

Job Decision Cover Sheet

CPC FILE REF	CPC/2020/21136/A
JOB NUMBER	New
YOUR CLIENT (target agency)	Ministry of Education
TARGET AGENCY REGION	Christchurch
TARGET AGENCY IDENTIFIER	D-MOE01.67
Job Name (same as file name 100 character maximum)	Tongariro School Teacher's Residence - 38A & B Raukura 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)	



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03 August 2021

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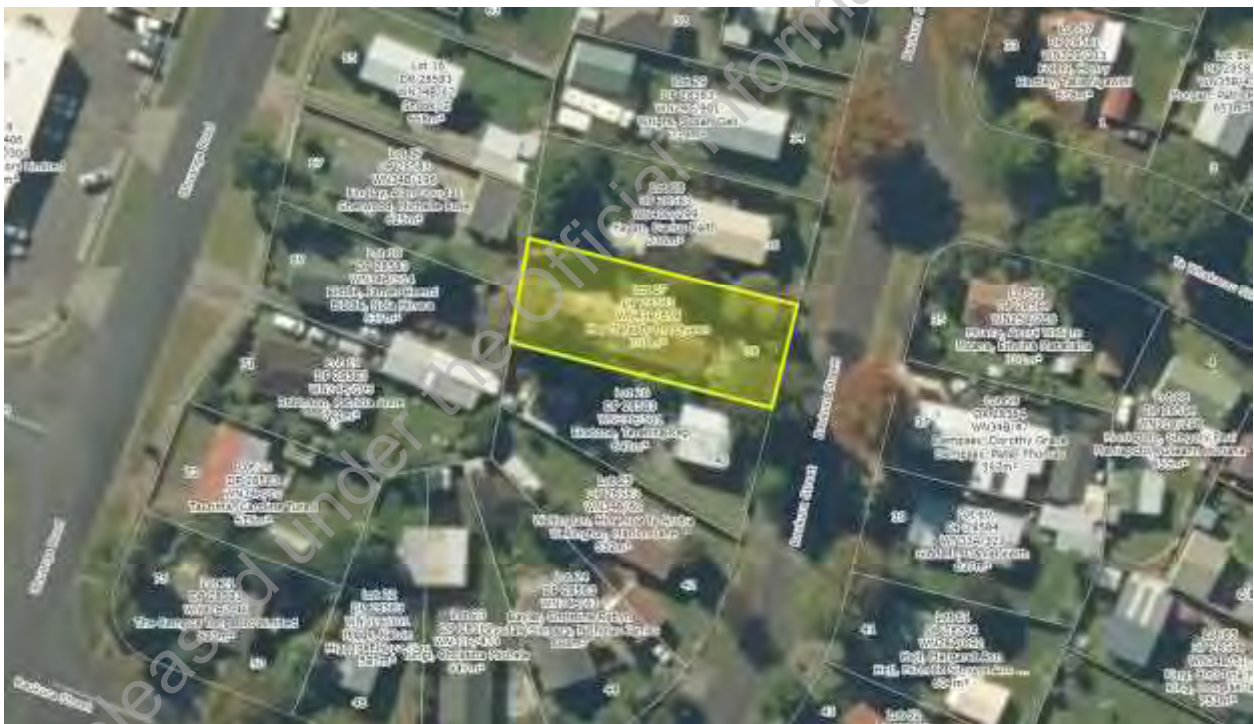
Trevor Knowles
Manager Clearances
Toitū Te Whenua LINZ
PO Box 5501
WELLINGTON 6145

Sent by Objective Connect

Dear Trevor

Stage 1 Section 40 Report

Ministry of Education - Disposal of Land: Tongariro School Teacher's Residence - 38A
& B Raukura Street, Turangi



File References

LINZ File Ref:	CPC/2020/21136
LINZ Job No:	New
WSP Project No:	D-MOE01.67
NaPalis Ref No:	2965430

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 38A & 38B Raukura Street, Turangi. The land has now been declared surplus to requirements and is currently in the disposal process.

Details of Subject Property

Record of Title:	RT WN43B/659 held by Her Majesty the Queen for Teachers' Residence. WN43B/659, Cadastral Plan, Aerial Photo attached as Appendix 1
Legal Description	Lot 27 Deposited Plan 28583
Area:	708 square metres more or less
Address:	38 Raukura Street, Turangi
Encumbrances:	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 37/28 (cancelled) and are excluded from any sale.

