NEW ZEALAND

CROWN LAW OFFICE

8 January 1999

Mr Bruce Cowper
Quotable Value NZ Limited
P O Box 54
GISBORNE

Dear Bruce

Mangatu Incorporation
Our Ref: VAL011/95

Further to my telephone message I **enclose** a copy of the Tribunal's reserved decision which you will note was given on 29 December 1998 but received in this Office today.

We have been substantially successful in defending the objection. Much of the decision is taken up with summarising the evidence, in particular the evidence of other Maori Land Court transactions and a good summary of the Tribunal's approach is contained in their conclusion at pages 21 onwards.

You will see they accepted a 5.34% reduction for Mangamaia but considered a discount range of 5-15% and that Awapuni is of the higher end.

I do not propose to take the question of costs any further.

I have not received the Houpoto decision but obviously the discount applied there is going to be in the 5-15% range. It may be slightly higher than 5% given the nature of the ownership but I would be surprised if the full discount was applied.

Please do not hesitate to contact me if you have any queries. I have sent a copy of the decision to the Valuer-General and also to Philip Western.

Yours sincerely

M T Parker
Crown Counsel

Encl

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In the Land Valuation Tribunal
Gisborne Registry LVP 22-33/95

BETWEEN: **MANGATU INCORPORATION & OTHERS**
Objectors

AND: **VALUER-GENERAL**
Respondent

Hearing: 20-21 July 1998 with submissions by 4 August

Decision: 29 December 1998

Counsel: K A Palmer/R Barber for Objectors
M T Parker for Valuation New Zealand

Tribunal: Judge A N MacLean - Chairman
Mr E C Bowis
Mr M G Cotterill

RESERVED DECISION OF THE TRIBUNAL

Background

This matter has come back for further consideration by the Tribunal, following the decision of the Court of Appeal in *Valuer General v Mangatu Inc (1997) 3NZLR641* directing the Tribunal to reconsider the matter, in light of the general principles outlined in the Courts decision.

The original objection related to a total of two hundred and nine properties, with a total assessed government valuation of $40,259,000.00, as at 1 September 1993.

Following a series of Pre Hearing Conferences, it had been agreed that the focus of attention on this occasion would be two particular properties on the basis, that each of them is a suitably representative property with a number of relative differences between them, such that an assessment by the Tribunal of the correct approach to the respective valuations of those respective pieces of land hopefully would provide assistance to both the parties to

the present objection and valuers generally, as they try to grapple with the implications of the principles stated by the Court of Appeal.

By way of further background, immediately following the hearing of evidence and submissions in the present matter, the Tribunal considered a further objection, which also requires amplification and explanation by the Tribunal of the application of the same principles outlined by the Court of Appeal, albeit that while the present matter involves a submission on behalf of Maori interests, suggesting a substantial downward valuation on a freehold valuation, based on Court of Appeal principles and the follow-on case (Houpoto Te Pua Forest Limited LVP 27/96) involves Maori interests asserting that such a downward variation is not appropriate.

The Tribunal is also conscious that its view on the practical ramifications of the Court of Appeal decision in both cases, will be of interest not only of course to the parties directly involved, not just in itself, but also hopefully to assist them to resolve their differences with respect to the remaining properties, but also to parties involved in a number of other matters awaiting hearing, both in this District and in others.

What are the principles outlined by the Court of Appeal?

Both Mr Parker and Dr Palmer adopted a slightly differing interpretations of the Court of Appeal decision.

The Tribunal having carefully considered both sets of submissions and the respective valuer's views considers that the following approach has been directed.

1. That as the Court of Appeal made clear, that the subject of the valuation is the owner's estate or interest, not the pure fee simple.

2. The valuation is made on the statutory premise that the owner will sell its estate or interest. In other words, the long-standing valuation principle of assuming a notional sale by a willing, but not anxious seller to a hypothetically willing, but not anxious buyer applies. It is clear from the evidence before us, that from the point of view at least of the present Maori owners, such an assumption of a notional sale is very much a legal fiction. We accept that in respect to the Awapuni Moana Land, that on the basis of the evidence we heard at the original hearing, our own awareness of the situation and the additional evidence adduced before us that the chance of getting an agreement in place to sell all/or any of that land (which essentially is either former lagoon or sandspit) is very remote. Certainly so far as a buyer outside the general umbrella of hapu/iwi interests, such a person is unlikely to ever get to that point. We do not entirely discount the possibility that a grouping within the present very loose and hard to define group of persons interested in that land, might at some stage be able to organise an adjustment of ownership, but the clear message coming through to us on the evidence proferred was, that even that is regarded as highly unlikely.

3. Thirdly, that the 1993 Act, as the Court of Appeal sees it "imposes a significant barrier on alienation", and indicates a legislative direction to "close the gate" on sales of Maori land.

4. That the implications of that are that a valuer must assume that alienation of Maori land would present significant practical difficulties in the future for any purchaser.

5. That although a statutory mechanism for alienation is contained in the Act, because of the clear legislative direction to preserve the status of Maori land contained in the 1993 Act that direction must be taken into consideration.

From this it follows in our view, that we have to do the best that we can on the information now available to us, to try and make an assessment, albeit in a "robust and imprecise" way, of what might be likely to happen if one or either of the pieces of land in question, was being considered by the Maori Land Court for sale. We remind ourselves that we are positing a situation where an agreement is assumed. By that we understand that we are to assume for the purposes of our assessment, that all the substantial quorum concerns etc. have in some way been overcome and that an agreement has been reached, be it with a person within the preferred class of alienee, or Maori outside the preferred class of alienee or non Maori.

The Court of Appeal has directed that the factors, which could be taken into an account, include:

a) The nature and size of the property.

b) The historical connection of the owners with the land.

c) Membership of the preferred classes of alienee and the resources available to fund the purchase.

d) Statutory role of the Maori Land Court in relation to the property.

e) The prospect of obtaining confirmation of a later onward sale from the Court, which involves in turn, an examination of the various factors listed in Te Ture Whenua Act.

There are some difficulties in this exercise, because the legal fiction, which has to be adopted, calls for, particularly in the case of the Awapuni Moana Land, a major assumption. We are not so convinced that the assumption is quite so major (and the objector's evidence seems to accept this) with the Mangamaia Land. It is clearly good hill country of a type, which in 1993, could potentially have been of interest to forestry companies, be it in the form of joint venture deal or otherwise and is owned under the umbrella of a well organised incorporation, with a history of commercial dealing and acquisition of land, albeit, still constrained by having a substantial number of potential members who it is difficult or impossible to contact, and although having a substantial net asset backing experiencing difficulty about raising mortgages thereon.
However, as we see it, our task is to try and assess what the effect of those factors on value would be on the assumption, that somehow an agreement to sell has been achieved.

