IN THE WAITANGI TRIBUNAL

Wai 2180, Wai 1705, Wai 647, Wai 588, Wai 385, Wai 581, Wai 1888

IN THE MATTER OF	the Treaty of Waitangi Act 1975 and the Taihape: Rangitikei ki Rangipo Inquiry (Wai 2180)
IN THE MATTER OF	a claim by Isaac Hunter, Utiku Potaka, Maria Taiuru, Hari Benevides, Moira Raukawa-Haskell, Te Rangianganoa Hawira, Kelly Thompson, Barbara Ball and Richard Steedman on behalf of themselves, the Iwi organisations who have authorised them to make this claim and the Mōkai Pātea Waitangi Claims Trust (**Wai 1705**)
AND	a claim by Maria Taiuru and others for and on behalf of Wai 647 Claimants (**Wai 647**)
AND	a claim by Isaac Hunter and Maria Taiuru and others for and on behalf of the Wai 588 Claimants (**Wai 588**)
AND	a claim by Neville Franze Te Ngahoa Lomax and others for and behalf of the Potaka Whanau Trust and Nga Hapu o Ngati Hauiti (**Wai 385**)
AND	a claim by Neville Franze Te Ngahoa Lomax and others for and behalf of Te Runanga o Ngati Hauiti (**Wai 581**)
AND	a claim by Iria Te Rangi Halbert and others for and behalf of the Wai 1888 Claimants (**Wai 1888**)

Closing Submissions on Landlocked Land Claims
10 February 2020

Solicitor
Leo Watson
Barrister and Solicitor
342 Gloucester Street, Taradale
Napier 4112

Telephone: 06-650 7119
Mobile: 027 274 9068
Email: leowatson@paradise.net.nz

Counsel Acting: L H Watson

E te paepae Taraipunara, tena koutou

1. These closing submissions on landlocked land claims are filed on behalf of the Mōkai Pātea claimants. Counsel adopts the generic submissions on landlocked lands, filed on 5 February 2020. Counsel is grateful for the exposition of the tenurial history which gave rise to landlocked land.[1]

Cultural perspectives as to Access to Whenua

2. Moana Jackson describes colonisation as the requirement that Maori no longer source the right to do anything in the rules of their own law, instead relying on Pakeha law for the definition of those rights. Colonisation requires that Maori "*seek permission from an alien word to do those things which* [*our*] *philosophy* [*has*] *permitted for centuries.*"[2]

3. The Mōkai Pātea claims are centred on the fact that under their tikanga, Mōkai Pātea exercised tino rangatiratanga to their lands, kainga, and taonga, and that this was affirmed and guaranteed by Article II of Te Tiriti o Waitangi.

4. As such, when considering claims concerning landlocked land, Mōkai Pātea claimants locate their claims within the context of that fundamental Treaty guarantee. How did their tikanga provide for a practical matter such as access to their whenua? Has that tikanga been affirmed and guaranteed by the Crown?

5. Claimant witnesses have consistently given evidence that access to their own whenua is a critical aspect of their connection to, and use

[1] Three cases of relevance to the tenure history and impact on Māori customary rights and access to whenua are: *Riddiford (Re Pukaroro No 1)* (1996) 11 Takitimu Appellate MB 170-183; Burke v MacLeod (unreported, HC Dunedin, CIV-2004-412-375, 15 November 2006); and *In Re Utakura 7 Block* (2010) 7 Taitokerau MB 71.

[2] Moana Jackson "The Treaty and the Word: The Colonisation of Maori Philosophy" in Graham Oddie and Roy Perrett (eds) *Justice, Ethics and New Zealand Society* (Oxford University Press, Auckland, 1992)p 6.

of, their land and the natural resources on their land.[3] In addition to the Mōkai Pātea witnesses, counsel acknowledges the contributions from all claimant witnesses in this inquiry which have illustrated the broad and consistent impacts of this issue throughout the inquiry district. Mōkai Pātea claimants also acknowledge the technical research of Ms Woodley (#A37) on landlocked land, and the later practical assessment of the blocks by Mssrs Alexander, Gywn and Neal (#N1).

