

**Job Decision Cover Sheet**

**CPC FILE REF**

CPC/2009/14454

**JOB NUMBER**

703782

**YOUR CLIENT (target agency)**

Ministry of Education

**TARGET AGENCY REGION**

Christchurch

**TARGET AGENCY IDENTIFIER**

D-ADD01.10

**Job Name (same as file name 100 character maximum)**

Department of Conservation - Disposal of Land: 6 Poihaere Street, Turangi

**ACCREDITED SUPPLIER**

WSP New Zealand Limited

**NOMINATED PERSON**

Annette Stocker

**AUTHORS EMAIL AND PHONE**

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**WARRANT CATEGORY**

108 Disposal

**TYPE OF DECISION(s) (one only - main one off file request form)**

Stage 2 Section 41(1)(e) report incl signing offerback

**(If more than 2 use additional form)**

**TYPE OF DECISION CHECKLIST ATTACHED AND COMPLETED**

**URGENCY REQUESTED BY DATE (use sparingly and validly)**

25 November 2021

17 November 2021

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wsp.com/nz

Trevor Knowles  
Crown Property Clearances  
Toitū Te Whenua LINZ  
Wellington  
C/- Objective Connect

Dear Trevor

**Stage 2 Section 41(1)(e) Report & Offer of Sale**  
**Department of Conservation - Disposal of Land: 6 Poihaere Street, Turangi**



**File References**

<b>LINZ File Ref:</b>	CPC/2009/14454
<b>LINZ Job No:</b>	703782
<b>WSP Project No:</b>	D-ADD01.10
<b>NaPalis Ref No:</b>	4013560

## Introduction

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The property was declared surplus to education requirements on 22 December 2009.

On 10 February 2010 LINZ Clearances has approved a Stage 1 s40 Report and recommended that the property be offered back to the former owners or successors pursuant to Section 40(2)(c) of the Public Works Act 1981.

Following approval of the stage 1 report, Grayson Neal (contractors to Darroch) were instructed to investigate the former owners and successors. Grayson Neal placed a public notice in the Turangi Chronical on 15 September 2011 and in the Taupo Times on 13 September 2011.

The public notice advertised a meeting to take place on 24 September 2011 in Turangi for the owners of Waipapa 1E1F Block for the process of offerback. However, there was no response to the ads.

Grayson Neal subsequently contacted the Maori Land Court and the Tuwharetoa Maori Trust Board to determine whether they held any details of the former owners of Waipapa 1E1F Block. Only two names were provided by the Board, being Mrs Whakaaturanga Del Moanaroa and Mr Paranapa Rewi Otiwi, with their addresses also supplied. Grayson Neal wrote to both persons followed up by telephone contact. However, Grayson Neal did not manage to reach either person.

Then a Stage 2 section 40 report and investigation dated the 7 June 2012 was prepared by Darroch requesting the land be exempt from offering back pursuant to Section 40(2)(a) of the Public Works Act 1981. The report was declined and questions were raised by LINZ Clearances around the validity and use of Section 41(1)(e) of the Public Works Act 1981. Darroch then resubmitted a fresh report in November 2015 and LINZ Clearances approved the Grayson Neal report on 9 June 2016 to offer back the land subject to Section 41(1)(e) of the Public Works Act 1981 to enable an application to be made to the Maori Land Court under section 134 of Te Ture Whenua Maori Act 1993.

### **Section 40 and 41 report attached as Appendix 1**

Further research into the former ownership commenced in 2017 by Grayson Neal. This research was forwarded to Darroch in 2017. A draft application was prepared by Grayson Neal for CPC approval. In 2018 a CPC directive to for all agents use Crown Law for all MLC applications was instigated. As this was DOC administered land and not LINZ administered land DOC, would need to engage with Crown Law directly to undertake vesting action estimated at 20K per property. Grayson Neal offered to assist. Approval from DOC to proceed through Crown Law was not forthcoming.

