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# 1 Introduction

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1.1 Waka Kotahi - NZ Transport Agency (Waka Kotahi) is at the stage of undertaking an investigation into options for the alignment of the Ōtaki to North of Levin (O2NL) new state highway. The new state highway runs from the northern end of Taylors Road, Ōtaki, PP20, down to the northern side of Levin.

1.2 The Waka Kotahi Board approved the O2NL corridor plan allowing for access options at:

1.2.1 North Ōtaki - north and southbound connections to the new state highway and local access across the new state highway and rail corridor.

1.3 As part of the scoping stage of the O2NL project, Waka Kotahi has requested<sup>1</sup> a Cultural Impact Assessment (CIA) from the tāngata whenua<sup>2</sup> of the Project Area. The tāngata whenua are Nga Hapū-o-Ōtaki (NHoO) which comprises the 5<sup>3</sup> Ōtaki resident Ngāti Raukawa hapū.

1.3.1 In the Muriwhenua Lands Report 1999, the Waitangi Tribunal stated that “the political units of Māori society were the descent groups called hapū.”<sup>4</sup>

1.3.2 For this CIA the area covered is from Taylor’s Road, Ōtaki inclusive of the old māori “parent” land block titles:

1.3.2.1 Pukehou 1.

1.3.2.2 Pukehou 4.

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<sup>1</sup> see SFC 6149

<sup>2</sup> RMA 1991, Part 1 Interpretation and application, tangata whenua, in relation to a particular area, means the iwi, or hapu, that holds mana whenua over that area.

<sup>3</sup> Ngāti Huia ki Katihiku, Ngāti Pare, Ngāti Koroki, Ngāti Maiotaki and Ngāti Kapu.

<sup>4</sup> Waitangi Tribunal, Muriwhenua Lands Report, Wai 45, 1999, page 28-29.

### 1.3.2.3 Pukehou 5<sup>5</sup>

and to top of Pukehou SH1 south of Aitken Road, Manakau, contiguous with

### 1.3.2.4 Manawatu-Kukutauaki 4A<sup>6</sup>

1.3.3 NHoO has been intimate with this project since 2011. At that time Waka Kotahi consultants were MWH. The project stalled but work has been completed on the Whirokino bridge and Waitarere Curves. In 2018 O2NL was re-evaluated and fitted governments priorities and the green light given in 2021<sup>7</sup>. Since then there has been community engagement and whanau/hapū/iwi collaboration

## 2 Objectives

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2.1 The objectives of this assessment are:

2.1.1 To document the cultural significance of the areas within which the O2NL is proposed, including the specific cultural values that maybe affected.

2.1.2 To identify appropriate measures to avoid, remedy or mitigate, where practical, any adverse effects of the O2NL alignment option on cultural values.

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<sup>5</sup> See CFRT CAMR\_038\_Pukehou\_2ndOrderPartitions APPENDIX A.

<sup>6</sup> See APPENDIX B.

<sup>7</sup> <https://createsend.com/t/t-C7BF519AB36145C12540EF23F30FEDED>

### 3 Ngāti Toa<sup>8</sup> Relationship to Rangitīkei, Manawatū and Horowhenua Districts

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3.1 The history of the land that comprises O2NL commences with the Ngāti Toa raupatu<sup>9</sup> that was led principally by Te Rauparaha, who was also Ngāti Raukawa. However, the leading Ngāti Toa rangatira, namely Te Rauparaha, Te Rangihaeata, Tungia, Te Rako, Te Kakakura, Hiroa, Nohorua, Puaha, Tamaihengia and others had already travelled to Te Upoko-o-te-Ika [Wellington] with a joint Nga Puhi and Ngāti Whatua taua<sup>10</sup> led by Tuwhare and Murupaenga.<sup>11</sup> Ngāti Toa saw the south as an option for them, following the hostilities that were taking place in their home territory of Kawhia. Ngāti Toa first arrived in Rangitīkei, Manawatū and Horowhenua circa 1818. After defeating<sup>12</sup> Rangitāne, Muaūpoko and Ngāti Apa the mana of Ngāti Toa extended from the Whangaehu River in the north to Te Koko-a-Kupe<sup>13</sup> in the south.

3.2 The establishment of Ngāti Toa mana whenua in this narrative is crucial because it allowed Ngāti Toa to exercise the tikanga of “tuku whenua”.<sup>14</sup>

### 4 Attempt by Muaūpoko, Ngāti Apa and Rangitāne to Regain their Mana

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4.1 The battle of Waiorua<sup>15</sup> took place on Kāpiti Island. The year is somewhat unclear; however, Jock McEwen in his book Rangitāne suggests that it might have

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<sup>8</sup> Ngāti Toa also means Ngāti Toa Rangatira.

<sup>9</sup> Raupatu = conquest, conquer, overcome or rau = 100, patu = strike.

<sup>10</sup> Taua = war-party

<sup>11</sup> P Burns, Te Rauparaha: A New Perspective, (Reed, Wellington, 1980) page 55–63.

<sup>12</sup> Biggs B, 'Letters from Ngati Toa chiefs at Porirua to Sir George Grey. Takapuwahia, December 11th 1851 ...' Journal of the Polynesian Society, 1959, Vol 68, page 262-276.

<sup>13</sup> Cloudy Bay, South Island.

<sup>14</sup> Tuku whenua = gifted land(s).

<sup>15</sup> Also known as Whakapaetai and Umupakaroa [ie Umu=oven, paka = crisps or cooked consumerables, roa=long] Carkeek, page 18. See Ngarongo Iwikatea Nicholson brief of evidence 11 June 2003 Wai207/Wai785.

taken place in the year 1824.<sup>16</sup> This particular battle has long been recognised as the final act that saw the subjugation of the tribes that had lived in the Rangitīkei, Manawatū and Horowhenua districts prior to the heke<sup>17</sup> of Te Rauparaha and Ngāti Toa and the subsequent Ngāti Raukawa heke. For Muaūpoko, Rangitāne and Ngāti Apa it was their last opportunity under tikanga Māori,<sup>18</sup> to attack and defeat Te Rauparaha and Ngāti Toa, thereby restoring their mana<sup>19</sup> in the Rangitīkei, Manawatū and Horowhenua districts. However, this was not to be, as the eminent 19th century lawyer, magistrate, politician and naturalist William Travers<sup>20</sup> wrote:

4.1.1 “... The result was in every way advantageous to his [Te Rauparaha] people, for no further attempt was ever made to dislodge them [Ngāti Toa], whilst they, on the other hand, lost no opportunity of strengthening their position and of wreaking vengeance on the Ngatiapa, Rangitane, and Muaupoko, the remnant of whom they ultimately reduced to the condition of the merest tributaries, many of the leading chiefs, including Te Hakeke<sup>21</sup>, becoming slaves.<sup>22</sup> It would be useless for me to give anything like a detailed account of the incursions of the Ngatitōa into the country on the main land, often extended as far as Turakina, in which numbers of the original inhabitants were killed, eaten, or reduced to slavery; but it is perfectly clear that their power was completely broken, and that after Waiorua, the Ngatitōa and their allies found no enemy capable of checking their movements ...”<sup>23</sup>

4.2 The eminent historian, journalist, and politician Thomas Buick<sup>24</sup> also wrote about the battle of Waiorua, that,

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<sup>16</sup> JM McEwen, *Rangitane: A Tribal History*, (Heinemann, Auckland, 1990) page 131.

<sup>17</sup> Heke = migration.

<sup>18</sup> Tikanga Māori = customs.

<sup>19</sup> Mana = authority.

<sup>20</sup> William Thomas Locke Travers 1819-1903 see DNZB Vol. I pages 547-548.

<sup>21</sup> <https://nzhistory.govt.nz/politics/treaty/signatory/8-87> ; <https://www.kapiticoast.govt.nz/whats-on/things-to-do-in-kapiti/heritage-trail/otaki-and-te-horo/pukehou/>

<sup>22</sup> S Percy Smith, *History and Traditions of the Taranaki Coast* (Reprint Capper Press Ltd, Christchurch, 1984) pages 398–399.

<sup>23</sup> WTL Travers, *Some Chapters in the Life and Times of Te Rauparaha: Chief of the Ngatitōa*, (Capper Press, Christchurch, Reprint 1975) page 51.

<sup>24</sup> Thomas Lindsay Buick 1866-1938 see DNZB Vol. III pages 76-77.

4.2.1 “[t]hus the largest force which had ever been marshaled during the Maori wars along this coast was defeated by one of the smallest ...”<sup>25</sup>

After the battle of Waiorua, Te Rauparaha and Ngāti Toa held mana whenua over the area from the Whangaehu River in the north to Turakirae in the south. This victory was a final emphatic statement of their mana whenua in this region. Ngāti Apa, Muaūpoko, Rangitāne or any other iwi collectively or individually from this time, never again attempted to regain their mana under tikanga Māori.

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4.4 The battle of Waiorua was also known by the names of Whakapaetai and Te Umu-paka-roa.<sup>27</sup> As part of colonisation, tāngata whenua history was sanitised. An example of this is the Battle of Waiorua when in fact Te Umu-paka-roa accurately describes the result for the Ngāti Toa winners.

4.4.1 Umu = oven

4.4.2 paka = dried, baked, scraps

4.4.3 roa = long (of time).

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<sup>25</sup> TL Buick, *An Old New Zealander*, (Whitcombe & Tombs, 1911) page 102.