6. These submissions respectfully suggest three ways in which a cultural perspective on the issue of landlocked land might assist this Tribunal.

7. Firstly, by way of whakataukī, there are a range of important proverbs which point to the importance of connection to the whenua. The following is a well-known example:

Taku ahi tūtata, taku mata kikoha
Taku ahi mamao, taku mata kiporo

[When my fire is close by, the point of the weapon is sharp,
but when the fire is distant the point is blunt][4]

8. Another example from Te Rangituouru, rangatira of Mōkai Pātea, as has been quoted in evidence to this Tribunal:

I te Raumati, i te Makariri,
Ka Kai i te Hinu o te Whenua

[Whether in summer or in winter, we live off the fat of our lands].

9. Secondly, in his analysis of tikanga as law, Chief Judge E Durie (as he then was) summarised the importance of whakapapa (ascription), but also connection and use (subscription) in terms of the basis of individual land rights.

> "The next major proposition I suggest, is that individual land rights accrued from a combination of ascription and subscription, from

[3] For example, Tama Wipaki #G1; Richard Steedman #G13, Ritchie Chase #G4; Richard Steedman #O3.
[4] Mead, H., *Tikanga Māori: Living by Māori Values* (Huia Publishers, 2003), pg 335

> belonging to the community and from subscribing to it on a regular basis. While the community's right to land, in pure terms, was by descent from the earth of that place, the individual's right required both membership and contribution. Descent alone was not enough. Descent gave a right of entry, but since Maori had links with many hapu and could enter any one, use rights depended as well on residence, participation in the community, contribution to its wealth and the observance of its norms."[5]

10. Descent was not enough. In addition was the use right, and this necessarily requires a right to access.

11. A third cultural perspective as to access is from Professor Mason Durie, who has developed an approach to the assessment of cultural wellbeing, which includes as a fundamental principle, measuring the level of access of Māori to their Māori world. He provided evidence in 2002 to the Waitangi Tribunal hearing the Wai 262 claim and said:[6]

> "Maori land is important for economic development but, more than that, remains a cornerstone for Maori identity and a sense of continuity with the past. It further forms the basis of a renewed and meaningful relationship with all the resources of Papatuanuku and Ranginui. Although there are thousands of Maori who can claim ownership (in part) over blocks of Maori land, there is also evidence that many Maori have been totally alienated from a customary land base. The longitudinal study of Maori households, Te Hoe Nuku Roa, reveals that in the Manawatu-Whanganui, Wellington, and Tairawhiti regions more than one-third of Maori adults have no access to Maori land, nor do they receive any financial benefits from it. Almost half as many again do not know whether they have land entitlements at all. A challenge for the future will be to repatriate all Maori people so that being Maori makes real sense, not only in cultural terms but also in having a place to call home, turangawaewae."

12. His explanation of the longitudinal study being undertaken by Massey University (Te Hoe Nuku Roa) established that Maori health was improved if there was a clear connection of Maori individuals to te ao Maori. That included a connection to their whenua, marae, reo, tikanga and to their natural resources.

---

[5] Durie, E.T., "Will the Settlers Settle? Cultural Conciliation and Law", FW Guest Memorial Lecture 1996, *Otago Law Review* (1996) Vol 8, No.4, page 453.
[6] Waitangi Tribunal Inquiry (Wai 262), document #K14, Brief of evidence of Professor Mason Durie, 31 January 2002, para 5.

13. Professor Durie also writes of the capacity of whānau to perform those tasks which Māori expect of whānau. He identifies five critical capacities:[7]

13.1 The capacity to care (manaakitia), but where an absence of material and social resources counts against caring for others.

13.2 The capacity to share (tohatohatia), which is again dependent on access to the resources to distribute among the collective.

