

IN THE HIGH COURT OF NEW ZEALAND
ROTORUA REGISTRY
I TE KŌTI MATUA O AOTEAROA
TE ROTORUA-NUI-A-KAHUMATAMOMOE ROHE

CIV-2025-463-_____

Between **TAMATI KRUGER as trustee of TŪHOE-TE URU
TAUMATUA TRUST**
First Plaintiff

And **TŪHOE TRUST CUSTODIAN TRUSTEE COMPANY LTD**
Second Plaintiff

And **DONNA MASON**
First Defendant

And **RITCHIE CONTRACTING LTD**
Second Defendant

And **ALAN MAURICE RITCHIE**
Third Defendant

And **PERSONS UNKNOWN**
Fourth Defendant

AFFIDAVIT OF UMESH BIPINCHANDRA NAIK

Dated: 18 February 2025

Solicitor acting:

BUDDLE FINDLAY

Barristers and Solicitors, Wellington

Solicitor Acting: **Paul Beverley**
Email: paul.beverley@buddlefindlay.com
Tel 64 4 462 0406 Fax 64 4 499 4141 PO Box
2694 DX SP20201 Wellington 6011

Counsel instructed:

MRG van Alphen Fyfe

Stout Street Chambers
Monique.vanalphenfyfe@stoutstreet.co.nz
Tel 021 489 289
PO Box 117, Wellington 6140



I, **Umesh Bipinchandra Naik**, Chief Financial Officer, of Whakatane, solemnly and sincerely affirm:

- 1.1 My name is Umesh Bipinchandra Naik, and I am the Chief Financial Officer of Tūhoe – Te Uru Taumatua Trust (**TUT**), the post-settlement governance entity for Ngāi Tūhoe. I am also the secretary of Tūhoe Trust Custodian Trustee Company Ltd (**Custodian Company**), the custodian trustee company that holds assets on behalf of TUT. I have been in those roles since 2012.
- 1.2 I am authorised to make this affidavit on behalf of TUT and the Custodian Company.
- 1.3 I have attached to this affidavit an exhibit marked **UBN-1**. It consists of a bundle of relevant documents. The bundle is paginated. When I refer to a document in the bundle, I provide the reference to the exhibit and page number in bold and in square brackets, for example [**UBN-1, #**] where # is the page number.

2. **BACKGROUND TO MATAHI FOREST**

- 2.1 Matahi Forest is approximately 2,100 hectares of land located along Matahi Valley Road, approximately 40 km from Whakatane, Bay of Plenty, and near the boundary of Te Urewera. The land has, for some decades, been planted in pine for forestry harvesting purposes. The estimated value of Matahi Forest in 2021 was \$9.41 million (+GST).
- 2.2 At various times prior to Tūhoe's settlement with the Crown in 2014, parts of Matahi Forest and surrounding lands (including parts of what was then Te Urewera National Park), were periodically subject to occupation by members of Ngāi Tama Tuhirae, a hapū of Tūhoe. For instance, in 2007, Ngāi Tama Tuhirae sought to exclude the public from camping grounds, and to exclude the then owner of Matahi Forest from entering the land.
- 2.3 As a solution, in 2008 the Crown negotiated an option to purchase Matahi Forest from the then owner, which the Crown was able to assign to Te Kotahi a Tūhoe—the entity mandated by Tūhoe to negotiate its Treaty settlement. A media report discussing these matters is attached and marked "**UBN-1, 01**".
- 2.4 In 2016, as part of Tūhoe's Treaty settlement with the Crown, TUT acquired Matahi Forest, and the Custodian Company became the registered proprietor. The certificates of title for estates in fee simple of the seven



parcels of land that make up Matahi Forest are attached and marked "UBN-1, 03".

2.5 Matahi Forest remains planted in pine for forestry harvesting purposes. However, neither TUT nor the Custodian Company has granted anyone rights to harvest the trees. I have spoken to the Chair and CEO of TUT, as well as the CEO of the Custodian Company who have all confirmed that they have given no permission to anyone outside TUT and the Custodian Company to go onto Matahi Forest and/or harvest the trees.

3. INITIAL TRESPASS ON MATAHI FOREST

3.1 On 23 January 2025, a member of Tūhoe informed TUT that heavy forestry equipment was being gathered on one of the entry points to Matahi Forest (near Parau Stream on Parau Road). The informant wishes to remain anonymous, due to fears for their personal safety from repercussions and intimidation by those occupying and harvesting the Forest.

3.2 I made further inquiries and identified the contractor involved as Ritchie Contracting Ltd, and Alan Ritchie as its director. A copy of the company extract is attached and marked "UBN-1, 17".

3.3 In the morning of 24 January 2025, I tried unsuccessfully to call Mr Ritchie, and sent him a follow up text message. I called and spoke to him later that day. In that conversation:

(a) I said that Ngāi Tūhoe was the owner of Matahi Forest, and it had not granted anyone permission to enter the land. I told him that his activities and presence on the land was trespassing, and I would send a written trespass notice and title documents.

(b) Mr Ritchie stated he had authority to conduct forestry harvesting at Matahi Forest through the permission of local hapū members. He acknowledged he was undertaking forestry operations, and said that he had valid documents and he would continue to do so.

3.4 In the afternoon of 24 January 2025, I sent an email to the address listed on Ritchie Contracting Ltd's entry in the company register, and copied it to the partners at the accounting firm listed as Ritchie Contracting Ltd's address for service.



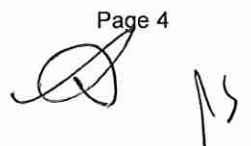
- 3.5 In my email, I reiterated the matters I had relayed to Mr Ritchie on the phone, and attached:
- (a) a written trespass notice; and
 - (b) the certificates of title for Matahi Forest showing that the Custodian Company was the registered proprietor.
- 3.6 A copy of the email and the attachments is attached and marked "**UBN-1, 18**".
- 3.7 I did not receive a reply to that email.
- 3.8 Later that evening I submitted an online report to the Police, one for Ritchie Contracting Ltd. A copy of the report is attached and marked "**UBN-1, 34**".
- 3.9 An unidentified person—who I understand to be a member of Ngāi Tama Tuhirae—later called me to complain (in angry terms) about our position and the trespass notice. I understood from this call that they were upset that an anticipated source of income had been cut off, and from that we concluded that the forestry operations may have ceased.

4. FURTHER TRESPASSING ON MATAHI FOREST

- 4.1 On 6 February 2025, I received a Facebook message from a member of Tūhoe, informing me that they had seen a truck leaving Matahi Forest laden with forestry logs. Again, they wish to remain anonymous for personal safety reasons. They sent a video of the truck on Matahi Valley Road near the same Parau Road entry to Matahi Forest. A still from the video is attached and marked "**UBN-1, 36**".
- 4.2 I looked the truck registration up on carjam and it identified the truck as belonging to Elliott Haulage Ltd. Haulage companies are typically sub-contracted to a main forestry contractor to transport logs once harvested. For this reason, it seemed likely to me that Elliot Haulage Ltd has been subcontracted by Ritchie Contracting Ltd to collect logs from Matahi Forest.
- 4.3 There is no other forestry land in the vicinity where the truck would have been able to pick up a load of logs. Matahi Valley Road is a long, dead end road follows the Tauranga River up the Matahi Valley, and I do not know of any other forestry land along or accessed by that road.



- 4.4 On 10 February 2025, TUT and the Custodian Trustee were informed of people occupying Matahi Forest. The informant said a number of people were guarding Parau Road and the gate at the entrance to Matahi Forest, and were camping in the Forest. We have not yet confirmed the number or identities of the people occupying (or threatening to occupy) the Forest, but we understand they are likely to whakapapa to Ngāi Tama Tuhirae and/or Ōmuriwaka Marae.
- 4.5 On 11 February 2025 at 10.34am, TUT's solicitor sent a letter to Ritchie Contracting Ltd and to their accountants. The letter attached my earlier email and attachments, and required:
- (a) that Ritchie Contracting, its servants, agents, employees and/or subcontractors, cease operations and remove all personnel and equipment from Matahi Forest without delay; and
 - (b) an undertaking that Ritchie Contracting, whether by its directors, servants, agents, employees, subcontractors, or by any other means at all, would:
 - (i) cease all operations at Matahi Forest immediately;
 - (ii) remove all personnel and equipment from Matahi Forest by 13 February 2025; and
 - (iii) not enter onto, or undertake any activity at, Matahi Forest.
- 4.6 A copy of the letter is attached and marked "**UBN-1, 37**".
- 4.7 No reply was received from Mr Ritchie, Ritchie Contracting Ltd, or from their accountants.
- 4.8 However, our solicitor did receive two emails at 3.38pm that afternoon, from a person called Donna Mason. In her first email, Ms Mason stated:
- (a) "Ōmuriwaka Māori Incorporation" and/or "Ōmuriwaka Incorporation" (Ōmuriwaka Māori Inc) is a body corporate under Te Ture Whenua Māori 1993 and is recognised as a Māori Authority;
 - (b) she is the secretary of Ōmuriwaka Māori Inc;
 - (c) Ōmuriwaka Māori Inc is the "legal and beneficial owner/shareholder and related whanaungatanga to the interest in the Local Hapu Ngai Tama Tuhirae within the Mataatua Native District"; and

Handwritten signature and initials in the bottom right corner of the page.

(d) Ōmuriwaka Māori Inc “registered” Mr Ritchie under “the Ahu Whenua”.

4.9 Her second email was a reply to the first, but with an attachment. The attachment was a photograph of document entitled “Order of Incorporation” and dated 28 October 2002. It purports to have been made in “Te Kooti Paramata Māori ki Waitangi o Aotearoa (NZ)” and under various enactments, including Te Ture Whenua Māori Act 1993. It purports to order or declare that:

- (a) Ōmuriwaka Māori Inc is constituted under Te Ture Whenua Māori Incorporations Constitution Regulations 1998;
- (b) “Ōmuriwaka Block XII” vests in Ōmuriwaka Māori Inc;
- (c) Ōmuriwaka Māori Inc holds that land and all other land in the Native District of Matatua Waka as legal, beneficial and equitable owners for which Native Aboriginal Title has not been extinguished, and is deemed Customary Māori Land held in accordance with tikanga Māori.

4.10 A copy of the emails and attachment is attached and marked “**UBN–1, 40**”.

4.11 The Māori Land Court has previously found that Ōmuriwaka Māori Inc is not properly constituted under Te Ture Whenua Māori Act 1993, has “has no constitutional validity”, and appears to be a “law unto itself”. The Court said Ōmuriwaka Māori Inc was a real risk to the assets of the Māori Reservation at issue in those proceedings. A copy of the Māori Land Court decision is attached and marked “**UBN–1, 43**”.

4.12 We have the same concerns that those who claim to operate under Ōmuriwaka Māori Inc are a real risk to Matahi Forest. It appears to TUT and the Custodian Company that Ms Mason, together with others who also purport to claim ownership of all land in the area as Māori customary land, intend to continue to trespass on Matahi Forest and undertake forestry harvesting operations—through Mr Ritchie and his company, and/or through other subcontractors and so on.

5. COUNCIL REGULATORY CONCERNS

5.1 Bay of Plenty Regional Council has called TUT on a number of occasions with concerns about the activities being undertaken at Matahi Forest. No resource consents or other regulatory approvals have been granted for those activities.



5.2 On 14 February 2025, Bay of Plenty Regional Council emailed TUT to confirm that it had emailed Ms Mason setting out the regulatory requirements for forestry harvesting (and gravel extraction) and requiring that the operations cease immediately. The Council advised it would also send the same email to Ritchie Contracting Ltd. A copy of the email is attached and marked “UBN-1, 57”.

6. EFFECT ON TUT AND CUSTODIAN TRUSTEE

- 6.1 The defendants’ actions are of great concern to TUT and the Custodian Company. This is not a simple unlawful trespass occurring on Matahi Forest. The damage incurred to the land, safety risks, loss of profits, and possible regulatory consequences are significant.
- 6.2 Given the urgency, in the time available I have not been able to provide an estimate of the damages we are likely to have suffered. However, the trespass and potential damages include:
- (a) placement of heavy (and dangerous) equipment on the land;
 - (b) earthworks for forestry roads within Matahi Forest, causing significant damage to the land and raising potential environmental risks if not managed properly;
 - (c) forestry operations and workers undertaking work that is possibly unregulated and unsafe from a health and safety perspective, which the Custodian Company is concerned might be held liable for if it does not take steps to prevent the activity;
 - (d) interference with TUT’s rights to harvest Matahi Forest itself— amounting to the theft of trees that rightfully belong to TUT, on behalf of Tūhoe as a whole; and
 - (e) the prospect of NZU implications for TUT and the Custodian Company – either having to pay for NZUs or paying for replanting of the forest that has been cut down.
- 6.3 We have informed Ritchie Contracting (and through that company, the other defendants) of our legal rights to Matahi Forest, and their legal obligations to leave the Forest, but they have repeatedly ignored us. We are extremely concerned that, absent litigation for enforcement, the defendants will

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continue their activities on Matahi Forest—to trespass, cause damage, and take trees.

- 6.4 We are also extremely concerned that, should we have to give notice for our application for an injunction, this will delay our ability to enforce any orders we obtain to prevent further damage to the land and losses to TUT and the Custodian Company.
- 6.5 TUT and the Custodian Company are capable of meeting a reasonable award of damages, and an undertaking to that effect has been given alongside this affidavit. However, it is apparent that the defendants do not have the ability to meet a reasonable award of damages should we be successful in the trespass proceeding. Those damages are likely to be significant, given the level of interference and damage to the land outlined above.

7. DIFFICULTIES IDENTIFYING THE FOURTH DEFENDANTS

- 7.1 As noted, TUT and the Custodian Company have not yet confirmed the identities of the people occupying or threatening to occupy the forest. However, from our knowledge of the history of the area and informal feedback from the wider iwi, we understand they are likely to whakapapa to Ngāi Tama Tuhirae and Ōmuriwaka Marae. Ngāi Tama Tuhirae and Ōmuriwaka Marae fall within Te Waimana Kaaku Tribal, which is one of four rohe-based tribal authorities within Tūhoe.
- 7.2 While it is possible that there is a stable core group of people currently in occupation that we may be able to identify, it is likely that there will be people coming and going, and new people joining the occupation in time. We are attempting to identify those who are occupying or threatening to occupy, but we need more time to do so and it is unlikely that we will be able to identify all individuals in comprehensive manner.
- 7.3 Complicating this is the serious concerns we have for the safety of anyone interacting with the occupiers. Occupiers in the past have behaved in a threatening and intimidating manner towards the public, as well as anyone who questions their authority—including people within their own Ngāi Tama Tuhirae hapū. Feedback we have received about the current occupation suggests the same concerns apply here, and people who speak to us do not want their names disclosed.



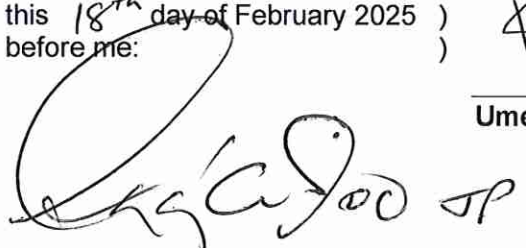
15

- 7.4 For these reasons, we have sought the Court's assistance on the basis that the fourth defendants are persons unknown. We intend to add additional defendants when we identify specific people within the fourth defendant category.
- 7.5 Our concerns about safety also extend to service of the proceedings and any interlocutory orders we obtain from the Court. TUT and the Custodian Company are reluctant to send staff members (or process servers) to the area for the purpose of personal service on all the individuals who are currently occupying Matahi Forest.

Affirmed at
 this 18th day of February 2025)
 before me:)



Umesh Bipinchandra Naik



~~Solicitor of the High Court of New Zealand
 / Deputy Registrar of the High / District
 Court of New Zealand / Justice of the
 Peace~~

G.N. Naidoo, JP
 #14114
 WHAKATANE
 Justice of the Peace for New Zealand

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Home / Kahu

Forestry dispute end in sight

NZPA

14 Aug, 2008 05:00 AM 3 mins to read

KEY POINTS:

-

A settlement could be in sight for a dispute that has been festering for decades, involving the ownership of the Matahi Forest in the Bay of Plenty and land on which pine trees are planted.

The land and the forest are owned by Matariki Forests, a joint-venture company, but are claimed by the Matahi Valley hapu Ngai Tama Tuhirae of Tuhoe and the Omuriwaka Incorporation.

The Government says the Crown will buy a 20-year forestry right over the Matahi Forest near Waimana, 32km southwest of Opotiki, and the Oponae Forest in the Waioeka Gorge, 6km south of Opotiki, for \$11.83 million.

The two forests cover 3483ha.

Under the terms of the deal, the Crown or Matariki Forests may buy the other's interests in the property during the 20-year term of the forestry right.

Treaty Negotiations Minister Michael Cullen and Forestry Minister Jim Anderton said the Crown's option to buy the land was assignable to Te Kotahi a Tuhoe, the overall Tuhoe entity mandated for Treaty negotiations.

