the propertygroup
Corporate Property Advisors and Negotiators®

STATE HIGHWAY REFERENCE: PEKA PEKA TO OTAKI EXPRESSWAY : 45 GEAR ROAD

NZ TRANSPORT AGENCY
WAKA KOTAHI

the propertygroup
Corporate Property Advisors and Negotiators®

The Property Group Limited
Level 10, Technology One House
86-96 Victoria Street, Wellington 6011
PO Box 2874, Wellington 6140
Phone: 64-470 6105
Facsimile: 64-4-470 6101

24 August 2015

Our Reference: CPC / 2014 / 17859

Trevor Knowles
Crown Property Clearances
Land Information New Zealand
PO Box 5501
WELLINGTON 6145

Dear Trevor

NZ TRANSPORT AGENCY: STATE HIGHWAY ONE : PEKA PEKA TO OTAKI EXPRESSWAY : 45 GEAR RD, TE HORO : BERTHA JARVIS

Following negotiations The Property Group Limited ("TPG") has reached an agreement in principle with Bertha Jarvis ("the Owner") for the acquisition of the Owner's entire property at 45 Gear Road, Te Horo which is required for the State Highway 1 Peka Peka to Otaki Expressway ("the Project") for the sum of $575,000.00 inclusive of GST.

Background

NZ Transport Agency ("The Transport Agency") is undertaking the proposed Project. The aim of the Project is to remove congestion points for through-traffic and thereby improve journey time reliability through the Kapiti Coast growth area, and to improve safety.

The four-lane expressway will be continued through the north of the Kapiti area with the provision of a bypass of Otaki with a second crossing of the Otaki River. Access to and from the expressway will be provided by a number of interchanges.

TPG has been instructed by the Transport Agency to proceed to acquire the property for the proposed Project which is part of Wellington Roads of National Significance ("RoNS") Programme. The initial requirement was for partial acquisition, construction of the Project is scheduled to commence in 2016, and the Transport Agency has recently commenced an active acquisition programme.

[s 9(2)(a)] [redacted]

Project designation requires a partial take of the property. The effect of the partial take does not affect any improvements. However, this is noted as being the last of a series of full acquisitions of properties along Gear Road for the Project that have been acquired in similar circumstances and with similar land requirements. It has been recognised by both parties that the partial take will significantly affect the current use and enjoyment of the property. As a result, a full land acquisition take has been requested by the Owner, and has been agreed to in principle by the Transport Agency.

As noted above we have now reached agreement in principle with the Owner. As part of this agreement and to preserve Project timelines, it has been agreed that the Owner is to receive a ten percent deposit to secure the property with the balance to be paid on the final settlement date. Reaching an agreement in principle now avoids the need to serve a Section 23 Notice of intention to take land on the Owner, which would otherwise be under preparation to preserve Project timeframes.

Instructions were received on 5 March 2014 from Jasvinder Madhar, Property Manager at the Transport Agency to purchase the property. Details of the proposed land acquisition agreement negotiated by TPG are as follows:

Transport Agency SAP AO Number	88322396
TPG Job Number	51967
Land Information New Zealand File Number	CPC / 2014 / 17859
Acquiring Authority	NZ Transport Agency.
Authority to Act	Instructions received from the Transport Agency to proceed with the acquisition confirmed by email from Jasvinder Madhar (the Transport Agency Property Manager) dated 5 March 2014.
Purpose	Part of the land is required for road and will become part of State Highway 1. (State Highway One RONS Peka Peka to Otaki – Kapiti Expressway).
Confirmation that the Purpose is a Public Work	Section 2 of the Public Works Act 1981 defines a public work as every Government work or local work that the Crown or any local authority is authorised to construct, undertake, establish, manage, operate, or maintain, and every use of land for any Government work or local work which the Crown or any local authority is authorised to construct, undertake, establish, manage, operate, or maintain by or under this or any other Act; and include anything required directly or indirectly for any such Government work or local work or use. The proposed works fit within this definition.
Project Timeframe	TPG is advised that construction of the Project is to commence in mid-2016.

Suitability of the Land for Purpose

The land has been identified by the project as suitable for the purpose of the Peka Peka to Otaki expressway. It will assist the Project to construct the expressway and reconfigured local road.

