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

BEFORE THE WAITANGI TRIBUNAL

WAI 2200

IN THE MATTER OF the Treaty of Waitangi Act 1975

AND

IN THE MATTER OF The Porirua ki Manawatū District Inquiry
(Wai 2200)

BRIEF OF EVIDENCE OF JACK SINCLAIR MACE FOR AND ON BEHALF
OF THE DEPARTMENT OF CONSERVATION

Dated: 8 July 2019



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MAY IT PLEASE THE TRIBUNAL

I, Jack Sinclair Mace, of Raumati Beach, state:

INTRODUCTION

1. My full name is Jack Sinclair Mace.
2. I am the Operations Manager/Pou Matarautaki for the Kāpiti /Wellington District of the Department of Conservation/ Te Papa Atawhai (**DOC**).
3. Previously I have worked for DOC in Taranaki, Nelson and Wellington. I have been in my current role since November 2016. Prior to that, I was a National Operations Advisor for three years, a Monitoring Ranger in Taranaki, Hokitika and Nelson Lakes for four years, a Technical Support Officer for 2½ years, and a Training Advisor for 1½ years. I have a Master's degree in Zoology from the University of Otago.
4. I am authorised to give this evidence on behalf of DOC, and note that I give this evidence on the basis of information I personally hold as well as from information I have obtained from DOC records. Where DOC records are referred to in this brief of evidence, I will produce copies of those records for the information of the Tribunal.

Scope of evidence

5. My brief of evidence:
 - 5.1 provides background information about the Department of Conservation and briefly discusses the Wellington Conservation Management Strategy which is relevant to other aspects of this brief of evidence;
 - 5.2 provides background information about the size and location of the Hemi Matenga Memorial Park Scenic Reserve (**Hemi Matenga Reserve**), and its flora and fauna;
 - 5.3 explains how DOC has both historically managed and currently manages the Hemi Matenga Reserve;

- 5.4 discusses the historical encroachment by third parties into the Hemi Matenga Reserve;
- 5.5 provides information about DOC designated tracks and routes within the Hemi Matenga Reserve, including the positioning of the DOC route at the ridge of the Reserve;
- 5.6 responds to evidence regarding lack of access to landlocked lands at Ngarara Blocks C41, DP 3433, Lots 1, 2 and 3;
- 5.7 provides background information about the size of the Kāpiti Island Nature Reserves, and its flora and fauna;
- 5.8 explains how DOC manages the Kāpiti Island Nature Reserves;
- 5.9 explains how Māori are involved in the management of the Kāpiti Island Reserves;
- 5.10 provides information on how DOC accesses the Kāpiti Island Reserves;
- 5.11 responds to evidence outlining aspirations for iwi management of the Kāpiti Island Reserves;
- 5.12 responds to the evidence of Reina Solomon, Te Raukura Solomon and Hohepa Potini in relation to Titi on Kāpiti Island and the harvesting of kai moana by tangata whenua within the Kāpiti Marine Reserve; and
- 5.13 provides information about the Waikanae River: Mountains to Sea Restoration Project and creating a collaborative process with iwi for the restoration of the Waikanae River.

THE DEPARTMENT OF CONSERVATION

Background

- 6. The Department of Conservation was created by the Conservation Act 1987. Pursuant to section 6 of the Conservation Act, the functions of DOC are to administer the Act and:

- 6.1 to manage for conservation purposes, all land, and all other natural and historic resources, for the time being held under the Act, and all other land and natural and historic resources whose owner agrees with the Minister for Conservation that they should be managed by the Department:
- 6.2 to preserve so far as is practicable all indigenous freshwater fisheries, and protect recreational freshwater fisheries and freshwater fish habitats:
- 6.3 to advocate the conservation of natural and historic resources generally:
- 6.4 to promote the benefits to present and future generations of—
 - 6.4.1 the conservation of natural and historic resources generally and the natural and historic resources of New Zealand in particular; and
 - 6.4.2 the conservation of the natural and historic resources of New Zealand's sub-antarctic islands and, consistently with all relevant international agreements, of the Ross Dependency and Antarctica generally; and
 - 6.4.3 international co-operation on matters relating to conservation:
- 6.5 to prepare, provide, disseminate, promote, and publicise educational and promotional material relating to conservation:
- 6.6 to the extent that the use of any natural or historic resource for recreation or tourism is not inconsistent with its conservation, to foster the use of natural and historic resources for recreation, and to allow their use for tourism:
- 6.7 to advise the Minister on matters relating to any of those functions or to conservation generally:
- 6.8 every other function conferred on it by any other enactment.

7. DOC also administers a number of other Acts, including the Wildlife Act 1953, Reserves Act 1977, National Parks Act 1980, Marine Reserves Act 1971, and Kāpiti Island Public Reserve Act 1897, all of which are relevant to this Waitangi Tribunal inquiry.
8. Underpinning all of the work of DOC is section 4 of the Conservation Act 1987 which states that

This Act shall so be interpreted and administered as to give effect to the principles of the Treaty of Waitangi.

Wellington Conservation Management Strategy

9. Under the Conservation Act, conservation management strategies are developed through a consultative process by conservation boards, established for each region. The purpose of conservation management strategies is to implement general policies and establish objectives for the integrated management of natural and historic resources, including any species, managed by DOC under the various statutes it administers, and for recreation, tourism, and other conservation purposes.
10. The current Wellington Conservation Management Strategy (**Wellington CMS**) was approved in early 2019, following an extensive public consultation process.
11. The Wellington CMS was prepared by the Director-General in consultation with the Wellington Conservation Board, local iwi, local authorities, and community stakeholders. The Porirua ki Manawatū Tribunal has asked what consultation occurred with iwi in developing the CMS. I outline this as follows.
12. A range of public and specific hui were held. The table appearing at **Appendix “A”** identifies those iwi who were engaged during the preparation of the draft Wellington CMS and shows the special lengths taken by DOC to ensure necessary and appropriate engagement was undertaken, with DOC’s section 4 obligations front of mind. Factsheets on the Wellington CMS process, including how to get involved, were produced and made available at meetings and on DOC’s public website. Iwi concerns and wider public opinions were taken into account during preparation of the draft of the Wellington CMS.
13. When the draft Wellington CMS was notified on 14 December 2016, advertisements were placed in national and local newspapers. The table

appearing at **Appendix “B”** identifies iwi that engaged during this stage of the Wellington CMS review process. In addition, over 650 groups, iwi and individuals were contacted directly by email or letter and invited to make submissions.

