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## CHAPTER 6

# THE INDUSTRIAL AREA

## 6.1 INTRODUCTION

**From an early stage of the planning for Turangi, it was envisaged that an ‘industrial area’, which would be** occupied by both the Ministry of Works and private contractors during the construction period, would lie to the south of the permanent town. It would have access to the new route of SH41 to Tokaanu and be close to the junction with the realigned SH1. The intention was to separate heavy industrial activity and associated traffic from the new township and the existing Turangi village (fig 9).

## 6.2 15 APRIL 1964 MEETING OF NGATI TUWHARETOA WITH OFFICIALS

At the preliminary meeting of officials and five representatives of Ngati Tuwharetoa held on 15 April 1964, the separate requirements for the township and the industrial area were made clear in the summary of discussions:

- (a) In addition to the freehold land required (600–800 acres) some 150 to 200 acres of leasehold land would also be needed at the rear of the township site.

(b) Land at the rear of the site (ie, south-west of the paper road) would be available, if required, to compensate for European land adjacent to SH1, which it might not prove possible to obtain (B1(a):4).

It was also indicated at this meeting that land in the Tokaanu development scheme south of the public works depot on SH1 would be occupied at an early stage for 'a temporary camp'.

### **6.3 7 MAY 1964 MEETING OF TRUST BOARD WITH MINISTRY OF WORKS**

At the next meeting in the Tuwharetoa Maori Trust Board's offices with three trust board representatives on 7 May 1964, Gibson indicated that planning for the township was in the preliminary stages and he hoped to have a plan ready for the meeting of owners on 24 May 'to indicate land for township and housing areas'. The industrial area was discussed separately. The minutes record that Gibson 'also outlined the land requirements for



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industrial development at the south of the construction village'. John Bennion then spoke, and among other things, stated that 'For industrial development leasehold for 12 years only was needed and that land would be required for private enterprises as well as Ministry of Works requirements' (A7:189–191). No other discussion on the industrial area or its tenure was recorded in the minutes of this meeting.

### **6.4 24 MAY 1964 MEETING OF OWNERS WITH THE CROWN**

The notice of 8 May 1964 from Gibson and Jack Asher calling the meeting of 24 May stated that, in addition to freehold land:

**There will be a further area of some 2/300 acres of the Waipapa and Ohuanga North area located on the South West side of the Hangareko [sic] Stream, as a leasehold area for temporary erection of work-shops etc during the construction stages, after which the area shall revert to the owners. Possibly part of this area will be declared a permanent industrial area for future erection of factories under the Town and Country planning of the local County. (B2(a):61)**

The 24 May 1964 meeting of owners, held at the trust board's offices in Tokaanu, began with Gibson explaining the whole TPD, before moving to the question of the best site for the construction town. Officials preferred Turangi West and emphasised their proposal that it should become a properly serviced permanent township. Bennion stated that, 'The Government would not consider building to the standard envisaged on leasehold land.' This statement referred to the township itself, which was to be on freehold land. After answering some questions, Bennion explained that the proposed leasehold industrial area would cater for workshops, stores, and the like, and would revert to the owners when the Ministry's work was completed. He added that private industry would also 'be developed in this area,

but would be a matter for negotiation between the individuals, the owners and Taupo County Council'. He stressed that 'this trend can not be forced but conditions could be made as attractive as possible' (A7:177–184).

The discussion then moved on to sewerage and other services and housing and compensation issues. The Department of Maori Affairs' report on this meeting noted that 'Industry would be sited on Maori Freehold land (leased by private firms?) outside Township' (B1(a):5).

## **6.5 20 SEPTEMBER 1964 MEETING OF OWNERS WITH THE CROWN**

At the next major meeting of owners on 20 September 1964, the realignment of SH1 and the new route for SH41 were confirmed (A7:73–92). These roads, Gibson stated, provided the 'main framework' for the planned development of Turangi. He also pointed out the industrial area, among other things, on the plan displayed at the morning session held at the trust board's offices. The meeting reconvened after lunch at Hirangi Marae. The following statement was recorded in the minutes kept by the Ministry of Works as part of Gibson's description of the proposed Turangi township:

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**Land shown on the plan that MOW are proposing to lease would be a temporary industrial area for only ten years, but there would be provision for further industrial development for private industrial installations. Ministry of Works would take the land on a leasehold basis and develop it to a standard required by the County. (A7:80)**

There was no other discussion of the industrial area until near the end of the meeting, when Arthur Grace Snr queried the amount of land required. Gibson replied that it was 200 acres, some of which was in the Tokaanu development scheme, and that it would 'all be taken under lease'. He added that private industry could accept a temporary lease or negotiate something more permanent with the owners themselves. R E Tripe, the trust board's solicitor, noted that the land would be leased for 10 years and then revert to the owners (A7:91).

Up to this point, the Maori owners and the trust board had been given a clear assurance by the Ministry of Works of its intention to lease the whole of the industrial area for 10 to 12 years. If any private enterprise wished to negotiate a longer term, that would be done directly with the Maori owners. Otherwise, the land would revert to the Maori owners. As Crown consultant David Alexander said in evidence, 'Leasing the industrial land had been firm Crown policy up till 21 September 1964' (B3:2).

## **6.6 CABINET APPROVES THE LEASING OF INDUSTRIAL LAND**

It was soon revealed that the Ministry of Works' policy in leasing the industrial area might change. On 20 September 1964, the owners were assured that all the industrial area would be leased. Cabinet approval for the construction of the TPD and the Turangi township was granted on 21 September, and included 'the lease of some 200 acres' (A7:95). However, on 24 September, at a meeting with the 'Committee representing the owners of the area at Turangi' at the trust board's premises in Tokaanu, Lynch raised the possibility 'that the Crown will want to freehold a portion of the Industrial site' (A7:55–59). The committee would remember, he said:

**that the Crown's proposal in the inception, was to acquire a lease only of this area for the term of approximately 10 years, at the end of that period it was to revert to the Owners. The Crown however now realises that for private industry to be attracted to the town, and here they would be permitted into the industrial area, it is imperative that they be given a sound tenure, and that tenure must be of a freehold nature. This is a proposal that must be given some thought by the Committee however not at present but at a later date. (A7:58)**

There was no indication recorded in the minutes of this meeting of any committee response to this suggestion. Lynch went on to advise that the Ministry of Works and associated contractors would be 'moving in immediately' to begin work on roads in the industrial area (A7:58). A week later the bulldozers were at work.

