Internal Memo

Toitu te whenua
Land Information
New Zealand

To: Craig Harris
Deputy Commissioner of Crown lands

From: Bart van Stratum

Date: 27 August 2014

Subject: **Status Report on part Otaki Beach adjoining Marine Parade between Tasman Road and Koromiki Street**

Purpose

To seek your agreement as to both the status and the administrating authority for part Otaki Beach adjacent to Marine Parade between Tasman Road as shown hatched in black on the Quickmap plan in the attached status report.

Reference

The attached status report dated 30 July 2014 prepared by RMAC Services Limited.

The land status report to the Kapiti Coast District Council prepared by Simpson Grierson dated 16 July 2014.

Background

A request from Ann Lawler to licence the land to undertake beautification generated the need undertake this status report.

Ann Lawler has also lodged an Official Information Act request on the subject of this land.

Comment

I have reviewed the RMAC prepared status report and support their conclusion.

The property, when confirmed as Crown Land, will be entered into NaPALIS with a note that the boundary on the seaward side is the line of the Mean High Water subject to survey. A note will also record the fact that some or all of the surf club and car-park are on the subject land. Discussions are in train with the Kapiti Coast District Council to advise them of the shortcoming in the Simpson Grierson status report and advise them of the LINZ standard for claiming accretion.

Recommendation

That the land hatched in black on the Quickmap plan (with no legal description) is Crown Land under the Land Act 1948 and lies within the jurisdiction of the Commissioner of Crown Lands.

Bart van Stratum
Senior Portfolio Manager - Property Management

Approved/~~Not Approved~~

.....
Craig Harris
Deputy Commissioner of Crown Lands

Date 29/08/2014

RMAC SERVICES LTD

Advisory/Consultancy in Land Survey, Titles, Tenure & Status

RMAC Services Ltd.
65 Percy Kinsman Crescent
Riverstone Terraces
Upper Hutt 5018
Ph. 04 5277410
e-mail rkmcl@xtra.co.nz

30 July 2014

B Van Stratum
Crown Property Management
LINZ
PO Box 5501
Wellington

Status of Part Otaki Beach

Bart

You asked for comment on the status of that part of Otaki Beach adjoining Marine Parade between Tasman Road and Koromiko Street.

Early survey plans (1916 – 1921) subdividing the land in CT 110/245 show the legal road (Marine Parade) abutting the sea. The CT (issued in 1901) notes that the coastal boundary is High Water Mark.
The sea bed out from the road was subject to tidal action and such areas have always been regarded as Crown Land.

The Resource Management Act 1991 established a Coastal Marine Area with the landward boundary being Mean High Water Springs (MHWS). Subsequent legislation, The Foreshore and Seabed Act 2004 and the Marine and Coastal Area Act 2011 (MACAA) adopted the line of MHWS as the boundary. MACAA also declared, in general, that lands below that line were incapable of ownership.

Any land between the legal road and the line of MHWS therefore remains as Crown Land and lies within the definition contained in the Land Act 1948.

The problem here is that the position of the line of MHWS is not known. If it approximates the line of vegetation shown on google imagery, then there has clearly been accretion action. The area could be claimed as accretion to the road, but there is no evidence of any such claim. The common law presumption of *usque ad medium filum aquae* (AMF) does not apply to roads or over tidal waters.

There is no evidence that the land has ever been alienated from the Crown; nor has it been allocated to any other Crown agency. No certificate of title has issued as the area has not been surveyed and is not held under the Land Transfer Act.

<u>Conclusion</u>
That the land between the legal road (Marine Parade) and the line of MHWS is Crown Land under the Land Act 1948 and therefore lies within the administrative authority of the Commissioner of Crown Lands.

RK McLeod MNZIS

Google earth

feet 1000
meters 500

SO. 35053

Sheet 1 of 1

NZMS 261

Sheet R25

SCHEDULE PURSUANT TO SEC 12

CONSERVATION ACT 1987

	DESCRIPTION	AREA	DEEMED OWNER	CATEG-ORY	AGREEMENT or COVENANT	CASE No
	Secs 22 & 23 Blk VIII, Waitohu	19.6135ha	DOC	8		
	2, 3,				for details see category 18	Schedules

Sup Doc 901487 Schedu
Cpy-01/01,Pgs-002,26/08/09,13:46
DocID: 412141842

CATEGORIES

CERTIFIED CORRECT .....

