



Manager Clearances  
Crown Property  
Land Information New Zealand  
P O Box 5501  
WELLINGTON 6145

**Email:** sai.ek-ananthum@darroch.co.nz  
**Direct Tel:** +64 (0)3 343 7304

28 February 2018

**Your Ref:** CPC/2017/20053/A  
**Our Ref:** NaPalis ID 3452766

Dear Trevor

**STAGE II SECTION 40 PUBLIC WORKS ACT 1981 INVESTIGATION - SURPLUS FREEVILLE  
CLOSED SCHOOL SITE AT 7 SANDY AVENUE, NEW BRIGHTON, CHRISTCHURCH**

**LINZ FILE REFERENCE:** CPC/2017/20053/A

**LINZ PROJECT NO:** 711360

**CLIENT:** Ministry of Education

**INTRODUCTION:** This property is no longer required by the vendor and was declared surplus on 4 December 2017.

The Stage 1 Section 40 report was approved on 23 February 2018. The report recommended that pursuant to Section 40 (2)(c) of the Public Works Act 1981, the subject property be offered back to the former owner or immediate successor(s) at current market valuation

**Copy of Stage 1 Approval Attached at Appendix A**

**LEGAL DESCRIPTION:** Lot 202 Deposited Plan 18657

**AREA:** 2.2030 ha more or less

**TITLE:** Held by Her Majesty the Queen for Public School in CFR CB694/40

**CFR CB694/40, Cadastral Plans and Aerial Photography attached at Appendix B**

Darroch Limited  
Level 1, 85 Riccarton Road, Riccarton, Christchurch 8011  
PO Box 142, Christchurch 8140 New Zealand  
Tel: +64 (0)3 343 9131  
www.darroch.co.nz

*Darroch Limited – Licensed Real Estate Agent (REAA 2008)*

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**ENCUMBRANCES:**

346015 Notice imposing Building Line Restriction

A387431.1 subject to Part 9 of the Ngai Tahu Claims Settlement Act

Upon disposition from the Crown, the land will also become subject to:

1. Part IVA of the Conservation Act 1987.
2. Section 10 of the Crown Minerals Act 1991.
3. Non-Statute minerals remain in CB34/228 (cancelled) and CB469/29 (cancelled) and are excluded from any sale.

**MAORI INTERESTS:**

The property is located within the Ngai Tahu Right of First Refusal area.

**LOCATION AND PHYSICAL DESCRIPTION:**

The property is located on the north side of Sandy Avenue and the west side of Willryan Avenue in New Brighton. The school buildings sustained damage during the Canterbury earthquake sequence. Freeville Primary School has since merged with Central New Brighton and North New Brighton Schools to become Rawhiti School.

All the buildings have been removed or demolished in September 2016.

**STATUTORY CLEARANCES & DISCLOSURES:**

Copies of Statutory Clearances and Disclosures previously provided in a Stage 1 report dated 22 February 2018.

**ACQUISITION:**

The land was acquired by Transfer 446012 from Mary Catherine Ryan of Christchurch, Widow to the Crown for a Public School. The land was held in CT CB34/228 and CB469/29 when the land was taken.

The transfer records that consideration of £12,000 was paid for the 5 acres 1 rood 31 perches (2.2030 ha) on 21 September 1956.

**FORMER OWNERS / SUCCESSOR(S):**

The former owner Mary Catherine Ryan died 12th December 1978. We have obtained a copy of her Will and Probate.

Young Hunter Lawyers undertook an interpretation of her Will on 27 February 2018 and determined that in light of the Auckland Council case, on the basis that the Deceased instructed the assets of the Estate to be converted into cash, there is no successor for the purposes of section 40(5) of the Public Works Act 1981.

***Mary Catherine Ryan Will & Probate and Legal Interpretation, attached in Appendix C***



**SUMMARY:**

The property should be exempt from being offered back to the former owners and/or their successor(s)

**RECOMMENDATION:**

That pursuant to Section 40 (2)(a) of the Public Works Act 1981, the subject property be exempt from being offered back to the former owner or immediate successor(s) on the basis of it being impracticable to do so.

