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**KEI MUA I TE AROARO O TE RŌPŪ WHAKAMANA  
I TE TIRITI O WAITANGI**

**BEFORE THE WAITANGI TRIBUNAL**

**WAI 2180**

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**IN THE MATTER OF**                    **the Treaty of Waitangi Act 1975**

**AND**

**IN THE MATTER OF**                    **THE TAIHAPE: RANGITĪKEI KI  
RANGIPŌ DISTRICT INQUIRY**

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**SECOND SUPPLEMENTARY BRIEF OF EVIDENCE  
WILLIAM (BILL) ECCLES FLEURY  
DEPARTMENT OF CONSERVATION  
LANDLOCKED LAND**

**15 August 2019**

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**CROWN LAW**

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I, William (Bill) Eccles Fleury of Whanganui, public servant state:

## INTRODUCTION

1. This is the third brief of evidence I have provided to this Inquiry (the second supplementary brief to my original brief Wai 2180 #M7). My background and qualifications are set out in my original brief of evidence.<sup>1</sup>
2. My first brief of evidence responds to matters relevant to the Tribunal's statement of issues.<sup>2</sup> My first supplementary evidence to that brief provided detailed analysis of access matters between the Department of Conservation (**DOC**) and Te Awarua o Hinemanu and Te Koau A blocks.<sup>3</sup>
3. This brief provides detailed analysis of access to those and other Māori-owned blocks that are adjoined by public conservation lands (**PCL**). This is provided partly to complete the job that was unable to be completed ahead of Hearing Week 9 (18-21 March 2019), and partly in response to requests made during that hearing week to review potential access opportunities for landlocked "Owhaoko" blocks via adjoining lands administered by the Department. The Panel noted the large areas of Public Conservation Land (PCL) on three sides of the general area of the Owhaoko blocks. The main areas of this Public Conservation land are the Kaimanawa and Kaweka Forest Parks.
4. In late July, immediately prior to completing this evidence, I had the opportunity to briefly review a draft of the *Wai 2180 Taihape Inquiry District: Māori Landlocked Land Blocks Report* and Map Book (Neal, Gwyn and Alexander) (the **Neal et al. draft report**) circulated to parties for comment prior to finalising the report. My analysis was already largely complete at that time however it was useful as a cross reference and I hope this supplementary may be of further assistance.<sup>4</sup> Any references to Neal et al in this document are to the draft report and may well have moved on in the final version.

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<sup>1</sup> Wai 2180, #M7 at [3]-[7].

<sup>2</sup> Wai 2180, #M7.

<sup>3</sup> Wai 2180, #M7(d).

<sup>4</sup> This evidence was completed prior to my departure for an extended overseas trip in mid August 2019.

## Methodology

5. I undertook a systematic approach to reviewing potential options and linkages for all parcels within the Taihape Inquiry District (not only Owahaoko) that may be associated with PCL.
6. For this brief, the following steps were taken:
  - 6.1 Creation of a GIS project that incorporated:
    - 6.1.1 Spatial extent data for PCL within or adjoining the Inquiry District Boundary.
    - 6.1.2 Spatial extent data for Māori land within the Inquiry District Boundary. This data was drawn from the Land Online database, primarily Māori Customary and Māori Freehold Land.
    - 6.1.3 Spatial extent data for roads (formed and unformed). This data was drawn from Land Online, 'Crown Reserved from Sale' parcels.
  - 6.2 Visual identification of "Landlocked" blocks.
  - 6.3 Block by block examination of identified blocks.
  - 6.4 Review of blocks examined by reviewing the Neal et al draft report and inclusion of blocks not identified during my visual inspection.
  - 6.5 For each block I identified:
    - 6.5.1 Block name.
    - 6.5.2 Name of adjoining PCL block(s).
    - 6.5.3 Linkages between PCL block(s) and Roads.
    - 6.5.4 Adjoining Māori blocks.
    - 6.5.5 Any other matters of note.

- 6.6 “Linkages” and “Notes” summarise my conclusions. A key assumption at this point was that “hydro parcels”, while they may provide public foot access, could not provide vehicular access.
7. While the Panel’s interest was primarily in the Owhaoko landlocked blocks I also included other lands to the south of these blocks that are within the boundaries of the Inquiry District. In this way I have attempted to incorporate all landlocked blocks examined by the Neal et al. draft report that have no legal access (shaded in pink in that report) and that are adjoined by PCL.
8. The output of those steps is shown in Table 1. The assessment terms employed in the Table should be read to mean:
- 8.1 masl means Metres above sea level.
- 8.2 “No opportunities” means either the adjoining PCL is either land locked itself or roading would be near impossible or hugely expensive as a consequence of the terrain needing to be traversed.
- 8.3 “NA” means not applicable because the block is not linked to PCL.
- 8.4 Extremely steep means slopes sometimes exceeding 50%, typically mountainous terrain.
- 8.5 Very steep means slopes often over 30%, typically “rugged” terrain.
- 8.6 Logical access means “where would a sensible person attempt to establish a road if a road was to be forced through regardless of cost and engineering challenges.”

**Table 1. Blocks adjoining PCL and/or landlocked blocks identified in the Neal et al. draft report.**

Name	Adjoining PCL block	PCL link to Road	Adjoining Māori blocks	Notes
Owhaoko A East (See Neal et al. Plate 6)	Kaimanawa Forest Park	No opportunities. To the west PCL is alpine	Owhaoko B East Pt Owhaoko D1	To the West any link through PCL must traverse the Kaimanawa mountains and Umukarikari Range and cross