13.3 The capacity for guardianship, referred to as "pupuri taonga", acting as a wise manager of cultural heritage, meaning "that whanau members will be able to gain access to those cultural and physical resources to which they have an entitlement";

13.4 The capacity to empower (whakamana), especially in the development of human capital;

13.5 The capacity to plan ahead (whakatakoto tikanga), where long-term planning and developmental plans are key to survival.

14. In describing the deficit of Māori whanau to implement these capacities, Professor Durie uses the phrase "whanau tū-mokemoke" being isolated whanau who are alienated from their Māori networks.

15. The same approach can be applied to whenua. Where land is "**Whenua Tū-mokemoke**", it is whenua which has become isolated from those who are entitled to exercise their mana whenua, and in a manner which fundamentally impacts the ability of the whenua itself to care for, provide for, empower, grow and develop the well-being of its tangata whenua.

[7] Durie, Mason, *Ngā Kāhui Pou – Launching Māori Futures* (Huia Publishers, 2003), pgs 22-25.

Mōkai Pātea Statement of Claim re access to whenua

16. The amended Statement of Claim for Mōkai Pātea claims includes the following:

5. Native Land Title System

5.1. The Crown introduced laws, ordinances and policies which prejudicially affected customary land tenure allowing for Crown acquisition, leasing and compulsory acquisition, and the establishment of the Native Land Court to impose individualised and fragmented titles and significant cost.

1. Particulars

2. A title system was imposed which failed to acknowledge and explicitly subverted the tribal authority and tino rangatiratanga of Ngā Iwi o Mōkai Pātea;

3. Aggressive Crown purchasing of land failed to ensure the adequate retention of quality land by Ngā Iwi o Mōkai Pātea;

4. Land not acquired by the Crown was required to be held by way of individual shares, and with no cohesive decision-making authority, which hampered the ability of Ngā Iwi o Mōkai Pātea to take advantage of development opportunities, and which facilitated alienation of small interests;

5. Land was held by way of fragmented interests spread across blocks in the rohe, insufficient to support rational economic units;

6. Title investigations, partitions and re-hearings took place during winter, away from the kainga of Mōkai Pātea and caused hardship, sickness, cost and prejudice;

7. Title investigation court costs and survey liens created financial debt and personal hardship;

8. Investigations and dealings were conducted with persons who did not hold customary title to the lands in question, resulting in re-hearings, disputes and stresses on whānaungatanga relationships;

9. Land ownership was further reduced through land-takings for roads, railways, townships, reserves, schools and other public purposes;

10. A lack of financial and support systems for owners to develop lands, with government initiatives (such as the Advances to Settler Act 1894) being practically unavailable to Māori owners;

11. Rates and charges, including rabbit rates, were imposed on Māori land in circumstances where collectively held title by a fragmented population caused rating liability to rise;

12. **The partitioning of land interests failed to adequately consider future needs of Ngā Iwi o Mōkai Pātea whereby blocks became practically or legally landlocked, resulting in prejudice, loss of rental value, or adverse occupation;**

13. A forced migration of whanau out of their tribal rohe to survive compounded the disadvantages caused by absentee owners.

Statement of Issues (Wai 2180, #1.4.3, Issue 11 (Questions 1-4))

17. The Tribunal's Statement of Issues categorises issues associated with landlocked land by asking four high-level questions:

    (1) What legislative frameworks resulted in the creation, or enablement, of landlocked titles and who administered those titles?
    To what extent was the Crown aware of such effects prior to, and following the determination of title?

    (2) Do the Crown and its delegated local authorities have an obligation to Taihape Māori to provide legal access to landlocked lands in the Taihape inquiry district?

    (3) What attempts, if any, have been made by the Crown and local authorities to provide access to landlocked land? Have such provisions been made equally for both Taihape Māori and non-Māori landlocked land? If not, why not?