CHIEF SURVEYOR 24/9/87

1 NOT USED

2 State Forest land allocation approved by Special Ministerial Co-ordinating Committee on 26 November 1986;

3 Crown land allocation approved by the Special Ministerial [illegible] 1984;

4 Crown land and State Forest land allocation approved by the Special Ministerial Coordinating Committee on 21 January 1987;

5 NOT USED "Category 8 - Crown land subject to Sections 64A, 67, 68 and 165 Land Act 1948 and Unalienated Crown land not previously accounted for, approved in accordance with the Special Ministerial Coordinating Committees decision of 25 March 1987".

6 State Forest land allocations approved by Cabinet following the Blakeley report on West Coast Forests.

7 Crown land and State Forest land allocation approved by the Special Ministerial Coordinating Committee on 11 March 1987.

Allocation Number	NZMS 261 Reference	SO Number	Legal Descrption	Area (Ha)	Sub Rec	Background Notes	Allocation To
166	S19/48	35058	Stopped road, Block XIV, Tongariro Survey District.	0.0961		Abutts Tongariro National Park.	Department of Conservation.
167	S19/49	35058	Stopped road, Block XIV, Tongariro Survey District.	0.2610		Abutts Tongariro National Park.	Department of Conservation.
168	S19/50	35058	Stopped road, Block XIV, Tongariro Survey District.	0.5837		Abutts Tongariro National Park.	Department of Conservation.
170	S19/51	35058	Stopped road, Block XIV, Tongariro Survey District.	0.1189		Abutts Tongariro National Park.	Department of Conservation.
171	T22/18	35070	Section 18, Block IV, Umutoi Survey District.	0.2023		Ex gravel reserve.	Department of Conservation.
175	T22/19	35070	Section 42, Block VII, Umutoi Survey District.	0.8094		Ex gravel reserve.	Department of Conservation.
177	T23/11	35071	Stopped road, Block X, Umutoi Survey District.	8.6400		Regenerating bush. Abutts Ruahine State Forest Park. Now Sec 1 SO 34256 and Sec 1 SO 34255	Department of Conservation.
183	R25/2	35053	Sections 7 and 8, Block VIII, Waitohu Survey District.	6.7019		Open land. Ex children's health camp. Adjacent to other Department of Conservation land.	Department of Conservation.
184	R25/3	35053	Section 19, Block VIII, Waitohu Survey District.	1.2773		Coastal land.	Department of Conservation.

NZMS 261 SHEET R25 TE HORO

REFERENCE

Land District Boundary
Survey District Boundary
Survey District Block Boundary
Meridional Circuit Boundary
Road
Railway
Vacuum — Victoria
Trigonometrical Station — H A
Subdivision Boundary
Original Subdivision Boundary
Subdivision Section Number — 21
Subdivision Lot Number — 12
Subdivision area in hectares — 15.5414
Registration District & Mixed Block Names — TE PUKI
Parks, Reserves, Forests: National Park, Forest Park, Reserve, State Forest, Special Area, etc.
County, City or Borough Boundary
Registration District Boundary

DESCRIPTIVE NOTES

GRID INFORMATION

NEW ZEALAND MAP GRID

This map is drawn on the New Zealand Map Grid Projection, a minimum-error conformal projection. The grid is the New Zealand Map Grid, showing coordinates in metres in terms of the Geodetic Datum 1949, based on the International (Hayford) Spheroid.

MERIDIONAL CIRCUIT GRID

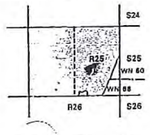
The meridional circuit grid cuts shown at the east lines of this map are in metres.

The true origin is the initial station of the meridional circuit concerned and the coordinates of this point are 700 000 metres north and 200 000 metres east.

Meridional Circuits on this map are:

Circuit	Initial Station
Wanganui	Mt Stewart

INDEX TO SURVEY DISTRICTS AND ADJOINING SHEETS



WN 60 Waitotu S. D.
WN 68 Kaitoma S. D

Certified as correct for the purpose of Section 62 Conservation Act 1987.

