

Job Decision Cover Sheet

CPC FILE REF	CPC/2020/21135/A
JOB NUMBER	New
YOUR CLIENT (target agency)	Ministry of Education
TARGET AGENCY REGION	Christchurch
TARGET AGENCY IDENTIFIER	D-MOE01.65
Job Name (same as file name 100 character maximum)	Tongariro School Teacher's Residence – 26A and 26B Te Whakarau Street, Turangi - MOE
ACCREDITED SUPPLIER	WSP New Zealand Limited
NOMINATED PERSON	Sai Ek-ananthum
AUTHORS EMAIL AND PHONE	sai.ek-ananthum@wsp.com 03 341 3285
WARRANT CATEGORY	108 Disposal
TYPE OF DECISION(s) (one only - main one off file request form)	Stage 1 Section 40 report
(If more than 2 use additional form)	
TYPE OF DECISION CHECKLIST ATTACHED AND COMPLETED	
URGENCY REQUESTED BY DATE (use sparingly and validly)	



WSP
Christchurch
12 Moorhouse Avenue
Christchurch 8011
New Zealand

8 July 2021

+64 3 363 5400
wsp.com/nz

Trevor Knowles
Manager Clearances
Toitū Te Whenua LINZ
PO Box 5501
WELLINGTON 6145

Sent by Objective Connect

Dear Trevor

Stage 1 Section 40 Report

Ministry of Education - Disposal of Land: Tongariro School Teacher's Residence
– 26A and 26B Te Whakarau Street, Turangi



File References

LINZ File Ref:	CPC/2020/21135
LINZ Job No:	New
WSP Project No:	D-MOE01.65
NaPalis Ref No:	2965419

Introduction

The purpose of this report is to investigate the Section 40 offer back obligations in relation to the disposal of the Tongariro School Teacher's Residence at 26A and 26B Te Whakarau Street, Turangi. The land has now been declared surplus to requirements and is to be disposed of.

Details of Subject Property

26A Te Whakarau Street, Turangi

Record of Title:	RT WN43A/188 (Cross Lease) in the name of Her Majesty the Queen for Teachers Residence
Legal Description	Undivided ½ share of Lot 80 DP 28584 and lease of Flat 1 Deposited Plan 76346
Area:	804 square metres more or less (½ share)
Encumbrances:	RT WN43A/188 (Cross Lease) is subject to: 769851 Building Line Restriction (Affects Fee Simple) B300306.1 Lease of Flat 1 DP 76346 Term 999 years commencing on 1.7.1993 Composite CT WN43A/188 issued (Affects Fee Simple) B300306.2 Lease of Flat 2 and Garage 2 DP 76346 Term 999 years commencing on 1.7.1993 Composite CT WN43A/189 issued (Affects Fee Simple) 11713765.1 Certificate under section 164 of the Ngati Tuwharetoa Claims Settlement Act 2018 that the within land is RFR land as defined in section 142 and is subject to Subpart 4 of Part 3 of the Act (which restricts disposal, including leasing, of the land) Upon disposition from the Crown the property will become subject to: <ol style="list-style-type: none">1. Part IVA Conservation Act 1987.2. Section 10 Crown Minerals Act 1991.3. Non-Statute minerals remain in the Deed Index 37/1 (cancelled) and are excluded from any sale.

26B Te Whakarau Street, Turangi

Record of Title:	RT WN43A/189 (Cross Lease) held by Her Majesty the Queen for Teachers Residence
Legal Description	Undivided ½ share of Lot 80 DP 28584 and lease of Flat 2 Deposited Plan 76346
Area:	804 square metres more or less (½ share)
Encumbrances:	RT WN43A/189 (Cross lease) is subject to: 769851 Building Line Restriction (Affects Fee Simple) B300306.1 Lease of Flat 1 DP 76346 Term 999 years commencing on 1.7.1993 Composite CT WN43A/188 issued (Affects Fee Simple) B300306.2 Lease of Flat 2 and Garage 2 DP 76346 Term 999 years commencing on 1.7.1993 Composite CT WN43A/189 issued (Affects Fee Simple)

11713765.1 Certificate under section 164 of the Ngati Tuwharetoa Claims Settlement Act 2018 that the within land is RFR land as defined in section 142 and is subject to Subpart 4 of Part 3 of the Act (which restricts disposal, including leasing, of the land)

Upon disposition from the Crown the property will become subject to:

1. Part IVA Conservation Act 1987.
2. Section 10 Crown Minerals Act 1991.
3. Non-Statute minerals remain in the Deed Index 37/1 (cancelled) and are excluded from any sale.