    (4) To what extent did restricted access to landlocked land:
        (a) Limit the potential economic development of Taihape Māori?
        (b) Cause the loss of rental value?
        (c) Impede the ability of Taihape Māori to access wahi tapu sites?
        (d) Cause further expense to Taihape Māori in order to retain those landlocked lands?

"Presumption as to breach" and burden on Crown to rebut

18. Counsel refers to previous submissions on this point, as set out in a memorandum of counsel dated 27 February 2018, and oral submissions thereon at the Week 5, March 2018 hearing at Rata Marae.

19. Counsel respectfully considers that it is appropriate for the Tribunal to commence at a baseline presumption that Māori land should have reasonable lawful access, granted under the new title system that the Crown introduced, and that where Māori land does not have reasonable lawful access, then this is a breach of the principles of Te Tiriti o Waitangi. Counsel relies on the Mōkai Pātea statement of

claim, and the generic submissions on landlocked land dated 5 February 2020, as to the outline of the relevant Treaty principles:

19.1 Breach of the principle of tino rangatiratanga

19.2 Breach of the principle of active protection

19.3 Breach of the principle of good faith, reasonableness and equity; and

19.4 Breach of the principle of development.

20. Counsel submits that such a presumption of Treaty breach would then be available for rebuttal by the Crown on a case by case basis. For example, there might be cases where the evidence shows that the landowners themselves were at fault in failing to meet requirements for legal access. Counsel is not aware of any such evidence on the record.

21. The narrative within the Mōkai Pātea rohe is worse than simply a legislative regime that has failed to actively protect Māori landowners in terms of access to their whenua. In relation to significant land-holdings, Mōkai Pātea claimants have been on the receiving end of various failures by the Department of Conservation, and the Ministry of Defence, to properly take into account, and provide for, the needs of Māori landowners at various times when those agencies were negotiating with private landowners to further their own Crown aspirations.

22. In particular, Mōkai Pātea claimants rely on the evidence of Richard Steedman at the hearing in Moawhango Marae on 20 November 2019, where he summarised the series of missed opportunities by the Crown agencies, resulting in the continued landlocked status for significant blocks within the Mōkai Pātea rohe:

22.1 The Crown negotiations regarding the Timahanga access to Te Koau A;

22.2 The Crown negotiations and land swaps with Big Hill Station to access the Ruahine Forest Park, affecting opportunities to create meaningful access to Awarua o Hinemanu;

22.3 The Crown return of Owhaoko gift lands, missing an opportunity to provide for appropriate access for the Māori owners;

22.4 The Crown land swaps involving Owhaoko blocks (for its own purposes to access the Kaimanawa Forest Park), where Owhaoko D6 2 (Crown land) was exchanged for Part Owhaoko D7 B (Ngamatea Station);

22.5 The Crown's land swaps for its own purposes concerning the Oruamatua Kaimanawa 1U and 1V blocks;

22.6 The Crown's taking of Oruamatua Kaimanawa 4 for defence purposes and maintaining ownership when the land was not needed for defence purposes, missing an opportunity to facilitate access for Māori owners to their Owhaoko D blocks.

23. In referring to both the cultural and the economic/social aspects of how landlocked land impacts on the claimants, Mr Richad Steedman gave evidence of the "crushing" of whanau aspirations, not to mention the development potential of Māori land that was lost.[8]

Current Barriers to Solutions

24. In the absence of a rebuttal to the presumption, and where the Tribunal can therefore make a finding of breach, the focus then turns to each of the Māori land blocks in the inquiry district, to assess and determine the current practical barriers to unlocking the blocks; and the opportunities available to unlock the blocks. To a certain extent,

[8] Wai 2180, #O3.

the Tribunal has facilitated this assessment process by allowing gap-filling research from Alexander, Gywn and Neal[9] which has focused on each block in the district. There has been evidence from the Crown (Hippolite/Ohia as to the Te Puni Kokiri block assessment and Fleury as to Department of Conservation lands) which also addressed practical access issues.