Statutory

Mineral Estate:	<p>The land was originally held in Waipapa 1E2C. Turangi is not in an area historically associated with mining; and as such, it is considered unlikely the minerals would be separated from the land in the deed.</p> <p>Deed Index 37/28 is all silent on mineral ownership.</p> <p>The land was acquired from 86 former Māori owners by way of Proclamation 628317 [NZ Gazette 1 April 1965 No 17 page 436] for the Establishment and Development of the Turangi Township (under the Public Works Act 1928 and Turangi Township Act 1964).</p> <p>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.</p> <p>In this instance, no specific reference has been made to the minerals in any conveyance. The Non-Statute minerals remain in Deed Index 37/28 (cancelled) and are excluded from sale.</p> <p>Statute minerals will be reserved to the Crown pursuant to Section 10 Crown Minerals Act 1991.</p> <p>Copy of Title Relating to Mineral Acquisition attached as Appendix 2</p>
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Potential Liabilities: None known. A search of the Waikato Regional Council Land Use Information Register – LUI database on 25/05/2020 confirmed there is no known contamination associated with the property.

Contamination Confirmation attached as Appendix 3

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

Designation: There is no designation on the property.

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 Government Property.

1. This property is no longer required by the vendor and was declared surplus to Education Requirements on 17th March 2020 disclosed in the attached memo dated 12th March 2020 signed by Brian Mitchell, Group Manager, Infrastructure Advisory Services, Ministry of Education – **attached as Appendix 4**
2. The vendor does not want to retain an interest in the land either short or long term.
3. The 71B of the Education Act 1989 Gazette Notice was published on the 20th March 2020 [NZ Gazette 2020-In1949].
4. There is no known requirement for another public work. In a letter dated the 20th May 2020, Taupo District Council were notified to see if they had any interest in acquiring the subject the property. They had 20 working days from the date of the letter and no response was ever received from the Taupo District Council.
5. There is no know Section 105 Public Works Act 1981 exchange requirement for the property.
6. On 25/05/2020 Kāinga Ora (Formally Housing New Zealand Corporation) confirmed in writing that they are not interested in acquiring this property for affordable housing.
7. On 18/06/2020 Department of Conservation 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 Department wishes 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 5

RFR Requirement: The property is subject to Section 5.2.2 Ngati Turangitukua Deed of Settlement 1998.

LINZ has subsequently register an RFR memorial on title for the various Crown Properties, including the subject property.

If the offer is accepted by the former owners, the RFR memorial will be removed at settlement.

Valuation

Rating Valuation: Current rating information as at 01/07/2019

Valuation Reference: 0747009300

Land Value	\$85,000
Improvement Value	\$181,000
Capital Value	\$ 266,000

Rating Valuation attached as Appendix 6

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

Acquisition History

Proclamation 628317 [NZ Gazette 1 April 1965 No 17 page 436] took various land blocks including part Waipapa 1E2C 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 land was originally Māori land part of "Part Waipapa 1E2C" (area 78a r3 10.0p) comprised in Deed Index 37/28.

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 this survey, a new certificate of title was issued, being CT F1/1240 (29 November 1966) for a number of Māori Land Blocks (including the land acquired by Proclamation 628317) for the purpose of the Establishment and Development of the Turangi Township.

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 628317 would be accepted.

Waipapa 1E2C was one of the land areas included in this letter, and it was noted that compensation of \$42,774.00 was paid for Waipapa 1E2C, 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 was provided to the District Commissioner for Māori Affairs for the purpose of settlement.

The land was further subdivided and a number of sections including Lot 27 Deposited Plan 28583 were set apart for Teacher's Residence.

In 1968 DP 28583 was approved as to survey and CT WN5C/888 was issued for Lots 16-29 DP 28583.

On 18 August 1969, Lot 27 DP 28583 was set apart for Teacher's Residence by GN 797231 [Gazette Notice 1969 p 1512]. RTWN43B/659 was subsequently issued for Lot 27 DP 28583.

Acquisition History attached as Appendix 7

A Schedule of Ownership consolidated from 6/10/1928 – 3/7/1973 showed there were 86 Māori owners when the land held in Waipapa 1E2C 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

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.

An application should be made 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 86 Māori owners in 1965. There are no grounds for an exemption to offer back. The property is to be offered back to the former Māori owners and/or their successors by way of vesting under Section 134 Te Ture Whenua Māori Act 1993.

Released under the Official Information Act 1982

Signing Page – Sec 40 Stage 1 - 38A & 38B Raukura Street, Turangi

Conclusion: As the land was compulsorily acquired from 86 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:

Peer Reviewed By:



Sai Ek-ananthum

Date: 27/07/2021

Teresa Buckthought

Date: 03/08/2021

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CPC/2020/21136 LINZ Job No: New

Approved / Declined

Signed Date

In terms of a delegation

Land Information New Zealand

Appendices:

- Appendix 1 WN43B/659, Cadastral Plan, Aerial Photo
- Appendix 2 Copy of Title Relating to Mineral Acquisition
- Appendix 3 Contamination Confirmation
- Appendix 4 MOE Memo
- Appendix 5 Statutory Clearances
- Appendix 6 Rating Valuation
- Appendix 7 Acquisition History
- Appendix 8 A Schedule of Ownership at the time of acquisition