## 6.7 THE MINISTRY OF WORKS ENTERS THE LAND

The Ministry of Works entered the land, levelled it, and established on it the facilities to service the TPD's construction. The farm lease of Arthur Grace was purchased, but this covered only parts of the Ministry of Works' areas and private industrial areas on the Waipapa 1E2C and Ohuanga North 5B2C2 and 5B3B blocks. It did not cover the remaining parts of the industrial areas on the Ohuanga North 5B1F block; the road access to the rubbish tip, reservoir, and pumping station, known as the Tukehu Road extension; or Downer's and Seton's camps on either side of this road (fig 18).

On 14 October 1964, Gibson informed the Commissioner of Works that, with respect to the industrial area:

**To date this has been vaguely spoken of as leasehold rather than outright purchase but a closer examination of the problems arising suggests that a leasehold would be a serious mistake especially in regard to land for private industrial development. . . . Further it has been recognised that in the case of commercial and residential land where investments will be heavy, the land should be freeholded. The same should apply in the case of industrial land. When this point was raised before Maori Elders no reaction resulted. (A7:24–25)**

Gibson's opening statement that the question of industrial land had to that point been vaguely spoken of as leasehold rather than freehold was manifestly wrong and misleading. As noted, firm assurances that the 200 or so acres required for industrial purposes would be leased were given by both Gibson and his colleague Bennion at various times during discussions with owners earlier in 1964 and as recently as 20 September.

Gibson ended his letter with several recommendations, including 'Purchase land required for industrial use. The Ministry of Works area could revert to the Maoris if need be' (A7:25). It is not clear just who among the local 'Maori Elders' had been consulted. At the 24 September meeting of the owners' committee, which Gibson had not attended, Lynch had raised the matter but, as earlier noted, consideration was deferred to 'a later date' (A7:58). It is not, therefore, surprising that no reaction resulted.

On 21 October 1964, Lynch, on behalf of the District Commissioner of Works, wrote to the Commissioner of Works on the progress 'on agreements with various owners'. Among matters 'requiring urgent attention' was the industrial area:

**An early decision is needed as to whether all or part of this area is to be freeholded. If any is to be leased, details of areas, and terms and conditions of leasehold interest to be acquired, are needed before any progress can be made. I should mention that in my view all land should be freeholded. Development of leasehold areas will be restricted by the limited tenure and will be less attractive to outside capital. Rental plus restoration will probably cost more than freeholding. Furthermore the advantages to the Crown of owning this land, from both economic and planning viewpoints, need hardly be stressed. I am aware that the original intention (which was validated by Cabinet) was to lease, but with the re-location of the highways the industrial area has moved northwards and is now largely on land that was originally proposed as freehold. A further point is that a strip of water supply reserve (freehold) will require to be taken along the south side of these lands and this would leave the leasehold area sandwiched between the areas that are to be freeholded. (A7:29-30)**

## **6.8 THE CROWN SEEKS TO RESILE FROM THE UNDERTAKING**

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It is disturbing to find that, within a month of the Cabinet confirming that the industrial land was to be leased from the Maori owners, the Crown land purchase officer was proposing that the economic advantage to the Crown of resiling from this undertaking should take precedence over the recognised advantages to Maori of retaining the ownership of the land and leasing it to the Crown and its successors. It is not surprising that the Ministry of Works' legal staff were concerned that the Maori owners had been advised of the intention to lease the industrial area and they felt that the owners' 'full consent' should be obtained prior to the Crown's acquisition of the freehold. Cabinet approval had been given on the basis of a lease. Gibson reported by telegram on 11 November 1964 on a head office 'request to test Tuwharetoa reaction to proposal to drop leaseholding of 200 acres for industrial use'. He had contacted four people by phone, Arthur Grace Snr and Lang Grace – leaders of 'the Grace faction' – and Jack Asher and Pat Hura of 'the Asher faction'. The significance of Gibson's use of the term 'faction' in this context was not made clear. Lang Grace, Gibson recorded, 'prefers to sell this land outright to be quit of Maori Affairs Department'; Pat Hura 'is happy to sell in the belief that promotion of township will be improved'; Jack Asher 'is happy to support outright sale in view of wishes of the Crown and others', but he wanted to confer with Pat Hura; and Arthur Grace Snr 'is happy to see outright sale as he considers land would be taken for ten years anyway and therefore of no use for farming by his son'. The latter also expressed 'his preference for recompense in land rather than cash' (A7:22). It is not clear why these four were consulted individually when there was an owners' committee already set up. On 24 September 1964, this committee had met, and a subcommittee comprising Pat Hura, Lang Grace, and Walter Ngahana was 'elected for Liaison duties and in conjunction with Works Department

Officers, [to] work to resolve any problems that may arise in the construction of the town site' (A7:58). Ngahana was not recorded as being consulted by Gibson, nor was there any record of a meeting of the subcommittee or owners' committee to consider this change of policy.

On 10 November 1964, presumably after Gibson's phone call, Arthur Grace Snr sent a telegram to the Minister of Works:

**Will cooperate in transfer freehold of approximately 200 acres of Ohuanga North and Waipapa Blocks required by Government for heavy industry site Turangi Township preferably however by exchange for Crown Land in same locality and at present incorporated in the Tokaanu Maori Land Development Scheme farm being consistent with our general policy of conserving our lands for farming and ultimate settlement by our people. Your cooperation would be appreciated. (A7:7-8; B3:5)**

However, there does not appear to have been any serious attempt to follow up Arthur Grace Snr's suggestion. Given the obligation on the Crown to protect Maori rangatiratanga over their land, strenuous efforts should have been made to accede to this entirely reasonable request. By February 1965, the Ministry of Works had established its intention to acquire 150 acres freehold in the industrial area (A1:8). There was no full meeting of owners called to consider the freeholding of the land as an alternative to the expressed Crown intention of a temporary leasehold. The Ministry of Works proceeded on the basis of limited consultation with a few people. Presumably because the Turangi Township Act 1964 was now in operation, thus giving the Crown the power to take the land, it was not considered necessary to meet with other owners. A proclamation plan was approved as to survey in November 1966 but could not be used because a small part of it was outside the boundary described in the Second Schedule to the Turangi Township Act (B3(a):3-4). An amended plan was approved in November 1967. Meanwhile, in October 1965, the three-acre pumice pit (also described as a gravel reserve), part of the hill Te Puke a Ria taken in 1923, was

declared to be ‘set apart for the establishment and development of Turangi Township’.<sup>1</sup> There was no further action to take the remaining part of the industrial area by proclamation, and the situation remained unresolved into the 1970s.