Further information available to the Tribunal

As was virtually inevitable, given the lapse of time (over three years) from the time of our original decision to when this matter has come back to the Tribunal on a directed re-hearing, things have moved on, and it followed that there was a considerable amount of additional information available to the Tribunal this time, which was not available at the earlier hearing. On the other hand, a lot had not changed. For instance, it was common ground that the evidence of Mr Rapiata Ria, concerning the extensive Maori historical links with the Awapuni Lagoon is just as valid today as it was then. The general situation of which the Tribunal was aware, regarding the comparatively low income of the substantial proportion of those theoretically interested in the land in question is unchanged, and the problems of locating those persons theoretically entitled, remains.

The details of the proposed land sale at Nuhaka were able to be updated, and we were told that effectively that proposal has collapsed because the vendor was not prepared to sell, unless he could get the price that he had negotiated with someone outside the preferred class of alienee.

What had changed, however, was that the Crown was able this time to put before the Court quite a bit of additional information relating to what had been happening in the Maori Land Court. Whilst the objectors still relied heavily on Wanganui Racecourse Trustees and Wanganui Jockey Club v Valuer General (1982) New Zealand Valuer 25.232 and Valuer General v Trustees Christchurch Racecourse, High Court, Christchurch, AP 343192, they also drew to the Courts attention, not only to some of the cases that the Crown referred to, but also the Maori Appellate Court decision of Re Cleave (1995) 3NZCONV192, 245, Trustees of Merita B3B Block v Valuation New Zealand (1997) DCR419, Auckland Grammar School Board (1995) DCR937, and Carter Holt Harvey Forest Limited, Valuer General LVP373-9511-2-98.

In summary, the Crown position was that despite the view expressed by the Court of Appeal that generally the door had been closed on sale of Maori land to other than preferred other alienees and/or change of status, the practical reality was that such transactions are still happening. The objectors on the other hand, while not denying that, insisted that none of the transactions referred to had any particular application to the sort of land in question here, and could be seen as special cases or having special features, and also pointed to the Maori Appellate Court decision in re: Cleave, where the Court said "that where there is objection to a status change by preferred class, there must be compelling reasons established before the Court, after consideration of the wider matters mentioned (in the Act Te Tura Whenua) before the Court ... would make an order changing status". In essence, the primary cases relied upon by the objectors remained as in the earlier hearing, the Wanganui Racecourse and the Christchurch Racecourse cases.

Essentially, therefore, the Crown's position was that the Court of Appeal assessment of the effect of Te Ture Whenua was made in an "evidential vacuum", and the practical reality is that on the actual evidence of what has been happening, the door is by no means as firmly shut as the Court of Appeal thought it might be.

Apart from the two racecourse cases, the objectors drew the Court's attention to the case part Kairakau 2C5 B Block, (Kapiti Farm Limited) a decision of the Maori Appellate Court, reported January Maori Law Review, which Doctor Palmer submitted "provides a strong message to potential purchasers of Maori land (and existing part owners) that under the 1993 Act, partition will no longer be readily available to break up Maori land, unless there are exceptional circumstances. The fact that a non-Maori owner may then be locked into continuing ownership, must be accepted as one of the outcomes of the statutory intent to retain for the other Maori owners, the holding for descendants and to indeed close the door on the further alienation of Maori land. A person considering buying into the land (other than a member of the preferred classes of alienees) could be significantly deterred from offering the open market value in the circumstances. If the status remain Maori land, the inability of a bank to obtain or take a mortgage of the land is a major financing factor".

The Court's attention was also drawn to Trustees of Merita B3B Block v Valuation of New Zealand 1997 DCR419. This Tribunal was advised that "no further progress has been made in this case, and others involving Maori land depending the outcome of the Mangatu proceedings".

Doctor Palmer submitted that the Auckland Grammar School Board case, although not involving Maori land, indicated that the Tribunal was prepared to allow a "limited discount from the open market value" to reflect the uncertainty created by a Section 27 B designation under the State Owned Enterprises Act, which could result, if a treaty claim was made, in the land being returned to Maori claimants.

The Tribunal's attention was also drawn to Carter Holt Harvey Forest Limited v Valuer General LVP373-95 11 February 1998, which this Tribunal considers of limited application or assistance. An analogy was drawn by Doctor Palmer with the situation under the Maori Reserved Land Amendment Act 1997, which in the ultimate analysis, the Tribunal found of little assistance.

What sales alienations and/or status change evidence is there?

Since our original decision, there has been some further sales information come to hand. Some sales possibly over lapped the commencement of Te Ture Whenua, some clearly occurred afterwards. There were opposing views, as to whether the full effect and ramifications of the constraints in Te Ture Whenua may have been entirely accepted and implemented by the Maori Land Court.

However, suffice to say that on the basis of evidence adduced by the Valuer General, there have been some sales and other alienations of Maori land, together with status changes

We turn now to consider, firstly, the sales evidence with relation to Maori land that was presented to us and secondly, to consider additional cases that were drawn to our attention and submitted as having relevance.

Because this is a directed re-hearing, we also of course are also taking into account all the submissions, evidence, and cases referred to in the original hearing before us.

1. **Ngatarawa 2E2Z (Maori Land Court, Napier, 2 February 1997/13917-19) ("The Villa Maria Sale")**

This case was an application for partition and consequent site of part of 31.2647 hectares of Maori freehold land, and onward sale to Villa Maria for development, as a vineyard as part of a public float issue.

All the owners of shares in the land agreed to the overall proposition, which involved the majority owner agreeing to let the minority owner end up with a larger portion of the land than its shareholding theoretically then entitled it to.

The decision shows that the Court, having been satisfied that partition criteria had been met, was particularly concerned to ensure that the majority owner selling the land to Villa Maria was receiving adequate consideration, and required that a valuer be called to satisfy the Court that the proposed price of $16,662.00 per hectare was as it put it (page 35) "the value of that land as viticultural Hawkes Bay land ignoring the Mangatu decision". It applied the same test to a proposal for lease to Villa Maria of the minority parties interest, and seemed to be insisting on a tightening up of the lease to prevent a future reduction of rental.

While there was, as between the parties in the present case. some dispute about what the practical affects (particularly with regard to the adjustment in entitlement between the co-owners was concerned), on the net value received by the selling majority owner, this is a case illustrative of a recent approach of a Maori Land Court to valuation of Maori land when being sold to non Maori. The case indicates that no status change was contemplated i.e. the non-Maori owner would own the land, subject to Te Ture Whenua restrictions.

