



File: N/6/22/9
kls-#14907

22 March 2002

Kiri Scott
for the Logan Whanau
8 Milne Terrace
Island Bay
WELLINGTON

Dear Kiri

Mangahanene Nos 1 and 2

I refer to our last meeting of 30 May 2001, your facsimile of 11 June 2001 and our subsequent telephone conversations.

I apologise for the delay in coming back to you. However, the considerable length of time has enabled us to thoroughly mull over the issues raised at our various meetings. This has been a difficult matter to resolve and your patience is appreciated.

Before I set out the proposal I am willing to recommend to the Wellington Regional Council (WRC) I need to explain to you the constraints which I face in making any recommendation.

Background to this Proposal

There are specific requirements imposed on local authorities such as WRC in regard to any expenditure. To put this as simply as I can, what I must be able to show is that any proposal I make must be a prudent use of WRC's funds and that the cost to WRC and its ratepayers can be justified by the benefit.

Your claim for compensation poses a difficulty for the two reasons I have earlier mentioned, namely that WRC is not legally liable because of the lapse of time and you have provided no substantial evidence to establish there has, in fact, been any tangible loss. Accordingly, if a Committee member asks me why WRC should be paying anything on that account, it may be difficult for me to justify such a payment. The best that I can do is to recommend an ex gratia payment. That is a payment which WRC has no obligation to make but acknowledges that the stopbank may have been constructed without permission, and recognises the trauma and dislocation felt by the family following the construction in 1977.

Next, there is the question of access to the stopbank by the WRC for maintenance purposes. As you know my recommendation is that WRC deals with this issue by buying the land. In this regard I need to show that the price which I might recommend can be justified independently. I cannot recommend a price, which may meet your expectations, if that price is well out of line with an independent valuation; the Committee would simply not approve the proposal. The \$12,000 I am prepared to recommend is based on the valuation obtained by this Council and the independent valuation arranged for you by Kathy Ertel.

The Proposal

Taking all the above into account, and in an effort to meet your needs as best I can, I am prepared to recommend to WRC that it purchase the land in certificate of title 458/254 from the Logan Whanau (understood to be the rightful beneficiaries of the estate of Hemi Kupa Hawea), and that WRC make an ex gratia payment to the Logan Whanau to settle all issues related to the entry on land and construction of the stopbank in 1977.

Three things need to happen before we can complete any agreement based on such a proposal. They are:

1. The Logan Whanau need to confirm the purchase price and the ex gratia payments proposed are acceptable.
2. The proposal needs to be approved by the WRC.
3. The land in certificate of title 458/254 presently in the estate of Hemi Kupa Hawea needs to be transferred to the beneficiaries so that WRC can get legal title to the land and payment can be made to the rightful parties.

Title Status

Currently certificate of title 458/254, for Mangahanene Nos 1 and 2, remains in the name of your grandfather, Hemi Kupa Hawea. Before any money can be paid it will be necessary for the title to be transferred into the names of all living rightful beneficiaries of your grandfather's estate or someone legally authorised to act as the administrator of his estate. While we understand the rightful beneficiary to be the Logan Whanau, it will be necessary to go through some legal formalities to complete any transfer of the land and payment of moneys. I am happy to explain this further if you wish.

The legal formalities, which enable the Logan Whanau to transfer the title will be your responsibility. However, I am happy to propose that WRC assist the Logan Whanau with this process, by seeking advice from the WRC's legal advisors who have some considerable expertise in this area.

Financial Consideration

My recommendation to the WRC is that a single payment be made as follows:

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| • For the purchase of the land in title 458/254 | \$ 2,000 incl. of GST if any |
| • Ex gratia payment for issues related to the 1997 entry onto the land and the stopbank construction | \$24,000 incl. of GST if any |
| • Lump sum payment to cover legal and valuation fees related to the sale of the land to the WRC | \$ 6,000 incl. of GST if any |
| Total Consideration Proposed | \$42,000 incl. of GST if any |

If you agree to the offer and the WRC approves my recommendation, the only impediment to payment will be having the title placed into the ownership of the Logan Whanau and the completion of a signed transfer from its legally authorised representative to WRC.

Where to from here?

Please consider the proposal and advise your acceptance or otherwise. Please also do not hesitate to contact me if I can further clarify any aspects of the offer, or the rationale I have based it on.

Should you wish to accept the proposal I will prepare a report to the WRC recommending settlement of the matter as detailed above. My recommendation will be considered by the Landcare Committee at the next available meeting following your written acceptance. That Committee meets about six weekly.

Once WRC approval to the proposal is given, the Logan Whanau will be able to proceed and have the title placed in its name, secure in the knowledge that the money will be payable immediately after title ownership is achieved and a transfer of title is delivered to WRC.

I sincerely hope that this proposal meets with your approval and look forward to your instruction that I should proceed to place a recommendation before the Council.

Thank you for the hospitality and consideration the whanau has shown me, and other Council representatives, over the last few years as we have discussed the various matters regarding your land.

Yours sincerely

GEOFF DICK
Manager, Flood Protection (Operations)