

APPENDIX 1

Relevant Legislation

There are two main pieces of legislation in New Zealand that control work affecting archaeological sites.

These are the *Historic Places Act* 1993 (HPA) and the *Resource Management Act* 1991 (RMA).

Historic Places Act (1993)

The primary legislation dealing specifically with archaeological sites is the Historic Places Act (1993) The HPA (1993) is administered by the New Zealand Historic Places Trust (“NZHPT”). Of relevance here are the criteria for the legal definitions of an archaeological site, the legal protection for such sites, and the process for gaining permission to destroy, damage or modify such sites.

Definition of an Archaeological Site. from HPA (1993)

Section 2 of the HPA (1993) defines an archaeological site thus;

“Archaeological site “means any place in New Zealand that-

(a) Either-

(i) *Was associated with human activity that occurred before 1900; or*

(ii) *Is the site of the wreck of any vessel where that wreck occurred before 1900; and*

(b) Is or may be able through investigation by archaeological methods to provide evidence relating to the history of New Zealand.

Protection of an Archaeological Site under the HPA (1993)

The HPA (1993) specifically protects any archaeological site that meets the above criteria. Any such site is protected under section 10 of the HPA (1993), which states that;

“Except pursuant to an authority granted under section 14 of this Act, it shall not be lawful for any person to destroy, damage, or modify, or cause to be destroyed, damaged, or modified, the whole or any part of any archaeological site, knowing or having reasonable cause to suspect that it is an archaeological site.”

Any person wishing to so destroy, damage or modify the whole or part of any archaeological site must first obtain an Authority under section 11 or 12 of the HPA (1993) from the NZHPT.

The process applies to sites on land of all tenure including public, private and designated land. The HPA contains penalties for unauthorised site damage or destruction.

The archaeological authority process applies to all sites that fit the HPA definition, regardless of whether:

- The site is recorded in the NZ Archaeological Association Site Recording Scheme or registered by the Trust,
- The site only becomes known about as a result of ground disturbance, and/ or
- The activity is permitted under a district or regional plan, or a resource or building consent has been granted.

The NZ Historic Places Trust also maintains a Register of Historic Places, Historic Areas, Wahi Tapu and Wahi Tapu Areas. The Register can include archaeological sites. The purpose of the Register is to inform members of the public about such places and to assist with their protection under the Resource Management Act (1991).

The NZHPT can take up to three months to make a decision after an application is accepted.¹ If an Authority is issued, it may come with conditions relating to arch recording or investigations required before the site can be modified. It is the applicant's responsibility to commission this mitigation work, and final reports will be required to go to the NZHPT and relevant institutions and museums.

The life of an authority issued by the NZHPT will be stated on the authority. If no date is specified, the authority will lapse five years after the date of issue.

¹If an Authority application does not contain adequate information, the Trust can request more information, and the three month period only begins after this additional material is received and the application finally accepted.

Resource Management Act (1991)

Resource Management Amendment Act (2003)

The RMA requires City, District and Regional Councils to manage the use, development, and protection of natural and physical resources in a way that provides for the wellbeing of today's communities while safeguarding the options of future generations. The protection of historic heritage from inappropriate subdivision, use, and development is identified as a matter of national importance (section 6f).

The heritage provisions of the Resource Management Act (1991) have been considerably strengthened by the Resource Management Amendment Act (2003), which contains a more detailed definition of heritage sites, and now considers historic heritage to be a matter of national importance under Section 6.

The Act now defines historic heritage thus:

(a) means those natural and physical resources that contribute to an understanding and appreciation of New Zealand's history and cultures, deriving from any of the following qualities:

- (i) archaeological;
- (ii) architectural;
- (iii) cultural;
- (iv) historic;
- (v) scientific;
- (vi) technological; and

(b) includes-

- (i) historic sites, structures, places, and areas; and
- (ii) archaeological sites; and
- (iii) sites of significance to Maori, including wahi tapu; and
- (iv) surroundings associated with the natural and physical resources.

It should be noted that this definition does not include the 1900 cut-off date for protected archaeological sites that the Historic Places Act (1993) contains, and that any historic feature that can be shown to have significant values must be considered in any resource consent application.

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These categories are not mutually exclusive and some archaeological sites may include above ground structures or may also be places that are of significance to Maori.

Where resource consent is required for any activity the assessment of effects is required to address cultural and historic heritage matters (RMA 4th Schedule and the district plan assessment criteria [if appropriate]).