2. **Te Kaha 50 A, Te Kaha B6Q2 (69 Opotiki MB132-151/93 338-93 316-93)**

Whilst it is not immediately apparent from the record produced to us, whether or not this land was all Maori land, it is illustrative of an agreement in June 1994, where confirmation of an agreement for sale and purchase, at a price substantially in excess of the government valuation was being considered by the Court. The transcript shows that the Court was concerned to see that the consideration was adequate.

3. **Utahina 3K1 Maori Land Court, Rotorua (Maori Land Court 12-16039)**

This was an application for transfer from a mother to her son and daughter-in-law, with the consent of other children.

4. **Ohakura F2A Lot 25 S151-93 Whangarei Maori Land Court (Minute Book Extract 78WH144)**

This case, dated 1 May 1995 involved approval of a sale and of a change of status to general land. The transcript shows that 79.56% of the ownership approved, and it seemed to be against the background of funding being needed to clear a mortgage on other land. The transcript also shows that against a special valuation of $55,800.00 and an agreed price

of $55,000.00, the Court apparently of its own initiative insisted on the modification of the agreement to bring it up to the special valuation consideration.

5. Porouporou A16 Sale to Ngati Porou Rangatahi Haybarn Charitable Trust (Maori Land Court, Ruatoria Minute Book 3 April 1997)

This was an application for transfer of shares where it seems there was general agreement amongst all relevant parties, except one objector in the preferred class of alienees, who was asserting amongst other things.

"The land proposed for alienation by way of sale by his children will result in the loss of ancestral lands, which has been in our whanau for many generations. We do not wish to lose our whanau identity to the land. My objection to the sale to Ngati Porou Rangatahi Haybarn Club is because of the above are outsiders to the land in question. The objector went on to make it clear that she was a descendant of the original owner of the block, and asserted that "the land as already referred to has historic and ancestral significance to me as a descendant of the owner of this land".

There was another apparent objector, who stated that he wished to know the reasons for the sale, but then indicated that he wish to withdraw the objection.

The decision shows that, once satisfied that the proposed sale price was appropriate in terms of a recent special valuation that the Court had directed, and that in fact the whole block of land was being sold, the Court then said *"I make an order S164-93 investing all the shares of (named persons) in the Porouporou A16 Block into Te Ngati Porou Rangatahi Haybarn Charitable Trust. I grant them on the basis that firstly, the Court is satisfied that the consideration payable is adequate, and also on the basis that you are the only owners of this block and are selling the whole block. You have complied with the provisions as to advertising, and although there has been an objection from a person who is a preferred class, although she has not signed her letter, there is no offer from that person to match the price which is agreed to be paid by the Ngati Porou Rangatahi Haybarn Club, and accordingly in terms of the act, you are able to proceed with your sale".*

6. Application 95628 S.151,135 &R110-1994-YMA1 Maori Land Court, Gisborne 6 August 1997

This appears to involve sale of a small block of vacant land to a non-Maori. The decision of Judge Isaac's is set out in full as it illustrative of the approach of the Court. *"After hearing your submissions and the evidence of Mrs Bennett, I am satisfied that the provisions of Section 152 & 154 of Te Tura Whenua Maori Act 1993 had been satisfied. All matters referred to Section 152 have been met. I was particularly concerned as to the consideration, having regard to the fact that it was based on the Government valuation and not a special valuation. Evidence has been given that the land is a residential section, and no improvements have been made since the valuation was completed in September 1996, and Mrs Bennett is quite happy with the price. So I am prepared to accept that in the circumstances the consideration is adequate. Having regard to the other matters set out in Section 154 and in particular the historical importance of the land in terms of the evidence*

given, I am satisfied that there is no special historical significance that can be attached to this land by Mrs Bennett. Having regard to that evidence and submissions, I am prepared to make both the orders sought. Firstly an order of confirmation of the agreement for sale between Mrs Bennett and Mr Barr at a consideration of $11,000.00 to be paid in cash 10 working days after the agreement becomes unconditional... If the Court could be satisfied when the money has been paid to Mrs Bennett in that stage, that part of the order can be finalised. As far as the change of status application is concerned, as with the application for confirmation, notice was given to the preferred class of alienee. The Court has not received any objections and Mrs Bennett has not received any objections. I am satisfied that having regard to the fact that the purchaser is a European with no attachment to this land in terms of the act, that an order can be made changing the status of this land to general land, and I make an order accordingly".

7. Waimana 266A2 Trust, Whakatane Maori Land Court, October 1994 S151/93

This was an application for confirmation of sale. There was a special Government valuation dated 23.03.94, and the consideration was $160,000.00. The Court records show that *"this is the last section of the total block to be sold – if sold Waimana 266A2 will be no longer"*. It also shows that the trustees were required *to "sell for the best price available and they feel they have accomplished that"*. The records also show that 85.368% of the shareholding approved. A copy of the special valuation was attached, showing it to be 2093 square metres in the residential B zone at Landing road, a main arterial route into Whakatane and Valuation New Zealand valued the current market value as at $130,000.00.

8. Ohura South K1 Section 2C2 – Aotea Minute Book Folio 198-205, 21 November 1995

This was an application for confirmation of sale and change of status from Maori freehold to general land. The property is described as an attractive block of flat undulating and easy hill country just west of Taumaranui. Extracts from Judge Isaac's decision include *firstly, it must be stated that Te Tura Whenua Maori Act 1993 makes provision in Section 147 (1)(b) for joint tenants of a block of Maori freehold land acting together to have the capacity to alienate the whole or any part of the land...*

Section 153 gives the Court a general discretion to grant or refuse confirmation after being satisfied as to the matters contained in Section 152 and 154. The exercise of the Courts discretion is guided by the pre-ample to the act, Sections 2 and 17-93. The sections all promote as the primary objective of the Court, the retention of Maori freehold land and the hands of its owners, their whanau and their hapu, and to facilitate the occupation development in utilisation of that land by and on behalf of its owners.

The Court therefore needs to way up the overriding kaupapa of the act. That is the retention of Maori freehold land, with the provisions in the act allowing for land to be alienated when those provisions have been satisfied.

