister of Lands to declare a certain area to be a public reserve subject to the Reserves and Domains Act 1953. This reservation ensured the public right of access over all foreshore reserves while providing the opportunity for legalising the encroachment on SFR by persons who had erécted their buildings, prior to the passing of the legislation. The Minister was empowered to grant licences to occupy the public reserves as sites for boatsheds or other buildings. The area covered by the legislation was the whole of the Marlborough Sounds from Port Underwood in the Cook Strait to the Whangamoa River in Tasman Bay, north of Nelson. The reserves were administered by the Department of Lands and Survey.[44] In 1960 all government roads within the described area were declared public reserves subject to the Reserves and Domains Act 1953. The government road fronting section 136 was declared a public reserve for the purposes of a Watering Place and for other purposes.[45]

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[43] Res 8/8/2/24
[44] ibid; see also section 17, Reserves and Other Lands Disposal Act 1955
[45] *New Zealand Gazette* 1960, p 194

In 1973 the control of the foreshore and other reserves was passed to the Marlborough Sounds Maritime Park Board. This board was appointed by the Minister of Lands under the Reserves and Domains Act 1953. It consisted of the Commissioner of Crown Lands for the Marlborough Land District, the Conservator of Forests for the Nelson Conservancy and 11 others appointed by the Minister. The reserves the board controlled included section 136 and the chain strip fronting it.[46]

The board's policy regarding foreshore reserves was to maintain the right of access, whenever possible, while recognising the rights of adjoining landowners who had buildings on foreshore reserves at the time of the original enactment. For this purpose, its policy was to:

- License existing living accommodation on the understanding that no major renovations were to take place to the buildings and that on the building becoming uninhabitable, it was to be removed from the reserve;
- Grant adjoining landowners, subject to conditions, a licence to occupy such areas of foreshore for boatsheds, generator sheds, etc, that were necessary to service the owners' properties;
- Approve certain works on the foreshore by adjoining landowners if it was necessary to facilitate access to their properties;
- Ensure that any work that was approved was carried out in such a way as to cause minimal disturbance to the area.

The authority to approve or decline licences remained with the Minister of Lands who made his decision on the recommendation of the board, at least until 1976. In that year this authority was delegated to the Commissioner of Crown Lands "in the interests of efficiency".[47] In practice, while existing accommodations were licensed, no licences were

[46] *New Zealand Gazette* 1973, pp 8 & 12
[47] Res 8/8/2/24, Director General to the Minister of Lands, 8 September 1976

given for new residential structures, after the formation of the park board. The ultimate aim of the board was the clearance of all residential structures from public land.[48]

The board's control was further confirmed under section 16(7)(d) of the Reserves Act 1977. With the passing of the Reserves Act 1977, however, it was then found, in 1978, that there existed an anomalous situation in respect of all reserves created under the 1955 Act. The purpose of section 17 of the Reserves and Other Lands Disposal Act 1955 was to allow the special reservation of certain lands to enable licences to be issued to private individuals validating encroachments of dwellings, boatsheds and sheds on the reserves. This conflicted with the general purposes of the Reserves Act 1977, which were public recreation, preservation and conservation, with full emphasis on public benefit.

Section 16(7)(d) also deemed those reserves that were formerly Sounds Foreshore Reserves to be classified as recreation reserves under section 17 of the 1977 Act, but still subject to the provisions of section 17 of the Reserves and Other Lands Disposal Act 1955. According to the Office Solicitor, Department of Lands and Survey, Head Office, this meant that their status was inconsistent with the status of other esplanade reserves, which under section 23 of the new Reserves Act were now classified as local purpose (esplanade) reserves. It had been the intention to classify all esplanade reserves for recreation purposes. It appeared that when it was decided to classify esplanade reserves for local purposes, the question of the sounds foreshore reserves had been overlooked.[49]

The Commissioner of Crown Lands was at pains to point out that it was essential that all reserves created under the 1955 Act have a distinctive name in order that the special provisions and conditions applying to such reserves were readily recognised.[50] Under section 17(1) of the Reserves and Other Lands Disposal Act 1955, where Sounds Foreshore reserves adjoined an existing public reserve, the Minister could reserve the foreshore land for such similar purposes as that for which the adjoining land was

[48] ibid, 4 June 1976
[49] ibid, 23 February 1978
[50] ibid, Commissioner of Crown Lands, Blenheim to Director General of Lands, HO, 4 July 1978

reserved.[51] The commissioner was concerned that in time staff would lose sight of the fact that these strips of land, where they had been amalgamated with adjoining reserves, were still subject to the provisions of the 1955 Act.

It was suggested that an amendment be made to the 1977 Act to ensure that the original purpose of section 17 of the 1955 Act was maintained, or else, that the original Sounds Foreshore Reserves be classified "Local purpose (esplanade)" subject to section 17 of the Reserves and Other Lands Disposal Act 1955. The chief draughtsman, however, was reluctant to take the latter course on the grounds that it would conflict with the purpose of existing esplanade reserves.[52] The commissioner thought a more suitable classification was "local purpose reserve for Sounds Foreshore purposes" under section 23 of the 1977 Act but subject to section 17 of the 1955 Act.[53] In 1980 it was decided to have all areas of Sounds Foreshore Reserve gazetted under the Reserves Act 1977 as local purpose (sounds foreshore) reserves. The commissioner was adamant that the only way to ensure maintenance of the special rights and conditions of reserves subject to section 17 of the Reserves and Other Lands Disposal Act 1955, would be to bring all such reserves under the one unique classification. This would make their distinction obvious from other reserves. It would also avoid administrative errors, by either the Department of Lands and Survey or the Marlborough Sounds Maritime Park Board, in their dealings with these reserves.[54]

There then followed a long and, at times, thinly veiled, hostile debate between the Commissioner of Crown Lands in Blenheim and the Director General of Lands at Head Office. The director general remained unconvinced that the commissioner's proposed course of action was necessary.[55] Eventually the commissioner was able to convince the director general who, albeit reluctantly, decided to proceed with publication of the notice

[51] for example, declaring the government road fronting section 136 a public reserve for the purposes of a Watering Place and for other purposes, see above
[52] Res 8/8/2/24, 28 February 1979
[53] ibid, 23 April 1979
[54] ibid, 12 November 1980
[55] ibid, 18 March 1981

reclassifying the reserves.[56] However, on publication of the gazette notice it was found that the notice, while recognising that the reserves were subject to the provisions of the Reserves Act 1977, omitted any reference to the areas also being subject to section 17 of the Reserves and Other Lands Disposal Act 1955. Appropriate wording for this had been contained in the draft notice submitted with the commissioner's memorandum of 9 October 1980. On being questioned about this, the director general replied that reference to the 1955 Act had been omitted on the advice of the assistant Office Solicitor who had pointed out that as these areas were already included and subject to the 1955 legislation it was not necessary to restate this in the classification notice.[57] This set off another round of debate as the Commissioner of Crown Lands and the Director General of Lands argued over whether it was "necessary", "desirable", or "possible" to mention the 1955 legislation in the gazette notice. The commissioner argued that it was not only "desirable" but "necessary", for reasons of clarity and uniformity.[58]

Finally the commissioner won out and, in June 1982, the original gazette notice was re-submitted, cancelling the earlier notice of November 1981. The chain strip fronting section 136 was classified as a reserve for local purpose (Sounds Foreshore), subject to the provisions of the Reserves Act 1977 and section 17, Reserves and Other Lands Disposal Act 1955.[59]

The current status of this area is partly as a reserve for a Watering Place and for other purposes by *Nelson Gazette* 1857, p 52, and partly local purpose reserve (Sounds Foreshore) by *New Zealand Gazette* 1982, p 2532 (see figure 4). It is currently administered by the Department of Conservation pursuant to Section 6 of the Conservation Act 1987, which outlines the functions of the department.

