

**IN THE HIGH COURT OF NEW ZEALAND  
NAPIER REGISTRY**

**I TE KŌTI MATUA O AOTEAROA  
TE AHURIRI ROHE**

**CIV 2024-441-00053**

**BETWEEN KOPU ORCHARDS LTD**

First Plaintiff

**AND DR DOWNEY and CJ NEALE as trustees of the  
CABBAGE TREE TRUST**

Second plaintiffs

**AND HAWKES BAY REGIONAL COUNCIL**

Defendant

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**AFFIDAVIT OF ROBERT JOHN CRAM - FOR ORDER FOR EXAMINATION  
OF WITNESS BEFORE TRIAL (Robert John Cram)**

**Dated:** 26 September 2025

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**Next event date** 28 October 2025 at 11 am (Chambers List)

**Judicial officer** Associate Judge Skelton

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INSURANCE  
LAWYERS

**Counsel acting:** Oliver Collette-Moxon  
PO Box 403, Shortland Street, Auckland 1140  
Phone: (09) 300 7295 and (021) 471 124  
Email: oliver@collette-moxon.com

I, **Robert John Cram** of Wairoa, Retired, swear:

1 I refer to my affidavit dated 18 August 2025.

2 I am making this affidavit to provide my evidence in this proceeding. I  
understand that my evidence will be given on 12 December 2025 in Napier.

**Personal background**

3 I was born in Gisborne, on the 20th October 1933. As I make this affidavit I  
am 91 years old, and by the hearing in December 2025 I will be 92.

4 I went to school and Wairoa and have lived my entire life in Wairoa.

5 I was interested in machinery from a very young age. From standard 6 I started  
working for the Ministry of Works. I earnt twenty shillings a week for using  
kerosene lanterns to light the works for machines moving slips in the local area.

6 I left school in 1948 and began work for a man by the name of Eric Powdrel.  
This was initially as a shepherd but soon I started working on his farm  
machinery and operating it, harrowing paddocks and the like.

7 At around this time, I also spent two and a bit years working for the contractor  
who took metal from the quarry up at Tawhara. That contractor was getting  
road metal out for the main roads. I used to go up on a Saturday morning  
and the driver up there taught me to handle a bulldozer blade. I used to go up  
every Saturday morning and learn a bit more. Eventually they let me push all  
the metal up ready for the crew in the morning to push on.

8 I then worked for the Borough Council driving a Massey Ferguson tractor. It  
had a blade on the back, and my job was to maintain all the metal roads  
around Wairoa, which were nearly all metal back then.

9 I did this for a while, until I got a proposition from Mr Bill Knight, who had  
trucks in Wairoa. He asked me to come and drive one of his trucks, and he  
offered me a whole £8 a week. That was quite a lot of money back then – in  
my first job, I was on twenty-five shillings. So, I ended up driving a truck for  
Mr Knight for twelve or eighteen months, carting metal on the roads and that  
sort of thing.

*R J Cram*  
*[Signature]*

- 10 I left work for Mr Knight just after Christmas in 1954 and started work for Keith Guthrie, who was the contractor up in the metal pit. Keith had asked Mr Knight if he could "borrow me" because he had a driver in hospital. I ended up working for Keith for nine years and ended up running things. My initial two and a half years with Keith was an apprenticeship. I learnt to drive his machinery, including a dragline, which was a bucket machine on the end of two ropes which is very hard to learn to drive. But I got the hang of it. I also drove Keith's bulldozer, and we used to do farm work for local farmers around Wairoa. This was all types of farm work, such as roading, a lot of fence lines, and a lot of dams for water.
- 11 There was a bridge-building firm that did a lot of bridges and contracting around the Wairoa area back then – Mayhead Brothers. Mr Hec Mayhead used to live just across the road from me and I knew him well, and he asked me to drive his pile-driving winch for him. I also drove any other machinery that he had he wanted me to. Then in the wintertime I would go into the garage and work on cars, because I had mechanical knowledge by this time. I worked as a mechanic in Hec's garage for about eighteen months.
- 12 I worked for the Mayheads from about 1958 to 1961. In my time working for them, I did a lot of welding work on steel on their bridges. We built the Whakakāi main highway bridge. I arrived around about the middle of the job, and on other jobs I drove their bulldozer, shifting and tidying up areas for new bridges. We built a bridge on the Taupo Road at Tarawera on the main highway, and I was involved with that.
- 13 The biggest job which I took on for the Mayheads was removing the old main transmission power line that ran from Tuai to Gisborne. It dipped down into the Ruakituri Valley where there was a little substation, and the power people had gone through and built big steel towers to take the main current through to Gisborne and Wairoa areas.
- 14 Mr Mayhead ended up getting out of the game around in the early 1960's. I ended up buying his little bulldozer and went out on my own for a while, but the machine was a bit small for what I was doing and so I stopped and went back to work for Mr Powdrell again as a mechanic. I looked after all his tractors, and rebuilt motors and all sorts of things, and made parts with the welder.