## **6.9 CROWN ABANDONS LEASEHOLD OF INDUSTRIAL AREA**

By early 1967, as already outlined, local people were expressing some dissatisfaction with the increasing amounts of land being required by the Crown. There was still no payment of compensation for lands already taken in 1965 and 1966. The Department of Lands and Survey was also trying to negotiate the purchase of the Tokaanu swamp lands and the Tongariro River delta as part of the lakeshore reserves scheme. It was still not certain how much land would be taken for the Tokaanu Power Station and tailrace. On 4 April 1967, R E Tripe, the solicitor for the Tuwharetoa Maori Trust Board, wrote to the Minister of Works expressing concern about the Crown’s proposal to acquire the freehold of the industrial area. He reminded the Minister of the Crown’s undertakings at the meetings on 24 May and 20 September 1964 that the industrial area would be leased:

**At both these meetings the Maori owners expressed concern that no land should unnecessarily be taken from them, and, in particular, with regard to areas proposed to be occupied by the various Government Departments and others for industrial**

**purposes connected with the Hydro Scheme, that these would be occupied on a temporary basis only and returned to the Maori owners at the completion of the works. The Maori owners were concerned that they should not lose freehold title unnecessarily as they have all too little land in any event, and the proposal that these industrial areas should be leased from them was an important ingredient in their approval of the Scheme. Indeed many of the owners of the land in question have comparatively little other land remaining. (A8:80–81)**

The Minister referred the letter to the Commissioner of Works for a response. On 9 May 1967, the commissioner advised the Minister that he had asked a committee of senior Works officials to consider the land requirements at Turangi and report back:

**From a practical viewpoint it is thought desirable Government's powers to take land should be exercised to a minimal degree and that, with the exception of some 30 acres, other land should be negotiated with willing owners only. If owners do not wish to sell their land then it is felt that appropriate leasehold arrangements should be attempted. (A8:131)**

One of the members of this committee was the Ministry of Works' chief land purchase officer, Lang Grace, who also belonged to Ngati Turangitukua. At a meeting on 1 May 1967, in response to a question about local Maori resistance to land sales:

**Mr Grace replied that there had been a noticeable tendency towards resisting sales recently and he referred to efforts by the Lands and Survey Department to purchase land in the vicinity of the tailrace tunnel which had met with a flat refusal from the Maoris. The landowners felt they did not know where the Crown was going to stop in acquiring land. (A8:133)**

On 30 May, the committee met again with Gibson and Bennion from the TPD. The minutes of this meeting record:

**The Project Engineer contended very strongly that the Maori owners had agreed to the taking of a further 200 acres or so for industrial development both by private interests and the Department but that there had been a change of heart on the part of a small minority interest as a result of which the Maori owners were claiming through the solicitors, that this land be held on leasehold only. (There appeared to be some doubt as to what constituted 'Maori owners' within the terms of the alleged approval). (A8:138)**

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There were ‘strong divergences of opinion’ about the ‘moral obligations of the Crown’ in this matter, but it was agreed at this meeting that some action could be taken to acquire approximately 90 acres for the private industrial area under the Turangi Township Act 1964. The file note written by the Assistant Commissioner of Works, Mr Magill, which recorded this discussion, also included the comment that ‘There certainly seemed to be lack of coordination between Head Office and Project in respect of these issues’ (A8:140), and Gibson was duly asked to provide a schedule of land requirements to be considered. Magill, in turn, visited Turangi.

At the July meeting of the officials’ committee, it was agreed that the freehold of the private industrial area should be acquired by the Crown, as recommended by Gibson, because the land had already been developed, partly allocated, and built on by private industry on the basis of an expectation of freehold titles. Magill noted, however, ‘his concern at the undertakings given to private industrial users, before the land had been taken, that it would be freeholded’ (A8:111). Gibson, for his part, recommended that all the Ministry of Works’ industrial area should be taken, as well as another 28 acres to the south of the 29 acres of private industrial area already developed. It was agreed in principle that both areas should be taken, although the opinion was expressed that leasing was a viable option. The arguments in favour of taking were that it would ‘enhance the permanent development of the township to protect the Crown’s investment and . . . allow [the] in situ sale of buildings on freehold land’. Magill noted that there was ‘an obligation to recoup as much of the Crown’s heavy investment as possible’ (A8:114). However, no immediate action was taken and, in October, Gibson wrote to the Commissioner of Works stating that ‘considerable pressure is being brought to bear by outside interests with regard to the issue

of title', that he had had several applications for 'permanent title', and that the 'matter was becoming a source of much embarrassment' (A8:74). Since no formal approval had yet been given to take the land in the private industrial area, it seems that Gibson, having taken it upon himself to offer the promise of freehold title, was now putting the pressure on head office.

## **6.10 3 MARCH 1968 MEETING OF OWNERS WITH THE CROWN**

### **6.10.1 First meeting between local Maori and Gibson since 1964**

By early 1968, no resolution of the tenure of the industrial area had been reached. This and other unresolved issues had raised the level of dissatisfaction and frustration among Maori who owned land affected by both the Turangi township and the TPD generally. The district officer of the Department of Maori Affairs, J E Cater, called a meeting of owners, which was held at Hirangi Marae on 3 March 1968. This meeting was the first opportunity since 1964 for local Maori to address their concerns directly to Gibson and other Ministry of Works officials in their own environment. Both Gibson and Lynch admitted that they had not met with local people at a marae hui since the meeting of 20 September 1964, and it was now 3½ years since construction work had commenced. The meeting was also attended by representatives of the Taupo County Council, including the chairman, H Besley. The meeting was chaired by Cater who, after the mihi, explained that he had called the meeting

‘to get the people together with the Project Manager’ after the long interval since the previous meeting. He observed that while some lands in Turangi had been taken, other areas were occupied but had not been proclaimed taken, and for that reason the Maori Trustee could not yet make an approach for compensation. He invited the Ministry of Works officials to advance their proposal for the occupation of the lands, following which the owners would discuss the matter amongst themselves, much as would occur in a normal meeting held by the Maori Land Court under Part XXIII of the Maori Affairs Act 1953 (A8:27).