14. The draft Wellington CMS was made available for public submission from 14 December 2016 to 4 April 2017. The table appearing at **Appendix “C”** outlines all iwi submissions received on the draft Wellington CMS. A total of 239 written submissions were received. Hearings were held in Wellington in May 2017, with 52 submitters attending to speak to their submissions.
15. In this process, DOC sought to engage specifically with Te Ātiawa ki Whakarongotai (**TAKW**). We approached them directly by email and phone, introducing the CMS review process and inviting their participation. We attended a hui on 16 April 2015 and made a presentation on the draft CMS combined with a discussion of whitebaiting issues. We sought subsequent feedback and offered another hui. TAKW indicated they couldn't further resource work on the CMS and no written submission was received.
16. I was concerned that this would mean DOC could not consider TAKW values in preparation of the CMS. As TAKW's values are important to DOC, we commissioned a report or guidance document from Mahina-a-rangi Baker to assist the Conservation Board and DOC in assessing submissions on the CMS. A copy of the paper produced by Ms Baker is at **Appendix “D”**. I provided this report to the Conservation Board to factor into their decision-making processes.
17. In addition, specific consultation was undertaken with Ngāti Toa Rangatira in accordance with sections 45 and 46 of the Ngāti Toa Rangatira Claims Settlement Act 2014, as well as with the Kāpiti Island Strategic Advisory Committee under section 130 of the same Act.

HEMI MATENGA MEMORIAL PARK SCENIC RESERVE

Background

18. The Hemi Matenga Memorial Park Scenic Reserve (**Hemi Matenga Reserve**) covers approximately 327 hectares on the western edge of the Tararua Ranges.

The Hemi Matenga Reserve rises steeply from 80 metres above sea level to its highest point, Te Au, at 521 metres.

19. In 1962, a small parcel of land (0.4024 ha) was added to the Hemi Matenga Reserve. There has been no reduction in the size of the Hemi Matenga Reserve since its establishment.
20. The Hemi Matenga Reserve is one of the largest remaining areas of kohekohe forest in the Wellington region, and is one of the largest areas of this forest type in the North Island. Kohekohe was once a dominant species throughout the Kāpiti coastal region, but is now mostly limited to areas protected as reserves.
21. The Hemi Matenga Reserve hosts threatened or endangered species including native birds such as the karearea (New Zealand falcon), kakariki and kererū. Native skinks and geckos are also present, as well as native invertebrate fauna such as wētā.
22. The Hemi Matenga Reserve was gazetted as scenic reserve in 1956 after its acquisition by the Crown in 1955, as a reserve contribution resulting from the sub-division of the Hemi Matenga Estate. The Hemi Matenga Reserve has been under DOC management since DOC was established in 1987, taking over responsibility from predecessor government agencies such as the Department of Lands and Survey.

Crown management of Hemi Matenga Scenic Reserve

23. The primary legislation that guides the Crown management of the Hemi Matenga Reserve is the Reserves Act 1977, the Conservation Act 1987, and the Wildlife Act 1953.
24. Under the Conservation Act:
 - Any concessions (and any associated easements) are granted under part 3B of the Act;
 - Management of the Reserve is informed at a national level by the Conservation General Policy 2006; and

- Management of the Reserve (and also Kāpiti Island Nature Reserve, which I discuss below) is informed at a regional level by the Wellington CMS (discussed above).
25. DOC undertakes control of weeds, possums, goats, and rats within the Hemi Matenga Reserve to protect the remnant forest. There is an annual budget of approximately \$55,000 for this work.
 26. We also maintain the tracks and structures within the Hemi Matenga Reserve. There is freedom of public access to the Hemi Matenga Reserve by foot, but no vehicle access is permitted, in part due to the steep terrain.
 27. In terms of operational management of the Hemi Matenga Reserve, DOC has undertaken consultation with Te Ātiawa ki Whakarongotai where relevant and necessary, including as part of its responsibilities under section 4 of the Conservation Act. Records on DOC files show consultation processes occurring at least since 1995. More recent DOC records show consultation occurring in relation to the operational plan for the Hemi Matenga Reserve, which was achieved via an exchange of letters. For example, in June 2016 a DOC official met with Mahina-ā-rangi Baker to discuss pest control within Hemi Matenga Reserve. Ms Baker responded to say they had no concerns regarding this established operation, and that any ongoing communications via letter and fact sheet would suffice as in previous years. A copy of this exchange of correspondence appears at **Appendix “E”**.
 28. In August 2018, to ensure that DOC was still following the wishes of iwi in regard to consultation, DOC Biodiversity Ranger Dave Allen contacted the Te Ātiawa ki Whakarongotai Charitable Trust (**Trust**), seeking to reaffirm their preferred method of consultation (letter/fact sheet or visit) for a proposed possum and rodent control operation. Subsequently, a letter and fact sheet were emailed to the Trust in August 2018 to provide operational details and to offer the opportunity for feedback on the effects of the proposed methodology. No feedback regarding the planned 2018/19 operation has been received to date.
 29. In 2018, DOC also spoke to Kristie Parata, administrator for the Trust, face to face and over the phone, regarding karaka control in the Hemi Matenga Reserve. DOC suggested controlling young plants but leaving mature trees. Ms Parata

advised she (by which we presumed she meant the Trust) was happy for the latter to remain, but would pass the notice on to the wider iwi. No further responses were received on that issue.