The assessment should state the heritage places under consideration, for example, is it restricted to archaeological sites as defined in the HPA, or a wider range of historic heritage features. What is the timeframe for places under consideration, for example, pre-World War II?

Protected Objects Act (1975)

Any artefact found anywhere in New Zealand after 1976 is deemed to be *prima facie* the property of the Crown.

An artefact is any chattel, carving, object or thing which relates to the history, art, culture, traditions, or economy of the Maori or other pre-European inhabitants and which was manufactured, modified or used by any such inhabitant in New Zealand prior to 1902.

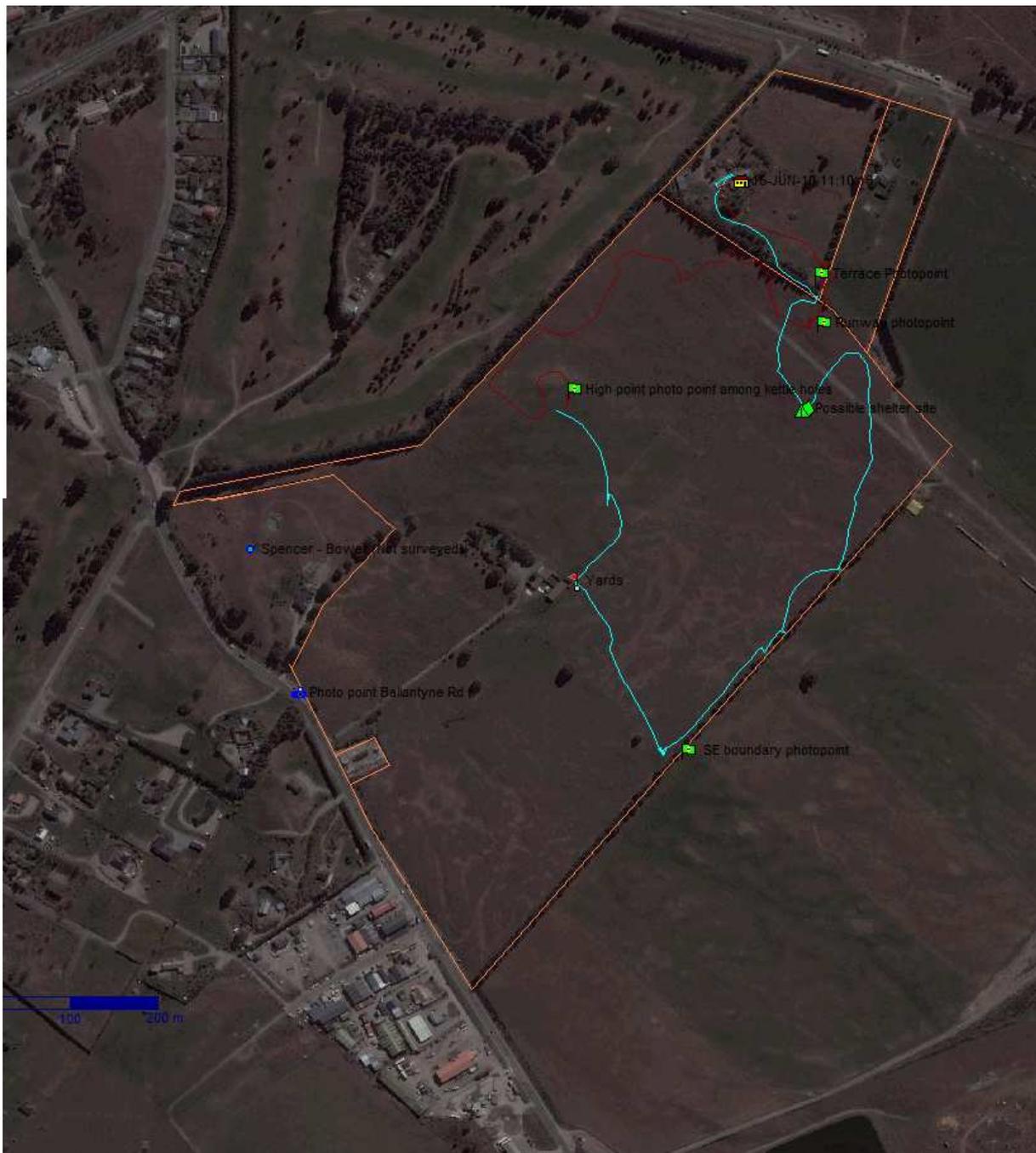


Figure 2 Aerial plan of GPS waypoints, photo points & assessment route undertaken 16 June 2010 . *Reference* GPS Trackmaker.