[56] ibid, 14 October 1981; see *New Zealand Gazette* 1981, pp 3138-41
[57] Res 8/8/2/24, 7 December 1981
[58] ibid, see letters of 15 & 23 December 1981, 15 January 1982
[59] *New Zealand Gazette* 1982, pp 2532 &2534

The Department of Conservation's regime

It was the practice of the previous administration, the Department of Lands and Survey, to lease the Watering Place reserve. This practice was carried on by DOC. The previous administration had also considered a proposed exchange of the Watering Place reserve. In 1984, Cunliffe, O'Brien, Reid and Coxhead purchased Oamaru 1A1 and 1A2, section A and B and part 1B2. Oamaru 1A1 and 1A2, sec A adjoins the Watering Place reserve (see figure 4). Cunliffe, *et al*, at some stage, proposed to the Department of Lands that they exchange part of their land for part of the reserve. The land that was offered contained significant pockets of coastal native bush and vegetation which the owners considered worthy of protection. The reserve, on the other hand, was being leased for grazing. No further action appears to have taken place before the government restructuring in 1987. The proposal, however, was re-activated under DOC's administration. In April 1989, Margaret Coxhead contacted the department and raised the issue with them.[60]

This prompted a letter from Neville Tahuaroa, the Wai 124 claimant and owner of part 1B1. He wrote to the DOC office in Picton opposing the proposed exchange of the Watering place reserve and indicated that he wished the reserve to be returned to Maori ownership.[61] The department replied to Mr Tahuaroa on 25 October 1989 and advised him that only preliminary discussions had taken place on an exchange. John Sloane, for the district conservator, went on to add that the department would "take into account the status of the reserve prior to reservation and all land claims. No exchanges will be made unless there is a clear understanding on this issue".[62]

On the same day, however, DOC Picton reported to DOC Nelson, advising that an exchange be treated favourably. The grazing tenancy had been terminated, on the grounds that the farmer had "not been farming the area in a good and responsible way", leaving the area unencumbered and able to be dealt with for an exchange. The district conservator

[60] Res 769; SFR 642, Sounds Foreshore Reserve, DOC Nelson, 14 April 1989
[61] unfortunately there is no copy of this letter on the file, Res 769
[62] Res 769, 25 October 1989

recommended "that the exchange be given full consideration as there are remnant areas of native bush on the freehold which are very worthy of protection".[63]

Mr Tahuaroa then wrote to the regional conservator expressing his concern over the proposed land exchange. He indicated his intention to lodge a claim with the Waitangi Tribunal for the return of this land to his family, "the original owners prior to being taken by the Crown as a Reserve".[64] He had, by this stage, already written to the tribunal enquiring about the procedures for lodging a claim.[65]

DOC Nelson replied in December noting Mr Tahuaroa's concerns about the proposed exchange and his intention to lodge a claim. The department stated that it would take these matters into account in its management of the reserve and any consideration of transfer. Mr Tahuaroa, in reply, advised the department that he wished to enter into negotiations with the Crown in order to have the Watering Place reserve returned to his family. In January 1990 he wrote again, seeking a meeting with the department to discuss his desire to negotiate directly with the Crown. The regional conservator sought advice from Head Office on how to proceed.[66]

Head Office advised that it was not appropriate to negotiate directly, or individually, with potential claimants. There were several reasons for this. One was the difficulty of obtaining complete historical information without the assistance of other Crown agencies. Second, and perhaps more importantly, was that the department was only a representative of the Crown and the Crown's policy was to act in a consistent manner across all agencies. It was felt that approaches by potential claimants to individual departments could lead to differing responses from those departments which could complicate the process for the resolution of claims. The regional conservator was informed that a Waitangi Tribunal

[63] ibid, John Sloane to Regional Conservator, Nelson, 25 October 1989
[64] ibid, 7 November 1989
[65] see Wai 124, 1 August 1989
[66] Res 769, 6 December 1989-19 January 1990

claim was more appropriate and that Mr Tahuaroa be advised to lodge a claim.[67] This was conveyed to Mr Tahuaroa by the regional conservator on 22 February 1990. In the meantime Mr Tahuaroa had lodged his claim with the Waitangi Tribunal.[68]

This prompted Margaret Hippolite (nee Coxhead), one of the owners of the adjoining land who had proposed the exchange, to contact the department to express her concern that the exchange may be blocked by the Waitangi Tribunal claim. At this stage the department had not received notification of the claim. She was informed that the department was looking favourably at the exchange but that if a claim was lodged then negotiations could not proceed to alienate the land from the Crown unless the Tribunal ruled in its favour.[69] The department received notification of the claim from the Waitangi Tribunal on 12 April 1990. It then wrote to Mrs Hippolite advising her that even though the department was in favour of the exchange, it would not be able to proceed until the claim was resolved.[70]

A report for the regional office in Nelson was prepared by Roy Grose, Field Centre Manager, Picton, in August 1990, outlining Mr Tahuaroa's concerns. Mr Grose noted that Mr Tahuaroa was concerned that some archaeological sites on the Watering Place reserve, were being damaged by stock (cattle) which were owned by the adjoining land owner. These sites included pits and a defensive ditch close to the sea, evidence of earlier Maori occupation. Mr Grose admitted that there were no fences to keep stock out but, he added, there was little evidence to suggest that the area was "intensively grazed". He did, however, admit that a prominent defensive ditch had been damaged in the past by cattle wearing a trail through the area. He reported that Mr Tahuaroa had expressed a desire for a conservation corps project to assist with archaeological site management in the Watering Place reserve, including the removal of vegetation around the sites. Mr Grose was of the

[67] ibid, 24 January 1990
[68] see Statement of claim for Wai 124
[69] Res 769, file note dated 27 February 1990
[70] ibid, 20 April 1990

opinion that fencing was the only way animals could be excluded from the reserve, which consisted of mixed pasture, gorse, manuka and coastal vegetation.[71]

In June 1990, the Department of Survey and Land Information, Blenheim, provided a report for the Maori Land Information Office on the claim area. According to Mr Tahuaroa, this confirmed his information that his people orginally occupied and resided on the land known as the Watering Place reserve and that there was also a burial site on it.[72] This refers to a plan of the Oamaru Native Reserve included in the DOSLI report with the reference SO 370. The plan labels an "Old Cemetery" which is marked with a cross. According to the DOSLI report this notation is in pencil on the original plan, with no indication of who placed it there. The position of the cross places the cemetery within the sounds foreshore reserve.[73] Mr Tahuaroa passed his discovery on to DOC Picton, along with a bill for compensation for damage done to his adjoining property by a gate being left open. The department thanked him for his information about the burial site but declined to take responsibility for the damage.[74]

Following further discussions between the department and Mr Tahuaroa, the acting Regional Consevator confirmed in writing that negoatiations relating to the exchange of a portion of the Watering Place Reserve for remnant forested areas on adjoining private land had ceased, while there was a claim over the area.[75]

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[71] ibid, 23 August 1990
[72] NKW Tahuaroa to Tom Bennion, 10 September 1990, Wai 124
[73] DOSLI report, 1990, p 4, refer to 3.1.1
[74] Res 769, September 1990, a file note dated 11 Februray 1991 noted that the exact location of the burial site was not known
[75] ibid, 6 May 1991

Chapter 5

The Oamaru Native Block

The Oamaru Native Block was reserved out of the 9 February 1856 purchase of land from Ngati Awa by the Crown. Accompanying the deed of purchase is a list of Ngati Awa hapu, taken on 11 February 1856. Rihari Tahuaroa, the claimant's great, great grandfather, is included in the list. He was paid £9 for the division of payment to his hapu or family, Ngati Komako, for their share of the payment.[76] Rihari was also known as Rihari Watene Tahuaroa. He was the son of Rangi Tuwatawata who built the waka Paroa which was used in the attack on Kaiapoi in 1831-32. The waka was built at the pa Puketapu, inland from Patea. When completed it was dragged many miles to the Patea river and then down the river to the coast. Rihari commanded the waka which joined forces with Te Rauparaha at Porirua and sailed down to Kaiapoi. The remains of this waka are now in the Canterbury Museum. Rihari and his family later settled at Oamaru, a bay about two miles south-west of Cape Koamaru, on Arapawa Island. They grew wheat and potatoes and they pounded the wheat grain to make bread. Fish and birds were in abundance. The birds, chiefly kaka, were caught with snares, cooked and preserved.[77]

Quite a number of Maori lived at Oamaru and frequently crossed back and forth to Paraparaumu. The legend goes that strangers crossing from the North Island to Oamaru had to be blindfolded so that they would not see the Brothers Islets (Ngawhatu) or, the "pupils of the eye". On arrival at Oamaru the blindfolded stranger was led to a cave and the chief or leader of the party would give a karakia to remove the tapu so that calamity would not overtake the stranger, and the blindfold was then removed.[78]

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[76] Mackay, vol 1, p 315
[77] Hist 027, Historic Places & Archaeolocial Sites, DOC Nelson
[78] *ibid*

The Native Land Court

At the time the Oamaru block was reserved, it was estimated at 2,500 acres. The block was first passed through the Native Land Court in March 1889 before Judge A Mackay.[79] Rihari Tahuaroa appeared and submitted a list of owners for the block, which, at this stage was still estimated at 2,500 acres. A survey plan of the reserve was not completed until July 1896.[80] Rihari's list numbered 38 people, some of whom were already deceased. This was challenged by Tariora Te Rau who submitted another list with an extra 14 names.