<sup>26</sup> HNZPT Act 2014 tāngata whenua means, in relation to a particular place or area, the iwi or hapū that holds, or at any time has held, mana whenua in relation to that place or area; so, iwi or hapū who have lost their mana under tikanga Māori can participate in any archaeological work because their mana is recognised by kawanatanga.

<sup>27</sup> A Shand, 'The Occupation of the Chatham Islands by the Maoris in 1835' *Journal of the Polynesian Society*, Vol 1, 1892, page 87.



## 5 Ngāti Raukawa Relationship to the Land from Whangaehu to Kuketauaki: He Take Tuku Whenua

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5.1 Immediately after the battle of Waiorua victory by Te Rauparaha, Ngāti Toa and Ngāti Tama, the Ngāti Raukawa heke began from Maungatautari.<sup>28</sup>

5.2 However, some of the Ngāti Tama whānau of Te Rauparaha returned to their homeland in the Taranaki. This left Te Rauparaha vulnerable to counterattack. It was Te Pūoho who fetched from Taranaki a considerable number of fighting men. The Ngāti Raukawa hapū Ngāti Whakaterere who were resident at Whanganui, also joined this party. An additional Ngāti Raukawa force (Heke Karere) under Te Ahu Karamū and others strengthened the position of their kinsman Te Rauparaha and Ngāti Toa.<sup>29</sup>

5.3 The Heke Karere was raised because Ngāti Raukawa had heard that their whanaunga Te Rauparaha had been killed. Therefore, under the bonds of whanaungatanga Ngāti Raukawa had to come to Kāpiti Island to investigate. At that time two houses were built on Kāpiti Island. One house was for Te Rauparaha named Te Umu-ki-Ohau and the other for Te Rangihaeata named Te Umu-ki-Whanganui.<sup>30</sup> These houses were built to excite Ngāti Raukawa into raising a “ngare taua”.<sup>31</sup> Ngāti Raukawa were invited by Te Rauparaha to come to the south for the purpose of assisting in utu “on account of the murders at night of his whānau by Muaūpoko at Te Wi and Ōhau.”<sup>32</sup> The Māori term for this particular invitation was “whakataka taua” which means assemble a war party. Waitohi, an elder sister of Te Rauparaha, was instrumental in persuading and securing Ngāti Raukawa acceptance. Therefore, with agreement being reached by all parties;

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<sup>28</sup> Near Cambridge in the Waikato district

<sup>29</sup> WTL Travers, *The Stirring Times of Te Rauparaha: Chief of the Ngatitooa*, (Whitcombe and Tombs Ltd, Christchurch) page 116.

<sup>30</sup> Kāpiti Island case, *Otaki Minute Book* [“OMB”] [1874] 2 page 436, evidence of Matene Te Whi.

<sup>31</sup> Ngarongo Iwikatea Nicholson, kaumatua Ngāti Raukawa and Ngāti Toa.

<sup>32</sup> Manawatu-Kuketauaki case, *OMB* [1872-1873] 1 page 145.

5.3.1 "Te Rauparaha gave the land to Ahukaramu, Kuruho, & Tuhainuku this land was between Otaki on one side & Wangaehu the other."<sup>33</sup>

5.4 As with all requests or invitations a gift was always given and, in this instance, *tuku whenua*.

5.5 After the Heke Karere there were three other major migrations:

5.5.1 Te Heke Whirinui 1826.

5.5.2 Te Heke Kariritahi 1827.

5.5.3 Te Heke Mairaro 1828.<sup>34</sup>

5.6 On 4 July 1867 Parakaia Te Pouepa of Ngāti Raukawa wrote extensively on the major events that confirmed Ngāti Raukawa mana in the Rangitīkei, Manawatū and Horowhenua districts. Parakaia cites 1831 as the year in which Ngāti Raukawa gained the mana of the land:

5.6.1 "... Ko taua whenua kua riro noa mai ia matou i te rau o te patu o Ngati Raukawa i te tau 1831 ..."

"... This land came into the possession of Ngati Raukawa through conquest, in the year 1831 ..."<sup>35</sup>

5.7 On the 14 June 1843 George Clarke Chief Protector of Aborigines reported to the colonial secretary:

5.7.1 "... [t]he Ngatiraukawa migrated about 11 years ago in a large body from Maunga Tautari, in the Waikato district, through the invitation of Te

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<sup>33</sup> Ibid. pages 145-146.

<sup>34</sup> Ngarongo Iwikatea Nicholson, kaumatua Ngāti Raukawa and Ngāti Toa.

<sup>35</sup> Petition from Parakaia Te Pouepa to Queen Victoria, 4 July 1867. Bishop Selwyn papers, Waikato University Library.

Rauparaha, and completed the conquest of the country from Wangaihu to Otaki, completely annihilating the original tribes that Te Rauparaha had not reduced to subjection

...”<sup>36</sup>

5.8 On 4 July 1867 Parakaia Te Pouepa of Ngāti Raukawa wrote extensively on the major events that confirmed Ngāti Raukawa mana in the Rangitīkei, Manawatū and Horowhenua districts. Parakaia cites 1831 as the year in which Ngāti Raukawa gained the mana of the land:

5.8.1 “... Ko taua whenua kua riro noa mai ia matou i te rau o te patu<sup>37</sup> o Ngati Raukawa i te tau 1831.”<sup>38</sup>

5.9 Ngāti Raukawa came to the Rangitīkei, Manawatū and Horowhenua districts under the tikanga of whakataka taua. The customary payment in this case by Te Rauparaha and Ngāti Toa, which accompanied this tikanga, was made in the form of “gifting” part of the conquered lands. However, the various heke of Ngāti Raukawa to his area unequivocally did not have free passage to the conquered lands, therefore, the principles of raupatu were affected by Ngāti Raukawa on the local iwi. These actions combined with the actions of Te Rauparaha and Ngāti Toa clearly established Ngāti Raukawa mana whenua in 1840 to the rohe of Whangaehu and Kuketauaki.

5.10 Featherston reported in 1867 to Richmond that:

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<sup>36</sup> BPP NZ 2, Appendix 9, page 350.

<sup>37</sup> Rau-o-te patu = Rau is a 100 patu is to hit! commonly known by kawanatanga as Raupatu that is sanitised to conquest.

<sup>38</sup> Petition from Parakaia Te Pouepa to Queen Victoria, 4 July 1867. Bishop Selwyn papers, Waikato University Library. Translation: “...This land came into the possession of Ngati Raukawa through conquest, in the year 1831 ...”

5.10.1 “I beg to furnish also (Enclosure 4) a brief sketch, by Mr. Buller, of the migration and conquest upon which the Ngatiraukawa claims chiefly rests.”<sup>39</sup>

## 6 Kawanatanga 1840-1862

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6.1 Prior to and between the period 1840-1862 agreements between the conqueror and the conquered of the Rangitīkei, Manawatū and Horowhenua districts were made. This is not an unusual tikanga.

6.2 However, over the passage of time the native<sup>40</sup> land court, the conquered iwi, the Crown, and some non-Māori historians have interpreted this tikanga to mean that Ngāti Raukawa did not conquer the local iwi. Without going into another historical narrative, Ngāti Raukawa simply states that raupatu did occur.

6.3 Article II of te Tiriti o Waitangi guaranteed Māori:

6.3.1 “the full, exclusive, and undisturbed possession of their lands and estates, forests, fisheries, and other properties which they may collectively or individually possess, so long as it is their wish and desire to retain the same in their possession; but the Chiefs of the United Tribes and the individual Chiefs yield to Her Majesty the exclusive right of pre-emption over such lands as the proprietors thereof may be disposed to alienate, at such process as may be agreed upon between the respective proprietors and persons appointed by Her Majesty to treat with them in that behalf.”

6.4 Ngāti Raukawa understands Article II to mean that the Crown had first purchase option (pre-emption) on those lands, which might or may not be required

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<sup>39</sup> Featherston to Hon Richmond, 27 July 1867, Enclosure No 4, H.H. Turtons (ed), Maori Deeds of Land Purchases in the North Island of New Zealand vol 2, Provinces of Taranaki, Wellington, and Hawkes Bay (Government Printer, Wellington, 1878) microfiche number 8.

<sup>40</sup> Native was removed from kawanatanga pursuant to Māori Purposes Act 1947.

for their use. However, one Tiriti partner being the Crown under its Article I right implemented legislation without consultation with its other Tiriti partner.

6.5 For example, the:

6.5.1 “office of Native Secretary that replaced the Protector of Aborigines was a clerical position without statutory powers or delegated authority. The various Secretaries’ work was mainly to promote land purchase, though they also arranged hospitality for visiting chiefs and settled disputes as they moved through the country during their land purchase negotiations. In addition, Grey created a series of Native Land Purchase Commissioners and eventually made Donald McLean, formerly of the Protectorate Department, the Chief Land Purchase Commissioner in 1850.”<sup>41</sup>

6.6 The role of these offices was not to wait for Māori to decide when to exercise the pre-emption right but to actively pursue, promote and cajole land purchases.

6.7 Another example was the creation of the Native Land Court. The procedures to set up a Native Land Court were created by statute with the introduction of The Native Lands Act 1862. However, the Native Land Court was finally formed with the introduction of The Native Lands Act 1865.