Due to funding restraints within the Department of Conservation this disposal was put on hold.

The disposal was reactivated in 2021 at the request of DOC.

While WSP were working on the offerback of the surplus Ministry of Education properties in Turangi, questions were being raised in relation to this property from the potential successors as this property was acquired from the same block as one of the MOE properties, being Waipapa 1E1F Block.

There were 25 original owners when the land was acquired. There is a large number of possible successors to these former owners. A lot of research for Waipapa 1E1F Block has been undertaken to locate the successors, with assistance from the Maori Land Court ownership and succession records, Maori and general electoral role records, Hui with Ngati Turangitukua Charitable Trust members and whanau members of former owners who are knowledgeable in terms of their whenua and whanau succession.

The purpose of this report is to have the offer of sale executed.

## Details of Subject Property

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**Record of Title:** RT WN33D/914 held by Her Majesty the Queen for The Department of Conservation and the due administration of the Conservation Act 1987

***RT WN33D/914, Cadastral Plan, Aerial Photo attached as Appendix 2***

**Legal Description** Lot 151 Deposited Plan 28535

**Area:** 1029 square metres more or less

**Address:** 6 Poihaere Street, Turangi

**Encumbrances:** Subject to a right to convey and drain sewage over part marked Q on DP 367392 created by Easement Instrument 7226138.10

The easements created by Easement Instrument 7226138.10 are subject to Section 243 (a) Resource Management Act 1991

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 Part IVA of the Conservation Act 1987 and Non-Statute minerals remain in Deed Index 37/28 and are excluded from any sale.

**Location & Physical Description:** A rear vacant Residential zoned section of 1029m<sup>2</sup> with access frontage to Poihaere Street and approximately three quarters of a kilometre to the west of the Turangi town centre.



### *Acquisition Details*

The land was previously part of Waipapa 1E1F Block held by multiple Maori Owners and recorded in Deeds Index 37/28 when it was compulsorily taken for development of Turangi Township in 1965 by way of GN628317. Compensation of \$13,000 was paid.

Various Maori Blocks including Waipapa 1E1F Block were acquired for development of Turangi Township (under Public Works Act 1928) and were later amalgamated as Section 41 Town of Turangi. CT F1/1240 was issued in 1966 for the subject land in the name of Her Majesty the Queen for the Establishment and Development of the Turangi Township.

The land was defined by DP 28535 and CT 5A/1110 issued for Lots 135-147 and 149 -153 in 1967. Then Lot 151 was declared to be Crown Land subject to the Land Act 1948 by GN 901594 (NZ Gazette 1971 p 2680). Then in 1989 the land was set apart for the purposes of the Department of Conservation and the due administration of the Conservation Act 1987. RT WN33D/914 subsequently issued in 1989.

### *Maori Land Court Record*

A search of the Courts records relating to Waipapa 1E1F Block located a Court Order declaring the land as Maori Freehold land in 1945 and it was still Maori land at the time of acquisition in 1965.

A Schedule of Ownership Orders consolidated on 18 October 1961 and recording subsequent succession on 24 May 1965 showed there were 25 Māori owners when the land held in Waipapa 1E1F was acquired by the Crown for the development of the Turangi Township. At this period in time, the Māori Trustee had the statutory responsibility to negotiate compensation for Māori freehold land.

The list was created in 1961 with succession records ceasing in 1988. Although the total of Waipapa 1E1F Block was alienated in 1965 successions were continued to be recorded presumably for compensation payment purposes. As Waipapa 1E1F Block was no longer Maori land the Maori land Court was not required to maintain ownership recorded on this block.