R. J. L.  
H. K.

- 15 Around about 1965, Mr Powdrell and Mr Murray Richardson (who had the farm next door) asked me to go into business with them. They offered to set me up to start contracting, with the two of them buying the equipment, and I would pay them off over time. We came up with the name "Tāwhara Earth Movers Limited", Rob Cram, Wairoa (a copy of the companies office register for Tawhara is annexed and marked "A"). And that was how I started up my own contracting business.
- 16 I had an accident in September 1964 which put me out of action for many months. I finally got things going with the business properly by early 1965. I was up at four o'clock every morning and I used to leave home at five, and I never used to get home for tea until seven at night. I did that six days a week, and finally got the machinery paid off, and then there was just me and my wife who owned the company.
- 17 Over the years we had lots of machinery, and lots of work. I used to go as far as Tutira Lake to the south, up into the ranges, and worked right through all those farms along the ranges by Raupunga, Mohaka, way out at Putere. My son Dwight used to do all the Putere work, and Okare, (John Bailey's properties right through Okare), Waikatea and Ruakituri. We also covered Mahia.
- 18 We had as many as forty clients out there. This was a huge clientele we had, and they were loyal to us. I have worked for three generations of a lot of them, and given the fourth generation a ride in the digger.
- 19 My son Dwight worked alongside me for many years (37 years in total we worked together). Dwight took over the business in 2000. We had built the business up to the point where we had three diggers and a bulldozer.
- 20 Dwight was unfortunately killed in a bike accident in 2011. Dwight's death meant that I had to come back and run the machinery. I only stopped in about 2014.

#### **Wairoa bar opening**

- 21 One of my roles when I was working for Keith Guthrie (from 1954 onwards) was opening the Wairoa River mouth (the **bar**).


*R. J. Cram.*  
*MR*



- 22 After my nine years with Guthrie's, I continued opening the bar, working for Eric Powdrel for a couple of years until in 1965 when I set up my own contracting business (Tāwhara Earth Movers). I continued to open the bar until about 1989.
- 23 In total I have had 34 years of personal knowledge and experience in opening the Wairoa river bar and over 71 years as a civil works and agricultural contractor and machinery operator.

#### **Past management of the Wairoa River mouth**

- 24 During the early days there were a number of drainage boards that all came under the umbrella of the Wairoa County Council. The Wairoa County Council had responsibility for maintenance of the mouth. The engineers from the Council that I first worked with were Rex Hawthorne and Gordon Stuart. They lived in Wairoa. When the river mouth was closed or not in a good position, they used to look at the river and tell me to get going and open the bar. It was left to me to work out when and how we opened the bar. We had a good working relationship with really good communication.
- 25 Later Rex Dawson was the engineer for the County Council. Mr Dawson also lived in Wairoa and he was responsible for making decisions relating to opening the river mouth. On a couple of occasions early on Mr Dawson made the decision too late which meant I had to open the bar in bad weather and sea conditions.
- 26 After that, while Mr Dawson was technically in charge of deciding when the bar would be opened, in practice, the decision was left to experienced people like me and like Arty Alexander who were on the ground and knew the conditions. You really don't want to be down there trying to open the bar in bad weather or when there are big seas. It gets dangerous so you need to monitor the river and plan the opening.
- 27 When I was doing the job, I was not aware that there was any formal policy or set criteria for when to open the bar. It was a matter of local knowledge and judgement.
- 28 I can recall an occasion when, with rain approaching and Rex Dawson was hesitating, I made the decision to open the bar at 2am one morning, because the conditions and tides were right. This decision was made without reference to Mr Dawson.