RTs, Cadastral Plan, Aerial Photo attached as Appendix 1

Physical Description

The subject property is located within the main residential area of Turangi. The property consists of a flat residential section, a characteristic late 1970s or early 1980s building (divided into two housing units), mature plantings around the boundary and half of a double garage straddling the boundary with the adjoining property.

Statutory

Mineral Estate:

The land was originally held in Ohaunga North 5B2C2. It is not in an area historically associated with mining; it is considered unlikely the minerals would be separated from the land in the deed.

Deed Index 37/1 is all silent on mineral ownership.

The land was acquired from 134 former Māori owners by way of Proclamation 640132 [NZ Gazette 15 July 1965 No p. 1125] for the Establishment and Development of the Turangi Township (under the Public Works Act 1928 and Turangi Township Act 1964).

As the acquisition was after the Public Works Act 1928 and prior to the Public Works Act 1981 coming into force on 02 February 1982, the retrospective effects of Section 19 of the Public Works Act 1928 are that Non-Statute minerals are excluded from the acquisition of land, unless specific reference has been made in the relevant conveyance. In this instance, no specific reference has been made. Therefore, the Non-Statute minerals remain in Deed Index 37/1 (cancelled) and are excluded from sale.

Statute minerals will be reserved to the Crown pursuant to Section 10 Crown Minerals Act 1991.

Copy of Deed Index Relating to Mineral Acquisition attached as Appendix 2

Potential Liabilities:

None known. A search of the Waikato Regional Council LUIR database on 25/05/2020 confirmed there is no known contamination associated with the property.

Zoning:

The property is zoned 'Residential Environment' in the Taupo District Council Plan.

Designation:

There is no designation on the subject property.

Survey/Title Requirements:

Survey Requirements - Nil.

Title Requirements - Nil

Statutory Clearances

Statutory:

In accordance with LINZ Standard S15005 – Standard for Compliance: disposal of land held for a Public Work – Crown Property Clearances Matrix Appendix E, the following Statutory Clearances have been obtained for this surplus Property.

1. This property is no longer required by the vendor and was declared surplus to Education Requirements on 17 March 2020, see the attached memo dated 12 March 2020 signed by Brian Mitchell, Group Manager, Infrastructure Advisory Services, Ministry of Education – **attached as Appendix 3**
2. The vendor has no interest in retaining an interest in the land in either the short or long term.
3. The Section 71B Gazette Notice was published on the 12th of May 2020 [NZ Gazette 2020-In1949].
4. There is no known requirement for another public work. The 20 working days' notice lapsed on 18/06/2020 and no response was received from Taupo District Council.
5. There is no known Section 105 Public Works Act 1981 exchange requirement for the property.
6. On 25/05/2020 Kāinga Ora (Formally Housing New Zealand) confirmed in writing that they are not interested in acquiring this property for affordable housing.
7. On 18/06/2020 Department of Conservation (DOC) clearance under Part IVA Conservation Act 1987 was received and DOC confirmed that the area does not adjoin a waterway, so no marginal strip will be created, and the property has no known conservation values that the DOC wish to see protected.
8. On the 19/06/2020 Heritage New Zealand Pouhere Taonga confirmed in writing they have no heritage protection measures suggested for the subject property. They have no objection to this proposed land disposal but recommend direct consultation be undertaken with iwi and hapu, as this was not possible due to confidentiality issues.
9. On 26/05/2020 Ministry of Housing and Urban Development (Kiwibuild – Land for Housing Unit), on behalf of the Ministry of Business, Innovation and Employment confirmed that the site is not suitable for inclusion in their Land for Housing Programme.