#### **6.10.2 Gibson’s explanation**

Gibson began by referring to various areas on a plan showing land requirements. He explained that his job was to explain ‘the engineering requirements’, that Lynch would discuss land acquisition and compensation, and, because the Taupo County Council would be taking over local government on 1 April 1968, that Besley would ‘state what their requirements are’. Gibson then proceeded to the areas labelled 7 (the private industrial area already developed), 8 (the private industrial area not yet developed), and 9 (the Ministry of Works’ industrial area) (see fig 11, ch 5). Gibson explained that area 7 had been developed for industrial B and C use and the majority of it had already been occupied by private firms, which had been assured they could acquire the freehold. He said that area 8 was also industrial B and C but had not yet been developed with services, although it had been occupied. He added:

**We are very hopeful that you people today will agree that all this Industrial B and C land is necessary for a firm future for Turangi and that you will make Area 8 available to us to purchase just as we have to purchase Area 7. We would be very pleased to buy Area 8 if you would elect to sell it, thus ensuring the proper balance in the township between the various types of land. It is most important that adequate industrial land be provided to encourage industry into the area. (A8:28)**

With respect to area 9, the Ministry of Works' industrial area in which Gibson said the Crown had already invested some \$3 million, he again expressed the hope that:

**you will recognise the utmost importance of this land being acquired by the Crown so that when the power construction work phases out in 10–15 years these facilities will be immediately available to the Forestry Department and Lands and Survey who are already moving to forestry and farm development in this back area around Turangi and workshops will be necessary to support their activities over the huge area of lands surrounding Turangi. (A8:28–29)**

After outlining the other areas already occupied or likely to be required, Gibson returned to the question of the Crown's acquisition of the industrial area:

**When we were speaking of this area in here (pointing to map) we were undecided as to what we should do in regard to the acquisition of that land and at the meeting in September 1964 when asked just how the Crown would deal with this land requirement I explained that there were alternatives, that probably we would lease that block of land. Well, between that meeting in September 1964 and Christmas 1964 it was realised by our planning people that if we were going to encourage private firms to move into this area, invest their money and what is more take over the power development facilities when we pulled out that the only practical solution was for the Crown to acquire the title to that land and then be able to consolidate the titles and hand the land out expeditiously and at very low value to encourage industries to come here to support the population of the residential and commercial areas of the town. Now this was explained to your senior representatives who were set up at the end of the September 1964 meeting. As you will probably all remember you elected I think it was 12 members representative of your people to negotiate final details with departmental officers and this requirement and this mode of attack with this land was discussed with your representatives and we had full understanding, or thought we did, with your representatives and that is why we have gone ahead and invested \$3 million on this block and private interests have gone ahead and invested \$500,000 in this block and that is why we are asking your confirmation that the arrangements we negotiated after the September meeting stand. (A8:30–31)**

### **6.10.3 Clarification sought from Gibson**

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Cater cut in at this point to seek clarification that what the owners were being asked was that ‘the previous thought they had about leasehold is to be scrubbed and the land is to be taken completely. Is that the position?’ Gibson responded:

**Yes, Mr Chairman, I have been involved in long and protracted discussions with senior officers of the Department in Wellington and the Minister of Works in regard to this land and he is confident that you will affirm the understandings that we have that Areas 7 and 9 must be taken.**

He conceded that area 8 could be retained by Maori and that ‘We will just have to occupy it and pay you compensation at the end’ (A8:31). Cater interrupted again:

**Cater: Let us get this clear. Does that mean that irrespective of what the people think you are not prepared to lease Areas 7 and 9 and intend to take them anyway?**

**Gibson: Well, Sir, I think this truly represents the situation.**

**Cater: Let’s be quite blunt about it so the people will know exactly what the position is. The original idea as I have heard it was that these areas here were to be leased and when you [the Ministry of Works] moved out the occupiers of the land would be paying the owners a rent probably in perpetuity or something and you would pay them a rent for the occupancy of the land. The idea now is that you will take that land whether or not the owners want to retain a leasehold. Am I right?**

**Gibson: Well, ladies and gentleman, Mr Cater puts the matter in a slightly different way to what I would put it to you.**

**Cater: But that is the question, isn’t it?**

**Gibson: The question is rather this – 3 years ago we recognised that it was best that we take this land. (A8:31)**

Gibson then reiterated his claim that, in late 1964, he had obtained an understanding from senior Tuwharetoa leaders that ‘we had your full approval to take that land’ and, on that basis, the Government had invested \$3 million and ‘induced private interests’ to spend \$500,000. ‘We still do not want to bulldoze the people of Turangi,’ he said, ‘we just wish you to affirm that our understanding that we take that land stands’ (A8:31). Gibson was

questioned further by Cater on the form of resolution he would have to put to the owners at the end of the meeting after the officials had gone. Cater ventured that it might be 'quite futile for me to get resolutions from this meeting which will be of no substance' (A8:33). Gibson finally admitted that he had correspondence from the Minister of Works indicating that 'there will in fact be no alternative but that the land be taken'. At this point, the minutes recorded 'Loud murmuring from the floor of the meeting'. Cater then asked whether the Minister 'might change his opinion if he gets a resolution of a different nature from the owners?' Gibson responded, 'He could do' (A8:33).