The Court then dealt with the various matters requiring clarification, including

a) Proper attestation

b) No breach of trust

c) No undue aggregation

d) That the consideration was adequate and made reference to a recent valuation of 25 August, showing *"the fair market value... to be $325,000.00"*. The Court noted that the land is *"practically land locked and that is has been farmed in conjunction with surrounding land, and that it has no practical use other than the way in which has been farmed in the past"*. The Court noted that the *"Rouputu's received $265,000.00 or $56,090.00 above valuation..."*

e) Notice had been given to the preferred class of alienee with no response, but generally there seemed to be family *"blessing for the sale and change of status to proceed"*.

The Court then narrated the matters set out in Section 154, including historical importance of land to owners, nature of land, whether the owners have given the alienation proper consideration, whether the owners have a proper assessment of the present future value of the land and the principles of Ahi Ka. Judge Isaac's went on to say *Mr Rouputu in his evidence, stated that the reason for selling the land was that the owners had been offered a good price which was above the valuation of the land. The land is not viable on its own and is presently farmed in conjunction with other surrounding land. The land is practically land locked, and any other options they have looked at have been difficult options for the owners. Mr Rouputu stated that neither he nor his sister is owners of this land, or any of their ancestors going back at least three generations have actually lived on or farmed this land.*

Land which was of greater historical significance to the Maori alienating owners was situated at Mokau, and part of the proceeds of sale were to be used to build on a Mokau land and develop it.

The Ohura South land, being sold, had not been farmed or lived upon by the Rouputu family for at least three generations, and there has been no real connection to this land by the Rouputu family. Mrs Merepia Rouputu, one of the other applicants, gave evidence corroborating her brother. She went further and said there was an Urupa upon Ohura South K1 Section 2C2, which has some affiliation with their family. However, they did not know any family members were buried there.

As far as the question of Ahi Ka is concerned, counsel for the applicant submits there is no Ahi Ka to this land at the moment, and has not been for at least two or three generations. The applicants, however, do not wish to disassociate themselves completely with the land and the proposed purchasers have agreed to setting aside the Urupa upon the land for the benefit of the Maori owners.

Whilst the Court accepts the applicant's evidence that there family have had no association with this land for at least three generations, and that this land holds little historical importance for them, the Court considers the fires of occupation, although they may have

diminished are not totally extinguished. The Maori owners wish to retain their link to the land through the Urupa on the land, and permission has been obtained from the proposed purchasers for this link to remain. The Court acknowledges the retention of the link with the land and will protect this connection. The Court is also of the opinion that no matter is raised with evidence relevant to Section 154, would lead the Court to refuse confirmation.

The Court accordingly exercised its discretion to grant confirmation of the sale, subject to certain conditions. Then considered the change of status application. Clearly the Court regarded as relevant that the land was land locked, and was best farmed in conjunction with adjoining land, and that was an option open to the purchasers, so that *"accordingly, the land will be managed and utilised more effectively as general land".*

After working through the various factors applicable to status change applications, and with particular regard to the maori appellate Court decision of *Cleave*, and noting further that the *"Maori alienating owners will use the proceeds of sale to develop Maori land at Mokau... which is historically more important to them than the subject block".* It noted further that a trust was to be formed, and $60,000.00 paid into a proceeds of sale to maintain and develop the Mokau land, the Court was satisfied that the status change was appropriate, and accordingly directed that the block cease to be Maori freehold land and became general land.

9. Waikawa Village Maori Block 3B – Maori Land Court Blenhiem 20 Nelson MB139 19794

This was a sale of Maori land, apparently to non-Maori at $120,00.00, with a recent government valuation of $110,000.00 and dispensation with a special valuation requirement and 93% shareholdings support.

10. Waipahihi C49 Taupo Maori Land Court S151-93 , 4 October 1994

The records available to us show that this was an application for consent to sale at $85,000.00 of land with a special government valuation of $78,000.00, apparently against a background of over $11,000.00 of rates arrears, which made the trustee owners *"eager to settle in order to pay the rates".* The transcript shows the Court working through the requirements of Te Ture Whenua Maori Act, namely; a necessary 75% approval had been reached, the sale was not in breach of trust, that it was vacant land, that notice to prefer class of alienees has been attended to, and that the consideration was acceptable.

There was an objector, who described his reason for objecting as *"tuakana Maori". It has a bearing on our whakapapa to that block. Refers to petition done in 1994 creating C48 & C49. I refer to clauses 8-9 in my original application. We dispute the ownership of the land, and if the sale is allowed then Iapeta Werewere and Te Rina Waimarama* will be stuck *with* ... The Court said *"what about the rates".* The objector replied *"I can understand that is a problem, but tuakana Maori is our belief that that land is our whakapapa".* The Court duly noted *"this matter has been back and forth through the Court. The applicants family and Mr Wikitene's family shares were separated into C48 & C49. The trustees of C49 wish to clear a massive rates debt. The opponents have rights subsuming in C48, but they do not have rights in C49. The Court is satisfied in relation to*

preferred class of alienee and the consideration in terms of the agreement, and the other relevant considerations that are relevant in 152, 153, and 154-93.

The special Government valuation attached to the records, describes the land is 920 square metres at 24 Harvey Street, Taupo, and was noted as being *"one of the more desirable residential localities in Taupo, with the development comprising of many high quality homes"*. Kaiapoi MR873 Section 44 A (noted at 78 South Island MB140 Christchurch 22 January 1996, together with confirmation of alienation order REF 243 Rotorua Minute Book 266 213 1996) Judge Hingston. This confirmed sale was in respect of 2.5292 hectares of land at Tuahiwi (near Kaiapoi in Canterbury) fronting on to Waikoruru Road, zoned rural. The Government Valuation is at 1-9-93, was capital value $81,000.00, Land value $80,000.00, Value of Improvement $1000.00. A special valuation by the Valuer General, as at 10 January 1996, assessed the current market value at $75,000.00. The sale was confirmed at $94,000.00, apparently to a person outside the preferred class of alienee. The application noted that:

1. The parties are at arm's length.

2. The property is being sold at market value through a Real Estate Agent, having first been advertised for sale on the open market.

General Summary

We have gone through these decisions and Mr Cowper's analysis at some length because it is all information, which was not available to this tribunal at the original hearing. It is, we are told, the only evidence that exists as to what is happened in practice with Maori Land Court applications for sale and/or status changes.

Many of the above cases were referred to in the evidence of Mr Cowper, the Registered Valuer giving evidence for the Valuer General, and he explained that so far as he could ascertain from information supplied to him, those he referred to were all of the decisions on applications relating to properties in the Gisborne/Wairoa/Opotiki region. A summary of sales approved by the Maori Land Court produced by Mr Cowper in his evidence is set out below.