Statutory Clearances attached as Appendix 4

RFR Requirement:

The property is located within the Ngati Tuwharetoa Claims Settlement Act 2018 Right of First Refusal (RFR) area and therefore an RFR offer will be required should the property progress past Section 40 of the Public Works Act 1981.

The property is subject to Subpart 4 of Part 3 of the Ngāti Tūwharetoa Claims Settlement Act 2018.

Valuation

Rating Valuation:

Current rating information as at 1/07/2019:

26A Te Whakarau Street, Turangi

Valuation No: 0747006900A

Land Value \$52,000

Improvement value \$125,000**Capital Value** \$177,000

26B Te Whakarau Street, Turangi

Valuation No: 0747006900B

Land Value \$61,000

Improvement value \$126,000**Capital Value** \$187,000**Rating Valuation attached as Appendix 5****Current Market Valuation:**

A current market valuation will be obtained following the approval of the stage 1 Section 40 report.

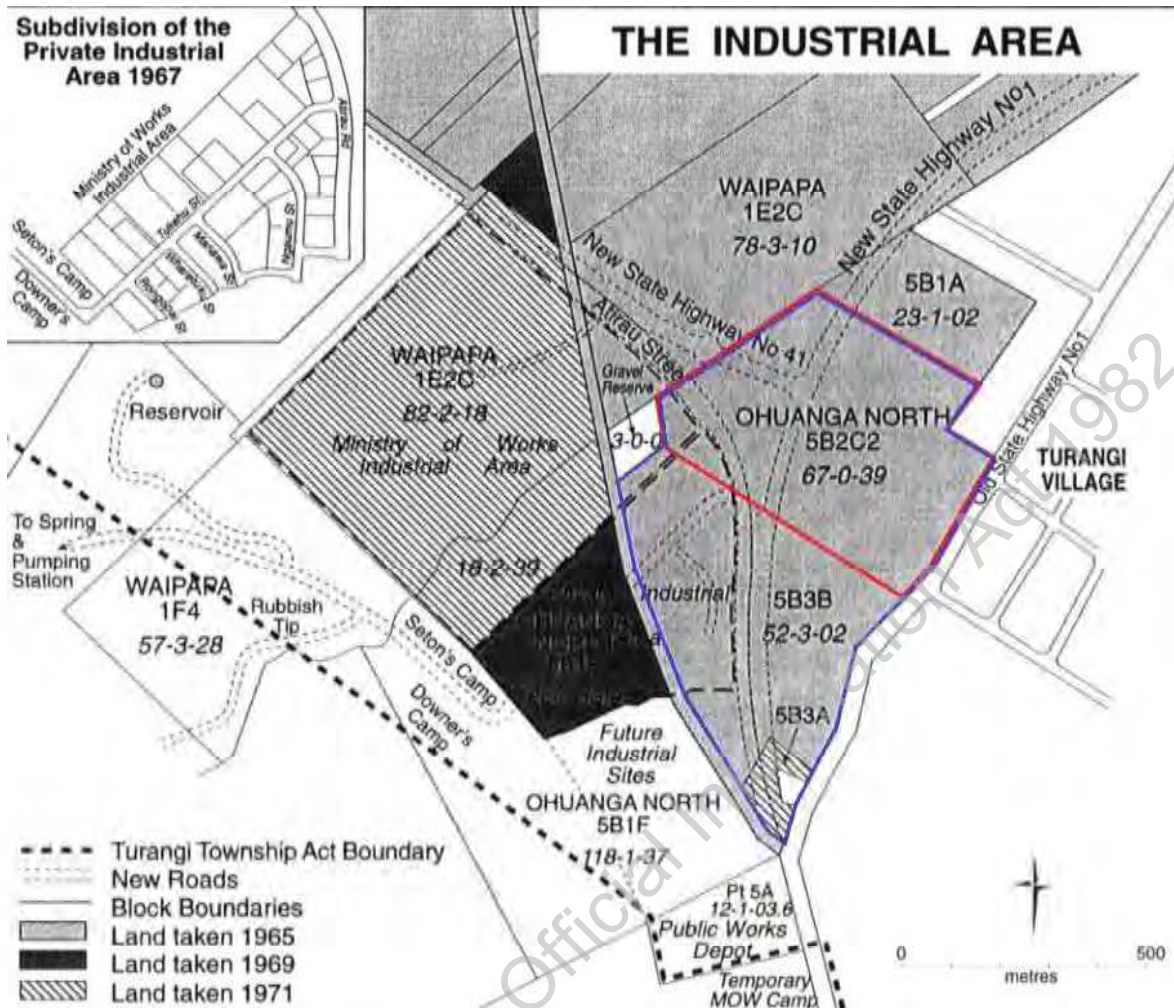
Acquisition History

In the 1960's the Crown acquired an area of land for the Turangi Township, which was established in order to service the construction and operation of the Tongariro Power Station Development, including housing and other infrastructure for people involved in the construction and ongoing operation of the Tongariro Power Station.

In Proclamation 640132 [New Zealand Gazette 15 July 1965 No 39 p 1125] land was taken for the Establishment and Development of the Turangi Township pursuant to Section 11 of the Turangi Township Act 1964 and the Public Works Act 1928. The Turangi Township Act 1964 included a special provision enabling the Crown to acquire land for the purposes of a township.

The subject land was included in this land taking, and at the time of acquisition was legally described as Part Ohuanga North 5B2C2 Block, being an area of 67a 0r 39p.

Although the land was taken by Gazette on 15 July 1965, the compensation for the land was not dealt with at the time of gazettal.



*extract from Turangi Township Report 1995 (page 18)

A letter dated 23 February 1968 from the law firm Watts & Patterson to the Ministry of Works stated that the firm acted for the Māori Trustee and were presenting a claim for compensation for land taken by the Crown via Gazette for Turangi Township.