This would mean Te Kotahi a Tuhoe would become the land's owner and thus could help the Ngai Tama Tuhirae hapu settle its grievance.

Although members of the hapu and the Omuriwaka Marae to which they belong were not available to comment on the deal, Te Kotahi a Tuhoe chairman Tamati Kruger said any opportunity to settle a grievance was a good thing, although it would require a big effort.

Dr Cullen and Mr Anderton said the Matahi Forest land was the subject of a complex dispute dating back to the original purchase by the Crown in 1896.

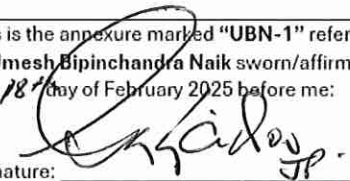
"The purchase will allow an opportunity for the grievance and surrounding issues to be dealt with," they said.

Because the Oponae trees were in the Whakatohea iwi's rohe (tribal territory), Mr Kruger said Whakatohea and Tuhoe would need to have discussions.

Members of Ngai Tama Tuhirae have from time to time blocked access to the Matahi Forest, to press their claim.

Mr Anderton said the Matahi and Oponae Forests would be managed for the Crown by the Crown Forestry division of the Ministry of Agriculture and Forestry.

This is the annexure marked "UBN-1" referred to in the affidavit of Umesh Bipinchandra Naik sworn/affirmed at Whakatane this 18th day of February 2025 before me:



Signature: _____

~~Solicitor of the High Court of New Zealand / Deputy Registrar of the High Court of New Zealand / Justice of the Peace~~

G.N. Naikdo, JP
 #14114
 WHAKATANE
 Justice of the Peace for New Zealand

He said the division managed the Crown's interest in 25 North Island forests with revenue exceeding \$85 million a year.

Crown Forestry's role was to manage the forests and leases to best effect, pending the resolution of outstanding Treaty of Waitangi claims and other issues.

It worked with other Crown agencies such as the Office of Treaty Settlements.

In a separate - though linked - dispute involving members of the Ngai Tama Tuhirae hapu and the Omuriwaka Marae, access along Matahi Valley Rd near the marae has been blocked several times since the early 1990s, because the public road crosses marae land.

The closures blocked public access to popular hunting and fishing areas in Te Urewera National Park.

The road was built across marae land in 1964 after a flood washed away the legal road.

The council realigned the road to its legal location in April.

According to the Government, Matariki Forests is New Zealand's third-largest forestry company.

It is owned by a consortium of international investors and is managed by Rayonier New Zealand.

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**COMPUTER FREEHOLD REGISTER
UNDER LAND TRANSFER ACT 1952**

Search Copy



R.W. Muir
Registrar-General
of Land

Identifier **GS104/155**
Land Registration District **Gisborne**
Date Issued 05 February 1952

Prior References

1G/89 GSPR27/14

Estate Fee Simple
Area 268.4078 hectares more or less
Legal Description Lot 2 of Section 2 Block VIII Waimana
Survey District

Proprietors

Tuhoe Trust Custodian Trustee Company Limited

Interests

Appurtenant hereto is a right of way (limited in duration) created by Grant of Easement embodied in Register GS6B/482

Subject to Section 8 Coal Mines Amendment Act 1950

212473.1 Resolution granting approval pursuant to Section 348 Local Government Act 1974 - 3.10.1996 at 2:20 pm


9107949.1 Notice pursuant to Section 195(2) Climate Change Response Act 2002 - - 27.6.2012 at 4:02 pm

9371873.1 Easement Instrument granting a Forestry Right for a term commencing on 8 August 2008 and expiring on 7 August 2028 in favour of Her Majesty the Queen - 13.6.2013 at 6:14 pm

Identifier

GS104/155

H. E. Squire
Assistant Land
Registrar.



to the reservations imposed by
8 of the Coal Mines Amendment
D.

H. E. Squire
A.L.R.

Lot 2
663 - 1. 00

Mortgage 35738 Philip
Power to Bank of New Zealand
10.7.1956 at 11. e. Squire
2/1 H. E. Squire
A.L.R.

50183 Transfer: Philip
Power to Parau Farms Ltd
at Whakatane - 29.4.1956
11.22 am. H. E. Squire
A.L.R.

METRIC AREA IS 268.4011 ha



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R. W. Muir
Registrar-General
of Land

Identifier GS1A/1224
Land Registration District Gisborne
Date Issued 14 March 1966

Prior References
GS70/236

Estate Fee Simple
Area 433.0136 hectares more or less
Legal Description Tahora 2AE1 2 Block

Proprietors
Tuhoe Trust Custodian Trustee Company Limited

Interests

Appurtenant hereto are rights of way created by Deed of Easement GS6B/482 (limited in duration)
212473.1 Resolution granting approval pursuant to Section 348 Local Government Act 1974 - 3.10.1996 at 2:20 pm
9255221.1 Notice pursuant to Section 195(2) Climate Change Response Act 2002 - 30.11.2012 at 4:51 pm
9371873.1 Easement Instrument granting a Forestry Right for a term commencing on 8 August 2008 and expiring
on 7 August 2028 in favour of Her Majesty the Queen - 13.6.2013 at 6:14 pm

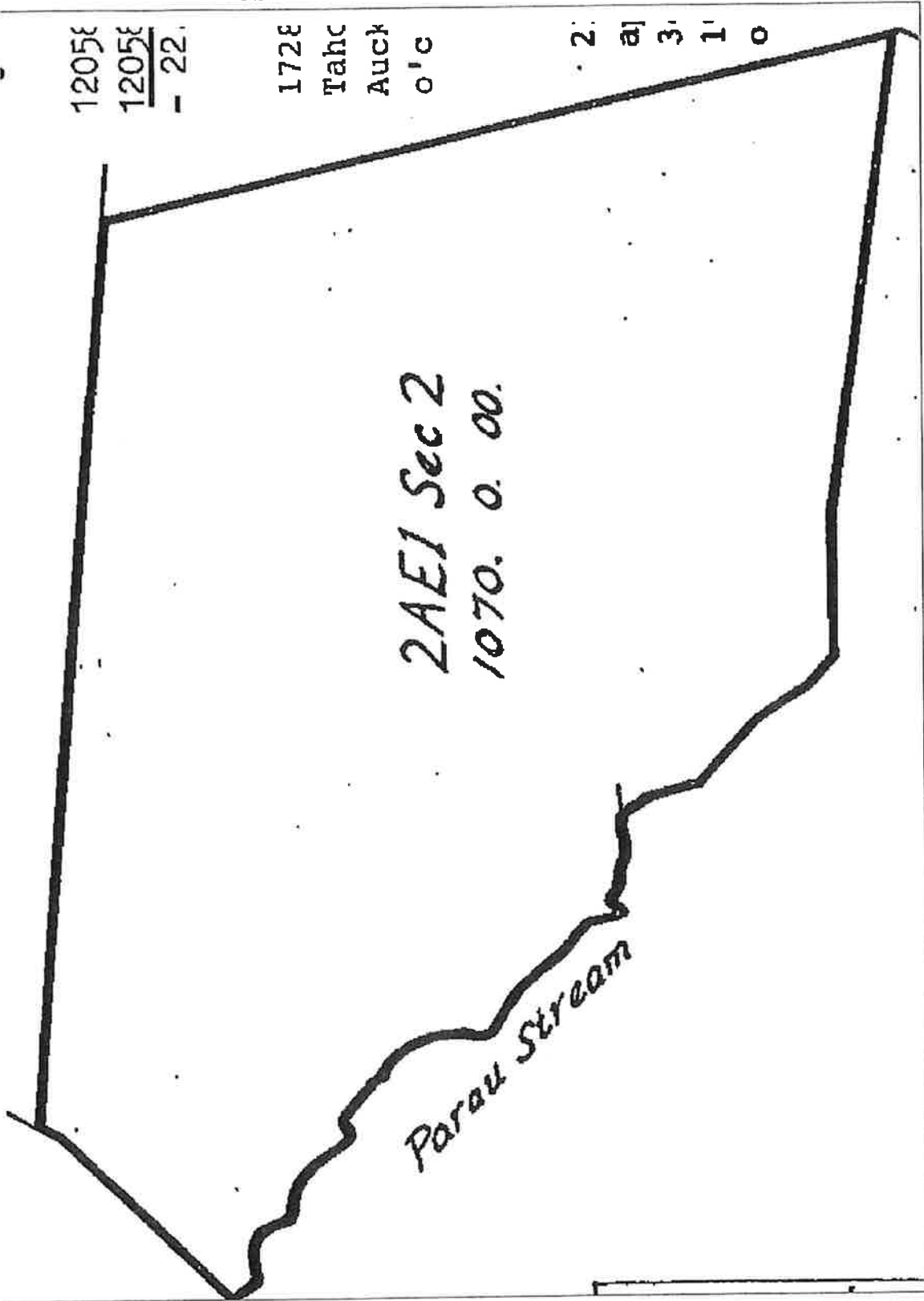
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UNDER LAND TRANSFER ACT 1952**

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R. W. Muir
Registrar-General
of Land

Identifier **GS2C/1030**
Land Registration District **Gisborne**
Date Issued 26 March 1969

Prior References
GS79/121

Estate	Fee Simple
Area	104.6112 hectares more or less
Legal Description	Section 3 Block VIII Waimana Survey District

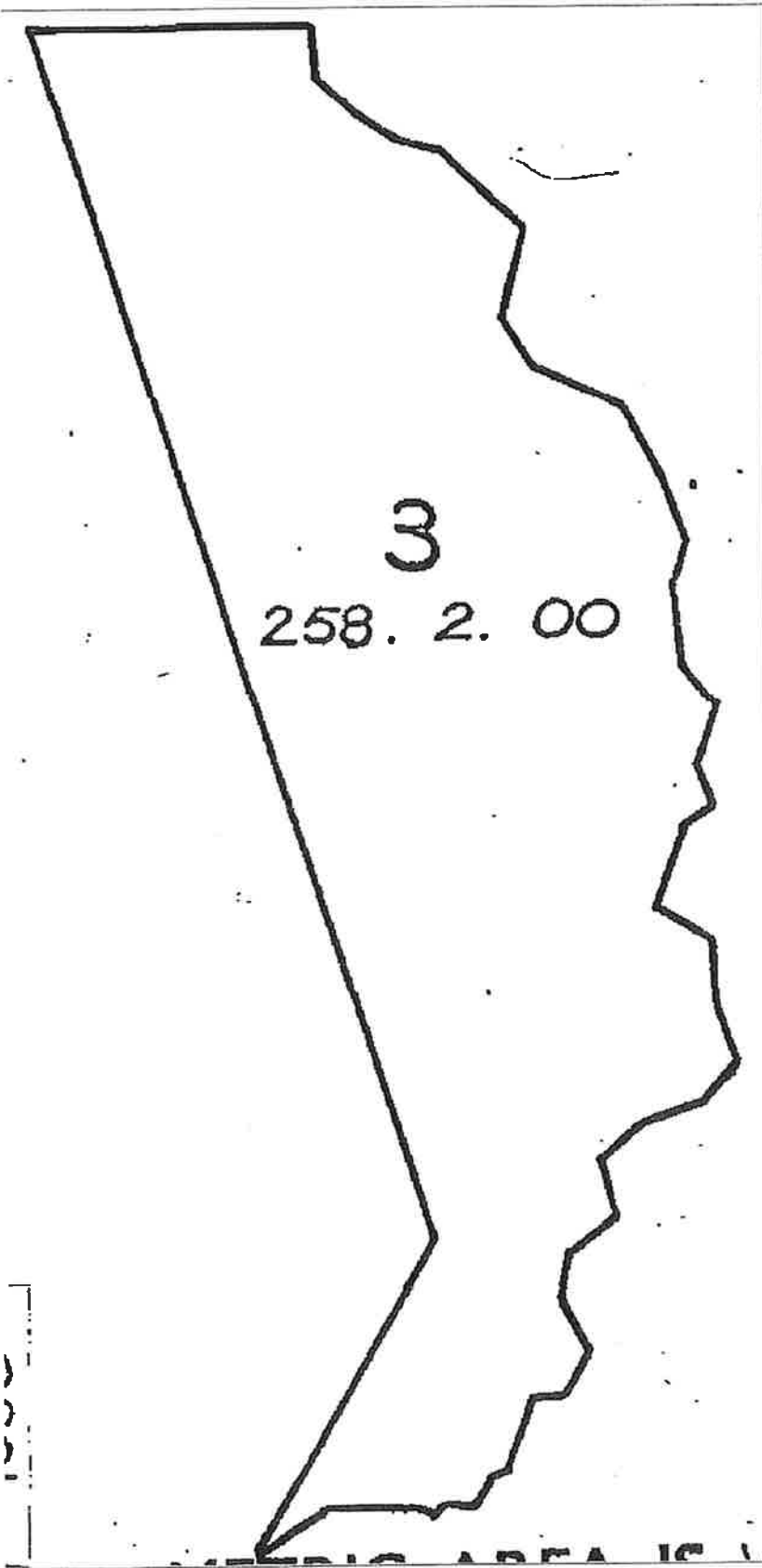
Proprietors
Tuhoe Trust Custodian Trustee Company Limited

Interests

Appurtenant hereto is a right of way (limited in duration) created by Transfer 6B/482
212473.1 Resolution granting approval pursuant to Section 348 Local Government Act 1974 - 3.10.1996 at 2:20 pm
9107949.1 Notice pursuant to Section 195(2) Climate Change Response Act 2002 - - 27.6.2012 at 4:02 pm
9371873.1 Easement Instrument granting a Forestry Right for a term commencing on 8 August 2008 and expiring on 7 August 2028 in favour of Her Majesty the Queen - 13.6.2013 at 6:14 pm

Identifier

GS2C/1030





**COMPUTER FREEHOLD REGISTER
UNDER LAND TRANSFER ACT 1952**

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R. W. Muir
Registrar-General
of Land

Identifier GS2D/96
Land Registration District Gisborne
Date Issued 30 May 1969

Prior References

GS74/39

Estate Fee Simple
Area 50.0520 hectares more or less
Legal Description Lot 1 Deposited Plan 2858

Proprietors

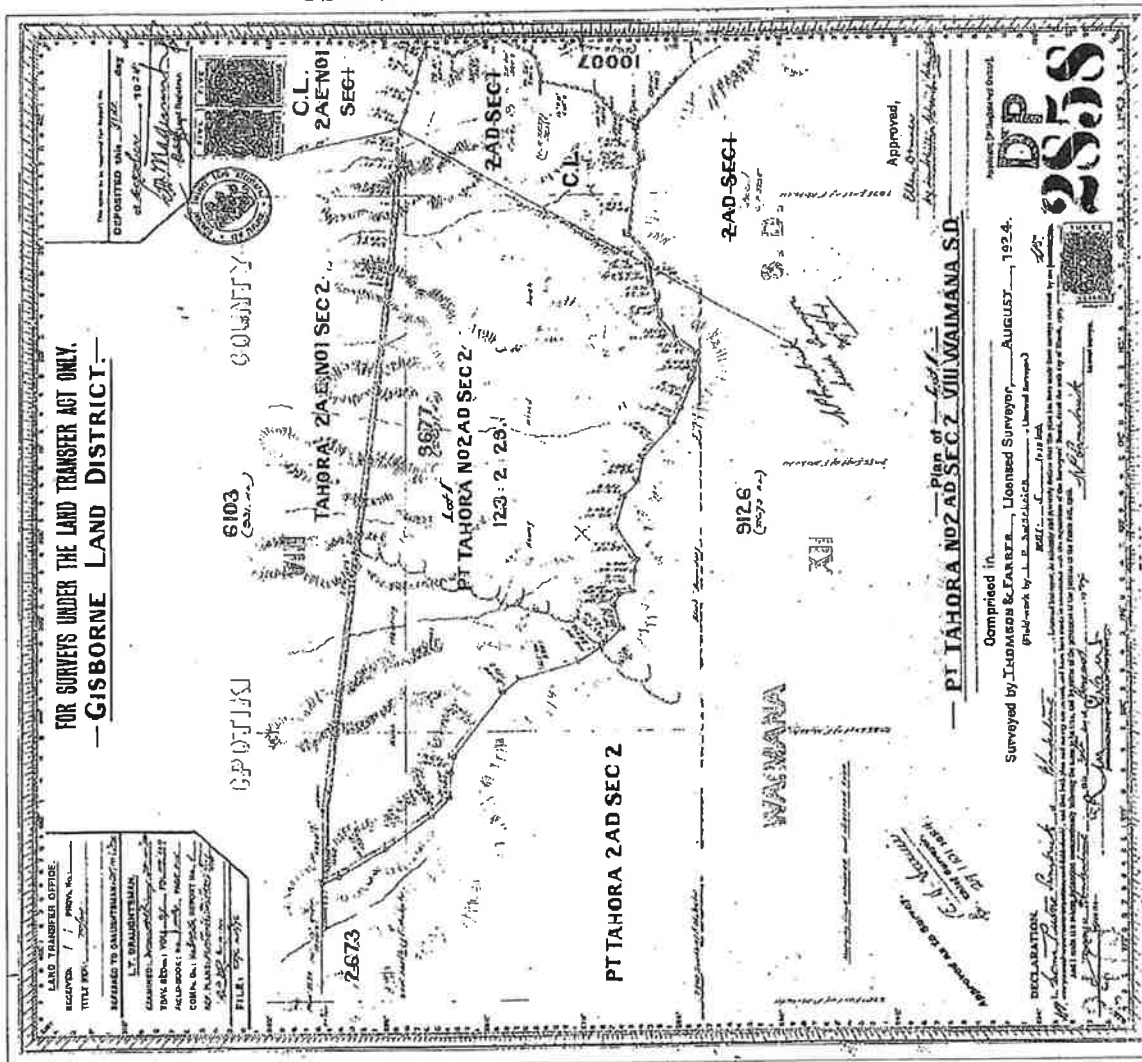
Tuhoe Trust Custodian Trustee Company Limited

