

**BEFORE THE INDEPENDENT HEARINGS PANEL**

**UNDER** the Resource Management Act 1991 (RMA)

**AND**

**IN THE MATTER** of an application by Onoke Heights Limited for resource consents for a 93 lot residential subdivision on Dip Road, Whangarei

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**STATEMENT OF EVIDENCE OF JONATHAN CARPENTER  
ARCHAEOLOGY  
31 OCTOBER 2023**

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## **MAY IT PLEASE THE INDEPENDENT HEARING PANEL**

### **INTRODUCTION**

1. My full name is Jonathan Paul-David Carpenter. I am an archaeologist. I hold a Master of Arts (Honours) in Anthropology (Archaeology specialisation) from the University of Auckland.
2. I have 25 years' experience as an archaeologist/historic heritage manager in New Zealand, the South Pacific and the USA and have worked as an archaeologist and heritage management consultant for Geometria Ltd for 16 years. I have undertaken approximately 350 archaeological and historic heritage assessments and prepared associated reports for subdivisions and other development in Te Taitokerau. I undertake regular archaeological monitoring and multiple excavations in the region every year.
3. I have held Section 17 Archaeologist status under the former Historic Places Act 1993, and Section 45 Archaeologist status under the Heritage New Zealand Pouhere Taonga Act 2014 to undertake archaeological investigations and am qualified to comment on archaeological and historic heritage matters.

### **Overview of the Proposal**

4. This evidence is in respect of resource consent applications by Onoke Heights Limited at Dip Road, Kamo. Resource consents are required from:  
  
Whangārei District Council ("WDC") for
  - (a) combined subdivision and land use resource consent over Section 1 SO 65970 to:
    - (i) create 93 residential allotments, drainage and recreational reserves to vest and other associated works; and
    - (ii) establish retaining walls up to a maximum height of 5m within the setback of road and side boundaries.  
and Northland Regional Council ("NRC") for
  - (b) stormwater discharge and diversion associated with land disturbance;

- (c) stormwater discharge from a public stormwater network within the urban area of Whangārei Urban Area;
  - (d) proposed stormwater system vested with Council as a public stormwater network; and
  - (e) bulk earthworks, including within 10m of a stream and a flood hazard area.
5. I understand that the WDC application is being considered as discretionary activity, that the removal of the existing Puriri trees and Totara tree, together with a small stand of mamaku and mahoe has a certificate of compliance from the WDC<sup>1</sup>, and that the NRC applications are a controlled activity.
  6. The Onoke Heights property Section 1 DO 65970 is located immediately east of Dip Road and west of Crawford Crescent, on the northwest side of Kamo. It is 6.8775 ha in area and is currently in a mix of short and rank grass, with several large puriri and one large totara tree, and regenerating native forest along the southern boundary and Otapapa stream<sup>2</sup>. Two water mains cross the property on the eastern side, from the adjacent WDC water reservoir.
  7. The subject property (referred to as “the Site” or “Onoke Heights property”) is located on the southwest slope of the Onoke volcanic cone, to the east of the Hurupāki volcanic cone, part of the Whangarei Volcanic Field. The cones are two of seven which run broadly west to east from Ngararatunua to Pukepoto at Glenbervie, were formed 500,000-300,000 years ago and are the youngest in the Whangarei Field<sup>3</sup>.
  8. The subdivision scheme plan proposes 93 residential lots, ranging in size from 321-768m<sup>2</sup>. The subdivision will be served by a new loop road and cul de sac and two shared access lots, accessed via the southern side of the subdivision from Dip Road and Tuatara Drive. A recreation reserve and drainage reserve totalling 12417m<sup>2</sup> with pedestrian access will run along the southern boundary. The subdivision will require substantial cut and fill earthworks and retaining.

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<sup>1</sup> CC2300005 and P35827, 13 September 2023.

<sup>2</sup> While the Application and section 42A report refers to this as the “Waitaua Stream”, as I explain later in my evidence, historical records show that the stream is named Otapapa.

<sup>3</sup> Smith, Ian E. M.; Cronin, Shane J. (2021). "Geochemical patterns of late Cenozoic intraplate basaltic volcanism in northern New Zealand and their relationship to the behaviour of the mantle". *New Zealand Journal of Geology and Geophysics*. Vol. 64, No. 2–3): 201–212.

## **CODE OF CONDUCT**

9. Although this is not a hearing before the Environment Court, I record that I have read and agree to and abide by the Environment Court's Code of Conduct for Expert Witnesses as specified in the Environment Court's Practice Note 2023. This evidence is within my area of expertise, except where I state that I rely upon the evidence of other expert witnesses as presented to this hearing. I have not omitted to consider any material facts known to me that might alter or detract from the opinions expressed.

## **SUMMARY OF EVIDENCE**

10. There are no archaeological sites recorded on the Onoke Heights property. The nearest archaeological site is 60m east of the eastern boundary of the Site, a pā recorded as Q06/379 in ArchSite, the New Zealand Archaeological Association site record database.
11. No archaeological sites were observed during my site visit undertaken for the archaeological and historic heritage assessment, although one stone heap of indeterminate age and origin was noted around the roots of a Puriri tree.
12. Historic survey plans show that most of the Site had been cleared of primary forest by the time it was surveyed for the Maori owners in advance of their title investigation, in 1874, although forest was present immediately north and west and south. The cleared area may indicate that it was gardened or farmed in the years immediately preceding the survey. A cart track may have crossed the southwest corner of the site, as the track is shown in the vicinity on the 1865 survey plan of the neighbouring block to the south.
13. Additional research I have completed has produced a slightly earlier plan, from 1872. This shows an enclosed, cultivated area with multiple structures, probably whare, belonging to Tipene Hari on the Site. Tipene Hari, a chief of Ngati Kahu O Torongare, commissioned the 1874 survey. He claimed title to the land in 1877 along with Te Hira and Wiremu Pepene, and subsequently sold the land to European settler James Whitelaw that same year. Along with these features, an orchard is present on the south side of the Otapapa Stream, opposite the Site.

14. For these reasons, there may be unrecorded subsurface archaeological sites and features which will only be identifiable during large-scale topsoil stripping, at which time they will need to be investigated, analysed, and reported on and except in the case of highly significant finds, destroyed.
15. The possibility of subsurface archaeological sites and features, and the investigation of the stone heap, will need to be managed through the Heritage New Zealand Pouhere Taonga archaeological Authority processes under the Heritage New Zealand Pouhere Taonga Act 2014. I have recommended a condition of consent which addresses this point. Ms McGrath's evidence attaches a proposed set of conditions, including my recommendation.
16. Regardless of the possibility of subsurface archaeological sites and features, the archaeological effects are likely to be less than minor to nil and the Site has no greater or lesser archaeological significance than any other greenfields site in Whangarei where there is a recorded site within 100m.

#### **PURPOSE AND SCOPE OF EVIDENCE**

17. My evidence will focus on the archaeology and historic heritage at the Onoke Heights property and surrounds. My evidence should be read in conjunction with the archaeological assessment of effects for the proposal dated 21 September 2022 ("AAE") and contains the outcomes of the additional research I have undertaken since that assessment was completed.
18. My evidence will address the following:
  - a. Involvement with the Proposal.
  - b. Overview of the Proposal.
  - c. Archaeology at the Site (and vicinity)
  - d. History of the Site (and vicinity)
  - e. Matters raised by submitters.
  - f. Council s42A Report.
  - g. Recommended conditions of consent.

#### h. Summary of Conclusions and Recommendations.

##### **Involvement with the Proposal**

19. I was engaged to prepare an archaeological assessment to inform the AEE in January 2022 and undertook a site visit in February 2022. I undertook additional background research over several weeks in June 2022 to produce the assessment submitted with the application.
20. Prior to the engagement by the applicant, I had prepared a similar assessment for the WDC water reservoir upgrade on the northern side of the Site, which includes a new water main line running through the Onoke Heights land, also in January 2022. In previous years I have also undertaken assessments for Northpower and the Department of Conservation on the adjacent Onoke Scenic Reserve, on the north side of the Site beyond the WDC property.
21. I have prepared archaeological assessments for subdivisions and other projects in the wider Te Kamo area over several years. As a result of doing this work, I have read the Maori Land Court minutes and summarised their contents for the blocks encompassing the Site and surrounding areas in order to gain an understanding of changing historic land ownership and tenure in the area.
22. I have read the original Application and additional information, including the updated AEE, technical reports, s 92 and s 42A reports.

##### **Archaeology of the Site and Vicinity**

23. There are no archaeological sites recorded on the Onoke Heights property<sup>4</sup>.
24. The nearest archaeological site is Pā site Q06/379 adjacent to the houses on the northern side of Tuatara Drive. The recorded features of Q06/379 are 50m from the eastern boundary of the Site and will not be affected. The next nearest sites are on the Hurupāki volcanic cone, the central and north side of the Onoke Scenic Reserve, at Three Mile Bush Road and upper Fairway Drive (Figure 1).

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<sup>4</sup> New Zealand Archaeological Association ArchSite database.

25. Q06/379 (N20/351 in the original Imperial map system) was recorded by archaeologist G. Nevin in 1988, during her assessment of archaeological sites in the then Whangarei City boundaries<sup>5</sup>. It consisted of the remnants of a pā site which had been heavily modified by bulldozing on private property, Lot 3 DP 157815. As recorded in that assessment the remnant features were in excellent condition at the time they were recorded, being under grass within the property owned by Warren Smith, upslope to the west of his house.
26. At the time of this assessment and recording, the site consisted of four terraces and six pits, with seven other vague depressions on the upper terrace. One of the terraces had stone facing, and the features were cut into red rocky volcanic soil.
27. Former landowner W. Smith in conversation with G. Nevin, as recorded in the archaeological site record, recalled that he had observed the neighbouring part of the Onoke Scenic Reserve before the forest regenerated and that no other features were observable on that side of the boundary.
28. I walked over the area in 2006 as part of a Department of Conservation management visit to the Onoke Scenic Reserve. No archaeological features were visible on the Scenic Reserve between the edge of the ballast pit, Whangarei District Council water reservoir reserve, and the Scenic Reserve boundary.
29. Nevin made a sketch plan of the site as she observed it, for the archaeological site record (Figure 2). The form of the pā site is consistent with a defended site of the 'Classic' or late pre-European contact or early contact/protohistoric period, prior to the adaptation of pā to muskets from the ~1820s.
30. The pā and its physical/archaeological features are visible in aerial photographs taken from 1942-1973<sup>6</sup> and accessed via the Retrolens and Alexander Turnbull Library (ATL) digital catalogues<sup>7</sup>, the site being visible from Tuatara Drive (Figure 3 - Figure 9). Later aerial imagery shows the

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<sup>5</sup> Nevin, G. E., 1988. Whangarei City Archaeological Survey. Unpublished report for the Whangarei City Council; Q06/379 archaeological site record, NZAA ArchSite.

<sup>6</sup> SN 209 402/24 (1942, Retrolens), WA-05170-F (1947, ATL); A-32366-F (1953, ATL), WA-71091-F (1973, ATL), SN (1979, Retrolens).

<sup>7</sup> [www.retrolens.co.nz](http://www.retrolens.co.nz); <https://natlib.govt.nz/collections/a-z/alexander-turnbull-library-collections>

houses on Tuatara Drive near the downslope extent of the pā by 1961, and the lower terraces modified or destroyed by a switch-backed driveway by 1973 (Figure 8) and the upper house present by 1979 (Figure 9).

31. A composite plan of the pā based on the 1942 aerial (Figure 10) shows additional terraces downslope of those recorded by Nevin, where the house and driveway are now present. The site appears to have originally comprised approximately 11 occupation terraces, with ten storage pits. The site does not appear to have extended northwards along the crest of the ridge/volcanic cone towards the WDC reservoir based on the Smith recollections and the aerials, however it does appear that a number of terraces extended northwards over the boundary by several metres into the Onoke Scenic Reserve. Approximately six terraces/the lower half of the site was modified or destroyed by construction of the house and driveway in the 1970s. Other features may have been modified by bulldozing up the fence line and along the ridge crest/cone within the Onoke Scenic Reserve in the 1970s.
32. Based on this research and assessment, it is clear that there are no surface features associated with the pā extend into the Onoke Heights Site, and the nearest features are approximately 50-60m from the Site.
33. I understand that archaeologist A. Slocombe undertook an archaeological assessment of an earlier development proposal for Onoke Heights in 1994 and did not observe any archaeological sites or features at that time<sup>8</sup>. The Site had not been cleared of vegetation and she suggested an additional inspection should be undertaken when the land was cleared as features might be present under the vegetation.
34. No archaeological sites or features were observed during my 2022 assessment of the Onoke Heights proposal or the WDC reservoir proposal by J. Carpenter, although one of the prominent puriri trees does have a 1.3m wide heap of volcanic stones stacked between its roots and is retained on the downslope side by larger boulders. This rock heap may be related to clearing the ground for farming or horticulture and may or may not be archaeological as it appears to post-date the maturing of the Puriri root system.

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<sup>8</sup>Slocombe report referenced in CDL Land New Zealand Ltd v Whangarei District Council, 1996. A099/96 [1996] NZEnvC 83; (1996) 2 ELRNZ 423; [1997] NZRMA 322 (25 November 1996). No copy has been located.