6.8 For iwi Māori within the Rangitīkei, Manawatū and Horowhenua districts this new tikanga was to affect all. More so Ngāti Raukawa the conqueror had to compromise their tikanga to combat their Tiriti partner’s new tikanga. Sian Elias is cited in the 1992 Mohaka River claim, that it is:

6.8.1 “important to recognise that Māori cultural precepts of hospitality and sharing are not to be seen as a relinquishment of ‘ownership’ but as an exercise of rangatiratanga.”<sup>42</sup>

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<sup>41</sup> GV Butterworth Maori Affairs A Department and the People (Iwi Transition Agency, Government Print, Wellington, 1990) page 25.

<sup>42</sup> Waitangi Tribunal Report 1992, 6 WTR 62, page 55.

6.9 Furthermore, in the 2002 Office of Treaty Settlements report stated that:

6.9.1 “The denial of Raukawa’s right through conquest helped to defuse a potentially violent confrontation between the opposing tribes in the region. The apparently illogical denial of rights to those groups who had ‘acquiesced’ in Raukawa’s arrival reflected the Court’s emphasis on continued occupation/residence up to the present time.”<sup>43</sup>

6.10 Therefore, not a truer statement was ever made regarding the establishment of the MLC. For one thing the MLC individualised traditional communal title and on the other it became or.

6.10.1 “seemed the most expedient way of bringing Māori land on to the [open] market.”<sup>44</sup>

This is exactly the case for the Pukehou Blocks.<sup>45</sup>

6.11 For iwi Māori within the Rangitīkei, Manawatū and Horowhenua districts this new tikanga was to affect all. Moreso Ngāti Raukawa the conqueror had to compromise tikanga Māori to combat their Tiriti partners new tikanga.

## 7 New Zealand Company 1839-1850<sup>46</sup>

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7.1 The New Zealand Company (NZC) sailed from England in the “Tory” and landed off Kāpiti Island on the 16 October 1839. This then is the “settler invasion”.

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<sup>43</sup> Iwi Interests in the Manawatu, c.1820-c.1910, A report for the Office of Treaty Settlements, Dr Diana Morrow, May 2002, page 56.

<sup>44</sup> George Asher and David Naulls Maori Land (New Zealand Planning Council, Wellington, March 1987) page 29.

<sup>45</sup> See chapter 9.

<sup>46</sup> In 1850 the NZC surrenders its charter to the Crown. The Crown now inherits all the land orders and scrip it promised the company.

7.2 On the 25 October 1839 the NZC transacted a land deed, which conveyed to the company, a large tract of land from the 43rd parallel in the South Island to a point north of the Whanganui River mouth. Nine Ngāti Toa chiefs signed the deed. Te Rauparaha who was also Ngāti Raukawa was one of the signatories.

7.3 In November 1839 the NZC<sup>47</sup> recorded the population of the area as follows:

Name of place of residence	Collective name of tribe	Specific name of tribe	Number
Otaki	Ngatirocowa	Ngatirocowa	1000
Manawetu	Kafia	Panahida	100
Wanganui	Wanganui	Wanganui	1500

7.4 It is interesting to note there were no other iwi recorded inland between Ōtaki and Whanganui. Ngāti Raukawa states that the original iwi were at this time hiding in the Tararua's<sup>48</sup> and under the protection of Te Whatanui<sup>49</sup> a principal Ngāti Raukawa chief.

7.5 Because of the Hutt incident<sup>50</sup> the NZC on the 22 July 1843 interviewed Te Rauparaha and Ngāti Raukawa in Ōtaki.<sup>51</sup> At the same time it was publicly announced that Commissioner Spain was about to hold his court in Manawatū.

7.6 This chapter indicates that land transactions within the Kāpiti, Horowhenua and Manawatū districts in the period 1839-1845, were solely between the NZC and mana whenua, Ngāti Raukawa.

## 8 Native Secretary Report 1850<sup>52</sup>

8.1 In 1850 the Native Secretary H. Tacy Kemp commented on Ōtaki as follows:

<sup>47</sup> New Zealand Company Report Number 12 in Vol Two, Appendix F, page (129F) 433.

<sup>48</sup> BPP NZ 2, Appendix 9, page 351.

<sup>49</sup> Te Hekenga pages 5-20.

<sup>50</sup> R Grover, *The Cork of War Ngati Toa and the British Mission, an Historical Narrative* (John McIndoe, Dunedin, 1982).

<sup>51</sup> New Zealand Company Report Number 12 in Vol Two, Appendix H, page (85H) 555.

<sup>52</sup> NZ Gazette, Province of New Munster, Vol III, No. 16., Wellington, 24 August 1850.

8.1.1 “Distant from Waikanae about 10 miles, beach road, is situated about two miles inland, and is the head quarters of the tribe commonly called Ngatiraukawa. Otaki, I think, is the best specimen of anything like a new or regular system of Maori settlement anywhere to be found in New Zealand ... There are also two water-mills in progress of erection. One of them, the property of the Catholic natives, is now nearly completed; the cost of which, I am told, will not be less than 800l. These two mills completed, they will be, in point of comfort and actual wealth, better off than any natives I know, and the consumption of flour much more general than it is now. They have also near 100 head of cattle, well selected, and in good condition. Total native population, 664.”

8.2 This 1850 native secretary report indicates the building of two flour mills in Ōtaki. One mill for Ngāti Raukawa who were predominately Anglican, was beside the Haruatai Stream and now commemorated by the naming of Mill Road. The other mill by Ngāti Kapu whom embraced katorikitanga, was near the ‘old course’ of the Waitohu Stream on the former MLC title, Waitohu 11C3.

## **9 Manawatū-Kukutauaki Native Land Court Case 1872-1873**

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9.1 The native land court opened on the 5 November 1872 at Foxton. The claimants were Ngāti Raukawa and their co-claimants were Ngāti Toa and Te Āti Awa. Hare Wirikake was their representative and Mr. Buckley their unofficial legal adviser.

9.2 The counterclaimants being firstly represented by Major Kemp were Muaūpoko, Rangitāne, Ngāti Kahungunu, Ngāti Apa and Whanganui. However Major Kemp.



9.2.1 “stated that Hoani Meihana would conduct their case as he did not feel he could do so.”<sup>53</sup>

Mr. Cash was their unofficial legal adviser. Witnesses for the counterclaimants were Hoani Meihana (Rangitāne), Major Kemp (Whanganui), Kawana Hunia (Whanganui), Peeti Te Awe Awe (Rangitāne), Hamuera Te Raikokirikiri (Ngāti Apa), Hakaraia Rangipouri (Ngāti Apa ki Rangitikei), Kerei Te Panau (Ngāti Apa ki Rangitikei), Karaitiana Korouoterangi (Wairarapa), Matiaha Mokai (Wairarapa) and Ihaia Whakamairu (Wairarapa). Their case closed on the 30 November 1872. Ngāti Raukawa opened their case on the 2 December 1872 and finished on the 9 December 1872. Witnesses for the claimants were Ihakara [Tukumaru]<sup>54</sup>, Matene Te Whiwhi<sup>55</sup>, Rev. Henare Te Herekau,<sup>56</sup> Huru Te Hiaro (Rangitāne), Francis Robinson (lessee), Thomas Upperdine Cook (settler).

The claimants and the counterclaimants presented their closing submissions to the presiding judge on the 9 December 1872. The case was then adjourned, and judgement delivered on the 4 March 1873 at Foxton. An extract of the judgement reads:

9.2.2 “[t]hat sections of the Ngatiraukawa Tribe have acquired rights over the said block which according to Maori custom and usage constitute them owners thereof (with certain exceptions) together with Ngatitōa and Ngatiawa whose joint interest therein is admitted by the claimants.

That such rights were not acquired by conquest but by occupation with the acquiescence of the original owners.

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<sup>53</sup> Manawatu-Kukutauaki case OMB1[1872-1873] page 20

<sup>54</sup> Tiriti o Waitangi signatory.

<sup>55</sup> Tiriti o Waitangi signatory.

<sup>56</sup> Created a Deacon in 1871, E Ramsden, Rangiatea: The Story of the Otaki Church its First Pastor and its People, (Reed, Wellington, 1951) page 297.

That such rights had been completely established in the year 1840 at which date sections of Ngatiraukawa were in undisputed possession of the said Block of land excepting two portions thereof viz.

1. A portion of the Block the boundaries whereof are not yet defined situate at Horowhenua claimed by Muaupoko Tribe of which they appear to have retained possession from the time of their ancestors and which they continue to occupy.

2. A portion of the Block at Tuwhakatupua on the Manawatu River (boundaries not defined) claimed by a section of the Rangitane Tribe whose interest therein is admitted by the claimants and The court finds That the Ngatiapa, Whanganui and Ngāti Kahungungu Tribes have no separate Tribal rights as owners of any portion of the said Block nor any interest therein beyond such as may avail from connection with the Muaupoko residents at Horowhenua.

That the Rangitane as a Tribe have no rights as owners of any portion of the said Block nor any interest therein beyond such as may arise from connection with Muaupoko resident at Horowhenua or with that section of Rangitane whose claims at Tuwhakatupua are admitted by the claimants.”<sup>57</sup>

9.3 In the August 1996 Waitangi Tribunal commissioned Rangahaua Whanui District 12 report for the Wellington District, Dr Robyn Anderson and Keith Pickens concluded that:

9.3.1 “Yet while the Kukuatuaki decision contained a measure of justice, and some commonsense, it does appear to be a contrived judgment, based on a far-fetched interpretation of the historical evidence. To say that the original inhabitants of Kukutauaki were never conquered seems wrong; to say that Ngati Raukawa did not conquer the land may be historically correct; to say

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<sup>57</sup> Manawatu-Kukutauaki case OMB1[1872-1873] pages 176-178

that they occupied the land with the ‘acquiescence of the original owners’, is, however, to deny the historical realities.”<sup>58</sup>

9.4 The result for Ngāti Raukawa was that they were declared the owners under the new tikanga pākehā of the block except a portion known as Tūwhakatupua and Horowhenua.