Interests

Appurtenant hereto is a right of way (limited in duration) created by Grant of Easement GS6B/482
212473.1 Resolution granting approval pursuant to Section 348 Local Government Act 1974 - 3.10.1996 at 2:20 pm
9107949.1 Notice pursuant to Section 195(2) Climate Change Response Act 2002 - - 27.6.2012 at 4:02 pm
9371873.1 Easement Instrument granting a Forestry Right for a term commencing on 8 August 2008 and expiring on 7 August 2028 in favour of Her Majesty the Queen - 13.6.2013 at 6:14 pm

Identifier

GS2D/96





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UNDER LAND TRANSFER ACT 1952**

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Identifier **GS4A/1113**
Land Registration District **Gisborne**
Date Issued 19 November 1976

Prior References
 GN 121279.1

Estate	Fee Simple
Area	7800 square metres more or less
Legal Description	Section 4 Block VIII Waimana Survey District

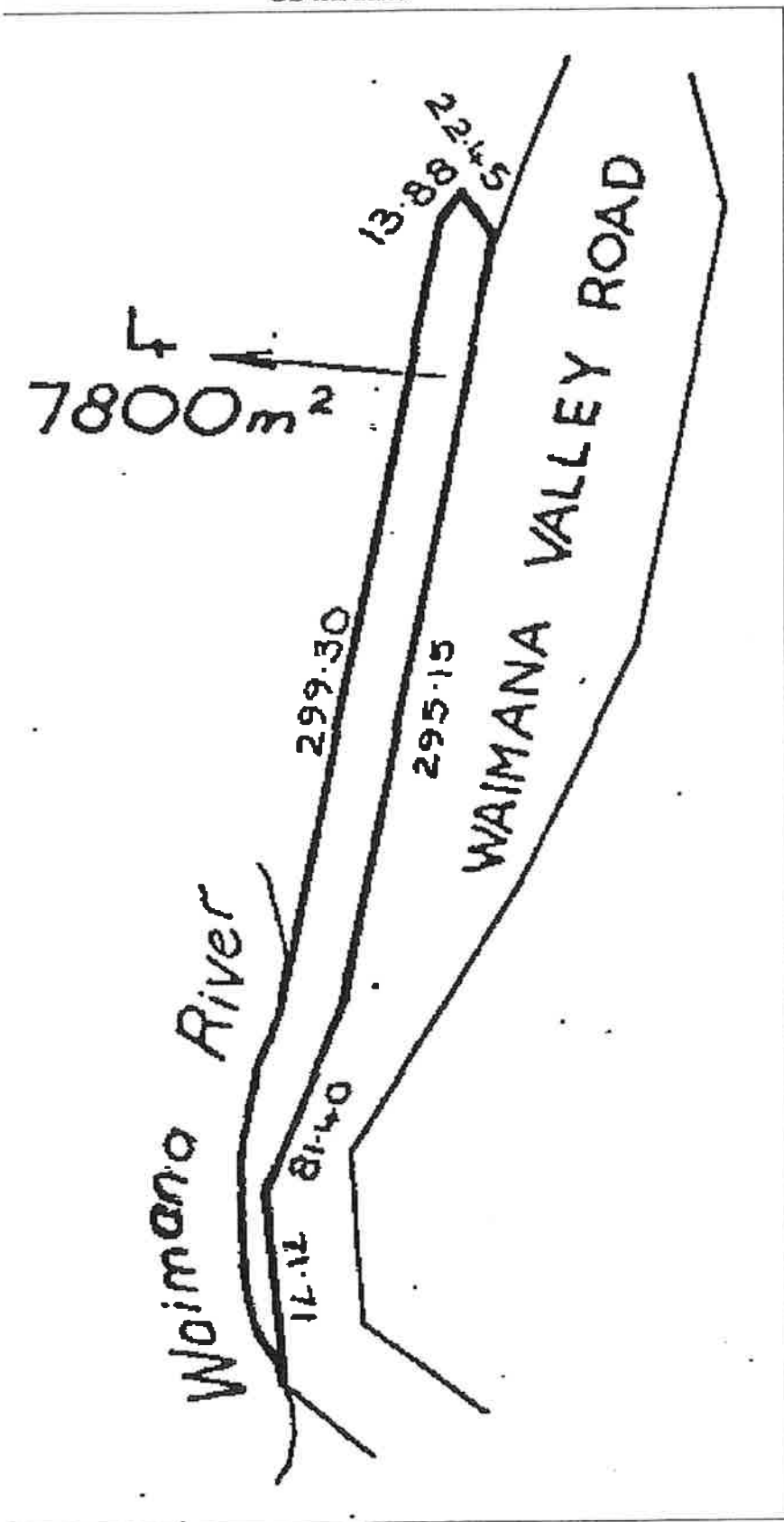
Proprietors
 Tuhoë Trust Custodian Trustee Company Limited

Interests

Appurtenant hereto is a right of way created by Grant of Easement 6B/482 (Limited in duration)
 212473.1 Resolution granting approval pursuant to Section 348 Local Government Act 1974 - 3.10.1996 at 2:20 pm
 9371873.1 Easement Instrument granting a Forestry Right for a term commencing on 8 August 2008 and expiring on 7 August 2028 in favour of Her Majesty the Queen - 13.6.2013 at 6:14 pm

Identifier

GS4A/1113





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UNDER LAND TRANSFER ACT 1952**

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R.W. Muir
Registrar-General
of Land

Identifier GS5B/1495
Land Registration District Gisborne
Date Issued 11 June 1991

Prior References
GS1D/1266

Estate Fee Simple
Area 1243.4528 hectares more or less
Legal Description Part Tahora 2AD2 Block

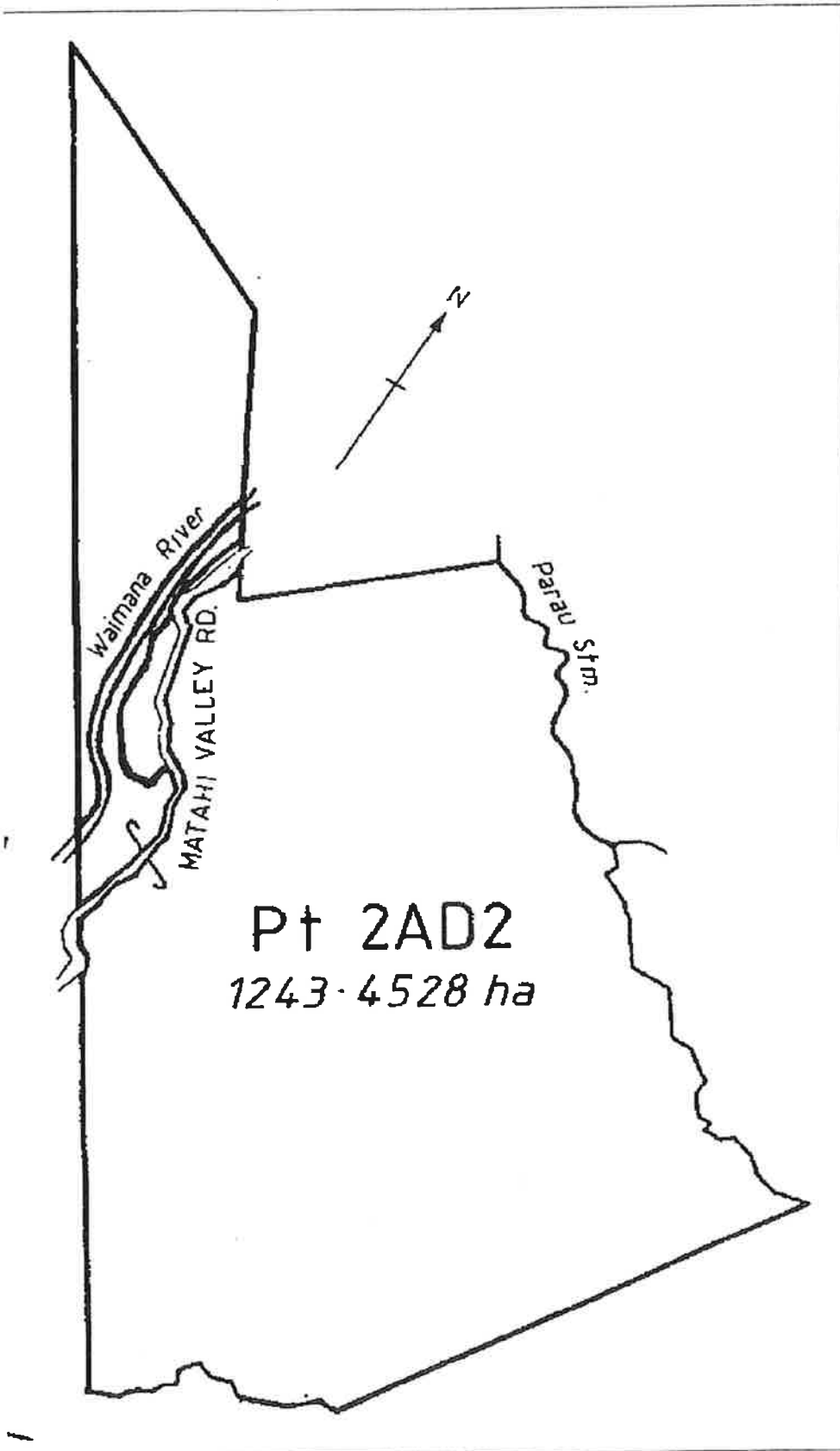
Proprietors
Tuhoe Trust Custodian Trustee Company Limited

Interests

Appurtenant hereto are rights of way (limited in duration) created by Grant of Easement GS6B/482
212473.1 Resolution pursuant to Section 348 Local Government Act 1974 - 3.10.1996 at 2:20 pm
9110084.1 Notice pursuant to Section 195(2) Climate Change Response Act 2002 - 2.7.2012 at 11:59 am
9371873.1 Easement Instrument granting a Forestry Right for a term commencing on 8 August 2008 and expiring on 7 August 2028 in favour of Her Majesty the Queen - 13.6.2013 at 6:14 pm

Identifier

GS5B/1495





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UNDER LAND TRANSFER ACT 1952**

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R. W. Muir
Registrar-General
of Land

Identifier SA469/189
Land Registration District South Auckland
Date Issued 03 July 1928

Prior References
SA370/167

Estate Fee Simple
Area 24.0940 hectares more or less
Legal Description Lot 1 Deposited Plan 15760

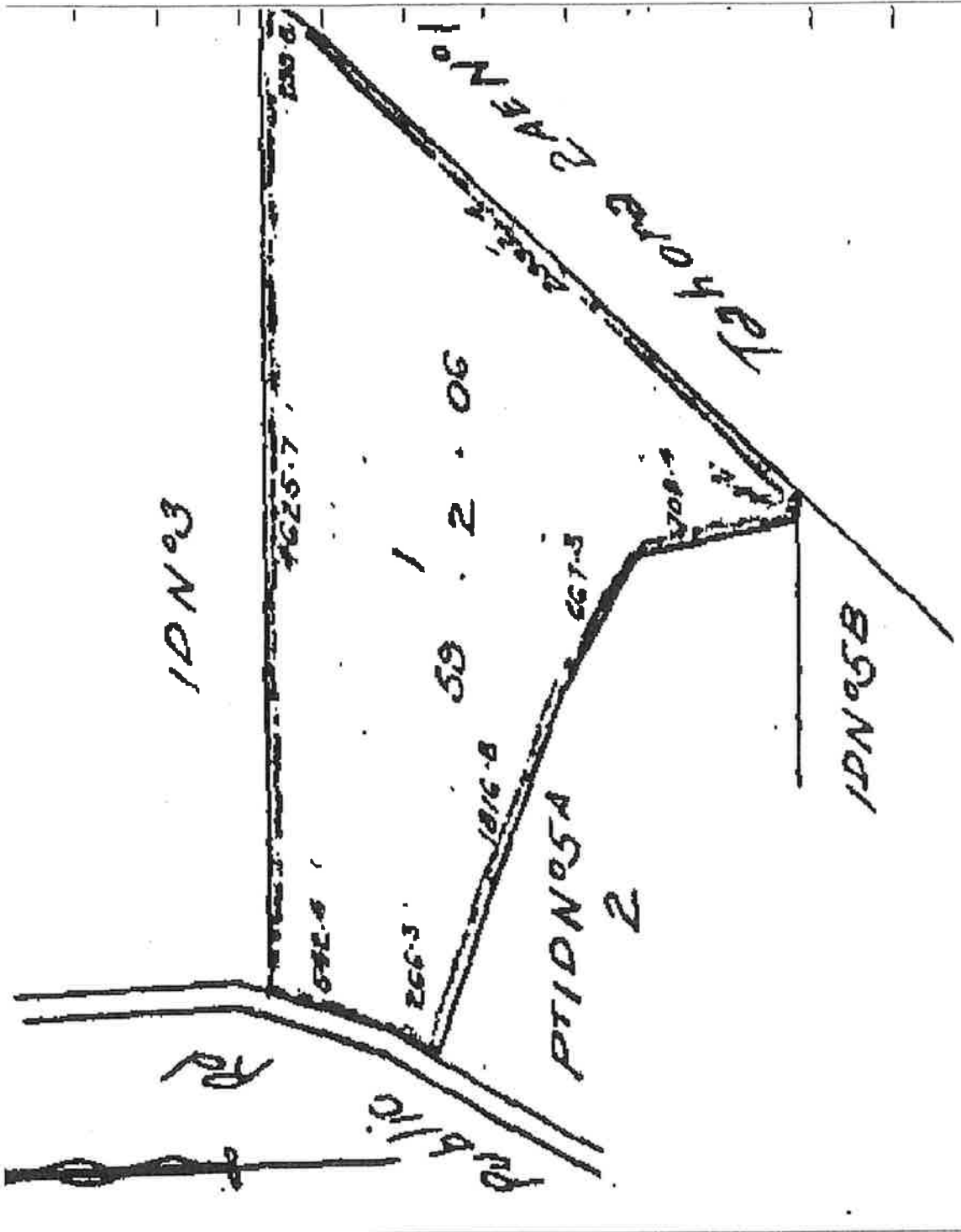
Proprietors
Tuhoe Trust Custodian Trustee Company Limited

Interests

9109973.1 Notice pursuant to Section 195(2) Climate Change Response Act 2002 - 29.6.2012 at 1:32 pm
9371873.1 Easement Instrument granting a Forestry Right for a term commencing on 8 August 2008 and expiring on 7 August 2028 in favour of Her Majesty the Queen - 13.6.2013 at 6:14 pm

Identifier

SA469/189



Company Extract

RITCHIE CONTRACTING LIMITED

6008144

NZBN: 9429042378648

Entity Type:	NZ Limited Company
Incorporated:	27 May 2016
Current Status:	Registered
Constitution Filed:	Yes
Annual Return Filing Month:	April

Ultimate holding company: No

Company Addresses

Registered Office

502 Reid Road, Rd 7, Papamoa, 3187, NZ

Address for Service

Town & Country Accountants, 15d Minden Road, Rd 6, Tauranga, 3176, NZ

Directors

RITCHIE, Alan Maurice

502 Reid Road, Rd 7, Papamoa, 3187, NZ

Shareholdings

Total Number of Shares: 100

Extensive Shareholdings: No

50 MCCOMB, Lisa Marie
502 Reid Road, Rd 7, Papamoa, 3187, NZ

50 RITCHIE, Alan Maurice
502 Reid Road, Rd 7, Papamoa, 3187, NZ

For further details relating to this company, check <https://app.companiesoffice.govt.nz/co/6008144>

Extract generated 16 February 2025 11:13 AM NZDT

From: Umesh Naik <umesh@ngaituhoe.iwi.nz>
Sent: Friday, 24 January 2025 4:33 pm
To: ritchiecontractingltd@gmail.com
Cc: bevan@tandcaccountants.co.nz; Peter Attewell <peter@bmklaw.co.nz>
Subject: Matahi Forest Tracpass Notice

Kia Ora Alan

Following our recent telephone conversation where I verbally informed you of the trespass notice, this email serves to reiterate the points discussed and provide you with the necessary legal documents for your records.