Name	Adjoining PCL block	PCL link to Road	Adjoining Māori blocks	Notes
		(1600 masl). To the East the adjoining section of Kaimanawa FP is landlocked	(East) Pt Owhaoko D1 (West) Owhaoko D8B Owhaoko A1B	the Rangitikei river. To the East separated from main body of PCL by Ngaruroro hydro parcel. Beyond this hydro parcel any logical access' to public roads entirely within Kaweka and Kaimanawa FPs would require significant number of stream and river crossings and/or traverse of very steep lands.
Owhaoko A1B (See Neal et al. Plate 6)	Kaimanawa Forest Park	No opportunities. Adjoining section of Kaimanawa FP is landlocked	Owhaoko A East	Separated from main body of Kaimanawa FP by Ngaruroro hydro parcel. Beyond this hydro parcel any logical access to public roads entirely within Kaimanawa FP would require significant number of stream and river crossings and/or traverse of very steep lands. Adjoining section of Kaimanawa FP supports an airstrip.
Owhaoko B East (See Neal et al. Plate 6)	Kaimanawa Forest Park	No opportunities. Any direct link across Kaimanawa FP to legal road would be extremely steep.	Pt Owhaoko D1 Owhaoko A East Owhaoko B1B	See "west" comments for Owhaoko A East
Owhaoko B1B (See Neal et al. Plate 6)	Kaimanawa Forest Park	No opportunities. Any direct link across Kaimanawa FP to legal road would be extremely steep.	Owhaoko B East	See "west" comments for Owhaoko A East
Owhaoko C1 (See Neal et al. Plate 6)	Kaweka Forest Park	No opportunities.	Owhaoko C2 Owhaoko C7 Owhaoko D3 Pt Owhaoko D7B	Separated from main body of Kaweka FP by Ngaruroro hydro parcel. Beyond this hydro parcel any logical access to public roads entirely within Kaweka and Kaimanawa FPs would require significant number of stream and river crossings and/or traverse of very steep

Name	Adjoining PCL block	PCL link to Road	Adjoining Māori blocks	Notes
				lands.  Closest road line via Kaweka Forest Park is at Kuripapango but connection to that involves very steep and fragmented lands.
Owhaoko C2 (See Neal et al. Plate 6)	Kaweka Forest Park	No opportunities.	Owhaoko C7 Owhaoko C1 Pt Owhaoko D7B	Separated from main body of Kaweka FP by Ngaruroro hydro parcel. Beyond this hydro parcel any logical access' to public roads entirely within Kaweka and Kaimanawa FPs would require significant number of stream and river crossings and/or traverse of very steep lands.  Closest road line via Kaweka Forest Park is at Kuripapango but connection to that involves very steep and fragmented lands.
Owhaoko C4 (See Neal et al. Plate 6)	Nil	NA	Owhaoko D6,1 Owhaoko C2 Owhaoko C5	Owhaoko C4 separated from Owhaoko D6,1 by Taruarau hydro parcel.
Owhaoko C5 (See Neal et al. Plate 6)	Nil	NA	Owhaoko D No 5 Subdivision 4 and Section 1 Survey Office Plan 34801 Owhaoko D No 6 Subdn 3 Owhaoko C5	Owhaoko C5 separated from road by small sliver of Timahanga Station below the road and Taruarau Hydro parcel. (Common ownership between C5 and C7 may have resolved this problem.) Separated from Owhaoko D No 5 Subdivision 4 and Section 1 Survey Office Plan 34801 (Pt. Ngamatea Stations) by Taruarau hydro parcel.
Owhaoko C7 (See Neal et al. Plate 6)	Kaweka Forest Park	Not required	Owhaoko C2	Property is traversed by Napier Taihape Road. One parcel of PCL (Pt Sec 1 SO 9588) separates the western "leg" of Owhaoko C7 from the Napier Taihape Road. A linkage through PCL to this section would require a steep climb of about 140 metres over a horizontal distance of 500 metres. (28%)

Name	Adjoining PCL block	PCL link to Road	Adjoining Māori blocks	Notes
Pt Owhaoko D1 (East) (See Neal et al. Plate 6)	Nil	NA	Owhaoko D8B Owhaoko A East Owhaoko D3	
Pt Owhaoko D1 (West) (See Neal et al. Plate 6)	Nil	NA	Owhaoko A East Pt Owhaoko D1 Owhaoko B East	
Owhaoko D3 (See Neal et al. Plate 6)	Kaweka Forest Park	No opportunities.	Owhaoko D8B Owhaoko D7B Owhaoko C1	Separated from main body of Kaweka FP by Ngaruroro hydro parcel. Beyond this hydro parcel any logical access' to public roads entirely within Kaweka and Kaimanawa FPs would require significant number of stream and river crossings and/or traverse of very steep lands.  Closest road line via Kaweka Forest Park is at Kuripapango but connection to that involves very steep and fragmented lands.
Owhaoko D4B (See Neal et al. Plate 6)	Kaweka Forest Park	No opportunities.	Owhaoko D8B	Separated from main body of Kaweka FP by Ngaruroro hydro parcel. Beyond this hydro parcel any logical access' to public roads entirely within Kaweka and Kaimanawa FPs would require significant number of stream and river crossings and/or traverse of very steep lands.  Closest road line via Kaweka Forest Park is at Kuripapango but connection to that involves very steep and fragmented lands.
Owhaoko D6,1 (See Neal et al. Plate 6)	Nil	NA	Owhaoko D No 6 Subdn 3 Pt Owhaoko D7B Owhaoko C5 Owhaoko C4	Owhaoko C5 and C4 separated from block by Taruarau hydro parcel