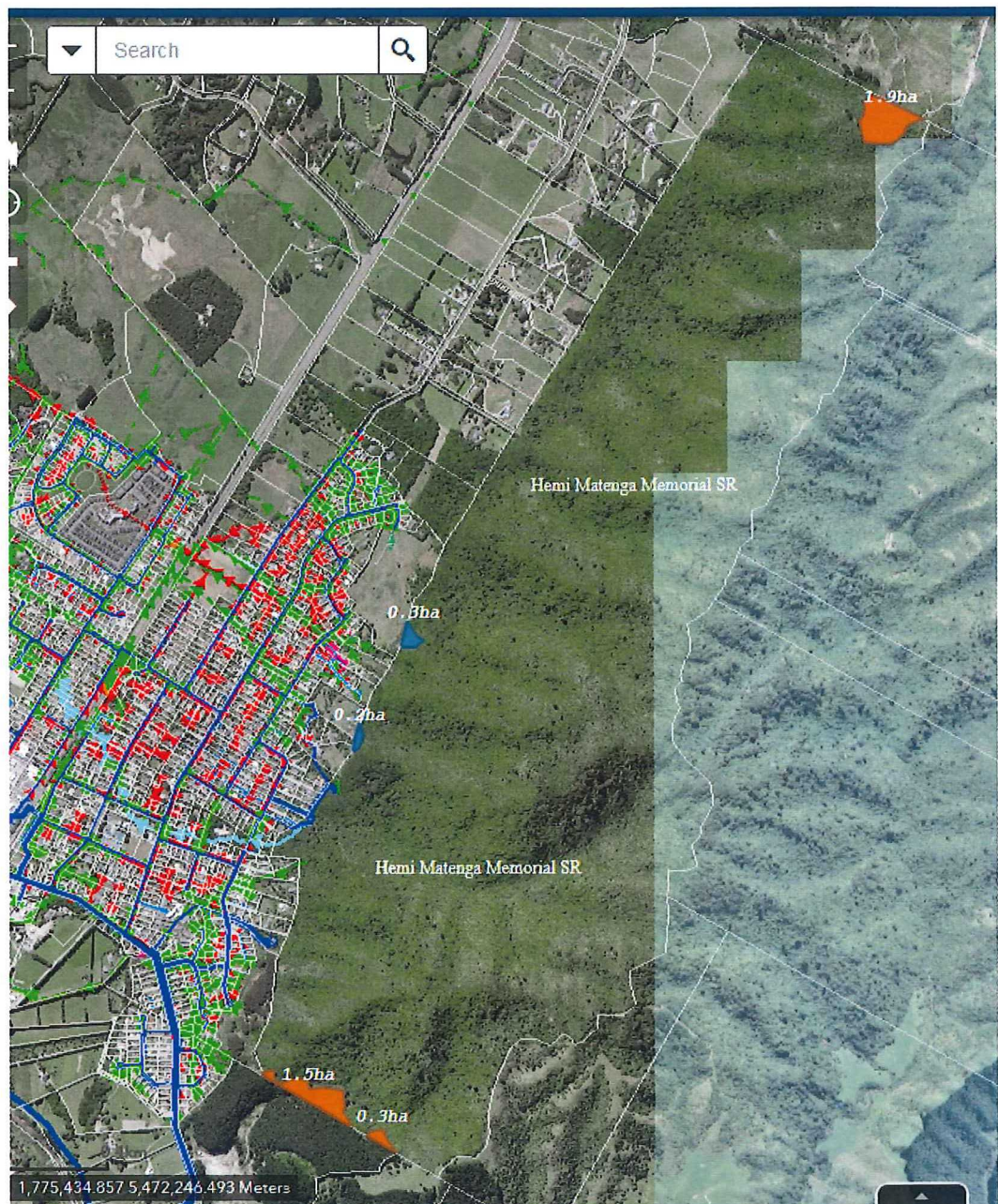
30. There are a number of concessions or other rights granted in relation to the Hemi Matenga Reserve. These are largely for low-impact scientific purposes or are of limited application (e.g. national concessions for vehicular access by national companies where available), but also include 19 easements for domestic water supply from waterways in the Hemi Matenga Reserve to adjoining properties. Those water supply intakes had been in place informally when DOC took responsibility for the reserve. My office took steps to formalise the water supply intakes in 2016 and 2017 through the granting of easements under the Conservation Act 1987. As part of that process, DOC consulted TAKW, and they agreed for existing water takes to continue but requested that they be consulted on any new applications for water takes. A copy of a report supporting decisions formalising the supply concessions is at **Appendix “F”**. Subsequently, one further applications has been received for a water supply easement, and one more is expected. No decision has yet been made on the application received as we have gone back to the applicant seeking further information. We have notified TAKW of that one application received. If the applicant seeks to progress that application, we will consult fully with TAKW.
31. We have no other specific work with iwi at this time at Hemi Matenga. If iwi were interested to do so, we would be happy to explore other options for engagement.

Encroachment by third parties into the Hemi Matenga Reserve

32. There has been some historical encroachment into the Hemi Matenga Reserve by commercial forestry operators and farmers. In the aerial photo below, the sections within the Hemi Matenga Reserve boundary colored orange (approximately 3.7 ha) are those areas affected by forestry. These radiata pines will either be poisoned or commercially harvested, and these areas will be left to revert to native forest. I would expect this harvesting or poisoning to occur within the next few years, with ongoing need to manage any wilding pines and with the forest restoration taking some decades. All operations would be planned to minimize environmental impacts. Further encroachment of this type is very

unlikely to be permitted, as it is essentially inconsistent with the purposes and requirements of the Reserves Act 1977.