This exchange leaves open a number of questions. If it had been decided in December 1964 that the industrial land should be taken rather than leased, why then had no proclamation been issued? There had been no meeting of owners to discuss the matter. Gibson's 'understanding' appears to have been based on him talking individually by telephone to four Tuwharetoa leaders: Jack Asher and Arthur Grace Snr, who were both dead by 1968, and Pat Hura and Lang Grace, who were present at this meeting. Lang Grace made no comment but Pat Hura stated later in the meeting, while the Ministry of Works officials were still there:

**I appreciate the fact there is one area considered to be the industrial area of the town, I appreciate that there is some disagreement there. When these matters were originally discussed and the committee [members] of which I was one were appointed – at that time the talk mainly was around the 700 acres around which the township was placed. The MOW then felt they wanted to lease the industrial area. Mr Gibson then rang me and asked whether the owners would agree to sell it. I said yes I thought so, but when it comes to the final agreement it is up to the owners. (A8:43)**

#### **6.10.4 Full approval?**

Gibson seems to have been stretching the meaning of 'full approval'. On his own admission, he had talked to only four people in late 1964 (A7:22). His concept of 'full

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understanding' was perhaps what he and other officials wanted to believe. On the Maori side, it is more likely that they tacitly assumed that, if the Ministry of Works wanted to take the land, a proclamation would be issued in due course anyway, whether the owners agreed or not.

There was nothing in the 1964 'approval' or 'agreement' which complied with the requirements of Part XXIII of the Maori Affairs Act 1953 on how a resolution by a meeting of Maori owners to alienate a specific area of land should be dealt with and confirmed by the Maori Land Court. At this 1968 meeting, although Cater managed it as if it were a Part XXIII meeting of owners, he had before him no specific application to alienate which included a statement of conditions or price. Under section 259 of the Maori Affairs Act 1953, the Crown could acquire land 'in pursuance of a resolution of the assembled owners passed and confirmed in accordance with Part XXIII of this Act'. Later in the 1968 meeting, Lynch explained how he viewed these procedures:

**The Ministry of Works has to operate under the Public Works Act and not necessarily under the Maori Affairs Act and we must look at this whole problem in the light of these meetings which were originally held with the Maori owners and at these meetings the Maoris voted unanimously that they would make their land available to the Ministry of Works for the construction of a permanent township at Turangi. That being the case I think the intentions of a normal Pt 23 procedure have been fully met. There is no way under legislation under which we are now operating whereby the Pt 23 meetings can be held in respect of Turangi Township itself. As far as the areas outside Turangi township [are concerned] I have already expressed my willingness to attend these meetings and discuss this matter. (B10(c): doc 21)**

In this statement, Lynch was conveniently avoiding the point that the only agreement reached in 1964 was an agreement in principle only. The relevant part of the resolution passed on 24 May 1964 was:

**That this meeting approves the proposal of the Crown for establishment of a town at Turangi along the lines outlined to the meeting, and accepts the assurance given that the owners will be reasonably and fairly compensated. (A7:184)**

At this meeting, it had been clearly stated that, in addition to the 600 to 800 acres required as freehold, some 150 to 200 acres required for the industrial area would be leased for 10 to 12 years. If the 24 May 1964 meeting had been held under the provisions of Part XXIII of the Maori Affairs Act 1953, there would have been specific resolutions to that effect put to the meeting. In any case, a single meeting of such a disparate group of owners called to consider the Crown acquisition of the range of lands involved – some 200 separate Maori Land Court titles – could not have voted on such a resolution. Each group of owners for each piece of land would have had to consider separately a resolution to alienate by sale or lease, including a specific figure indicating the current valuation and the priter Gibson:

**It will be your children and your children's children who will either profit or not from the decisions council and the department [the Ministry of Works] and you yourselves make and I think you have to take a very long view of whatever you do. We are very, very proud of Turangi as we see it. It is a wonderful experiment. . . . While the [TPD] scheme is in operation there is not much risk of things in any way depressing but as I said before you have to look further ahead than that. It is of when the scheme ends that you have got to think and so have we. What of the future? Industry is going to be needed, industry can be induced, forestry, soil research, fishing research, soil conservation, health spas . . . However, you must look at it from the viewpoint of those who are going to put money into it. I would feel that unless there is adequate ground available for industry of the nature I have mentioned and unless that ground is available on a freehold basis, you are going to limit future progress. Where heavy capital expenditure lay in attracting industry, and that this would only be achieved**

by offering developed freehold sites at a low price as an incentive. Council chairman

H Besley spoke after Gibson:

It will be your children and your children's children who will either profit or not from the decisions council and the department [the Ministry of Works] and you yourselves make and I think you have to take a very long view of whatever you do. We are very, very proud of Turangi as we see it. It is a wonderful experiment. . . . While the [TPD] scheme is in operation there is not much risk of things in any way depressing but as I said before you have to look further ahead than that. It is of when the scheme ends that you have got to think and so have we. What of the future? Industry is going to be needed, industry can be induced, forestry, soil research, fishing research, soil conservation, health spas . . . However, you must look at it from the viewpoint of those who are going to put money into it. I would feel that unless there is adequate ground available for industry of the nature I have mentioned and unless that ground is available on a freehold basis, you are going to limit future progress. Where heavy capital expenditure is needed the person investing that capital must have a freehold title. (A8:34)

#### 6.10.5 Leasehold or freehold?

Cater also questioned Besley about the Taupo County Council's attitude to the leasehold or freehold of the industrial area: Besley said that the council would 'subscribe very strongly to freehold', having 'had enough trouble with this sort of thing in other parts of the county . . . we have had handicaps with leasehold' (A8:35).