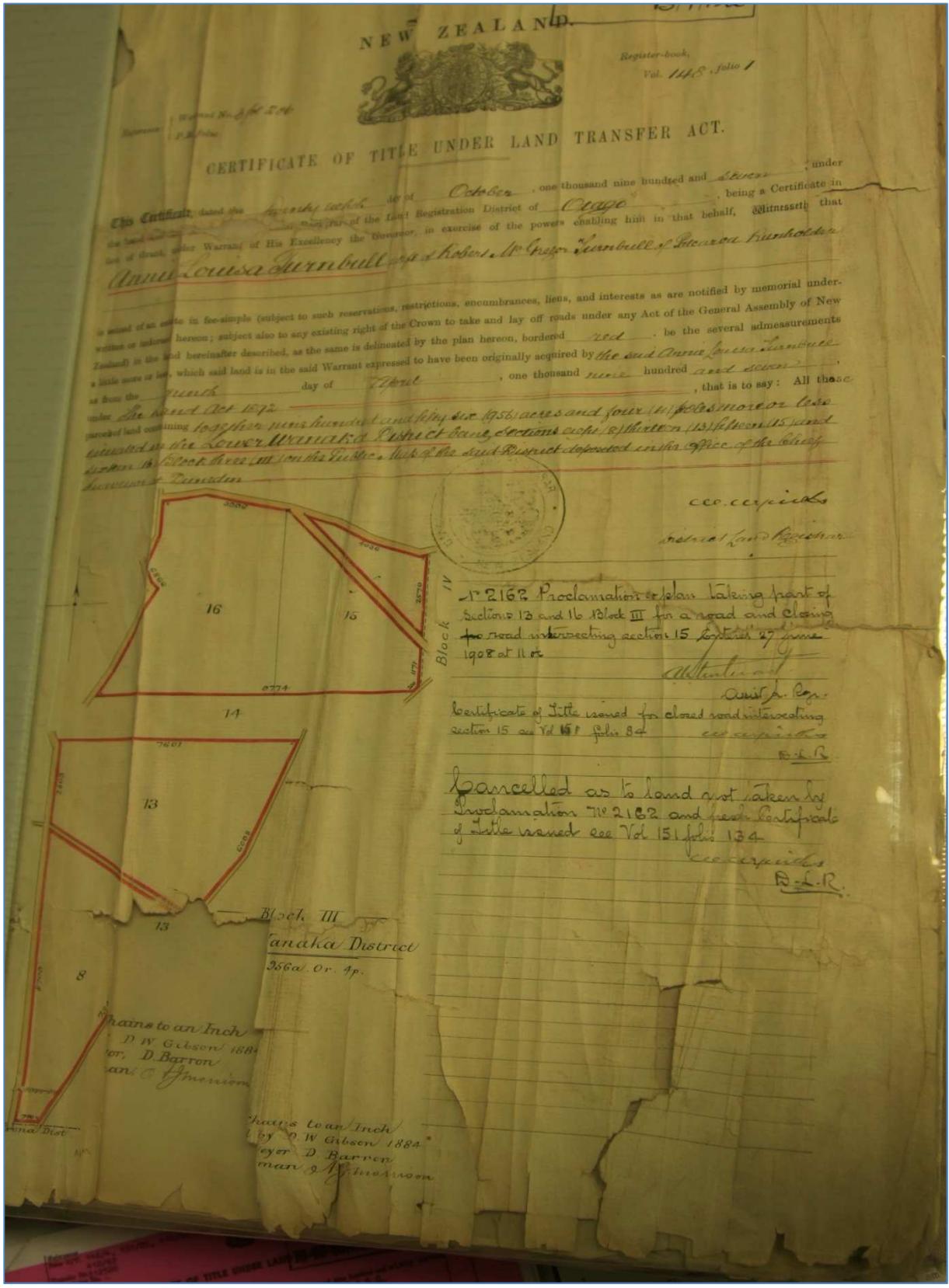


Figure 3 Copy of Certificate of title 148/1 containing transfer to Annie Louisa Turnbull, Oct 1907. . Reference NZ Archives