Name	Adjoining PCL block	PCL link to Road	Adjoining Māori blocks	Notes
Owhaoko D No 6 Subdn 3 (See Neal et al. Plate 6)	Nil	NA	Owhaoko D6,1 Pt Owhaoko D5,4 Owhaoko C5	Owhaoko C5 seperated from block by Taruarau hydro parcel
Owhaoko D7A (See Neal et al. Plate 6)	Nil	NA	Pt Owhaoko D7B	Part of Ngamatea holdings (Bates/Apatu) Separated from Oruamatua – Kaimanawa 1U , Oruamatua – Kaimanawa 1V and Defence holdings by Rangitikei hydro parcel.
Pt Owhaoko D7B (See Neal et al. Plate 6)	Waingakia Stream Conservation Area	No opportunities. Waingakia Stream Conservation Area is landlocked	Owhaoko D3, Owhaoko C1, Owhaoko C2,	Part of Ngamatea holdings (Bates/Apatu) Separated from Defence holdings by Rangitikei hydro parcel. Accessed via Ngamatea station access road traversing Owhaoko D5.1, D5.2, D5.3 and D6.2
Owhaoko D8B (See Neal et al. Plate 6)	Kaweka Forest Park	No opportunities.	Pt Owhaoko D1 Owhaoko D3 Owhaoko A East Owhaoko D4B	Separated from main body of Kaweka FP by Ngaruroro hydro parcel. Beyond this hydro parcel any logical access' to public roads entirely within Kaweka and Kaimanawa FPs would require significant number of stream and river crossings and/or traverse of very steep lands.  Closest road line via Kaweka Forest Park is at Kuripapango but connection to that involves very steep and fragmented lands.
Oruamatua – Kaimanawa 1U (See Neal et al. Plate 7)	Nil	NA	Oruamatua – Kaimanawa 1V	Adjoins Waiouru Military Training Area
Oruamatua – Kaimanawa 1V (See Neal et al. Plate 7)	Nil	NA	Oruamatua – Kaimanawa 1U and 1 W1	Adjoins Waiouru Military Training Area  Separated from Waingakia Conservations Area by Rangitikei Hydro Parcel, Waingakia CA is landlocked.
Oruamatua – Kaimanawa 1W1 (See Neal et al. Plate 7)	Nil	NA	Oruamatua – Kaimanawa 1V	Adjoins Waiouru Military Training Area



Name	Adjoining PCL block	PCL link to Road	Adjoining Māori blocks	Notes
Oruamatua – Kaimanawa 2K (See Neal et al. Plate 8)	Nil	NA	Nil	
Rangipo Waiu B. No. 1 (See Neal et al. Plate 35)	Hihitahi Forest Sanctuary Hihitahi Conservation Area	No opportunities. Unformed road parcel across steep and fractured terrain. Access across PCL very steep.	Motukawa 2F2	Only legal link between Hihitahi Forest Sanctuary and formed road is via unformed road that traverses slopes of 30+ degrees adjacent to Kaitapu Stream.  Adjoins Waiouru MTA.
Rangipo Waiu B 6B 1 (See Neal et al. Plate 35)	Nil	NA	Rangipo Waiu B 6B 2	Hydro parcel on branch of Moawhango-iti does not link to other Crown land.
Rangipo Waiu B 6B 2 (See Neal et al. Plate 35)	Nil	NA	Rangipo Waiu B 6B 1	Adjoins Waiouru MTA
Motukawa No. 1 B (Not mapped by Neal et al.)	Hihitahi Forest Sanctuary	No opportunities. Unformed road parcel across steep and fractured terrain. Access across PCL very steep.	Nil	Only legal link between Hihitahi Forest Sanctuary and formed road is via unformed road that traverses slopes of 30+ degrees adjacent to Kaitapu Stream.  Links via road parcel on true right of Hautapu to SH1
Motukawa 2B16B2B (See Neal et al. Plate 14)	Nil	NA	Motukawa 2B16B4	Surrounded by Motukawa 2B16B4
Motukawa 2B25 (Not mapped by Neal et al.)	Nil	NA	Motukawa 2B23 Motukawa 2B24 Motukawa 2B17A	Common owner shown for adjoining blocks including Motukawa 2B25 Note: Neal et al says has legal and physical access – not certain that is correct as it is a stand alone block.
Motukawa No. 2 D No. 2 B No. 1 (Not mapped by Neal et al.)	Hihitahi Forest Sanctuary	No opportunities. Unformed road parcel across steep and fractured terrain. Access across PCL very steep.	Nil	Only legal link between Hihitahi Forest Sanctuary and formed road is via unformed road that traverses slopes of 30+ degrees adjacent to Kaitapu Stream.  Separated from unformed road parcel by hydro parcel. Steep sided stream unlikely to

Name	Adjoining PCL block	PCL link to Road	Adjoining Māori blocks	Notes
				provide feasible link by road parcel to SH1.
Motukawa 2F2 (See Neal et al. Plate 15)	Hihitahi Forest Sanctuary	No opportunities. Unformed road parcel across steep and fractured terrain. Access across PCL very steep.	Rangipo Waiu B. No. 1	Only legal link between Hihitahi Forest Sanctuary and formed road is via unformed road that traverses slopes of 30+ degrees adjacent to Kaitapu Stream.  Separated from Waiouru Military Training Area by Rangipo Waiu B. No. 1
Awarua No. 1A No. 3B (See Neal et al. Plate 17)	Ruahine Forest Park	No opportunities.	Nil	Short distance from legal road line and hydro parcel in Pourangaki river but these Crown lands impractical for roading.
Pt Awarua 1DB2 (See Neal et al. Plate 16)	Ruahine Forest Park	No opportunities.	Aorangi (Awarua) Te Koau A	Separated from legal road line by Rangitikei River hydro parcel. Legal roadline impractical for roading as it traverses cliffs which also form most of the Makino Scenic Reserve that links the Forest Park to Mokai Road in this area.  Normally used access via Mangahoata road does not legally connect with block or hydro parcel. (Formed road crossed 3 privately owned properties)  Makino Scenic Reserve links Ruahine FP to Mokai Road but the reserve is composed of precipitous cliffs above the Rangitikei River
Awarua 2C8 (See Neal et al. Plate 18)	Nil	NA	Nil	Surrounded by general land
Awarua 2C13D (See Neal et al. Plate 19)	Nil	NA	Awarua 2C13C, Awarua 2C13J6, Awarua 2C13J3	
Awarua 2C13H2 (See Neal et al. Plate 20)	Nil	NA	Awarua 2C13J7	Fronts onto road parcel with two connections to the built road network. Not Landlocked