Claimants

Bertha Jarvis
C/- Power of Attorney Wayne Jarvis
45 Gear Road
TE HORO

Claimants Legal Representative

Kate Broadhurst
Chen Palmer
Level 14, 52 Swanson Street
PO Box 106114
AUCKLAND

Interest(s) to be Acquired

Fee Simple

Location

Legal Description

Lot 18 Deposited Plan 2576 and being all the land comprised in Computer Freehold Register WN9C/332

Area to be Acquired

2.0234 hectares more or less

Encumbrances

Computer Freehold Register WN9C/332 is subject to the following interest:

- Subject to Section 206 of the Land Act 1924

The above memorial is not considered to be an impediment to the acquisition proceeding. This section of the Land Act 1924 relates to any Lessee of the land having no rights to minerals without licence. This Act was repealed in by s185(1) of the Land Act 1948. There is currently no lessee of the land, and the registered proprietor does not hold a licence in respect to minerals.

Physical Description

The property comprises of a regular shaped block of gentle, almost flat contour. The house section is to the middle with the metalled driveway along the northern side, and the remainder of the block is divided into eight various sized grazing paddocks.

Development includes mostly conventional fencing, water reticulation to troughs etc, pasture cover and mature trees/shelter (especially to the southern side). Most of the trees to the front paddocks have been felled, with clearance of the remaing trees for firewood underway.

The main dwelling is an 'A' Frame, two-storey home of 3-4 bedrooms constructed in the 1970s. Construction materials comprise of concrete ring and pile foundations, timber flooring, mostly plasterboards, timber panelling and hardboards with softboard tile ceilings, and timber weatherboard, pressed metal tile (stone chip) and long run 'colorsteel' (modern) roofing with PVC spoutings. Also affixed to the dwelling is a small verandah to the rear door, an approximately 7m² verandah to the lounge, an approximately 23m² concrete terrace (including water tank) and timber pergola.

Other buildings consist of an approximately 39m² garage/workshop from the 1970 era (comprising of a concrete floor, timber frame, cement board cladding, power, corrugated metal roof, wooden joinery, roller door, steel spouting and outside toilet), with verandah/linkway to the dwelling and an approximately 27m² integral carport (comprising of an earth floor constructied with a timber frame in a lean-to style with a corrugated metal roof).

Garage/workshop from the 1980 era - an approx. 54m² (concrete floor, timber frame, steel weatherboard cladding, corrugated metal roof, roller door, PVC spouting, power, fluoro-lighting, some plasterboard linings) in average condition. A glasshouse with a growing area of approximatley 12m^2 is also contained on site

Other site improvements include; PVC water tank, concrete (terrace) water tank, overhead power/telephone, in-ground septic tank, conventional fencing, water reticulation to troughs etc.

Other development of the property includes metalled driveway and turn/around area, established lawns/gardens, mature trees/shrubs, including oaks, palms, 'old macs', fruit and specimen trees as well as natives.

Chattels

Fitted carpet, with cork tiles and timber floorboards to most, nets/drapes to windows and mixed light fittings.

Zoning

The land is zoned Rural (Alluvial) under the Kapiti Coast District Council's ("KCDC") Operative District Plan. The land is also within the Noise Corridor for SH1 with the NIMT railway line located to the west of Gear Road and the subject property.

Statutory Compliance

A Land Information Memorandum ("LIM") has been obtained from the local authority.

The property is not listed on the Greater Wellington Regional Council's Selected Land Use Register. There is no mention of any contamination in the LIM obtained from Kapiti Coast

District Council.

Additionally, there is no evidence of contamination, and due to the rural-residential nature of the lot to be acquired it is considered to be a low risk site. Clauses 16 of Schedule B of the proposed Memorandum of Agreement is included to protect the Crown's interests.

Statutory Authority

Negotiations to finalise compensation have been undertaken pursuant to:

Sections 4B and 17 Public Works Act 1981 ("PWA").

The specific authorities for the payment of individual items being recommended are:

- Acquisition of Land: Section 60: Basic entitlement to compensation
- Compensation has been assessed in accordance with Section 62: Assessment of compensation
- Reimbursement of reasonable legal and valuation fees: Section 66 (1) (a) (ii) and (iii) Disturbance payments

Despite this being a full acquisition, there is no entitlement to Solatium in the present case as the Owner is not in occupation.

Minerals

Non-Statute

In terms of the GMPRG Standards and Guidelines, the Ownership status of the mineral estate is required to be confirmed where either, the minerals comprised in the land are required for the public work or it is proposed to have a borrow area on land that is not directly affected by the public work, but where natural material is required for the construction of the work on other land, or the acquisition is in a known mining area. A full mineral search has not been undertaken to establish the Ownership of the non-statute minerals in this instance because:

- Any minerals that may be contained in the land are not required for the work;
- It is not proposed to have a borrow area on land that is not directly affected by the public work;
- The land is not situated in a known mining area.