Rihari objected to the inclusion of these people because, he claimed, they belonged to the Ngati Te Whiti hapu and their claim was confined to the Mokopeke block, which lay to the south of the Oamaru block. According to Rihari the Oamaru block belonged exclusively to his hapu, the Puketapu, who had occupied the area first, the Ngati Te Whiti coming after. He went on to say, that owing "to the sterile character of the land at Mokopeke which had been worn out by previous cultivations the Ngatitewhiti cultivated on the Oamaru Block but they had no right there. This was before the land was sold to the Government".[81]

Rihari's statement was confirmed in court by Paora Paneireia although Paora admitted that he could not say what had taken palce after the sale of land as he had left the district shortly after. The court stated that the case would be adjourned till the morning to enable the parties to discuss the question amongst themselves and, hopefully, come to an amicable arrangement.[82]

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[79] Nelson Minute Book 1, 12 March 1889, p 135
[80] DOSLI report, plan ML 370
[81] NMB 1, pp 137-138
[82] ibid, p 138

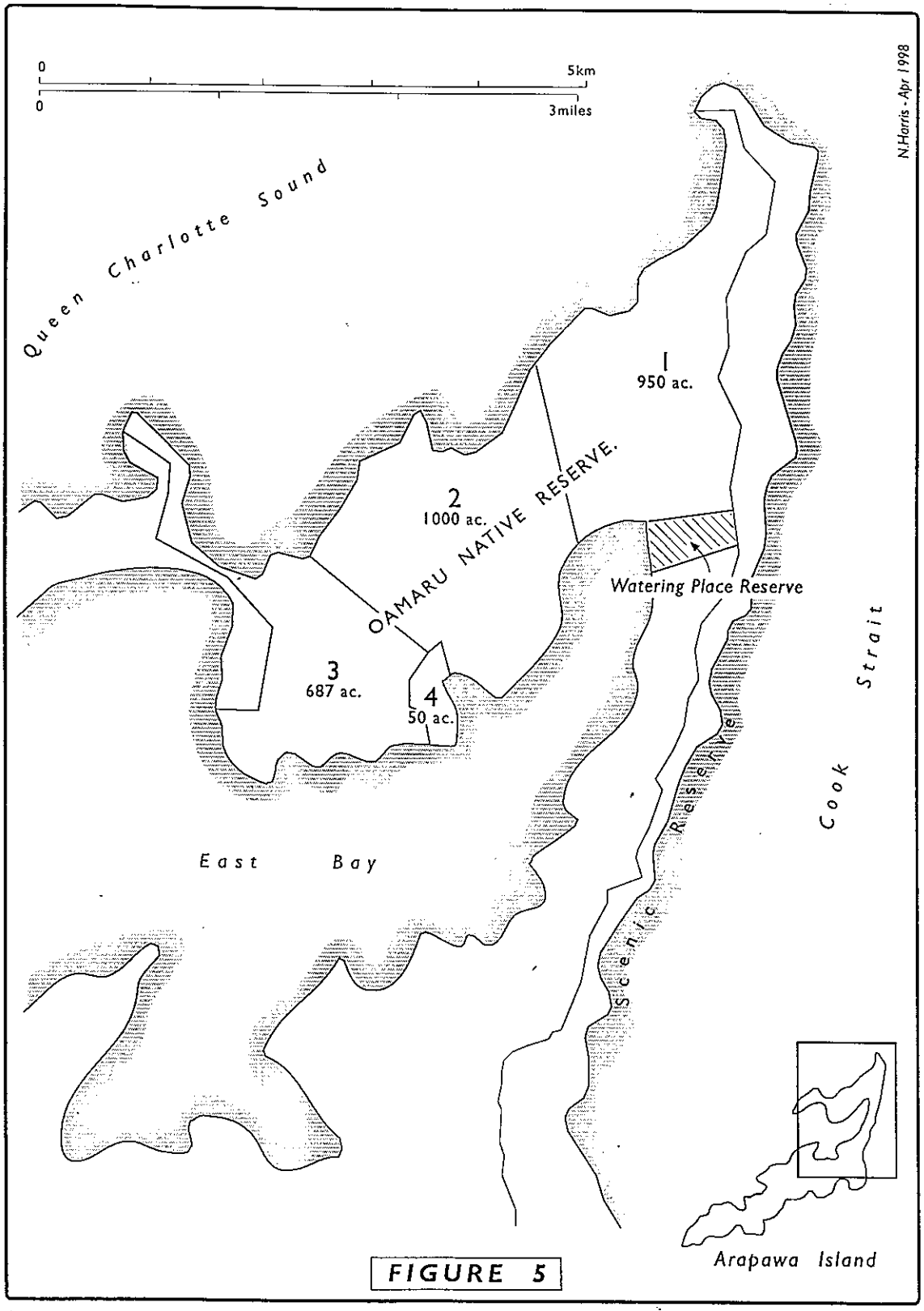
0
5km
0
3miles
N.Harris - Apr 1998
Queen Charlotte Sound
1
950 ac.
2
1000 ac.
OAMARU NATIVE RESERVE.
Watering Place Reserve
3
687 ac.
4
50 ac.
East Bay
Scenic Reserve
Cook Strait
Arapawa Island

FIGURE 5

The court sat the next day (13 March) at which time Tariora Te Rau appeared and stated that Rihari had withdrawn his objections to the Ngati Te Whiti being admitted to the Oamaru block. Rihari confirmed the statement made by Tariora. Some out of court settlement must have been reached but there does not appear to be any record of it. Successors for the deceased persons were ascertained. The court then ordered that a title be issued for the block, which was divided into four parts. Title to no. 1 (950 acres) and no. 2 (1000 acres) was issued in favour of the persons named by Rihari Tahuaroa while the title to Oamaru no.3 (687 acres) was issued in favour of the list of names supplied by Tariora. As well, a "sufficient area" was reserved for Rihari Tahuaroa at Ngakuta Bay, where his house and cultivations were. This was Oamaru no.4 of 50 acres (see figure 5). All the blocks had protective restrictions and conditions placed on them. This meant that the land was inalienable by sale or mortgage, or by a lease longer than 21 years, except with the consent of the governor.[83]

A document listing 15 Maori owners of Oamaru no.1 was signed by Judge Mackay on 18 March 1889. A certificate of title, volume 18 folio 19, was then issued upon the instructions of Mackay. The CT is able to be used to trace the change of ownership and the subsequent decisions of the Native Land Court.

In 1911 Oamaru no.1 was partitioned into 1A, 1B, and 1C.[84] The application was brought before the court by Karira Tahuaroa, the grandson of Rihari. Rihari had died at Ngakuta in 1892 and was buried in the family cemetery at Te Umukuri, East Bay.[85] By now the Tahuaroas were also going by the name of Watson, probably a transliteration of Watene, one of Rihari's names. Most of the block belonged to the Watson family, amongst two of whom there existed some ill-feeling. Karira Tahuaroa, who was supported by his father, also called Karira, and nearly all the family, was, apparently, bitterly opposed to his elder brother, Tamati Tahuaroa and his wife. An inspection of the area was undertaken by the court with the clerk of the court, Henare Parata, making a suggestion as to the division of

[83] ibid, pp 161, 212-213
[84] NMB 7, 18 September 1911, pp 37ff
[85] Hist 027, this cemetery is also part of the claim

the block. This was agreed to by the parties but the matter was held over for a couple of days in order to calculate the areas. On 20 September Judge Gilfedder made his decision. The block was partitioned into Oamaru no.1A, 156a:1r:0p; Oamaru no.1B, 146a:3r:20p; and Oamaru no.1C, 646a:3r:20p. Karira's interests were included in Oamaru no.1B.[86]

In 1913, Karira Tahuaroa again applied to the court to have his interest in Oamaru no.1B partitioned out. According to Karira he was entitled to 8¾ acres. However, according to a valuation made by a Mr McCormich in 1911, and presented in court, Karira was entitled to only four acres. The court decided to give Karira five acres, to be cut off in the south and to be called Oamaru 1B sec 1. The residue, 143a:3r:20p. was called Oamaru 1B sec 2 and went to Roha Pehimana and Putaha Tuura, whose interests had been purchased by the wife of Tamati Tahuaroa.[87]