- 29 Opening the bar was not done regularly, but generally it was opened at least once every year. When it needed to be opened, you needed to move decisively.

#### **Bar opening – historic**

- 30 When I was a very young kid I remember watching the bar being opened with shovels. They dug a narrow cut and kept shovelling the sand and gravel away to keep it going. Once the cut started running, with rooster tails in it, then it would be away and the cut would open right out. That reflects the size of the bar back then and how much smaller it was. You would never be able to open the bar these days with a shovel.
- 31 The way that Mr Guthrie taught me to open the bar, was to walk along the bar and pick the best place to open it with the machinery. What we would be looking for is a nice low and narrow point in the bar (if there was one) which lined up with an opening in line with the river – that is what we called opening it in the most favourable position. Annexed marked "B" is a photo which shows the river mouth and bar. I understand that the date of this aerial photo was 12 February 2011.
- 32 I was also taught how to open the bar by Arty Alexander who worked for Keith Guthrie. Arty had worked all over New Zealand as a contractor and had worked for catchment boards all over NZ. I remember Arty telling me "I'll teach you how to open a river bar but only if you do it properly!"
- 33 The trigger for opening the bar back in my day was a mix of us keeping an eye of the river level and weather and or we would get a call from Mr Stuart. He would ring me or Mr Guthrie and tell us that "I think you boys should have a look at the bar". Mr Stuart would leave it to us as to whether we thought it needed to be opened. He always told us, "if you think we should open it, we will back you up".
- 34 If there was bad weather coming with lots of rainfall then we would take a look at the tides and then get the machinery down there. Preferably to try to get it open for the turn of a high tide. We would start the work on the bar on the low tide. We didn't need to wait to do an opening for the river level to rise – the key factor was the wave conditions, and making sure that we could do the final cut on a high tide.



### *Weather conditions*

- 35 Ideally you wanted the weather to be fine when you were opening the bar with low flow rates in the river. I would monitor the river and its level which would be building up due to the mouth being closed or in a bad position. You wouldn't want to wait until you had a high river level and bad weather as the chances of successfully opening the bar reduce greatly and it becomes a much more dangerous task to open the mouth.
- 36 Ideally we didn't wait until there was heavy rain forecast but often the prospect of heavy rain led to a decision to open the mouth. When the mouth was closed or not in a good position, we'd try to get in well ahead of bad weather or a heavy rain forecast. It was a matter of local knowledge and judgement as to how manage the situation.

### *Method of cutting the opening*

- 37 When you open the bar it is crucial to choose the right location on the bar, so as to minimise the amount of sand and gravel that needs to be moved. Ideally you would always try to get the new opening as close to the old pile line as that way the river is going straight ahead out to sea. The old pile line is where the old wharf was and is a remnant of when the river was used as a port, shipping meat and wool out of the district.
- 38 In my experience the best technique was to make an opening like a funnel. We used to create a cut and would scoop the sand up each sides. What we would be doing was cutting a big V shaped funnel. I would cut a "V" shape starting from the river side of the bar with a track going down the middle to the apex of the "V" on the sea shore. When you got close to the seaward side of the bar I would then drive the bulldozer down the middle track, pushing the track material in front of me until we broke through to the beach. The water would flow along behind you and eventually break through and push out to sea. Once the rooster tails started running it would normally open right up quite quickly forming a new river mouth opening.
- 39 Sometimes when we thought a weather event would hit we would start the work a day or two out just to start the prep for the opening.
- 40 The key thing that would stop us doing work to open the bar would be wave conditions. The cut off for us would be something over 3 metres (when we had moved into bigger machines by the 1970s).

### *Equipment*

- 41 When I first started opening the bar we used an International TD6 bulldozer. This was a 5-tonne machine (more like a tractor). We then used an Ellis Chalmers HD6 bulldozer which was about 7 tons and then a Kato 11 tonne Excavator then Komatsu PC120 and Komatsu PC130 which were 12.5 and 13 tonne excavators respectively.
- 42 As the machinery got bigger and we started using a 14-tonne dozer as well as a digger, the job became much more efficient. You didn't have to open a wide opening. Using the technique I have described allowed the river flow to do the work for you by scouring out a wide channel.
- 43 Opening the bar usually took me a maximum of three and a half days, although the quickest I could do it was one and a half to two days.