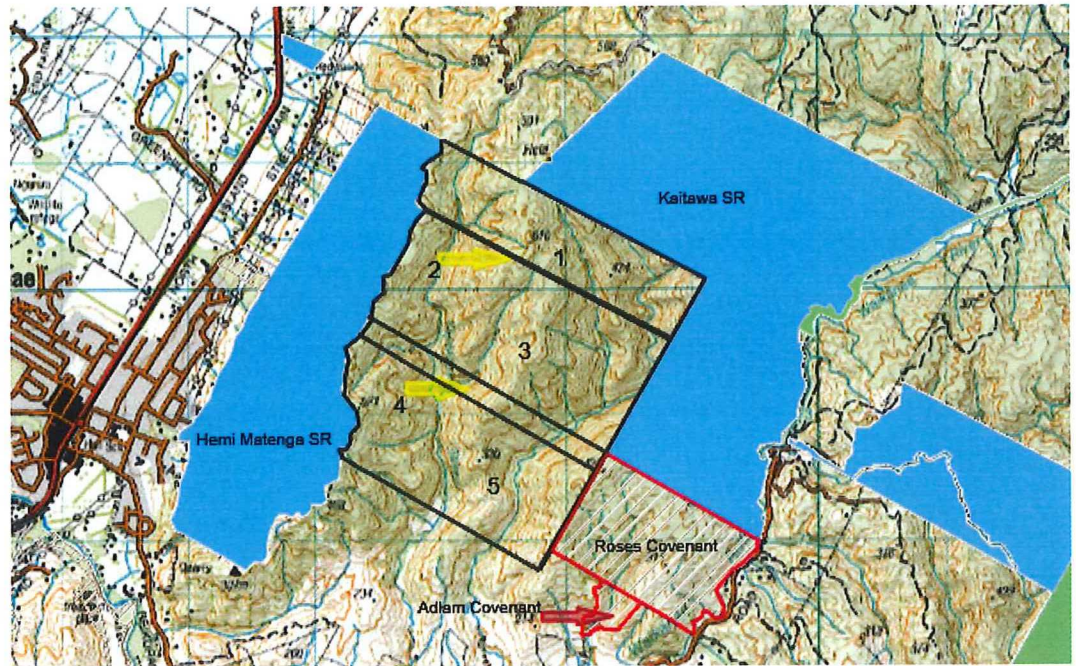
33. In the aerial photo below, sections within the Hemi Matenga Reserve boundary colored light blue (approximately 0.5 ha) show historical farmland encroachment. This farmland has now been left to revert to native bush and/or may be planted with native species over time. No further encroachment of this type will be permitted.



Encroachment by DOC right of way into neighbouring Maori land

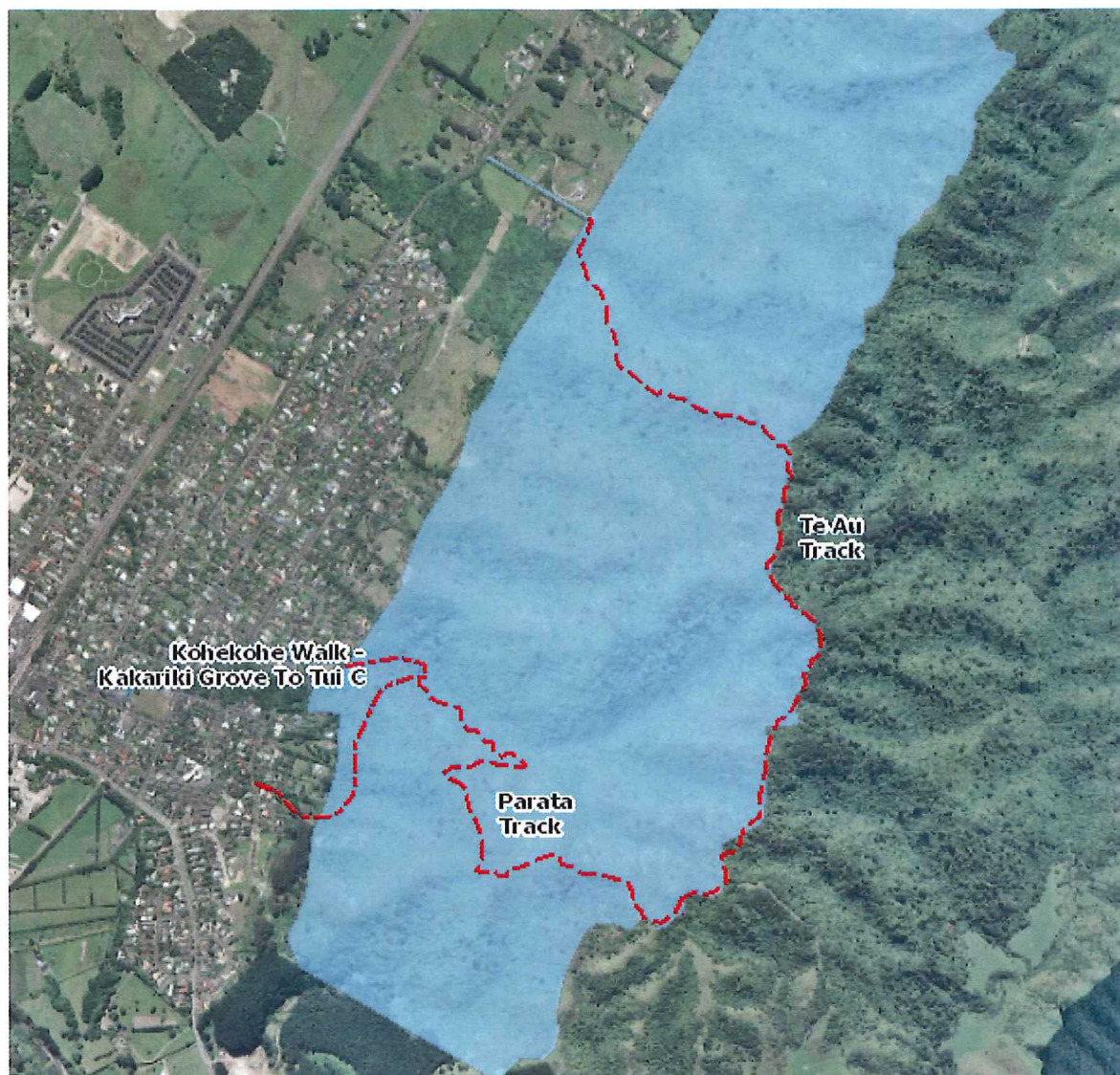
34. I have seen no evidence of, and DOC holds no records to suggest there exists, a right of way in favour of the Crown or the public over the adjoining Maori-