Name	Adjoining PCL block	PCL link to Road	Adjoining Māori blocks	Notes
Part Awarua 3A2J (Lot 1 DP 11254) (See Neal et al. Plate 21)	Nil	NA	Nil	Surrounded by general land
Awarua 3D3 Sec 17B (See Neal et al. Plate 22)	Nil	NA	Awarua 3D3 Sec 17C1	Small parcel surrounded on 3 sides by Māori Land (4 <sup>th</sup> side general land).
Awarua No 4A No 3C No 8A (See Neal et al. Plate 23)	Nil	NA	Nil	Surrounded by private land
Awarua 4C15F1A2C 5 (Shown on Neal et al. Plate 27 but not labelled)	Nil	NA	Awarua 4C15F1A2C4	
Awarua 4C15F1D (One of four adjoining parcels south west of Winiata with same barriers to road) (See Neal et al. Plate 27)	Nil	NA	Awarua 4C151H1 Awarua 4C15F1E Awarua 4C15F1F	Separated from legal road line by either private land and/or Land in MLC register
Awarua 4C15F1H1 (See Neal et al. Plate 27)	Nil	NA	Awarua 4C15F1D Awarua 4C15F1E Awarua 4C15F1F	Separated from legal road line by either private land or Land in MLC register
Awarua 7 Shown on Neal et al. Plate 27 but not labelled)	Nil	NA	Awarua 15F1A2E	Surrounded by Awarua 15F1A2E Neal et al dealt with access to the linked Awarua 5 block but did not comment on the land locked Urupa (Awarua 7)
Aorangi (Awarua) (See Neal et al. Plate 16)	Nil	NA (as above if linked with 1DB2)	Pt Awarua 1DB2	(as above if linked with 1DB2)
Awarua O Hinemanu ML 2657 (See Neal et al. Plate 2)	Ruahine Forest Park Awarua Conservation Area	Connections via Ruahine FP from intersections with Mangleton	Te Koau A	Links to the south and east to Mangleton Road would require significant engineering to surmount very steep faces and narrow “main range” ridge lines.

Name	Adjoining PCL block	PCL link to Road	Adjoining Māori blocks	Notes
		<p>Road all would require significant engineering to surmount very steep faces. No obvious westward linkages to roads.</p>		<p>Master's Shelter Road link to Ruahine Forest Park from Mangleton Road is a direct route to Awarua O Hinemanu block but steep with average slope of 22% with some sections over 100m climbs are &gt;50%.</p> <p>Average slope from Mangleton Road to crest of "Parks Peak ridge" via "Sentry box" spur is 34% but some sections over 100 m climbs are &gt;50%. Road building on the crest of the ridge from Pohatuhaha and Awarua O Hinemanu is likely to create significant environmental damage.</p> <p>Separated from "No Mans" DOC access road by Te Koau A although an access track has been built.</p> <p>Negotiated (or purchased) agreement to share use of farm access roads on Big Hill and to cross Te Koau A is the most practical option.</p>
Te Koau A (See Neal et al. Plate 2)	Ruahine Forest Park Awarua Conservation Area	<p>"No Mans" road intersects legal road line connection to Nelson Road and is located close to the legal road line at the Forest Park Boundary. Links to the North via Ruahine FP and Kaweka FP to "Comet" road would require significant engineering to surmount</p>	Awarua O Hinemanu ML 2657	<p>Engineering challenges to use the legal road line linking to the "No Mans" DOC access road are likely to be significant due to bridging and steepness issues.</p> <p>Links to the south and east to Mangleton Road would require significant engineering to surmount very steep faces and narrow "main range" ridge lines. (See Awarua O Hinemanu). Linking such routes to Te Koau A would also likely create significant environmental damage to the peat wetlands on the broad ridge crest that is the boundary between Awarua O Hinemanu and Ruahine Forest Park.</p>

Name	Adjoining PCL block	PCL link to Road	Adjoining Māori blocks	Notes
		very steep faces above the Taruarau river and bridging across the river.		Negotiated (or purchased) agreement to share use of farm access roads on Big Hill or Timahanga Stations are the most practical options.
Otamakapua 1G (See Neal et al. Plate 29)	Nil	NA		Block is linked to road parcel by section of land owned by “Kiwitea County Council” but land likely lost to accretion.
Otamakapua 2C (See Neal et al. Plate 30)	Nil	NA		
Part Taraketi 1D (See Neal et al. Plate 32)	Nil	NA	Part Taraketi 1C1	SH1 and Rail corridor adjoin

### Summary of Table 1 access and topography assessment

9. Before turning to the second methodology it might be useful to provide some summary of what the table tells us here? I summarise;
- 9.1 There are no obvious or easy answers apparent (unsurprisingly, if there were, they would have been developed before now);
- 9.2 The most practical routes all have intervening private land. I note these routes were the usual way of accessing these blocks from the times of initial pastoralism;
- 9.3 Even where PCL is adjoining, the challenges of topography (mountains, rivers, cliffs and steepness) would prevent access being developed. I also note that roading in these landscapes is often inimical to protection of biodiversity and soil and water protection;
- 9.4 Thirty nine (39) of the blocks examined have adjoining Māori owned land. It is not to be assumed that they are in common ownership nor that Māori landowners have a greater obligation than any other party to assist in resolving access issues however, at least in the case of some of them, it would appear that there could

be useful arrangements entered into (if not to resolve the problem in its entirety, to future proof against further sales or partitions)

- 9.5 A lot of the blocks identified in Neal et al draft report do not have PCL adjoining.

### **ROAD ACCESS POINTS**

10. As an alternative approach I considered the available connections for Kaimanawa, Kaweka and Ruahine Forest Parks (and contiguous public conservation land areas) to the NZ roading network, formed and unformed, and sought to briefly describe the nature of land between those linkages and the Owhaoko or other land-locked blocks.
11. Note: Other negotiated access routes exist e.g. access via Kaimanawa Road (access to Rangipo power station complex) and access via Kiko road across Lake Taupo Forest. I do not know if these access agreements would facilitate roading but note that both these access points have the same problems of terrain and distance separating them from the Owhaoko and Oruamatua-Kaimanawa blocks as do the four legal access points into Kaimanawa Forest Park discussed below.

### **Kaimanawa Forest Park and contiguous PCL areas**

12. Four linkages to public road network (formed and unformed) exist:
- 12.1 From SH1 (near summit of Desert Road) via poled access track (ie foot traffic only) into Otamateanui stream. Altitude exceeds 1400 metres above sea level (masl). Connection to Oruamatua-Kaimanawa 1U, 1V and 1W1 via lands administered by the Department does not exist although, as discussed below, was contemplated at one point.
- 12.2 Via section of Tongariro National Park to SH1 after crossing the Tongariro river. Separated from Owhaoko blocks by Umukarikari range (Umukarikari 1591 masl) and Kaimanawa 1F and Kaimanawa 2B blocks.