A letter to Watts & Patterson from the Crown dated 16 July 1968 confirmed that the Māori Trust's offer of \$86,729.00 plus interest of 5% to settle all claims associated with the land taken by Proclamation 640132 would be accepted.

Part Ohaunga North 5B2C2 was one of the land areas included in this letter, and it was noted that compensation of \$42,774.00 was paid for Part Ohaunga North 5B2C2, this particular compensation also related to 12 other Māori Land blocks.

On 26 August 1968 a cheque for \$102,805.00 for the purposes of settlement for the Turangi Township land (taken by Proclamation 640132) was provided to the District Commissioner for Māori Affairs for the purpose of settlement.

The various Māori land blocks that were acquired were subsequently amalgamated as Sections 41 and 42 Town of Turangi on DP 26478, which was approved as to survey in November 1966. Following survey. A new certificate of title was then issued, CT F1/1240 (29 November 1966) for a number of Māori Land Blocks (including the land acquired by Proclamation 640132) for the purpose of the Establishment and Development of the Turangi Township.

In 1967 DP 28584 was approved as to survey and CT WN6C/1293 was issued in 1968 for Lots 63-65 and 74-82 DP 28584.

On 09 February 1978, the subject land was set apart for Teacher's Residence by GN 194207.1 [GN 1978 p 258]. A new title for Lot 80 DP 28584 being CT WN42B/813 was issued in 1993.

On 16 June 1993, CT WN43A/188 and CT WN43A/189 were issued for the cross lease in Flats 1 and 2 and ½ share in the fee-simple estate, the land continued to be held for the purpose of a Teachers Residence.

While the original gazette notice (Proclamation 640132) did not include the land held in Part Ohuanga North 5B2C2, Title Notice 2300 confirmed that the land taken by Proclamation 640132 did include this land. Part Ohuanga North 5B2C2, is also included correspondence on behalf of the Māori Trustee to the Ministry of Works.

We have also sought advice from the Māori Land Court and they have confirmed that the land taken included Part Ohuanga North 5B2C2.

Acquisition History attached as Appendix 6.

Email from Maori Land Court attached as Appendix 7.