There are no memorials on the affected CFR reserving non statute minerals to the Crown. Similarly, there are no memorials relating to the mineral title being retained or transferred by a previous owner. It is therefore presumed that the current Owner owns the non-statute minerals pursuant to the indefeasibility provisions of the Land Transfer Act 1952.

Statute

The Crown pursuant to Section 10 of the Crown Minerals Act 1991 already holds the statute minerals (gold, silver, uranium and petroleum in their existing natural condition).

Valuation

For the Crown – Initial Valuation

Date of Valuation : 30 October 2014

Steve Attwell (Val. Pty. Mgmt), ANZIV, SPINZ, a Registered valuer from Attwell Valuers Limited was instructed to undertake a valuation on behalf of the Crown in accordance with the provisions of the Public Works Act 1981.

Before	$ 551,000.00
After	$ 497,000.00
Sub total	$ 54,000.00
Assessed Injurious Affection (incl GST, if any)	$ 50,000.00
Partial Current Market Value inclusive of GST if any	**$ 104,000.00**

For the Owner

Date of Valuation: 20 October 2014

J Timmer-Arends BBS (VPM) ANZIV, SPINZ, a Member Royal Institute of Chartered Surveyors and a Registered valuer from TA Valuations was instructed to undertake a valuation assessment on behalf of the owner in accordance with the provisions of the Public Works Act 1981.

Methodology 1

Value of Improvements	$ 218,000.00
Land Value	$ 300,000.00
Value of Land and Buildings	$ 518,000.00
Value of Chattels	$ 7,000
Compensation inclusive of GST if any	**$ 525,000.00**

Methodology 2	
Value of Improvements	$ 303,000.00
Land Value	$ 300,000.00
Value of Land and Buildings	$ 518,000.00
Value of Chattels	$ 7,000
Compensation inclusive of GST if any	**$ 610,000.00**

Valuation Comment

The Crown valuer was instructed to assess compensation as at October 2014 for a partial and full acquisition of the subject property. This was done in order to assess compensation and consider the effect of the Project on a before and after basis. The Owner instructed TA Valuation at approximately the same time; however this was purely assessing the current market value for a full purchase, as this was the Owner's desire from the outset of negotiations.

When valuation reports where exchanged TPG had concerns with the methodology used by TA Valuations. The TA Valuation report tabled essentially provided two valuation compensation figures and concluded that a range of between $575,000.00 - $640,000.00 (inclusive of GST) should be considered as a suitable negotiation range. Upon further queries, the Owner's valuer confirmed his compensation assessment figure to be $610,000.00 inclusive of GST. The valuer's approach in Methodology 2 was based on sales evidence derived from Crown settlements. This was primarily, due to a perceived lack of market evidence in the region due to the large number of sales evidence arising as a result of Crown acquisitions for M2PP and PP2O. The Owner's valuer favoured this approach over Methodology 1, which was based on available (non-PWA) market evidence, due to his perception that there was a scarcity of open market transactions due to the abundance of PWA transactions.

Due to the impasse in methodology, it was agreed that the Crown valuer arrange to meet with the Owner's valuer and solicitor to discuss these differences in methodology and assessments in compensation. As an outcome of the meeting and subsequent negotiations between the Owners and TPG, the Owner was prepared to agree to a fair and reasonable compensation figure of $575,000.00 inclusive of GST. The final compensation amount agreed in principle is an approximately 4.3% increase above the Crown's figure, and is slightly under the midpoint between the Crown and Owner valuation positions. This agreed figure, being within 5% of the Crown valuer's position is noted as being within an acceptable margin of error, and accordingly recommended for approval.

We confirm that this was the lowest figure that the Owners were prepared to accept.

Compensation Agreed

$575,000.00 inclusive of GST (if any) made up as follows:

Taken Land and Owner's Balance Land	$ 575,000.00

Reimbursement of Fees

The Owner was apprised of their right to obtain legal, valuation and professional advice and the reimbursement of fair and reasonable fees pursuant to Section 66 of the PWA, and as provided for in Schedule B Clauses 9 and 10 of the Memorandum of Agreement ("MOA").

We have received a further invoice for attendances to date from the claimant's solicitor, Kate Broadhurst of Chen Palmer, for the sum of $1,398.00 inclusive of GST. We have previously reported on legal cost claims to date. See our reports dated 7 January 2015 (for costs totalling $2,357.50 inclusive of GST) and 18 June 2015 ($13,033.26 inclusive of GST). These reports have been approved by LINZ.