**AUTHORITIES:**

Section 40(2)(a) Public Works Act 1981

(a)

**PREPARED BY:**

**PEER REVIEWED BY:**

*Sak*  
.....  
Saj Ek-Ananthum  
Property Advisor

*[Signature]*  
.....  
Denis Ferguson  
Nominated Person

*[Signature]*  
APPROVED/DECLINED

DATE 5 MARCH 2018

Christine Anderson  
Crown Property Clearances  
Land Information New Zealand  
155 The Terrace  
Wellington

.....  
Clearances Team

.....  
CPC/2017/20053/A - Stage 1 Sec 40 Report  
Freeville Closed School site - LINZ Job No: 711360  
Stage 2 Section 40 Report

**Appendices:**

- Appendix A: Stage 1 Section 40 Approval
- Appendix B: CFR CB694/40, Cadastral Plans and Aerial Photography
- Appendix C: Mary Catherine Ryan Will & Probate and Legal Interpretation

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**Appendix A**  
Stage 1 Section 40 Approval

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**RECOMMENDATION:** That pursuant to Section 40 (2)(c) of the Public Works Act 1981, the subject property be offered back to the former owner or immediate successor(s) at Current Market Valuation

**AUTHORITIES:** Section 40(2)(c) Public Works Act 1981

**PREPARED BY:**

**PEER REVIEWED BY:**

*Sai Ek-Ananthum*  
Sai Ek-Ananthum  
PROPERTY ADVISOR

*Denis Ferguson*  
Denis Ferguson  
NOMINATED PERSON

**DECISION**

**APPROVED/DECLINED**

**DATE**

*[Signature]*

**ZAK SUN**

*23/2/18*

**CLEARANCES TEAM**

CPC/2017/20053A - Stage 1 Sec 40 Report  
Freeville Closed School site - LINZ Job No. New

**APPENDICES**

- A. CFR CB694/40, LOCATION PLAN, CADASTRAL PLAN, AERIAL PHOTO
- B. COPY OF MOE APPROVAL
- C. COPY OF STATUTORY CLEARANCES
- D. COPY OF MINERAL INVESTIGATION
- E. COPY OF RATEABLE VALUATION
- F. COPY OF ACQUISITION HISTORY

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**Appendix B**  
CFR CB694/40, Cadastral Plans  
and Aerial Photography

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COMPUTER FREEHOLD REGISTER  
UNDER LAND TRANSFER ACT 1952



R.W. Muir  
Registrar-General  
of Land

Search Copy

Identifier **CB694/40**  
Land Registration District **Canterbury**  
Date Issued 24 September 1956

**Prior References**

CB34/228                      CB469/29

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Estate                      Fee Simple  
Area                        2.2030 hectares more or less  
Legal Description      Lot 202 Deposited Plan 18657  
Purpose                    Public School

**Proprietors**

Her Majesty the Queen

**Interests**

346015 Notice imposing Building Line Restriction - 24.8.1951 at 10.00 am

A387431.1 SUBJECT TO PART 9 OF THE NGAI TAHU CLAIMS SETTLEMENT ACT 1998 (WHICH PROVIDES FOR CERTAIN DISPOSALS RELATING TO THE LAND TO WHICH THIS CERTIFICATE OF TITLE RELATES TO BE OFFERED FOR PURCHASE OR LEASE TO TE RUNANGA O NGAI TAHU IN CERTAIN CIRCUMSTANCES) - 26.1.1999 AT 10.20 AM

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Land Transfer Office  
Received  
File Ref: 18657  
Referred to Draughtsman

D.P.18657

D.P.18657

Deposited this 29<sup>th</sup> day  
of August 1954  
District Land Registrar

18657  
L.T. 18657  
14/11/54

FN (3)

TS (1)