The county clerk, C J Coates, reiterated Besley's position and indicated that the perceived problems in Mangakino, a construction town built on Maori leasehold land, had strongly influenced the Taupo County Council in advocating the freehold of the industrial area. The county engineer, G B Burton, was similarly sure that:

the future of this town depends very largely on industrial land becoming freely available at a very reasonable cost or no cost at all in order to induce people to come into this area which is remote from transport facilities in comparison to other areas. (A8:41)

Burton supported taking the freehold not only of the industrial area but of the water supply reserve and rubbish tip as well. At this point in the meeting, questions were asked by Mrs Lanham, who probably expressed the sentiments of many of the owners in her comments:

**You are asking us to give you this land at a very low cost. Now the only ones who are giving are the owners. What about a bit of give from your side too. The Maori owners have no alternative but to give. You are taking it. You won't even tell us how much it is going to be. If you could give us a bottom and a top price then we can dream a little bit anyway. What are we here for? You have it all talked out amongst yourselves. You know all the answers and you are just wondering how many awkward questions these Maoris are going to ask. (A8:42)**

**With both the Ministry of Works and the Taupo County Council ranged against them, it probably seemed to most of the owners that it was no contest.**

**In the early afternoon, the Ministry and council people left the meeting, although the Maori Trust Office staff remained. Cater chaired the informal meeting of owners that followed and took the opportunity to explain the Maori Trustee's actions to date on seeking compensation for lands taken. He then opened up discussion on the further land requirements. Pat Hura spoke strongly in favour of a series of Part XXIII meetings. Cater commented that the Ministry of Works had not used Part XXIII at Turangi, although Department of Lands and Survey officers had done so on many occasions. Cater also explained his role on behalf of the Maori Trustee. In negotiating compensation after land was taken under the Public Works Act 1928, he was carrying out a statutory obligation on behalf of the Maori Trustee, but if the owners wanted 'to try Part XXIII he did not think the Maori Trustee would object' (B3(a):19).**

**A number of other things were also discussed at this meeting. At the end, the owners resolved that they would prefer that any negotiations on the industrial area, including a leasehold, be conducted under the provisions of Part XXIII of the Maori Affairs Act 1953. It was also decided that a deputation, including the Tuwharetoa Maori Trust Board's solicitor, should go to Wellington to discuss these matters with the Minister of Works.**

#### **6.11 THE MAY 1968 MEETING WITH THE MINISTER OF WORKS**

**A delegation in due course met with the Minister, but he and his advisers were not prepared to enter into negotiations under the Maori Affairs Act 1953. The Minister explained in a letter to the trust board's solicitor of 11 June 1968 (after the meeting in Wellington) that:**

**I do hope you will accept what we consider to be a necessarily firm view, that the Crown must have powers of resumption for public works, and legislation stipulates that**

the only procedure available to the Crown to acquire such land is that contained in the Public Works Act 1928 and its amendments.

The Maori Affairs Act is at variance with the Public Works Act in at least two important aspects. Firstly there is no provision for a specified date, consequently all negotiations and Maori Land Court confirmation must of necessity be conducted prior to entry, secondly there is no provision in the event of disagreement for the matter to be referred to the Land Valuation Court. From a practical point of view these difficulties could prove intolerable in regard to delaying the start of a public work, even for years, with the possibility of never reaching agreement. (B3(a):23)

The Minister decided that, 'In view of the Crown's commitment to vest the freehold', it would be necessary to take that part of the private industrial area that had already been developed (B3(a):22). We have noted earlier (see para 6.9) that the Assistant Commissioner of Works had expressed his concern in July 1967 at the undertakings given to private industrial users before the land had been taken that it would be freehold. Ironically, it would seem that this unauthorised undertaking was given priority over the earlier 1964 assurances that this land would be leased from Maori. Part of the industrial area had already been taken with other Turangi township lands in 1965 (fig 18). The procedures were set in train for the survey and eventual proclamation of an additional 31 acres on 7 August 1969.<sup>2</sup> Subsequently, this proclamation was found to have included part of Seton's camp, which was outside the Turangi Township Act 1964 boundaries. This area was excluded by another proclamation in 1972, leaving some 27 acres taken by the Crown.<sup>3</sup> Seton's and Downer's camp areas returned to Maori when construction ended. The Minister agreed in 1968 that the area to the south of the developed private industrial area taken 'will be released from occupation by the Crown' (B3(a):22). This area also remained Maori land.

On the issue of the Ministry of Works' industrial area, the Minister stated in his letter that 'No final decisions to be made with regard to this block for the duration of the project, and then only in full prior consultation with the owners' (B3(a):22). The Ministry's occupation continued both under the 1958 Order in Council and as lessee of the lands in the former Grace farm.

## **6.12 A FURTHER CHANGE OF MIND**

### **6.12.1 Continued Crown support for the freehold**

Gibson and Ministry of Works officials continued to support the taking of the Ministry's industrial area and, after the Minister of Works visited Turangi in April

1970, he also concluded that the freehold of this area should be acquired (B3:25). In a memorandum to the Minister on 30 June 1970 (A9:169–171), the Commissioner of Works sought to justify the reversal of the Minister's 1968 written undertaking that no decision would be made about this land (area 9) for the duration of the project, and then only after prior consultation with the owners.

The commissioner pointed out that, under the Crown's existing lease, the rent would shortly rise to an estimated \$10,100 per annum for 14 years and be reassessed in 1984 for a further four years, when the term would expire. The commissioner affirmed that, from the Crown's point of view, the cost savings to be had by obtaining the freehold were sufficient justification for its acquisition (A9:170–171). The commissioner added that the New Zealand Forest Service was interested in using certain of the Crown's facilities and would require title to the land, as, it was said, would private interests. If the Crown were prepared to take the freehold, its 'prospects of obtaining a satisfactory return for its investment in the assets it has created for the power development will be enhanced' (A9:170).

The commissioner acknowledged that the present leasehold arrangement was very favourable to the owners and any change would be opposed. The Minister was warned that the owners would likely claim that the previous statements given at public meetings promised that this particular land would not be taken. He added:

Admittedly this was stated at the time as being the probable policy, but there were no categorical promises given to this effect and in the changed circumstances the Crown must exercise its right now in its best interests. (A9:170)

#### **6.12.2 Bureaucratic sophistry**

It is difficult to reconcile this bureaucratic sophistry with good faith on the part of the Crown. It overlooks the fact that the undertakings given in May and September 1964 – that the industrial land would be leasehold, not freehold – were unqualified and positive. It further ignores the fact that the day after the assurance was repeated at the 20 September 1964 public meeting it was confirmed by Cabinet. Moreover, it implies

that the Crown is justified in resiling from its unqualified undertakings if it is in its 'best interests'. It is also implicit in this approach that the interests of Maori (its Treaty partner) are subservient to, and may be overridden by, the pecuniary interests of the Crown.

Accordingly, on 2 July 1970, the Minister wrote to the Maori owners' solicitors. This letter was less than frank in that it made no reference to the substantial savings the Crown would make by extinguishing its liability to the Maori owners under the then current lease, although it did suggest that it was 'essential to protect' its quite substantial investment in the township and ensure its permanency. The Minister noted his intention to take the land compulsorily but expressed willingness to meet the owners' representatives before doing so.