Chief Surveyor
24/4/87

See Enlargement Sheet

NEW ZEALAND CADASTRAL MAP 1:50 000

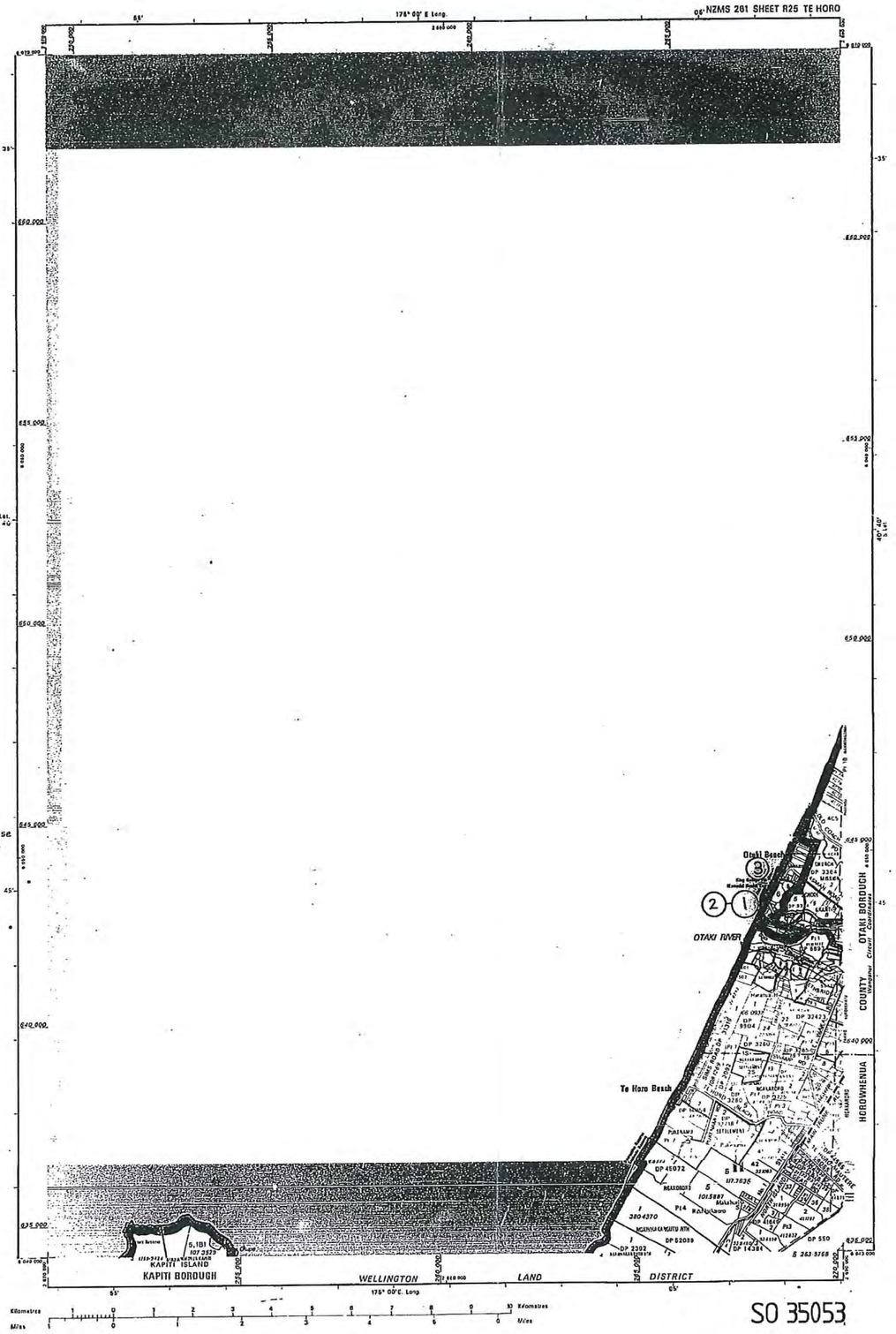
Published by the Department of Lands & Survey New Zealand, under the authority of W.H. Hawker, Surveyor General.

P.D.Hasselberg, Government Printer, Wellington, New Zealand.