14/11/54

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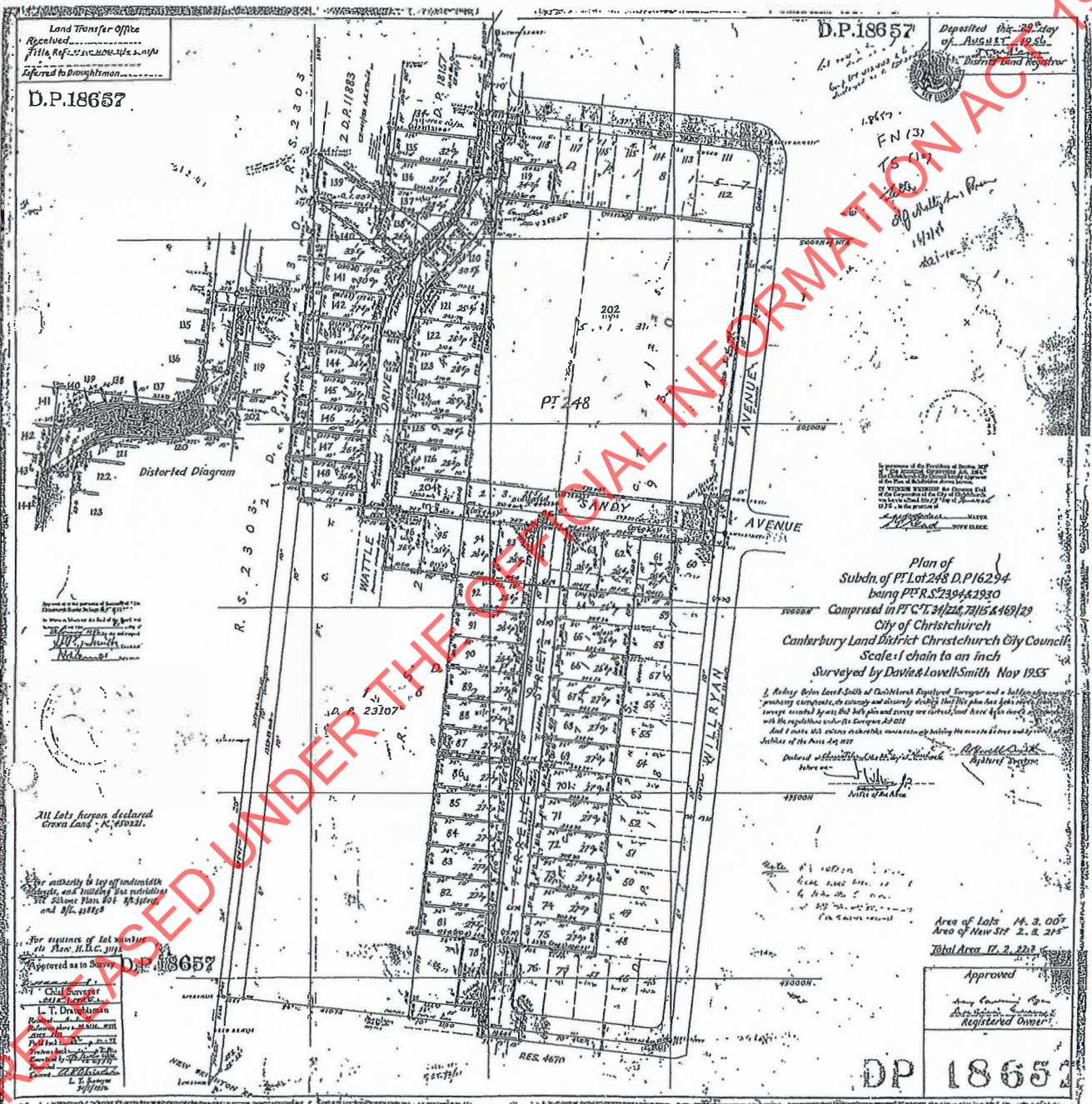
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In pursuance of the provisions of Section 113 of the Land Transfer Act 1925, I, the District Land Registrar, have caused this Plan to be deposited for public inspection in the Office of the District Land Registrar, and have caused this notice to be published in the Official Gazette.