**A Schedule of Ownership is attached as Appendix 3.**

### Ownership and Successors

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**Former Owner(s):** At the time of acquisition, the Original Block had 25 owners shown on the Maori land Court records. The 25 original owners were:

1. Tarikopeka Peneta (Barbara Peneta)
2. Hine Peneta (Mrs John Josephs)
3. Jack Peneta alias Golf
4. Mangu Peneta
5. Mere Noni
6. Nehi Miria
7. Tei Ngawairua
8. Pehioi Rota
9. Piriwata Pouata alias Pokunui Pouata
10. Te Rangi Peneta
11. Rima Miria
12. Rota Miria
13. Whiti Miria
14. Tuari Ngarama
15. Te Haeata Ngarama
16. Te Whataaiwi Rewi Otimi
17. Taretare Tamekiwa
18. Tamekiwa Tamekiwa
19. Rongopai Pita Tapene
20. Rerehau Pita Tapene
21. Kerira Pita Tapene
22. Pita Pita Tapene
23. Ngarama Pita Tapene
24. Atawhai Pita Tapene
25. Whiti Pita Tapene

**Location of Owners and Successors:** We have followed the Protocol under Section 6 of the Deed of Settlement between Her Majesty the Queen in the right of New Zealand and Ngāti Tūrangitukua dated 26 September 1998.

Under the LINZ Turangi Offer Back Protocol, we should consult with the Ngaiti Turangitukua Maori Committee to seek additional advice on specific information about former owners or their successors.

Given the large number of former owners and successors, the research for Waipapa 1E1F Block has identified some former owners and successors. There are some other former owners for whom contact details and succession information has not been located despite extensive effort. A summary of former owners and known successors has been entered into an Excel spreadsheet.

**Spreadsheet is attached as Appendix 4**

We have also identified from publicly available records and other sources various former owners and successors. We have researched from the following sources;

- Maori Land Court ownership and succession records

- Electoral records (also the Māori electoral roll)
- Phone records
- Information from whanau hui
- Consultation correspondence and hui with the Ngati Turangitukua Maori Committee and Ngati Turangitukua Charitable Trust
- Made contact with some successors of original owners

### Timeline

Following approval of the stage 1 report, Grayson Neal was instructed to investigate the former owners and successors. Grayson Neal placed a public notice in the Turangi Chonical on 15 September 2011 and in the Taupo Times on 13 September 2011.

### **Copy of notice is attached as Appendix 5**

The public notice advertised a meeting to take place on 24 September 2011 in Turangi for the owners of Waipapa 1E1F Block for the process of offerback. However, there was no response to the ads.

Grayson Neal subsequently contact the Tuwharetoa Maori Trust Board to determine whether they held any details of the former owners of Waipapa 1E1F Block. Only two names were provided by the Board, being Mrs Whakaaturanga Del Moanarua and Mr Paranapa Rewi Otiwi, with their addresses also supplied. Grayson Neal wrote to both persons followed up by phone contact. However, Grayson Neal did not manage to reach either person.

In 2011 three persons were appointed by the Maori land Court to act as Agents for the former owners/successors but this was met with hostile resistance from some whanau members. Two agents have declined any further participation due to poor health. One agent is still keen to continue to act as agent if required.

### Forward Actions

Once the offer of sale to the successors has been signed by the Crown then the followings steps will be implemented:

1. Due to Covid restrictions, it is intended to have a zoon hui on the 27<sup>th</sup> November 2021 - The intention of the hui is to present the offer and explain the offer back and Maori Land Court vesting process with the eligible offerees.
2. Public notice of the hui via Zoom will be undertaken at least one month prior to the hui.

Notices have been placed in the various media such as;

- Various Newspaper dated 23/10/2021
  - New Zealand Herald
  - Waikato Times
  - The Dominion Post
  - Bay of Plenty Times
  - Rotorua Daily Post
  - The Press
- We expect the hui notice will be shared by Whanau on the various Maori Land facebook pages.