## 10 Ngāti Raukawa use of the Manawatū-Kukutauaki Block

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10.1 With Ngāti Raukawa now having clear title to the Manawatū-Kukutauaki Block excepting Tūwhakatupua and Horowhenua, they set about under the new tikanga pākehā subdividing the block into Ngāti Raukawa whānau/hapū/iwi entitlements.

10.2 The former MLC block(s) that encompasses O2NL within the rohe of NHoO is Pukehou that was formally known as Manawatū-Kukutauaki No 1.<sup>59</sup> The parent block Pukehou, comprising 15,000 acres more or less came before the “combative” crown processes, the MLC, on the 10 April 1873.

10.3 In the 1873 judgement, the Pukehou block was subdivided into:

10.3.1 Pukehou 1, 4,077 acres more or less; owners appointed.

10.3.1.1 Eru Tahitangata, Tereturu, Akapita Tahitangata, Haikema Te Raika, Te Hiwi, Aterea, Te Teira, Kipa Pataua & Te Wiata.<sup>60</sup>

10.3.2 Pukehou 2, 1,685 acres; owners appointed.

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<sup>58</sup> Dr Robyn Anderson and Keith Pickens Rangahaua Whanui District 12 Wellington District: Port Nicholson, Hutt Valley, Porirua, Rangitikei, and Manawatu (Waitangi Tribunal, August 1996) page 201.

<sup>59</sup> Name allocated to lands around Shannon.

<sup>60</sup> OMB2[1873] page 183.

10.3.2.1 Tiemi Ranapiri, Enoka Te Wano, Karanama Whakaheke, Riria Ranapiri, Tamati Ranapiri, Arihia Wehipeihana, Mohi Heremia, Tamihana Hotene, Taniera Rehua & Raureti Te Putu.<sup>61</sup>

10.3.3 Pukehou 3, 1,685 acres; owners appointed.

10.3.3.1 Aterea Te Waha, Te Raiti Tonihi, Akapita Tewe, Hoani Te Matepu, Heremaia Ngato, Ngarati Te Tewe, Hohepina Parakipane, Naihi Pekeia, Tame Tima & Pene Te Hapupu.<sup>62</sup>

10.3.4 Pukehou 4, 4,077 acres more or less; owners appointed.

10.3.4.1 Eruera Tahitangata, Hemi Ranapiri, Akapita Te Tewe, Kararama Te Whakaheke, Enoka Te Wano, Tamati Ranapiri, Aterea Te Waha, Aterea Tauehe, Mohi Heremia & Riria Tiemi.<sup>63</sup>

10.3.5 Pukehou 5 judgement, was as follows;

10.3.5.1 “...A Certificate of Title for the Northern portion [became Pukehou 1, 2 and 3] may be made in favor of N’Kapu and for the Southern portion [became Pukehou 5] in favor of Ngatipare and Ngatikauwhata...”<sup>64</sup>

and memorial of ownership in the name of Hema Te Ao.<sup>65</sup>

10.4 In 1875<sup>66</sup> the crown purchased<sup>67</sup> three [referred to 10.3. above] of these blocks.

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<sup>61</sup> OMB2[1873] page 183.

<sup>62</sup> OMB2[1873] page 184.

<sup>63</sup> OMB2[1873] page 200.

<sup>64</sup> OMB2[1873] pages 178-179.

<sup>65</sup> OMB2[1873] page 365.

<sup>66</sup> [http://www.nzlii.org/nz/legis/hist\\_act/iapwa187033a34v1870n77428/](http://www.nzlii.org/nz/legis/hist_act/iapwa187033a34v1870n77428/)

<sup>67</sup> <https://paperspast.natlib.govt.nz/imageserver/parliamentary/P29pZD1BSkhSMTg3Ny1JLjEuMTQ3OCZnZXRwZGY9dHJ1ZQ==>

10.4.1 Pukehou 1, 2,123 acres more or less<sup>68</sup> and were declared crown “Waste Lands<sup>69</sup>” in 1880 and on sold to the Wellington-Manawatū Railway Company.<sup>70</sup>

10.4.2 Pukehou 2, 2,086 acres more or less<sup>71</sup> and were declared crown “Waste Lands” in 1880 and on sold to the Wellington-Manawatū Railway Company.

10.4.3 Pukehou 3, 2,050 acres more or less<sup>72</sup> and were declared crown “Waste Lands” in 1880 and on sold to the Wellington-Manawatū Railway Company.

However, title was not granted until the 1880’s.

10.5 Pukehou 4 came up for subdivision on the 20 October 1881<sup>73</sup> on the back of previous 1870’s crown negotiations, to give a crown grant in one hand to facilitate the immediate sale on the other. Therefore, the Government was claiming 926 acres 1 perch, through its representative Mr. Booth who:

10.5.1 “...applied to have the Governors interest defined – for the purpose of facilitating the negotiations for a subdivision of the said land into ten portions, with respect to the list of names handed in, I wish those names to be entered in the order.<sup>74</sup>

10.5.1.1 Dr Buller for Eru Tahitangata.

10.5.2 A discussion having occurred the case was adjourned temporarily.<sup>75</sup>

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<sup>68</sup> Wellington Deed 451 dated 4 February 1875 [Turtons No 35] Pukehou No 1.

<sup>69</sup> Waste Lands Act 1858.

<sup>70</sup> as well as part Pukehou 4, part Pukehou 5A, Pukehou 5B, 5C, 5D and 5E;  
[https://en.wikipedia.org/wiki/Wellington\\_and\\_Manawatu\\_Railway\\_Company](https://en.wikipedia.org/wiki/Wellington_and_Manawatu_Railway_Company)

<sup>71</sup> Wellington Deed 452 dated 4 February 1875.

<sup>72</sup> Wellington Deed 222 dated 4 February 1875 [Turtons No 36] Pukehou No 3.

<sup>73</sup> OMB5[1881] pages 208-209, 239-240, 242-244, 252-254, 257-261; map ML367.

<sup>74</sup> OMB5[1881] page 208.

<sup>75</sup> OMB5[1881] page 208.

10.6 The sitting reconvened the next day, 21 October 1881.

10.6.1 Enoka Te Wano, Pape aka Robert Ransfield and Hema Te Ao [Ngāti Pare] appeared and objected to the award of Pukehou 4 to Eru Tahitangata.

10.6.1.1 The case was again adjourned.<sup>76</sup>

10.6.1.2 The sitting reconvened on the 24 October 1881.<sup>77</sup>

10.6.1.3 There were still objections, and the case was again adjourned, but for a few hours.

10.6.1.4 Eru Tahitangata spoke and asked he and his whānau be placed in the block being negotiated with the crown on his agreement that they would vacate the rest of the block. No further objections and the block was thereby awarded to Eru<sup>78</sup> for transfer to the crown.<sup>79</sup>

10.6.2 This block became Pukehou 4A containing 926 acres more or less; Eru stated.

10.6.2.1 I know the land before the court it has been awarded to me by the court. I have sold it to the Crown all my title interest within block. Deed produced 26 Oct 1881 – I signed that deed – the signature on the deed is mine.<sup>80</sup>

10.6.2.1.1 Thereby, the crown purchased part Pukehou 4A, comprising 926 acres. It was subsequently declared crown “waste lands” in 1881 and sold to the Wellington-Manawatū Railway Company.

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<sup>76</sup> OMB5[1881] page 209.

<sup>77</sup> OMB5[1881] page 239.

<sup>78</sup> See 5.9.1.

<sup>79</sup> OMB5[1881] page 242 paragraph 9.4.

<sup>80</sup> OMB5[1881] page 256.

10.6.3 However, 240 acres more or less was set aside as a “Native Reserve”<sup>81</sup> and became subdivision Pukehou 4A1, that included the hill “Pukehou”<sup>82</sup>.

10.7 On the 24 October 1881 Pukehou 4 was subdivided<sup>83</sup> as follows:

10.7.1 Part Pukehou 4A.<sup>84</sup>

10.7.2 Pukehou 4B.<sup>85</sup>

10.7.3 Pukehou 4C aka Te Ngoungou.<sup>86</sup>

10.7.4 Pukehou 4D aka Ngātōtara.<sup>87</sup>

10.7.5 Pukehou 4E aka Purehurehu.

10.7.6 Pukehou 4F aka Pukerarauhe.<sup>88</sup>

10.7.7 Pukehou 4G aka Pikiwahine.<sup>89</sup>

10.7.8 Pukehou 4H aka Piritaha.<sup>90</sup>

10.8 Pukehou<sup>91</sup> 591 was subdivided as follows;

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<sup>81</sup> See ML367.

<sup>82</sup> <https://www.kapiticoast.govt.nz/whats-on/things-to-do-in-kapiti/heritage-trail/otaki-and-te-horo/pukehou/>

<sup>83</sup> Partition case OHSJ1978 Vol 1 page 24.

<sup>84</sup> OMB5[1881] page 208, 239-240, 242-243, 256.

<sup>85</sup> OMB5[1881] page 243; OMB31[1896] pages 298-300.

<sup>86</sup> OMB5[1881] page 243.

<sup>87</sup> OMB5[1881] page 244 Pukehou 4D aka Ngātōtara.

<sup>88</sup> OMB5[1881] page 252.