Plan of  
Subdn of PT Lot 248 D.P.16294  
being P.F.R.S. 2394 & 2930  
Comprised in P.F.C.T. 31/226, 73/15 & 169/29  
City of Christchurch  
Canterbury Land District Christchurch City Council  
Scale: 1 chain to an inch  
Surveyed by David & Lovell-Smith Nov 1925

I, Richard Brian Lovell-Smith, of Christchurch, Registered Surveyor and a holder of a licence under the provisions of the Land Transfer Act 1925, do hereby certify that this plan has been prepared in accordance with the regulations under the said Act, and that the same are correct and true to the original survey and that the same are in accordance with the regulations under the said Act.

Dated at Christchurch this 29<sup>th</sup> day of August 1954.  
Richard Brian Lovell-Smith  
Registered Surveyor

Approved  
District Land Registrar

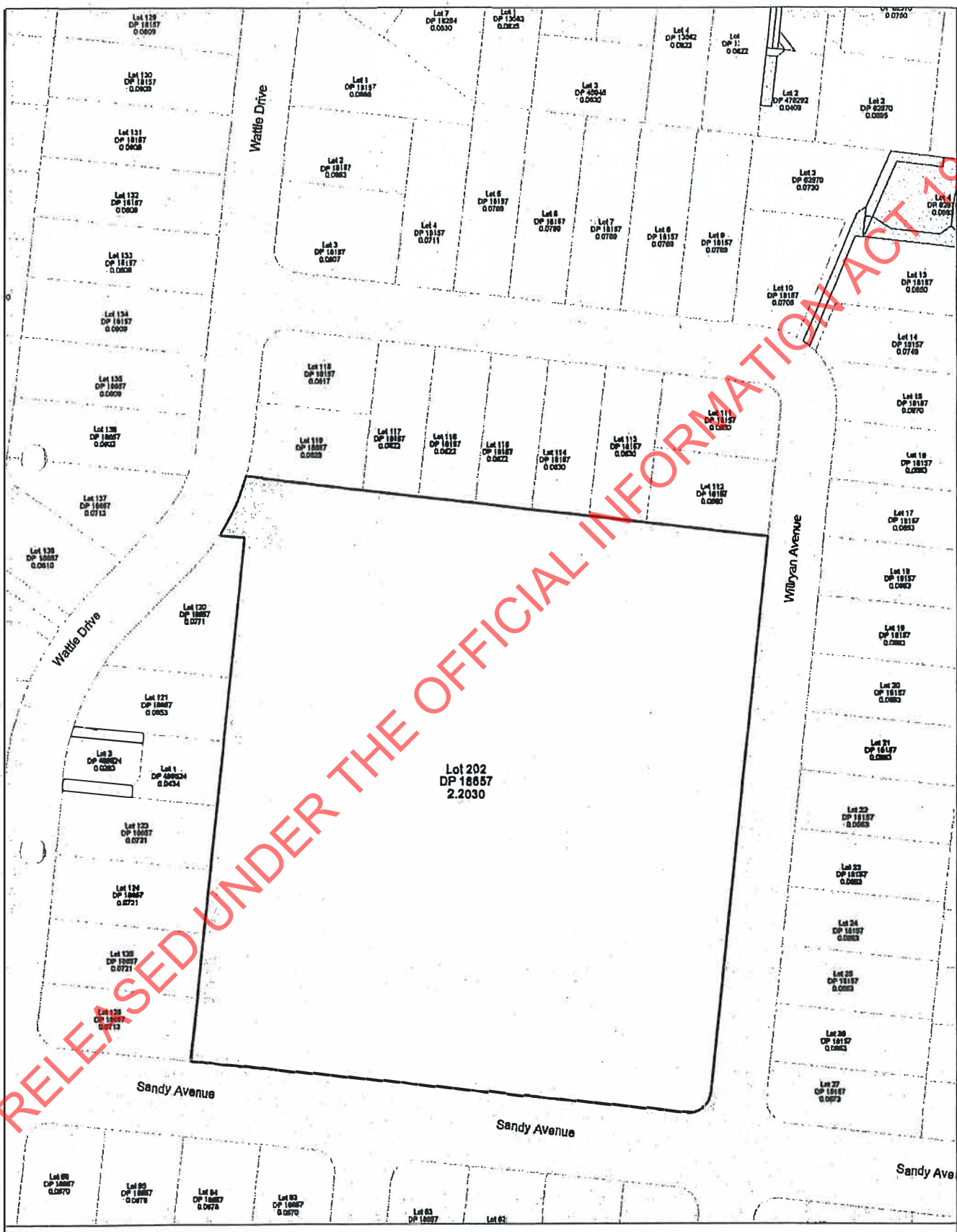
Area of Lots 14.3.007  
Area of New Str 2.8.215  
Total Area 17.2.222