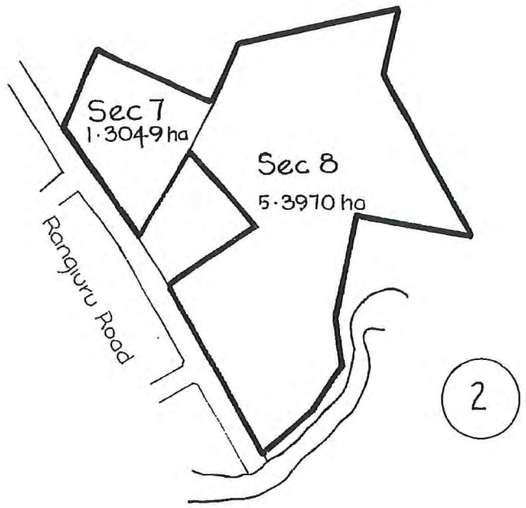
Crown Copyright Reserved

2nd Edition 1982

NZMS 261
SHEET R25
TE HORO

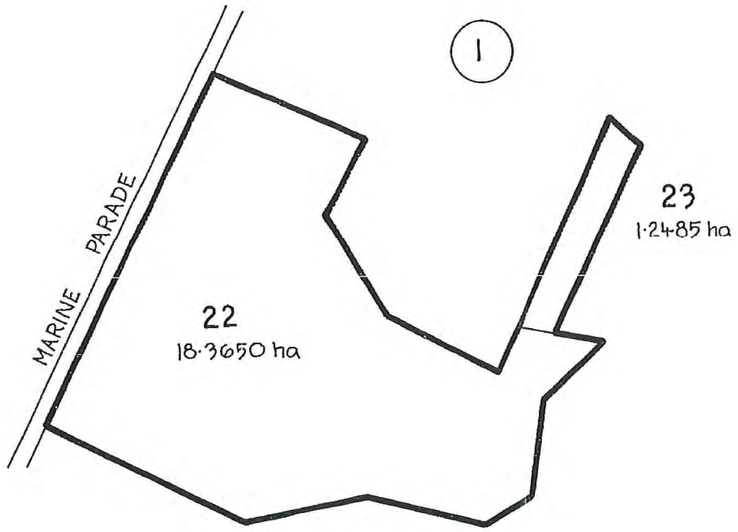


SO 35053



Total Area 6·7019 ha

Blk VIII Waitohu Survey District



BLK VIII WAITOHU S.D.

Total Area: 19·6135 ha

Approvals

Certified as correct for the purpose of Section 62 Conservation Act 1987.

Chief Surveyor
24/4/87

Total Area

Comprised in

I,
Registered Surveyor and holder of an annual practising certificate (or who may act as a registered surveyor pursuant to the proviso to section 33(2) of the Surveyors Act 1966) hereby certify that this plan has been made from surveys executed by me or under my directions, that both plan and survey are correct and have been made in accordance with the Survey Regulations 1972.

Dated at this day
of 19 Signature

Field Book p. Traverse Book p.
Reference Plans

Examined Correct

Approved as to Survey

/ / Chief Surveyor

Deposited this day of 19

District Land Registrar

File
Received
Instructions

SO 35053

LAND DISTRICT
SURVEY BLK. & DIST.
NZMS 261 SHT RECORD MAP No

ENLARGEMENT SHEET R25 Sheet 1 of 1

TERRITORIAL AUTHORITY
Surveyed by
Scale Not to Scale Date

30714D 5000 2 85PTK
W.N. HAWKEY, SURVEYOR GENERAL, DEPARTMENT OF LANDS AND SURVEY NEW ZEALAND
L & S FORM N93

4384

HOROWHENUA COUNTY

Now Borough of Otaki

FRONTAGE MINIMUM 40 FEET.

4384

Received at Land Transfer Office Wellington this 16 December 1917

Taumanuka 1A

Waitohu River

0-3-37

4384 16 January 1920

FIVE SHILLINGS

The Tasman Sea

PT TAUMANUKA No 1 BLK.

113-0-2

L.T. 15333

CHURCH

MISSION GRANT

D.P. 11926

TASMAN ROAD

Public Road

S.O. 20565

Taumanuka 2B

Otaki Town Board District

Taumanuka 2A No 2

NOTE: The town comprises portions enclosed within Green border not including roads or streets. The land within the plan, and included in deposit, comprises the town as here defined, together with Lots 33, 73 and 74 to be dedicated to the King for public roads, being all the land surrounded with a green border and coloured burnt Sienna.

For Governor's Approval see D/245

Approved as to Survey
C. Dumpleton
for Chief Surveyor
10/1/1920

L.T. FILE 17.

Approved

Approved

Chief Surveyor

PLAN OF
TOWN OF OTAKI EXTENSION No 5

BEING Pt TAUMANUKA No 1 BLK. – BLK. VIII WAITOHU S.D.