Sales approved by Maori Land Court

	Block Name	Price	Valuation	Alienee in Preferred Class
1	Kawaha 3E	$200,000	Various	Not clear, Status Changed.
2	Te Kaha 50A	$117,500	$116,000/$90,000	Yes
3	Utuhina 3K1	$82,000	$82,000 (GV) $89,000 (RV).	Yes
4	Oakura F2A	$55,000 but	$55,800	No

	Lot 25	increased by Court to $55,800		
5	Poroporo A16	$20,000	$17,999.67	No/Objection
6	Waima 1	$11,000	$11,000	No/Status changed
7	Waimana 266A2	$160,000	$130,000	Not stated
8	Waipahihi C49	$85,000	$78,000	No

He also gave evidence about national statistics available to Valuation New Zealand Head Office from the Registrar of the Maori Land Court listing sales approved by the Court between July 1993 and the end of 1997, noting that 58% of those sales were to non preferred alienees. Set out below is that analysis. Mr Cowper drew the following conclusions from the information he was able to obtain, which can be summarised this way.

Maori Land Sales Since 1 July 1993

No	District	Block	Sale Price	Preferred Classes of Alienee
1	Whangarei	Lot 1 DP 178546	$15,000	Yes
2		Tokitoki 1B3B	$22,000	Yes
3		Waiama A1A	$70,000	Yes
4		Oakura F2A Lot 25	$55,800	No
5		Motatau 3P2A	$100,000	Yes
6		Motoharaka West A2B & A2D	$132,260	Yes
7		Panguau C14A & C15A	$14,000	Yes
8	Hamilton	Kinohaku West 11D3A3	$11,070.00	Yes
9		Purapura 1C2B	$5,600.00	Yes
10		Papamoa 2 Sec 2B2B	$100,000.00	No
11		Karu o te Whenua	$368,000.00	No
12		Rangitotara A1A & A1B2 Sec 2	$405,525.00	No
13		Part Puketarata 18B2A	$2,400.00	No
14	Rotorua	Whaiti Kuranui 2D2F1	$500.00	No
15		Maketu A59	$3,500.00	Yes
16		Lots 1 & 3 DPS 73248 Allot 59C Parish of Matata	$1,890.00	No
17		Awanui Haparapara 3B2A2A	$4,000.00	Yes
18		Lot 235B1 Parish of Waimana	$6,000.00	Yes
19		Waikuta 1B1B No 2	$4,000.00	Yes
20		Ngapuna A47	$4,800.00	Yes
21		Maketu A16	$4,100.00	Yes
22		Te Koutu L126	$8,200.00	Yes
23		Utuhina 3K1	$8,200.00	Yes
24		Lot 1 DPS 8197 Blk v Te Kaha	$6,000.00	Yes

		SD		
25		Waimana 582 (PT)	$47,500.00	No
26		Rangitaki Lot 40B No 1	$11,600.00	No
27		Mourea Papa 3E142C	$22,100.00	Yes
28		Waimana 266A2 Lot 4	$160,000.00	No
29		Rangiuru 2B9	$480,000.00	No
30		Te Kaha 50A	$117,500.00	Yes
31		Waipahihi C49	$85,000.00	No
32	Rotorua	Waiatuhi Blk	$6,820.00	No
33		Kawaha 3E	$200,000.00	No
34		Parish of Matata 8C23 Lots 51 & 52	$5,308.13	Yes
35		Rangitaiki 38B3B2F	$22,000.00	Yes
36	Gisborne	Waima 1	$11,000.00	No
37		Poroporo A16	$18,000.00	No
38	Hastings	Rakautatahi 1Y	$203,000*	No
39	Wanganui	Kai Iwi 6J3	$380,000	No
40		Horowhenua X1B36 2L6A	$25,000.00	No
41		Awarua 4C9D2	$222,000.00	Yes
42		Ohinepuhiawe 141B2D	$7,500.00	No
43		Ohura South K12C2	$412,250.00	No
44		Section 38 Ahu Ahu Township	$3,000.00	No
45		Section 147B Otaki Township	$12,000.00	No
46		Section 147D Otaki Township	$12,000.00	No
47		Section 147C Otaki Township	$12,000.00	No
48		Manawatu Kukutauaki 7D2D1	$35,000.00	No
49		Raetihi 2B2C3C2B1	$137,000.00	No
50		Ratana Pa	**	Yes
51		Pt Owhinepuhiawe 141 B2A	$23,500.00	No
52		Motukawa 2B29	$136,500.00	Yes
53		Otaki Township 147E	$12,000.00	No
54		Ngarara West A54B2	$9,920.00	No
55		Sandon 153 Sec 5A & 5 B	$400,000.00	No
56		Otautu 5B	$17,250.00	No
57	Christchurch	Waikawa Village MB Sec 3B	$120,000.00	No
58		Aparima Block IV Section 62	$30,000.00	No
59		Aparima Block IV Sections 55 & 58	$25,000.00	No
60		Kaiapoi Section 44A	$94,000.00	Yes
			$4,665,593.13	

* Plus Maori Trustee commission

** Matrimonial Property Agreement

Mr Cowper summarised in general conclusion from that data as follows:

a) Where the sale is to a family member or someone within the preferred class, the Court has generally accepted the agreed price as being sufficient and has not required a special valuation. But there is evidence, which indicates family transactions, being at open market value.

b) Some sales to the preferred class have been at less than open market value. It is not possible to conclude that the reduction is related to the provisions of the Maori Land Act, and the reduction could relate to family reasons.

c) Where the sale is outside of the preferred class there is no indication that the transactions of proceeding at less than open market value, and there are cases where the price exceeds the current roll value or special valuations obtained for the hearing. Examples of this are Ohura South K1 Section 2C2, October 1995. Sale price $412,250.00, valuation $325,000.00. Waikawa Village Maori Block (July 1994) sale price $120,000.00, roll value $110,000.00, special valuation dispensed with.

It would also seem the Court has been prepared to change the status of land to general land and he produced an Appendix, showing twelve cases where a change of status had been approved.

Mr Cowper also made reference to another transaction of which he had become aware by producing a copy, notice of change of ownership, and, speaking about that said, *"my understanding of the situation is this. It is general land owned by the incorporation. I think they call the investment land. They sold it to Robertson McCarthy and Soutar and it went through a tender process. The roll value is $65,000.00. They paid $150,000.00 plus GST for the block. Now there is two factors within the sale price. The purchasers were spoken to, and within that sale price they believed that they paid a premium, for the fact that they could all build on the land and also within that was another premium, whereby it was historically family land, and they wanted to pay more in order to secure it as a sale to stop it going to anybody else. In other words, they just wanted to retain it in what was once family land".*

He also referred to further developments about land at Nuhaka, which the tribunal had been generally aware of at the time of the original hearing. His conclusion was that because a person within the preferred class of alienee was not to prepared the match the price offered by an outsider, the vendor decided not to proceed at all as he was unwilling to sell to anyone other than the person he preferred to.