25. What has become clear to the Mōkai Pātea claimants is that there are two major obstacles, both of which can be significantly alleviated by way of this Tribunal's urgent findings and recommendations:

25.1 The first obstacle is the Crown's lack of prioritisation of landlocked land within its Māori land policy. Long-held concerns about constraints (rating, resource management, compulsory acquisition, landlocked lands, paper roads, and access to finance, among others) have continued to wallow since the 1980s, where the Crown has simply not put comparable energy and focus to engage with Maori and find solutions;[10] and

25.2 The second obstacle is that the solution to unlocking landlocked land is primarily financial.

Waitangi Tribunal's preliminary views on landlocked lands (Wai 2180, #2.6.65)

26. The Mōkai Pātea claimants respectfully adopt the reasoning of the Tribunal in its preliminary views on landlocked land, issued on 14 August 2018. That memorandum-directions addressed the questions in the Statement of Issues, and (it is submitted) the subsequent evidence heard by the Tribunal has only strengthened the validity of those preliminary views. That is:

[9] Wai 2180, #N1 Alexander, Gwyn and Neal, *Māori Landlocked Lands.*
[10] Waitangi Tribunal report *He Kura Whenua Ka Rokohanga* (Wai 2478), 2016

26.1 The Crown has the obligation to provide legal access to lands held by Mōkai Pātea;

26.2 The Crown's imposition of an individualised land tenure system fundamentally altered the customary title, and resulted in land titles which were fragmented, partitioned, uneconomic and often landlocked.

> "Māori of the Taihape district who held land prior to the Crown's introduction of its title system already held their lands under the tikanga of the time. When the Crown imposed upon Taihape Māori a form of legally recognised title for their lands, and provided a process for subdivision and even purchase for those lands, Māori were entitled to expect adequate protections, including of access, for those lands they chose to retain in Māori title. …. The responsibility to ensure protection and reasonable remedies lay with the Crown, and based on the evidence received to date, we have experienced some difficulty in identifying how and where that obligation has been discharged in a manner that is congruent with the Crown's responsibilities under Treaty principles."[11]

27. The Tribunal made some initial recommendations which would balance the private rights of landowners with the need to remedy the landlocked land problem. As has become a theme during the hearings on landlocked land, the key constraint is financial. The Mōkai Pātea claimants respectfully adopt the suggestion of a contestable fund to which Māori landowners can apply, to meet the costs of obtaining reasonable access to their whenua.

Examples of significant Crown expenditure on analogous issues

28. The following are examples of where Crown funding has been made available on a significant scale to deal with long-standing deficiencies in relation to land titles, particularly where there are private property rights held by non-Māori which also need to be navigated.

[11] Wai 2180, #2.6.65, para 31.

High Country Tenure Review example

29. By way of background, the tenure review system was introduced through the Lands Act 1948 and then the Crown Pastoral Leases Act 1998 after the Crown acquisition of high country land had been leased to farmers since the 1850s. "Tenure review" is the process whereby the Crown sought to exit its role as lessor, by transferring all Crown pastoral land to either public conservation land or into private ownership. This required significant Crown fiscal commitment to achieve. For example:[12]

> "For the three years ended 30 June 2008, Crown capital expenditure by LINZ on tenure review and whole property purchases totalled $36,385,000 and revenue from leaseholders purchasing freehold title $4,137,000 – giving a net LINZ expenditure of $32,248,000 (or an annual average of about $10,750,000)."

30. An analysis in 2017 by Dr Ann Brower, senior lecturer in environmental management at Lincoln University estimated that over a 25 year period:[13]

> "the Crown has purchased leasehold rights to more than 330,000 hectares for about $117 million; and leaseholders have purchased freehold rights to more than 370,000 hectares with higher production potential for about $62 million."