35. Given the presence of the Pā site Q06/379 nearby, the fertile and gently sloping volcanic soils on the Site (albeit south-facing), and the scale of the proposal, along with the historically attested cart track and stone heap, the 2022 assessment recommended applying for an archaeological Authority on a precautionary basis due to the possibility of subsurface archaeological features being present and affected.
36. I anticipate that such an Authority would likely have standard conditions requiring a site instruction, monitoring and on-call procedures, investigation of the stone heap, reporting, and provision and observation of any tikanga by Tangata Whenua as required.
37. The subsequent identification of enclosed cultivations and structures associated with Tipene Hari and dating to the early 1870s on the Site based on the 1872 survey plan noted above supports the need for this approach to mitigation, albeit with specification of targeting some archaeological monitoring in the identified area. In my opinion, because of the datable association with a historical figure of local or regional importance, any subsurface archaeological features encountered in the area are likely to be of low to moderate archaeological significance.
38. Aside from archaeological sites, there are no scheduled historic heritage sites or features or Maori Sites of Significance within the Site, in the current Whangarei District Plan. The Site was not scheduled in the Whangarei County Council District Scheme which was in effect over the Site prior to local government amalgamation, or in the Whangarei City District Scheme which covered the urban area immediately adjacent to the Site to the south and east of the Otapapa Stream.
39. There are no Listed Historic Places, Historic Areas or Wāhi Tupuna, Wāhi Tapu, or Wāhi Tapu Areas on the Heritage New Zealand List, or the previous Historic Places Register. There has been no attempt to List the Site or anything on it as a Wāhi Tupuna, Wāhi Tapu, or Wāhi tapu area, Historic Place or Historic Area on the Heritage New Zealand List<sup>9</sup>.
40. Nevertheless, in light of issues raised in submissions and the narrative in the CIA (lodged in response to a section 92 request in April 2023), I have

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<sup>9</sup> B. Edwards, Northland Area Manager, Heritage New Zealand Pouhere Taonga to J. Carpenter, pers. comm. October 2023.

researched the history of the Site and its surrounds, which I discuss as follows.

### **History of the Site and Vicinity**

41. The following account is largely drawn from Native Land Court records, historic survey plans, Archives New Zealand records, and reports in the Northern Advocate and other northern newspapers, and the Appendix to the Journal of House of Representatives. Additional material is sourced from a compendium of Maori block histories produced by P. Berghan for the Crown Forestry Rental Trust, and archival material held in the Northland Room of the Whangarei Public Library.
42. The Onoke Heights Site lies within what was the Onoke Maori land block (ML 3548, 1874; Figure 11).
43. Title to Otapapa was investigated and granted in 1877 by the Native Land Court and alienated the same year when it was sold to prominent local settler James Whitelaw<sup>10</sup>.
44. The Otapapa Block was bounded to the south by the Te Tiawhenua Block (ML 41, 1865; Figure 12) and to the east by the Nga Moko Tuaitara Block (ML 2355, 1871; Figure 13) and Nga Moko Tuaitara Block No. 2 (ML 2340, 1871; Figure 14). To the west is the Otapapa (ML 5227, 1881; Figure 15) and Ngatapa Blocks (ML 6545, 1894; Figure 16), with the Hurupāki Block beyond.
45. These blocks were investigated, partitioned, succeeded and alienated between 1865 and 1881 from the Maori owners largely to James Whitelaw who would come to own over 800 acres, but also William Carruth and the Dent family<sup>11</sup>.
46. South of Tiawhenua lies the Ketinikau Block, and east of these is the Te Kamo Block Crown purchase, the rump of land not awarded to William and Robert Carruth following the investigation of his pre-Treaty purchases, and subsequently purchased by the Crown<sup>12</sup>.

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<sup>10</sup> Otapapa Block. Maori Land Court Whangarei Minute Book No. 2: 208.

<sup>11</sup> See discussion below regarding alienation and sale.

<sup>12</sup> Berghan, P., 2006. Northland Block Research Narratives. Volume II. Old Land Claims: 459-460. Walghan Partners, Wellington for the Crown Forestry Rental Trust; *ibid.* Volume 2. Crown Purchase Blocks 1840-1865: 40-41.

47. A roads survey plan drawn up two years before the Onoke survey and eight years after Te Tiawhenua shows a number of relevant historic features recorded in 1872 across Onoke, Te Tiawhenua, and Nga Moko Tuaitara, including the occupation of Onoke by claimant Tipene Hari (SO 1574/B, 1872; Figure 17).
48. Composite maps of historic features including cultivations, tracks, marked trees, and toponyms, and the pā are as derived from these plans and aerials imagery are shown on Figures 10 and Figure 18. The block boundaries for the blocks immediately adjacent to the Site along with the historically attested names of streams is provided in Figure 19. A summary table of land blocks, title investigations and alienations are provided in Table 1.
49. From the 1830s through the 1870s, Ketenikau was the main Maori settlement in the area. It was associated with extensive cultivations in this period. Potato, maize, kumara and gourds were being cultivated with wooden gardening implements in 1839 when this activity was observed by William Carruth. The other major Maori settlement in the area was Ngararatunua.
50. The occupation of Ketenikau which was strongly associated with Chief Te Puia, Tipene Hari and his son Hari Tipene Pakia (sometimes written Paikia), and Te Hira.
51. In my opinion the pā sites in the vicinity of the Site predate this occupation of Ketenikau, based on their lack of gun-fighting features. The local pā were probably abandoned by the first stage of the musket wars 1818-1823, if not during earlier intertribal conflict.
52. In 1874, Maori population of the Whangarei district was given as 511. The Ngati Kahu population of Ketenikau was given as 16, with 22 Ngati Kaharau at Ngararatunua<sup>13</sup>.
53. In 1878, the Maori population of the district reported by Resident Magistrate H. R. Aubrey and based on reports of Maori Assessors and his own inquiries was given as 411, down on the preceding census as a result of population movements between Whangarei, Kaipara, and the Bay of

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<sup>13</sup> APPROXIMATE CENSUS OF THE MAORI POPULATION. (COMPILED BY OFFICERS IN NATIVE DISTRICTS). Appendix to the Journals of the House of Representatives, 1874 Session I, G-07.

Islands, and disease<sup>14</sup>. At this time, the population of Ngati Kahu at Ketenikau was nine and Ngatikaharau at Ngararatunua was 17. In 1881 the population of Ketenikau was 27, described as Parawhau by Resident Magistrate J. S. Clendon<sup>15</sup>.

54. In 1874, the 138-acre Onoke Block, with the Onoke Heights Site at its southern end was surveyed. This survey (ML 3548) was undertaken on behalf of claimants Ngati Kahu O Tarongare Chiefs Tipene Hari and Te Hira. The survey shows the bush line almost halfway up the sides of the Onoke cone, with the Site cleared of forest by that time. The stream on the southern boundary is named Otapapa, and runs north east to join the Waipango and Ngau Poaka in the vicinity of what is now lower Pipiwai Road. No other features of archaeological or historic interest are shown.
55. At a sitting of the Native Land Court on 19 September 1877 in Whangarei before Judge Munro, the survey plan was produced and Tipene Hari stated that he belonged to Ngati Kahu and the land belonged to him and he lived there. His ancestors had owned the land in former times. He stated that it had belonged to his ancestor Mihiao and they caught birds on it (the word 'birds' is difficult to read and may be something else). This refers to the occupation of Mihiao of Ngati Tu, a hapū of Ngaitahuhu who occupied Whangarei in the 17<sup>th</sup> century, and who had married Uhio of Ngapuhi.
56. Hari stated that he should be named on the memorial to the land along with Te Hira and Wiremu Pepene. There was no opposition to those named and an order of the court was made to that effect (Maori Land Court Whangarei Minute Book No. 2: 208).
57. On 22 September 1877, James Whitelaw, a prominent Kamo settler, purchased the Onoke block for the sum of £225 from the Maori owners, two days after the grant of title<sup>16</sup>. This purchase was confirmed by the Land Court on 24 November 1880.
58. Tipene Hari was a prominent chief of Ngati Kahu, who had his pā at Pihoi in the vicinity of upper Dent St in central Whangarei when Europeans had

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<sup>14</sup> CENSUS OF THE MAORI POPULATION, 1878 (PAPERS RELATING TO THE). Appendix to the Journals of the House of Representatives, 1878 Session I, G-02.

<sup>15</sup> CENSUS OF THE MAORI POPULATION, 1881 (PAPERS RELATING TO THE). Appendix to the Journals of the House of Representatives, 1881 Session I, G-03.

<sup>16</sup> Berghan, P., 2006. Northland Block Research Narratives. Volume VI. Native Land Court Blocks 1865-2005. Oakura to Owhatia: 116-117. Walghan Partners, Wellington for the Crown Forestry Rental Trust.

first began settling in the area in the 1830s. He was a first cousin to Hongi Hika. He had been transacting land since at least 1839, when he was one of those named in the first recorded sales of the area to James Busby and William Carruth. He would later go on to serve as an Assessor for the Native Land Court. Tipene Hari was born around 1797 and died in 1891, and was buried in the St Johns Anglican Church cemetery in Regent.

59. The title to the Tiawhenua block (sometimes written as Tia Whenua) immediately south of the Otapapa Stream opposite the Site and the southern boundary of the Onoke Block had been investigated 12 years earlier, in 1865.
60. The block was surveyed for the claimants Hirini Tipene Pakia, his father Tipene Hari, Hemi Kohitaro, Te Puia, Eru Pohe, Hira Tauru “& others” by John Grant Johnson on 23 March 1865. The plan shows the bush lines on the southern half of the property, and the “native cart road to Kaitara” crossing the northern half of the property, exiting the block at the southwest corner of the Onoke Block. The stream is named Otapapa. No other features of archaeological or historic interest are shown.
61. No physical remains of the cart track alignment were observed during the site visit noted above.
62. On 23 August 1865, in front of Judge Rogan in Whangarei, with Wiremu Tipene and Winiata Tomarangi as the assessors, and the survey undertaken by John Grant Johnson was produced in the Native Land Court<sup>17</sup>.
63. Public notices had been placed in the Government Gazette and were repeated by the northern newspapers several months prior to the investigation, advertising the hearings along with those to investigate other Whangarei blocks like Pehiaweri<sup>18</sup>.
64. The claim to the 35-acre Tiawhenua block was made by Hirini Tipene Pakia, son of Tipeni Hari. Hirini Tipene Pakia’s claim was read to the Court. Hirini Tipene Pakia stated that he, his father Tipene Hari, Chief Te Puia, Wiremu Pohe, Renate Titore, and the whole of Ngati Kahu were claimants. Hirini Tipene Pakia himself had only recently returned from a

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<sup>17</sup> Te Tia Whenua Block. Whangarei Minute Book No. 1: 67; ML 41, 1865.

<sup>18</sup> New Zealand Herald, 1 July 1865.

two-year long trip to London, with the Wesleyan lay preacher William Jenkins and a party of other northern chiefs and where, among others, he and his party had audiences with the Lord Mayor of London, the Duke of Edinburgh and Queen Victoria<sup>19</sup>.

65. Tipene Hari stated that their claim to Te Tiawhenua derived from Te Uhio and recited the whakapapa from Te Uhio down to the claimants including himself and his son. Hirini Tipene Paikia stated that there was no dispute whatsoever with regards to the title, and that they wished a grant be made so that they could sell it if a buyer came forward<sup>20</sup>.
66. Tamati Pehi Riri stated that he was a claimant to the land but did not object to a grant being made to any of those named. All the other claimants agreed to his name being added to the claim. The boundaries of the block were confirmed, essentially extending between the long bend in the Bay of Islands Road (now Three Mile Bush Road and Dip Road) and the Otapapa Stream to the north. Subsequently and following further discussion among the claimants, only Hirini Tipene Paikia was named on the title.
67. Less than a year later, on 19 March 1866 the succession of the block came before the court<sup>21</sup>. Hirini Tipene Pakia had died, and his father Tipene Hari claimed the sole right of succession to Tiawhenua, along with other land at Waikaraka and Puriritahi that his son had an interest in. The succession case was advertised in the Provincial Gazette and repeated in local newspapers<sup>22</sup> prior to the court sitting. Tipene Hari's sole right to inherit Tiawhenua was upheld, but the other lands were dividing among multiple parties.
68. Subsequently, James Whitelaw purchased the block from Tipene Hari, probably prior to 1872 when his suggested road alignment through the block was surveyed for SO 1574.

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<sup>19</sup> New Zealand Spectator and Cook's Strait Guardian, Volume XVIII, Issue 1899, 14 October 1863; Illustrated London News, 1863. Native chiefs from New Zealand. Mr W Jenkins, interpreter; Horomana Te Atua; Hapimana Ngapiko; Wharepapa; Pomare; Paratene Te Manu; Kihirini Te Tuahu; Takerie Ngawaka; Tere Te Iringa; Hariata Pomare, Reihana Taukawau; Hirini Pakia; Ngahua; Wiremu Pou.

<sup>20</sup> Te Tia Whenua Block. Whangarei Minute Book No. 1: 67; ML 41, 1865.

<sup>21</sup> Te Tiawhenua succession. Whangarei Minute Book No.1: 90-92.

<sup>22</sup> Daily Southern Cross, 3 February 1866.

69. The adjoining Nga Mokotuitara<sup>23</sup> and Ngamokotuitara No.2<sup>24</sup> blocks (also spelled Ngamoko Tuaitara or Ngamoko Tuatara) to the east of the Site and north of Tiawhenua and upon which the recorded Pā site Q06/379 is located were surveyed in 1871, also for Tipene Hari (ML 2335), and went before the Native Land Court the same year.
70. On 18 September 1871 the claim for Ngamokotuitara went before the court. Mr Dent stated he had seen the survey, and it was for 27 acres, but the map was not produced in court at the time. Tipene Hari did not appear, but Hira Tauru was sworn in and appeared on behalf of Hari, his matua. Hira Tauru stated that the right to the land was derived from the same ancestor as the previous land the court had discussed (Pahunuhunu<sup>25</sup> which lies to the west of Hurupāki), namely from Ngarohe Te Uru. Tauru noted it was a small piece of land, Hari had the sole right to it, and had arranged to sell it.
71. Hone Puriri appeared as a counter claimant, stating he currently lived at Pehiaweri and was of Ngati Kahu. His claim was outlined by his witness Keremeneta who stated Puriri shared the same ancestor, Ngarohe Te Uru but his claim derived from a different line from Te Uru's to Puriri's grandfather Eru Pohe who once lived on the land. Keremeneta noted that in the past, Eru, Te Puia and the others would all share in such sales.
72. Hira Tauru was recalled and accepted Eru Pohe was Puriri's grandfather but noted that in the past Pohe and the others had divided their lands and that Ngamokotuitara was part of the portion his family had received from the division and they had not shared in Pohe's lands when they passed through the court on Pohe's behalf. He agreed that Pohe and his daughter, Puriri's mother Riripeti had lived on the land and had not been ejected, but that they were rejecting Rerepeti's interests because she was a woman.
73. The issue then turned to where Eru Pohe had wished to build his house. Keremeneta stated he did not know where Pohe wanted his house or whether it was on the land in question. Hepi Moanariki was duly sworn and stated Pohe wanted his house on the land, but that Tipene Hari and Te Puia asked him not to do so because they wanted to sell the land, and

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<sup>23</sup> Nga Mokotuitara Block. Whangarei Minute Book No.2: 97-98.