Trespass Notice Confirmation: As discussed, you are formally notified not to enter or remain on the Matahi Forest property located as per title references in the attached notice. Ngai Tuhoe, the legal title holder as per records with Land Information New Zealand (LINZ), has not granted you or anyone a permission to enter these properties. Your continuation of activities or presence on this property is considered trespassing, and we will enforce this notice through all necessary legal actions.

Clarification of Ownership: We believe that transparency is key to resolving this matter amicably and lawfully. Attached to this email, you will find copies of the title documents that clearly show Ngai Tuhoe's ownership. We trust that these documents will help clarify any misunderstandings regarding the land's ownership and encourage a cooperative approach to resolving the current situation.

Request for Immediate Compliance: Please ensure that all operations are ceased and any personnel and equipment are removed from the premises immediately. Compliance with this notice is required without delay.

Should you have any questions or require further clarification regarding the documents provided, the forestry rights, or the notice itself, do not hesitate to contact me directly.

This notice is sent to you directly and to your accounting firm, **Town & Country Accountants**, which holds the address for service as per the Companies Office records.

Thank you for your immediate attention to this serious matter. We hope to resolve this issue swiftly and amicably, avoiding any unnecessary legal proceedings.

Na mihi,



Umesh Naik, ca

Chief Financial Officer

WAEA 07 312 9659 DDI 079224151 Mobile 0210696740

www.ngaituhoe.iwi.nz

WAHI 12 Tuhoe Street, Taneatua, New Zealand RETA PO Box 56, Taneatua 3163, New Zealand

DISCLAIMER: This e-mail (including attachments) may contain information which is confidential or legally privileged and may not reflect Tuhoe – Te Uru Taumatua's view.

Te Tari o Tuhoe is not responsible for changes made to this email after we've sent it. If you have received this e-mail by mistake, please reply immediately and delete both messages. Kia ora ra.

Trespass Notice

Warning Under The Trespass Act 1980 Sections 4(1) or 4(2) and Section 4(4)

To: Alan Mourice Ritchie, Rictchie Contracting Limited

[Name of person being warned]

502 Reid Road, Rd 7, Papamoa, 3187

Care of Town & Country Accountants, 15d Minden Road, Rd 6, Tauranga, 3176

[Address of person being warned]

In accordance with the above Act and Section you are hereby warned to stay off the place known as:

Matahi Forest, 2,100.3173 ha (from the entrance of Parau stream through Matahi Valley),
Legal Titles as below:

Lot 2 Sec 2 Blk VIII Waimana, SD 2AE1 Sec 2 Tahora, Sec 3 Blk VIII Waimana, SD Lot 1 DP 2858, Sec 4 Blk VIII Waimana, SD Pt 2AD2 Tahora, Lot 1 DP 15760

[Address of location which Person is banned from]

It is an offence punishable by a fine not exceeding \$1,000.00 or imprisonment not exceeding 3 months to enter the above address within 2 years from the date you receive this warning.

The occupier of the above address is:

Tuhoe Te Uru Taumatua, T/a Tuhoe Trust Custodian Trustee Company Ltd

[Full name of Occupier]

This warning is given by the **occupier/person*** authorised by the occupier of the above address:



[Signature of Occupier or Person authorised by the Occupier]

Umesh Naik, Tuhoe Te Uru Taumatua

[Print Full Name of Occupier or Person authorised by the Occupier]

24/01/2025

[Date that this notice takes effect]

* Cross out the words that do not apply.



**COMPUTER FREEHOLD REGISTER
UNDER LAND TRANSFER ACT 1952**

Search Copy



R. W. Muir
Registrar-General
of Land

Identifier **GS104/155**
Land Registration District **Gisborne**
Date Issued 05 February 1952

Prior References

1G/89 GSPR27/14

Estate Fee Simple
Area 268.4078 hectares more or less
Legal Description Lot 2 of Section 2 Block VIII Waimana
Survey District

Proprietors

Tuhoe Trust Custodian Trustee Company Limited

Interests

Appurtenant hereto is a right of way (limited in duration) created by Grant of Easement embodied in Register GS6B/482

Subject to Section 8 Coal Mines Amendment Act 1950

212473.1 Resolution granting approval pursuant to Section 348 Local Government Act 1974 - 3.10.1996 at 2:20 pm

9107949.1 Notice pursuant to Section 195(2) Climate Change Response Act 2002 - - 27.6.2012 at 4:02 pm

9371873.1 Easement Instrument granting a Forestry Right for a term commencing on 8 August 2008 and expiring on 7 August 2028 in favour of Her Majesty the Queen - 13.6.2013 at 6:14 pm

Identifier

GS104/155



to the reservations imposed by
8 of the Coal Mines Amendment
D.

H.E. Squire
A.L.R.

Lot 2
663 . 1 . 00

Mortgage 35738 Philip
Power to Bailiff
10.7.1956 at 11 a.m. Squire
A.L.R.

50183 Transfer: Philip
Power to Parau Farms Lj
at Whakatane - 29.4.1956
11.22 am. H.E. Squire
A.L.R.

METRIC AREA IS 268.4011 ha



**COMPUTER FREEHOLD REGISTER
UNDER LAND TRANSFER ACT 1952**



Search Copy

R. W. Muir
Registrar-General
of Land

Identifier **GS1A/1224**
Land Registration District **Gisborne**
Date Issued 14 March 1966

Prior References
GS70/236

Estate Fee Simple
Area 433.0136 hectares more or less
Legal Description Tahora 2AE1 2 Block

Proprietors
Tuhoe Trust Custodian Trustee Company Limited

Interests

Appurtenant hereto are rights of way created by Deed of Easement GS6B/482 (limited in duration)

212473.1 Resolution granting approval pursuant to Section 348 Local Government Act 1974 - 3.10.1996 at 2:20 pm

9255221.1 Notice pursuant to Section 195(2) Climate Change Response Act 2002 - 30.11.2012 at 4:51 pm

9371873.1 Easement Instrument granting a Forestry Right for a term commencing on 8 August 2008 and expiring on 7 August 2028 in favour of Her Majesty the Queen - 13.6.2013 at 6:14 pm

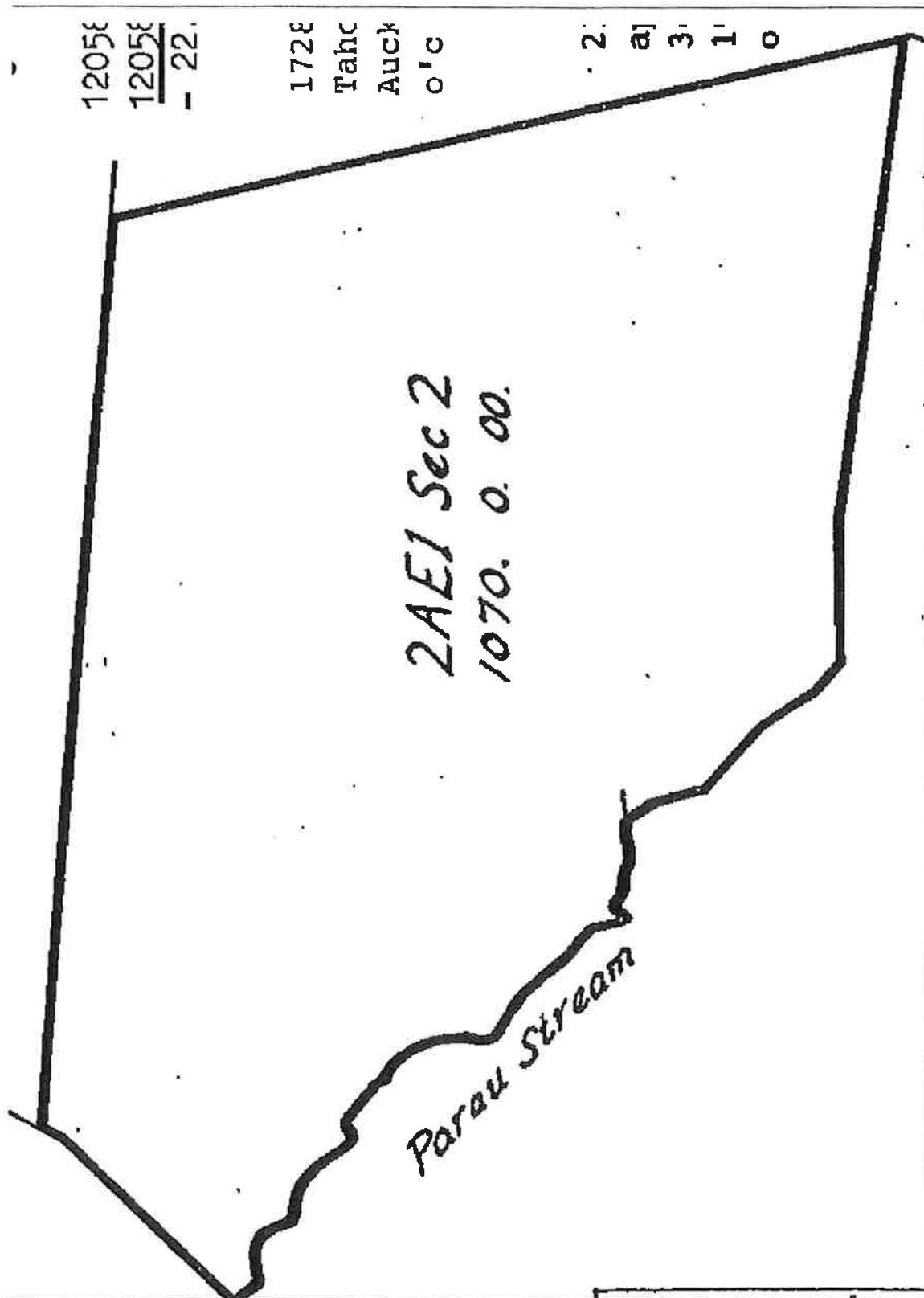
Identifier

GS1A/1224

12058
12058
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**COMPUTER FREEHOLD REGISTER
UNDER LAND TRANSFER ACT 1952**

Search Copy



Identifier **GS2C/1030**
Land Registration District **Gisborne**
Date Issued 26 March 1969

Prior References
 GS79/121

Estate	Fee Simple
Area	104.6112 hectares more or less
Legal Description	Section 3 Block VIII Waimana Survey District

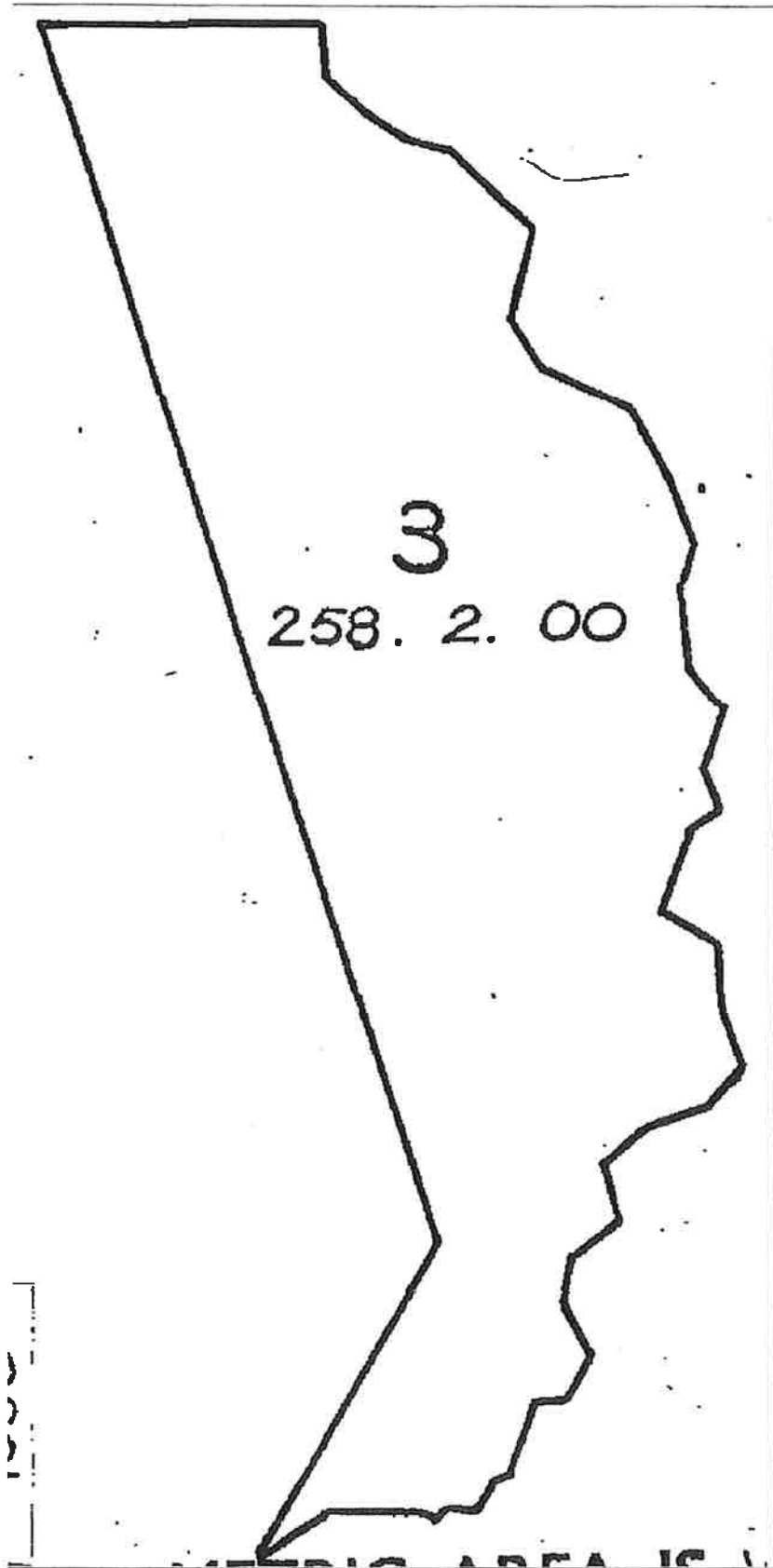
Proprietors
 Tuhoë Trust Custodian Trustee Company Limited

Interests

Appurtenant hereto is a right of way (limited in duration) created by Transfer 6B/482
 212473.1 Resolution granting approval pursuant to Section 348 Local Government Act 1974 - 3.10.1996 at 2:20 pm
 9107949.1 Notice pursuant to Section 195(2) Climate Change Response Act 2002 - - 27.6.2012 at 4:02 pm
 9371873.1 Easement Instrument granting a Forestry Right for a term commencing on 8 August 2008 and expiring
 on 7 August 2028 in favour of Her Majesty the Queen - 13.6.2013 at 6:14 pm

Identifier

GS2C/1030





**COMPUTER FREEHOLD REGISTER
UNDER LAND TRANSFER ACT 1952**



Search Copy

R. W. Muir
Registrar-General
of Land

Identifier GS2D/96
Land Registration District Gisborne
Date Issued 30 May 1969

Prior References
GS74/39

Estate Fee Simple
Area 50.0520 hectares more or less
Legal Description Lot 1 Deposited Plan 2858