31. The tenure review process has been recommended by the current government to be disestablished.

Maori Reserved Lands example

32. Land reserved for Māori by the Crown during purchasing had been administered by Crown agencies, and latterly, the Māori Trustee. However, lessees of the land had benefited considerably from a tenure system which had effectively reduced the rental payable to the Māori landowners to a "peppercorn".

---

[12] Cabinet Business Committee Minute, CBC 19-MIN-0001, para 52. Available for download at www.linz.govt.nz

[13] Brower, A., "A Case of Using Property Rights to Manage Natural Resources", Case Studies in the Environment, University of California, December 2017 1(1) 1-6 (https://cse.ucpress.edu/content/1/1/1.1)

33. By way of the Māori Reserved Lands Amendment Act 1997, a set of complicated provisions were enacted to provide for fair market rentals, and a process for compensation to both the lessees and the lessors. A Te Puni Kokiri report summarises the initial costs to the Crown:[14]

> "Under the 1997 Act approximately $95 million was provided for lessors and lessees, comprising some $66 million to the lessees and $29 million to the lessors. The major component of the compensation for lessees was compensation for additional future rent due to the move from 21 year to 7 year rent reviews. The major component for lessors was compensation for the delayed rather than immediate move to 7 year rent reviews".

34. There was further compensation payable to Māori landowners. A late amendment to the 1997 legislation was included in Schedule 5:

> "The present Government recognises that Maori for a number of years have not been obtaining fair market rents for their land. This is an issue that has to be addressed by the present Government in the future. It is an issue that will be dealt with by the present Government as part of its consideration of historical grievances."

35. After legal proceedings and negotiations, agreement was reached between the lessors and the Crown in 2002 for the payment of an additional $47.5 million in full settlement of that claim.

The need for Crown prioritisation of the landlocked land issue

36. Given these examples, it is within the Crown's ability to obtain the necessary appropriation of funds to make a meaningful fund available to Māori landowners affected by landlocked land.

37. It was noteworthy that under questioning, the Crown witness Ms Ohia agreed that the current funding priorities for developing Māori land (principally by way of the Whenua Māori Fund) did not specifically target the issue of landlocked land.[15] Moreover, Ms

[14] Available for download at https://www.parliament.nz/resource/0000160920

[15] At paragraph 101 of the generic submissions dated 5 February 2020, Ms Ohia's supplementary evidence (#M20) is quoted that three projects supported by the fund were associated with landlocked land, and a fourth application was likely in relation to Owhaoko B

Ohia stated that the Provincial Growth Fund would not be considered "if legal access had not been established". Nor was there any programme whereby Crown officials are proactively contacting landlocked landowners and facilitating them to find solutions to their landlocked land. Nevertheless, there was a clear willingness on the part of Ms Ohia to instruct her team to focus on these pressing needs.

38. Mōkai Pātea claimants do not doubt the sincerity of officials involved. But the claimants do question whether the Crown itself is committed to the personnel and financial undertaking that will be necessary in order to properly address this issue. That is why urgent findings and recommendations from this Tribunal are so necessary.

39. For example, the Crown has been aware of the prejudicial effects of landlocked land on Māori landowners for decades, and in the context of the Crown's review of Te Ture Whenua Māori Act, landowners in the consultation rounds consistently raised landlocked land issues as being a fundamental constraint on their connection to, and effective utilisation of, their whenua. In evidence given to the Wai 2478 Waitangi Tribunal (*He Kura Whenua Ka Rokohanga – Report on Claims about the Reform of Te Ture Whenua Māori Act 1993),* Crown witnesses Lilian Anderson and John Grant gave assurances in December 2015 which seem all too familiar to the Mōkai Pātea claimants when they listened to Ms Ohia at Waiouru Marae in late 2019.

> "Both Mr Grant and Ms Anderson admitted that the Crown currently has limited information as to the nature and extent of the landlocked land problem. …
>
> Because of this lack of information, the Crown's current work "is not simply focused on what might be in the legislation, but focused on that broader issue of trying to understand exactly what the problem is and then targeting the solutions to that problem"…. Ms Anderson suggested that the Whenua Māori Fund would be used to conduct research into

---

and D. Under questioning, Ms Ohia was not aware that the Owhaoko application was tourism related and not for landlocked land: Wai 2180, #4.1.19, pg 175.