owned lands to the east of the Hemi Matenga Reserve, as suggested in the evidence of Rawhiti Higgott.¹ I understand that the Maori-owned land is that shown numbered 1-5 on the map below.



35. The aerial photo below indicates public walking tracks within the Hemi Matenga Reserve boundaries. In addition to these tracks, there are a number of pest control management tracks for controlling possums and rats. Although these boundaries and tracks haven't been surveyed, I believe they are all within the Hemi Matenga Reserve boundary and do not encroach into adjoining land. If there was any encroachment, we could realign the tracks within public conservation land boundaries to remove that encroachment.

¹ Wai 2200, #F3 at [59].



Associated management issues

36. DOC is sympathetic to the desire to preserve natural values and undertake pest control on land adjoining public reserves. In the present circumstances, in addition to the direct benefit to conservation values on the privately owned land, it would also support the natural values of the adjoining Kaitawa and Hemi Matenga Reserves. DOC has been approached by iwi in the past to undertake joint pest control work on the private land, but have not been in a position to fund this work. We have, however, prepared and provided them with technical advice for pest control within these areas and encouraged them to approach Ngā Whenua Rāhui for funding. If funding were available, we would be very happy to assist with pest control.
37. Wai 1018 claimant, Apihaka Mullen-Mack, gave evidence about concerns with 1080 poison being dropped on land block C18. While it is not clear to me exactly

where land block C18 is located, I understand it is in an area south of the landlocked lands identified in the section of my brief below: possibly in the area shaded in red at the bottom right corner of Figure 50 on page 399 of the Te Ātiawa/Ngāti Awa ki Kapiti: Twentieth Century Land and Local Issues Report by Dr Barry Rigby and Kesaia Walker: #A214.

38. Assuming this is the location of land block C18, I can advise:

38.1 DOC has never carried out any 1080 operations in the area around C18;

38.2 Ms Tamati-Mullen may be referring to an Ospri possum control operations. This is an independent entity, incorporating the former Animal Health Board, whose work includes possum control aimed at eradicating bovine tuberculosis.²

38.3 DOC understands Ospri has been involved in the following 1080 operations in the general vicinity of C18 in recent years:

38.3.1 In 2012, Ospri aurally applied and hand laid 1080 baits in the hills east of Waikanae/Otaki in the vicinity of Otaki Forks. At its closest point, this operational boundary was about 3km to the north-east of C18;

38.3.2 In 2017-8, Ospri proposed a similar operation and began community consultation in the vicinity of C18, but decided not to proceed with this operation. I understand Ms Tamati-Mullen confirmed in evidence that the 1080 poisoning she was talking about in her evidence in fact never took place.

39. If Ospri is proposing application of 1080 on DOC-managed land, DOC is consulted and (if appropriate) provides written permission. That permission will include conditions aimed at safe and otherwise proper application of 1080 bait. Consent to apply 1080 bait is also required from the Public Officer of Health.

² See www.ospri.co.nz – “OSPRI is a partnership between primary industries and the government, and manages two national programmes – NAIT and TBfree. NAIT provides the national animal identification and traceability system and TBfree aims to eradicate bovine TB from New Zealand”.

40. Similarly, if Ospri is proposing application of 1080 on privately owned land, it requires the landowner's permission to undertake possum control on their land. Ospri is also required to consult with iwi. Ospri is a very experienced operator, whose processes and controls are similar to DOC's.
41. In general, DOC supports the use of 1080 for conservation purposes (that dovetail with Ospri's TB eradication aims), but recognises iwi and wider community concerns about application of 1080. The evidence shows a net benefit to conservation from application of 1080; there are rigorous controls in place to avoid or minimise negative effects; and proposals for application are subject to public consultation.³
42. Also relevant to this issue of 1080 poisoning is the fact that there is a wealth of research, regulation and testing around 1080 and water. Here are some facts:
- 42.1 1080 has never contaminated New Zealand's drinking water supplies. In natural waterways, it dilutes to harmless levels within 24 hours and breaks down into non-toxic products.
- 42.2 During an aerial 1080 operation, 3– 6 baits are sown over each tennis court-sized area. Major watercourses are avoided. Baits sometimes fall into streams, where they quickly dilute and biodegrade. The effect of dilution is so strong that water samples taken near baits within 24 hours of an operation rarely show levels above that allowed in drinking water by the Ministry of Health.
- 42.3 The further downstream you are from the bait, the more diluted the 1080 will be.
- 42.4 Aquatic life is highly unlikely to come across toxic levels of 1080 in bait pellets. Bait pellets that appear intact in the water 36 hours after an operation are most likely non-toxic – that's because 1080 rapidly leaches out of bait, then dilutes and biodegrades.
- 42.5 The Environmental Protection Authority and the New Zealand Food Safety Authority consider the consumption of wild-caught fish and

³ See <https://www.doc.govt.nz/nature/pests-and-threats/methods-of-control/1080/>

crayfish from 1080 operation areas unlikely to pose a food safety risk to humans.