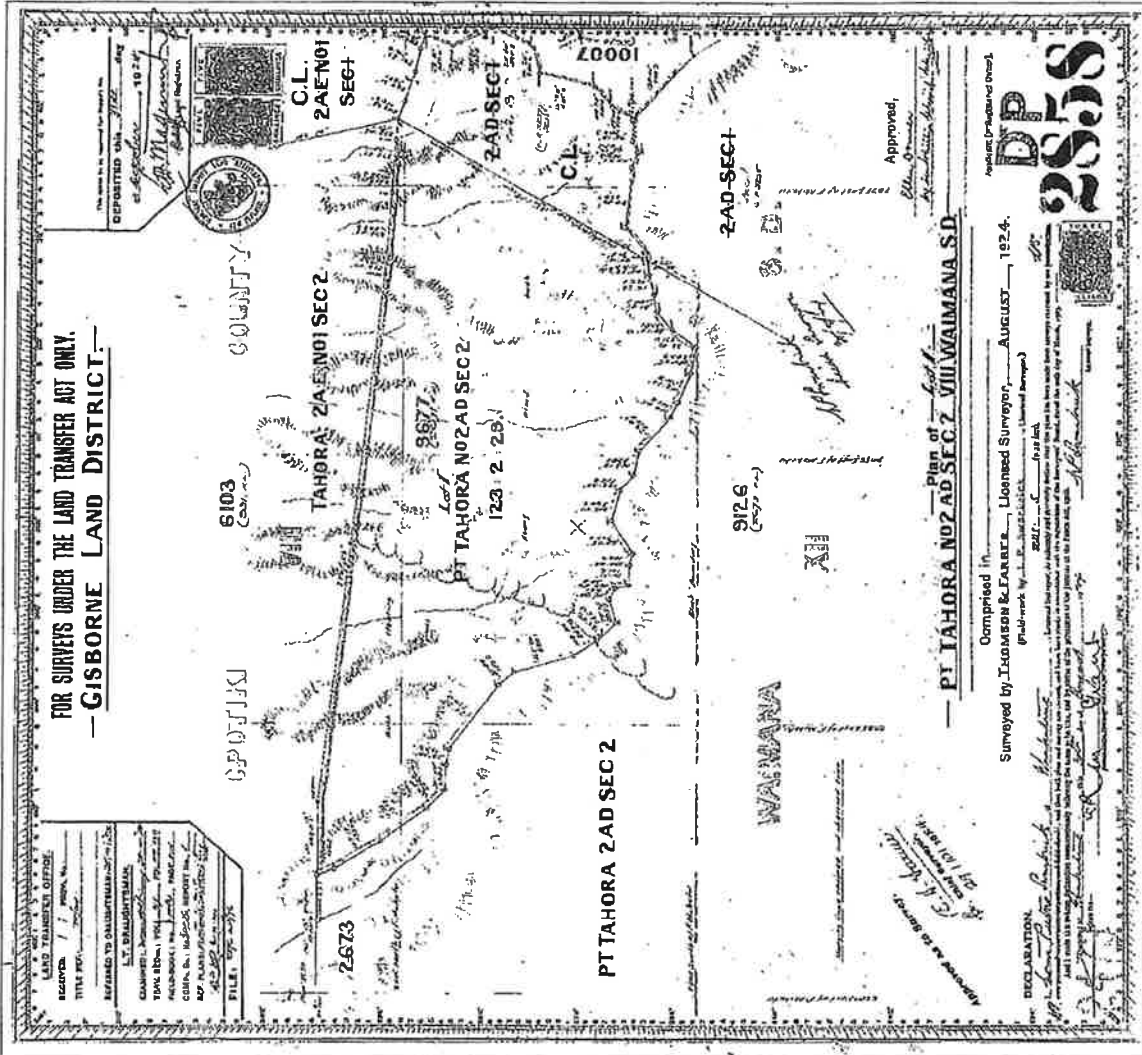
Proprietors
Tuhoe Trust Custodian Trustee Company Limited

Interests

Appurtenant hereto is a right of way (limited in duration) created by Grant of Easement GS6B/482
212473.1 Resolution granting approval pursuant to Section 348 Local Government Act 1974 - 3.10.1996 at 2:20 pm
9107949.1 Notice pursuant to Section 195(2) Climate Change Response Act 2002 - - 27.6.2012 at 4:02 pm
9371873.1 Easement Instrument granting a Forestry Right for a term commencing on 8 August 2008 and expiring on 7 August 2028 in favour of Her Majesty the Queen - 13.6.2013 at 6:14 pm

Identifier

GS2D/96





**COMPUTER FREEHOLD REGISTER
UNDER LAND TRANSFER ACT 1952**

Search Copy



Identifier **GS4A/1113**
Land Registration District **Gisborne**
Date Issued 19 November 1976

Prior References
 GN 121279.1

Estate	Fee Simple
Area	7800 square metres more or less
Legal Description	Section 4 Block VIII Waimana Survey District

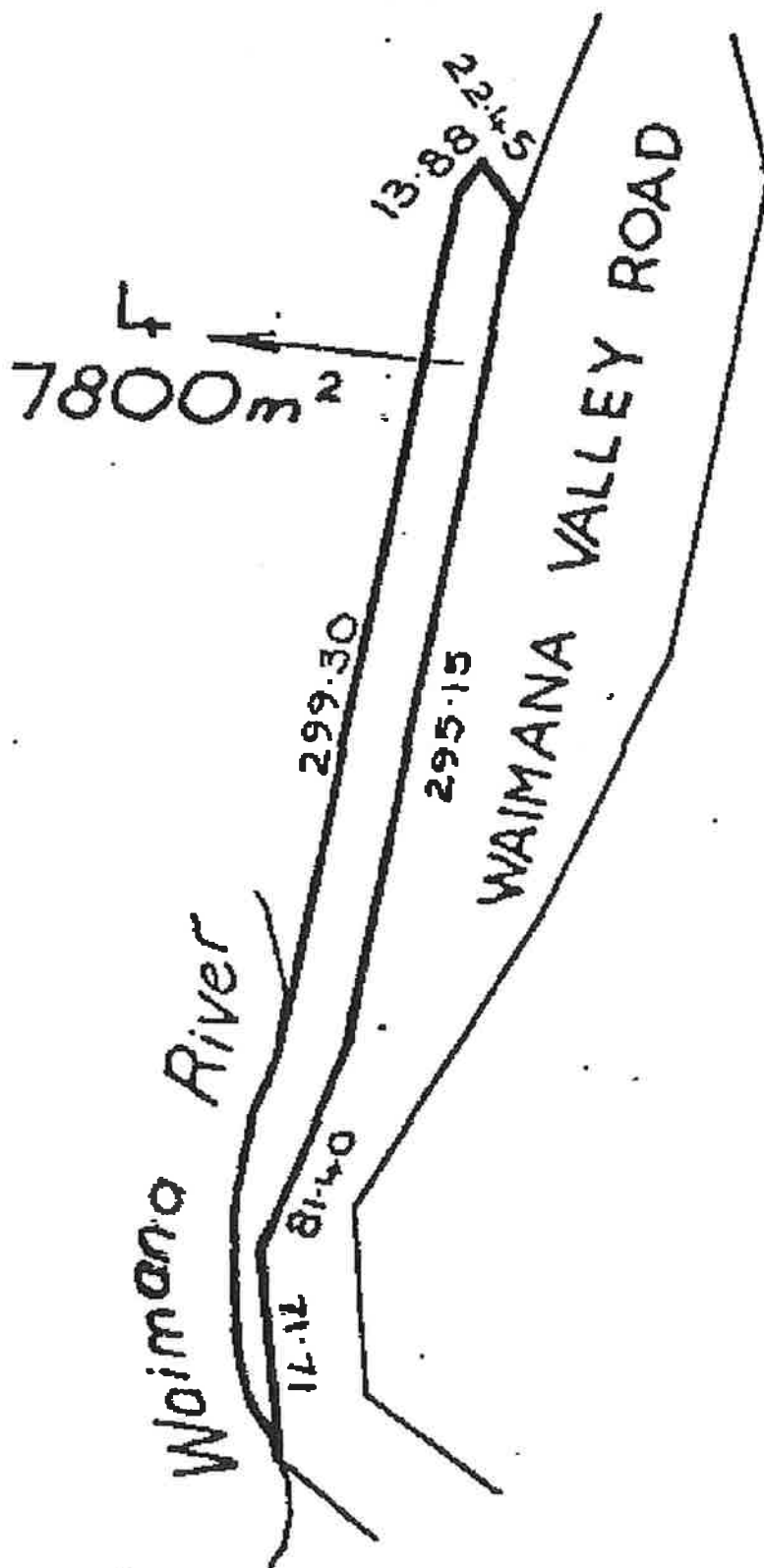
Proprietors
 Tuhoe Trust Custodian Trustee Company Limited

Interests

Appurtenant hereto is a right of way created by Grant of Easement 6B/482 (Limited in duration)
 212473.1 Resolution granting approval pursuant to Section 348 Local Government Act 1974 - 3.10.1996 at 2.20 pm
 9371873.1 Easement Instrument granting a Forestry Right for a term commencing on 8 August 2008 and expiring on 7 August 2028 in favour of Her Majesty the Queen - 13.6.2013 at 6:14 pm

Identifier

GS4A/1113





**COMPUTER FREEHOLD REGISTER
UNDER LAND TRANSFER ACT 1952**

Search Copy



R. W. Muir
Registrar-General
of Land

Identifier GS5B/1495
Land Registration District Gisborne
Date Issued 11 June 1991

Prior References
GS1D/1266

Estate Fee Simple
Area 1243.4528 hectares more or less
Legal Description Part Tahora 2AD2 Block

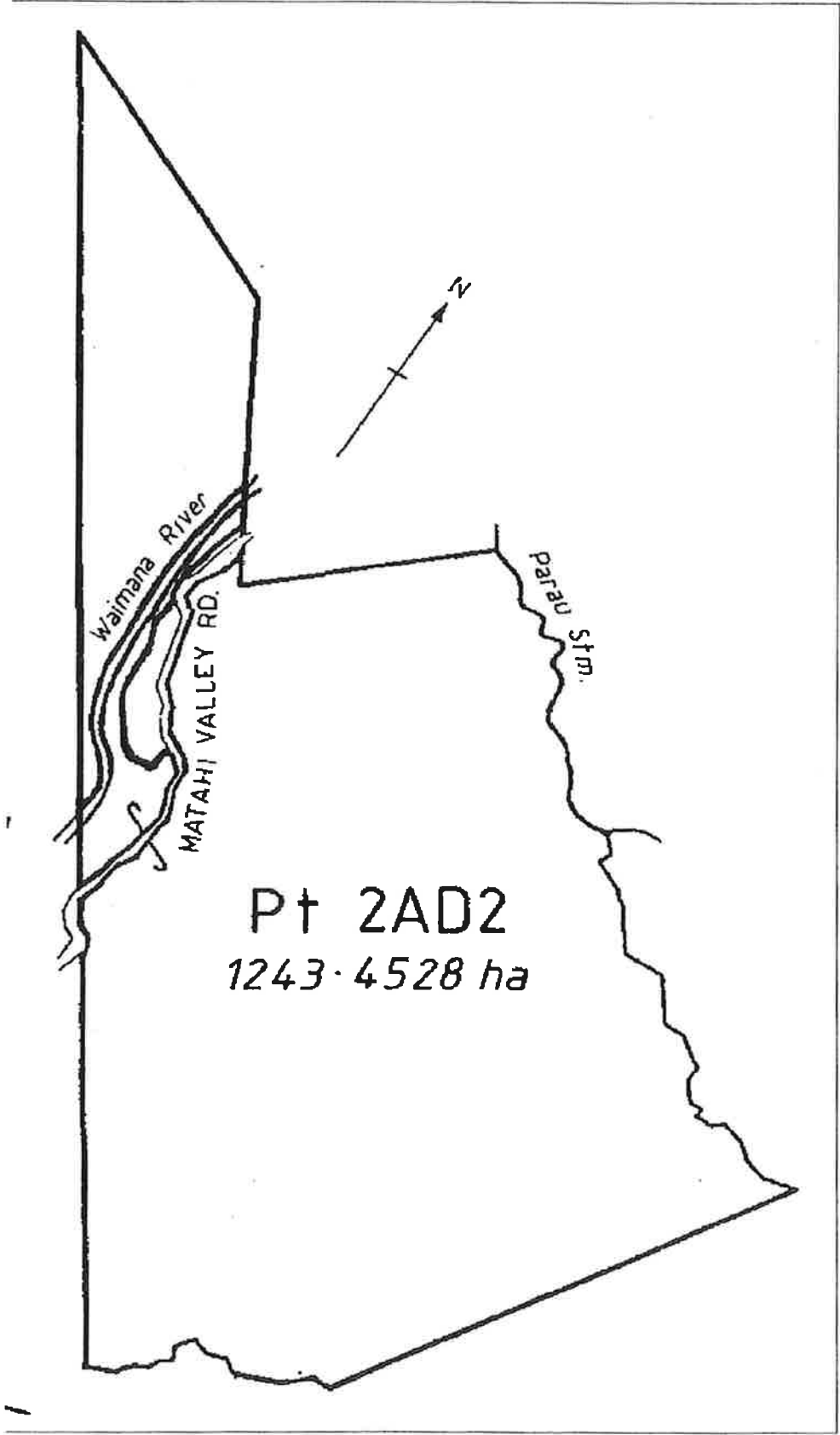
Proprietors
Tuhoe Trust Custodian Trustee Company Limited

Interests

Appurtenant hereto are rights of way (limited in duration) created by Grant of Easement GS6B/482
212473.1 Resolution pursuant to Section 348 Local Government Act 1974 - 3.10.1996 at 2.20 pm
9110084.1 Notice pursuant to Section 195(2) Climate Change Response Act 2002 - 2.7.2012 at 11:59 am
9371873.1 Easement Instrument granting a Forestry Right for a term commencing on 8 August 2008 and expiring on 7 August 2028 in favour of Her Majesty the Queen - 13.6.2013 at 6:14 pm

Identifier

GS5B/1495





**COMPUTER FREEHOLD REGISTER
UNDER LAND TRANSFER ACT 1952**



Search Copy

R. W. Muir
Registrar-General
of Land

Identifier SA469/189
Land Registration District South Auckland
Date Issued 03 July 1928

Prior References
SA370/167

Estate Fee Simple
Area 24.0940 hectares more or less
Legal Description Lot 1 Deposited Plan 15760

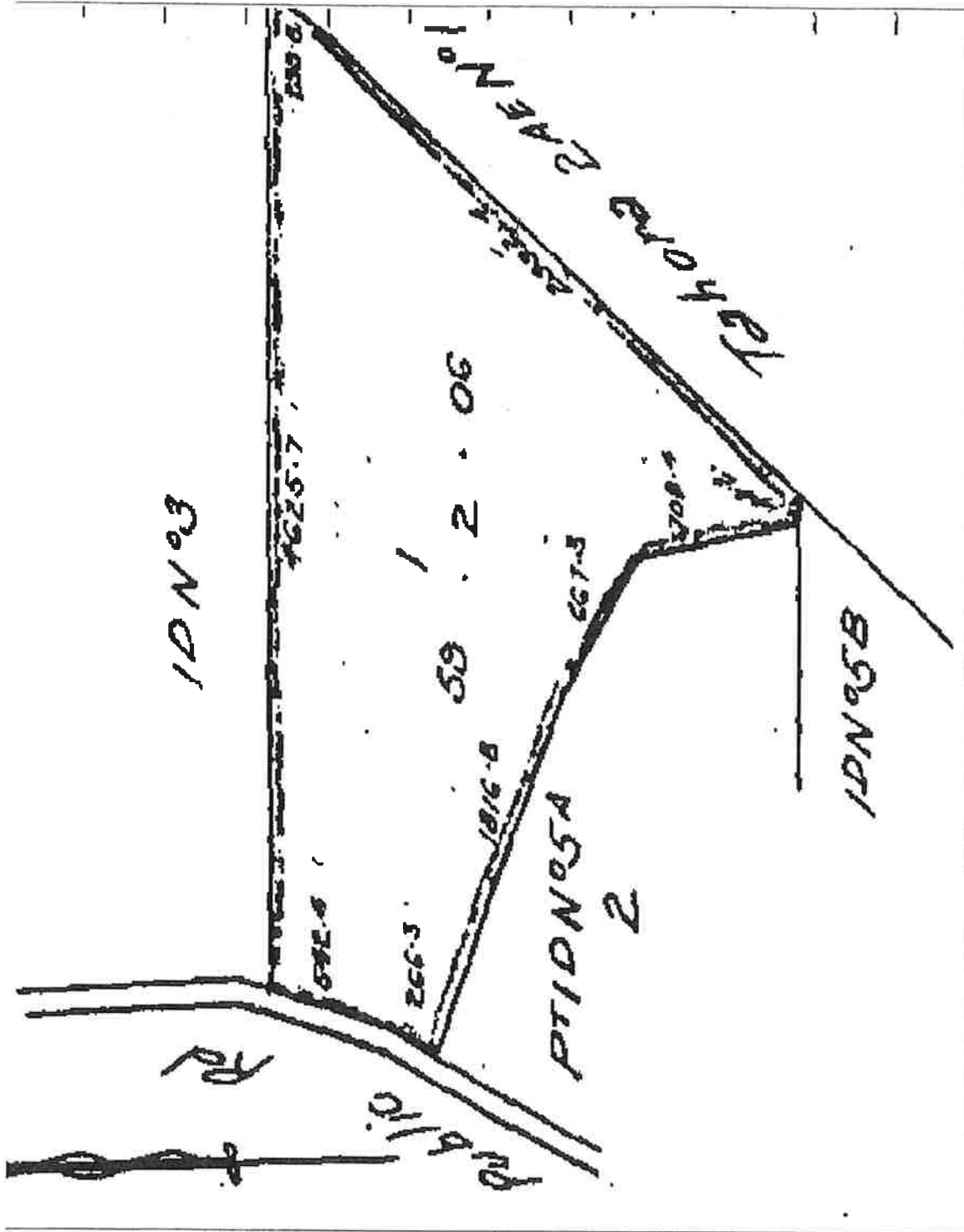
Proprietors
Tuhoē Trust Custodian Trustee Company Limited

Interests

9109973.1 Notice pursuant to Section 195(2) Climate Change Response Act 2002 - 29.6.2012 at 1:32 pm
9371873.1 Easement Instrument granting a Forestry Right for a term commencing on 8 August 2008 and expiring on 7 August 2028 in favour of Her Majesty the Queen - 13.6.2013 at 6:14 pm

Identifier

SA469/189





Trespass Notice

OR Reference: **OR-1827024N**

Report submitted: **24/01/2025 05:57 PM**

Contact Details

Personal Details

Name : **Umesh Naik**

Date of Birth : **14/03/1970**

Gender : **Male**

Identification

NZ Driver Licence Number : **DH064748**

Contact details

Preferred phone number : **+ 64-0210696740 Work**

Email address : **Umesh@ngaituhoe.iwi.nz**

Preferred contact method : **Email**

Address type : **Work address**

Address : **12 Tuhoe Street, Tāneatua 3191, New Zealand**

When

Provide the date and time the trespass notice was served : **22/01/2025 06:00 AM**

Where

Location type : **Other**

Name of location : **Matahi Forest Waimana Bay of Plenty (there are seven titles)**

Address Selected : **Matahi Valley Road, Nukuhou North, New Zealand**

Who was involved

Name : **Alan Mourice Ritchie**

Gender : **Male**

Address type : **Contact address**

Address : **502 Reid Road, Papamoa 3187, New Zealand**

Occupier details

Occupier of the address the person is trespassed from : **Someone else**

Name of the person or organisation that occupies the address : **This is a pine forest. Tuhoe Trust Own it. I work for them. We did not approve or instruct anyone to enter our forest. Ritchie Contracting entered our land with their heavy equipment with the intention to**

This is an automated report, which has been submitted to the New Zealand Police for review. The report was generated by the person who reported a Trespass Notice and has not been validated.

