

7 October 2020

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Updated Land Status Report - Council-owned land at Ngarua Lane (the Property)

Status	Fee Simple
Instruction	To consider the contents of a Disposal Report in respect of the Property provided to Matamata-Piako District Council in April 2005, and update or amend the contents of that report if appropriate.
Instrument of Title	Record of Title (RT) SA12C/449
Administering Body/Owner	Matamata-Piako District Council (Council)
Legal Description	Lot 1 Deposited Plan South Auckland (DPS) 13910
Area	0.1535 ha
Location / Address	Ngarua Lane, Waitoa
Interests Affecting the Status of the Property	The Property fronts a limited access road being State Highway 27, and accordingly access to the Property is likely to be obtained from Ngarua Lane, and not the state highway.

Acquisition History

1. In 1925 Ngarua Lane and adjacent property were depicted on Deposited Plan (DP) 18422. Ngarua Lane was shown as road. The lane was formerly the access to a dairy factory site located Lot 2 on DP 18422. The Property is part of the land on DP 10992.
2. All of the land on DP 10992 was previously owned by a Fred Horton Cornwall. He also owned the land shown as Lot 2 on DP 18422. In 1957, the Piako County Council had acquired the land shown as Lot 1 on DP 18422 under Section 54 of the Land Act 1948.

3. In 1970, the Piako County Council and Mr Cornwall entered into an agreement to exchange of land. A new plan DPS 13910 created Lot 1, and it was this land that was exchanged for at the time Council's property being Lot 1 on DP 18422.
4. On completion of the subdivision a new title issued for the Property in the name of The Piako County Council, and a new title issued for Lot 1 and Lot 2 on DP 18422 and for the Pt Section 6 Block VIII Maungakawa Survey District in the name of Innes Farms Limited.
5. There is no evidence that the Property was acquired for or held for a public work, but lack of evidence does not necessarily mean that the possibility can be ruled out. It is possible that the Council holds archival records as to the motivation behind the exchange. The Council may well have wanted to own land closer to the Ngarua Hall, which was located on Crown-derived reserve on the other side of Ngarua Lane. It is equally possible that the prior owner, Mr Cornwall, wanted to rationalise his land. Either way, the exchange was probably seen as mutually beneficial, noting also that the areas of land exchanged were similar in size.

Land Status Conclusion

The Property is held in fee simple. The Property is still held in the name of Piako County Council and application should be made under Section 90 of the Land Transfer Act 2017 to have title to the Property vested in Matamata-Piako District Council.

We would recommend the Council carry out a search of its archives to completely rule out any possible element of compulsion in the land exchange (although given the mutual benefit of the exchange, compulsion appears unlikely).

Comments on Disposal

The holding of the Property pursuant to the Public Works Act 1981 (PWA) can't be completely ruled out, as there is no evidence that the Council didn't consider the use of the Public Works Act 1928 to facilitate the exchange. That said, it appears the Property is undeveloped (in grass) with no evidence of improvements (that would have added weight to requirement for a local work) since removed.

The Council might want to check its archives for any information relating to the historic exchange to satisfy itself that the PWA does not apply to any proposed disposal.

On the assumption that the PWA does not apply, the Council may dispose of the Property of its own volition. There is a power of "General Competence" in Section 12 of the 2002 Act. It authorises the Council to do anything that any person or body corporate may do, subject to any other law and an obligation to act wholly or principally for the benefit of its district.

We have checked the Local Government Acts 1974 and 2002, and any proposed disposal does not appear to fit within any specific authority for the disposal of land, such as the power of disposal of Regional Parks and reserves (Sections 138 and 139 of the 2002 Act), or Section 345 (1974 Act) for the disposals of land no longer required for road. It is possible that the Council could use the power of sale in Section 304 of the 2002 Act, but the Council would need to be satisfied that the Property had been acquired for commercial or industrial purposes, and such a purpose appears unlikely.

Prepared by:



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Disclaimer

This Status Report is based on available evidence and records.

The Property Group Limited has no power to make a binding ruling or legal determination as to the status of land but does have significant knowledge and experience in the provision of Land Status Reports.