Landlocked lands

43. I have read the evidence of Rawhiti Higgott dated 18 January 2019 (#F3 at pp [50] - [91]), outlining issues with lack of access to his whānau's ancestral land. I understand these land blocks to be those I have identified in paragraph 34 above.
44. It may be of use to refer to the aerial photograph which appears at Appendix O of Mr Higgott's brief of evidence (at page 25). The DOC land immediately adjacent to the Waikanae urban area is the Hemi Matenga Reserve. Immediately to the east of the Hemi Matenga Reserve is the Māori-owned land blocks. The land blocks to the south and south-east of those blocks are privately owned. The additional DOC land to the north and to the east of the Māori-owned land blocks is the Kaitawa Scenic Reserve. This is also shown in the map above at paragraph 34.

Options to provide access

45. Iwi have freedom of access to their land over the adjacent Hemi Matenga and Kaitawa Reserves by foot. They do not need to ask permission for that access. Due to the steepness of the terrain, the lack of existing vehicle tracks, and the provisions of the Wellington CMS, there is no provision for the Reserves to be traversed by bicycle, vehicle, or horse.
46. If iwi were to seek vehicular access over the Reserves, they would likely need to apply for approval for an easement, which could include a requirement to physically form the access. That application would fall to me to determine as District Operations Manager. As both the Hemi Matenga and Kaitawa Reserves are scenic reserves, I would first need to look at whether the proposed activity was consistent with purposes for which the reserves were vested under the Reserves Act, and at relevant provisions of the Conservation Act, including section 4.
47. There are physical constraints with contemplating a vehicle track in such steep and heavily afforested terrain. The development of such a track would likely be both difficult and expensive, and would have potentially high impacts on natural and scenic values of the Reserves. It may be more practical, less environmentally

damaging, and more economically reasonable to seek vehicle access over adjoining private land where there are existing vehicle tracks.

48. I understand there are provisions in other legislation, such as the Property Law Act 1952 and Te Ture Whenua Māori Act 1993, for orders to be sought allowing access to landlocked land over adjoining privately held land. Given the terrain, this might be the best option for the owners of the landlocked land to gain access to their land blocks. DOC would likely support the owners seeking to negotiate agreement with the neighbouring owners in advance of any such court application.

KĀPITI ISLAND

Background and importance

49. I firstly acknowledge the great significance of Kāpiti Island to Te Ātiawa and to other iwi.
50. Kāpiti Island is also of high importance to the New Zealand public generally. In particular, Kāpiti Island is of very high importance as a pest-free sanctuary. It is home to a range of native and endemic species, including a number of endangered species that have been translocated there. For example, 70-80% of the national population of the little spotted kiwi live on the Island. These kiwi are the offspring of the very last surviving little spotted kiwi, and were brought from the rohe of Ngāi Tahu early in the 20th century to prevent their total extinction. The Island is also home to a nationally significant population of hihi.
51. The Island is also an important source of endangered wildlife for reintroduction to other protected areas, such as Shakespear Regional Park, Anchor Island and Taranaki Mounga. Iwi of both the source locations and destinations are consulted on and involved in proposed translocations of wildlife.

Land areas and ownership of the Island

52. Kāpiti Island is approximately 10 km long, and 2 km wide, covering 1,965 ha.
53. Increasing public concern about the decline of native species in the late 19th century led the government of the day to seek islands which could be set aside as nature reserves for the preservation of native species. Kāpiti Island was chosen as one of the first of these sites and the Kāpiti Island Public Reserve Act

1897 was enacted, creating a mechanism for acquisition of land by the Crown for addition to the reserve. Over the subsequent century, most of the land on the Island was acquired by the Crown, and steps were taken to eradicate pest animals and allow reforestation.

54. Approximately 1,764 hectares, essentially the southern nine-tenths of the Island, is vested in the Crown and managed as the Kāpiti Island Nature Reserve.
55. Approximately 188 hectares was vested in Ngāti Toa Rangatira as a nature reserve by the Ngāti Toa Rangatira Claims Settlement Act 2014.
56. Approximately 1 hectare was transferred to Ngāti Toa ownership by the same Act, subject to a covenant that allows buildings to be constructed.
57. Approximately 1 hectare remains in Crown ownership. The Ngāti Toa Rangatira Claims Settlement Act allows for this to be also vested in Ngāti Toa as nature reserve, with DOC management, if any part of it remains Crown land after all other claims over Kāpiti Island have been settled. In other words, it has been retained as Crown land to enable the Crown to settle with other iwi who have interests in Kāpiti by transfer of the land to other iwi.
58. The balance of land, approximately 12 hectares around the Waiōrua Bay, remains in private Māori ownership.
59. So, approximately 91% of the Island is Crown land, 8% is Ngāti Toa land and 1% is otherwise private land. Approximately 99% of Kāpiti Island is managed by DOC as nature reserves (**Kāpiti Island Nature Reserves**).
60. All of those areas are shown in the map attached as **Appendix “G”**.

Nature Reserve status

61. Under section 20 of the Reserves Act 1977, nature reserve status is reserved ‘for the purpose of protecting and preserving in perpetuity indigenous flora or fauna or natural features that are of such rarity, scientific interest or importance, or so unique that their protection and preservation are in the public interest’. Access to nature reserves is generally prohibited except by way of permit. It is an offence for the general public to go on the Kāpiti Island Nature Reserves without a permit. Generally, access for the public is only given to the northern

end of the Island and Rangatira (adjacent to DOC's facilities) through two commercial boat operators who have concessions to do so. I discuss those operations further below.

62. DOC accesses the island by boat or by helicopter. There is an informal track which provides access for staff from Rangatira to the north end; this track passes over private land, with permission from the north end residents. There is also a provision in the Ngāti Toa Rangatira Claims Settlement Act giving rights of access to the Toa Rangatira Trustee and anyone he/she authorises between the Nature Reserves and the 1-hectare site owned by Ngāti Toa on an identified route, for the purpose of accessing and potentially developing that site.