- 12.3 Clements Mill Road. Separated from Owhaoko blocks by high country. High points include Te Iringa (1240 masl), Ahipaepae (1193 masl) and Maungaorangi (1436 masl).
- 12.4 Unformed but marked route known as Poronui Access Route linking the park to Taharua Road. This road parcel terminates at the Mohaka river and was subject to considerable public conflict in the 1970s following the sale of Poronui Station to overseas interests.

*Summary for Kaimanawa*

13. Kaimanawa Forest Park does not provide any logical connections between the public road network and the Owhaoko lands.

**Kaweka Forest Park and contiguous areas**

14. Kaweka Forest Park is traversed by the Napier Taihape Road. On the northern side of the road direct access exists for areas of the Forest Park west of Kuripapango. One parcel of PCL (Pt Sec 1 SO 9588) separates the western “leg” of Owhaoko C7 from the Napier Taihape Road but Owhaoko C7 is traversed by the road further east. Slopes on the northern side of the road in this area are steep e.g. 28%.
15. South of the road Kaweka Forest Park is either accessed directly from the road or via the Comet Road that traverses the Kaikomata Range to a point where the ridge begins to rise steeply to Kaikomata high point (1083 masl.).
16. At Kuripapango the park is linked to the road via a narrow strip of PCL sandwiched between Crown Forestry area and the Ngaruroro river. The Department’s walking track at this point climbs to Kuripapango high point (1250 masl.) over about 2800 metres (27% slope).
17. Proceeding anti-clockwise from Kuripapango additional road connections to Kaweka Forest Park occur:
- 17.1 Where Te Kowhai road intersects a narrow strip of the park adjacent to Gorge Stream.

- 17.2 Where Whittle road intersects with Kaweka Forest Conservation Area that abuts Kaweka Forest Park. To the north east this road becomes Kaweka Road, a road built by the New Zealand Forest Service (**NZFS**) to provide access to the Makahu Saddle area.
- 17.3 Makahu road extends a short distance into Kaweka Forest Park giving access to the Mohaka river and the Mangatutu hot springs.
18. These access points are separated from the land locked Owhaoko blocks by the main Kaweka Range and the Ngaruroro river. The Kaweka range rises to over 1700 masl. From the Makahu Saddle (highest point of DOC's road) the crest of the range is about 800 metres higher over a distance of about 2600 metres (31% slope). Beyond the main range, average slopes into and out of the Ngaruroro river average about 50%.
19. Between Kuripapango and Whittle road the Department has four negotiated access points into Kaweka Forest Park. Vehicle access to these points crosses lands held under Crown Forestry Licence by PanPac Forestry. None of these access points provide less arduous access to the Owhaoko blocks through Kaweka Forest Park than those routes mentioned above.
20. The southern section of Kaweka Forest Park from the end of the Comet road provides a walking access link southwards towards the land locked Te Koau A and Awarua O Hinemanu blocks however this route must cross the Taruarau river and slopes into and out of this valley are in the order of 46%.

*Summary for Kaweka*

21. Kaweka Forest Park does not provide any logical connections between the public road network and the Owhaoko lands or Te Koau A and Awarua O Hinemanu.

**Ruahine Forest Park and contiguous areas**

22. The Ruahine Forest Park and contiguous areas within the Inquiry District have more legal connections to the public road network than the Kaimanawa or Kaweka Forest Parks but few have any practical potential for



formed access and very few (1) have any practical potential for formed access to land-locked Māori Land.

23. Beginning at the point where the Inquiry District boundary intersects the western boundary of Ruahine Forest Park and proceeding clockwise, those legal access points are:

23.1 Oroua riverbank road strip (unformed) linking Ruahine Forest Park to Table Flat Road via the partially formed Clark's Road. Largely impractical because it is mostly either cliff or riverbed accretion.

23.2 Unformed roads linking East Mangahuia road to Ruahine Forest Park either side of Scandlyn Creek. Feasible access but remote from any landlocked parcels.

23.3 Renfrew Road linkage to Ruahine Forest Park. Road is formed to Forest Park Boundary and is a key access point for visitors to the Rangiwahia hut. Remote from any landlocked parcels.

23.4 Unformed roads and marginal strips linking Mangawharariki Road to Ruahine Forest Park. Lower sections are largely impractical because they are mostly either cliff or riverbed accretion. Any linkage to Awarua 1A3B (landlocked) beyond the impractical proportion would need to traverse several unstable streams.

23.5 Pourangaki riverbank road parcel linking Upper Kawhatau Road to Ruahine Forest Park. Roadline is closest access to Awarua 1A3B but is entirely impractical because it is either cliff or riverbed accretion.

23.6 Hikurangi stream riverbank road parcel linking Upper Kawhatau Road to Ruahine Forest Park. Roadline is entirely impractical because it is either cliff or riverbed accretion.

23.7 Kawhatau river (true left) riverbank road parcel linking Upper Kawhatau Road to Ruahine Forest Park. Roadline is entirely impractical because it is either cliff or riverbed accretion.

- 23.8 Unformed road line linking Rangitane Road and Makopua Road to Ruahine Forest Park and Ruahine (West) Conservation Area. This is a developable access for persons wishing to access the Forest Park but is separated from any landlocked blocks by mountainous terrain including the headwaters of the Whakaurekou river
- 23.9 Unformed road line linking Mokai Road to Ruahine Forest Park via crest of Mokai Patea Range. Very steep, in places c. 70% average slope. Distant from landlocked parcels.
- 23.10 Unformed road line linking Mokai Road to Makino Scenic Reserve. The Reserve links to Ruahine Forest Park but is mostly cliff and would be entirely impractical as a road line.
- 23.11 Unformed road line linking Nelson Road to Ruahine Forest Park. This road line was examined by the Hastings District Council's Transport Operations Manager in 2010. His comments are part of document BFSupp-26 attached to my supplementary brief of evidence dated 8 March 2019.<sup>5</sup> I am not aware of any robust engineering assessment of the feasibility of creating a road on this line but note that it appears that at least 3 substantial bridges would be required if it were not possible to negotiate a divergence from the road line with the adjoining landowner (Big Hill Station).
- 23.12 Master's Shelter Road link to Ruahine Forest Park from Mangleton Road. Direct route to Awarua O Hinemanu block but steep with average slope of 22% and some sections >50%.
- 23.13 Marginal strips either side of Tarapeke stream linking Ruahine Forest Park to Mangleton Road. The marginal strips traverse cliffs and are not used for public access for that reason.
- 23.14 Sentry Box link to Mangleton Road. Possible link to Awarua O Hinemanu via Sentry Box ridge but average slope from Mangleton Road to crest of "Parks Peak ridge" via "Sentry box" spur is 33% but some sections over 100 m climb are >40%. Parks Peak ridge is narrow and steep either side.