<sup>24</sup> Ngamokotuitara No. 2. Whangarei Minute Book No. 2: 106-107, 113.

<sup>25</sup> Pahunuhunu Block. Whangarei Minute Book No.2: 77.

Pohe agreed not to build there. Had the land been sold then, Pohe would have shared in the payment. No other claimants appeared.

74. The Court decided that Hone Puriri had a claim, and he was added to the title along with Tipene Hari and that title would be issued when a satisfactory plan had been provided to the Court, with no restrictions<sup>26</sup>.
75. At that point Mr Bedlington appeared as the surveyor and noted the plan (ML 2335, 1871) had been produced according to the rules and had been forwarded to the Inspector of Surveys for approval. The plan was signed by Bedlington and submitted to the chief surveyor of Auckland on 17 July 1871. The plan shows the bush line, with the vicinity of the pā apparently in bush, along with a 50/50 division between the claimants (which is discussed below). The northwestern boundary of the Block, where it adjoins Onoke is marked by a Rewarewa tree. No other features of archaeological or historic interest are shown.
76. Title was duly issued to two the two claimants for the 27 acre Ngamokotuitara block at that time.
77. On 23 February 1875 Tipene Hari and Hone Puriri again appeared before the court<sup>27</sup> to partition the land by agreement into two 13 ½ acre parcels with the line of a road surveyed between them (per survey plan ML 2335), with Hari taken the western part (adjacent to his enclosure, cultivations and whare shown on roads survey plan SO 1574, and which would have included the pā) and Puriri taking the east.
78. A subsequent annotation dated 26 February 1875 appears to show the order was cancelled at the request of the applicants<sup>28</sup>. The entire block was subsequently sold to James Whitelaw on 1 March 1881<sup>29</sup>.
79. On 25 November 1873 the title of the Ngamokotuitara No.2 Block was investigated before Judge Fenton and Native Assessor Hori Te Whetuki<sup>30</sup>. This five-acre block adjoined the eastern side of the first block of that name and was claimed by Tipene Hari. He stated the land was surveyed, the map had been produced and he was the only owner.

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<sup>26</sup> Nga Mokotuitara Block. Whangarei Minute Book No.2: 98.

<sup>27</sup> Partition. Nga Mokotuitara Block. Whangarei Minute Book No.2: 129.

<sup>28</sup> Ibid.

<sup>29</sup> Berghan, P., 2006. Northland Block Research Narratives. Volume V. Native Land Court Blocks 1865-2005. Mahimahi – Nukutawhiti: 395.

<sup>30</sup> Ngamokotuitara No. 2. Whangarei Minute Book No. 2: 106-107, 113.



80. Hone Puriri again disputed the claim, noting there were a number of claimants, and he wanted his name on the grant, through his mother who was residing in Kaipara and was too busy to attend. He listed the claimants as Pomare Kingi, Rikihana Te Hua, Wiremu Kaitutu, Hepi Moanariki, Hirawani Te Puia, Mere Wharenikau, and his mother Riripete Pohe.
81. Witnesses appeared for both parties and ultimately the court decided that Eruera Pohe should be added to the grant. Title was issued for the No. 2 block of a little over five acres and was awarded to eight owners, Tipene Hari, Mere Wharenikau, Hirawani Te Puia, Hepi Moanariki, Rikihana Te Hua, Wiremu Pepene, Rewiti Hori Kingi, and Eruera Pohe.
82. On 29 September 1874 William Carruth informed the court that he had purchased the smaller Ngamokotuaitara block No. 2 Block; at some point prior to 1894 it was purchased by James Whitelaw. On 1 March 1881, the larger Ngamoko Tuaitara Block was purchased by James Whitelaw<sup>31</sup>. Subsequently, certificates of duty payable for ownership and leases over Nga Moko Tuaitara were transmitted by solicitor A. J. Dickey to the Agent of the General Government on 5 July 1875<sup>32</sup>.
83. James Whitelaw, the original buyer of the Onoke Block including the Onoke Heights Site in 1877 was a prominent Kamo settler and shopkeeper and by 1894 had purchased substantial holdings totalling 800 acres, including the Onoke Block, Te Tia Whenua, Ngamokotuaitara and Ngamokotuaitara No. 2, Waiharakeke, Otapapa, Whauwhau Pounamu and large parts of the Hurupāki and Pahunuhunu Blocks, along with town sections in Te Kamo itself.
84. Whitelaw was also involved in the purchase of part of the Ketenikau Block adjacent to the urupā for use as a European cemetery, following the death of his granddaughter Ada Holman. Her father, married to Whitelaw's daughter, was unable to be buried in the Christ Church cemetery in Whangarei as she wasn't christened and Henry Holman sought land from chief Te Puia for this purpose.
85. Whitelaw was hit hard by the economic depression of the early 1890s. His holdings across the wider Te Kamo area went up for sale in 1894 after he

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<sup>31</sup> Berghan, P., 2006. Northland Block Research Narratives. Volume V. Native Land Court Blocks 1865-2005. Mahimahi – Nukutawhiti: 395.

<sup>32</sup> Archives NZ R21575259.

went bankrupt (Figure 20). The Registrar of the Supreme Court ordered the sale of his properties on behalf of the mortgagors<sup>33</sup>. At the time the auctioned estate included Onoke, Otapapa (described as fenced all around with stone walls), Ngamoko Tuaitara, Tiawhenua, 162 acres at Hurupāki No.3 (described as being subdivided in good wall and post and wire fences), and 101 acres of Hurupāki 1D and No.2 (described as fenced, half in grass and half in bush), and parts of Pahunuhunu, Ketenikau, Pukemirau (Pukemiro) and his village sections at Kamo including Whitelaw's store, stable and other buildings, and a butchers and tailors, and three cottages all leased to others<sup>34</sup>.

86. Reporting on the results of the sale in the local papers<sup>35</sup> (Figure 21), noting that Onoke (misspelled Omaki) including the gravel pit (the railway ballast pit now within the Onoke Scenic Reserve), and "Te Tai and Whenua" which was described as Mr Whitelaw's residence were bought by Miss Whitelaw for £950 and £900 respectively. Mrs Sissons bought Ngamokotuaitara for £15 per acre; Mrs and Dr Sissons would go on to build the heritage-listed turreted villa *Moehau* on the property. The Bank of New Zealand purchased the 162 acre Hurupāki block for £931, along with Puhuhunu and Pukemirau, the business premises, and tailors shop. The Colonial Bank purchased the remaining parts of Whitelaw's Hurupāki holdings and Otapapa for £656 and £412 respectively.
87. Decades later the five acre Ngamokotuaitara Block was sold on behalf of the estate of Mathew and Mary Whitelaw<sup>36</sup>, suggesting Nga Moko Tuaitara No.2 had also been acquired by James Whitelaw and had been retained by the Whitelaw family until that time.
88. In summary my research shows that the investigation of the title to the original Onoke block within which the Onoke Heights property lies was relatively straightforward and uncontentious, and it was alienated shortly thereafter by senior members of Ngati Kahu O Torongare to James Whitelaw. Likewise, the neighbouring Tiawhenua Block was uncontested, and title sought specifically so it could be sold if a buyer presented themselves, and was also purchased by Whitelaw, and was where he built his residence. Ngamokotuaitara was subject to vigorous claims and

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<sup>33</sup> Auckland Star, 15 August 1894.

<sup>34</sup> Northern Advocate, 27 October 1894.

<sup>35</sup> Auckland Star, 2 November 1894.

<sup>36</sup> Northern Advocate, 16 September 1936

counter claims by Ngati Kahu claimants, with title ultimately shared by the parties, but again title was sought as it had already been sold to William Carruth, and from Carruth to Whitelaw.

89. Onoke, and Tiawhenua to the south of the Otapapa Stream had been occupied and cultivated by Tipene Hari before its sale to Whitelaw, and Ngamokotuaitara to the east had been occupied by Eru Pohe and his daughter Riripete previously, and that Eru Pohe had wanted to build a new house there but was dissuaded from doing so because Tipene Hari wished to sell it.
90. Based on this research and history there is no suggestion in any of the investigations that any significant features were present on the Site at Onoke, or any particularly significant history or items which might be reserved for some reason or another by Ngati Kahu.
91. Ngati Kahu retained their ownership of the previously cleared and cultivated, level to gently rolling land to the south of Three Mile Bush Road at Ketenikau, Roto Ora, and Pukemiro and to the west and north of the Hurupāki cone, but progressively sold the rolling to steep land and/or forested land on the north side and far western end of Three Mile Bush Road including the Onoke Heights Site through the 1860s-1880s.

#### **Matters raised by submitters**

92. A total of 30 submissions on the Proposal have been received. I have reviewed the submissions.
93. Nine submitters referred to cultural effects and in particular the relationship between tangata whenua and their whenua, taonga and wāhi tapu and the protection thereof, which I am not qualified to address.
94. However, several of those submissions raised concerns related to associated issues of archaeological or historic heritage (such as effects on the pā, a battlefield, gardens or wāhi tapu with a physical/archaeological component) which are within my area of expertise.
95. I have addressed the effects on historic heritage and archaeology in the preceding evidence. However, I briefly address the key points raised in the submissions below as regards to historic heritage values below.

96. There are no effects on the pā site Q06/239, the remnant of which lies almost wholly within private property, namely Lot 3 DP 157815, but which probably extended northwards into the Onoke Scenic Reserve. The site has already been modified by development in the 1960-1970s, destroying or highly modifying the lower half of the site.
97. There is no evidence the pā site extended into the Onoke Heights Site, and the nearest features are 60m from the boundary.
98. There may be subsurface archaeological features on the property associated with the occupation of the pā, or the subsequent occupation by Ngati Kahu and these would likely be affected by the proposed development, however the possibility is at a similar level to anywhere in the wider Whangarei area where recorded sites are present nearby, and the form and significance of such features and the potential effects thereon can be appropriately managed through the Heritage New Zealand archaeological Authority process.
99. There is no evidence in the Maori Land Court records of the investigation of the title to Onoke (or the surrounding blocks) that the land was of any particular significance, or that any battle site or other wāhi tapu was present on that block, or that there were any otherwise significant places in need of reservation, or retention by Ngati Kahu.
100. There are no other records of the Site being a battlefield or wāhi tapu.
101. This contrasts with other wāhi tapu, urupā, other places known for human remains being uncovered, and/or battlefields in Whangarei which tend to be well known, named, dated, previously partitioned and/or reserved as wāhi tapu or urupa, recorded as archaeological sites and often scheduled or listed in some manner. The names of protagonists, individuals or iwi/hapū are recalled, the battle itself is often named, and the outcome remembered. This is the case for other sites of significance to Maori associated with battles and human remains such as Parihaka, Motukiwi, Mangawhati, Ruarangi, Kauika, Raumunga, Ketenikau, Ngunguru, Whangaruru North Head, Mimiwhangata, Whakaturia etc. No such information is available for Onoke.

102. When Nga Hapū of Whangarei undertook their hikoi around sites of significance<sup>37</sup> in 2013 with korero by W. Bruce, M. Norris and R. Collier, they visited wāhi tapu around Kamo including Ketenikau, Lake Ora, Pukemiro, Hurupāki, and Parakiore. There is no record of a visit or korero about Onoke at this time.
103. According to Maori Land Court records and historic survey plans, Tipene Hari himself was occupying and cultivating Onoke in 1872, and reported living there in 1877, at which time title was granted without opposition and the land was sold. Eru Pohe and his daughter lived nearby on Ngamokotuitara and there is no suggestion that the area was inimical to human habitation as a result of being a wāhi tapu.
104. Tipene Hari would go on to live until 1891 and is buried in the Christ Church Anglican cemetery in Regent.
105. The Te Tiawhenua block on the south side of the Otapapa Stream was also investigated, title issued, and sold 12 years earlier, without opposition. It had an orchard on it in 1872, and would go on to become the home of James Whitelaw
106. The Ngamokotuitara block to the east was investigated, the original claimant opposed by another Ngati Kahu party, and title ultimately issued to both, after which it too was sold.
107. The Otapapa, Hurupāki and Pahunuhunu Blocks to the west of Onoke also went through the Land Court in the same period. In these cases, Ngati Kahu claims were opposed by Ngati Hau based on the short-term occupation of a piece of land in the area, the location of which could not be further specified, by Hone Heke after the Northern War of 1845-1846.
108. After a detailed hearing, Ngati Hau accepted a small parcel of land further to the west in acknowledgment of the hospitality Heke received, but the title to the larger blocks was issued to the Ngati Kahu claimants, and again was sold off over the next five to ten years to James Whitelaw, apart from 200 acres at the western end of Hurupāki which the court had reserved from sale for a period of 20 years.
109. Some submitters specifically reference the Waitaua as a significant water course at Onoke with associations with washing and transporting the dead. However, the water course on the southern boundary of the Onoke

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<sup>37</sup> Nga hapū o Whangārei: site visit booklet: part A and B. Northland Room, Whangarei Library.

Heights property is not known as Waitaua, as from the 1860s if not earlier is referred to as Otapapa by Maori who pointed out boundaries to surveyors and named it in court as such. The Otapapa stream is described as the boundary between the Onoke and Te Tia Whenua land blocks in those title investigations in 1865 and 1877 and shown on the respective surveys. It is also shown thus on SO 15957 (1910) covering the subdivision of the north side of the Onoke Block, and on derivative topographic, County and District plans through the 20<sup>th</sup> century.