DP 18657

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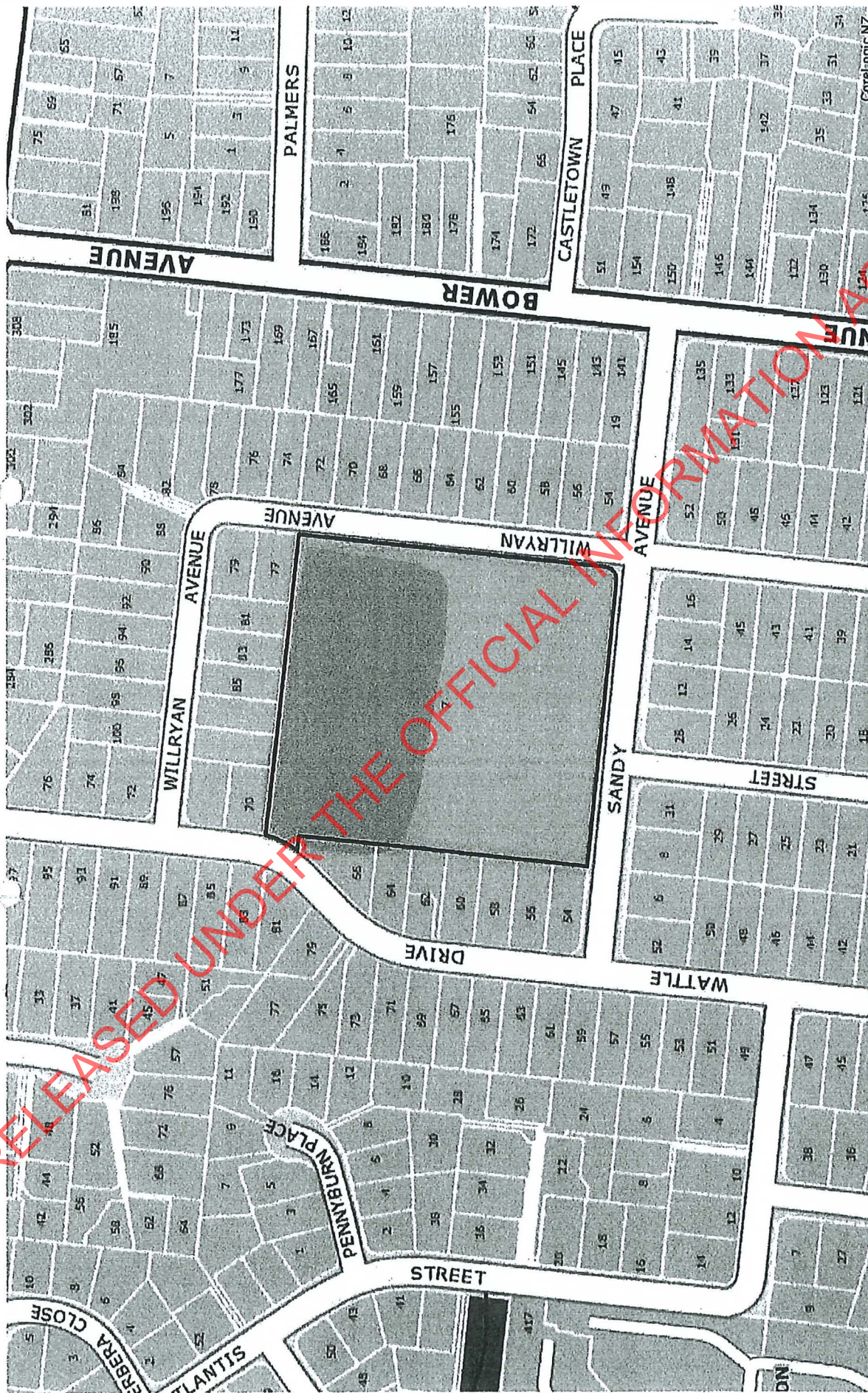
QuickMap  
Custom Software Ltd