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<sup>5</sup> Wai 2180, #M7(a) at 93 (BFSupp-26).

*Summary for Ruahine Forest Park*

24. Ruahine Forest Park does not provide any logical connections between the public road network and the landlocked lands with, perhaps, the exception of that described in 23.11 above (Nelson Road to Ruahine FP and hence to the “No Mans Road”).

**Summary for access across PCL and comparison with Neal et al. draft report**

25. The matters traversed above do not identify any reasonably practical solutions to improve access for landlocked Māori lands in the Inquiry District via PCL. This is not for want of trying but largely reflects the fact that such access is either prevented by topography or by intervening private land.

**HISTORIC EVIDENCE CONCERNING THE CURRENT SITUATION**

26. In preparing this evidence I have traversed DOC and New Zealand Forest Service (**NZFS**) files to understand what factors within the era of either the NZFS or DOC may have contributed to the current lack of access into the blocks.
27. In large part it appears that the decisions that resulted in blocks becoming landlocked can be traced back to either the initial title formation or the extensive partitioning that occurred before, or in, the early 1900s. That era is not in scope for my evidence and I have not investigated it in detail.
28. I set out below some historic narrative that may further complement the material already on the record about:
- 28.1 NZFS 1970s unsuccessful dealings to secure a southern route into the Kaimanawas including the role of Oruamatua-Kaimanawa 1V in those intentions; and
- 28.2 How DOC became the administering agency for blocks.

**NZFS Owhaoko and Oruamatua – Kaimanawa land control aspirations and Owhaoko D6,2 exchange for Pt Owhaoko D7B.**

29. The Crown’s attempts to purchase Owhaoko lands are described in Fisher and Stirling.<sup>6</sup> Owhaoko D6 part 2 was one of the few parcels successfully acquired and was purchased on 11 December 1913. Because the land was purchased it was not part of the Owhaoko gift blocks return process.
30. Turning to the 1970s and the other blocks, the landlocked lands north of the Napier Taihape road had been of considerable interest to DOC’s predecessor agency the NZFS in the 1970s for the purposes of access to Kaimanawa Forest Park. I have attempted to provide some context for that interest which differs from the interest described in Fisher and Stirling in the 1960s as “Ngaruroro Catchment Scheme of the late 1960s.”
31. Briefings from the Director General of Forests to the Minister of Forests dated 19 April 1974 (annexed as **BF2Supp1**)<sup>7</sup> and 30 August 1974 (annexed as **BF2Supp2**) while focussed on the possible purchase of Oruamatua-Kaimanawa 1V, illustrate that NZFS was attempting to establish Crown owned access to the southern boundary of Kaimanawa Forest Park in the face of potential competing land uses and ownership changes. A thriving market for venison was behind competing private or commercial interests that would be inimical to the public’s ability to access the Forest Park.
32. That theme and the implications arising from the Crown’s planned return of the Owhaoko gift blocks were commented on in a Valuation report prepared for NZFS by the Valuation Department in April 1974 (annexed as **BF2Supp3**). In that report the Supervising Valuer commented:

Lakeland [a company engaged in commercial hunting activities] are hoping to extend their area with the inclusion of the Owhaoka [sic.] Gift blocks. They had already made a similar type deal with the owners of Oruamatua-Kaimanawa No. 4 after the Crown had resumed the land for defence purposes and have a landing-rights arrangement with Tremain and McNutt for the Boyd airstrip. You will be aware that if they are permitted to retain their rights in the Oruamatua-Kaimanawa No 4 and gain the gift blocks as well, they

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<sup>6</sup> Wai 2180 #A6.

<sup>7</sup> To clarify appellation of Exhibits:

Exhibits to B Fleury Brief of Evidence (Wai 2180, #M7(a)) are Exhibit **BF1**, **BF2**, **BF 3** etc;

Exhibits to first supplementary evidence (Wai 2180, #M7(d)) are Exhibit **BFSupp1**, **BFSupp2**, **BFSupp3** etc;

Exhibits to this second supplementary brief of evidence are **BF2Supp1**, **BF2Supp2**, **BF2Supp3** etc.

control nearly all the practical access to the South Western end of the park. They are in the process of creating a private hunting preserve that includes probably 20,000 ha of Crown Forest Park. It is a fact that this situation has persisted for a long time already, the point being that public access to this portion of the park is further away than ever and Lakelands and the owners' actions are designed to make it that way.

33. While the Crown had been desirous of purchasing the Owhaoko lands, by the early 1980s it had not achieved these aims and Owhaoko D6 part 2 was effectively landlocked by Ngamatea Station and other adjoining lands. Potential access from the Napier Taihape Road to that block and through to the Kaimanawa Forest Park had been denied by the owners of that station (see letter annexed as **BF2Supp4**).
34. By 1983, NZFS was attempting to negotiate a lease for the Owhaoko gift blocks (then administered by the Tūwharetoa Trust) with the view of acquiring the lands for “soil and water conservation primarily, and public recreation secondarily” (see letter annexed as **BF2Supp5**). Owhaoko D6.2 was not a key plank in this strategy but, if the lease of the “gift” blocks could be achieved, a link between Kaimanawa Forest Park and the then leased Oruamatua Kaimanawa 1V block was. Ngamatea Station was also keen to purchase Owhaoko D6.2.
35. In explanation of the exchange of Owhaoko D6 part 2 for Pt Owhaoko D7B the NZFS noted that:
- “The value of the land acquired from Ngamatea lies in the link that it provides between the land-locked Motumatai lease area (Oruamatua Kaimanawa 1V), and the Owhaoko Blocks over which we continue to negotiate with the Tūwharetoa Trust.”
36. NZFS also noted that the Owhaoko blocks:<sup>8</sup>
- “will allow public access from the Napier-Taihape Road and this is something we have been seeking for many years. At present access to the Kaimanawa Forest Park is restricted to the various routes from the Desert Road, with no access at all from the south.”
37. The NZFS strategy for linking Kaimanawa Forest Park (and Kaweka Forest Park) with the Napier-Taihape Road via a lease of the Owhaoko gift blocks is shown on a plan provided to the Commissioner of Crown Land for the information of the Ombudsman (annexed as **BF2Supp6**).