<sup>89</sup> OMB5[1881] page 257.

<sup>90</sup> OMB5[1881] page 260.

<sup>91</sup> MAP by CFRT CAMR\_038\_Pukehou\_2ndOrderPartitions; see <https://paperspast.natlib.govt.nz/imageserver/parliamentary/P29pZD1BSkhSMTg3Ny1JLjEuMTQ3OCZnZXRwZGY9dHJ1ZQ==>

10.8.1 Pukehou 5A comprising 1,560 acres more or less and the following appointed owners;

10.8.1.1 Reneo Te Wharepakaru, Koro Te One, Himiona Te Oha, Hoeta Te Kahuhui, Tapa Te Whata, Karehana Tauranga, Takana Te Kawa, Haimona Tapa, Kereama Paoe and Heke Whakaneke.

10.8.2 Pukehou 5B comprising 2,422 acres more or less and the following owners appointed;

10.8.2.1 Hema Te Ao, Ropata Te Ao, Hoani Taipua, Moroati Kiharoa, Katarina Te Puke, Hiria Hoani Taipua, Hipora Eruera, Ema Tukumarū, Makareta Taherangi, Reweti Ropata.<sup>92</sup>

10.8.3 Pukehou 5C comprising 2,422 acres more or less and the following appointed owners;

10.8.3.1 Ropata Te Ao, Anawarahi Ropata, Hori Te Waru, Wiremu Paki Hianga, Rei Parewhanake, Rawiri Wanui, Kepa Keri, Witeri Raukawa, Hapeta Rangikatukua and Mahima Hoani.<sup>93</sup>

10.8.4 Pukehou 5D<sup>94</sup> comprising 1,000 acres more or less and the following appointed owners;

10.8.4.1 Ropata Te Ao, Hapi Eraia, Hemi Kuti, Eruera Arahiora, Heni Piripi, Tare Kuti, Kere Piripi, Hipora Taituka, Te Hauotaranaki, Reweti Kuti, Piripi Kohe, Hana Kuti, Taoro te Kanawa, Karehana Kohe, Mihipeka Toangina, Matiaha Te Raukarito, Hera Ani Erina, Tiu

<sup>92</sup><https://paperspast.natlib.govt.nz/imageserver/parliamentary/P29pZD1BSkhSMTg3Ny1JLjEuMTQ3OCZnZXRwZGY9dHJ1ZQ==>

<sup>93</sup><https://paperspast.natlib.govt.nz/imageserver/parliamentary/P29pZD1BSkhSMTg3Ny1JLjEuMTQ3OCZnZXRwZGY9dHJ1ZQ==>

<sup>94</sup> WairarapaMB2[1874] pages 110-113.



Matiaha, Harata W. Nera, Harata Pene Kooti, Piripi Arahiora, Ruterā Arahiora, Raniera Arahiora.<sup>95</sup>

10.8.5 Pukehou 5E comprising 100 acres more or less and the following owner appointed;

10.8.5.1 Ropata Te Ao and Hoani Taipua.<sup>96</sup>

10.8.6 Pukehou 5F comprising 138 acres more or less and the following appointed owners;

10.8.6.1 Ropata Hurumutu and Wiremu Parata Stubbs h.c.

10.8.7 Pukehou 5G comprising 72 acres more or less and the following appointed owners;

10.8.7.1 Tamati Ranapiri h.c., Mohi Heremia, Enoka Te Wano, Ruihi Piripi, Karanama Whakaheke, Renao Wharepakaru, Reweti Te Kohu, Mere Taniera, Heremia Ngato and Piripi Te Ra.

10.8.8 Pukehou 5H comprising 5 acres more or less and the following appointed owners;

10.8.8.1 Hema Te Ao.

10.8.9 Pukehou 5K<sup>97</sup> comprising 100 acres more or less and the following appointed owners;

10.8.9.1 Hemi Kuti, Matiaha [Te Raukarito], Piripi Arihiora.

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<sup>95</sup> Registration of Native owners viz <https://nzetc.victoria.ac.nz/etexts/Tur02Nort/Tur02Nort0177.gif> ; <https://paperspast.natlib.govt.nz/imageserver/parliamentary/P29pZD1BSkhSMTg3Ny1JLjEuMTQ3OCZnZXRwZGY9dHJ1ZQ==>

<sup>96</sup><https://paperspast.natlib.govt.nz/imageserver/parliamentary/P29pZD1BSkhSMTg3Ny1JLjEuMTQ3OCZnZXRwZGY9dHJ1ZQ==>

<sup>97</sup> Certificate of Title 7/32 Pukehou 5K; Hemi Kuti, Matiaha and Piripi Arahiora [1874].

10.8.10 Pukehou 5L comprising 4,356 acres more or less and the following appointed owners;

10.8.10.1 Hema Te Ao, Ropata Te Ao, Hoani Taipua, Hauotaranaki, Pitiera Hoani Taipua, Anawarahi and Hori Te Waru.

10.8.11 Pukehou 5M comprising 50 acres more or less and the following appointed owners;

10.8.11.1 Hema Te Ao and Hoani Taipua.

10.9 The Pukehou blocks contiguous with O2NL are;

10.9.1 Pukehou 5L various.

10.9.2 Pukehou 5K various.

10.9.3 Pukehou 5A various.

10.9.4 Pukehou 4A various.

10.9.5 Pukehou 4B various.

CFRT 2881 BRN Vol.I Part III – Pukehou Blocks only Case Study Data by Walghan, 2018 is available on request.

10.10 Ngāti Raukawa uses of the various blocks were stated in the various Native Land Court hearings. Where appropriate these uses are expounded in Chapter 10.

## 11 Settling on the Land by Ngāti Raukawa

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11.1 With Ngāti Raukawa now having Kawanatanga title as well as mana whenua status to the Manawatū-Kukutauaki Block excepting Tuwhakatupua and Horowhenua, they set about subdividing under tikanga Pākēha their Ngāti Raukawa whanau/hapū/iwi entitlements. Therefore, the O2NL land blocks are as follows:

### Taylors Road to Lawlors Road

11.1.1 Pukehou 5K Block. Part(s) of this land is still under Māori ownership and has been<sup>98</sup> before the Māori Land Court and formed part of the PP20 narrative. The use of part of this land for the Expressway and associated taking of the land by the Crown will have an adverse effect on the cultural value of the entire block.

11.1.2 Pukehou 5L<sup>99</sup> Block. Its name taken from the larger natural hill to the east of the main highway north of Ōtaki rail.

11.1.2.1 Part(s) of this land near SH1 is still under Māori ownership and title. The use of part of this land for the Expressway and associated taking of the land by the Crown will have an adverse effect on the cultural value of the entire block.

11.1.2.1.1 Loss of land through crown processes seriously impinges on our cultural values as parts of this land has never been alienated from Māori ownership.

11.1.3 Pukehou 5A.<sup>100</sup>

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<sup>98</sup> Refer to Aotea MLC A19990006962 : Section 321/93-Pukehou 5K.

<sup>99</sup> Land Information New Zealand (LINZ) map ML765 see page 53.

<sup>100</sup> LINZ map ML397 see page 54.

11.1.3.1 The use of part of this land for the Expressway and associated taking of the land by the Crown will have an adverse effect on the cultural value of the entire block.

11.1.3.2 Parts of this whenua will be bisected by the expressway that contains the korero surrounding Ihaka (Hakeke) Tanguru<sup>101</sup> leap.<sup>102</sup>

11.1.3.2.1 The following is a summary of this historical event.

11.1.3.2.1.1 Muaūpoko were hunted<sup>103</sup> throughout the Pukehou and other blocks and their village was attacked.<sup>104</sup>

11.1.3.2.1.2 Their movements were thereby confined to “Te Rua o Whatanui”<sup>105</sup> which flies in the face of “tāngata whenua” interpretation, section 6 of the Heritage New Zealand Pouhere Taonga Act 2014.

### **Lawlors Road to Forests Lakes Road to south of Atkins Road, Manakau**

11.1.4 Pukehou 4A1B<sup>106</sup> was part of the “Native Reserve” set aside after the 1874 crown purchase of Pukehou 4A.

11.1.5 Pukehou 4A as previously stated met the crown’s criteria of:

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<sup>101</sup> His wife <https://teara.govt.nz/en/biographies/1r4/rere-o-maki>  
<https://teara.govt.nz/en/biographies/1t64/te-rangihwinui-te-keepa>

<sup>102</sup> <https://nzhistory.govt.nz/politics/treaty/signatory/8-87>  
<https://archive.org/details/tehekengaearylada00mcdioala/page/8/mode/2up>

<sup>103</sup> CFRT Pukehou Title Investigation & Partition Blocks PUKEHOU 4 investigation and partition OMB2[1873] page 83; page 132 “...search for slaves...”; Manawatu-Kukutauaki case OMB1[1872-1873] page 34.

<sup>104</sup> CFRT Pukehou Title Investigation & Partition Blocks PUKEHOU 4 investigation and partition OMB2[1873] page 139

<sup>105</sup> See APPENIDX C.

<sup>106</sup> Eru Tahitangata sole owner; OMB21[1894] pages partitioned into Pukehou 4A1A to Akapita Tahitangata and Mereopa te Raika, and Pukehou 4A1B to Tare Eru and Aneta Tahitangata.