> landlocked land and possibly to intervene in situations where a solution can be identified."[16]

40. As such, a key barrier seems to be that the Crown has not prioritised a remedy to the issue of landlocked land. The Tribunal's urgent findings and recommendations will assist considerably in raising the profile of this critical constraint for Māori landowners.

Te Ture Whenua Māori Bill – landlocked land provisions

41. Te Ture Whenua Māori (Succession, Dispute Resolution and Related Matters) Amendment Bill was introduced on 19 September 2019. It is currently before the Select Committee. As such, the provisions of the Bill fall outside of this Tribunal's jurisdiction to make findings or recommendations. However, the proposed amendments as to landlocked lands are relevant to the Tribunal's consideration of these issues, especially as Mōkai Pātea claimants have given evidence as to the lack of effectiveness of sections 326A-326D of Te Ture Whenua Māori Act 1993.

42. Mōkai Pātea claimants support the proposed amendments to the definition of "reasonable access" and the inclusion of cultural factors in the Court's consideration of relief.

43. Furthermore, Mōkai Pātea claimants are pleased to see that the current provisions of section 326D(3) and (4) (which provide that appeals from Maori Land Court decisions are heard in the High Court, by way of re-hearing) are proposed to be repealed. Nevertheless, an appeal will still be available to the Māori Appellate Court, which will itself be by way of re-hearing: section 55(1) of the Act.

44. The overall position of the Mōkai Pātea claimants on the proposed amendments however is that the legislative provisions are not the fundamental barrier, and therefore are not going to provide the fundamental solution, to the problem of landlocked lands.

---

[16] Waitangi Tribunal report *He Kura Whenua Ka Rokohanga* (Wai 2478), 2016, page 243.

Mōkai Pātea proposals for remedies

45. Where neighbouring owners expect compensation for the impact on their property rights, the ultimate solution is to provide Māori landowners with *putea*, to provide them with the financial leverage to reach a sensible and constructive bargain.

46. Mōkai Pātea claimants respectfully seek urgent findings that the Crown is in breach of the principles of Te Tiriti o Waitangi by allowing land titles to be created without reasonable legal access, and that the Crown must prioritise its response to the issue of landlocked lands.

47. Mōkai Pātea claimants have endorsed the suggestions made by Mr Richard Steedman at the conclusion of his evidence on 20 November 2019 at Moawhango as to priorities for resolution:[17]

    47.1 Priority access routes to unlock key whenua within the rohe:

        (a) Through Timahanga Station to unlock Timahanga No.1 and Te Koau A;

        (b) Through Big Hill Station to unlock Awarua o Hinemanu;

        (c) Through Ngamatea Station to unlock the Owhaoko blocks;

        (d) Through the Defence Force training ground to unlock Oruamatua Kaimanawa 1U and 1V;

        (e) Through Mangaohane Station to unlock the Aorangi Awarua blocks.

    47.2 Provide the *putea* to fund compensation to private land owners, negotiation costs, construction and maintenance costs. This is in part recognition of the loss of connection to

[17] Wai 2180, #O3.

their whenua, and the loss of opportunity to use, develop, and economically benefit from their whenua.

47.3 Ensure that robust access agreements are then registered on the titles (which in turn requires the Māori blocks to have Records of Title capable of registration); and

47.4 Ensure effective enforcement procedures within those agreements, and by way of recourse to the Māori Land Court dispute resolution processes, to ensure compliance with the terms of access by Māori landowners (enforced at first instance by landowner Trusts/management structures) and to ensure compliance by the neighbouring owners who have granted access.

DATED this 10th day of February 2020

Leo H Watson
Counsel for Mokai Patea Claimants