Valuation evidence on behalf of the objectors

Mr Campbell, a Chartered Accountant, and the Financial Controller and Secretary of Mangatu Blocks Incorporation, noted generally that s.276 (4) (c) of Te Ture Whenua Maori Act 1993 requires Maori Incorporations such as Mangatu to provide a statement, setting out the estimated current market value of assets, and using for that purpose the District Valuation roll. He noted that "Mangatu has in the past incorporated the revaluation of its

assets within the body of its financial statement. For 1997, this showed total assets of $66,226,000.00, and owner's equity of $61,238,000.00. The elimination of all of the revaluations would change these figures to $29,138,000.00 for total assets and $24,857,000.00 for equity. Of the differences, $32,749,000.00 or 88.3% relates to the write up of land and buildings to Government Valuation".

Accordingly, he summarised the Incorporation position this way, "the Incorporation's ownership structure and status of land as Maori land, limits the ability to fully utilise the land, resulting in a very poor return on equity if calculated using the land valuations as above".

Mr Campbell also produced the Incorporation's Annual Report from 1994, 1995, noting that the majority of income from the totality of the Incorporations properties, including Mangamaia and Awapuni was $12,000,000.00, mainly from sheep and cattle farming. He further explained that there is about 2500 hectares of forestry, not generating income for about another 14 years. He said further that there are no joint ventures or leasing out arrangements in place.

He was also able, because he is the secretary of Awapuni Moana, to elaborate a little further on the relatively loose ownership structure in relation to that. He was questioned by Mr Bowis on historical link questions, with relation to the Mangatu Blocks, and explained that generally the Incorporation looks at the totality of its properties globally, and it would be difficult to differentiate out, particular hapu groupings with particular pieces of the land as a whole.

Mr Peter Wright, a Registered Valuer, expanded on his approach to valuation of the land in question, trying to apply the Court of Appeal directions, and generally summarised his view of the matter by stating "the Court's consent is required for any significant undertaking by the owner of Maori freehold land. The owner can never be certain of gaining of this consent and apart from this, there is the time and cost involved in the procedure. These are all factors, which an owner of Maori freehold land would need to include in considering the value of the property and its comparison with land held in fee simple".

He noted the 35% deduction in the Christchurch Racecourse case, 50% in the Wanganui Racecourse case, 5-10% deduction in the Auckland Grammar School Board case, and 10% in Carter Holt v Valuer General. He suggested that those decisions provided some guidance, and noted what he said was a similarity between the Christchurch Racecourse case and Maori freehold land "where the chances of being able to alienate or achieving a status change are considered to be extremely remote".

His view was that the Auckland Grammar Board case was at the other end of the spectrum and although fee simple land, which could be sold at any time to anyone, nevertheless appears to have had a discount of 6.8% applied "only because the land could be taken at any time while the memorial existed. If this occurred, the owner would be compensated at full market rates, as if no restriction existed".
He saw an analogy with the Carter Holt case "to the extent that at present it cannot be sold. He suggest that "on balance, the 10% deduction applied, could represent a situation close

to that of a Maori freehold property with few owners, week historical links and adequate resources, but still requiring the Court's consent".

Generally his view as to the guidance from the various cases relied on by Mr Cowper were as follows "my opinion is that those alienations and status changes that have been confirmed by the Maori Land Court since the 1993 Act, have generally involved few owners. The historical links have not been particularly strong and/or rationalisation of the owners interest was considered appropriate".

So far as the Villa Maria transaction was concerned, he actually calculated that "taking into account, the additional land provided to the minority shareholders and costs involved in gaining this and the Court's consent, I calculate the discount from the fee simple at 12.6%".

In respect of the Kaiapoi case, referred to elsewhere in this decision, he said "while there was no discount in value, there were costs in going through the Court, which included the time involved and advertising for the preferred class of alienee. The relatively small size and consideration could also have effected of the strength in this case".

Generally, for reasons, he explained in his evidence, he generally concluded that the appropriate discount for the Mangamaia land should be 35%. He got to this calculation briefly in the following way:

a) Ability to obtain a quorum and agreement to alienate or change status – with 3873 shareholders, the chances of obtaining a quorum with 75% of shareholding appear remote. Therefore, there would be difficulty in obtaining a quorum and agreement.

b) Resources of preferred class. He referred back to Mr Brown's original evidence showing the relative poverty of substantial numbers of the preferred class.

c) The historical link. He said that "I have been informed that in the case of Maia, the historical link is particularly strong to the Te Aitanga a Mahaki people – the main tribal group that make up the Mangatu shareholders. In the past, there were three maraes on Maia, including the main marae, known as Pikauroa. The land was used as a base for the tribe, which was understood to number several hundreds. The land contained a number of whare and flats were used for growing crops and a small lake still present as a wet area contained fish. The buildings have now all been destroyed, and I have been informed that some artefacts are held in the Auckland museum. The land was developed from bush by Pakeha lessees and handed back to its owners in the 1940s. My impression is that it remains a very important historical area for the descendants of the original owners, who are now shareholders in Mangatu Incorporation.

d) Nature and size of the property. Noting that the consideration to buy Maia with stock and working capital would be in the vicinity of $2.8,000,000.00 and would be "well beyond the reach of preferred class with limited resources", he further noted the practicalities of the difficulty of arranging mortgage finance.
e) Statutory role of the Court. He explained why he thought it was "unlikely that the Court could go any further if it had an application before it".

Generally he concluded that there appeared to be no chance of a sale to an outside purchaser, considering its location and strong historic links. In his view, within a parameter of 45% as the maximum discount for Maori freehold land, he saw Mangamaia as being "in a discount band of 32 - 45%, very close to the maximum discount, and I would of opt 35% as the appropriate discount".

Dealing with Awapuni Moana, and going through the same analysis, he noted Ropiata Ria's comment that "these lands would never be sold because of their cultural and spiritual significance to past current and future generations. He concluded and we see no reason to disagree with him that the likelihood of a status change is "extremely remote".

So far as historic link was concerned, he noted the strong link to the Rongo Whakaata Iwi, with particular reference to a Judge Rota's ruling on the 18th of December 1992. Accordingly, he saw the maximum 45% discount as applicable.