11.1.5.1 “seemed the most expedient way of bringing Maori land on to the [open] market.”<sup>107</sup>

11.1.5.1.1 Pursuant to CFRT Crown Action and Maori Response, Land and Politics 1840-1900 Report, Wai 2200, A201 dated 2018 there were bird catching areas and cultivations<sup>108</sup> west and north of the hill Pukehou, thereby temporary shelters. Taikai and Te Ahi-a-Rangikahiwi<sup>109</sup> were named Ngāti Kapu cultivations.<sup>110</sup>

11.1.6 The following are contiguous with the original SH1 near Pukehou hill.

11.1.6.1 Pukehou 4B4A2.

11.1.6.2 Pukehou 4B4A3.

11.1.6.3 Pukehou 4B3, 1.

11.1.6.4 Pukehou 4B3, 2.

11.1.6.5 Pukehou 4G13.

## 12 Kaitiakitanga

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12.1 NHoŌ declares that it has never alienated its rights to the management of whanau/hapū/iwi resources in keeping with the notions of Kaitiakitanga. Te Tiriti o

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<sup>107</sup> George Asher and David Naulls Maori Land (New Zealand Planning Council, Wellington, March 1987) page 29

<sup>108</sup> Pages 615-617.

<sup>109</sup> The fire [“ahi”] of Rangikahiwi, Ngāti Kapu.

<sup>110</sup> CFRT Pukehou Title Investigation & Partition Blocks PUKEHOU 4 investigation and partition OMB2[1873] page 157.

Waitangi was and affirmation of that right and although NHoŌ has always welcomed “progress” and “growth”, this right of Kaitiakitanga has never been alienated.

12.2 NHoŌ has Kaitiakitanga over the Expressway land because our mana whenua was established prior to 1840 and confirmed by the crown at the 1872-1873 Manawatū-Kukutauaki case.

12.2.1 Therefore, the Project does not interfere with NHoŌ/Ngāti Raukawa Kaitiakitanga over the land, as NHoŌ/Ngāti Raukawa will always continue to have mana whenua over it.

12.3 With Ngāti Kauwhata having 1872-1874 MLC ownership rights they had already vacated the Pukehou Block and moved to the Manawatū district. The following is NOTED.

12.3.1 Marriages between Ngāti Pare and Ngāti Kauwhata members meant they included each other in their settlements.

12.3.2 Evidence of Matene Te Whiwhi,

12.3.2.1 “Natives can return to their land after being absent 30 or 4[0] years, but the whakairo [decision] is with chiefs.”<sup>111</sup>

## 13 Principles of Te Tiriti o Waitangi

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13.1 NHoŌ/Ngāti Raukawa in the main, signed te Tiriti o Waitangi on the 19 May 1840 at “Rangiuru” pā, which was near the mouth of the Ōtaki River. Some of these signatories were claimants to the lands within the various Pukehou Blocks.

13.1.1 The signing of te Tiriti o Waitangi by various chiefs of NHoŌ/Ngāti Raukawa confirms our claims and is an expression of Raukawa ownership,

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<sup>111</sup> Final draft Ngāti Kauwhata Ngāti Wehi 19 Feb 2013 page 140.

administration, kaitiakitanga and management of our lands, waterways and taonga.

13.2 Therefore, te Tiriti is the backbone of all NHoŌ/Ngāti Raukawa claims to ownership, administration, Kaitiakitanga and management of our taonga.

13.2.1 NHoŌ/Ngāti Raukawa believes that this claim is affirmed in the Tiriti.

13.3 For NHoŌ/Ngāti Raukawa te Tiriti meant that it would find expression in perpetuity.

13.4 The use of “the principles of the Treaty” was designed by parliament to overcome a number of problems associated with considering the literal words of the Articles of the Treaty in isolation. It reflects that the English and Māori texts are not translations one of the other and do not convey precisely the same meaning.<sup>112</sup> However, the international rule of contra preferendum requires that any international Treaty that has two interpretations should be recognised in the language of the Indigenous Peoples. The New Zealand Government has chosen not to apply this rule to te Tiriti o Waitangi. Instead, the government have decided to extract principles from te Tiriti text as a basis for interpreting te Tiriti.

13.5 The 1877 chief justice of the NZ Supreme Court, Judge Prendergast declared that the treaty was ‘worthless’ and a ‘simple nullity’.<sup>113</sup> This decision had huge implications for anything ‘treaty’, including today and beyond. The decision relied on a USA precedent, Johnson vs McIntosh.<sup>114</sup> This 1823 USA case is based on the ‘Doctrine of Discovery’.<sup>115</sup>

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<sup>112</sup> Taking into Account The Principles of the Treaty of Waitangi Ministry for the Environment, January 1993, page 8.

<sup>113</sup> <https://nzhistory.govt.nz/the-chief-justice-declares-that-the-treaty-of-waitangi-is-worthless-and-a-simple-nullity>

<sup>114</sup> [https://en.wikipedia.org/wiki/Discovery\\_doctrine](https://en.wikipedia.org/wiki/Discovery_doctrine)

<sup>115</sup>

[https://www.google.com/search?q=doctrine+of+discovery+1452&rlz=1C1GCEU\\_enNZ821NZ821&oq=doctrine+of+discovery&aqs=chrom e.2.69i57j69i59j0i512i8.12437j0j15&sourceid=chrome&ie=UTF-8](https://www.google.com/search?q=doctrine+of+discovery+1452&rlz=1C1GCEU_enNZ821NZ821&oq=doctrine+of+discovery&aqs=chrom e.2.69i57j69i59j0i512i8.12437j0j15&sourceid=chrome&ie=UTF-8)

13.6 NHoŌ/Ngāti Raukawa are delighted with the crown conceding that the Paraparaumu Airport land sale.

13.6.1 "...was a breach of te Tiriti o Waitangi and its principles."<sup>116</sup>

13.7 In the Pukehou Block case Hema Te Ao stated in the MLC that he wrote a letter.

13.7.1 "...I objected to the erection of Te Pukehou trig station – I informed the government of my objection by letter and also to Mr Mitchell [surveyor] – I was desirous to cut it [trig station] down. I was told it was only for the survey of the country and not for taking land..."<sup>117</sup>

## 14 Cultural Impacts

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14.1 In assessing the proposed activity of the new highway, in consultation with affected iwi, hapū and whānau members, we have identified several components as having potential negative effects on cultural values, these are:

14.1.1 Wāhi Tapu

14.1.2 Te Taiao

14.1.3 Rangatiratanga

14.1.4 Kaitiakitanga

14.2 These issues were assessed individually, followed by a cumulative approach that allows us to understand the full breadth of risk to the whenua, wai and cultural values. The following values framework facilitates this approach:

14.2.1 Significance

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<sup>116</sup> <https://www.scoop.co.nz/stories/AK2206/S00286/crown-concedes-treaty-breach-over-sale-of-paraparaumu-airport-land-press-statement-by-mayor-k-gurunathan.htm>

<sup>117</sup> CFRT Pukehou Title Investigation & Partition Blocks PUKEHOU 4 investigation and partition OMB2[1873] page 132



This component identifies the significance and contribution of the immediate site in maintaining the history, identity, traditions and/or culture of whānau, hapū and iwi. This can be as a traditional place, contemporary place or both. The second measure is if and how the space/place contributes to the wider cultural landscape.

#### 14.2.2 Kaitiakitanga

The second component is whether kaitiakitanga has or is being expressed by whānau, hapū or iwi on the site, aspects of the site, or at adjacent sites. This can be represented in both tangible and intangible ways by an individual or group and show that the whenua and wai are actively being maintained, enhanced or restored in a culturally considerate way for present and future generations.

#### 14.2.3 Mahinga Kai

The third component allows for the identification of mahinga kai values. Whether a traditional or contemporary site for mahinga kai, the following markers can be used to help assess.

- 14.2.3.1 Identification of mahinga kai species present
- 14.2.3.2 Whether the site is able to provide for cultural use by whānau, hapū or iwi.
- 14.2.3.3 The ease of access to the site for continuing exercising of mahinga kai

#### 14.2.4 Te Mana o te Wai

The final component expresses the 'bottom line' of Ngā Hapū o Ōtaki that is the allocation, health or use of the water. This is first and foremost in considering how an activity affects the life sustaining capacity of the water itself.

Whānau, hapū and iwi exercise mana wai by caring for the water and its life-supporting capacity. This component is measured by assessing the risk of introduced activity to the quality and quantity of the river, lake, stream, ocean or wetlands.

## 14.2 Wāhi Tapu

14.2.1 There is a high risk of damage to wāhi tapu sites between Taylors Road and south of Aitkin Road, Manakau.

14.2.2 The existence of wāhi tapu in this area is unlikely to be able to be confirmed until construction earthworks take place when damage to these sites becomes unavoidable.

14.2.3 The disturbance of any and all wāhi tapu affects the cultural value attached to the various land blocks comprised in the proposed designation area of the new highway. Our rangatiratanga is potentially eroded if our wāhi tapu and taonga tuku iho are damaged in the process of building the new highway.

## 14.3 Te Taiao

14.3.1 Papatūānuku is Earth Mother, encompassing every facet of the natural environment, adorned with the fauna and flora species of her children Tānemahuta and Tangaroa. Papatūānuku provides physical and spiritual sustenance to tāngata whenua. She possesses supreme mauri that is beyond the comprehension of te ira tāngata. Each part of Papatūānuku contains its own unique whakapapa and when damaged or removed, the balance of tapu and noa is upset. The earthworks required to complete the new highway will have the greatest impact on Papatūānuku. The physical impact on the land, fauna, flora and water must be carefully managed. The spiritual connection to Papatūānuku is equally important to iwi and also needs attention to ensure tapu and noa remains in balance throughout the project.