Oamaru 1B1 was further subdivided. By 6 November 1959, Walter Watson [the father of the claimant?] had acquired 2 roods and 8 perches of 1B1.[88] That left a residue of 4 acres, 1 rood and 32 perches, which was transferred to Rangituwatawata Tahuaroa Watson [what relation?] in 1973. The 4 acres were then transferred to the claimant, Neville Karira Watson Tahuaroa, in 1983.[89] Both of these blocks are known as Part 1B1.[90]

The Queen's chain

According to the DOSLI report, the 100 link (one chain) strip along the water's edge, around the Native Reserve, was set aside by the Native Land Court for the purposes of a public road when the Native Reserve was originally surveyed. The reserve was surveyed in 1896, as shown on ML 370, which was signed by Judge A Mackay on 14 May 1900. The road was vested in the local authority.[91] In 1930 the strip was declared a government

[86] NMB 7, p 51
[87] ibid, 27 September 1913, p 198
[88] CT 59:177
[89] CT 27:123
[90] see figure 6 & 8
[91] DOSLI report, p 7

road by an order in council.[92] It was then declared a reserve for the purpose of Sounds Foreshore in 1962, following the passing of the 1955 Act.[93]

In 1973 the Marlborough Sounds Maritime Park Board was given control of the reserve.[94] The administration and control of the sounds foreshore reserve is now held by the Department of Conservation pursuant to section 6 of the Conservation Act 1987.

Sounds Foreshore Reserve

The matter of the sounds foreshore reserve, in front of part 1B1, appears to have first become an issue in 1977 when Trevor Watson wrote to the Marlborough Sounds Maritime Park Board requesting the issue of a licence for his cottage, in front of his parents' property.[95] This took some time to sort out as the exact site of the cottage had to be ascertained. On surveying its location it was discovered that the cottage (bach) actually fronted part 1B2, which was owned by somebody else. Nevertheless, a licence was issued to Walter Watson, the owner of part 1B1, for the bach on the SFR.[96] The licence was backdated to 1 January 1979, for a term of two years, at an annual rental of $18.00 per year. It was the board's intention to have all sounds foreshore reserve licences expire on 31 December 1980. Following the licence's expiry in 1980 there was a right of renewal for a further 10 years and successive rights of renewal, subject to the condition of the buildings.

[92] *New Zealand Gazette* 1930 p 2294, see section of the Queen's chain under the Watering Place Reserve
[93] *New Zealand Gazette* 1962 p 704
[94] *New Zealand Gazette* 1973 pp 8 & 18
[95] SFR 642, Trevor Watson to the secretary, MSMPB, 9 February 1977
[96] ibid, Chairman to Messrs Wain & Drylie, Solicitors, 18 May 1977

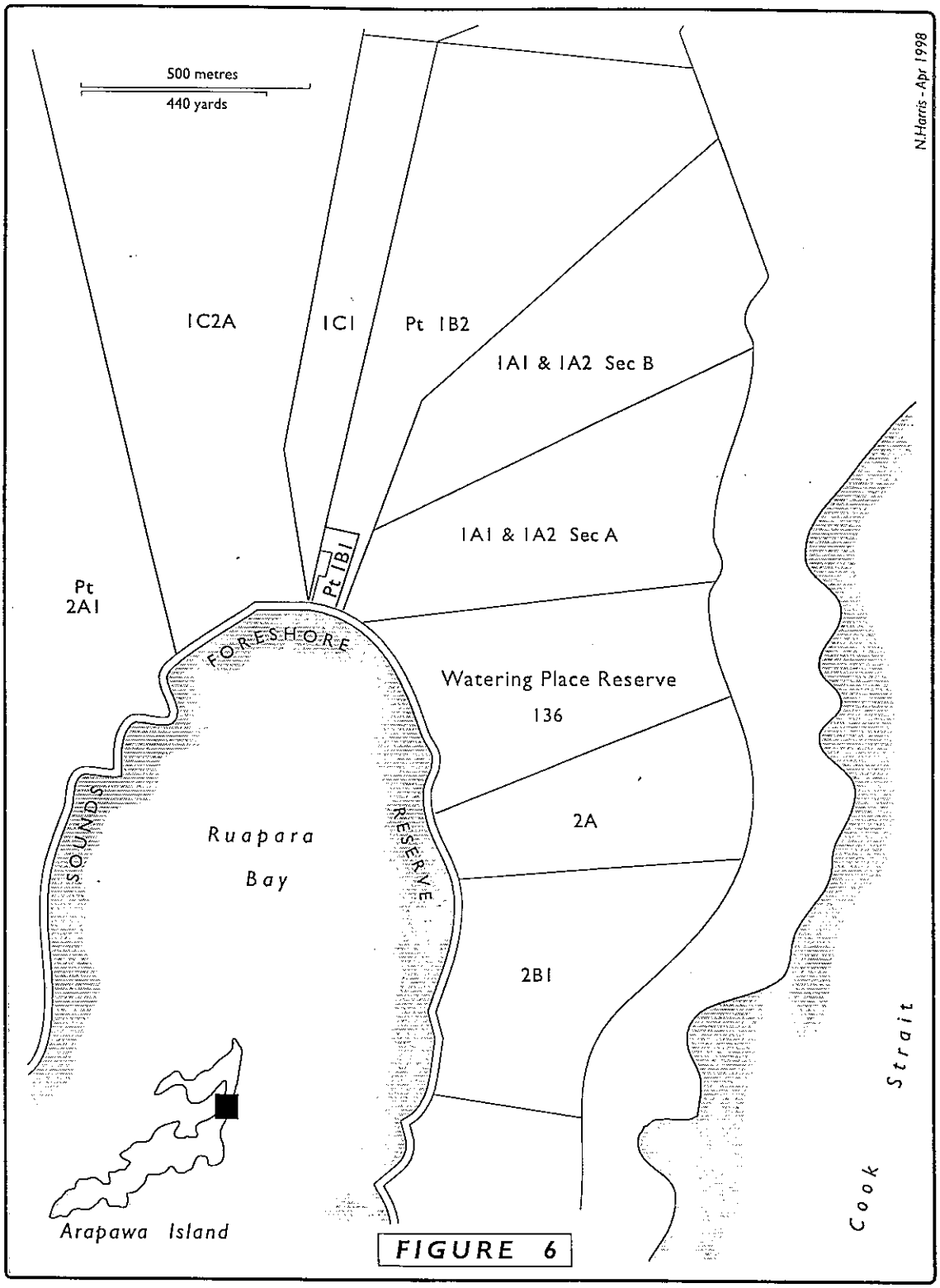
500 metres
440 yards
N.Harris - Apr 1998
1C2A
1C1
Pt 1B2
1A1 & 1A2 Sec B
1A1 & 1A2 Sec A
Pt 1B1
Pt 2A1
FORESHORE
Watering Place Reserve
136
2A
SOUNDS
Ruapara Bay
RESERVE
2B1
Cook Strait
Arapawa Island