### 6.12.3 Further meetings and correspondence

The meeting with the Minister of Works eventually took place on 9 March 1971. The Minister confirmed his intention to take the land under the Turangi Township Act 1964. The owners stated that strong objections would be raised to such a taking without negotiation. The Minister instructed his officials to discuss the acquisition and seek agreement with the owners' solicitors prior to the taking, but would not agree that the value of the land should be the current market value at the time of the taking. The owners, for their part, were to submit a case for leasehold tenure (A10:137).

On 20 July 1971, the Commissioner of Works wrote to the owners' solicitors stating that, at the May 1964 meeting and other (unspecified) meetings, it was 'suggested' that the industrial land occupied by the Ministry (area 9) 'might be leased by the Crown', but that no undertaking was given. This is palpably incorrect and the Tribunal can only speculate why the Crown was attempting to deny or resile from the plain and unambiguous undertaking it had given at both the 24 May and the 20 September 1964 owners' meetings.

The commissioner also advised the solicitors that with the progress in planning for the permanent establishment of Turangi 'it has been decided that the freehold to the industrial area must be taken to enable freehold title to be offered as an attraction to establish industry in the township'. The letter proposed valuations for the land to be taken as at the date of entry in October 1964 (A9:79-82).

The owners' solicitors replied to this letter on 10 August 1971 on a 'without prejudice' basis. In this letter, they said that:

- it was now clear that the compulsory taking of the industrial land had not been necessary either for the purpose of establishing the town or for the hydro-works;
- in their experience, a leasehold title was often preferred because of the capital saving;

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- the Maori owners were quite prepared to make title available to industry on a freehold or leasehold basis at current market values;
- the taking of the industrial land was not essential for either the establishment or the development of the Turangi township; and
- the owners might be prepared to settle, as long as the current market value of the land is offered, as the Minister had initially agreed at the March meeting (A9:72–73).

On 25 August 1971, the Commissioner of Works wrote to the Minister of Works concerning the industrial area occupied by the Ministry at Turangi. Again, the position in 1964 was misrepresented. The commissioner advised the Minister that:

**Although in early 1964 it was suggested by the owners that the Industrial Area should be leased for the duration of construction it was subsequently decided that the freehold should be acquired to facilitate the future development of the town. (A9:53)**

Once again, the fact that the Crown gave unqualified undertakings to the owners in 1964 that the industrial land would be leased and not taken was characterised as a mere ‘suggestion’ by the owners. This is plainly wrong. Cabinet had approved the leasehold of up to 200 acres on 21 September 1964 (A7:95). Moreover, the decision of the Minister to acquire the freehold of this land was not taken until 1970, nearly six years later, by which time the construction of the town was complete.

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The commissioner's letter to the Minister went on to suggest that at the March 1971 meeting the owners accepted the Minister's decision to acquire the freehold 'without serious objection'. Again, it is difficult to reconcile this statement with the Ministry's own record that the owners stated that 'strong objections' would be raised to such a taking without negotiation (A10:137).

The commissioner's letter then proceeded to advise the Minister that the solicitors had now advised that the owners would negotiate only on the basis of current market value and that the disposal of the land should be left to the Maori owners. The commissioner, however, omitted to advise the Minister that in the same letter (a copy of which does not appear to have been supplied to the Minister) the solicitors advised him that the owners were quite prepared to make title available to industry on a freehold or leasehold basis at current market value to avoid any prejudice to the industrial development at Turangi. The commissioner reported that it was unlikely that the owners could finance a purchase of the Crown's improvements and contended that it was well known that Maori leases would not attract private investment. No evidence was supplied in support of these assertions. The commissioner then advised that, in any case, 'the bulk of the land would not be available to the owners until the expiry of the Crown's lease in 1998' (A9:58). Yet this was the very lease which the Crown had earlier advised was so burdensome that the Minister was justified in taking the freehold so as to extinguish it. No doubt the owners would have been happy to agree to a surrender of the lease by the Crown as part of a settlement, as would the Crown to have been relieved of its liability.

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The commissioner concluded his letter by recommending that the Minister give approval to the issue of the necessary proclamation taking the Ministry of Works' industrial area under the Turangi Township Act 1964 for the development of the township. The Minister endorsed his approval on the letter on 30 August 1971 and wrote accordingly to the owners' solicitors on 1 September 1971. In his letter, he made no reference to the Crown's breach of its 1964 undertakings that it would not take the freehold of the industrial land.

On 9 September 1971, Russell Feist, who was acting for the owners, and Pat Hura saw the Minister of Maori Affairs, Duncan McIntyre, and the next day wrote a follow-up letter to the Minister. In this letter, Feist:

- confirmed that an application had been filed with the Maori Land Court for the appointment of trustees for the purpose of instituting Supreme Court proceedings to determine the legality of the proposed taking of the industrial land;
- stated that the owners' preference was to retain the freehold and lease the land to the Crown or any other occupier on an agreed term, as long as the rent was at the current market value and was regularly reviewed;
- confirmed that the owners made no claim to the improvements effected on the land by the Crown, which could be sold to any purchaser of the leasehold interest;

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- re-affirmed that the owners would sell the freehold interest to private enterprise at current market value, should such enterprise wish to acquire the freehold;

- undertook that, if title to the land remained with the beneficial owners, they would be prepared to see the Crown appointed agent for the purpose of lease or sale so that the control of negotiations rested fully with the Crown, and the Crown was thus able to obtain the best terms for both the land and the improvements; and

- observed that, if the Crown persisted in its wish to acquire the freehold, any purchase should be at the current market value (A9:36–37).

The Minister of Maori Affairs forwarded a copy of Feist's letter to the Minister of Works. In his letter, McIntyre expressed some sympathy for the owners' viewpoint and considered that the present proposals for the compulsory acquisition were quite inconsistent with the discussions and agreements which formed the basis for the Crown's entry on the land (A9:41).