A Schedule of Ownership consolidated from 24/2/1954 – 23/8/1973 showed there were 138 Māori owners when the land held in Part Ohaunga North 5B2C2 was acquired by the Crown for the development of the Turangi Township, this has been confirmed by the Māori Land Court. At this period in time, the Māori Trustee had the statutory responsibility to negotiate compensation for Māori freehold land.

A Schedule of Ownership at the time of acquisition is attached as Appendix 8.

Ohuanga North 5B2C2 is still a current block with trustees (there are 695 current owners).

The Māori Land Court has confirmed that the land is currently held as Ahu Whenua Trust, the name of the Trust is the *Ohuanga Trust*.

Current List of the Owners attached as Appendix 9.

Considerations

Section 40(2)(a) Impracticable, unreasonable, unfair to offer back

Not applicable as there is no evidence to suggest it is impracticable, unreasonable or unfair to offer the property back to the former owners and/or immediate successor(s).

Section 40(2)(b) Significant change in the character of the land

Not applicable. The building on the property is not valid grounds for exemption on this basis.

Section 40 (2) (c) Offer at Current Market Value

Applicable as there are no grounds for exemption to offer back.

Section 40(2)(d) Offer less than Current Market Value

Not applicable. The former owners were paid \$42,774.00 (as one of 12 Māori Freehold Land blocks) in compensation for the property when it was acquired. This is considered to be reasonable compensation for land in Turangi at the time.

Crown Gifted Lands

Not Applicable as the land was not gifted.

Section 40(3) Land acquired as a non-essential work

Not applicable as the property was not acquired in the period between 31 January 1982 and 31 March 1987.

Section 40(4) Size, Shape or Situation of the land

Not applicable as the land is not of a size, shape or situation that would justify exemption on these grounds.

Section 40(5) Successor for offer back



Successor in Title: Not applicable.

Successor in Probate: Not applicable as it is being recommended the property be offered to the former owner and/or successors pursuant to Section 41 of the Public Works Act 1981.

Section 41 Public Works Act 1981

Applicable. The property was Māori freehold land beneficially owned by more than four or more people at the time of acquisition and was not vested in any trustee or trustees.

Application to the Māori Land Court to make a vesting under Section 134 Te Ture Whenua Māori Act 1993 pursuant to Section 41(e) for an order is the best approach.

General Comments

The property was acquired from 138 Māori owners in 1965. There are no grounds for an exemption to offer back. The property is to be offered back to the former owners and/or the successors by way of vesting under Section 134 Te Ture Whenua Māori Act 1993.

Signing Page – Sec 40 Stage 1 - 26A and 26B Te Whakarau Street, Turangi

Conclusion: As the land was compulsorily acquired from 138 Māori owners, it is appropriate to offer back this property to the former owners and/or the successors by way of vesting under Section 134 Te Ture Whenua Māori Act 1993.

Recommendation: That pursuant to Section 41(e) of the Public Works Act 1981, the property be offered back to the former owners and/or the successors by way of vesting under Section 134 Te Ture Whenua Māori Act 1993.

Authorities: Section 41(e) Public Works Act 1981

Prepared By:



Sai Ek-ananthum

Date: 08/07/2021

Property Consultant
Nominated Person for WSP as LINZ Accredited
Supplier
sai.ek-ananthum@wsp.com | 03 341 3285

Peer Reviewed By:



Teresa Buckthought

Date: 08/07/2021

Technical Principal - Property
Nominated Person for WSP as LINZ Accredited
Supplier
teresa.buckthought@wsp.com | 04 473 8077

CPC/2020/21135 LINZ Job No: New

Approved / Declined

Signed Date

In terms of a delegation

Land Information New Zealand

Appendices:

- Appendix 1 RTs, Cadastral Plan, Aerial Photo
- Appendix 2 Copy of Deed Index Relating to Mineral Acquisition
- Appendix 3 MOE Memo
- Appendix 4 Statutory Clearances
- Appendix 5 Rating Valuation
- Appendix 6 Acquisition History
- Appendix 7 Email from Maori Land Court
- Appendix 8 A Schedule of Ownership
- Appendix 9 Current List of the Owners