Any person wishing to rely on the information shown on this map must independently verify the information  
Scale 1:1302 Topographical and Cadastral map derived from LINZ data. Printed: 18/01/2018 10:03.

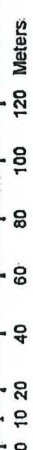


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Legend:  
■ Subject Property  
■ Sold Properties  
■ Listed Properties  
■ Other Selected Properties



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0 10 20 40 60 80 100 120 Meters

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Subject Property Sold Properties Listed Properties Other Selected Properties

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**Appendix C**  
Mary Catherine Ryan Will & Probate and  
Legal Interpretation

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[CH 684 Box 166]

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PROBATE No. P. 57/79  
IN THE SUPREME COURT OF NEW ZEALAND  
CHRISTCHURCH REGISTRY.

In the Estate of MARY CATHERINE RYAN  
of North New Brighton,  
Christchurch, widow

Deceased.

Probate

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SUPREME COURT
29 JAN 1979
CHRISTCHURCH

MALLEY MAHON & CO.  
SOLICITORS  
CHRISTCHURCH, N.Z.



IN the Estate of MARY CATHERINE RYAN

of North New Brighton,  
Christchurch, Widow.

Deceased.

Be it known to all men that on this 23rd day of January 1979,  
the last will of MARY CATHERINE RYAN of North New Brighton,  
Christchurch, Widow

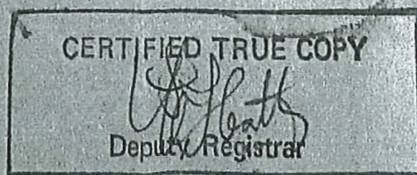
deceased, who died on or about the 12th day of December 1978,  
a copy of which is hereunto annexed has been exhibited, read, and  
proved in Chambers before Mr Registrar Withers at  
Christchurch acting under Rule 426H of the Code  
of Civil Procedure, and administration of the estate, effects, and credits of the  
deceased has been and is hereby granted to THOMAS BERNARD RYAN of  
Hamilton, Civil Servant and WILLIAM JOSEPH RYAN of  
Christchurch, Contractor

the executors named in the said will  
being first sworn faithfully to execute the said will  
by paying the debts and legacies of the deceased so far as the property extends and  
the law binds and, whenever ordered so to do, to file in this Court and verify by  
affidavit a true, full and perfect inventory of all the estate, effects and credits of  
the deceased which shall have come into their hands, possession, or knowledge,  
and also a full, distinct, and proper account of their execution of the will.

Given under the Seal of the  
Supreme Court of New Zealand  
at CHRISTCHURCH  
this 23rd day of January  
1979.