Non-Emergency 105 Online Reporting



harvest the forest.

Occupier phone number : + 64-0210696740 Work

Relationship between the property Occupier and this person : Other

Who Served Notice Details

Who served the trespass notice : I did

Does the person have the authority to serve the trespass notice on behalf of the Occupier? : Yes

What happened

How was the trespass notice served : Verbally advised

Did they acknowledge that they are the person named on the notice : Yes

Describe any details relevant to the service of the notice : **On the Land owned by Ngaituhoe Iwi under their Trust, we understood a contactor has started moving heavy machinery. We later found out that it was Alan Richie from Ritchie Contracting who has been contracted by local hapu to harvest our forest!! I tried to contact Alan to provide details of my Trust's ownership and illegal entry. Alan shared, he has seen ownership document from local hapu and he will carry one working. At this point our Board instructed me to send trespass notice. I have also provided Alan our Title document issued by LINZ.**

Additional Information

Description : **Our Title Documents**

File name : **325439---titles.pdf**

Description : **Details of Service of trespass notice.**

File name : **service---matahi-forest---trespass-notice-form---ar-24-01-25.pdf**

If you have more evidence or information which may assist us processing your report, describe it here :

Alan has accepted working on the land that he thinks of local Hapu. So there is no disagreement of him being on our land.

I agree to a copy of this report being sent to my email address : Yes

3:55

VoLTE 54%



BUDDLE FINDLAY

11 February 2025

Alan Ritchie
Ritchie Contracting Ltd
502 Reid Road RD 7
Papamoa 3187

Bevan Spalding
Town & Country Accountants
15D Minden Road RD 6
Tauranga 3176

By email only: ritchiecontractingltd@gmail.com; bevan@tandcaccountants.co.nz

Tēnā kōrua

Trespass and Unlawful Logging at Matahi Forest

1. We act for Tūhoe – Te Uru Taumatua Trust (**Trust**). We are instructed as follows.
2. The Trust, through its custodian trustee the Tūhoe Trust Custodian Trustee Company Ltd, owns Matahi Forest on behalf of all Tūhoe.
3. Ritchie Contracting Ltd trucks and contractors have been observed trespassing on and taking logs from Matahi Forest. The Trust has not granted Ritchie Contracting, or anyone else, the right to enter and log the Forest. Those activities are therefore unlawful, and they are damaging the whenua.
4. The Trust requires Ritchie Contracting to immediately cease all trespassing upon, and cease all undertaking of forestry operations within, Matahi Forest, and to provide an undertaking to that effect as set out in this letter.

Background

5. Matahi Forest is one of the properties transferred to the Trust as part of Ngāi Tūhoe's settlement with the Crown. Since that time, the Trust has granted no interests or rights in Matahi Forest to any other party, and no forestry operations have been authorised to take place at Matahi Forest by the Trust or its subsidiaries. Accordingly, no logging operations can lawfully take place on the property.
6. In early January 2025, heavy forestry equipment was observed in the Matahi Forest. On 22 January 2025, a truck was observed exiting Matahi Forest, laden with logs.

BUDDLE FINDLAY

7. This activity was reported to the Trust and, on 24 January 2025, a Trust representative telephoned Alan Ritchie of Ritchie Contracting. In that conversation:
 - 7.1. Mr Ritchie confirmed that Ritchie Contracting was logging the Matahi Forest. He claimed it was doing so on the basis of “hapū rights” stemming from a document dated some time in the 1800s.
 - 7.2. The Trust representative informed Mr Ritchie that: the Trust owns the Matahi Forest; no hapū rights (or any other rights) had been granted by the Trust since that time; no access, logging or logging operations were permitted; and Ritchie Contracting was therefore trespassing and was required to leave.
8. The Trust representative then emailed Mr Ritchie, copied to Ritchie Contracting’s accountant. In that email, the representative:
 - 8.1. provided title documents showing that the Trust, through its custodian trustee, owns the parcels of land making up Matahi Forest;
 - 8.2. provided a trespass notice, prohibiting Mr Ritchie from entering the parcels of land making up Matahi Forest; and
 - 8.3. explained the Trust’s reasons and its requirement that Ritchie Contracting cease operations and that all personnel and equipment be removed immediately.
9. The email and attachments are **enclosed** with this letter. No response was received by the Trust.
10. The Trust was informed on 6 February 2025 that a truck had again been observed exiting the Matahi Forest, laden with logs. A video was provided to the Trust showing a truck travelling a road close to the Forest exit.
11. The Trust is extremely concerned that Ritchie Contracting, its servants, agents, employees and/or subcontractors, are undertaking forestry operations on its whenua without the Trust’s permission. It is also extremely concerned that operations have been undertaken without the necessary resource consents, and have caused significant damage to the whenua—from which it may never fully recover.

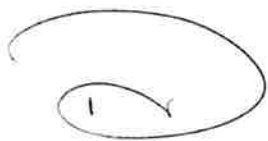
Undertaking

12. To prevent further trespassing and to preserve and protect the whenua at Matahi Forest, the Trust requires that Ritchie Contracting, its servants, agents, employees and/or subcontractors, cease operations and remove all personnel and equipment from Matahi Forest without delay.
13. The Trust therefore requires that Ritchie Contracting provide an undertaking that Ritchie Contracting, whether by its directors, servants, agents, employees, subcontractors, or by any other means at all will:
 - 13.1. cease all operations at Matahi Forest immediately;
 - 13.2. remove all personnel and equipment from Matahi Forest by 13 February 2025; and
 - 13.3. not enter onto, or undertake any activity at, Matahi Forest.

BUDDLE FINDLAY

14. Given the importance to the Trust and to Tūhoe of protecting the Matahi Forest and the whenua, we require this an undertaking no later than **5pm, 11 February 2025**.
15. If no undertaking is forthcoming by that time, the Trust reserves its rights to take further steps, including making an application for an urgent injunction (on a without notice basis if necessary), and to seek increased and/or indemnity costs on the application.

Ngā mihi

A handwritten signature in black ink, consisting of a large, loopy 'P' followed by a smaller 'B' and a final flourish.

Paul Beverley
Partner

DDI • 64 4 462 0406

M • 64 21 276 9322

paul.beverley@buddlefindlay.com

From: Donna Mason <ipaythebillshere@gmail.com>
Sent: Tuesday, 11 February 2025 15:48
To: Paul Beverley
Subject: Re: Alan Richie
Attachments: 20250211_143524.jpg

On Tue, 11 Feb 2025, 3:38 pm Donna Mason, <ipaythebillshere@gmail.com> wrote:
 Attention Buddle Findlay.
 11th February 2025

Omuriwaka Marae: Has a Body Corporate within the meaning of Part XIII of Te Ture Whenua Maori, Maori Land Act 1993.

Acting upon the mandate of the British Crown.

Under Section 71; of the New Zealand Constitution Act 1852 (uk).

Section 17: of Te Ture Whenua Maori Amendment Act 1994

Section 5: of the Act;

Here by makes the following declaration. That we the hapu, whanau has and will continue to operate under the management of the body corporate.

The incorporation by virtue of the Act is recognized as a Maori Authority, Pursuant to the Section 258 of the Act; The Incorporation functions with a charitable status; therefore exempt from paying Goods and Service Tax.

Understandably you may have questions you wish to raise to the above.

How ever it is my duty to inform you of the following:

Section 247: of the Act provides for the Incorporation powers to Incorporate.

Section 253: of the Act provides for the Incorporation the full discharge, rights, powers and privileges to Act as it sees fit in the best interest of the Shareholders (Hapu, Whanau).

Section 268: of the Act is the means by which the Incorporations Internal Management Committee is governed and

Section 271: of the Act binds the Incorporation to a Confidentiality clause; which prevents it from responding to external inquiries.

To the email you have sent is not applicable the Land that is in question? It is not referred to as (Matahi).

This is why I am having trouble in responding to you.

It is good faith that allows me to respond.

Omuriwaka Maori Incorporation is the legal and beneficial owner/shareholder and related whanaungatanga to the interest in the Local Hapu Ngai Tama Tuhirae within the Mataatua Native District.

In terms of the Article 2 of Te Tiriti O Waitangi 1840 and the right of occupation of Maori Customary Land;

See Section 2 (2) and see Section 5 of Te Ture Whenua Maori, Maori Land Act 1993: and; That the notice of trespass is none other than Fraudulent, Criminal and Admissible Information. This Land is Tahora 2 AD 2 XII.

The Maori Incorporation are requesting your proof of ownership to Tahora 2 AD 2 NOT I repeat Matahi.

Any matters concerning Alan Richie, you must contact Donna Mason.
Omuriwaka Maori Incorporation has registered Alan Richie Under the Ahu Whenua.

The Incorporation considers this matter closed, and no further action on your part is necessary.

Naku Noa
Donna Mason
Registered Secretary
0272105650
ipaythebillshere@gmail.com

Order of Incorporation

**IN TE KOUITIPARAMATA MAORI
KI WAITANGI O AOTEAROA (NZ)**

*Te Ture Whenua Maori/Maori Land Act 1993
Maori Incorporations Constitution Regulations 1994
Amended by Te Ture Whenua Maori Incorporations Constitution Regulations
Act 1995 / Part XIII*



IN THE MATTER OF:
Te Ture Whenua Maori
Incorporations Constitution
Regulations Act 1995
Sec. 247-251

AND

IN THE MATTER OF:
Matane Waka
Oramiriwaka Maori Incorporation
(Applicant)

At a sitting of Te Kōwhiri ki Te Paratata Maori Te Whakaminanga O Te Rangitira O Aotearoa
Hohepa Mapiira (Tumutuki) Chief Justice presiding:

Upon the evidence produced before Te Kōwhiri by the Applicant Tom TeRake TePahi of
Oramiriwaka Maori Incorporation before Te Whakaminanga O Te Rangitira O Aotearoa. It was
declared by resolution accepted and incorporated as a Maori Incorporation within the meaning of
Part XIII of Te Ture Whenua Maori/Maori Land Act 1993 and Te Ture Whenua Maori
Incorporations Constitution Regulations Act 1995.

NOW THEREFORE as a Witness to the resolution passed by Te Whakaminanga O Te Rangitira
O Aotearoa (NZ) on the 27th day of October 2002, at Te Hā Waitangi Marae, Waitangi, Bay of
Islands: I Tumutuki Chief Justice Hohepa Mapiira **BOTH HEREBY** confirm, declare and order
that Oramiriwaka Maori Incorporation constituted under the regulations of Te Ture Whenua Maori
Incorporations Constitution Regulations 1996.

AND BOTH FURTHER ORDER THAT Oramiriwaka Block XII not withstanding its status as
Maori Freehold Land or a Maori Reservation hereby vest the land in Oramiriwaka Maori
Incorporation and declare that this Incorporation shall hold such land and all other lands within
the Native District of Matane Waka as legal beneficial and equitable owners pursuant to Te Tiriti
O Waitangi 1840, for which the Native Aboriginal Title has not been extinguished pursuant to
Section 129 (2)(a) 1993-1995 is deemed Customary Maori Land held in accordance with Tikanga
Maori. Section 271 (4/93-95, 254/93-95) immediate release.
Section 253/93-95

WITNESSED by the hand and seal of the Chief Justice Sec. 5/93 shall bind the Crown and
shall bind Maori.

DATED THIS 28th Day of October 2002.



**IN THE MĀORI LAND COURT OF NEW ZEALAND
WAIARIKI DISTRICT**

A20150006736

UNDER Section 238 Te Ture Whenua Māori
Act 1993

IN THE MATTER OF Omuriwaka Māori Reservation

BETWEEN WILLIAM AMOROA
Applicant

Hearing: 148 Waiariki MB 71-77 dated 8 September 2016
158 Waiariki MB 281-302 dated 6 March 2017

(Heard at Rotorua)

Judgment: 30 May 2017

RESERVED JUDGMENT OF JUDGE C T COXHEAD

Introduction

[1] This decision concerns a dispute between the Omuriwaka Marae Committee and the Omuriwaka Māori Reservation trustees. The application is complicated by the fact that the Māori Reservation trustees have seemingly aligned themselves with Omuriwaka Incorporation (which purports to be a Māori incorporation). The applicant, William Amoroa, seeks a review of the Māori Reservation Trust on the basis that he believes the trustees are unaware of their trustee duties and responsibilities. Mr Amoroa seeks an order that the Māori Reservation Trust to be dissolved.

[2] Te Ao Te Pairi and Mihi Pene-Ellis, two of the Māori Reservation trustees have responded to the application.

[3] The matter was last heard before me on 6 March 2017.¹ At the hearing I expressed concern about the apparent confusion between the roles of the Marae Committee, Māori Reservation trustees and Omuriwaka Incorporation. At the conclusion of the hearing I indicated that I would consider the submissions filed by the parties and issue a written decision regarding the matter.

Background

[4] Omuriwaka block is Māori freehold land comprising 73.2228 hectares. It was first constituted under the Urewera Lands Act 1921-1922 and on 10 April 1922 it was vested in 14 owners. On 21 August 1986 Omuriwaka was set apart as a Māori reservation for the purpose of a scenic and historical interest and as a marae, papakainga and urupā for the common use and benefit of the Ngatitamaruarangi hapū.²

[5] On 1 June 1989 the reservation was part cancelled and 2.0234 hectares taken out of the reservation for papakainga housing.³ That part of Omuriwaka is now administered by an ahu whenua trust.

¹ 158 Waiariki MB 281-302 (158 WAR 281-302).

² "Setting Apart Maori Freehold Land as a Maori Reservation" (21 August 1986) 130 *New Zealand Gazette* 3517 at 3537; see also 78 Whakatane MB 131 (78 WHK 131).

³ "Cancelling the Reservation of Land" (1 June 1989) 94 *New Zealand Gazette* 2151 at 2170; see also 81 Whakatane MB 62 (81 WHK 62).

[6] On 25 October 2001 Omuriwaka Māori Reservation was redefined as a Māori reservation for the purpose of a marae for the common use and benefit of the Ngai Tama Tuhirae hapū.⁴ The current trustees are Pita Te Pairi, Te Ao Ngaperuperu Te Pairi, Bob Te Pairi, Mihi Pene-Ellis, Jan Amorua, Danny Mahia, Denny Wiki and Gary Wharepapa.⁵

Procedural History

[7] The matter was first heard before me on 8 September 2016.⁶ Submissions had been filed by Te Ao Te Pairi and Mihi Pene-Ellis in response to the application. After hearing from the parties I directed that the submissions be sent to the applicant following which he would have two weeks to reply.

[8] A further hearing was held on 6 March 2017.⁷ During the hearing it became apparent that there were two factions with opposing views concerning the operation of the Māori Reservation. Issues were raised concerning the Māori Reservation trustees acting outside their role, lack of financial information, confusion between the roles of the Marae Committee and Māori Reservation trustees and an injunction notice issued by “Omuriwaka Incorporation”.

Applicant’s submissions

[9] The applicant submits that the Māori Reservation Trust should be dissolved. He is concerned about the actions of the trustees and considers that the trustees are unaware of their trustee duties and responsibilities.

[10] The applicant argues that much of the documentation produced by the respondents is irrelevant to the application. He adds that his application has been misinterpreted as a personal attack on the trustees when instead he was simply trying to bring “calm back to the trust.”

⁴ “Setting Apart Maori Freehold Land as a Maori Reservation” (25 October 2001) 145 *New Zealand Gazette* 3617 at 3654.

⁵ 123 Waiariki MB 64 (123 WAR 64).

⁶ 148 Waiariki MB 71-77 (148 WAR 71-77).

⁷ 158 Waiariki MB 281-302 (158 WAR 281-302).

[11] Further, the applicant submits that the trust is in a vulnerable state and if it is left in that state there will be huge ramifications. The applicant believes that the Māori Reservation Trust should be dissolved so that whānau and hapū can collectively come together and revisit the option of a trust through an amicable process.