### *Closing the old mouth opening?*

- 44 In all my years of opening the bar, I never closed off the old mouth opening as part of how I opened the bar. There is no need to do that as once the river channel is opened in the preferred position, it would quickly scour out a decent channel. It would be really hard to close off a mouth when the river was flowing through it as, with each bucket of sand and gravel you place to close the old opening, the river channel would become narrower and the speed of the water would increase and constantly scour out what you were trying to fill. In my opinion, attempting to close the old mouth is unnecessary, it's time consuming and it just distracts the operation from the technique I used to open the bar as I was taught by Arty Alexander.

### *How long did an opening last?*

- 45 Once we had done a new cut the bar would generally stay open for quite a long period of time. The length that the bar stayed open would depend on the sea, wave and wind conditions. Generally, a northeast wind will push sand up and slowly block the opening.

R J L 7  
AM



*Size of bar*

- 46 Back when I was opening the bar the width and the height of the bar was lower and nowhere as wide as it grew to in the last few years. Back then it would have been about the width of a standard house. By the time of the flood last year the size of the bar was just massive – so high and wide - which meant that it was a really big job to open the bar, involving so much sand to move.

*June 2024 flood*

- 47 In the days leading up to the flood (early morning on 26 June 2024) it was clear that the river mouth was blocked and that the river level was high.
- 48 In the days leading up to the flood in June last year the conditions would have been ideal for a bar opening. The weather was suitable, and the sea conditions were good. By the time Pryde Contractors started opening the bar (on 25 June 2024), it was far too late – by then the river was getting up onto the lawns along Kopu Road. The weather conditions were getting bad and the sea was getting big.
- 49 If the process had been started on the Saturday or the Sunday, I am sure it would have been successful.

**SWORN at Wairoa**

this 26 day of Sept 2025

before me:



Solicitor of the High Court of New Zealand

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**Robert John Cram**

**H A Kohn, JP**

**Ø1125**

**WAIROA**

**Justice of the Peace for New Zealand**

"A"



**NEW ZEALAND**  
COMPANIES OFFICE

**COMPANIES**  
REGISTER

## Company Extract

**TAWHARA EARTH MOVERS LIMITED**

**162002**

**NZBN: 9429040227375**

Entity Type:	NZ Limited Company
Incorporated:	20 Sep 1965
Current Status:	Removed
Constitution Filed:	Yes

Ultimate holding company: No

### Company Addresses

#### Registered Office

Kiwi Tax Limited, 2/122 Taradale Road, Onekawa, Napier, NZ

#### Address for Service

Kiwi Tax Limited, 2/122 Taradale Road, Onekawa, Napier, NZ

### Directors

CRAM, Robert John  
96 Campbell Street, Wairoa, NZ

### Shareholdings

Total Number of Shares: 2,400

Extensive Shareholdings: No

2,399 CRAM, Jeremy  
215 Frasertown Road, Wairoa, 4108, NZ

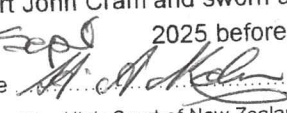
CRAM, Matthew  
215 Frasertown Road, Wairoa, 4108, NZ

CRAM, Robert John  
96 Campbell Street, Wairoa

1 CRAM, Robert John  
96 Campbell Street, Wairoa

### EXHIBIT NOTE

This is the annexure marked "A" referred to in the affidavit of Robert John Cram and sworn at Wairoa this 26 day of Sep 2025 before me:

Signature   
A Solicitor of the High Court of New Zealand

**H A Kohn, JP**  
01125  
**WAIROA**  
Justice of the Peace for New Zealand



## Company Extract

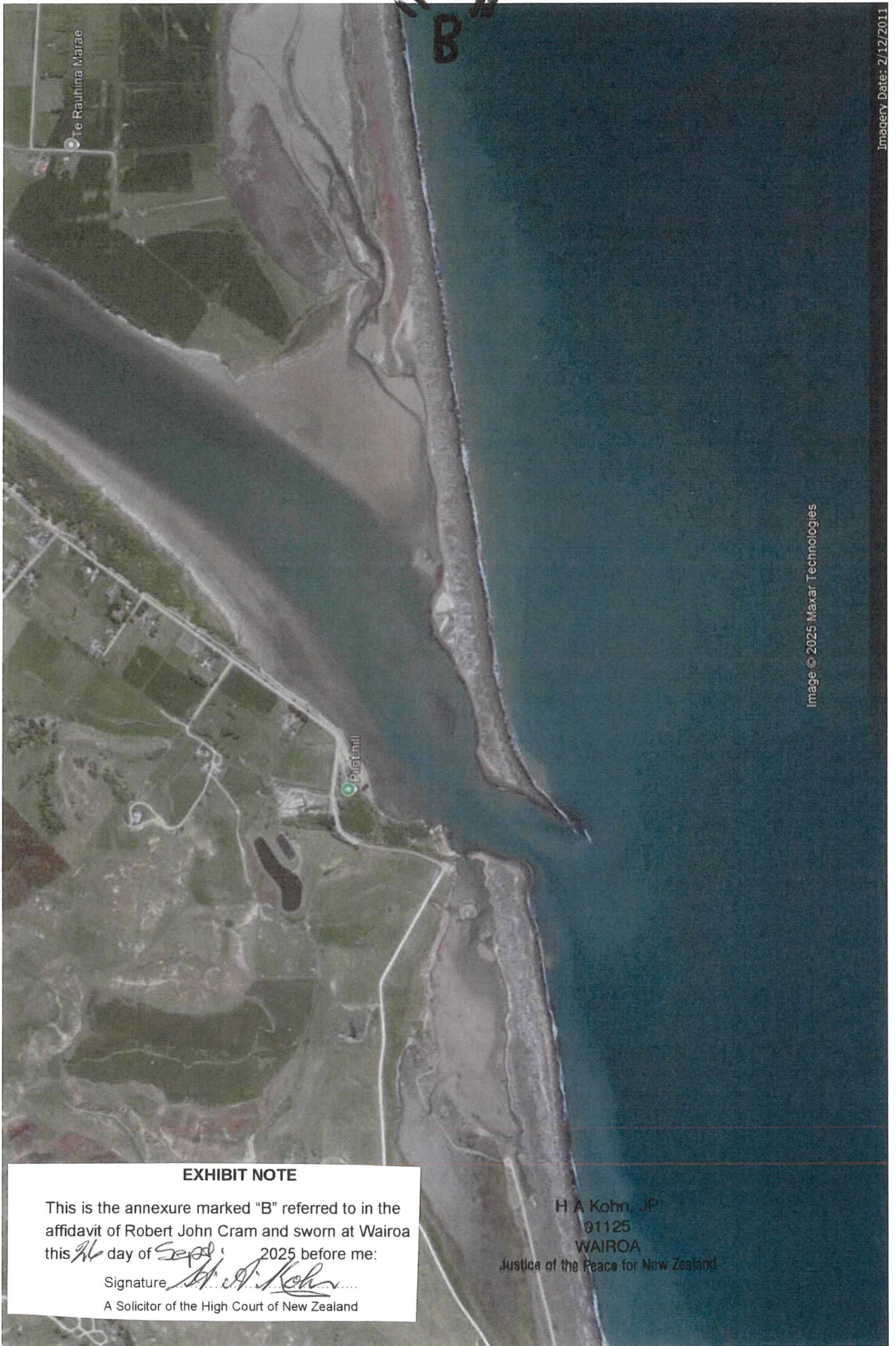
TAWHARA EARTH MOVERS LIMITED

162002

NZBN: 9429040227375

Extract generated 25 September 2025 03:32 PM NZST





**EXHIBIT NOTE**

This is the annexure marked "B" referred to in the affidavit of Robert John Cram and sworn at Wairoa this 26 day of Sept, 2025 before me:

Signature H. A. Kohn

A Solicitor of the High Court of New Zealand

H A Kohn, JP  
01125  
WAIROA  
Justice of the Peace for New Zealand