C. S. HEATH  
(DEPUTY) REGISTRAR



Division  
from the Registrar  
of Administration  
1979  
dated 23rd day of January

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PROBATE No. P. 57/79

IN THE SUPREME COURT OF NEW ZEALAND.  
CHRISTCHURCH REGISTRY.

In the Estate of MARY CATHERINE RYAN  
OF North New Brighton,  
Christchurch, Widow,

Deceased.

Ex Parte Notice of Motion for Probate

Accordingly,

*Thomas A. Malley*  
Registrar, Christchurch

22 JAN 1979

22 I 79 2204 023.00

SUPREME COURT  
22 JAN 1979  
CHRISTCHURCH

MALLEY MAHON & CO.  
SOLICITORS  
CHRISTCHURCH, N.Z.

THE CAXTON PRESS

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IN THE SUPREME COURT OF NEW ZEALAND.  
CHRISTCHURCH REGISTRY.

No. P. 57/79

In the Estate of MARY CATHERINE RYAN  
of North New Brighton,  
Christchurch, Widow

Deceased.

TAKE NOTICE that Counsel (~~Solicitor~~) for the applicant(s) will move this Honourable Court FOR AN ORDER that Probate of the will (~~and~~ ~~codicil~~) of the abovenamed deceased be granted to THOMAS BERNARD RYAN of Hamilton, Civil Servant and WILLIAM JOSEPH RYAN of Christchurch, Contractor

the <sup>or's</sup> execut<sup>or's</sup> therein named,  
UPON THE GROUNDS appearing in the affidavit(s) filed herein.

DATED this 19<sup>th</sup> day of January 1979.  
TO the Registrar of the Supreme Court at Christchurch

CERTIFIED pursuant to the rules of Court to be correct.

Counsel moving (~~Solicitor engaged in the proceedings~~)

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PROBATE No. P. 57/79

IN THE SUPREME COURT OF NEW ZEALAND.  
CHRISTCHURCH      REGISTRY.

In the Estate of MARY CATHERINE RYAN  
of North New Brighton,  
Christchurch, Widow

Deceased.

Affidavit to Lead Grant of Probate

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SUPREME COURT
22 JAN 1979
CHRISTCHURCH

MALLEY MAHON & CO.  
SOLICITORS  
CHRISTCHURCH, N.Z.

THE CAXTON PRESS, CHRISTCHURCH

P3



IN THE SUPREME COURT OF NEW ZEALAND.  
CHRISTCHURCH REGISTRY.

No. P. 57/79

In the Estate of MARY CATHERINE RYAN  
of North New Brighton,  
Christchurch, Widow

Deceased.

WE, THOMAS BERNARD RYAN of Hamilton, Civil Servant and  
WILLIAM JOSEPH RYAN of Christchurch, Contractor severally  
make oath and say as follows:

1. THAT we knew MARY CATHERINE RYAN  
of North New Brighton, CHRISTCHURCH, Widow

MARY CATHERINE RYAN now deceased, when alive, and that the said  
Christchurch was resident ~~or was domiciled~~ at  
and that the nearest Registry Office nearest by the most practicable route  
MARY CATHERINE RYAN Office of this Court to the place where the said  
resided ~~or was domiciled~~ is at Christchurch.

Jh  
Jh

2. THAT the said MARY CATHERINE RYAN  
died at Christchurch on or about the 12th day of December,  
19 78, as we are able to depose from having been present at her  
funeral.

3. THAT we believe the partly typewritten and partly written  
document now produced, bearing date the 29th day of  
May 1970

to be the last will and testament of the said deceased  
and that we are the  
executors therein named.

4. THAT we will faithfully execute the said will  
by paying the debts and legacies of the said deceased so far as the property will  
extend and the law binds, and will whenever ordered to do so after the grant of  
probate to us file in this Court and verify by affidavit a true, full, and  
perfect inventory of all the estate, effects, and credits of the said deceased which  
shall have come into our hands, possession, or knowledge, and also a full,  
distinct, and proper account of our execution of the will  
which shall set forth the dates and particulars of all receipts and disburse-  
ments and show which of the same are, in our opinion, on account of capital  
and on account of income respectively.