FIGURE 6

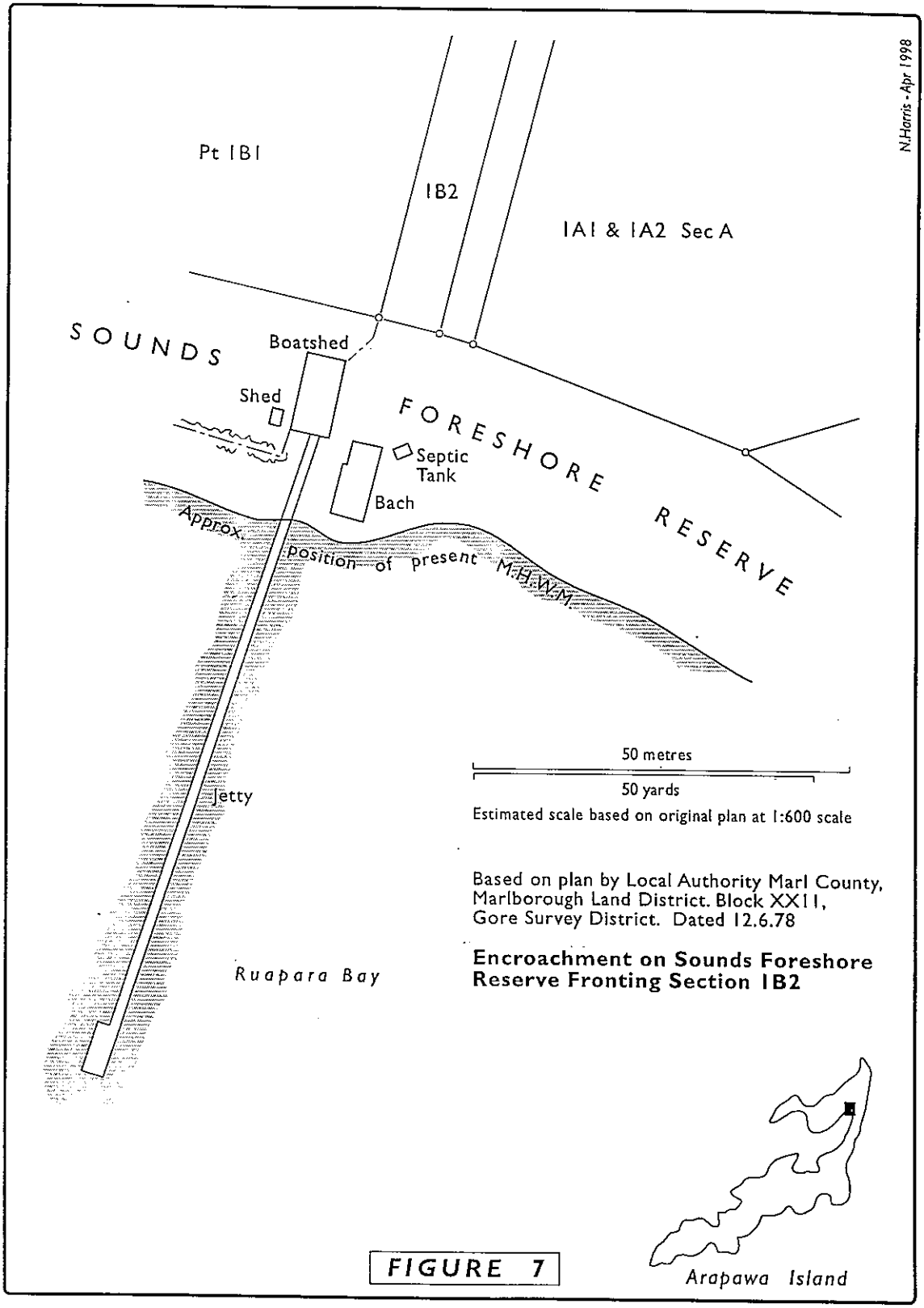
N.Harris - Apr 1998
Pt 1B1
1B2
1A1 & 1A2 Sec A
SOUNDS
Boatshed
Shed
FORESHORE RESERVE
Septic Tank
Bach
Approx. position of present M.H.W.M.
50 metres
50 yards
Estimated scale based on original plan at 1:600 scale
Jetty
Based on plan by Local Authority Marl County, Marlborough Land District. Block XX11, Gore Survey District. Dated 12.6.78
Encroachment on Sounds Foreshore Reserve Fronting Section 1B2
Ruapara Bay
Arapawa Island

FIGURE 7

At the same time as the bach was being surveyed, it was noted that there was a shed and boatshed adjacent to the bach, and fronting part 1B1, apparently belonging to Walter Watson, and not licensed. However, because the condition of these buildings was generally poor, it was decided that no action would be taken to license them until the review of all licences in 1980.[97]

In September 1981 the bach was re-licensed for five years only. By this time Walter Watson had died and the solicitors for his estate were informed that the licence would not be renewed further unless substantial maintenance work was carried out on the bach. They were also required to arrange for the removal of the boatshed and shed because they were in such poor condition.[98]

In January 1982 Neville Tahuaroa wrote to the Maritime Park Board. He appears to have taken over his family's affairs at this time. Mr Tahuaroa wrote asking for any information or research regarding a jojoba bean project. He also wrote applying for permission to renovate and upgrade the shed.[99] The board replied on 25 January with the latest information on jojoba beans but demanded the demolition of the shed by 25 April 1982. The board also requested evidence of Mr Tahuaroa's ownership of part 1B1.[100] In reply Mr Tahuaroa asked if the board would have any objections to his trialling jojoba bean planting on his family estate. He explained that the property at this time was still owned by his father's estate but that he was currently in the process of obtaining title to the property. Until that was done he was not in a position to remove the shed. He advised the board that once he had obtained the title he would wish to negotiate the removal and replacement of the shed as he wished to use it for fitch farming.[101]

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[97] SFR 642, see figure 7
[98] ibid, 7 September 1981
[99] ibid, 13 January 1982
[100] ibid, 25 January 1982
[101] ibid, 28 January

While the board had no objections to Mr Tahuaroa establishing a small trial plot of jojoba bean on his own property, it was strongly opposed to his proposal to establish a fitch farm on Arapawa Island. The danger of the accidental introduction of an exotic predator onto the rest of the island, and its subsequent effect on the native birdlife, alarmed them. Mr Tahuaroa was informed that to carry out a fitch farming operation he would first have to apply to the County Council for a change of use of the property. In that event, the board would object to his application. In the meantime, the trustees of the estate were requested once again to arrange for the removal of the shed and boatshed, this time, by the end of March 1982.[102]

The trustees of the estate replied on 22 February 1982 advising the board that Mr Tahuaroa was in the process of purchasing the estate property, including the interest in the foreshore reserve licence. They suggested that Mr Tahuaroa pay the cost of upgrading the boatshed and in the meantime the licence be issued in the name of the trustees. The trustees also noted that Mr Tahuaroa had orginally been given until 25 April to remove the shed.

The board's view was that the boatshed was beyond repair and did not represent any significant value to the property. They required the removal of the shed regardless of ownership. They did, however, acknowledge the 25 April date for its removal.[103] Although the board did not have any jurisdiction over Mr Tahuaroa's activities on his own land, they did have a right, as administrator of the adjoining foreshore, to comment on any application to the Marlborough County Council for a change of its use to set up a killing and pelting industry. Moreover, the board's consent was required for the construction of any service building on the foreshore reserve. Mr Tahuaroa was advised that the board felt it was best to await the results of his application to the county council before considering his application for buildings on the foreshore reserve. In other words, if consent for a fitch farming industry was granted, the board could always refuse consent

[102] ibid, 16 February 1982
[103] ibid, 25 February 1982

for a building to service the industry, effectively thwarting his project.[104] The project never did go ahead.

The title to part 1B1 was finally transferred to Neville Karira Watson Tahuaroa on 23 February 1983. At that time his lawyers wrote requesting that his name be substituted as licensee for the sounds foreshore reserve licence. This was not completed until December as the board wanted the derelict shed and boatshed removed first. At a meeting on site, with Mr Tahuaroa, on 11 June 1983, Mr Tahuaroa agreed to remove the shed and boatshed from the foreshore reserve on the understanding that the board would approve a licence for the siting of a replacement boatshed on the same site. The board agreed to those conditions, but in the event, Mr Tahuaroa was spared the trouble as the boatshed was blown down in August 1983 in a southerly storm. On 1 June 1984 Mr Tahuaroa was sent a copy of his sounds foreshore licence. It was issued on 1 January 1984 for a term expiring 31 December 1990.[105]

In December 1984 Cunliffe, O'Brien, Reid and Coxhead purchased 1A1 and 1A2, sections A and B and part 1B2. In August 1985, the Marlborough Sounds Maritime Park Board noted, again, that the bach actually fronted part 1B2. It also noted that Mr Tahuaroa's sounds foreshore licence covered the sections 1A1, 1A2 and part 1B2, which were not owned by him. The board wrote to Mr Tahuaroa's solicitors asking if they would have any objections to altering his licence to cite part 1B1. Mr Tahuaroa's solicitors confirmed that they had no objections.

On 1 April 1987 the Department of Conservation took over the administration of sounds foreshore reserves (see above). While checking on foreshore licences, Mr Tahuaroa's came to their attention. Although Mr Tahuaroa had been informed that his licence expired on 31 December 1990, the department noted that his licence had been issued on 1 January 1984 for a term of five years and that it was due to expire on 31 December 1988.