[12] The applicant also makes reference to pressing matters concerning Omuriwaka Paa and proceedings in the District Court and Supreme Court. He considers that the actions of the Māori Reservation trustees have put him in the position, as kaumātua, of having to rectify the situation.

Te Ao Te Pairi's submissions

[13] Te Ao Te Pairi wrote a letter to the Court dated 8 September 2016 outlining her response to the application. Ms Te Pairi submits that there are inconsistencies in the minutes of hui provided by the applicant. She also says that the minutes refer to personal issues pertaining to a huge amount of pūtea that was spent.

[14] Ms Te Pairi states that the trustees are aware of their actions and duties as trustees and act to the best of their abilities for the benefit of the beneficiaries.

[15] According to Ms Te Pairi, four trustees have never missed a hui, whereas two trustees have missed three or more consecutive meetings.

Mihi Pene-Ellis' submissions

[16] Mihi Pene-Ellis is also a current Māori Reservation trustee. She submits that the Trust is dysfunctional and has not been operating efficiently for a long time. Ms Pene-Ellis states that the trustees are at odds with each other and this has allowed funds to be stolen.

[17] Ms Pene-Ellis says that this application has been filed as a direct result of a grant of \$100,000 being offered by the Chair of Waimana Kaaku Tribal Executive, Kero Te Pou to the Omuriwaka Marae Committee. According to Ms Pene-Ellis, William Amorua's wife is a member of the Marae Committee and the committee want the money.

[18] Further, Ms Pene-Ellis states that at the same time as the grant was made, Kero Te Pou advised that they would be going onto the neighbouring Tahora block to assess forestry logging.

[19] According to Ms Pene-Ellis, some of the trustees, including her, do not want to receive the funds until they are sure what those funds are for. Ms Pene-Ellis says she is not in favour of receiving the funds if they are a “bribe” or if by accepting the money the trustees are somehow extinguishing their claim to the Tahora block.

[20] In addition, Ms Pene-Ellis is concerned that previous money that rightfully belonged to the shareholders was stolen and the applicant has not done anything about that.

[21] Ms Pene-Ellis explained that there are three entities for Omuriwaka, the Marae Committee, the Māori Reservation trustees and Omuriwaka Incorporation. She says the entities are at loggerheads and this has led to dissension. As a result, the Omuriwaka Incorporation has had the opportunity to “steal money from the logging activities”. The trustees have been unable to get answers from the Incorporation regarding this.

[22] Ms Pene-Ellis submits that the Incorporation was set up under the “Tikanga Law Society” rather than Part 13 of Te Ture Whenua Māori Act 1993, and the Incorporation has never accounted for the \$100,000.

Issues

[23] The issues for determination are whether the trustees have breached their trustee duties, and if so, whether it is sufficient to warrant their removal. I must also determine whether the Māori Reservation Trust should be dissolved?

The Law

[24] Section 238 of Te Ture Whenua Māori Act 1993 provides:

238 Enforcement of obligations of trust

- (1) The court may at any time require any trustee of a trust to file in the court a written report, and to appear before the court for questioning on the report,

or on any matter relating to the administration of the trust or the performance of his or her duties as a trustee.

- (2) The court may at any time, in respect of any trustee of a trust to which this section applies, enforce the obligations of his or her trust (whether by way of injunction or otherwise).

[25] The Māori Land Court has wide supervisory and enforcement powers under s 238. These include the power to require any trustee to provide a written report to the Court and to appear before the Court in any matter relating to the administration of the trust or the performance of his or her duties as a trustee. In addition, the Court may, at any time, in respect of any trustee, enforce the obligations of the trust whether by injunction or otherwise. As well, the Court has the power, at any time, to add, reduce, replace or remove trustees under ss 239 and 240 of the Act.⁸

[26] The paramount duty of trustees is to obey their terms of trust. In *Rameka v Hall* the Court of Appeal set out the general responsibilities of trustees as follows:⁹

[28] The general responsibilities of responsible trustees are set out in s 223 of the Act. That section refers to the following:

- (a) Carrying out the terms of the trust;
- (b) The proper administration and management of the business of the trust;
- (c) The preservation of the assets of the trust;
- (d) The collection and distribution of the income of the trust.

[29] As we have noted, these statutory duties are not exhaustive and general trustee law principles are also relevant. Further, the trust order applicable to the trust may add other responsibilities. The relevant obligations of trustees have been described by the Maori Appellate Court in these terms:

- a) A duty to acquaint themselves with the terms of trust;
- b) A duty to adhere rigidly to the terms of trust;
- c) A duty to transfer property only to beneficiaries or to the objects of a power of appointment or to persons authorised under a trust instrument or the general law to receive property such as a custodian trustee;
- d) A duty to act fairly by all beneficiaries;

⁸ *Clarke v Karaitiana* [2011] NZCA 154 at [36].

⁹ *Rameka v Hall* [2013] NZCA 203 at [28] to [29].

- e) A duty of trustees to invest the trust funds in accordance with the trust instrument or as the law provides;
- f) A duty to keep and render accounts and provide information;
- g) A duty of diligence and prudence as an ordinary prudent person of business would exercise and conduct in that business if it were his or her own;
- h) A duty not to delegate his or her powers not even to co-trustees;
- i) A duty not to make a profit for themselves out of the trust property or out of the office of trust: *Garrow and Kelly Law*

[27] I note that, given Omuriwaka is a Māori Reservation, an application could have been filed per reg 21 of the Māori Reservation Regulations 1994. Nonetheless, in undertaking an inquiry per reg 21 the Court has the ability to invoke s 238 to review the trust.¹⁰

Have the trustees breached their duties sufficient to warrant their removal?

[28] The applicant is concerned about the actions of the trustees and says the trustees are unaware of their trustee duties and responsibilities. At the March hearing the applicant stated that he was concerned that the trustees are working on lands outside of the Māori Reservation.

[29] Te Araaka Te Pairi Felise explained at the hearing that the primary reason for the application was that at the time there was a lot of bullying from certain trustee members, and the issues that the trustees were pushing were outside of their jurisdiction as Māori Reservation trustees. Ms Felise stated that there was a challenge to the applicants jurisdiction in regards to the rakau that he was given, and so a lot of hui hapū that were being held were contentious and the majority of the time they ended up walking out. A lot of the issues, she said, were not to do with the Māori Reservation.

[30] According to Ms Felise, history shows that the Marae Committee have the authority to run the hapū hui but a lot of the hui held have not been called by that committee. Ms Felise feels that the Māori Reservation trustees are confusing their roles with other roles

¹⁰ *Marino v Horsfall – Repongaere 4G (Part)* (2004) 34 Gisborne Appellate Court MB 98 (34 APGS 98).

they have on the Omuriwaka Incorporation. She says that Incorporation was set up to deal with the Tahora block.

[31] The applicant has filed a number of minutes from hui held at Omuriwaka in support of the application. In addition, correspondence between Māori Reservation trustees and the Marae Committee have been filed, as well as a document from Myra Takao which purports to show support for dissolving the Māori Reservation Trust.

[32] Having reviewed matters, I see that the applicant's core concerns appear to be the misappropriation of money by Tania Mihinui, the purported removal of the Marae Committee and the role of Omuriwaka Incorporation. I address each of these concerns in turn, below.

The alleged misappropriation of money by Tania Mihinui

[33] The applicant has filed a copy of minutes titled "Special Trustee hui with shareholders held 31st October 2015". The minutes record the following:

2) The matter of the misappropriation of a sum of \$10000.00, and the person who has come forth as being wholly responsible, is a matter which needs to be addressed and finally laid to rest. The date of the alleged mismanaging of funds from the Marae committee pūtea has not been recorded as the matter has been an ongoing discussion throughout many hui. The hapū and the trustees feel that this matter needs to be resolved officially so as every persons [sic] can move forward. Tania Mihinui has put forth to the hapū that she will take full responsibility for the mismanagement of the funds although it is questionable whether this is the case. The mismanagement of the funds came about through a number of factors and through numerous people? After much discussion and debate amongst all those present at this hui, the following text is and will remain the final outcome of this matter and will not be brought to the floor at any other time in the future:

It has been unanimously agreed to by all present that Tania Mihinui has admitted to and been made accountable for a portion of the alleged \$10000.00 of misappropriated funds. The actual total of the funds are not clear and stated but, the trustees and shareholders alike have taken into consideration the endless mahi Tania gives back to the hapū. Whether that mahi is on the marae, with the rangatahi, the rangatira or within the hapū, it is all for the benefit of Omuriwaka and it is all done with aroha. For the above mentioned reasons the debt to which Tania is accountable for has been paid in full. If all Tania's mahi was to be assessed in a monetary sense then there would most likely be a debt owed to Tania from Omuriwaka, as her personal koha has a greater value than the debt. This matter is hereby laid to rest unless further mitigating factors arise.

[34] Tania Mihinui is not a responsible trustee. From the evidence before me I gather that she is or was a member of Omuriwaka Incorporation. Tania was present at the March hearing. Matters concerning the misappropriation of trust or Marae funds are serious and the trustees have a duty to deal with such matters expeditiously. As far as I can see, no directions were sought from the Court and instead it has been resolved at a trustee hui that the debt be forgiven because of Tania's mahi for the Marae.

[35] It is clear from the minutes of both trustee and hapū hui that there are no financial records being kept by the Māori Reservation. This is not unsurprising given that the Reservation has no income, and money generated for the Marae is dealt with by the Marae Committee.

[36] Trustees have a fundamental duty to account and to keep beneficiaries properly informed. To date I find no evidence that the trustees are meeting these obligations. I am concerned about the current operation of this Trust. The minutes of hui for the Māori Reservation trustees are disputed and the trustees have effectively delegated their authority to the Omuriwaka Incorporation. As Tania Mihinui stated in Court "[w]ell we understand the roles of the [M]āori reserve committee, that's in our hapū it's called our [M]āori incorporation and they administrate [sic] our lands".¹¹

[37] The trustees are not able to get on with the Marae Committee, and it is unclear who is running the Māori Reservation – the trustees or the Incorporation. Given these matters, I consider that the Māori Reservation Trust is dysfunctional.

The purported removal of the Marae committee

[38] The applicant complains that the Māori Reservation trustees have been purporting to undertake activities that history shows the Marae Committee have the authority to run, namely the hapū hui.

[39] There is clear confusion over the holding of hui. On file are a mixture of "hapū hui" minutes, trustee hui minutes and shareholder minutes. The contents of these minutes are difficult to understand, however what I glean from the minutes is that the hapū hui are

¹¹ 158 Waiariki MB 281-302 (158 WAR 281-302) at 288.

run by the Marae Committee and at such hui new marae committee members are elected. Matters such as the Marae bank account and property are also discussed, as well as the Incorporation membership.

[40] At a hapū hui held on 16 April 2016, an election for Marae Committee positions took place. At that hui those present appointed Matthew Hohua (Chair), Pamela Gill (Secretary) and Jenny Hohua (Treasurer). At a subsequent Māori Reservation trustee meeting held on 28 May 2016, the trustees declared the election and minutes of the 16 April 2016 hui to be null and void, on the basis that the proper procedures had not been followed. They considered the current Marae Committee to be Wayne Mahia (Chair), Nina Vercoe (Secretary) and Bessie Apiata (Treasurer).

[41] Matters become confused when both the Māori Reservation and the Marae Committee are claiming to be the correct authority in terms of hapū matters. The Māori Reservation sought to clarify matters by basically invalidating Marae Committee elections and then appointing new members.

[42] The Māori Reservation trustees are the responsible trustees for the Māori reservation. They have the legal responsibility for the block. The Marae Committee have de facto control over the operation and day to day running of the Marae. These two entities need to be able to work together. The Marae charter should make it clear what responsibilities each of these entities undertake.

Omuriwaka Incorporation

[43] During the course of the proceedings the parties made reference to an injunction issued by “Te Kooti Marae Rangatira Ateha o Aotearoa” over Part Tahora 2AD2 in relation to a roadway over the Omuriwaka block. They referred to this entity as a Māori Incorporation.

[44] It also became apparent that the Māori Incorporation has had some dealings with the Trust and the Marae Committee. There is concern that the issuing of the injunction has taken away the power of the trustees over the Māori Reservation. There is also concern about the Incorporation’s role in administering the neighbouring Tahora block.

[45] Given the confusion, I have reviewed the Court records pertaining to Omuriwaka. I note correspondence contained in the Māori Land Information System from Tania Mihinui received by the Court on 13 December 2012. That correspondence purports to give notice to the Court that the Omuriwaka Incorporation will be administering all affairs concerning Waimana Blk XII and all other blocks attached to that block. The notice purports to release the Court from its responsibilities with regard to Omuriwaka.

[46] With respect, such a notice is of no legal effect. The Court's jurisdiction with respect to trusts cannot be ousted in the manner sought by the Incorporation. Further, the Incorporation was not constituted under the provisions of Te Ture Whenua Māori Act 1993 and has no constitutional validity.¹²

[47] For completeness, I reiterate that the Omuriwaka is Māori freehold land.

[48] The Omuriwaka Incorporation appears to be a law unto itself. It is unclear what, if any, authority the Incorporation has. What does appear certain is that the Incorporation does have some influence within hapū matters, and this presents a real risk to the assets of the Reservation.

Have the trustees breached their trustee duties sufficient to warrant removal?

[49] Section 240 of Te Ture Whenua Māori Act 1993 provides as follows:

240 Removal of trustee

The Court may at any time, in respect of any trustee of a trust to which this [Part] applies, make an order for the removal of the trustee, if it is satisfied—

- (a) that the trustee has failed to carry out the duties of a trustee satisfactorily; or
- (b) because of lack of competence or prolonged absence, the trustee is or will be incapable of carrying out those duties satisfactorily.

¹² *Ruwhiu - Maunga Hikurangi Kaporeihana* (2016) 143 Taitokerau MB 159 (143 TTK 159).

[50] In addition to s 240, reg 3(f) of the Māori Reservations Regulations 1994 provides the Court with the specified power to remove trustees of Māori reservations. In *Perenara v Pryor – Matata 930* the Māori Appellate Court stated:¹³

As a general approach the Court should proceed with caution when asked to consider removal. Conversely, we also endorse the notion that immediate removal should follow obvious abuse, failure or malfeasance. However, as pointed out by Mr Kahukiwa, the test to apply is not one confined to obvious abuse, failure or malfeasance. Rather the legislation may, depending on the circumstances of each case, also require a consideration of trustees' performance to assess whether they have carried out their duties satisfactorily. In considering performance, the rules of natural justice must be observed, the appropriate legal thresholds as provided for in the Act, the Trustee Act 1956 and the Reservation Regulations have to be reached and the Court must consider whether there is any positive defence or reasonable excuse for unsatisfactory performance.

[51] The trustees appear to be captured by an Incorporation that has no legal standing within the Māori Land Court jurisdiction. The concern obviously is that the Incorporation's influence has misguided the trustees and will continue to misguide them. The Incorporation's existence has created confusion not only amongst the trustees but also the hapū and Marae Committee.

[52] The Trust has no financial accounts and, as I have said, this is not surprising given the Trust has no income. Given how issues of misappropriation of funds have been dealt with, it may be a blessing that the Reservation has no funds. Their past performance in regards to dealing with the misappropriation of funds is a serious matter and indicates how these trustees may deal with financial issues if the Trust ever did come into funds.

[53] From hui minutes on file, it is evident that the Trust has looked to not only concern themselves with responsibilities regarding land held by the Māori Reservation, but has also sought to take over the Marae Committee and administer hapū matters. This in itself shows a lack of understanding as to what their primary role is. The actions of the Māori Reservation trustees has created confusion not only for themselves but also for others.

[54] As one of the trustees themselves stated, the Trust is dysfunctional. A dysfunctional trust is of no use to the beneficiaries. I also have concerns that the Trust is influenced by the Omuriwaka Incorporation. This presents real risk to the assets of the Reservation.

¹³ *Perenara v Pryor – Matata 930* (2004) 10 Waiariki Appellate Court MB 233 (10 AP 233) at 241.

[55] At this stage, on balance, I am minded to remove the trustees. However, before I make any final determination to remove any trustees I wish to give the trustees, whānau and hapū an opportunity to resolve matters themselves.

[56] I therefore direct as follows:

- (a) The Court is to facilitate a meeting for the election of Reservation Trustees.
- (b) All current Māori Reservation trustees are to stand down.

[57] By providing this opportunity I am hopeful that there will be an election of new Reservation trustees who will have the ability to focus on their roles as trustees for the Māori Reservation.

Should the Māori Reservation trust be dissolved?

[58] The applicant seeks an order dissolving the Māori Reservation Trust.

[59] The total or partial cancellation of a Māori reservation is appropriate only where circumstances have changed or where such cancellation would enable some development not inconsistent with the reservation (for example, pensioner housing on marae) or some commercial development on a peripheral part in order to maintain the reservation.¹⁴ However, the Court's main concern is to ensure that the area is not so changed as to defeat the purposes for which the reservation was created, or to allow some incompatible user.¹⁵

[60] In the present circumstances it is not necessary for the Māori Reservation Trust to be dissolved.

