

Our Ref DOIA 21-226

26 May 2021

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Dear Patrick

Response to your official information request

Thank you for your official information request dated 27 April 2021 for information about the process used to dispose for the closed Freeville School in Christchurch and your follow up email dated 3 May 2021. Your request was addressed to the Ministry of Education and has been referred to this office for reply.

I wish to confirm that the disposal of the closed Freeville school site was undertaken under the Public Works Act 1981 (PWA) and involves the following steps:

1. Determine if the land is needed for any other public works;
2. Determine if the land needs to be offered back to the person the Crown originally purchased it from, or their successors;
3. Offer the land under a Treaty settlement or assessed for land banking; and
4. Sell the land on the open market – generally through a real estate agent.

The closed Freeville School site was not required for another public work, so consideration was given to a possible offer back in terms of section 40(2)(c) of the PWA to the former owner or immediate successor(s).

It was noted that the former owner of the property, Mary Catherine Ryan died on 12 December 1978 and a copy of her Will and Probate was obtained.

An interpretation of the Will of Mary Catherine Ryan was carried out in light of the WILLIAMS v AUCKLAND COUNCIL [2015] NZCA 479 case (refer to the following search link: <https://forms.justice.govt.nz/search>). It was determined that on the basis that the deceased instructed the assets of the Estate to be converted into cash, there was no successor for the purposes of section 40(5) of the Public Works Act 1981.

In line with the recommendation contained within the section 40 report the property was exempted from being offered back to the immediate successor(s) of Mary Catherine Ryan.

The property was subsequently sold to Ngai Tahu Property Limited in terms of its Right of First Refusal provisions under their Treaty settlement.

I have attached for your information a copy of the section 40 report which outlines the decision. You will note that the 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.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

If you wish to discuss this decision with us, please feel free to contact Gavin Rodley 04 830 3951.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Stephanie Forrest', written in a cursive style.

Stephanie Forrest
Group Manager Land and Property Wellington

Encl.