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<sup>8</sup> See letter annexed as **BF2Supp5**.

38. The Ombudsman investigated the exchange of Owhaoko D6 part 2 for Pt. Owhaoko D7B following a complaint by Mr H.W. Steedman. The Ombudsman did not sustain Mr Steedman's complaint. In a letter to the Chief Surveyor of Crown Land accompanying a copy of the Ombudsman's report the Māori Land Court Deputy Registrar describes the refusal of Ngamatea Station owners to allow access to Owhaoko D6.3 (annexed as **BF2Supp7**). It is apparent that Owhaoko D6.2 did not provide an access route for the owners of Owhaoko D6.3 because the same permission from Ngamatea would have been required to access Owhaoko D6.2 before transiting to Owhaoko D6.3.
39. It appears that the Deputy Registrar may have interpreted the NZFS proposals for access to Kaimanawa Forest Park as a proposal for a road that may then have provided access to Owhaoko D6.3 for the owners of that land. It is not clear whether or not he appreciated that the NZFS plans included leasing Owhaoko D6.3.<sup>9</sup>
40. Today, the key block that could have provided the sought-after link to the Napier Taihape Road is owned by the Owhaoko C Trust as Māori Freehold land.<sup>10</sup>

#### **Oruamatua Kaimanawa blocks**

41. There is some evidence that, following the acquisition of Oruamatua-Kaimanawa 4 for defence purposes, linkage to the Oruamatua Kaimanawa 1W, 1V and 1 U blocks was intended. I understand the following documents were provided by, and the events were discussed in, Mr Pennefather's evidence for the New Zealand Defence Force but in summary:

41.1 In July 1974, at a meeting attended by the Secretary of Defence, the Chief of General Staff and the Director General of Forests, the future of the Oruamatua-Kaimanawa block 4 was discussed. This discussion took place around other discussions relating to the

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<sup>9</sup> See letter from Māori Land Court Deputy Registrar to Chief Surveyor, annexed to this brief as **BF2Supp4**.

<sup>10</sup> 59 Tākitimu MB 289 (59 TKT 289).

exchange of land held by Defence for part Kaimanawa 3B (pt. Kaimanawa FP) thereby creating the access from SH1.

- 41.2 NZFS notes of the meeting (annexed as **BF2Supp8**) note “Eventually the northern part of Oruamatua-Kaimanawa 4 will be transferred to Forest Service”. NZFS appears to have attempted to bring the boundary southwards into the Ngawakaakauae stream but were unsuccessful with a boundary described that traverses along the Motumatai range crest.
- 41.3 The signed minutes of the meeting<sup>11</sup> record that Defence had, at that time, no real need of the northern slopes but that the parties were mindful of the need to engage with the previous owners of Oruamatua-Kaimanawa 4 and also mindful of the then current political climate with respect to Crown acquisitions of Māori Land areas.
- 41.4 No record of further discussions on this matter were found on the NZFS file (9/3/361) which remained active until February 1986. One associated reference was located on the NZFS file 9/51/9 covering the land exchange with Ngamatea Station.
- 41.5 In a letter dated 14 October 1981 (annexed as **BF2Supp9**) (the Secretary for Defence raised concerns about NZFS attempts to purchase or lease blocks that would have linked Oruamatua 1 U, V and W blocks with the Napier Taihape Road. The Secretary advises of the Ministry’s proposals to expand activities into the blocks of interest to the NZFS “in the national interest”. I surmise that this advice effectively gazumped the NZFS aspirations in this area and signalled that Defence probably would not then consider they had no real use for the northern section of Oruamatua-Kaimanawa.

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<sup>11</sup> These minutes are already on the record as an exhibit to the brief of evidence of Mr Gary Pennefather: Wai 2180, #M3(a) at 68 (Exhibit GMP21).

### Transfer of Crown Lands to Department of Conservation administration

42. During Hearing Week 9, information was requested relating to how lands came to be administered by the Department of Conservation.<sup>12</sup>
43. Most of the land parcels currently administered by DOC were previously administered by either the NZFS or the Department of Lands and Survey. As a general process during the government's environmental restructuring in 1987, most Crown lands with natural conservation values and managed by government agencies were transferred to the Department. Thus, the majority of lands forming the natural landscapes of Kaimanawa, Kaweka and Ruahine Forest Parks were transferred to DOC. Exceptions were those lands that were held primarily for either production forestry or farm development.
44. There are about 167,097 Ha of DOC administered lands within the inquiry district. (Note, this estimate does not include many small parcels.) Of the approximately 167,097 Ha, 91% were at some point gazetted as State Forest. Those Gazettals began in the 1880s and continued into the 1980s. As shown in Table 2, 7% of the lands identified were gazetted in the 1970s or 1980s.

**Table 2: Proportion of land gazetted in each decade**

<b>Decade beginning</b>	<b>Percentage of total (167,097 Ha)</b>
1880	12
1900	27
1920	2
1930	16
1940	19
1950	1
1960	7
1970	5
1980	2
Not gazetted state forest or detail not located	9

45. Areas of State Forest were mostly amalgamated into Forest Parks in the 1970s. Kaweka Forest Park was established in 1974, Kaimanawa Forest Park in 1976 and Ruahine Forest Park in 1976. A small number of

<sup>12</sup> DOC staff, particularly Mr Doug Anderson, have assisted me in attempting to summarise the pathways by which individual parcels of Crown land were identified to be administered by the Department of Conservation set out in this section.



additional areas totalling about 1100 ha were added to these forest parks during the period 1979 - 1987.