SWORN at Hamilton by the  
abovenamed THOMAS BERNARD  
RYAN

*T. Bernard Ryan*

this 21<sup>st</sup> day of December 19 78  
before me:—

*J. C. Richardson*

A Solicitor of the Supreme Court of New Zealand.  
SWORN at Christchurch by the  
abovenamed WILLIAM JOSEPH RYAN  
this 19<sup>th</sup> day of January  
1979 before me:

*W. J. Ryan*

*J. C. Richardson*

A Solicitor of the Supreme Court  
of New Zealand

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SUPREME COURT  
22 JAN 1979  
CHRISTCHURCH

DATED \_\_\_\_\_ 1970.

W I L L

of

MARY CATHERINE RYAN

\_\_\_\_\_  
MALLEY MAHON & CO.  
SOLICITORS,  
CHRISTCHURCH.

952/79

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This is the partly typewritten partly written document now produced and shown to THOMAS BERNARD RYAN of Hamilton, Civil Servant and referred to in his affidavit to lead grant of probate to himself and WILLIAM JOSEPH RYAN as executors sworn at Hamilton this 21<sup>st</sup> day of December 1978 before me:

This is the partly typewritten partly written document now produced and shown to WILLIAM JOSEPH RYAN of Christchurch, Contractor and referred to in his affidavit to lead grant of probate to himself and THOMAS BERNARD RYAN as executors sworn at Christchurch this 19<sup>th</sup> day of May 1979 before me:

A Solicitor of the Supreme Court of New Zealand

A Solicitor of the Supreme Court of New Zealand

THIS IS THE LAST WILL AND TESTAMENT of me MARY CATHERINE RYAN of North New Brighton, Christchurch, Widow, and revoking all wills by me at any time heretofore made I DECLARE this to be my last will and testament.

1. I APPOINT my sons THOMAS BERNARD RYAN of Hamilton, Civil Servant, and WILLIAM JOSEPH RYAN of Christchurch, Contractor, (hereinafter referred to as "my trustees") executors and trustees of this my will AND I DECLARE that the expression "my trustees" shall where the context so admits refer to and include the trustees or trustee for the time being.

2. I GIVE DEVISE AND BEQUEATH all my property both real and personal whatsoever wheresoever and of what nature or kind soever including any property over which I may have a power of appointment or disposition unto my trustees UPON TRUST to sell call in and convert into money such parts thereof as shall not consist of money with power to my trustees to postpone the sale calling in and conversion of any part thereof for so long as my trustees shall think fit notwithstanding that it may be of a terminable or wearing out nature or may consist of a hazardous investment and so that no reversionary interest shall be sold unless my trustees see special reason for so doing.

3. I DIRECT my trustees after payment of my just debts funeral and testamentary expenses and all duties upon the whole of my dutiable estate to hold the residue UPON TRUST for such of them my children as shall survive me and if more than one in equal shares.

4. I DECLARE that if any child of mine shall have predeceased me whether before or after the date of my will leaving a child or children who shall survive me and who being male attains the age of twenty-one years or being female attains that age or marries under that age such issue shall take and if more than one in equal shares the share that his her or their parent would have taken had he or she survived me.

IN WITNESS whereof I have hereunto set my hand

this 29<sup>th</sup> day of May One thousand nine hundred and seventy.

SIGNED by the said Testatrix MARY CATHERINE RYAN as and for her last will and testament in the presence of us both present at the same time who at her request in her sight and presence and in the sight and presence of each other have hereunto set our hands as attesting witnesses:

*M. C. Ryan*

*Charles Edwin Chubb*  
*George Low Peter Smith*

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*Interpretation of the Will of Mary Catherine Ryan by Young Hunter – Lawyers has been withheld, to maintain legal professional privilege, pursuant to section 9 (2) (h) of the Official Information Act 1982.*

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