14.3.3 The clearing of the designated area in preparation for the new road will result in the removal of a range of native tress and other fauna. Replanting may replace the physical plants and trees, but the whakapapa links will be severed forever. Transference of soils will also take place throughout construction. There is a risk that soils may inadvertently be transferred from sites of significance or waahi tapu. This will impact cultural values associated with the area and the iwi.

14.3.3 The habitat for varying forms of animal life; manu, kerehe and kerarehe, ngāngara, mokomoko and ika will be modified and in some instances changed completely. Where habitat's are destroyed, new habitat's will have to be reconstructed, however this will not always be possible.

14.3.4 Tāngata whenua acknowledge Tangaroa as the originator of wai. All water bodies derive from Atua Tangaroa and are therefore intrinscially linked with puna wai which are the source of our streams, rivers, lakes and oceans. Papatūānuku, the mother of Tangaroa, cleanses the wai from Ranginui as it transitions through her tinana. Water is the essence of life but for tāngata whenua it holds different stages of mauri. The health of the water is paramount. As all water is inherantly linked, any pollutants or disruption to water courses, springs etc will ultimately impact on all the waterways. Earthworks, stormwater, stream diversions all have the potential to cause harm. The mauri of the wai must be protected prior, during and after construction.

## **14.4 Rangatiratanga**

14.4.1 Rangatiratanga is the ability of Iwi, hapū and whānau to maintain their history, identity, traditions and/or culture. The ability to determine how our taonga are protected and how our tikanga are upheld is critical to our wellbeing.

14.4.2 The separation from our lands as a result of the new highway, diminishes our ability to exercise our rangatiratanga over the land blocks comprised in the proposed designation area. We lose the ability to determine the appropriate use of the land according to tikanga. This in turn has a direct impact on our physical and spiritual wellbeing. The cultural value attached to these various land blocks is further impacted on.

## 14.5 Kaitiakitanga

14.5.1 The role of iwi, hapu and whānau to guard and protect our taonga tuku iho has been passed down from generation to generation and is at the heart of our wellbeing as a people. It applies to both the physical and spiritual world. We can trace our whakapapa back to the land and everything on it, the water and everything in it, the heavens and everything that falls from it. Kaitiakitanga is more than ensuring our taonga tuku iho are protected for future generations, it is an intrinsic part of our existence. To take away our ability to exercise kaitiakitanga, even for an instant is equivalent to taking away our ability to care for a person in our immediate whanau.

14.5.2 Our kaitiakitanga has never been nor will it ever be alienated. However the proposed new highway will impact our ability to exercise these rights in part. From the physical carving up of land blocks, the potential damage caused to our wāhi tapu, our wai, our mahinga kai, our wildlife to the severing of our cultural values, links and ties to the land blocks comprised in the proposed designation. For a time, our ability to exercise kaitiakitanga of our ancestors and our ancestral lands will be compromised. What will be lost as a result of this project, will be lost forever. The physical and spiritual changes to our environment as a result of the new highway will have an immeasurable impact on our cultural values.

14.5.3 Separation from our lands not only affects our ability to exercise rangatiratanga and kaitiakitanga, it also precludes us from having access to ancestral lands and areas of significance. Access to these significant area's

will be forever changed and in some instances, will be lost completely to iwi, hapū and whanau.

## 15 Mitigation of Cultural Impacts

### 15.1 Wāhi Tapu

15.1.1 Waka Kotahi in partnership with Mana Whenua will be responsible for all decision making regarding wāhi tapu.

15.1.2 Waka Kotahi will ensure Mana Whenua are able to exercise rangatiratanga and kaitiakitanga in all aspects relating to wāhi tapu and sites of significance.

15.1.3 Waka Kotahi will be guided by tikanga as determined by Mana Whenua when dealing with all issues pertaining to wāhi tapu and sites of significance.

15.1.4 Waka Kotahi in partnership with Mana Whenua will co-design any and all mangagement plans and accidental discovery protocols in relation to wāhi tapu and sites of significance. These documents will offer the highest degree of protection praticable for these areas, both know prior to the project or discovered throughout the project. This will also apply to any taonga of cultural significance that are uncovered during the project.

### 15.2 Te Taiao

15.2.1 Waka Kotahi in partnership with Mana Whenua will co-design any and all resource consents and mangagement plans where it affects Te Taiao.

This will include, but is not limited to:

- 15.2.1.1 Water, Underground springs and Aquifiers
- 15.2.1.2 Vegetation
- 15.2.1.3 Fauna & Flora

- 15.2.1.4 Earthworks
- 15.2.1.5 Urban and Landscaping Design

15.2.2 Waka Kotahi will ensure Mana Whenua are able to exercise rangatiratanga and kaitiakitanga in all aspects relating to Te Taiao.

15.2.3 Waka Kotahi will be guided by tikanga as determined by Mana Whenua when dealing with issues of cultural significance in regard to Te Taiao.

### **15.3 Rangatiratanga**

15.3.1 The precepts of hospitality and sharing in regards to our working together with Waka Kotahi to create a new highway is an exercise of rangatiratanga. Long after the road is complete our ability to exercise our rangatiratanga should remain in tact. This is the overriding objective of any and all mitigating factors.

15.3.2 Waka Kotahi will ensure a Mana Whenua representative is included in strategic level decision making by creating a dedicated role within the Waka Kotahi structure as agreed between Waka Kotahi and Mana Whenua.

15.3.3 Waka Kotahi in partnership with Mana Whenua will co-design any and all resource consents and mangagement plans that are of cultural significance within the the project, that have not already been refered to above. This will include, but is not limited to:

- 15.3.1.1 Consultation & Engagement
- 15.3.1.2 Health & Safety
- 15.3.1.3 Cultural Ceremonies
- 15.3.1.4 Broader Outcomes Strategy
- 15.3.1.6 Procurement
- 15.3.1.6 Mahi Toi / Cultural Symbolism
- 15.3.1.7 Education & Training

15.3.1.8 Commissioning & Decommissioning of the Project, in particular, Revocation, Disposal of surplus assets, Disposal of surplus lands.

## 15.4 Kaitiakitanga

15.4.1 Waka Kotahi will ensure Mana Whenua are able to exercise their kaitiakitanga by creating dedicated roles within the Waka Kotahi structure as agreed between Waka Kotahi and Mana Whenua.

15.4.2 Waka Kotahi in partnership with Mana Whenua will ensure that any and all resource consents and management plans are carried out effectively and efficiently working together in accordance with tikanga as set out in the Partnership Agreement between Waka Kotahi, MTA and the hapu of Ngati Raukawa.

15.4.3 Waka Kotahi will be guided by tikanga as determined by Mana Whenua when dealing with issues of cultural significance in regard to the project.

## 16 Conclusions

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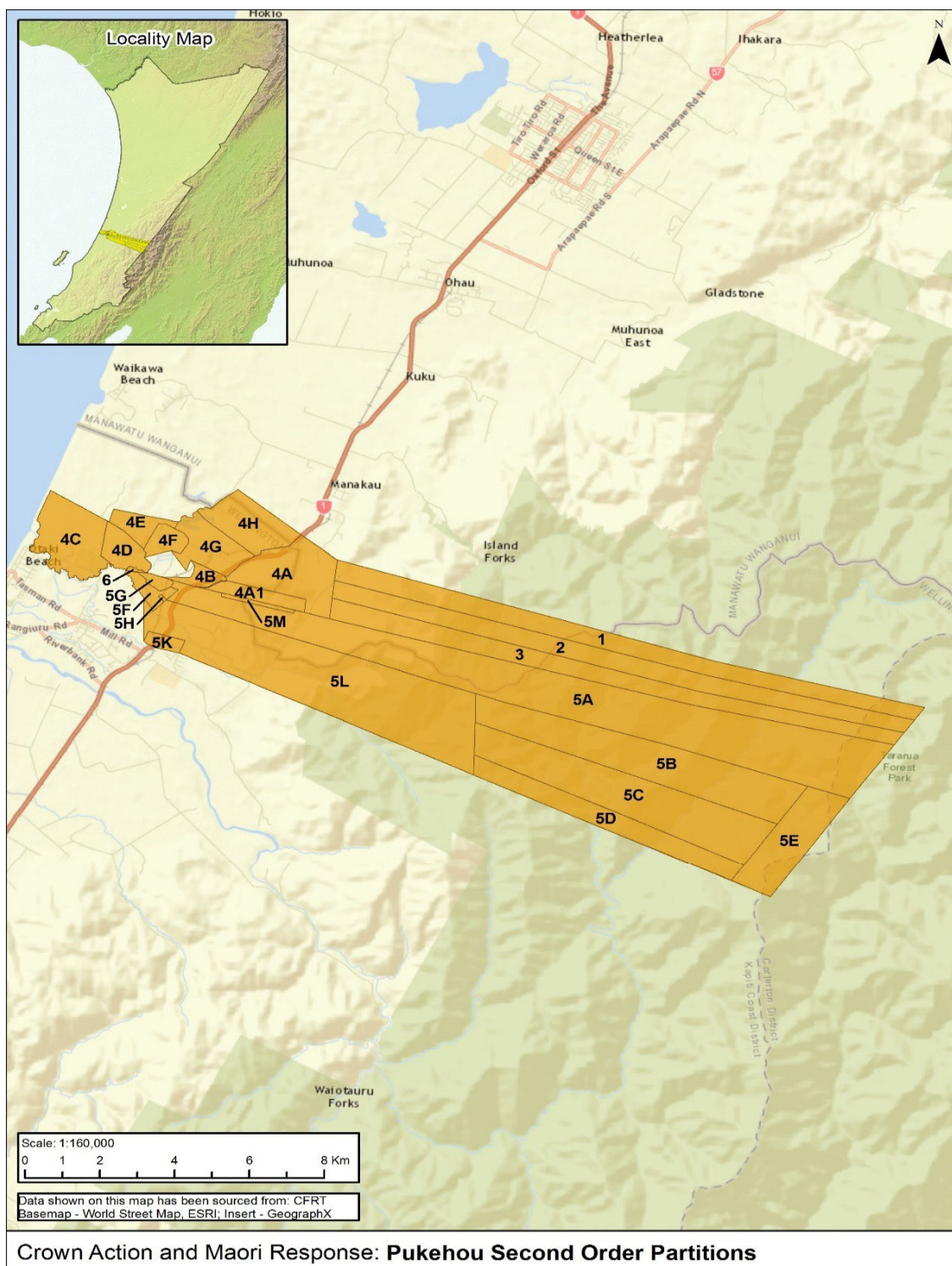
16.1 From our research and without prejudice:

16.1.1 This CIA is not a “Mitigation Plan” nor is it a response to any regional or district resource consent application(s).