Surveyed by Frank Bennett Licensed Surveyor

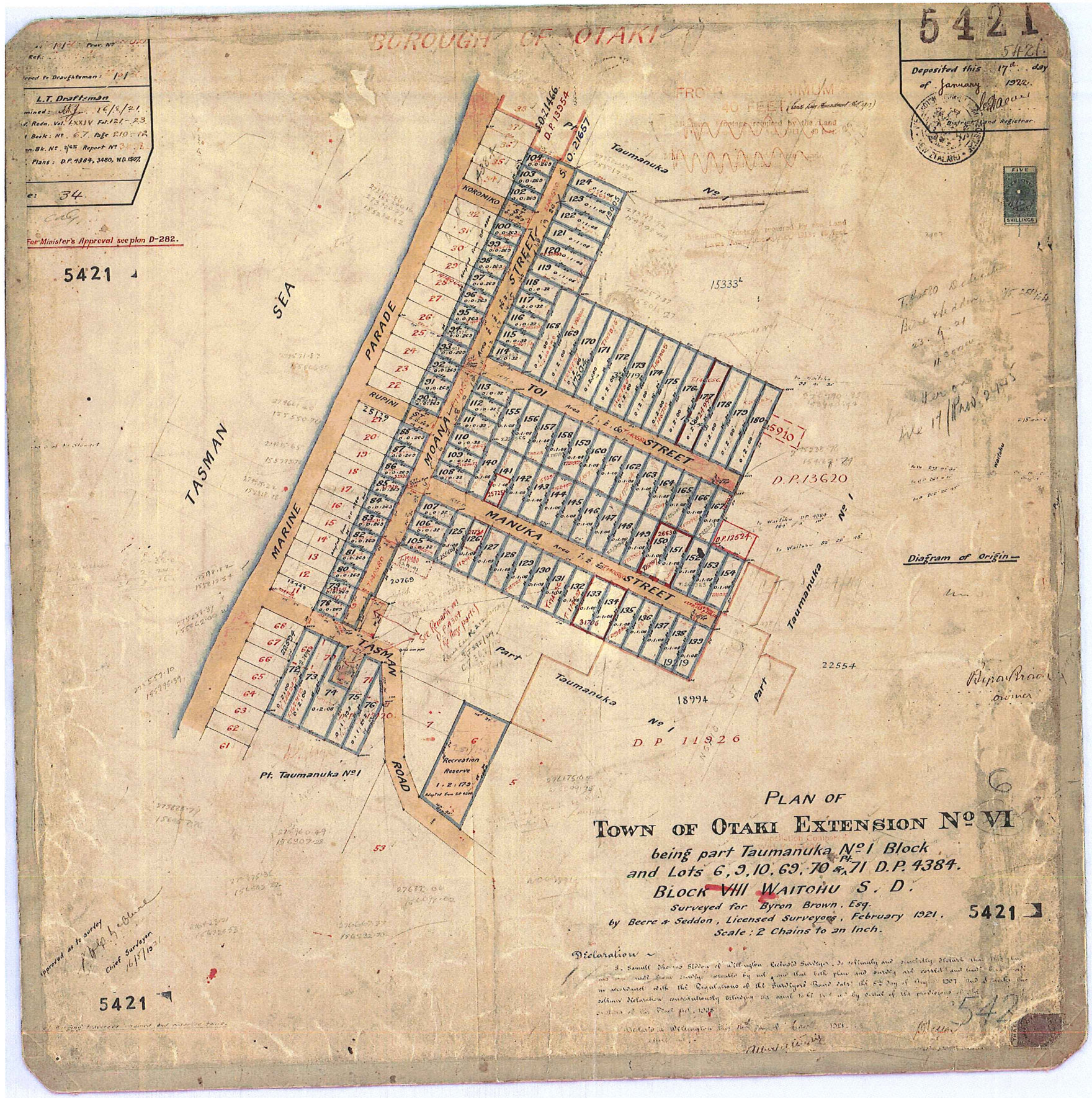
JULY 10 1916

Scale 3 Chains to an Inch

Ref. Plans:- W.P. 1507. D.P. 3267. D.P. 3460

4384

4384


BOROUGH OF OTAKI
5421
Deposited this 17th day of January 1922.
District Land Registrar.
L.T. Draftsman
For Minister's Approval see plan D-282.
5421
TASMAN SEA
MARINE PARADE
KOROMIKO STREET
RUPINI
MOANA
TOI STREET
MANUKA STREET
TASMAN ROAD
Taumanuka No 1
Pt. Taumanuka No 1
Recreation Reserve 1.2.17
D.P. 13620
D P 11926
15333
18994
22554
Diagram of Origin
PLAN OF
TOWN OF OTAKI EXTENSION No VI
being part Taumanuka No 1 Block
and Lots 6, 9, 10, 69, 70 & Pt. 71 D.P. 4384.
BLOCK VIII WAITOHU S. D.
Surveyed for Byron Brown, Esq.
by Beere & Seddon, Licensed Surveyors, February 1921.
Scale: 2 Chains to an Inch.
5421
Declaration ~
Approved as to survey
Chief Surveyor
5421