[104] ibid, 2 March 1982
[105] ibid, 16 March 1983-1 June 1984

According to the department the licence had been issued on three conditions and it appears that it was one of these three conditions that led the department to conclude that the licence expired at the end of 1988. That is, that in view of the deteriorating condition of the bach the licence was valid for only five years. The second condition was that unless work was carried out to bring the building to a satisfactory standard, the licence would not be renewed and he would be required to remove the building. The third was that any work carried out could not be of a structural nature or involve any extension to the licensed area. An inspection of his bach was requested.[106]

The bach was found to be in a deteriorating state but not bad enough to cancel the licence. Mr Tahuaroa was informed that his licence would be allowed to run on until the end of 1990 to bring it into line with the majority of similar licences. This seems generous on the part of the department but it should be read in light of the fact that he had already been told in June 1984 that his licence was not due to expire until December 1990. Mr Tahuaroa was further informed that an inspection of the site would be made prior to the expiry date and a decision made then on appropriate renewal action.[107]

In the meantime, Mr Tahuaroa had written to DOC Nelson advising that he had made an application to the Maori Land Court to have the sound foreshore reserve converted into a Maori reserve under section 439 of the Maori Affairs Act 1953. Mr Tahuaroa's understanding was that the Local Government Act 1974 allowed for esplanade reserves to be classified as Maori reserves.[108] The department did not get around to responding until July the following year but, in response, it questioned Mr Tahuaroa's understanding of the Local Government Act. The department pointed out that the strip of land between the sea and his freehold Maori land was not local purpose (esplande) reserve created on subdivision under the provisions of the Local Government Act. It was in fact Sounds Foreshore Reserve created under an entirely different Act. This meant that any

[106] ibid, District Administration Officer to Senior Conservation Officer, 13 January 1988
[107] ibid, District Conservator, Picton to Neville Tahuaroa, 28 October 1988
[108] ibid, 21 September 1988

amendment under the Local Government Act that might allow for reserve strips to become Maori reserve did not appear to be relevant here.[109]

This might explain why the Umukuri Bay urupa could be reserved as a Maori reservation under section 439[110] while Mr Tahuaroa's sound foreshore could not. The Umukuri Bay urupa was reserved on sea frontage that would normally have been Sounds Foreshore Reserve, except that it was originally reserved by the Native Land Court in 1911, for a cemetery, before the reserve strips were declared reserves for sound foreshores in 1962, under the 1955 Act.[111] The fact remains though that land that has traditionally been seen, by the government at least, as belonging to the Crown, i.e. the foreshore, had been converted into a Maori reserve by the Native Land Court. No further action appears to have been taken on Mr Tahuaroa's application to the Maori Land Court. It was, however, pointed out to Mr Tahuaroa that he was $200 in arrears for SFR rental.

On 18 July 1989 Mr Tahuaroa wrote to the department advising that he wished to reconstruct his slipway, boatshed and another shed that used to be on the foreshore in front of part 1B1 (see figure 7). He claimed that the Marlborough Sounds Maritime Park Board had advised him that any application to reconstruct these buildings would be given favourable consideration.[112] The department's response was to study the board's policy which was, that approval may be given to adjoining land owners for the siting of boatsheds and access structures on foreshore reserves if:

- There was no acceptable site on the owner's adjacent property;
- The building would not result in the proliferation of boatsheds in the locality;
- The building was of low profile and would have minimum impact on the surrounding environment;
- Public access along the foreshore would not be restricted;

[109] ibid, 7 July 1989
[110] *New Zealand Gazette* 1980, no.14, p 432
[111] NMB 7, 20 September 1911, p 50, see below
[112] SFR 642, 18 July 1989

- There was no acceptable form of alternative access to the owner's adjoining property.

Based on this policy, the department informed Mr Tahuaroa that no boatshed could be built on the foreshore fronting his property.[113] This prompted another letter from Mr Tahuaroa pointing out that the original slipway and boatshed was constructed out over the water below the high water line and thus, he assumed, the control of any reconstruction of those two facilities would be administered by the harbour board and not the department. As far as his other shed went, he reiterated that the park board had advised him that any request would be viewed favourably. He also indicated in his letter that he intended to lodge a claim with the Waitangi Tribunal over this and other matters.[114] He was in fact, at this time, inquiring into the procedures for lodging a claim.[115]

DOC Nelson replied on 6 December 1989 noting Mr Tahuaroa's concerns. The department informed him that the construction of a slipway would require the approval of the Nelson/Marlborough Regional Council and a plan approval from the Minister of Conservation. Further, that any construction of a boatshed on the foreshore reserve would be subject to approval by the department. It indicated that a field inspection would be required to address all the matters that were concerning Mr Tahuaroa.[116] Mr Tahuaroa responded favourably to the idea of an on-site meeting with the department's officers. At the same time he was proceeding with his claim to the Waitangi Tribunal, which was received by the tribunal on 22 February 1990.

On 6 March 1990 the Department of Conservation wrote to Mr Tahuaroa claiming rental for the foreshore licence. Mr Tahuaroa's response was to inform the department that a claim had been lodged with the tribunal and he would not be forwarding any payments. Mr Tahuaroa was under the impression that to do so would jeopardise his claim.[117] DOC

[113] ibid, 26 October 1989
[114] ibid, 7 November 1989
[115] see file for Wai 124, Waitangi Tribunal
[116] SFR 642, 6 December 1989
[117] ibid, 26 March 1990

Nelson did in fact receive notification of the claim from the Waitangi Tribunal on 12 April 1990. The direction accompanying the claim requested that the department provide any background information that it might have on the matters and any response it might have to the issues raised by Mr Tahuaroa. Unfortunately the department did not note that the tribunal direction required a response from it and no action was taken until a further letter from the tribunal was received in July 1990.[118] The department's response was to provide a chronology of events from its records.[119] The department also decided that resolution of this matter would have to await the outcome of his claim. In the meantime it would continue to licence Mr Tahuaroa's occupation of the foreshore reserve but at nil rental and on the understanding that if his claim was unsuccessful it might ask for rent in arrears.[120] It appears that neither building went ahead.

The Law of Foreshore Ownership

Richard Boast in his report on the foreshore raises some interesting issues. He states that the "legal assumption on which governments, regional councils, and most individuals rely, consciously or unconsciously, is that beaches and the foreshore are public property - or that, putting it in legal terms, they belong to the Crown".[121] He goes on to show, however, that this was not always so. He claims that in the pre-emption era (1840-1865) the government did not act on the assumption that it 'owned' the foreshore: title to the "main land" had to be extinguished first. And, he continues, it appears governments did not even try to assert title over areas of foreshore where the adjacent land was still in Maori hands. "Thus, in very sharp contrast with what the Crown was later to argue in twentieth-century cases, the general presumption seems to have been that Maori owned the foreshore and it was necessary for the Maori title to be extinguished".[122] This could be accomplished by a specific purchase, followed by a proclamation in the *Gazette* describing

[118] Res 769
[119] see copy of correspondence between Mr Tahuaroa and DOC on Wai 124's file
[120] SFR 642, 11 February 1991; Res 769, Acting regional conservator to Neville Tahuaroa, 6 May 1991
[121] Richard P Boast, The Foreshore, Rangahaua Whanui National Theme Q, First Release, Waitangi Tribunal, November 1996, p 4
[122] ibid, p 31

the area comprised within the deed as an area over which "the Native Title has been extinguished".[123]

> Provided that it was clear in the deed and in the proclamation that the relevant foreshore in fact *was* purchased this might well meet the "deliberate Act authorised by law and unambiguously directed towards that end" requirement set out in *Faulkner* and in other cases.[124]

The Tribunal may have to consider whether Maori title to the foreshore of the Oamaru Native Reserve was extinguished by the Crown's purchase of the land in the Queen Charlotte Sound? Was the 1856 deed of purchase unambiguous in that respect?

Conversely, the Court of Appeal, in 1963, in *In re Ninety-Mile Beach* stated that it was the Native Land Court process, and not pre-emptive purchasing, which operated to lawfully extinguish Maori title.[125] This was what DOSLI claimed, that the chain strip around the Oamaru Native Reserve was set aside by the Native Land Court for the purposes of a public road when the Native Reserve was originally surveyed. However, Boast argues that 'Neither ... the Native [or] Maori Land Acts contain any provisions which could amount to an extinguishment of the customary title to the foreshore "by means of a deliberate Act authorised by law and unambiguously directed towards that end"'.[126] He says it makes better sense to think of the Crown as owning today those areas of foreshore which it clearly and unambiguously purchased by a pre-emption era deed of cession.[127]

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[123] ibid
[124] ibid, p 31, this refers to *Faulkner v Tauranga District Council* [1996] where Blanchard J stated, "It is well settled that customary title can be extinguished by the Crown only by means of a deliberate Act authorised by law and unambiguously directed towards that end", Boast, p 27
[125] Boast, p 31
[126] ibid
[127] ibid

Boast's proposition is that up to 1870 or so, it appears that governments operated on the assumption that Maori foreshore titles had to be expressly extinguished. After that the emphasis seems to have gradually changed. By the 20th century the prevailing view was simply that the Crown 'owned' the foreshore. A number of government departments, including the Marine Department and the Department of Lands and Survey, certainly operated on an assumption that foreshore ownership was vested in the Crown.[128]

But in the end, Boast argues, it may be pointless to talk of returning areas of foreshore to Maori as long as the current law relating to their management remains unchanged. All coastal development will still remain subject to the Resource Management Act 1991, meaning in effect that it would be governed by the terms of the statute and the subsidiary planning instruments which it puts in place: the New Zealand Coastal Policy Statement and regional coastal policy statements and plans.