16.1.2 This report provides an overview assessment and has not provided details where those are not currently considered to be relevant to the Ō2NL Project. NHoŌ reserve the right to update this report through the upcoming RMA process.

16.1.3 That this CIA is not a substitute for NHoŌ consultation.

# Appendix A



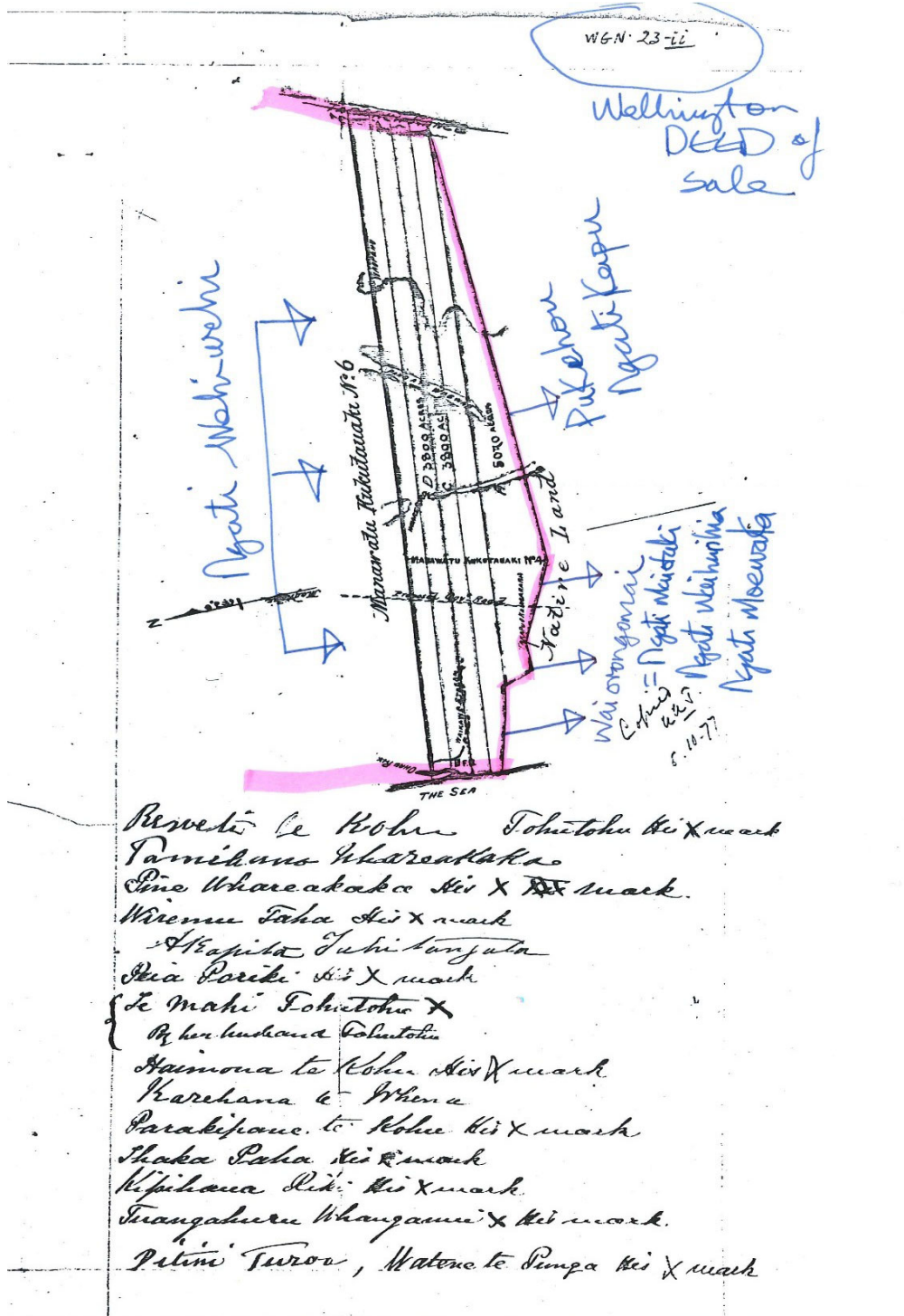
Cartography by Geospatial Solutions Ltd. Map Number CFRT - CAMR 038 Map projection: New Zealand Transverse Mercator

Date: 16/05/2017

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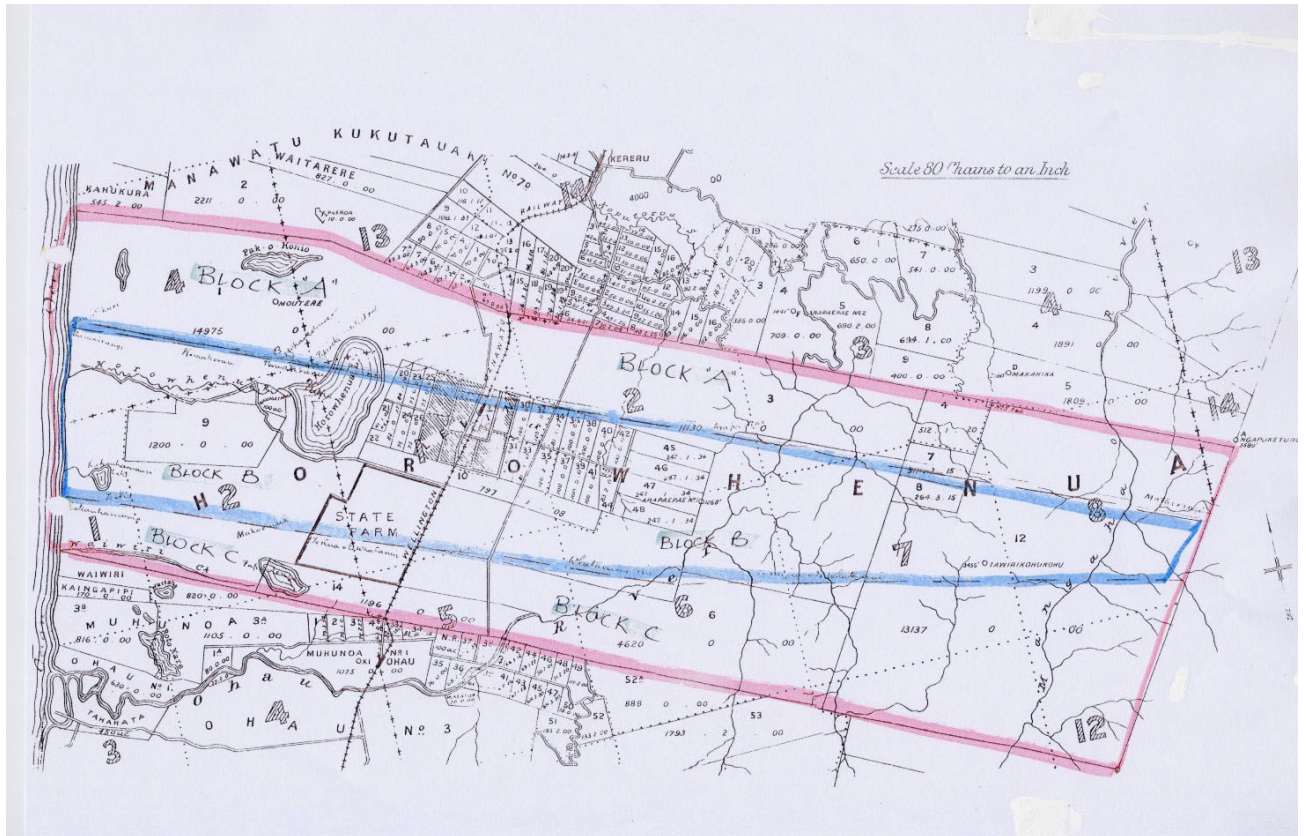


## Appendix B



Wellington Deed 23 dated 22 April 1873 [Turtons No 61] Manawatu Kūkutuauaki 4A, 4C, 4D SHEET3 amended by RW\_20 June 2022

## Appendix C



Horowhenua Block boundaries in pink and Te Rua o Te Whatanui coloured blue;  
AJHR 1896 G2 Horowhenua Block Royal Commission page 369