REGISTER

Jas pd 20/8/01

NEW ZEALAND.

[SCHEDULE 1.

Reference: Warrant No. / P.R. folio Vol 2 fol 66

Register-book, Vol. 110, folio 245

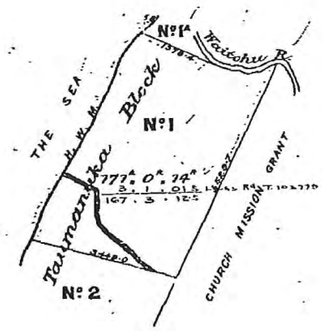
CERTIFICATE OF TITLE UNDER LAND TRANSFER ACT.

This Certificate, dated the twentieth day of August, one thousand ~~eight~~ nine hundred and ~~ninety~~ one, under the hand and seal of the District Land Registrar of the Land Registration District of Wellington, being a Certificate in lieu of Grant, ~~under Warrant of His Excellency the Governor,~~ in exercise of the powers enabling him in that behalf, Witnesseth that the persons named in the Schedule hereunder Aboriginal Natives of New Zealand are

~~is~~ seized of an estate in fee-simple (subject to such reservations, restrictions, encumbrances, liens, and interests as are notified by memorial underwritten or indorsed hereon; subject also to any existing right of the Crown to take and lay off roads under any Act of the General Assembly of New Zealand) in the land hereinafter described, as the same is delineated by the plan hereon, bordered red, be the several admeasurements a little more or less, which said land is in the said Warrant expressed to have been originally acquired by the Said Natives as from the twelfth day of January, one thousand eight hundred and ~~ninety~~ Eighty, under Memorial of Ownership, that is to say: All that parcel of land containing one hundred and seventy one acres fourteen perches and being the Native Land Court Subdivision known as Tauranuiki No 1 Waitohu Survey District

Schedule

1	Hema Te Ao		5	Pareohakatau	
2	Rofata Te Ao	✓	6	Hemi Rofata	✓
3	Hoani Taepua		7	Hakuraia Te Reinga	✓
4	Hipora Tonera Te Whiwi	✓	8	Inia Te Reinga	✓



Chief Surveyor, ... J. W. A. Macshand
Surveyed by. F. Bennett
Draftsman. W. Wall

Scale 20 chains to an inch

EQUIVALENT METRIC AREA IS 67·9176 ha.

WELLINGTON DISTRICT LAND REGISTRAR

W. Smart

District Land Registrar

Transmission 3569 of estate of Hema Te Ao deceased to Hemi Rofata produced 20th August 1901 at noon W. Wilson ARL

Transmission 3570 of estate of Pareohakatau deceased to Rofata Te Ao produced 20th August 1901 at noon W. Wilson ARL

Transfer 39561 produced 20th August 1901 at noon Hema Rofata (in his own right and as successor to Hema Te Ao) and as successor to Hakuraia Te Reinga, Rofata Te Ao (in his own right and as successor to Pareohakatau) and Hoani Taepua to Whiu Te Edmund Tudor Atkinson of Wairarapa W. Wilson ARL

Mortgage 34363 produced 20th August 1901 at noon Edmund Tudor Atkinson to Rd K.L.

DISCHARGED 23-11-15 W. Smart D.L.R.

CONTINUED OVER.