Mr Charters

Mr John Charters, also a Registered Valuer, gave evidence on behalf of the objectors after travesty much of the same evidence as Mr Wright, and drew a strong analogy with the Christchurch racecourse case. He noted generally very few sales of Maori freehold land since Te Ture Whenua Act, and the lack of any comparable sales. He too calculated that the Villa Maria case in fact involved a discount – in his case he calculated 20.47%. Whilst acknowledging that Maia and Awapuni "have flexibility of use/activity, where as Wanganui and Christchurch ... use/activity is fixed," he nevertheless noted that in terms of practical inalienability, the situations were not especially different. He tabled a comparison between the two subject properties and the Wanganui and Christchurch cases as set out below, and concluded that a 50% adjustment for Awapuni and 25% for Mangamaia was appropriate.

Property rights of owner's estate in the fee simple by comparison on the subject Maori freehold lands and those of the Wanganui and Christchurch racecourses

	Maia Station	*Awapuni*	*Wanganui*	*Christchurch*
Mortgageability	No lenders	Not mortgageable (probably	Nil	Nil
Alienability sale of land	Unlikely	Virtually impossible	Nil	Nil
will/succession	Election by shareholder	As per S.108 Te Ture Whenua Act	Appointed	Appointed the Board under the Christchurch Racecourse Act 1878

				is a corporate body with Perpetual succession
use/activity	Resource Management Act	Resource Management Act	As per its Enactment	As per its enactment
Land Status	Very unlikely a status change to general land from Maori freehold land	Extremely unlikely a status change to general land from Maori freehold land	No status under Te Ture Whenua Act. Akin to general land	No status under Te Ture Whenua Act. Akin to general land.
Percentage reduction for limited powers of disposition	Utilise 25%. Present use is highest and best	Utilise 50%. Present use is highest and best	Actual 50% in 1 Oct. 76 Actual 63.7% in 1 Sep 96. No superfluous land. Little demand but the demand for recreation zone or alternative Residential use. Racecourse amenity Declining demand.	Actual adjusted 25.03%. Valuable superfluous land as residential

Our view of the racecourse cases

In our view, both those cases need to be treated with some caution, as having any applicable precedent value for the exercise we are trying to undertake. It is not entirely clear to us on the evidence how much of the quite substantial discounts in both cases, related to constraints on alienability, or/and how much on restrictions as to usage.

We also note that in particular with regard to the Wanganui Racecourse case, Barker J in the Appeal from this Tribunal suggested, that in the absence of reasons for the 50% original reduction, he did not regard that case as binding on him. We too have some difficulty with ascertaining on what basis the original 50% discount was calculated. We can only speculate but surmise, that the fact that the Land Valuation Tribunal had come out with a figure of 50% may have been a significant feature in the eventual settlement, which we understand to involve a 67% discount.

Of interest also, was the information that has been proffered to the Court about what can be described as the abortive Nuhaka transaction. Our understanding of this is that what that demonstrates is that in a situation where there was a person outside the preferred class, who was prepared to pay a higher figure than the person qualifying within the preferred class, when it emerged that the eligible purchaser was not prepared to match the outside purchaser's price, the proposed deal went no further.

In our view, that illustrates what we conclude is a reasonable proposition, that there is no real basis on which one could confidently assume, that a Maori vendor would be prepared to accept anything other than the best price on offer. We do accept that there will be some situations, as the Court of Appeal itself surmised where under certain situations, a person who is acceptable as being within the preferred class to the vendors, maybe able to buy, in a situation where a person who is not acceptable would not, and as the Court of Appeal put it, that could mean that in some circumstances alienation within the preferred classes may warrant a lesser a consideration than would otherwise be regarded as adequate. We would see this assumption as having perhaps more potential application to land such as Awapuni Moana, than to possibly more "commercial" land, such as Mangamaia.

Possibly most significant of all is the Villa Maria and Ohura South sales. This to us shows that notwithstanding all the constraints and principles set out in Te Ture Whenua, where there is a will there is a way. By that we mean, that if it makes sense to all parties and sufficient money is offered, it is still possible for land to be sold and/or status to be changed. In the Villa Maria case it was to Montana interests, while it also retained its status as Maori Land, while in Ohura it was a sale to non-Maori and a status change.

Submissions of counsel for Objectors

Doctor Palmer expanded upon the approach of the two valuers he called for the objectors, and in particular submitted that the statement by Deniston J in Valuer General v Ormsby, as noted in the Mangatu Incorporation High Court Appeal decision, still had application, in particular the comment "I think the proper standard in respect of this land is, what sum would a purchaser give for being placed in respect of it, in exactly the same position as the owner? What, that is, would he give for the possession of the land for the same estate as the respondent – subject that is to the same restrictions on alienations". Drawing on that and the Christchurch Racecourse case with its 35% deduction, he submitted that those principles were relevant to this matter.

He expanded on that by explaining that as he saw it, although a notional sale must of necessity be assumed, he pointed out that the Court had said, "it cannot be said that a buyer of Maori freehold land will necessarily receive an absolute fee simple. s.130 of the 1993 Act provides that Maori freehold land cannot lose its separate status, otherwise in accordance with the Act". Doctor Palmer suggested that "the procedural requirements of obtaining a list of owners of Maori land their present addresses, sending out the necessary voting forms, and obtaining a response, will remain a concern for any reasonable and rational purchaser. The fiction that a sale is theoretically possible is dictated by the land-value definition. However, the statement does not mean that the statutory restraints on alienation and any status change are of no relevance, as further elucidated in the judgment".

Submissions by counsel for the Respondent

Mr Parker's argument can, we think, be summarised this way:

1. The valuation involves a two-step process.

1.1 Firstly, the assumption of an agreement – vendor, purchaser, an agreed price.

1.2 Secondly, confirmation of that agreement by the Maori Land Court.

3. That it is necessary to consider the factors, which will influence the Maori Land Court to see whether they will affect the price.

4. The factors at the Maori Land Court would take into account need to be considered, including:

4.1 Policy of keeping Maori land and Maori lands.

4.2 The adequacy of the consideration.

4.3 The interest of the preferred class.

5. He noted that the Court of Appeal said at page 650 of its decision "while no one can be absolutely excluded as a possible purchaser of Maori freehold land, the 1993 Act imposes a significant barrier on alienation. Just as on an actual sale, the hypothetical seller and purchaser would have to obtain confirmation of the alienation from the Maori Land Court. The enquiry under the Valuation of Land Act assumes a sale, not the possibility of a sale. The hypothetical purchaser would recognise that anyone not within the preferred classes of alienees would face serious legal restraints in obtaining that confirmation. Further, after confirmation, the purchaser's interest will still be subject to the same constraints on alienation. Even if within the preferred classes of alienees, the hypothetical purchaser would recognise that as in re: Cleave, the Court would be likely to refuse an application for change of status to general land, and if the purchaser is from outside the preferred classes of alienees, refusal would be even more likely. The determination of land value must recognise those legal constraints on alienability. The effect of those restrictions on the saleable value of the estate or interest in the Maori freehold land to be valued, is then a question of fact. The valuer's task is to determine what the hypothetical purchaser would pay to obtain the owners estate or interest in land".