[128] ibid, p 38

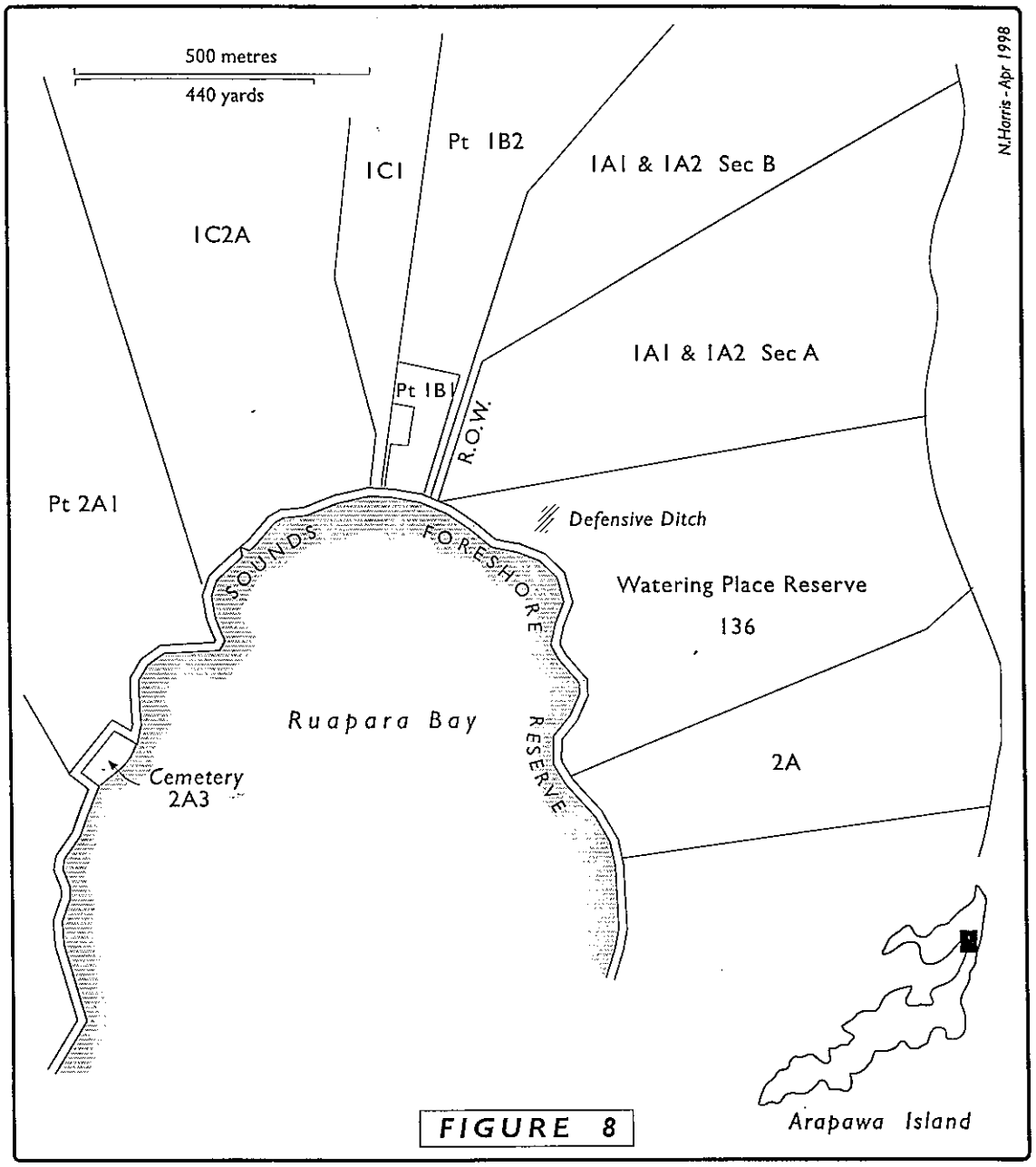
500 metres
440 yards
N.Harris - Apr 1998
1C1
Pt 1B2
1A1 & 1A2 Sec B
1C2A
1A1 & 1A2 Sec A
Pt 1B1
R.O.W.
Pt 2A1
Defensive Ditch
SOUNDS FORESHORE RESERVE
Watering Place Reserve
136
Ruapara Bay
Cemetery
2A3
2A
Arapawa Island

FIGURE 8

Chapter 6

Umukuri Bay urupa

The Umukuri Bay urupa was originally reserved out of the Oamaru 2A block. In 1910 Te Pata Taituha applied to have 127 acres partitioned out of 2A for himself. He desired the area at Te Umukuri Bay.[129] Daniel Love, a cousin of Te Pata's, appeared on his behalf. He testified that he had been born near Te Umukuri, that his elders had lived there and that Te Pata and his father had lived there also. Mr Love's portion had been cut out of another block and he wished to leave the part near Te Umukuri for Te Pata. He described how Te Pata's other lands were hilly and not suitable for living on but that there were ten or 15 acres of flat land at Te Umukuri. It was here that Te Pata's parents and other elders were buried.[130]

Mr Love went on to say that Oamaru 2 had been divided into 2A and 2B with the intention that 2B would be leased out. This was disputed by Karira, who was currently leasing land in 2A from nearly all the owners except Te Pata, and who, apparently, opposed the subdivision. According to Karira the proposed lessors were put into the title for 2A and the non-lessors into that for 2B. If Te Pata had not wanted to lease land he would have been put in 2B. Karira described how he had cleared and improved the land all along the frontage at Te Umukuri Bay. To the Court, however, it appeared that Karira was attempting to shut out the non-lessor by monopolising the whole frontage and it informed Karira that he could not expect to achieve this. Whether this was Karira's objective or not, the parties could not arrive at any agreement. The Court noted that there appeared to be a flat piece of 10 acres in the vicinity of Te Umukuri Bay and that both parties wanted to get it. The case was held over.[131] In fact, it was not dealt with until the following year, 1911, at which time, after much discussion (none of which was recorded in

[129] NMB 6, 1 November 1910, p 367
[130] ibid
[131] ibid, p 368

the minute book), it was decided to partition Oamaru 2A into 2A1, 125:0:18 acres; 2A3, ¼ acre; and 2A2, 516:2:22 acres. Oamaru 2A3 was to be reserved as a cemetery and to be placed in the title of all those who had been owners of No.2A before it had been partitioned.[132] It is situated on the western coast of Onauku Bay at Umukuri Bay (see figure 8).