REGISTER

110/245

A 8723 } Mortgage 34524 produced 7th September 1901 at 2 pm Edmund Tudor Atkinson to Robert
of 34563 34524 } DISCHARGED. Stains of interests acquired under Transfer 39561
Order 3280 } 23-11-15
Book } Mortgage 41468 produced 9th October
T 39561 1903 at 3 pm Edmund Tudor Atkinson
WdEx 40144 to Robert Stains of interests acquired
DM 68542 under Transfer 39561 DISCHARGED. 23-11-15
DM 68543
101479 } Mortgage 68542 produced 9th February 1907
Pt DM 34363 34524, 41468 } at 11 30 am Edmund Tudor Atkinson to
T. 103779. John Kirkcaldie of interests acquired under
Transfer DISCHARGED. 23-11-15

Mortgage 68543 produced 9th February 1907 at 11 30 am Edmund Tudor Atkinson to Kirkcaldie and Stains Limited of interests acquired under Transfer 39561 DISCHARGED. 23-11-15

X Caveat 40144 produced 18th July 1910 at 10 30 a.m. by Byron Brown. WITHDRAWN 23-

Transmission 8722 to John Kirkcaldie and Sidney Kirkcaldie entered 23rd January 1916 at 4 pm of Mortgages 41468, 34563, 034524

Order of Court 3280 produced 30th January 1916 at 11 am appointing Piteera Taipua trustee of Hone Taipua (of unsound mind)

Transfer 39561A produced 30th January 1916 at 11 am Piteera Taipua to Edward Tudor Atkinson of Otaki Solicitor — of the remaining native interest

Transfer 101479 produced 23rd November 1915 at 11.15 am Edward Tudor Atkinson to Byron Paul Brown of 3 2 1 2 1

Transfer 103779 produced 21st June 1916 at 10.30 am Byron Paul Brown to His Majesty the King of part as a reserve.

THIS REPRODUCTION IS A REDUCED SCALE CERTIFIED TO BE A TRUE COPY OF THE ORIGINAL REGISTER FOR THE PURPOSES OF SECTION 215A LAND TRANSFER ACT 1952.
D.L.R.

CERTIFICATE OF TITLE,

Vol. , folio

E. H. WILMOT, SURVEYOR-GENERAL

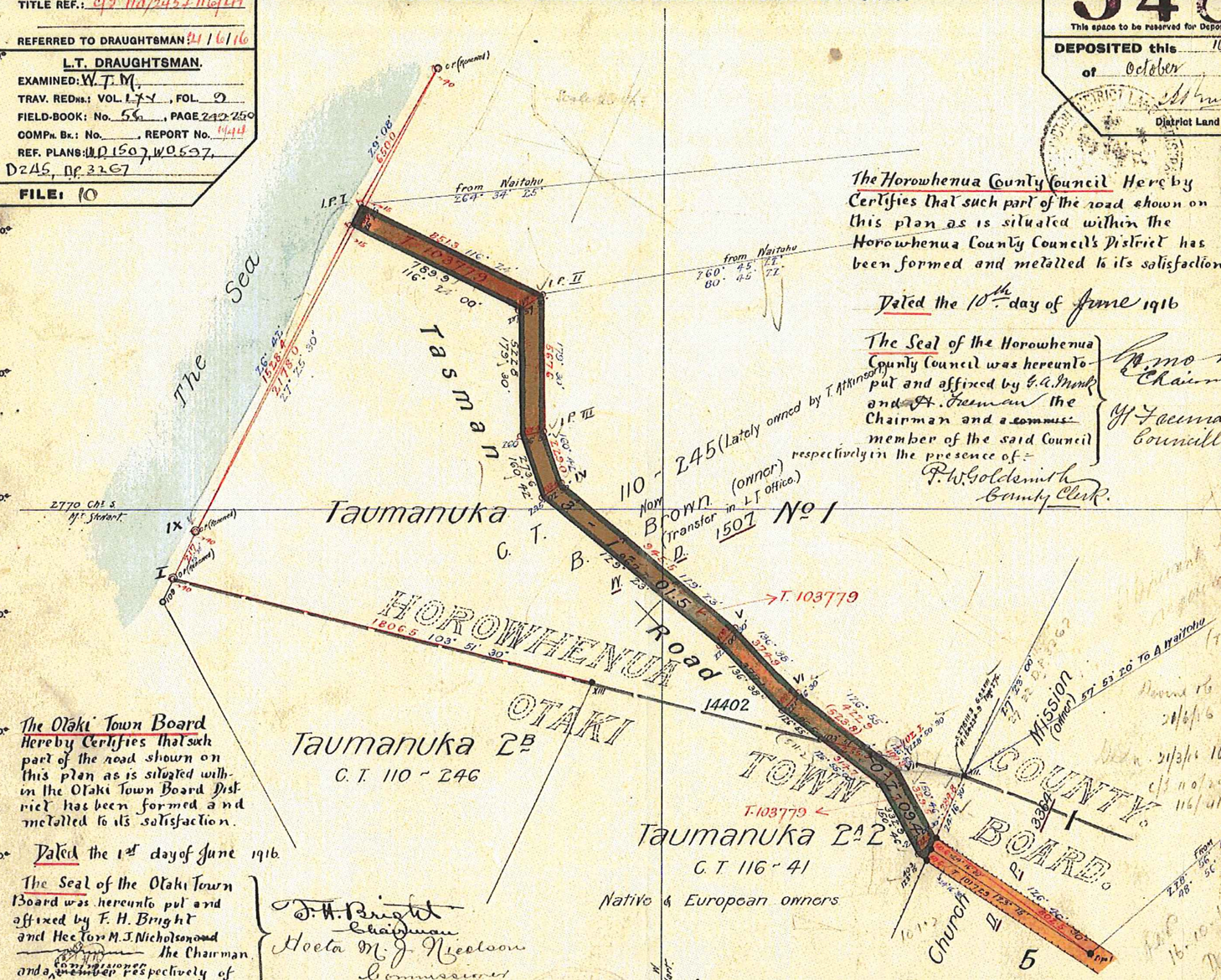
FOR SURVEYS UNDER THE LAND TRANSFER ACT ONLY.