Outcome

[61] I reiterate my findings set out above that the Omuriwaka Māori Reservation Trustees are the responsible trustees and have the legal responsibility over the Reservation

¹⁴ *Otene - Part Tauhara Middle 4A2A* (1977) 58 Taupo MB 168 (58 TPO 168) at 196-198.

¹⁵ *Ibid.*

land. The Omuriwaka Incorporation was not constituted under Te Ture Whenua Māori Act 1993 and therefore has no constitutional validity in relation to the Reservation land.

[62] My preliminary determinations are:

- (a) The Māori Reservation Trust is dysfunctional and the trustees have breached their duties sufficient to warrant their removal. However, a Court-facilitated meeting is to be held to allow an opportunity for the trustees, whānau and hapū to resolve the matter by way of an election of new trustees.
- (b) It is not necessary for the Māori Reservation Trust to be dissolved.

[63] The application is adjourned for the Court-facilitated meeting to be held, followed by the appointment of trustees. If the matter cannot be resolved, I will make a final determination on the matter.

Pronounced at 1.00 pm in Rotorua on this 30th day of May 2017.

C T Coxhead
JUDGE

----- Original message -----

From: Matthew Harrex <Matthew.Harrex@boprc.govt.nz>
 Date: 14/02/25 4:51 pm (GMT+12:00)
 To: Kirsti Luke <kirsti@ngaituhoe.iwi.nz>
 Cc: Stephen Lamb <Stephen.Lamb@boprc.govt.nz>
 Subject: FW: Matahi Forest

Kia ora Kirsti,

Just letting you know I have sent the below email out to Donna this afternoon. The Contractor will also be getting the same email.

I have had to take a careful line outlining the requirements of our rules, which limit our scope in terms of the ownership piece.

Regards Matt

Matthew Harrex
 Compliance Manager – Land & Water
Bay of Plenty Regional Council Toi Moana

P: 0800 884 880 DD: 0800 884 881 x8335
 E: Matthew.Harrex@boprc.govt.nz
 W: www.boprc.govt.nz
 A: PO Box 364, Whakatāne 3158, New Zealand

Thriving together – mō te taiao, mō ngā tāngata

From: Matthew Harrex
Sent: Friday, 14 February 2025 4:44 pm
To:
Subject: Matahi Forest

Tēnā koe,

Forestry harvesting and river gravel extraction

Bay of Plenty Regional Council has received concerns regarding your forestry harvesting and river gravel extraction activities in the Matahi Forest, and the Tauranga River in the locality of Matahi, respectively.

Forestry harvesting, and river gravel extraction, can present a risk to people, property, and the environment, especially if performed incorrectly.

Bay of Plenty Regional Council is responsible for regulating these activities, and does so:

- In the case of forestry harvesting, by enforcing the requirements of the Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017 (**the NESCF**)
- In the case of river gravel extraction, by enforcing the requirement of the Bay of Plenty Operative Regional River Gravel Management Plan (**the plan**).

As somebody undertaking these activities, it is important you are aware of the requirements of the NESCF and the plan.

The NESCF

Regulation 64 of the NESCF requires you to provide written notice to Bay of Plenty Regional Council of the:

- the place where harvesting will be carried out, and
- the beginning and end dates for the harvesting

Between 20 and 60 days working days before the planned start of the harvesting operations.

Regulation 66 of the NESCF requires you to have in place a harvest management plan for your harvesting activity 20 days in advance, which must:

- Identify the environmental risks associated with the earthworks and provide responses to those risks that avoid, remedy, or mitigate the adverse effects of the activity on the environment
- Contain the information listed in Schedule 6 (attached)
- Be provided to Bay of Plenty Regional Council on request.

Note Please consider this email a request to submit to Bay of Plenty Regional Council the harvest management plan related to your harvesting activity.

For your harvesting activity to be a permitted activity under the NESCF, you must also comply with regulations 65, 67, 68 and 69.

The Gravel Management Plan

As you are not performing river gravel extraction on behalf of Bay of Plenty Regional Council, for your activity to be a permitted activity under the plan, it must comply with Rule 1, the full version of which is attached.

Particularly relevant in this case, Rule 1 requires notification to Bay of Plenty Regional Council 5 working days in advance, and set a limit of 100 cubic metres of gravel per calendar year.

What must you do?

In short, you must cease all forestry harvesting and river gravel extraction activities until such time as you fulfil the requirements of the NESCF, and the plan, detailed above.

Failure to do so may constitute an offence or offences against Sections 9 and 13 the Resource Management Act 1991. Please be advised that the maximum penalty for these offences are:

- **In the case of a natural person, to imprisonment for a term not exceeding 2 years or a fine not exceeding \$300,000**
- **In the case of a person other than a natural person, to a fine not exceeding \$600,000.**

If you have any questions regarding the contents of this email, please feel free to get in touch with me using my information below.

Matthew Harrex
Compliance Manager – Land & Water
Bay of Plenty Regional Council Toi Moana

P: 0800 884 880 DD: 0800 884 881 x8335

E: Matthew.Harrex@boprc.govt.nz

W: www.boprc.govt.nz

A: PO Box 364, Whakatāne 3158, New Zealand

Thriving together – mō te taiao, mō ngā tāngata

Disclaimer: This message and accompanying data may contain information that is confidential or subject to legal privilege. If you are not the intended recipient you are notified that any use, dissemination, distribution or copying of this message or data is prohibited. If you received this email in error, please notify us immediately and erase all copies of the message and attachments. We apologise for the inconvenience. Thank you.

Schedule 6 Harvest plan

rr 3, 66

Schedule 6: inserted, on 3 November 2023, by regulation 61 of the Resource Management (National Environmental Standards for Commercial Forestry) Amendment Regulations 2023 (SL 2023/277).

1 Person and property details

The person and property details are—

- (a) the plan and notice date:
- (b) the name of and contact details for the land owner or their agent:
- (c) the name of and contact details for the forest owner (if different):
- (d) the name of and contact details for the forest manager or relevant manager for the commercial forestry activity (if different):
- (e) the contact details for service—postal address, email address, phone number(s):
- (f) the region and district in which the forest is located:
- (g) the name of the road used for forest access and the rural number of the entry point:
- (h) the forest name or property location identifier:
- (i) the cadastral and map references, or GIS polygon reference.

Schedule 6 clause 1: inserted, on 3 November 2023, by regulation 61 of the Resource Management (National Environmental Standards for Commercial Forestry) Amendment Regulations 2023 (SL 2023/277).

2 Map

The plan must include a map or maps that include and show—

- (a) a scale not less than 1:10,000:
- (b) the record of title, the date, and a north arrow:
- (c) the external property boundaries within 200 m of the commercial forestry activity area:
- (d) the contour lines at intervals less than or equal to 20 m:
- (e) the erosion susceptibility classification (NЕСSF overlay map):
- (f) the location of any significant natural areas and vegetation clearance areas:
- (g) any water body or the coastal marine area, including—
 - (i) wetlands larger than 0.25 ha and lakes larger than 0.25 ha; and
 - (ii) rivers to their perennial extent; and
 - (iii) rivers where the bankfull channel width is 3 m or more; and

- (iv) any outstanding freshwater body or water body subject to a water conservation order; and
- (v) any setbacks from any identified water body or the coastal marine area:
- (h) any registered drinking water supply and any drinking water sources for more than 25 people within 1 km downstream of the commercial forestry activity:
- (i) the location of any forestry infrastructure, including existing and proposed—
 - (i) roads:
 - (ii) tracks:
 - (iii) landings:
 - (iv) firebreaks:
 - (v) river crossings (permanent and temporary):
 - (vi) fuel storage and refuelling sites:
 - (vii) end-haul deposit sites:
 - (viii) slash storage areas:
- (j) spatial information associated with the activity described under clause 3.

Schedule 6 clause 2: inserted, on 3 November 2023, by regulation 61 of the Resource Management (National Environmental Standards for Commercial Forestry) Amendment Regulations 2023 (SL 2023/277).

3 Activity

The plan must state—

- (a) the commercial forestry activity being undertaken; and
- (b) where the activity is taking place; and
- (c) when the activity will begin and end; and
- (d) how the activity is to be undertaken; and
- (e) the harvesting method, whether ground-based or hauler, or any other method, and the hauler system type; and
- (f) the planned timing, duration, intensity, and any proposed staging of the harvest.

Schedule 6 clause 3: inserted, on 3 November 2023, by regulation 61 of the Resource Management (National Environmental Standards for Commercial Forestry) Amendment Regulations 2023 (SL 2023/277).

4 Management requirements

Significant natural areas

- (1) The plan must describe—

- (a) how any significant natural area identified under clause 2(f) is to be avoided when undertaking a commercial forestry activity; and
- (b) the operational restrictions, including restrictions on afforestation or replanting, earthworks operations, or harvesting, as applicable, that will be used to ensure that no commercial forestry activity occurs within the significant natural area.

Water quality and sediment

- (2) The plan must identify, for sites with a water body, the risks from material that is mobilised, including woody debris, slash, or sediment, to the following if they are located downstream of the commercial forestry activity:
 - (a) public roads and other infrastructure:
 - (b) properties, including dwellings:
 - (c) rivers, lakes, estuaries, and the sea:
 - (d) drinking water supplies.

Erosion and sedimentation

- (3) The plan must include a description of the management practices that will be used to avoid, remedy, or mitigate erosion and sedimentation risks due to commercial forest harvesting. Those risks include risks relating to features that must be protected during the operation, including significant natural areas. The features must be mapped. The description must include, in sufficient detail to enable site audit of the management practices to be carried out,—
 - (a) the proposed erosion and sediment control measures to be used; and
 - (b) the situations in which they will be used.

Slash

- (4) The plan must describe the management practices that will be used to avoid, remedy, or mitigate risks relating to slash. Those risks include risks relating to features that must be protected during the operation, including significant natural areas. The features must be mapped. The management practices must include procedures for—
 - (a) avoiding instability of slash and the ground under slash piles at landings:
 - (b) keeping slash away from high-risk areas (no-slash zones):
 - (c) managing slash in the vicinity of waterways, including identifying any areas where it would be unsafe or impracticable to retrieve slash from water bodies:
 - (d) ensuring that slash is not mobilised in heavy rain events (5% AEP or greater) and contingency measures for such movement, including requirements for slash removal from streams and use of slash traps.

Indigenous birds

- (5) The plan must describe the procedures required by regulation 102(2), if applicable.

Fish species

- (6) The plan must include,—
- (a) with reference to the map, a description and the location of any relevant species identified—
 - (i) using the electronic tool referred to in item 9 of Schedule 2 (Fish Spawning Indicator); or
 - (ii) by a freshwater fish survey required by regulation 97(4)(b); and
 - (b) confirmation of areas where and periods when disturbance is not permitted; and
 - (c) procedures to avoid disturbance of a wetland or the bed, or vegetation in the bed, of a perennial river or lake, including sequencing of harvesting and earthworks and operational restrictions.

Other indigenous species of fauna

- (7) The plan must include procedures to—
- (a) identify any threatened or at-risk species of indigenous fauna present within the harvesting activity areas; and
 - (b) mitigate adverse effects on those species from the harvesting activity.

Schedule 6 clause 4: inserted, on 3 November 2023, by regulation 61 of the Resource Management (National Environmental Standards for Commercial Forestry) Amendment Regulations 2023 (SL 2023/277).

5 Plan information specification

The information required by clauses 1 to 4 must be submitted in a GIS-compatible format if requested by the relevant council.

Schedule 6 clause 5: inserted, on 3 November 2023, by regulation 61 of the Resource Management (National Environmental Standards for Commercial Forestry) Amendment Regulations 2023 (SL 2023/277).

6 Management practices for maintenance and monitoring

The plan must include—

- (a) the proposed routine maintenance and monitoring processes;
- (b) the proposed heavy rainfall contingency and response measures, including—
 - (i) specific triggers or thresholds for action; and
 - (ii) post-event monitoring and remedial works;
- (c) the post-harvest monitoring of residual risks, and the corrective action processes.

Schedule 6 **Resource Management (National Environmental
Standards for Commercial Forestry) Regulations 2017** Version as at
3 April 2024

Schedule 6 clause 6: inserted, on 3 November 2023, by regulation 61 of the Resource Management (National Environmental Standards for Commercial Forestry) Amendment Regulations 2023 (SL 2023/277).

Michael Webster,
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2019.
Date of notification in *Gazette*: 3 August 2017.

Rule 1

Subject to the following conditions the excavation and removal of up to 100 cubic metres per calendar year of river gravel from the dry part of any aggraded gravel beach⁹ in the bed of a river within the Bay of Plenty region is a **permitted activity**.

Conditions:

- (1) Notification shall be made in writing to the Group Manager, Regulation & Resource Management, Environment B·O·P at least 5 working days before any gravel excavation activities are undertaken. This notification shall include a statement containing the location of the site from where the gravel is to be excavated, the quantity of gravel to be excavated and the dates when the excavation activity is to be undertaken;
- (2) Gravel shall only be excavated from the dry parts of the gravel beach that are more than 0.3 metres above the level of the adjacent river at that time;
- (3) The excavation shall not leave holes in the riverbed at the end of each working day or leave stockpiles of gravel on the river bed on completion of the excavation activity;
- (4) Gravel shall not be taken within one metre horizontal distance from the river bank or otherwise weaken the flood control functions of that bank;
- (5) The gravel excavation shall not adversely affect river alignment or grade and shall not cause erosion or instability to the banks or the bed of the river. The activity shall not obstruct the free flow of water in such a manner where it results in a blockage, flooding or erosion;
- (6) Best management practices shall be applied so that vehicle crossings of the river are minimised and those that are essential are carried out in the least environmentally damaging manner;
- (7) Vehicle travel along riverbeds shall not involve any earthworks or vegetation removal;
- (8) Stream crossings (including culverts, culvert extensions, bridges and fords) required as part of any gravel excavation removal activity shall comply with the requirements of Section 10.5.6 of the Regional Land Management Plan;
- (9) Fuel and oil storage and machine refuelling shall not be undertaken on the bed of a river or in any other place where the spillage of these contaminants can enter into water;
- (10) All practicable measures shall be taken to avoid vegetation, soil, slash or any other debris being deposited in a water body or place in a position where it could readily enter or be carried into a water body;
- (11) The gravel excavation shall not adversely affect any significant ecological values; fish spawning and passage and bird nesting sites; and
- (12) The activities shall ensure the protection of any archaeological, historic, or waahi tapu sites;

⁹ Gravel beaches are raised areas where gravel has been deposited and occur predominantly on the inside of the elbows or bends in the river.

Activities shall immediately cease should any archaeological or historic site be discovered as a result of the activity, until appropriate authorisation is received.

Rule 2

Subject to the following conditions the excavation and removal of river gravel from, or where necessary it's placement on that part of the river bed not covered by water is a **permitted activity** provided it is undertaken by or on behalf of Environment B·O·P while exercising it's river management, flood protection or flood control functions under the Soil Conservation and Rivers Control Act 1941, for the purpose of achieving desired river meander pattern, location, alignment and bed grade.

Conditions:

- (1) The quantity of river gravel that may be excavated from or placed on any gravel beach¹⁰, that has a minimum natural bed¹¹ width of less than 25 metres in the vicinity of any part of that beach, shall not exceed 1,000 cubic metres provided that when that quantity is aggregated with the gravel that has been excavated under this Rule from any place in the bed of that river¹² during the previous 12 months shall not exceed 3,000 cubic metres;
- (2) The quantity of river gravel that may be excavated from or placed on any gravel beach¹⁰, that has a minimum natural bed¹¹ width equal to or greater than 25 metres in the vicinity of any part of that beach, shall not exceed 2,500 cubic metres provided that when that quantity is aggregated with the gravel that has been excavated under this Rule from any place in the bed of that river¹² during the previous 12 months shall not exceed 7,500 cubic metres;
- (3) Notification shall be made in writing to the Group Manager, Regulation & Resource Management, Environment B·O·P at least 5 working days before any gravel excavation activities are undertaken. This notification shall include a statement containing the location of the excavation site, the quantity of gravel to be excavated and the dates when the excavation is to be undertaken. Prior to any gravel excavation being undertaken under this rule, the person carrying out the activity will advise the Department of Conservation, Eastern Region Fish and Game Council and any relevant river scheme liaison committee, relevant iwi authority or any other party Environment B·O·P considers are affected, of the proposed gravel excavation activity;
- (4) Within ten working days of the end of every month during which gravel excavation activities are undertaken accurate records of the quantity of material excavated from the river system shall be supplied to the Group Manager, Regulation & Resource Management, Environment B·O·P;

¹⁰ Gravel beaches are raised areas where gravel has been deposited and occur predominantly on the inside of the elbows or bends in the river.

¹¹ See definition of the bed of a river in the Glossary. "Natural" implies that the bed is not artificially widened or narrowed. For example artificial narrowing could result from the construction or placement of a bridge abutment.

¹² Rivers in condition (1) and (2) above apply to those named and identified on the NZMS 260 1:50,000 mapping series.