In 1980 this block was set apart as a Maori reservation. The deputy secretary for Maori affairs, under section 439 of the Maori Affairs Act 1953, directed that the Maori freehold land described in the schedule be reserved as a Maori reservation for the purpose of a burial ground for the common use and benefit of Te Atiawa tribe. This would mean that the people with an interest in the reserve was now wider than the original named owners. The reserve is described as 0.1062 metres^2 and situated in Block XXII, Gore Survey District and being "Oamaru 2A3, as described in a Partition Order of the Maori Land Court dated 20 September 1911".[133] The urupa is surrounded on three sides by Sounds Foreshore Reserve administered by the Department of Conservation and by the sea on the fourth.[134]

On 18 July 1989, Neville Tahuaroa wrote to DOC Picton regarding erosion affecting the cemetery.[135] The department replied to Mr Tahuaroa in October advising him that the previous administration, namely the Marlborough Sounds Maritime Park Board, had no obligation relating to shore line erosion and neither did the department which now administered the sounds foreshore reserves. The department informed Mr Tahuaroa that erosion was a "natural process" with which the department would not interfere.[136]

Mr Tahuaroa responded by writing to the regional conservator in Nelson pointing out that there were many aspects of DOC's conservation programme that were initiated on the

[132] NMB 7, 20 September 1911, p 50
[133] *New Zealand Gazette* 1980, p 432
[134] Res 769
[135] unfortunately there is no copy of the letter of file, Res 769
[136] Res 769, 25 October 1989

basis of preventing the destruction of things of nature that were caused by the actions of "natural process". He went on to argue that as the erosion was being caused by "sea actions above the High Water line the problem created exists with in the land area which falls with in the control of your department". He also argued that the three other boundaries of the cemetery, backing onto land under DOC's control, required maintenance and that the costs for this should be shared by the owners of the cemetery and the department. He finished by adding that if the department was unwilling to accept the cost then it should "vacate the responsibility of this adjacent land and hand it over to the original owners to control and maintain". Mr Tahuaroa also indicated that he was lodging a claim with the Waitangi Tribunal.[137]

DOC Nelson replied, noting again Mr Tahuaroa's concerns, but reiterating that they were reluctant to interfere in natural erosion unless there was a pressing need (apparently the erosion of an urupa was not a pressing need). The department indicated that a field inspection would be required and that the department would discuss the matter once they had received the field inspection.[138] Staff of the department did in fact visit the area but were unable to locate the site that Mr Tahuaroa was concerned about. The regional conservator suggested that a visit to the area with Mr Tahuaroa would help clarify the situation, which is exactly what Mr Tahuaroa had suggested back in December on receipt of their earlier letter.[139]

In March 1990, Roy Grose (DOC Picton) provided a report on Mr Tahuaroa's concern about erosion around the cemetery. Mr Grose confirmed that erosion to the cemetery was a threat and retaining work could be carried out to protect the site, but because East Bay could have high seas, combined with high wind, he personally did not believe any retaining work would be successful. In the event that work was carried out, it would have to be authorised by the Port Authority or Harbour Board, as it was not the department's

[137] ibid, 7 November 1989
[138] ibid, 6 December 1989
[139] ibid, see Neville Tahuaroa to DOC, December 1989 and Regional Conservator to Mr Tahuaroa, 22 February 1990

responsibility. Mr Grose also reported that there were claims that bones were being exposed because of erosion but he could see no evidence of this.

He did, however, admit that there was a problem with stock trespass in the cemetery. Sheep had broken through the cemetery fence, which was in poor repair, and were grazing in the grassed area around the headstones and mounds/depressions which indicated grave sites. Because the cemetery was surrounded by a Sounds Foreshore Reserve he suggested that the department could assist in fencing the cemetery.[140]

This report was followed up by a further one in August 1990, by which time Mr Tahuaroa's claim had been lodged and the department notified. In his report Mr Grose said that fencing material had been offered to Mr Tahuaroa, for the repair of the fence around the cemetery, but was refused by him. According to Mr Grose, Mr Tahuaroa stated that he intended to get family members involved in the restoration.[141] This was disputed by Mr Tahuaroa who claimed that he did accept the offer of fencing materials, he was just waiting to secure the labour assistance of his family before uplifting the materials. His main concern, however, was with the erosion of the sea front.[142]

Discussions between the department and Mr Tahuaroa continued. The deparment's stance was that they would like to assist in protecting the cemetery regardless of any claim Mr Tahuaroa may have submitted to the Tribunal.[143] In May 1991 the acting regional conservator wrote to Mr Tahuaroa confirming the understanding reached between the department and Mr Tahuaroa in relation to the erosion of the sea front of the urupa site. There was a suggestion that concrete piles be used to stop the erosion. The department, however, did not consider that concrete piles were appropriate and they were reluctant to

[140] ibid, 7 March 1990
[141] ibid, 23 August 1990
[142] see copy of letter to regional conservator, attached to letter to T Bennion, 7 October 1990, Wai 124
[143] SFR 642, file note dated 12 April 1990

take any steps that might aggravate the situation. They "would rather let nature take its course".[144] A site visit was then arranged for June 1991.

Following the site visit it was agreed that material would be supplied by the department for fencing around the urupa site. It was also agreed that the best method to reduce the erosion of the coast margin of the urupa was to stack all the large rocks on the foreshore as tightly as possible against the base, and in the eroded cavities, to try and slow down the undercutting.[145] Further inquiries need to be made to find out what has happened since then.

[144] Res 769, 6 May 1991
[145] ibid, 27 June 1991

Chapter 7

Conclusion

The focus of this report has been the alienation of Maori land on Arapawa Island, and in particular, part of Oamaru Native Reserve; the creation of the Watering Place Reserve; the development of the Sounds Foreshore Reserves; and the history of the Umukuri Bay urupa. Although the Crown purchase of Maori land in the Marlborough Sounds was mentioned in this report it has not been pivotal to the report. These tranactions were fully discussed in Grant Phillipson's Rangahaua Whanui report and the issues raised in them are best left until the Tribunal considers the wider issue of Crown purchases in the northern South Island. The 1856 Ngati Awa deed was summarised in this report because it was out of this purchase that the Oamaru Native Reserve was made, which is part of the Wai 124 claim. It was decided, though, not to look at the history of the other parts of the Native Reserve but just to concentrate on Oamaru 1B in particular.

The Watering Place Reserve

The Watering Place Reserve was originally part of the land purchased by the Crown in Queen Charlotte Sound in 1856. It was therefore waste land of the Crown at the time it was gazetted as a reserve. Mr Tahuaroa, however, claims that this property was originally in the possession of his family prior to the gazetting of the property as a Watering Place Reserve.[146] More important, perhaps, is his claim that the research carried out by the Department of Survey and Land Information in 1990 confirms that there is a burial site on the reserve, or at least within the sounds foreshore reserve.

At this stage it is unclear where exactly the burial site is located or even if there definitely is one. The DOSLI evidence is merely a pencil notation on an old plan. The archaeological evidence certainly confirms that there are archaeological sites on or near

[146] Wai 124, Statement of claim, received 22 Februray 1990

the Watering Place reserve but at this stage does not confirm that there is an old burial site there. More evidence will be needed to determine its exact location.

It appears that the issues for the Tribunal to consider include:

- Should this area have been reserved for the hapu of Ngati Awa at the time of the Crown purchase in 1856?
- Is there a case for returning the Watering Place Reserve?
- Is the Watering Place Reserve a suitable site for return, perhaps in settlement of treaty grievances?

In terms of bullet point three, it should be remembered that the Department of Conservation was at one stage considering exchanging the reserve for other land, so there appears to be no obstacle to its return, if the Tribunal decides to make a recommendation that it is appropriate in this case.

Sounds Foreshore Reserve

This section centres around the issue of ownership of foreshores. It is beyond this author's ability to answer that question in legal terms; it is, perhaps, a matter for legal submissions. But there are some issues for the Tribunal to consider, namely, what would have been the Maori understanding, at the time of the Crown purchase, regarding a chain strip or foreshore reserve? Would they have assumed that the surrounding strip was part of the Native Reserve and did not form part of the land sales to the Crown? Would they have assumed that their reserves would go all the way out to the sea, not to a one chain strip of "road" in front of the reserve? For example, Mr Tahuaroa claimed that, "the surrounding strip was part of that Native Reserve and did not form part of the land sales transaction negotiated at Waikawa between the Hapu and chiefs of Te Atiawa".[147]

[147] see copy of Mr Tahuaroa'e letter to regional conservator, attached to letter to T Bennion, 7 October 1990, file for Wai 124

Other issues the Tribunal may have to consider include:

- Was Maori title to the foreshore of the Oamaru Native Reserve extinguished by the Crown's purchase of land in 1856 in the Queen Charlotte Sound?
- Was the 1856 deed of purchase unambiguous in that respect?

The Umukuri Bay Urupa

The issues that arise from this section appear to include:

- Was it appropriate that the urupa was reserved for the benefit of Te Atiawa tribe and not just for the original owners of the reserve?
- Have both sides involved in this dispute (i.e. the Department of Conservation and Mr Tahuaroa) acted reasonably in the maintenance of the urupa?
- Whose responsibility is it to maintain the urupa?
- What is the responsibility of the Department of Conservation with regard to the maintenance of the urupa, both in terms of the erosion on the sea front and stock trepass over DOC administrated land?
- What is the responsibility of the iwi in whom the site has been reserved and more particularly, the claimant?

It may be that this issue can be satisfactorily settled by negotiation between the claimant and the Department of Conservation.

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