#### **6.12.4 Commissioner of Works' 15 September 1971 memorandum**

This letter prompted a memorandum on 15 September 1971 from the Commissioner of Works to the Minister of Works. The memo repeated the earlier incorrect and misleading statement that the owners 'suggested' that the industrial area should be leased for the duration of the project, omitted the well-established fact that the Crown undertook to lease such land for a limited period and not acquire the freehold, and repeated the earlier erroneous statement that the owners accepted 'without serious objection' the Minister of Works' decision to take the land compulsorily.

The commissioner alleged that, while the proposal to take the industrial area had been the subject of extensive correspondence and discussion for seven years, the records indicated a consistent intention to acquire the freehold. He averred that the leasehold basis was suggested by the owners but this was not agreed to by departmental officers. Again, this is palpably wrong. Ministry officials undertook to lease, not take, the freehold of the industrial land. Cabinet confirmed the arrangement on 21 September 1964. It is a matter of grave concern that the Ministry persisted in giving such misleading advice to their Minister. Finally, the commissioner rejected, with scant consideration, the owners' proposal (earlier made to the Ministry) that they would agree to offer the freehold title to any interested firm and make no claim for the Crown's improvements. The proposals were dismissed as an attempt by the owners to secure the increased land value resulting from the Crown's investment (A9:32–33).

#### **6.12.5 Minister of Works signs proclamation taking industrial land**

On 20 September 1971, five days after receiving this seriously flawed memorandum, the Minister signed the proclamation taking the industrial land occupied by the Ministry of Works (A9:28). The Minister duly wrote to the owners' solicitors on 3 October 1971 explaining his reasons for taking the area by proclamation. The main reasons given by the Minister were summarised by Crown consultant David Alexander as follows:

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**All planning and development had been on the basis that the Crown would acquire the land and then later transfer it to other owners in a manner which assisted the retention of Turangi as a permanent township. (B3:36–37)**

This explanation by the Minister is totally incorrect. The proclamation of 7 August 1969 taking the industrial area for private development was made principally because an unauthorised undertaking to the effect that the title would become freehold had been given to some developers by Gibson. The decision to take the Ministry of Works' industrial area was not made until March 1970, almost six years after the undertaking to lease the land for 10 to 12 years was given to the owners in 1964. Another important reason for this taking was to maximise the Crown's return from its expenditure in connection with the new town. The Minister said, 'The Crown might need substantial parts of the block after completion of the power scheme to service the proposed afforestation development in South Taupo' (B3:37). This could also have been made available by the owners on either a long- or a short-term leasehold basis. Other reasons given by the Minister and summarised by Alexander were:

- **The owners' proposals would introduce complications for prospective private purchasers in having to deal with the owners and with the Crown (in two capacities, as lessee under the old Grace lease, and as owner of the improvements).**
- **The owners and the Crown would have their own complications in their own dealings over the apportioning of values between each other.**
- **Readily available freehold tenure would be more attractive to private purchasers than the complex and frustrating negotiations required under the owners' proposals. (B3:37)**

The owners, however, were prepared to appoint the Crown as agent for the purposes of lease or sale so that the Crown had complete control of the negotiations and could obtain the best terms for both the land and the improvements. As earlier noted, these proposals were rejected by the Commissioner of Works with scant consideration and no consultation with the owners. Indeed, as discussed, they do not appear to have been taken seriously.

#### **6.12.6 Proclamation possibly illegal**

This was not the end of the matter. It soon emerged that, for a number of legal reasons, the Minister's proclamation of 20 September 1971 might well be illegal. This led to Pat Hura and Hepi Te Heuheu, as trustees for the beneficial owners, issuing legal proceedings to have the proclamation declared a nullity. The result was a somewhat more conciliatory attitude on the part of the Ministry of Works, which feared the Supreme Court might well declare the proclamation invalid. As indicated earlier, there were other unresolved issues, and negotiations proceeded into 1972, including a lengthy meeting on 28 January 1972 with the Prime Minister, Keith Holyoake, held with a view to reaching an amicable settlement. These negotiations covered a variety of matters and have been outlined in chapter 5.

The Ministry of Works continued to be concerned at the implications of the outstanding legal proceedings. In a memorandum to the Ministry's office solicitor, the assistant chief land purchase officer sought advice on the strength of the Maori owners' legal position, pointing out that:

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**Production of all Head Office, District and Project papers would disclose many reports and comments which could be very useful to the claimants and in some cases embarrassing to the Crown. Preparation of schedules would be a major task unless disclosure could be severely limited to papers relating to the actual Proclamation.**

**It has been decided that acquisition of the industrial area is essential to ensure a reasonable recovery on the Crown's investment. Consequently, we would seek to avoid any real risk of the owners succeeding in challenging the validity of the taking Proclamation. (B3(a):90)**

It seems clear that the perceived need to ensure a reasonable recovery on its investment was the overriding reason for the Crown's persistence in resiling from its earlier undertakings and seeking, if at all possible, to save the proclamation from being declared invalid.

### **6.12.7 Agreement signed**

Negotiations culminated in a heads of agreement signed on 30 November 1972 by the Minister of Works, for the Crown, and Hēpi Te Heuheu and Pat Hura, as trustees for the owners (B3(a):94–98). In a subsequent report on the settlement to the Maori Trustee (B3(a):91–93), the owners' solicitor, Russell Feist, noted that, in relation to the industrial area of approximately 101 acres occupied by the Ministry of Works, the Crown was to make a net payment of \$10,000. This was approximately 2½ times the date of entry (1964) valuation plus an indemnity in respect of any claim that might lie with the Board of Maori Affairs for part of the development scheme debt properly apportionable to such land. For the area of 27 acres, being the balance of the private industrial land taken in 1969 and amended in 1972, the sum of \$3500 was agreed to, which was described by Feist as a 'somewhat improved settlement'. This also included an indemnity in respect of any development charges.

And so, after years of contention with the Crown, the owners of the industrial land, which, they had been assured, would be returned to them after the proposed leasehold period of 10 to 12 years had expired, were obliged to accept the compulsory acquisition of the land.

Their only solatium was an enhanced payment and an indemnity against any development scheme charges levied against such land.

## **References**

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1. *New Zealand Gazette*, 1965, p 1729
  2. *Ibid*, 1969, p 1465
  3. *Ibid*, 1972, p 1280