110. From the southern and northern sides of the Onoke cone, the Otapapa, Waipango and Ngau Poaka Streams run down to Pipiwai Road on the northeast side of the Onoke Block where they meet, beyond which the stream is known as Waitaua.
111. To-date I have not seen any validated information from the submitters regarding the historical significance of the Site.

#### **Council s42A Report**

112. I have reviewed and considered the s42A Report prepared by Mr Hartstone to the extent it relates to matters within my area of expertise. No additional archaeological or historic heritage advice has been sought by Mr Hartstone in the preparation of this report.
113. Council's S42A Report notes the detailed consultation undertaken with Ngati Kahu O Torongare and Te Parawhau regarding the application, noting their mana whenua status but based on the CIA provided by Te Parawhau and related matters in the submissions outlines specific concerns due to the Sites cultural values.
114. Mr Hartstone confirms the site is not mapped and/or scheduled in the Whangarei District Plan as a Site of Significance, but based on the CIA the land, water, vegetation is a taonga and wāhi tapu. This apparently confirms the findings of reconfirm a previous finding made by the Environment Court decision CDL Land New Zealand Limited v Whangarei DC A99/96 dated 25 November 1996.
115. Mr Hartstone concludes that the proposal will have significant adverse cultural effects on this basis. He states that evidence has been provided which confirms the wāhi tapu status of Onoke and the Waitaua Stream, and that no information has been provided in the application that effects

on these values can be avoided or mitigated while allowing some or all of the development to proceed. The effects on cultural values are considered avoidable and unacceptable.

116. Mr Hartstone finds that the proposal is therefore considered to be contrary to the provisions in the WDP and RMA as they relate to protection of sites of significance to Maori and historic heritage. The S42A Report recommends declining the application on that basis.
117. As noted above I am not qualified to specifically address cultural matters but can address associated historic matters which, in my opinion, are relevant to the conclusions reached by the s42A author.
118. As previously discussed, there are no significant historic heritage features on the Site, or significant received history in terms of battles, burials or wāhi tapu, unlike other identified or potential Sites of Significance.
119. The Onoke Heights Site is not scheduled as a Site of Significance to Maori in the District Plan. The Site may have been identified as a heritage area of significance to Maori through the development of the CIA by Te Parawhau and associated consultation with them and Ngati Kahu but validated information which might be used to support future scheduling has not been provided. No Hapū Environmental Management Plan has been provided, or has been located, specifying the Site is of significance. The Site was not indicated as significant in the 2009 Structure Plan<sup>38</sup>.
120. There may be subsurface archaeological features associated with the occupation and use of the Site for gardening by Tipene Hari in the mid-late 19<sup>th</sup> century, by the inhabitants of the neighbouring pā which preceded that occupation, and others. These archaeological features will be subject to the provisions of the Heritage New Zealand Pouhere Taonga Act 2014 and an archaeological Authority will be required for any modification thereof and may be adequately managed under those provisions.
121. That the site was happily occupied and gardened by Rangatira of Ngati Kahu into the 1870s, before they sold it to European settlers suggests that such occupation was not prevented by cultural values or historical happenings.

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<sup>38</sup> Kamo, Springs Flat, Three Mile Bush, Whau Valley Structure Plan. Whangarei District Council, 2009.

122. The entire Site has been identified as culturally significant, however no specific physical historical elements have been identified to which avoidance and mitigation measures can be applied.
123. The Waitaua Stream has been noted as a waterway within which bodies were prepared and transported for burial. However, the Stream from the confluence of the Otapapa, Waipango and Ngau Poaka<sup>39</sup> to where it joins the Mangakino above Otuihu/Whangarei Falls is four kilometres long, and urban development has been allowed along the entire length of the watercourse.
124. The CDL case referred to by Mr Hartstone also turned on the adequacy of consultation and the relationship between Maori, their culture and traditions, and the land, in assessing a private plan change proposal to rezone the Site from Rural to Residential Landscape Protection.
125. In my reading of the Decision, it was noted that Onoke was the ancestral land of Ngati Kahu, and H. Kingi and his daughter W. Bruce were the primary parties consulted with by CDL and Whangarei District Council.
126. The details of consultation with Ngati Kahu will not be repeated here but ultimately Ngati Kahu did not, collectively or individually submit in opposition to the plan change. However, as part of the submissions in opposition, a petition with “many signatures” was provided and suggested that a pā was present on the Onoke Block.
127. Representatives of Ngati Hine and Ngatiwai sought to address the Council judicial committee but had no standing as they had not submitted. H. Parata for Ngatiwai and N. Baker for Ngati Hine were subsequently called as witnesses for one of the submitters and testified the Site was a wāhi tapu but provided no evidence.
128. In July 1995 Council declined the application on the consultation and cultural values grounds. Ngati Kahu, Mr Kingi and Mrs Bruce were consulted over the next nine months in advance of the appeal hearing but by the time of the appeal in May 1996, no response had been forthcoming.
129. Subsequently the Environment Court decision on appeal found that there were no grounds for declining on the basis of the consultation undertaken.

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<sup>39</sup> As illustrated on ML 41 (1865) and ML 3548 (1874).



130. Based on my research, Mrs Pitman had previously responded on behalf of the Whangarei Maori executive on the proposal and had facilitated consultation with Ngati Kahu/Mr Kingi and Ms Bruce. She deposed that there were wahi tapu in the wider Onoke Block but on cross-examination agreed she could not pinpoint their location, and that she was speaking of the wider Onoke Block, not necessarily or specifically what is now the proposed Onoke Heights Site, and that it may have been a stopping place rather than somewhere ancestors lived<sup>40</sup>.
131. Mrs Bruce deposed that the Onoke Block was of considerable significance to Ngati Kahu as a burial site and there were wāhi tapu on the block. She stated on cross examination that the block is 138 acres, of which the Site is a portion<sup>41</sup>.
132. Mr. H. Kingi deposed that he was a kaumatua of Ngararatunua Marae, and a descendant of Ngati Kahu O Torongare, the original owners of the block. He stated his ancestors were buried there, and that there were sacred puriri and karaka trees, burials and whenua (placenta) burials there which should not be disturbed. I note that he stated the creek which runs through the block was used to wash, and water was taken to wash sick people, but did not specify which watercourse he was referring to. On cross examination he confirmed that the whole of the Onoke Block was tapu to Ngati Kahu, including the area under appeal. When asked if the land could be cultivated, he demurred and suggested that Ngati Kahu would need to discuss that use<sup>42</sup>.
133. H. Parata of Ngatiwai deposed that he had connections to Ngati Kahu, and that he was aware of wāhi tapu on the block. On cross examination he stated specifically that they were in the area of the proposed plan change<sup>43</sup>.
134. N. Baker of Ngati Hine stated he was not Ngati Kahu, and that the block was not in the Ngati Hine rohe and they were not tangata whenua, but that there were sacred sites on the block, although he gave no particulars or source for this knowledge<sup>44</sup>.

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<sup>40</sup> CDL Land New Zealand Ltd v Whangarei District Council, 1996. A099/96 [1996] NZEnvC 83; (1996) 2 ELRNZ 423; [1997] NZRMA 322 (25 November 1996): 7.

<sup>41</sup> Ibid.

<sup>42</sup> Ibid: 8.

<sup>43</sup> Ibid.

<sup>44</sup> Ibid.

135. Mr Kingi's testimony was considered crucial in the courts decision to disallow the appeal, noting that his testimony was not diminished or contradicted<sup>45</sup>.
136. While acknowledging the testimony and standing of the kaumatua and kuia involved, I note that only Mr Parata, whose standing was indirect, identified that the Site itself was specifically a wāhi tapu but provided no other information. The crucial testimony of H. Kingi, and his daughter Mrs Bruce refers to the whole block as containing and/or being wāhi tapu with associations to both birth and death.
137. Of relevance to this Application, I note that for the purposes of assessing its historical significance, the Onoke Heights Site is less than a quarter of the original Onoke Block. Based on my reading of the decision and considering my research into the history of the area, I note that none of the witnesses provided specific testimony as to the presence or origins of wāhi tapu on the Site, or particular elements which might be identifiable, eligible to be scheduled in the District Plan, and which could be avoided, mitigated or remedied. The part of the original Onoke Block onto which the pā might have extended is already within public ownership on the neighbouring Onoke Scenic Reserve and will not be further affected.
138. Original research which I have undertaken shows that the portion of the Onoke Block which is the subject of the application was occupied and cultivated by Chief Tipene Hari of Ngati Kahu into the 1870s, that he and two others were granted uncontested title to Onoke in 1877, and subsequently sold the land the same year.
139. There is no suggestion that the land could not be lived on because it was wāhi tapu, prior to its alienation by Rangatira of Ngati Kahu. Likewise, the neighbouring block containing the pā was also previously occupied by Maori without issue, prior to alienation.
140. Relevantly, a CIA was prepared for another development south of Hurupaki maunga for Ngati Kahu O Torongare by the same author as the Te Parawhau CIA. In this report the area traditionally identified as being used to wash and prepare bodies or tūpāpaku is specifically identified as Waipanga (that is, associated with the Waipango Stream as previously

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<sup>45</sup> Ibid.

identified, northeast of Hurupaki and on the north side of the Onoke cone<sup>46</sup>.

141. A map of sites of significance in that CIA shows the Waipango (Waipango) wāhi whakahirahira well to the north of the Onoke Heights Site, with the Waipango Stream forming its south eastern boundary. Otapapa is noted as a mahinga kai or gardening area, but Onoke is just shown as a puke or hill (Figure 22).
142. The Waipango Stream area was still in primary forest when it was alienated, as opposed to the land around the Otapapa Stream, including the Onoke Heights Site, on the south side of the Onoke cone, and this is consistent with an area that was not occupied or used for gardening activity by Maori.
143. My research indicates that notwithstanding the familial and customary links between Ngati Kahu and Te Parawhau, the rights of Ngati Kahu Rangatira over Onoke, and other land in the area, including the rights to dispose of it, was not contested at the time of the title investigation and subsequent alienation, just as the rights of Te Parawhau Rangatira to do likewise in their rohe was not contested.

#### **Recommended conditions of consent**

144. The following conditions are proposed to be included in the Proposed Consent Conditions where they relate to archaeological and historic heritage effects:
  - a) Prior to any site works being undertaken the consent holder shall provide evidence that an Authority has been obtained from Heritage New Zealand Pouhere Taonga to the Councils Manager RMA Consents or delegated representative.
  - b) Where, during earthworks on the site, any archaeological feature, artefact or human remains are accidentally discovered or are suspected to have been discovered, the following protocol shall be followed:

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<sup>46</sup> Cultural Impact Assessment. The James Subdivision. 115 Three Mile Bush Road, Kamo, Whangarei. Prepared for TMB Ltd by G. Olsen on behalf of Ngati Kahu O Torongare, 2019: 11, 14, 38.

- i. All works within 20m of the discovery site will cease immediately. The contractor/works supervisor shall shut down all equipment and activity.
  - ii. The area shall be secured and the consent holder or proponent and the Council must be advised of the discovery.
  - iii. Heritage New Zealand Pouhere Taonga shall be notified by the consent holder or proponent so that the appropriate consent procedure can be initiated.
  - iv. The consent holder or proponent shall consult with a representative of the appropriate iwi to determine what further actions are appropriate to safeguard the site and its contents.
- c) In the case where human remains have accidentally been discovered or are suspected to have been discovered, the following will also be required:
- i. The area shall be immediately secured by the contractor in a way which ensure human remains are not further disturbed. The consent holder or proponent shall be advised of the steps taken.
  - ii. The Police shall be notified of the suspected human remains as soon as practicably possible after the remains have been disturbed. The consent holder or proponent shall notify the appropriate iwi and Heritage New Zealand Pouhere Taonga and the Council within 12 hours of the suspected human remains being disturbed, or otherwise as soon as practically possible.
  - iii. Excavation of the site shall not resume until the Police, Heritage New Zealand Pouhere Taonga and the relevant iwi have each given the necessary approvals for excavation to proceed.

*Note: If any land use activity (such as earthworks, fencing or landscaping is likely to modify, damage or destroy any archaeological site (whether recorded or unrecorded) an "authority" consent from Heritage New Zealand Pouhere Taonga must also be obtained for the work to lawfully proceed.*

145. The proposed consent conditions are adequate to manage any historic heritage or archaeological effects which may arise. Specific requirements for the Site in terms of an archaeological management plan, research

strategy and monitoring will be developed in the course of the HNZPTA 2014 archaeological Authority processes.

146. Overall, I consider that any adverse historic heritage and archaeological effects of the Proposal can be sufficiently avoided, reduced or mitigated if the Proposed Consent Conditions are adopted and implemented.

## **CONCLUSION**

147. In conclusion archaeological and historic heritage effects of the Proposal are negligible, being restricted to the potential modification or destruction of as-yet unidentified subsurface archaeological sites and features, some of which may be associated with the late historic prior occupation of Chief Tipene Hari of Ngati Kahu, and one stone heap which may or may not be an archaeological feature.
148. Effects on unrecorded, subsurface archaeological sites or features may be assessed and managed through an archaeological Authority under the Heritage New Zealand Pouhere Taonga Act 2014 with standard conditions for an archaeological site instruction with adaptive monitoring, on-call procedures, stand-downs for significant finds, and investigation, analysis and reporting of finds as appropriate.
149. Native Land Court records show that title to the Onoke Block was uncontested when it was investigated and granted to Chief Tipene Hari of Ngati Kahu O Tarongare, Te Hira and Wiremu Pepene in 1877. Tipene Hari lived on the land and cultivated it until at least 1872. Tipene and the other owners then sold the land to a European settler without encumbrance the same year they gained title, and subsequently vacated it. The wāhi tapu associated with the preparation and burial of tūpāpaku has previously been identified by tangata whenua as being located well away from the Onoke Heights Site.