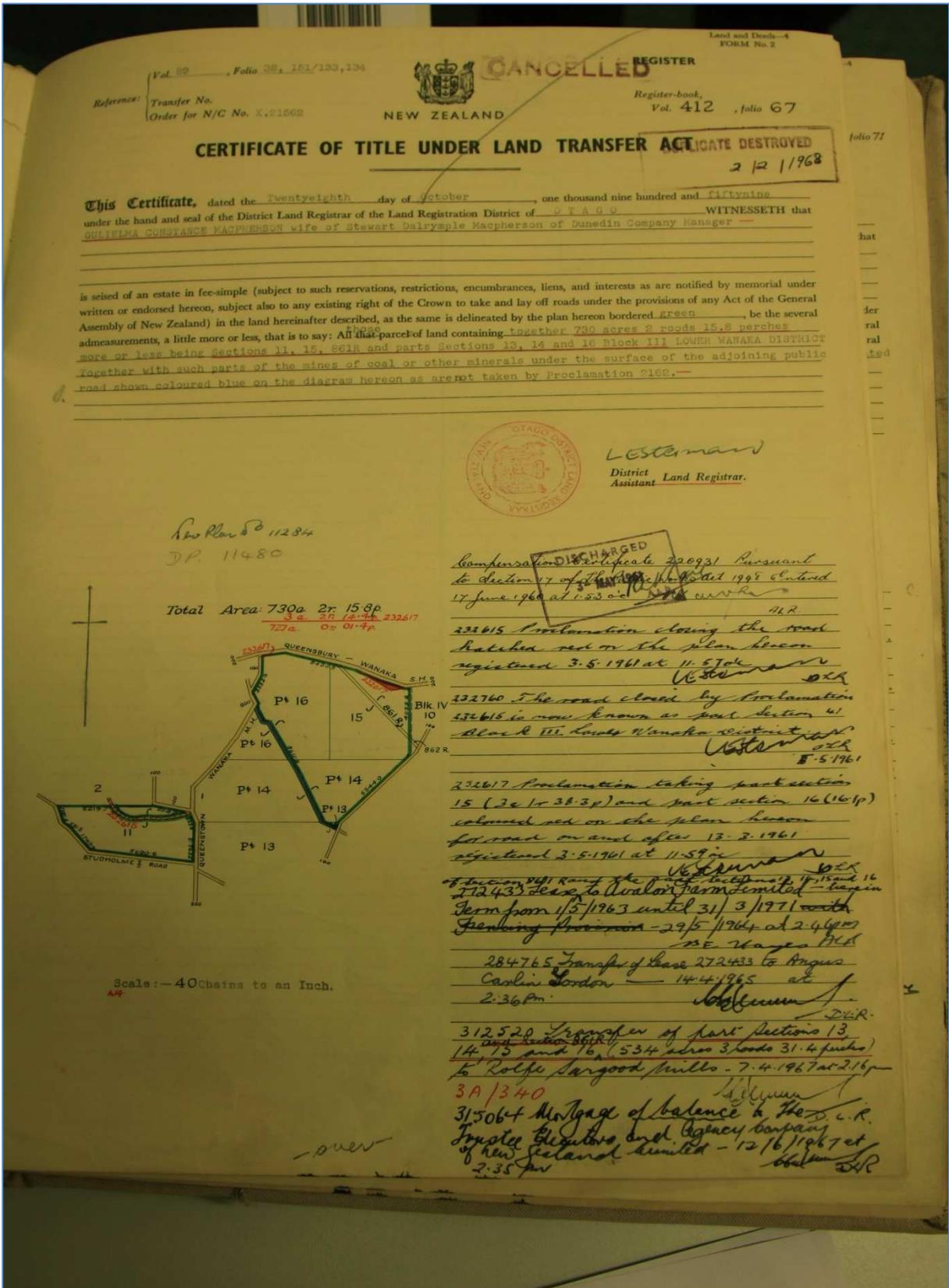


Figure 4 Copy of Certificate of title 412/67 containing transfers from Gulielma Constance McPherson 28 October 1959 to April 1967 Reference NZ Archives

OLD SURVEY PLANS



Figure 5 SO 950 an early topographic map of Lake Wanaka showing early runs and blocks. Reference Quickmap, Land Information New Zealand. Survey Office Plans