LAND TRANSFER OFFICE.
RECEIVED: 21/6/16 PROV. No.: 2004
TITLE REF.: cf/ 110/245 & 116/41
REFERRED TO DRAUGHTSMAN: 21/6/16

L.T. DRAUGHTSMAN.
EXAMINED: W.T.M.
TRAV. REDNS.: VOL. LXX, FOL. 9
FIELD-BOOK: No. 55, PAGE 245-250
COMPN. BK.: No. ____, REPORT No. 1448
REF. PLANS: WD1507, WO597, D245, DP 3267
FILE: 10

3480
This space to be reserved for Deposit No. 3480

DEPOSITED this 16th day of October, 1916
District Land Registrar.



The Horowhenua County Council Hereby Certifies that such part of the road shown on this plan as is situated within the Horowhenua County Council's District has been formed and metalled to its satisfaction

Dated the 10th day of June 1916

The Seal of the Horowhenua County Council was hereunto put and affixed by G. A. Monk and H. Freeman the Chairman and a ~~commis-~~ member of the said Council respectively in the presence of:-
P. W. Goldsmith
County Clerk.

G. A. Monk
Chairman
H. Freeman
Councillor

The Otaki Town Board Hereby Certifies that such part of the road shown on this plan as is situated within the Otaki Town Board District has been formed and metalled to its satisfaction.

Dated the 1st day of June 1916.

The Seal of the Otaki Town Board was hereunto put and affixed by F. H. Bright and Hector M. J. Nicholson ~~and~~ the Chairman ~~Commissioner~~ and a ~~member~~ respectively of the said Board in the presence of:-
M. P. Alpe
Town Clerk

F. H. Bright
Chairman
Hector M. J. Nicholson
Commissioner

Approved,
Byron Brown

Plan of (Road) being Part Taumanuka 1, & 2A2.
Block VIII Waitohu S.D.

Comprised in T 103779

Surveyed by M. Carkeek, **Licensed Surveyor,** MAY, 1915.
(Field-work by ____, Authorized Assistant.)

SCALE: 3 chains to an inch.

Applicant [or Registered Owner].

DECLARATION.

I, Morgan Carkeek, of Otaki, Licensed Surveyor, do solemnly and sincerely declare that this plan has been made from surveys executed by me ~~[or under my own personal supervision, inspection, and field check]~~, and that both plan and survey are correct, and have been made in accordance with the regulations of the Surveyors' Board, dated the 8th day of August, 1907.

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Justices of the Peace Act, 1908.

Declared at Otaki, this 8 day of May, 191 , before me,—
~~A Justice of the Peace~~ [or Solicitor, ~~or Notary Public~~]

Morgan Carkeek
Licensed Surveyor.

THREE SHILLINGS 8/3/16

Approved as to Survey.
H. Drew Kellett
Chief Surveyor.
28/9/1916

Lands—225.

M. CROMPTON SMITH, CHIEF DRAUGHTSMAN, HEAD OFFICE LANDS AND SURVEY DEPARTMENT, WELLINGTON
BY AUTHORITY: JOHN MACKAY, GOVERNMENT PRINTER.