**DATED** this 31<sup>st</sup> day of October 2023



**Jonathan Paul David Carpenter**

## **Attachment 1 – Professional Statement**

My name is Jonathan Paul-David Carpenter

I have an MA (Honours – First Division) in Anthropology (Archaeology specialisation) from the University of Auckland and am currently completing a PhD in Archaeology and Natural History at the Australian National University, Canberra.

I have been employed as an archaeologist and historic heritage management consultant for 25 years in New Zealand, the South Pacific and the USA.

From 2008 to the present I have worked as an archaeologist and heritage management consultant for Geometria Ltd and in that time have prepared approximately 350 archaeological and historic heritage assessments and associated investigation and reporting for subdivisions and other development in Te Taitokerau, and have undertaken numerous archaeological excavations in the region.

Prior to working for Geometria I was the Department of Conservation Northland Region Historic Officer from 2004-2008. From 1999-2004 I worked as a tutor and assistant lecturer in archaeology for the University of Auckland, and as an archaeologist for the US Forest Service, American Samoa Power Company, the Auckland Regional Council, and as a sub-contractor to a number of Auckland-based archaeological consultancies.

I served two terms on the New Zealand Archaeological Association Council, in 2008 and 2009. I am a member of the New Zealand Archaeological Association and am bound by their Code of Ethics and Standards for Practice of Professional Archaeology in New Zealand.

I have held Section 17 Archaeologist status under the former Historic Places Act 1993, and Section 45 Archaeologist status under the Heritage New Zealand Pouhere Taonga Act 2014 to undertake archaeological investigations, and am qualified to comment on archaeological and historic heritage matters.

**Attachment 2 – Figures and Tables**

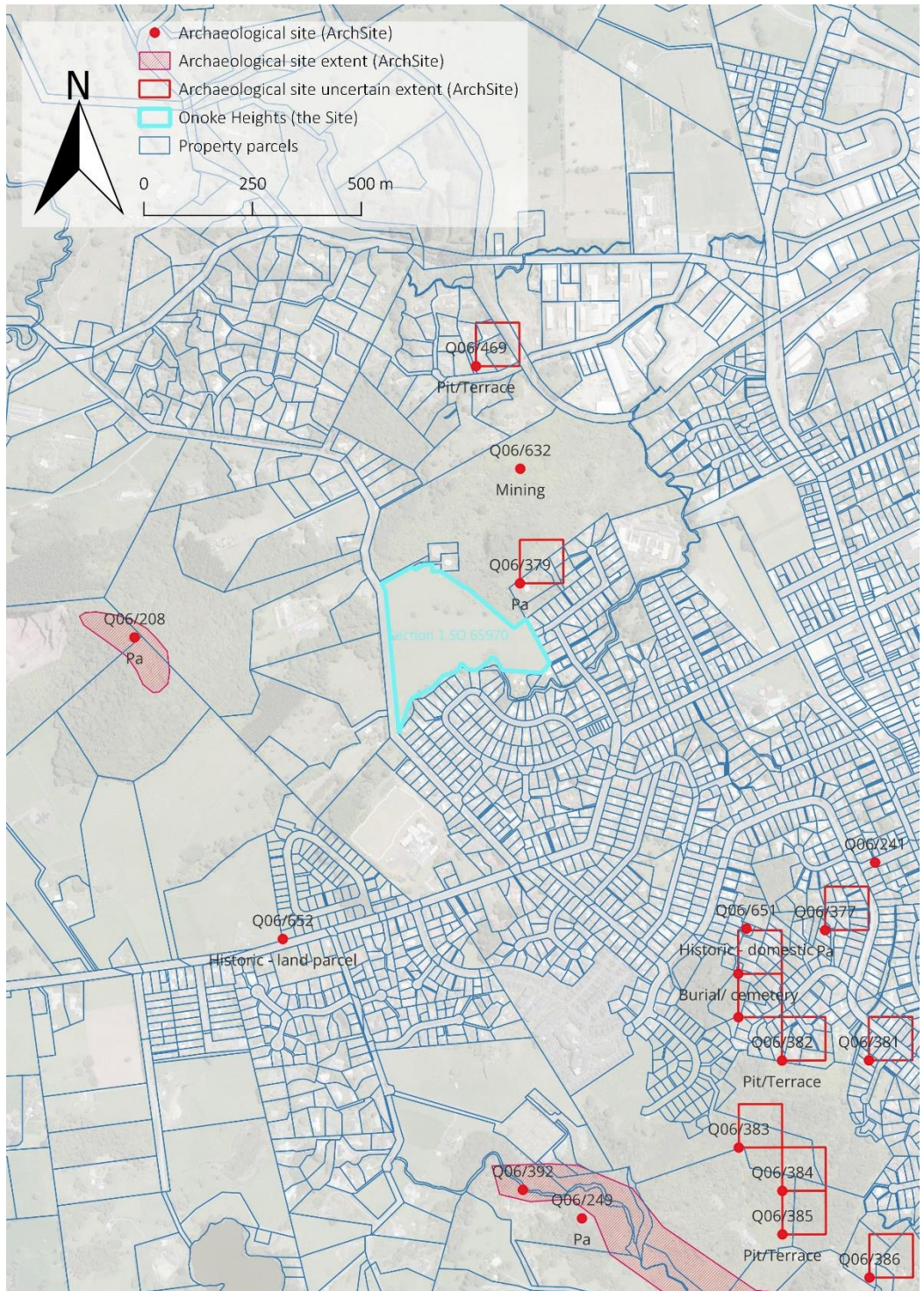


Figure 1: Recorded archaeological sites in the vicinity of Onoke Heights.



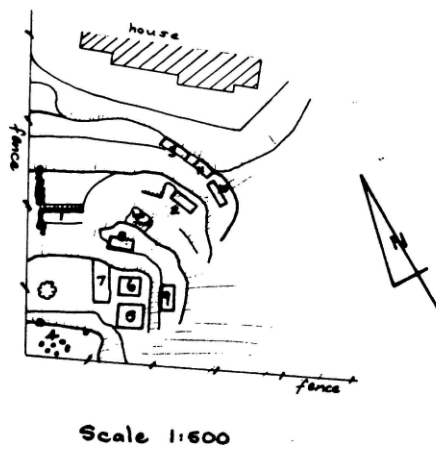


Figure 2: Sketch of Q06/379 Pa (1988).



Figure 3: Pā location, 2013 with Onoke Heights in blue and pā in red.

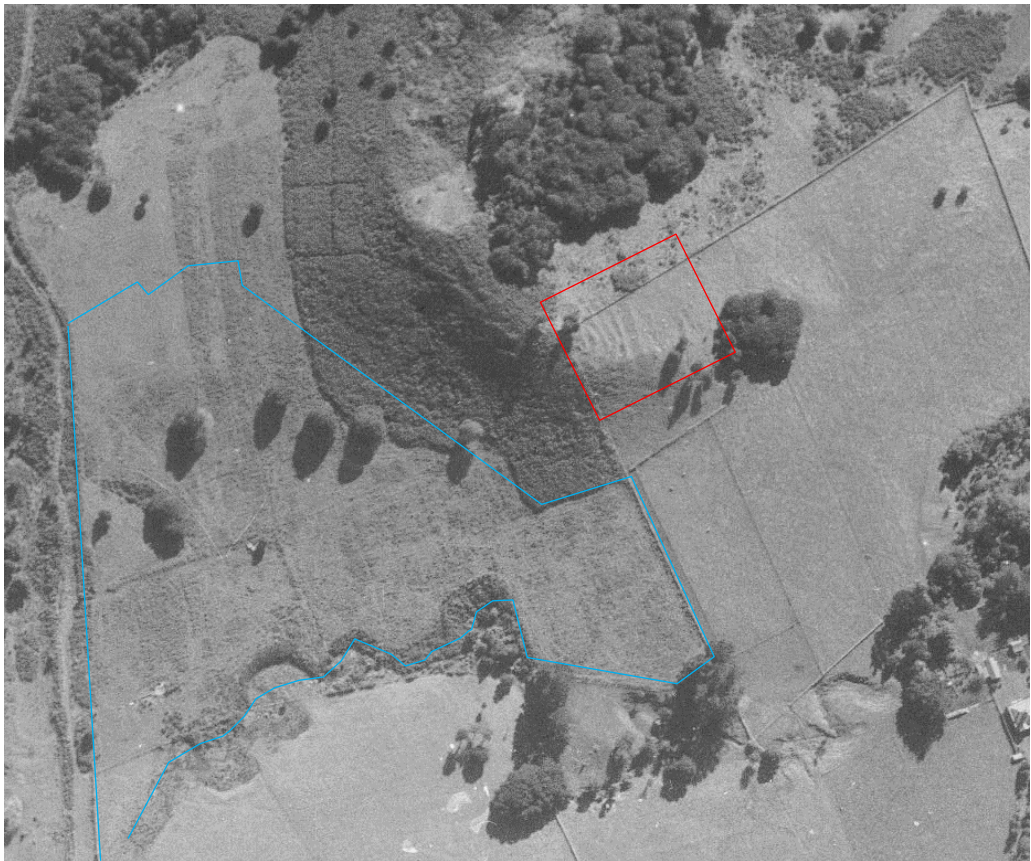


Figure 4: Detail from aerial SN 209 402/24 (1942; Retrolens) with Onoke Heights in blue and pā in red. Otapapa Stream is on the southern boundary.



Figure 5: Detail from oblique aerial looking south west over Onoke and pa towards Dip Road and Three Mile Bush Road (1947, Alexander Turnbull Library/Timeframes, WA-05170-F) with Onoke Heights in blue, pā in red, Otapapa Stream in green and Waipango Stream in orange.



Figure 6: Detail from oblique aerial looking west over Onoke and pa towards Dip Road (1953, Alexander Turnbull Library/Timeframes, A-32366-F) with Onoke Heights in blue and pā in red.



Figure 7: Detail from oblique aerial looking northwest over Onoke and pā towards Dip Road (1953, Alexander Turnbull Library/Timeframes, WA-32364-F) with Onoke Heights in blue and pā in red.



Figure 8: Detail from oblique aerial looking west over Onoke and pā towards Dip Road (1973, Alexander Turnbull Library/Timeframes, WA-71091-F) with Onoke Heights in blue and pā in red.



Figure 9: Detail from SN 5091 G29 (1979).

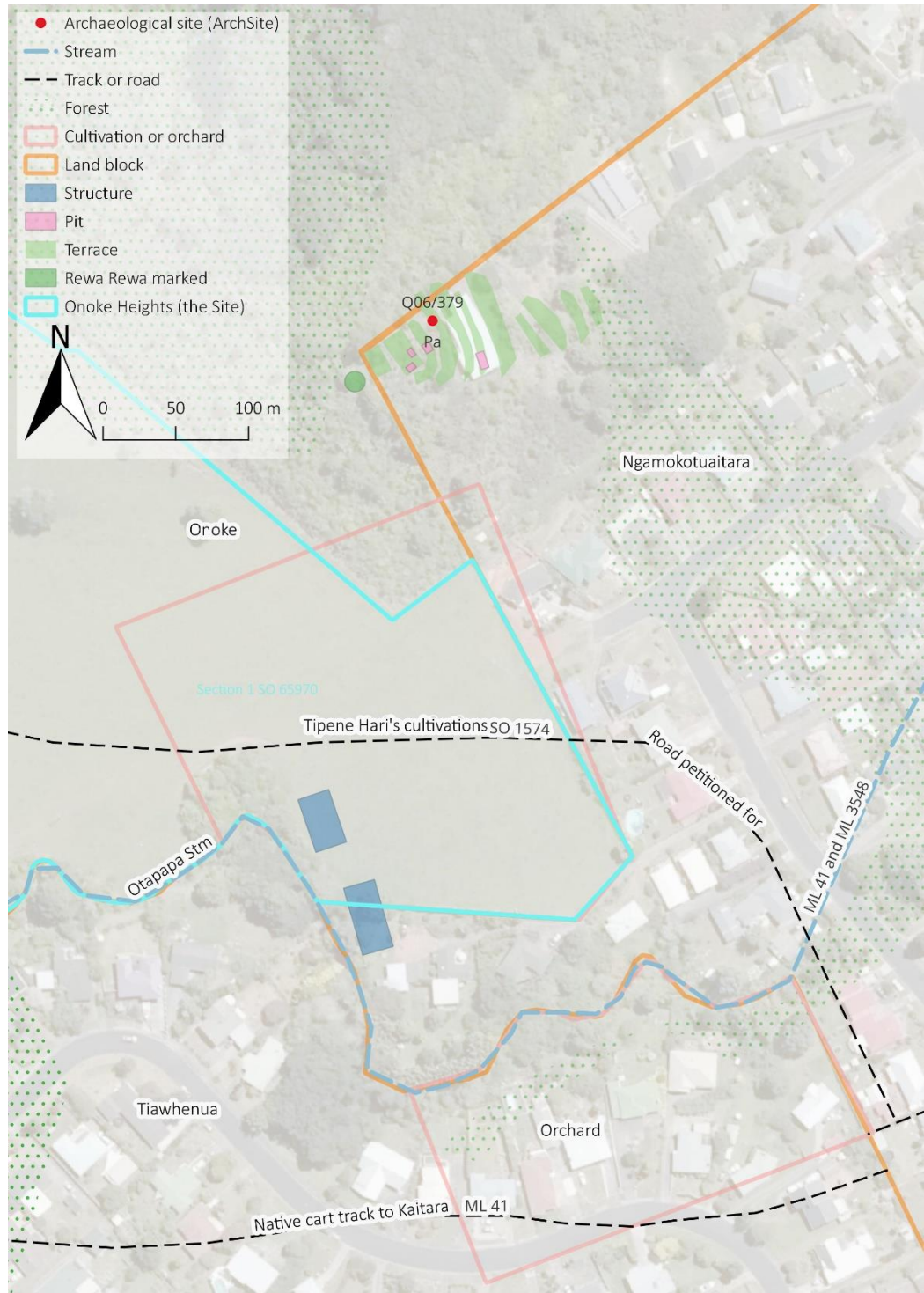


Figure 10: Pā features derived from 1942 aerial image and 1988 archaeological site record, and historic features derived from ML 41 (1865), SO 1574 (1972), and ML 3548 (1874).