### **A copy of Advertisement attached as Appendix 6**

3. Ngati Turangitukua Charitable Trust will be notified of the hui.

4. Notice of the hui will be sent to those people for whom we hold contact addresses and/or emails.
5. Then follow up in person and/or zoom (information Hui) will be proposed at the Zoom hui for 2 weeks later (If required). This will give eligible offerees an opportunity to ask questions if they were unable to do so at the initial Zoom hui.
6. The Zoom hui notice and offer back information will include contact details of Grayson Clements who will be available to facilitate questions and answers to/from eligible offerees.
7. Close of offerback periods – 15 February 2022
8. If more than 1 eligible offeree accepts the offer, this will necessitate consultation with those parties before a vesting application is filed with the Maori Land Court. - Hui to deal with successors who accept the offer (this may include discussion on prospective agents/trustees being appointed to be able to accept or reject an offer).
9. Prepare and lodge the application to Maori Land Court to vest the land pursuant to Section 134 of the Te Ture Whenua Maori Act 1993.

### Valuation

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Once any land held for a public work is surplus to requirements, the Crown has an obligation to offer the land back in a timely manner and within a reasonable amount of time. Although no specific timeframe has been set, a reasonable length of time has been determined by the Courts to be in the vicinity of 12 to 18 months (Kerr-Taylor). It has been more than 12 months since the property was declared surplus to requirements.

The delay was beyond the control, it is our view that the subject property should be offered back at the market value as at 21<sup>st</sup> August 2010.

The market valuation as assessed by Veitch Morison as at 21<sup>st</sup> August 2010.

Land Value	[ s 9(2)(j) ]
Improvement Value	\$ 0
Market Value	[ s 9(2)(j) ] incl (if any)

#### **Market Valuation attached as Appendix 7**

Under Sec 134(6)(b) of Te Ture Whenua Maori Act 1993, the Crown can propose the price to be paid for the land and the terms and conditions of payment, but it is for the Māori Land Court to determine the price in making the vesting order.

However, if the Offeror and the Offeree are unable to agree on a price following this offer made in advance of an application to the Māori Land Court under section 134 Te Ture Whenua Māori Act 1993 (pursuant to section 41(1)(e) of the Public Works Act 1981), the Offeree may execute this agreement agreeing to purchase the property at the price determined by the Land Valuation Tribunal.

### Vendor Approval

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Department of Conservation approved the offer of sale for \$55,000 inclusive GST (if any) on 17/11/2021.

#### **Vendor Approval attached as Appendix 8**

### Offer of Sale Details

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An Offer of Sale has been prepared by WSP and Grayson Clements Ltd.

#### **Offer of Sale document is attached as Appendix 9**

The covering letter will accompany with the offer of sale agreement.

Signing Page - 6 Poihaere Street, Turangi

**Conclusion:** Based on the Maori Land Courts records the research undertaken by WSP, Grayson Neal and LINZ we I recommend the attached offer be executed for presentation at the November Hui set out above to enable application to be made to the Maori Land Court for an Order to ultimately vest the property pursuant to Section 134 Te Ture Whenua Maori Act 1993.

That you approve on behalf of the Crown for the property at 6 Poihaere Street, Turangi being offered to the former owners or successors of Waipapa 1E1F at the purchase price of [s 9(2)(f)] incl. GST (if any) and if you agree, you sign the Offer of Sale attached at **Appendix 8**.

**Authorities:** Section 41(1)(e) Public Works Act 1981 and Section 134 Te Ture Whenua Maori Act 1993

**Prepared By:**

**Peer Reviewed By:**

Sai Ek-ananthum

Date: 17/11/2021

Annette Stocker

Date: 17/11/2021

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CPC/2009/14454 LINZ Job No: 703782

**Approved / Declined**

Signed ..... Date .....

In terms of a delegation

Land Information New Zealand



**Appendices:**

Appendix 1	Section 40 and 41 Report
Appendix 2	RT WN33D/914, Cadastral Plan, Aerial Photo
Appendix 3	A Schedule of Ownership
Appendix 4	Spreadsheet - List of Successors
Appendix 5	Copy of notice
Appendix 6	Copy of Advertisement
Appendix 7	Market Valuation
Appendix 8	Vendor Approval
Appendix 9	Offer of Sale

Released under the Official Information Act 1982