Statutory management regime on Kāpiti Island

63. Under the Ngāti Toa Rangatira Claims Settlement Act (**NTR Settlement Act**):
- 63.1 1,764 hectares of Crown land was vested in the Trustee of the Toa Rangatira Trust, with provision for it to be gifted back to the Crown. I understand that gift back is still to occur;
- 63.2 The Kāpiti Island Strategic Advisory Committee (**KISAC**) was created and given governance responsibilities. Its members are appointed by the Trustee of the Toa Rangatira Trust and the Director-General of Conservation;⁴
- 63.3 The NTR Settlement Act also contemplates interim and permanent membership of KISAC being extended to other iwi through treaty settlement, and there are two seats reserved for this purpose;⁵
- 63.4 Section 124 of the NTR Settlement Act sets out the functions of KISAC, which are aimed at the provision of advice to the Minister of Conservation, the Director-General of Conservation and the Trustee of the Toa Rangatira Trust on conservation matters, and its involvement on management planning processes;
- 63.5 Sections 133-140 of the NTR Settlement Act provide for the preparation of a Kāpiti Island Conservation Management Plan (**CMP**)

⁴ Ngāti Toa Rangatira Claims Settlement Act 2014, section 122.

⁵ Ngāti Toa Rangatira Claims Settlement Act 2014, section 123.

for the Kāpiti Island Nature Reserves. The draft CMP is to be jointly approved by the Wellington Conservation Board and KISAC.

63.6 Section 134 of the NTR Settlement Act provides that DOC must prepare the CMP in consultation with KISAC, the Wellington Conservation Board and “any other persons or organisations that the Director-General considers is practicable and appropriate to consult”.⁶ DOC would not proceed with preparation of such a plan without consulting with Te Ātiawa ki Whakarongotai, Ngāti Toa Rangatira, Ngāti Raukawa and Rangitāne o Manawatu.⁷

63.7 DOC is in early discussion with KISAC about how to approach the preparation of the CMP, and it is anticipated that this work will commence in 2019/20.

64. There are a number of sites of specific importance to iwi on Kāpiti Island, including within the Kāpiti Island Nature Reserves. DOC is keen to respect and provide for these in our management activities. For example, there is a waahi tapu site at Wharekohu Bay and section 129 of the NTR Settlement Act makes provision for KISAC to provide advice to the Minister of Conservation in relation to the caves at this site. DOC has an agreement with Ngāti Toa Rangatira whereby we inform the runanga before any staff visit Wharekohu.

Kāpiti Coast District Plan

65. Kāpiti Island is covered by local authority requirements, including the Kāpiti Coast District Plan, and other requirements of the Resource Management Act 1991. For example, the construction of buildings and the disposal of wastewater requires landowners to apply for consent from the District and/or Regional Council.

66. I am aware of iwi concerns about impacts of local government controls and decisions on their ability to develop their land on the Island.

⁶ Ngāti Toa Rangatira Claims Settlement Act 2014, section 134(c).

⁷ See **Appendix “H”** for an explanation of the Rangitāne o Manawatu Conservation Protocol. Pursuant to clause 11.3 of the Rangitāne o Manawatu Conservation Protocol, DOC must advise Rangitāne o Manawatu of any Conservation Management Strategy amendments or reviews, or the preparation of any statutory or non-statutory plans, policies or documents that relate to the management of places administered by DOC within Rangitāne o Manawatu’s Area of Interest.

67. DOC submissions on the most recently proposed District Plan did not take any position on specific controls on development of iwi land on the Island, but we have sought to maintain recognition of the Kāpiti Island Nature Reserves' special values, particularly biosecurity measures required to protect its pest-free status. Otherwise, I believe DOC are generally supportive of iwi desires to use their land on the Island.

DOC's day-to-day management

68. The resources required to manage Kāpiti Island Nature Reserves are extensive and public scrutiny of the management of Kāpiti Island is higher than any other area managed by DOC in this region. In terms of our general conservation management of the Island:

- 68.1 The Island is currently free of introduced mammal pests such as possums, rats, and stoats; and is predominantly covered in native forest including one of the largest expanses of kohekohe forest remaining in New Zealand;
- 68.2 DOC operates an extensive and active weed control programme;
- 68.3 DOC maintains a biodiversity surveillance and contingency network using tracks, traps, bait stations and detection stations to keep the Island free of mammalian predators, insects such as the argentine ant, and reptiles like the plague skink. If any of these pests established on the Island, it would have a devastating effect on native insects, reptiles, birds, and plants;
- 68.4 Detailed biosecurity checks are maintained for all visitors to Kāpiti Island to help ensure that no pest incursions occur. DOC takes very substantial steps if monitoring reveals any incursions. In 2012, stoats were detected on the Island and DOC responded promptly and successfully to eradicate the incursion, which ultimately cost around \$800,000;
- 68.5 The Island is home to a nationally significant population of hihi and there is a regular programme through the summer to feed and monitor these birds. There is a small remnant population of tūiti (sooty shearwater) on the Island and DOC is investigating how to protect

their breeding burrows from weka predation; I discuss this further below in responding to the evidence of the Wai 1628 claimants;