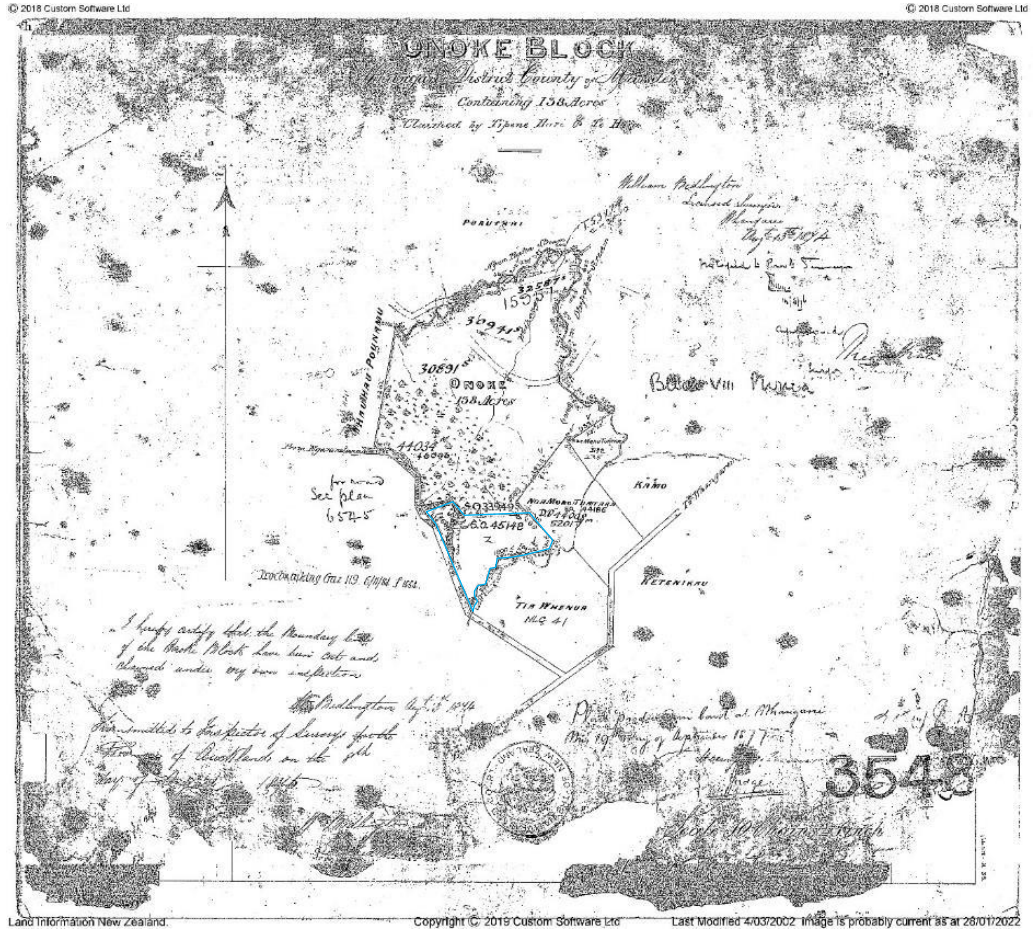


Figure 11: ML 3548 Onoke Block (1874) with Onoke Heights Site in blue.

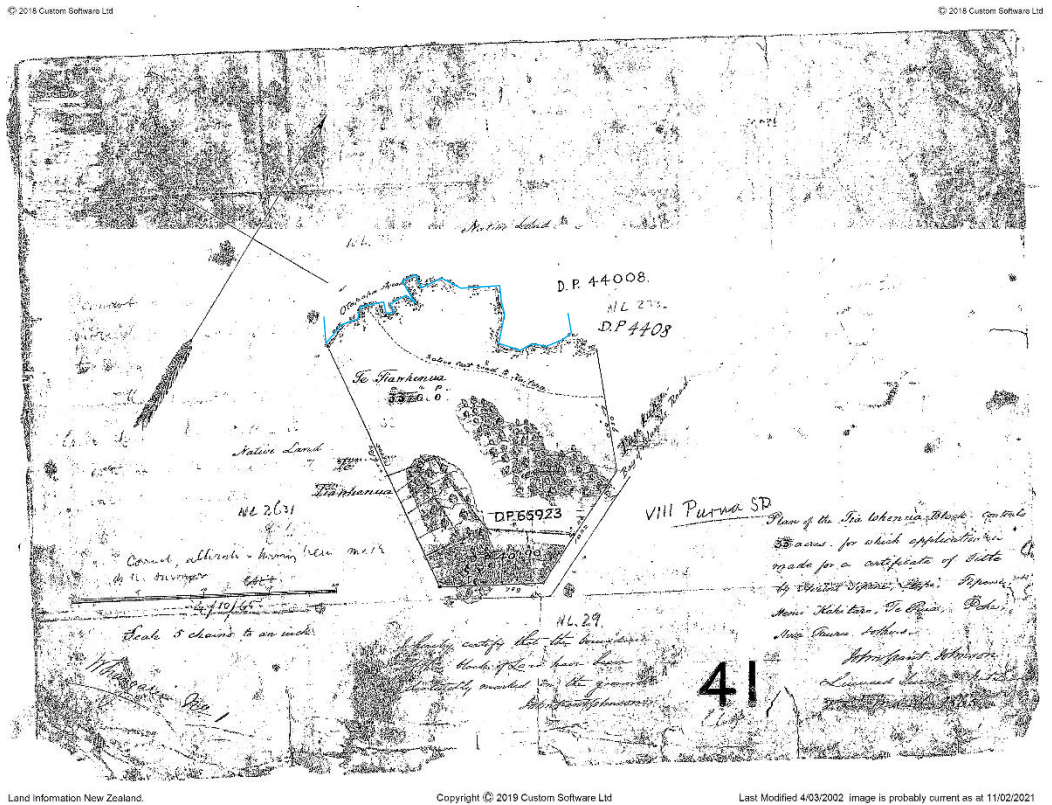


Figure 12: ML 41 Te Tia Whenua Block (1865) with southern boundary of Onoke Heights in blue.

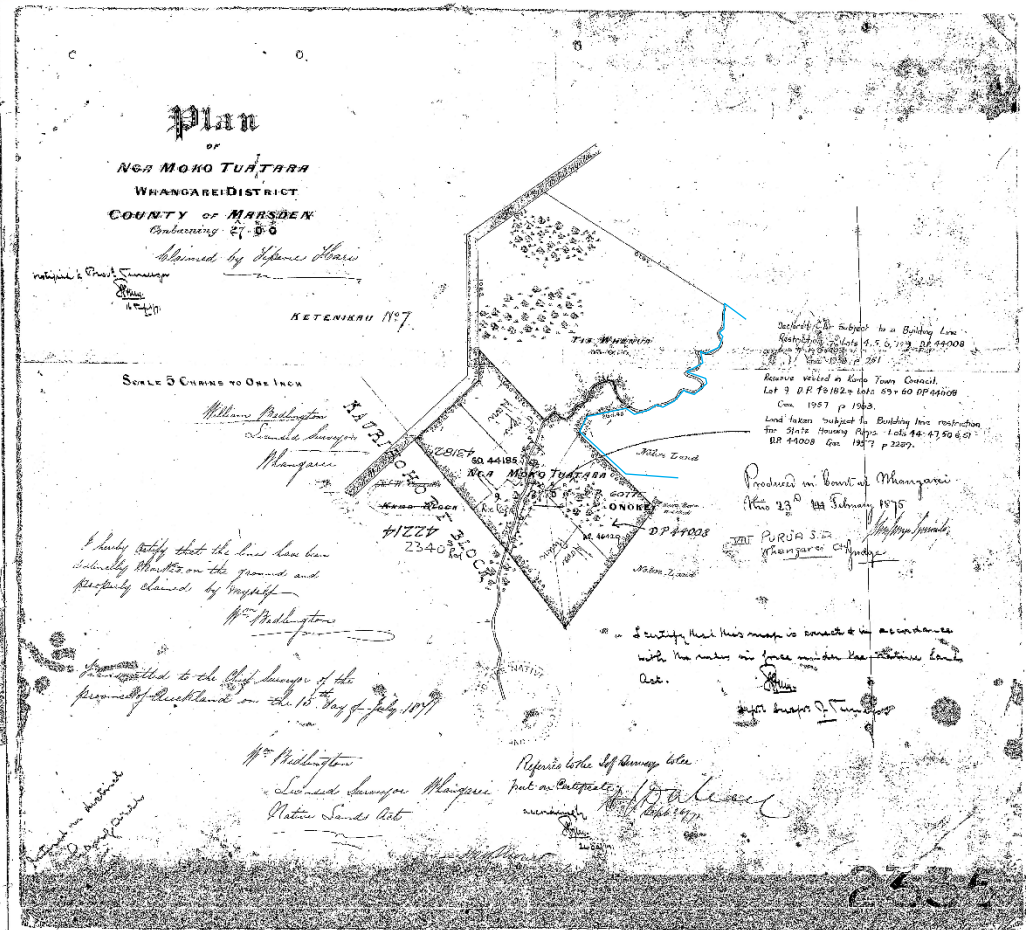


Figure 13: ML 2355 Nga Moko Tuaitara Block (1871) with southern boundary of Onoke Heights in blue.



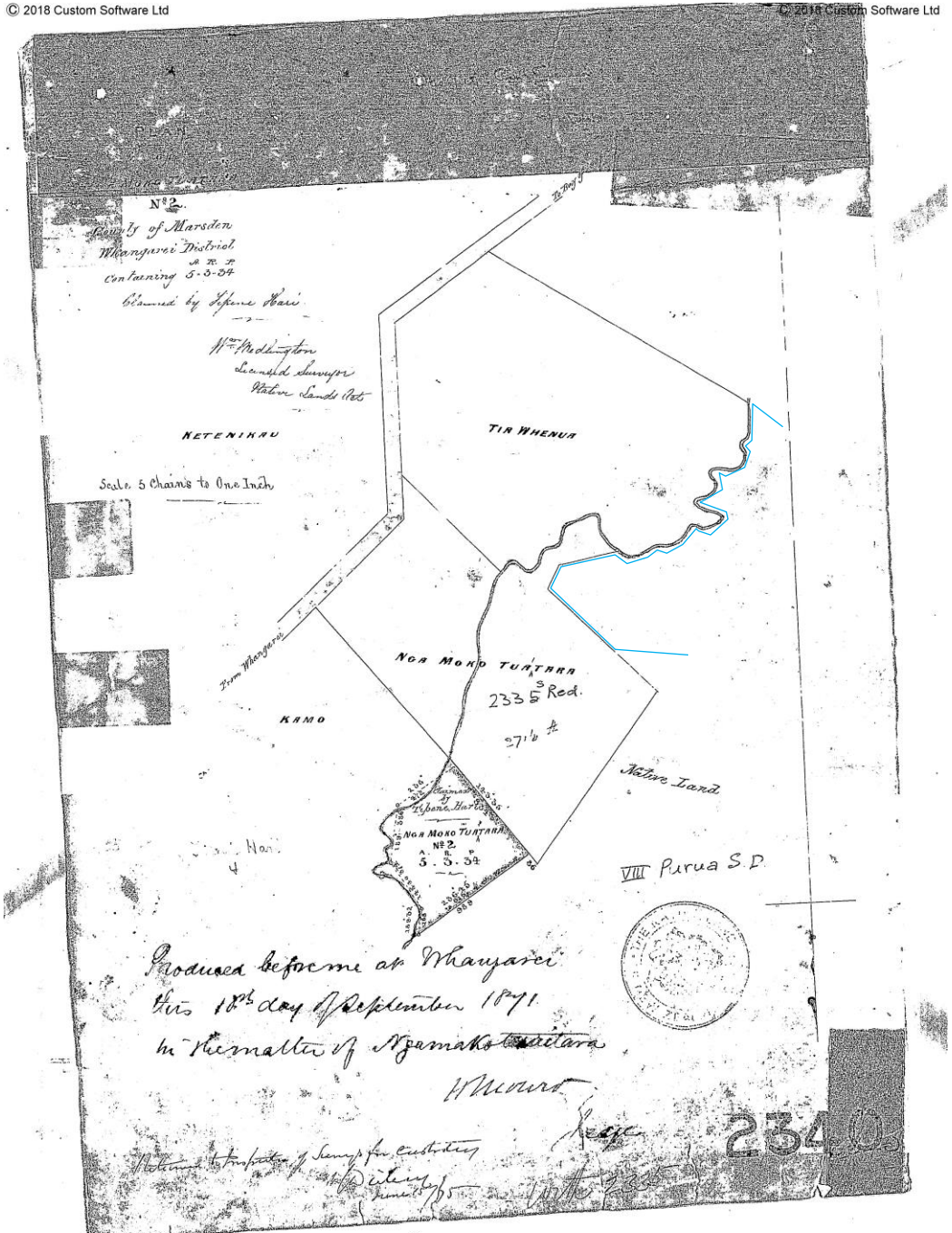


Figure 14: ML 2340 Nga Moko Tuaitara No. 2 (1871) with southern boundary of Onoke Heights in blue.