It is expected that invoices will be presented following advance deposit payment and settlement of this property in March 2016.

All attendances by Chen Palmer are considered fair and reasonable and recommended for your approval.

Special Conditions

We draw your attention to the following special conditions:

The Crown agrees to reimburse the Owner's reasonable costs to hire 2 x 20 foot lockable and watertight shipping containers, for a period of 13 months. (Schedule B Clause 8 MOA). This condition has been agreed to enable the Occupier's orderly transition from the property to a new property being constructed at 154 Gear Road. The occupiers have a large quantity of possessions and household goods (as well as positions of the Owner) which are unable to be moved into the new property until the shed on that property is constructed. The intention is to fill the containers at 45 Gear Road, and once full, transport these to 154 Gear Road until such time as the construction of the garage is complete.

The Crown has agreed to a deferred settlement and the Owner will retain the right to occupy the property until settlement occurs on 31 March 2016 at the latest.

Payment of a deposit of $57,500.00 (including GST) will be paid to the Owner by the Transport Agency within one month of the agreement being signed by the Crown.

The balance of $517,500.00 (including GST) will be paid upon settlement, which will be on 31 March 2016, or such earlier date as may be agreed by both parties, as set out in the MOA, Schedule A (1).

Additionally the agreement provides that the Crown agrees to contribute $4,4740.00 plus GST, if any, towards the Owner's reasonable cost to construct a deer fence at the Owner's replacement property. (Schedule B Clause 7 MOA). This is in reinstatement of a deer fence that exists currently on the Owner's property. The Occupiers raise deer.

Compensation Certificate

A compensation certificate is attached. This will protect the Crown's agreement pending settlement and legalisation of the road taking.

Survey and Legalisation

As this is a Design and Construct Project, the final survey boundary is unable to be defined as yet. A new Computer Freehold Register will be raised for any balance land following legalisation of the Project.

Construction Contract Implications

Following the completion of the Project works, the main house site and sheds will remain on site.

The balance land will need to be fenced along the new/proposed legal boundary following construction with standard post and wire boundary fencing as exists at present.

Disposal Implications

From the plans provided to date an area of 0.6610 hectares is required for State Highway. A likely balance of approximately 1.3624 hectares may potentially be available for disposal following the construction of the Project. As noted earlier in this report, the Transport Agency is agreeable to acquiring the entire holding. As such, part of the property may be able to be declared surplus. If to occur, this potentially surplus land will need to be processed through the statutory and cabinet directed mechanisms prevailing at the time.

NZ TRANSPORT AGENCY: STATE HIGHWAY ONE : PEKA PEKA TO OTAKI EXPRESSWAY : 45 GEAR RD, TE HORO : BERTHA JARVIS

Conclusion

That the compensation detailed in the report relating to the purchase of 45 Gear Road, Te Horo from Bertha Jarvis and recited in the attached Memorandum of Agreement for $575,000.00 inclusive GST (if any), reimbursement of legal fees totalling $1,398.00 inclusive of GST and execution of a compensation certificate pursuant to Section 19 of the Public Works Act 1981 be approved in accordance with Sections 17, 60, 62, 66, 114 and 119 of the Public Works Act 1981.

RANO LEALUGA
Property Consultant

Date: 24/8/2015

KRIS CONNELL
Senior Property Consultant
Nominated Person
Date: 24/08/2015

Approved/Declined

DELEGATEE
Land Information New Zealand

Date: / /

Property Management Issues

Vacant possession will be provided on settlement.

TPG will send a copy of this report and conclusion to Colliers International to ensure that the property managers have advance notice of the impending transaction.

Comments

The negotiations have been reasonably amicable. The Owner has been represented throughout negotiations by her son Wayne Jarvis. Wayne Jarvis holds Power of Attorney over his mother's affairs. A copy of this Power of Attorney has been sighted and a copy is held on file. We note that the Owner has signed the Agreement in her capacity as Owner.

The Owner through her representatives did express her disappointment with losing the property. We are advised that the Project has been in the forefront of families concerns for several years; however they have maintained a realistic view of the outcome. Their primary concern has been that the property be acquired in total due to the effect of the works on the balance land, as well as compensation being satisfactorily resolved.

The proposed settlement is considered fair and reasonable and accordingly, it is recommended for your approval subject to the terms and conditions on the attached agreement.