



Turley & Co Limited
Independent Property Specialists

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16 May 2011

Mr Richard Cross
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By email rcross@wtr.co.nz (no paper transmitted)

Dear Richard

PARIMAHU BEACH ACCESS – LAND FOR ROAD OVER CROWN LAND

Previous Work

As you are aware, we have achieved LINZ and Council's acceptance of the Status Report and consulted with LINZ re consents and sent initial consents to LINZ for their consideration and what follows below is a result of the consent process.

Consent Declaring Land to be Road S114 Public Works Act

Since commencing this work LINZ has produced a new LINZ Standard and Guideline dealing with the disposal of Crown land which became effective on 1 October 2010, i.e. LINZ45002. This also marries in with what is required for the easement work we sent you the other day for nearby Crown land, i.e. the same LINZ Standard applies.

We have also discussed this process with LINZ on 12 May 2011 re the ramification for land proposed to be declared road under s114 Public Works Act 1981.

We have been informed that for any Crown land that LINZ administers where land is to go out of the Crown estate then all statutory clearances apply, even for roads under s114 PWA. We were aware that this was the case under Sec 50 PWA and we are informed it will apply under s114 PWA. This position by LINZ is consistent with the new Standard.

Clearances Processes

This means that we can not obtain landowner (Crown) consent until all statutory precursor clearances have been gained and a submission by Darroch Ltd, Christchurch has been approved by LINZ. Darroch are involved as they are LINZ disposal agent for LINZ asset land.

The clearances required are quite straight forward and not onerous except for the Maori Protection Mechanism exemption which will delay matters considerably, i.e. approximately 4-6 months.

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Maratotara Tree Trust streamside reserved land planting of over 800 native seedlings funded since 2006.



Clearances required include from Housing New Zealand Corporation, a simple email, Department of Conservation clearance under S24(2A) Conservation Act 1987, New Zealand Historic Places Trust notification, both DoC and NZHPT require 20 days for responses. These are standard clearance documents which do not take too much time to produce and have addressed. We are fortunate in that DoC is well aware of the land in question. Turley & Co is also a regular facilitator of these clearances for clients including DoC, Ministry of Education and others.

Once we have the foregoing clearances then we would attend to an exemption from the Crown's Maori Protection Mechanism process. While this involves a letter to Office of Treaty Settlements, it takes a longer time before it is cleared from this process. We are also well-familiar with this process as a long term provider to the Office of Treaty Settlements.

As already noted the OTS/ MPM clearance could take 4-6 months. This process is unavoidable for the Crown land.

Additional Fees Estimate

Turley & Co Ltd and LINZ

If Council and Mr Gordon wish to proceed, which we presume they do, then the added professional time to address the new criteria needs to be taken into account along with the costs for Darroch to submit their report to LINZ for final approval to proceed with actual disposal of the Crown land. LINZ will not fund any costs.

We estimate that another 7-10 hours by Turley & Co would be required to address the above given consultation and advisory time required in the clearance processes. We understand this work funding would need to be covered by Mr Gordon, via Council?

As with our current contract the extra hours would be billable at \$165 per hour plus GST and standard recoveries along with a standard report submission fee from Darroch Ltd of \$1,200 plus GST, plus any LINZ fees if applicable. We do not expect any LINZ fees for their approval as this would not go to LINZ Clearances.

Valuation Fees

Another aspect is that LINZ will require a market valuation of the land to be acquired from the Crown, i.e. the land shown as Section 16 on the SO plan 437327. As mentioned on the phone the other day, we have not mentioned compensation to the Crown, however, unsurprisingly they have brought it up and they require a market valuation for this disposal. A valuation would be acquired by Council and costs would need to be met by Council or Mr Gordon.

We know your reasoning on why Council should not need to obtain a valuation, however, LINZ insists on this process re the Standard (LINZ45002).

Summary of Further Fees Estimate

We estimate that further costs of \$3,800 - \$4,000 plus GST plus disbursements would accrue, i.e. up to 10 hours at \$165 per hour, Darroch fee of \$1,200 and valuation fees estimate of \$800 - \$1,000 plus GST.



There is no fee in applying for an exemption from the Maori Protection Mechanism. If for some reason an exemption is rejected then the property would need to be advertised in the Maori Protection Mechanism which attracts a fee of \$750, all plus GST and plus disbursements, we do not anticipate this happening.

We understand that Mr Gordon is the funder of costs including those of Turley & Co. We expect that he will want to consider our letter.

Land Compensation

In addition to fees there would be a land acquisition cost (compensation value) payable to the Crown, which would be determined by the valuation.

We would anticipate a modest level valuation however, to scope this amount we suggest perhaps valuation sooner rather than later.

Observations

The current plan for the road legalisation meets the roading requirements and intent of the subdivision, i.e. it is clearly not for any residential purposes and this should help in the Maori Protection exemption submission.

We observe that Council could consider changing its approach. Instead of acquiring the full extent of the Crown land it might consider re-routing the fence and roadway path to intersect the Crown land/ beach at the northerly most point.

The above alternative would reduce the extent of Crown land required and its valuation level. It could also be that instead of purchase an easement across the land is agreed with the Crown.

In the case of a very small parcel it becomes even more likely that OTS would exempt the land from the MPM. If an easement were instead preferred then the OTS/ MPM process would be avoided altogether.

Any subdivision aspect is a discretionary activity in this coastal margin area of Rural Zone and would need to meet the requirements of the Central Hawke's Bay District Plan. There appear to be aspects that may not fit those criteria such the size and shape plus building platform requirements and water supply, sewage disposal etc. We expect a Resource Consent would be necessary.

We also note in the District Plan that the land is nearby or subject to proposed esplanade designated land. No buildings can be erected on such reserve land and it is not clear if the proposed designation affects the subject Crown land.

Discussion with Council planners is recommended to confirm the above Resource Consent and esplanade designation aspects. These would also impact the valuation.

Other

We look forward to WTR and Council response so that we can progress the work.



For your information we have exhausted the hours originally approved for the Crown consent process, as already invoiced to Council. We are now in a position of additional fees accrual including recent LINZ consultations and this advisory.

The additional processes necessary to satisfy the Crown (LINZ) in this Crown land dealing case were not foreseen at the time of the commencement of the project. The new Standard did not come into effect until 1 October 2010, as mentioned earlier.

The key point for the roading proposal to happen is that Council and the landowners will need to satisfy the current requirements of LINZ for the Crown as owner of part of the proposed roadway.

All work by Turley & Co to date has been a necessary precursor to satisfying the Crown.

We appreciate that CHBDC and Mr Gordon will be concerned to receive the Crown requirements advice of Turley & Co.

Yours sincerely

Turley & Co Ltd

A handwritten signature in blue ink, appearing to read 'W. Smith', is written over a light blue horizontal line.

Wayne Smith

Property Analyst | Consultant | Public Land Specialist
MPINZ, LINZ Accredited

Cc

Pat Turley

Director

TCL