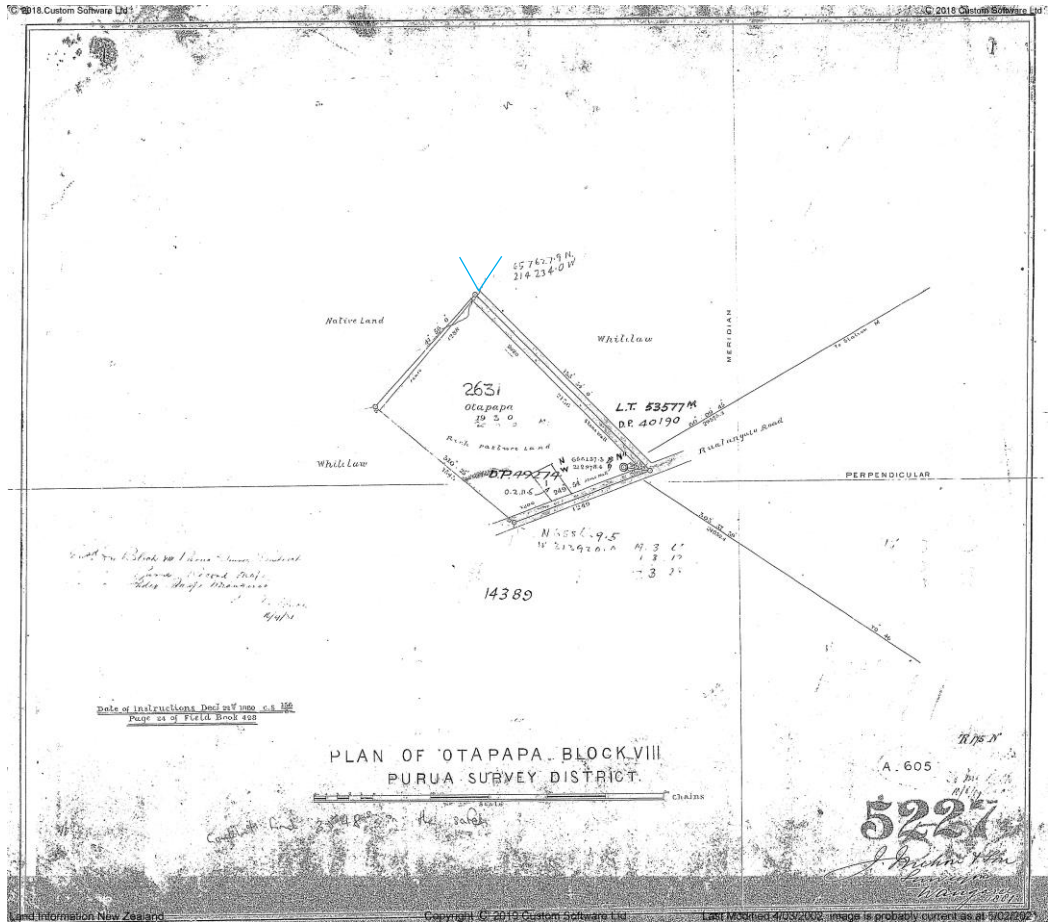


Figure 15: ML 5227 Otapa Block (1881) with southwestern boundary of Onoke Heights in blue.

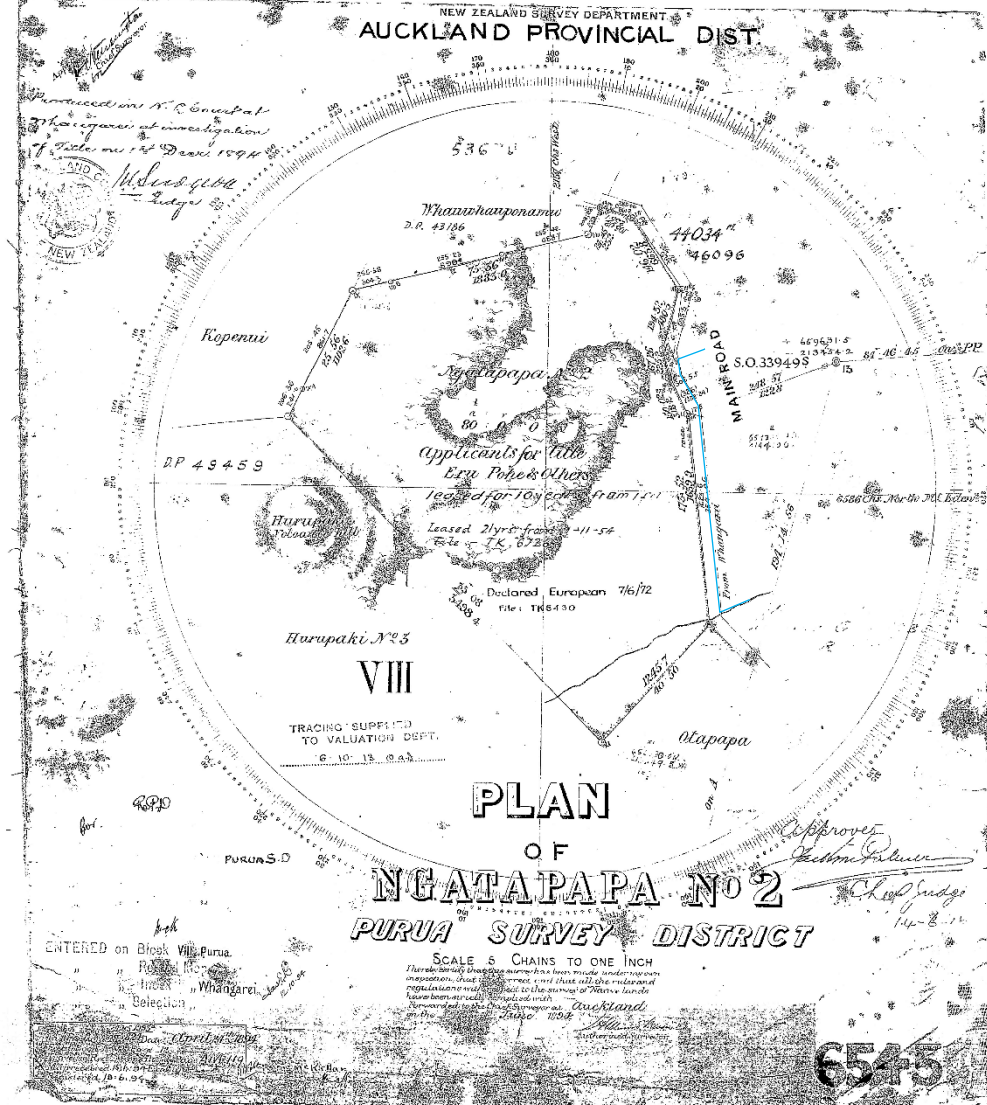


Figure 16: ML 6545 Ngatapa No. 2 Block (1894) with southeastern boundary of Onoke Heights in blue.

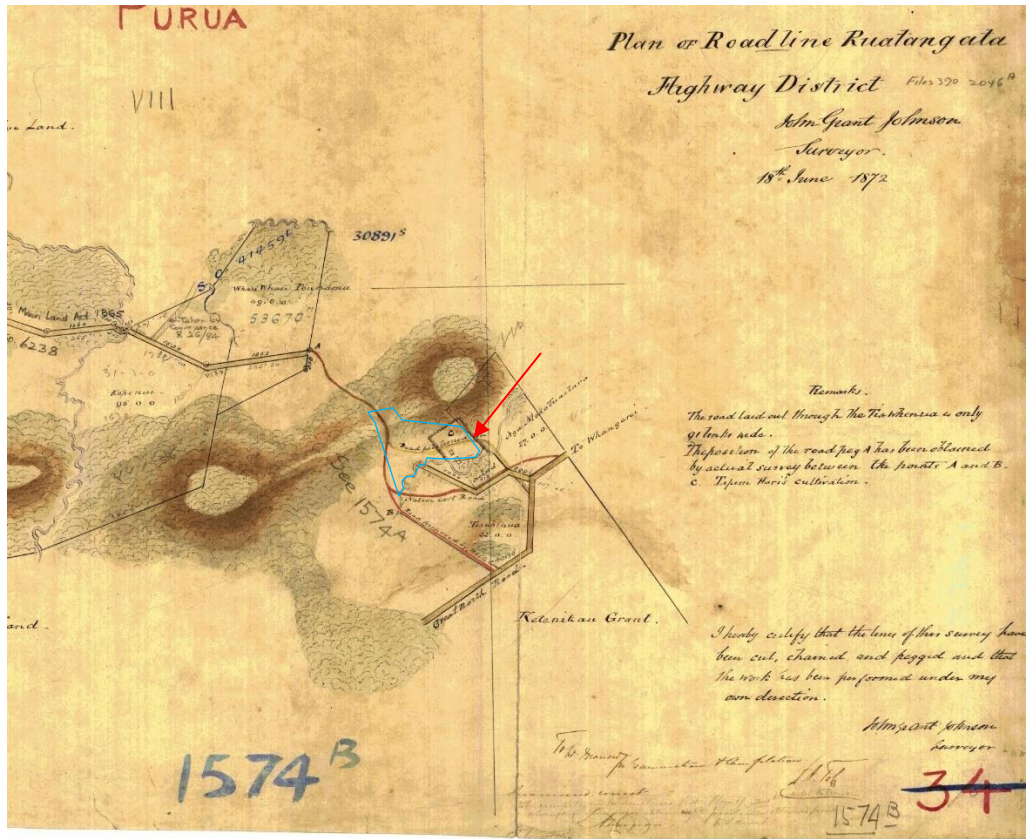


Figure 17: Detail from SO 1574/B (1872) with enclosure, cultivations, orchard and structures associated with Tipene Hari arrowed.

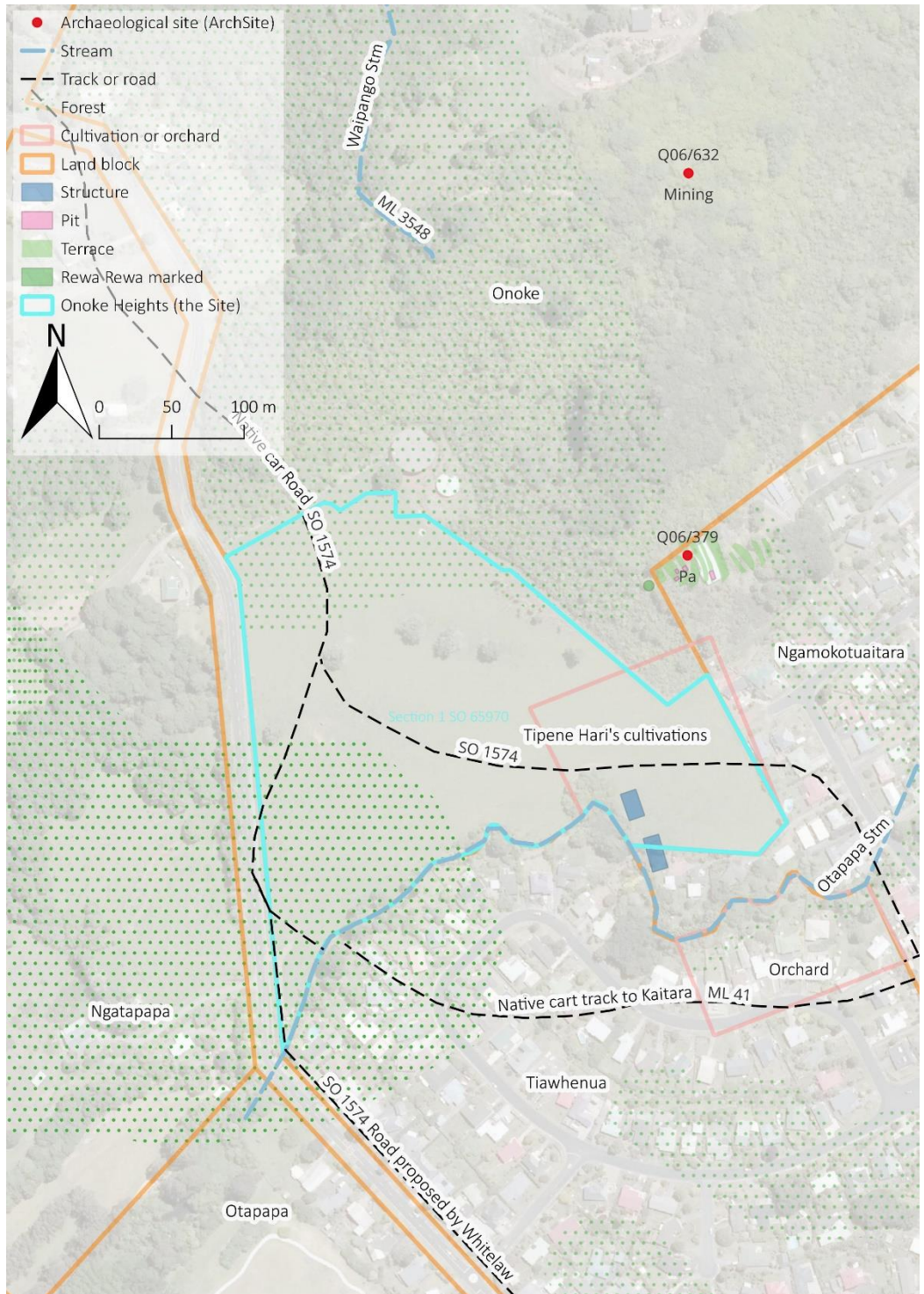


Figure 18: Historic and topographic features at Onoke Heights.