46. Between 1987 and 1993, 649 Ha were added to the lands administered by DOC forming three new conservation areas linked to the Forest Parks but not formally made part of those Parks. The sites are, Ruahine Forest (West) Conservation Area, Ruahine Forest (East) Conservation Area and Kaweka Conservation Area. These areas generally came to DOC at the completion of boundary adjustments or processes initiated prior to 1987 but not completed at the time DOC was established. For example, lands received from Big Hill Station (exchange described in my supplementary brief of evidence to Hearing Week 9)<sup>13</sup> became part of Ruahine Forest (East) Conservation Area.
47. Parcels comprising Hihitahi Forest were gazetted as State Forest at various times: 1934, 1956 and 1961. In March 1973 those parcels were all gazetted as Hihitahi Forest Sanctuary with administration transferring to DOC in April 1987 bringing the land under the Conservation Act.
48. Scenic and other lands administered under the Reserves Act that were assigned to DOC in 1987 retained their status and continue to be administered under the Reserves Act.
49. Of the 167,097 Ha identified in this analysis, 156,616 Ha (94%) was assigned to the Department of Conservation in April 1987.
50. Gazettal history for individual parcels included in the above analysis is available on request although I note that, as at the date of signing some work is continuing on the database.

## **FURTHER MATTER**

### **Comment on Affidavit of William Alexander Glazebrook**

51. During Hearing Week 9, I provided evidence on the “Big Hill Station Access”.<sup>14</sup> The proprietor of that station, Mr Glazebrook, has lodged an affidavit dated 20 March 2019 commenting on some of the matters covered

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<sup>13</sup> Wai 2180, #M7(d).

<sup>14</sup> Wai 2180, #M7(d).

in my evidence.<sup>15</sup> Counsel for the Crown provided a copy of that affidavit to me and has asked me to respond to it to assist the Tribunal.

52. Mr Glazebrook suggests I did not attach a complete copy of his letter to Terry Pellet.<sup>16</sup> Both pages of that letter are provided in Exhibit BFSupp-13.<sup>17</sup>
53. Mr Glazebrook refers to a “situation” he inherited in 1987. In my supplementary evidence (Wai 2180 #M7(d)) concerning DOC land exchanges I identified that the question of access through Big Hill Station was a matter of negotiation between the Crown (NZ Forest Service) and the station owners from about 1969 and negotiations (including a land exchange) were concluded in December 1980. My evidence traverses the protocols for use of the easement established under NZFS and agreed with Big Hill in 1983, the uncertainties and confusion arising during initial change of management from Forest Service to DOC, and the subsequent activities pertaining to the use of this easement.
54. Mr Glazebrook, paragraph [3], describes a necessity “to tighten up control of decision making about who could enter, and something that was more respectful of landowner interests”. Further, in paragraph [7], he asserts that I have emphasised the “legal right established by the registered document without reference to the underlying agreement”. In my view, the tightening up of control described can be seen as contrary to (or at least in tension with) the original agreement. This is described at paragraph [19] of Mr Glazebrook’s exhibit “C”.<sup>18</sup> I am not a lawyer and do not venture any legal opinion here, however it is my view that the research I have undertaken should allow future discussions between DOC and Big Hill to be based on the legal agreements between the parties.
55. Mr Glazebrook suggests that direct alternative access to Māori Land in the vicinity could be gained from Mangleton Road.<sup>19</sup> I have assumed that he refers to access to Te Koau A. I have not been able to identify any such

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<sup>15</sup> Wai 2180, #M23.

<sup>16</sup> Wai 2180, #M23 at [3]. I note the correct spelling of that person’s name is Terry Pellet.

<sup>17</sup> Wai 2180, #M7(a) at 51-52 (BFSupp-13).

<sup>18</sup> Wai 2180, #M23 at 17 (Exhibit C).

<sup>19</sup> Wai 2180, #M23 at [8].

opportunities. Two possible routes exist on land administered by DOC from Mangleton Road to the Awarua O Hinemanu block. However, those links would require significant engineering to surmount very steep faces and narrow ridge crests.

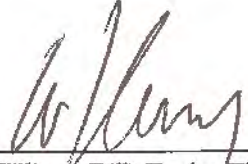
- 55.1 The “Master’s Shelter” road link to Ruahine Forest Park from Mangleton Road via Golden Crown ridge is a direct route to Awarua O Hinemanu block but is steep to very steep with average slope of 22% with some sections over a 100 m climb exceeding 50%.
- 55.2 The average slope from Mangleton Road to the crest of “Parks Peak ridge” via “Sentry box” spur is 34% but some sections over a 100 m climb also exceeding 50%.
56. Mr Glazebrook suggests that a track suitable for a 4-wheeler and trailer could be built.<sup>20</sup>
- 56.1 It is my understanding that construction of a road or 4wd track on public conservation land would need to result in a road that is safe for public use and be closer to the standard described in Neal et al. draft report. A road of about 10% average slope on this line would need to traverse some 8 kilometres to account for the rise.
- 56.2 I have not sought to assess the ecological, physical and RMA barriers to creation of such a road but would expect them to be considerable given the mountainous terrain and location of the site within the Tukituki catchment.
57. The Department has an existing road that could give access to both Awarua O Hinemanu and Te Koau A, where the ecological damage has already occurred, the physical barriers have been overcome and we do not need to seek a new RMA consent. We do wish to “do right” by all our neighbours as their cooperation and support is necessary to further conservation work in the area.

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<sup>20</sup> Wai 2180, #M23 at [8.4].

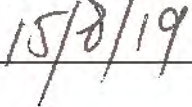
58. Therefore, DOC continues to support the owners reaching their own workable arrangement with Big Hill (or Timahanga). Should that not be possible, DOC wishes to concentrate on considering how the existing easement and the underlying agreement with Big Hill might provide for access by the owners of Te Koau A and Awarua O Hinemanu (to the extent doing so furthers conservation purposes and is consistent with other legal obligations of DOC (including under section 4 and possible legal obligations to Big Hill station)).

Signed:

  
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William (Bill) Eccles Fleury

Date:

  
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