6. Parker submitted, however, that "at no stage did the Court of Appeal suggest the valuer should proceed on the basis that the confirmation might be refused, and it is submitted that its expressed statement that the enquiry assumed the sale and not the possibility of a sale, means the fact of confirmation must be assumed.

7. That it is therefore not a question whether or not the sale is confirmed, but whether the factors instrumental in the Maori Land Court's decisions, have any effect on value.

8. That the Court of Appeal decision "expresses the position in a theoretical way. The Court did not have the benefit of evidence of a valuation, based on transactions approved or considered by the Maori Land Court. It does assume that the restrictions would affect value, and that the Maori Land Court might let purchasers in the preferred

class, purchase at a lower price because it is clear that the legislation does provide for that".

9. That "assuming therefore the restrictions would affect value, the Court of Appeal was relying only on its view of the potential effect of the legislation, a view formed in an evidentiary vacuum".

10. Because the Land Valuation Tribunal needs to have regard to the practice of the Maori Land Court, actual decisions have to be examined and that it is the Maori Land Court, which ultimately decides whether there should be a discount from open market value, and that there is no such evidence of that happening.

11. Mr Parker submitted that on the contrary, there is evidence to suggest that the Maori Land Court takes very seriously ensuring that appropriate current market value is paid.

12. That the Ngatarawa (also known as Villa Maria) sale supports this approach, and that generally "the belief that if it were general land, it might have been sold for more as pure speculation and irrelevant".

13. Generally, his view was that the actual transactions that have occurred, including the Kaiapoi transaction, provide far better evidence than the racecourse cases.

14 That there is a clear distinction between the situation here and the racecourse cases, noting that "the assumption of sale of the racecourse land was made on the basis that the purchaser could not resell the property". Here the assumption of sale is made only to overcome the quorum requirements. A sale is legally possible and can be confirmed by the Maori Land Court. Finally, that there is no justification he submitted for taking the approach that one can assume that confirmation might not be granted, so that the owner becomes locked in and cannot sell the property. He asserted that the Valuation of Land Act requires that in assuming of sale, one acts in a sensible and practical way. Not only a sale, but a confirmation should be assumed. The issue to be decided should be the price.

15 He therefore suggested that the substantial discounts advocated by the valuers for the objectors arise not through consideration of the factors outlined by the Court of Appeal, and which the Maori Land Court takes into account when considering an application for confirmation, but because in their view, the land cannot be sold and the owners are locked in".

Ultimately, however, Mr Parker accepted that there should be a factor which he suggested at around 5%, because of the practical reality of the extra difficulty that a purchaser on an assumed notional sale would be deemed to be subject to if they were on selling.

The Tribunals conclusion

After weighing up all the evidence and submissions put before us, the Court, cognisant that in the ultimate analysis the onus is on the objectors, considers that essentially the objectors

have not made out a case for a reduction in value to the extent sought and the general thrust of the submissions made by Mr Parker is accepted.

Generally the Tribunal tends towards support for the Valuer General approach, which is that in light of the Court of Appeal decision, there must be a discount allowed, essentially reflecting the difficulties likely to be faced by a potential hypothetical purchaser for onward sale or disposition. The Crown suggests that for both Mangamaia and Awapuni, this should be around 5%. Generally, the Crown position is that no further discount should be allowed because of the various factors identified by the objectors, including difficulty of raising mortgage finance, limited financial ability of the existing class of preferred alienees etc.

The practical reality is that when the Tribunal examines all the evidence put before it, as to what has actually been happening in the Maori Land Court, we agree with the respondent that there is simply no evidence of any discount being applied. On the contrary, there seems to be quite a bit of proof suggesting that the Maori Land Court is vigilant to ensure that open market value is being paid. In this regard, the Villa Maria transaction case is of particular significance as illustrative of what can and does happen.

The Tribunal accepts that there are no directly comparable sales that have gone through the Maori Land Court that had been drawn to its attention that can be directly related to either the Awapuni Lagoon or the Mangamaia situation.

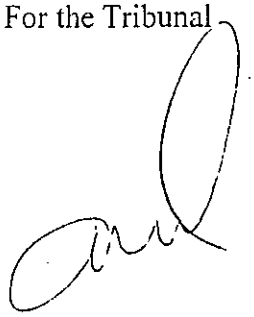
So far as the racecourse cases are concerned, we see them of little direct relevance in assisting in the current situation, as the focus there appears to be more on the total inability to on sell in a legal sense, coupled with the continuing restricted use (i.e. essentially only for racecourse or related purposes). This is in contrast with the situation with the land under scrutiny in the present matter, where aside from the normal Resource Management Act, zoning and related land use matters, there is no restriction on usage applying.

Our view after much consideration is that with respect to the two pieces of land in question, the parameters of the discount applicable range between 5% and 15%. We think the higher parameter applies to the Awapuni Block because the sheer complications of and delay involve for any hypothetical purchaser on-selling are high, particularly because of the strong historical links associated with a substantially as yet unidentified potential class of preferred alienees, but are less so in the case of Mangamaia with a well organised ownership structure and land, which, while clearly on the evidence of particularly Mr Charter's, seems to have historical links (although we must say, contrasted with the evidence we heard in the following case Haupoto, not particularly strongly made out on the evidence) less. Accordingly, in the Tribunal's view, the revised amended valuation for Mangamaia of $1,590,000.00, which equates with the 5.34% reduction is sustained, but the Awapuni Valuation, should be reduced by 15% viz $1,121,000.00 - $168,150 to $952,850.

Costs

We note that there was disagreement between the objector and the respondent as to the jurisdiction to award costs. Mr Parker sensibly in our view suggested that question be deferred for further submission until the outcome of the Tribunals deliberations were known. In summary, both parties now know that we have agreed with the Valuer General in respect of one piece of land and disagreed in respect of other. If either party wishes to pursue the question of costs, they should contact the Registrar and he will arrange to settle directions as to how and when such applications can be heard.

For the Tribunal



(A N MacLean)
District Court Judge