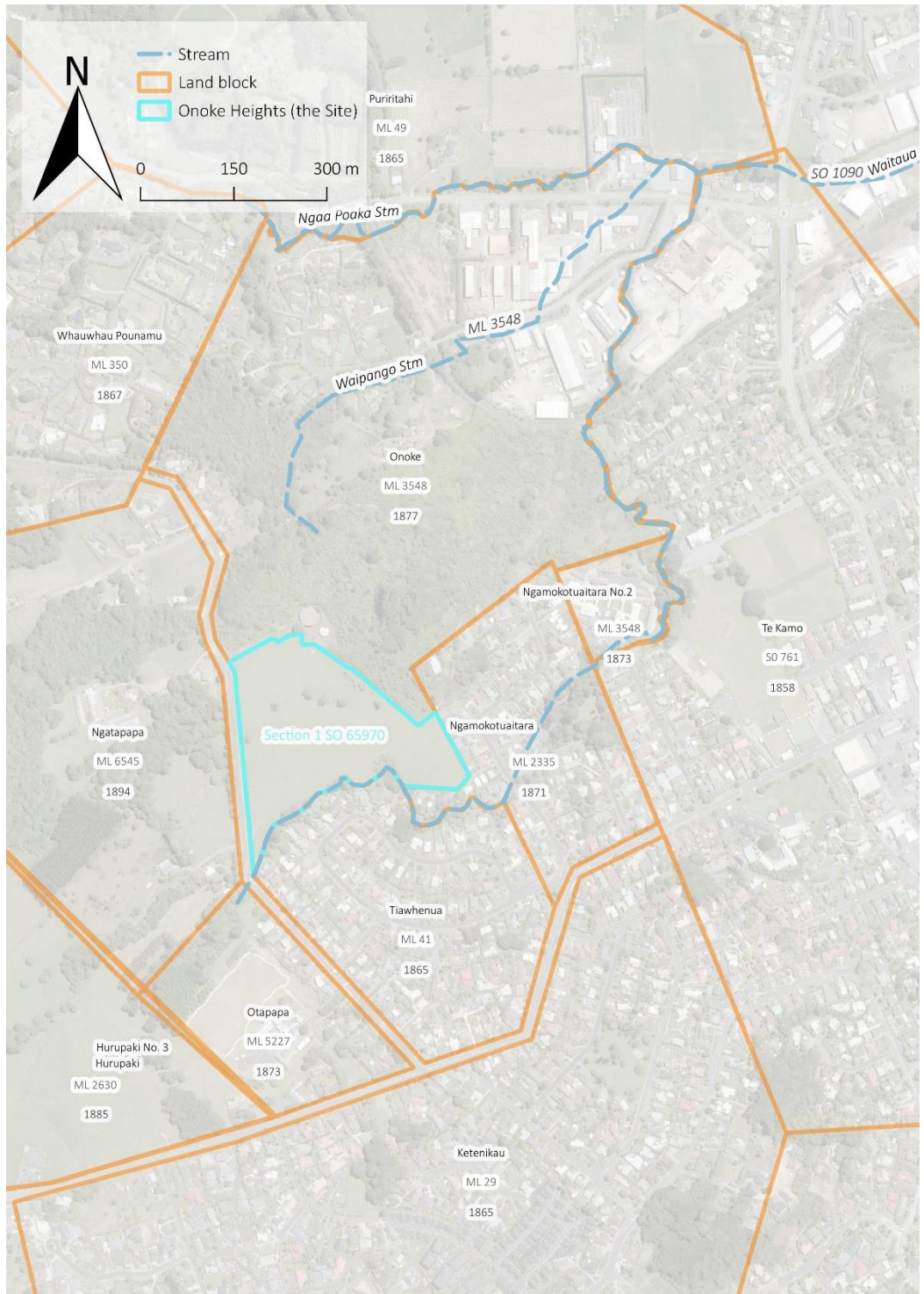


Figure 19: Land blocks and stream names.

terms at Sale.

THURSDAY, NOVEMBER 1, 1894,  
At 11 o'Clock forenoon.

IMPORTANT SALE.

ESTATE OF JAMES WHITELAW,  
BANKRUPT.

THOMAS WAKELIN

Has received instructions from the Mortgagee  
and the Official Assignee, to sell

THE FOLLOWING PROPERTIES,  
at his Mart, KAMO, as above, viz. :-

LOT 1.

ONAKI—138 ACRES—Close to the Kuaatanga  
Railway Station, fenced, and mostly in  
grass. This block contains the Ballast Pit  
(presently used by the Government for  
railway purposes), and for that purpose the  
volcanic mound is of great value, being  
easier of access than any other in the dis-  
trict. It contains several grand building  
sites, and can be cut into small sections,  
each having water. The land is best vol-  
canic, and well adapted for citrus growing.  
It is also well situated for the purpose of a  
butter factory. A strong stream of water  
runs through the property.

LOT 2.

HURUPAKI—162 ACRES—Late the residence  
of Mr J. H. Davis, one mile from Kamo  
Railway Station. Good volcanic land,  
pretty level, well watered and excellent  
situation. It is in grass, subdivided by wall  
and wire fence. Good six-roomed House  
thereon.

LOT 3.

PAHUNUHUNU—323 ACRES—Better known  
as McLean's. Three miles from Kamo  
Railway Station. Nearly all volcanic soil  
of first quality. Decidedly the best grazing  
farm in the district. Fenced with wall and  
wire into several divisions, well watered,  
three-fourths in grass, and capable of carry-  
ing a large number of stock at once. Good  
six-roomed House thereon.

LOT 4.

NGAMOKOTUAITARA—87 ACRES—Adjoin-  
ing the residence of the late Mr Carruth,  
half a mile from Kamo Railway Station,  
divided into two paddocks, all in grass, ex-  
cept a few pretty pieces of native bush,  
never-failing stream of water, first-class  
volcanic soil, and an excellent site for a  
pretty home. Tennis ground on the pro-  
perty.

LOT 5.

TE TIA WHENUA—33 ACRES—Adjoining  
the Tennis Ground, one mile from Kamo  
Railway Station. Good new ten-roomed  
House and outbuildings thereon. Good  
volcanic soil, fenced, all in grass or  
orchard. Good stream of water.

LOT 6.

PUKIMIRAU—222 ACRES—Situated between  
McPhee's and McLean's (Lots 2 and 3), in  
the Three-mile Bush Road. About 40 acres  
in grass, balance standing bush, fenced on  
three sides, all fair soil, well watered and  
well adapted for a grazing farm.

LOT 7.

LOT 15, KAMO TOWNSHIP—Has on it  
Butcher's Shop and Stable, in the occupa-  
tion of Mr Pritchard; also, Tailor's Shop,  
occupied by Mr Purohac.

LOT 16, in the same Township, has on it the  
large commodious Store, Stable and other  
Buildings lately occupied by Mr Whitelaw,  
and now let to a good tenant.

Also,

At the same time and place, in the same  
Estate.

By Order of the Mortgagee.

HURUPAKI—No. 1D and No. 2, 191a 0e 3p—  
Lot 1, 2 1/2 miles from Kamo Railway Station,  
best volcanic soil, fenced, level, well water-  
ed, about half in grass, balance in standing  
bush; joins the late residence of Mr J. H.  
Davis on the west side.

OTAPAPA—20 Acres, 1 mile from Kamo  
Railway Station, opposite the late residence  
of Mr H. J. Phillips; first-class volcanic  
soil, level, well watered, fenced round with  
stone wall, all in grass, nice situation,  
grand site for a villa residence.

KETINIKAU—48 acres 21 poles, known as  
Cook's and formerly occupied by him, situ-  
ated at the upper end of the Whau Whau  
Railway Line; one-fourth in grass, balance  
in bush and rough feed, partly fenced; four-  
roomed Cottage thereon.

Two Four-roomed and one Three-roomed COT-  
TAGES, Kamo Township, standing on Lots  
63, 69 and 72, near the Star Hotel; let to  
good tenants.

Plans and Conditions of Sale may be inspected  
at the Office of Messrs WITKAKER and RUSSELL,  
Solicitors, Auckland, and at the Office of the  
Auctioneer, Kamo and Whangarei.

Figure 20: Mortgagee auction of the Whitelaw estate, Auckland Star, 1 November 1894.

**WHANGARRI, this day.**  
 In the sale of properties in Whitelaw's estate held at Kamo yesterday Ketenikau and three cottages were withdrawn. The Bank of New Zealand bought the Hurupaki estate of 162 acres for £931; Puhunuhunu, 423 acres, £1,846; Pakimirau, 282 acres, £580; Whitelaw's business promises, £345; butcher's and tailor's shop, £140. The Colonial Bank bought Hurupaki and Otapapa at £656 and £412. Miss Whitelaw bought Omaki, 138 acres, on which the gravel pit is situated, for £950, also Tetai and Whenua, Mr. Whitelaw's residence of 33 acres, for £900. Mrs. Sissons bought Miamokotuaetara, 27 acres, for £15 per acre.

Figure 21: Report on the Whitelaw mortgagee auction, Auckland Star, 2 November 1894.

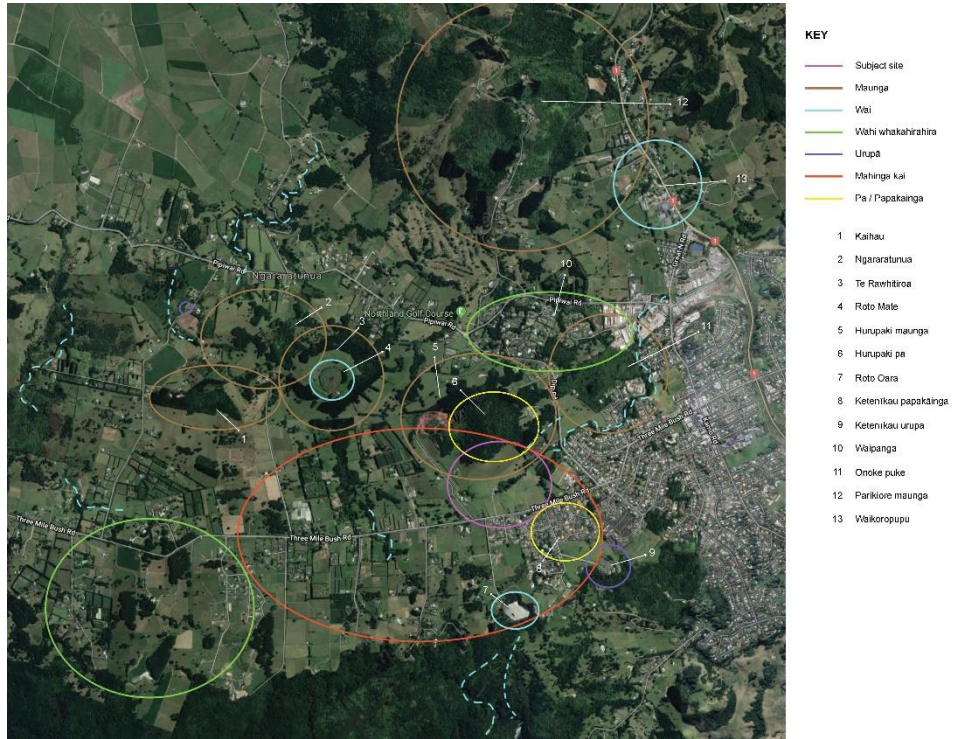


Figure 22: Ngati Kahu sites of significance, 2019.



Table 1: Summary table of land blocks and transactions at Onoke and surrounding blocks, sorted by survey date.

Block	Date	Action	Individuals <sup>47</sup>
Puriritahi	14 December 1864	Survey	Te Puia Hiriwani Hirini Tipene Epinuha
	21 August 1865	Title investigation (Claimant)	Te Puia Ngati Kahu
	30 August 1865	Title Grant	Hirini Tipene Pakia Five others
	1865-1894	Alienation	William Carruth
	1865-1894	Conveyance	James Whitelaw
	1894	Conveyance	Bank of New Zealand
Te Tiawhenua	23 March 1865	Survey	Hirini Tipene Pakia Tipene Hari Hemi Kohitaro Te Puia Eru Pohe Hira Taurau & Others
	23 August 1865	Title investigation (claimants)	Hirini Tipene Paikia Tipene Hari Te Puia Wiremu Pohe Renate Titore Ngati Kahu
		Additional claimant	Tamati Pehi Riri
		Title grant	Hirini Tipene Pakia
	19 March 1866	Succession	Tipene Hari succeeds Hirini Tipene Paikia
	1872?	Alienation	Tipene Hari to James Whitelaw
Whauwhau Pounamu	19 October 1865	Survey	Tipene Hari
	17 May 1867	Title investigation (Claimant)	Hepi Monariki Tipene Hari
		Title Grant	Hepi Monariki Tipene Hari
	1 September 1886	Alienation	James Whitelaw
Nga Moko Tuaitara	17 July 1871	Survey	Tipene Hari
	18 September 1871	Title investigation (claimant)	Hira Tauru on behalf of Tipene Hari
		Counter claim	Hone Puriri
		Title grant	Tipene Hari Hone Puriri
	23 February 1875	Partition	Tipene Hari Hone Puriri
	25 February 1875	Partition cancelled	Tipene Hari Hone Puriri
	1 March 1881	Alienation	James Whitelaw
Nga Moko Tuaitara No. 2	6 September 1871	Survey	Tipene Hari
	25 November 1873	Title investigation (claimant)	Tipene Hari
		Counter claim	Hone Puriri on behalf of himself and Pomare Kingi

<sup>47</sup> Note all individuals state they are Ngati Kahu, except for Eru Nehua who is Ngati Hau.

			Rikihana Te Hua Wiremu Kaitutu Hepi Moanariki Hirawani Te Puia Mere Wharenikau Riripete Pohe
	26 November 1873	Title grant	Tipene Hari Mere Wharenikau Hirawani Te Puia Hepi Moanariki Rikihana Te Hua, Wiremu Pepene, Rewiti Hori Kingi Eruera Pohe
	29 September 1874	Alienation	William Caruth
	1874-1894	Conveyance	James Whitelaw
Otapapa	26 November 1873	Title investigation (Claimant)	Hira Tauru
	26-27 November 1873	Counter claim	Eru Nehua (Ngati Hau)
	28 November 1873	Title Grant	Hira Taurua Rikihana Takurua Tipene Hari Hirawanu Te Pui, Hone Rakete Hepi Moanariki Mere Wharenikau Wiki Pirihi Te Reweti Hori Kingi Eruera Pohe
	1873 to 1881	Alienation	James Whitelaw
Onoke	13 August 1874	Survey	Tipene Hari Te Hira
	19 September 1877	Title investigation (claimants)	Tipene Hari Te Hira Wiremu Pepene
		Title grant	Tipene Hari Te Hira Wiremu Pepene
	22 September 1877	Alienation	James Whitelaw
Ngatapapa No. 2	1 December 1894	Title investigation (Claimant)	Eru Pohe Heki Moanariki Tau Pepene Hemi Kingi
	1972	Alienation	Herbert James