Figure 7 SO 14787 1880 plan of town of Wanaka. No evidence of dwelling shown on margins of section 16. Reference Quickmap, Land Information New Zealand. Survey Office Plans

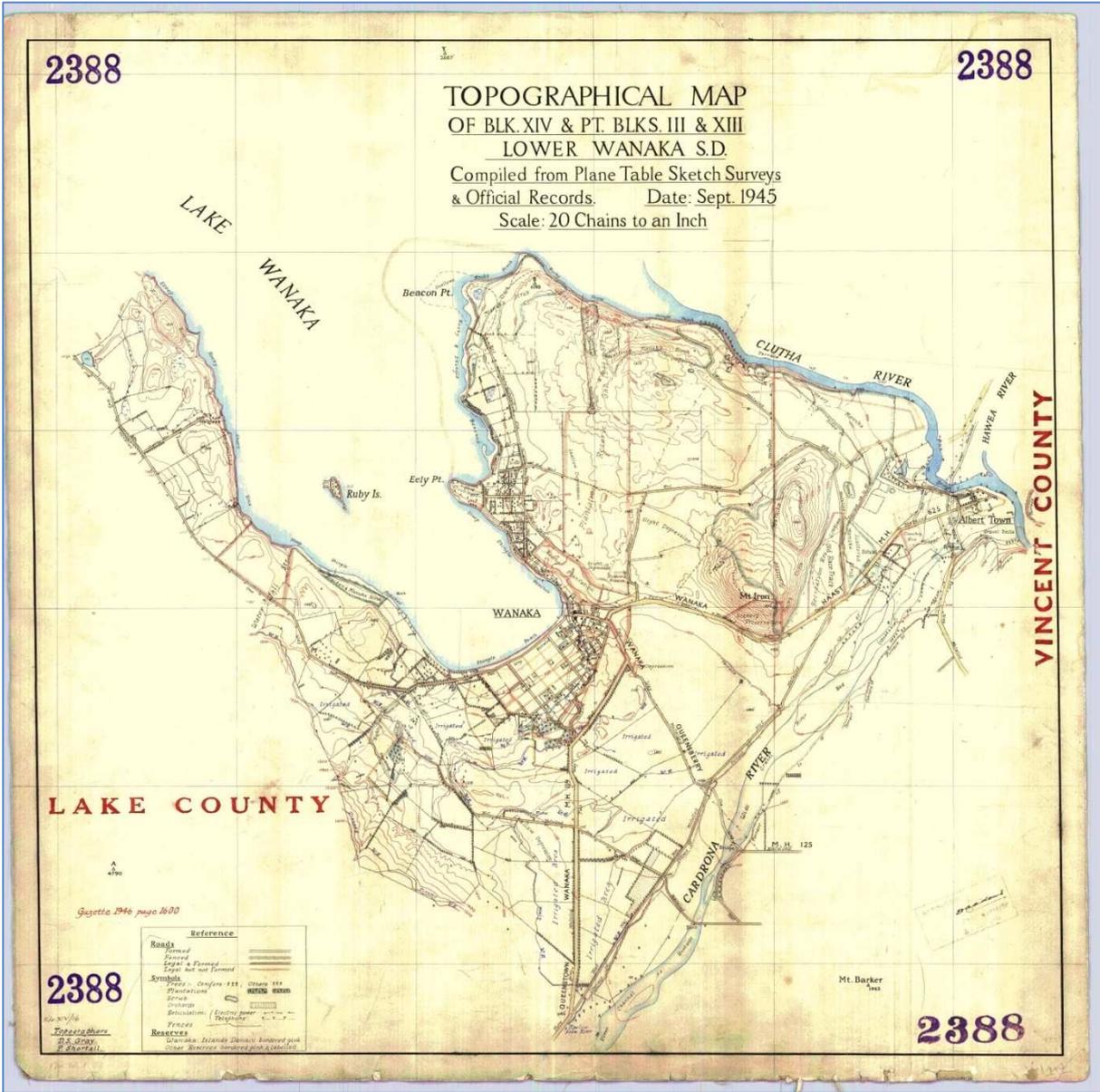


Figure 8 SO 2388 1945 Topographic map. Water races were noted on SO 2388, sections 10 and 11 adjacent to sections 14 below sections 15 and 16. On physical inspection no evidence of water race structures or residual formation were sighted. Reference Quickmap, Land Information New Zealand. Survey Office Plans