- 68.6 The Island also has a small heritage programme, focused on the whaling history and the early interactions between Māori and Pakeha. There are significant whaling sites with historical relicts at Rangatira and Te Kahuoterangi stream. DOC has had some initial discussion with John Barrett and with KISAC regarding developing a track and some historic interpretation at Kahuoterangi stream to tell the story of the village of Kahe Te Rau o Te Rangi. This korero is ongoing.
- 68.7 The Island also has ‘the Whare’, which dates back over a century and is one of the oldest conservation buildings in New Zealand. The Whare is maintained as accommodation on the Island for staff, volunteers, and visiting researchers. DOC maintains the visitor shelters, toilets, tracks, and structures on the Island. In 2017, DOC invested \$350,000 to upgrade the track from Rangatira to Tuteremoana (the highest point on the Island);
- 68.8 DOC maintains two houses on the Island (in addition to the Whare) - namely the DOC ranger house and the ‘red house’ – which are used for hosting staff and visitors to the Island. Along with these, DOC maintains several staff huts, a micro-hydro power generator, a small-scale sewage scheme, and a radio transmitter;
- 68.9 The Department also manages the adjoining Kāpiti Marine Reserve.
69. There is one full time ranger position permanently based on the Island, and one summer ranger working full-time on hihi. We have a number of other staff who are involved from time to time assisting with biosecurity or managing tracks or infrastructure on the Island.
70. There is also a volunteer programme for corporate and private volunteers to assist with conservation on the Island.
71. DOC provides opportunities to iwi members who want to take part in DOC programs. For example, we established a rangatahi programme with Te Ātiawa, Ngāti Raukawa and Ngāti Toa, part of which involved work on the Island.

72. In the 2018/19 year, DOC Kāpiti-Wellington developed a 3-year program of work with Te Ātiawa ki Whakarongotai relating to marine mammal strandings, which involves collecting cultural knowledge and developing a protocol that DOC and Te Ātiawa can follow.

Aspirations for iwi management of the Kapiti Island Nature Reserves

73. I am aware of suggestions that iwi could take a greater management role in the Kapiti Island Nature Reserves than in the current co-management model. For example, I am aware that during cross-examination in hearing week four, the Wai 1648 claimants, Reina Solomon and Te Raukura Solomon, said that they would like to see the issuing of at least some permits for the Kapiti Island Nature Reserves to be the responsibility of tangata whenua. There is provision in the Reserves Act for the transfer of certain powers under that Act, and this has been used, for example, for transfer of management powers between Crown agencies. However, given the position reached in the NTR Settlement Act and the importance of Kāpiti Island to all interested parties, such a change would likely need to be decided by Parliament or the Minister. I'm not aware of any process under way to formally consider that matter.
74. I have seen the Supplementary Brief of Evidence of John Barrett dated 2 July 2019. I am not yet in a position to be able to respond to the suggestions made by John. Consideration of the various suggestions would involve more than just DOC officials and would obviously invoke complex overlapping claims considerations.

Conservation Management Strategy and Visitor Numbers

75. I am aware that visitor numbers to the Island are a matter of interest to iwi.
76. Under the Reserves Act 1977, entering the Kāpiti Island Nature Reserves is only allowed by permit. This includes landing or making contact with the Island by boat. There are no such restrictions on landing at the private land. Thus, iwi members who want to land at, and stay within, Waiorua are able to do so without a permit, although presumably they will need the consent of the land owners.
77. The Wellington CMS currently allows for a maximum of 160 visitor permits for Kāpiti Island per day. The only way to access the Kāpiti Island Nature Reserves is through the two commercial boat operators, who have concessions from

DOC to land on the Island. The operators are required to implement detailed biosecurity requirements.

78. When the draft Wellington CMS was notified, it included a discussion box about managing maximum visitor numbers to Kāpiti Island, proposing to maintain the status quo of 100 visitors per day at Rangatira landing site near DOC's facilities and 60 visitors per day at Waiorua Bay landing site at the northern end of the Island. Submissions were invited, including on how visitors to Kāpiti Island could be managed without compromising conservation on the Island. This could have included increasing or reducing visitor numbers; removing visitor options altogether; and/or managing the access through DOC's concession process rather than setting a maximum figure in the CMS. No submissions were received in relation to the number of visitors.
79. The approach taken in the approved Wellington CMS is to permit public access to Kāpiti Island using the maximum of 160 visitors per day, with a policy to investigate amending the visitor limits during the development of the Kāpiti Island CMP.
80. The two operators that have concessions to transport to and guide public visitors are Kāpiti Explorer (trading as Kāpiti Eco Tours (Glenn Cooper)) and Waiorua Lodge (trading as Kāpiti Island Nature Tours (John Barrett)). These concessions expire in 2023. A third concession has been issued to Kāpiti Tours, which also expires in 2023, but this company is not currently operating.
81. There is space for DOC to consider further concessions but, as I have discussed above, such applications would have to be consistent with the relevant provisions of the Reserves Act, Conservation Act, Conservation General Policy 2006, the Wellington CMS, and any Kāpiti Island CMP.

Right of Way across Māori land

82. Wai claimant Chris Webber has questioned why a right of way was cancelled across Māori land through the Ngāti Toa Rangatira Claims Settlement Act.
83. I was not privy to the negotiations around the Ngāti Toa settlement and I have not been able to ascertain why the right of way was cancelled. However, I can state that the right of way was not a practical accessway for DOC's management of the Island.

84. We do cross the private land from time to time, most commonly to travel from Rangatira to the north end across the foreshore however we do so with the permission of the landowners.

Evidence of Reina Solomon, Te Raukura Solomon and Hohepa Potini in relation to Titi on Kāpiti Island and the harvesting of kai moana by tangata whenua within the Kāpiti Marine Reserve

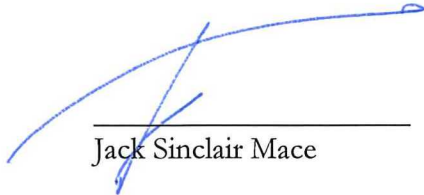
85. I understand that the Wai 1648 claimants, Reina Solomon and Te Raukura Solomon, expressed concern about weka predating titi (mutton bird) chicks on the Island. Such predation is of concern to DOC also.
86. The titi population on the Island is naturally occurring. Titi occur in good numbers nationally, but the Kāpiti Island population is small, declining and valuable – we would not want to lose it. The decline of the titi population on Kapiti Island would be attributable not just to weka, but also to Norway and kioere rats before their eradication in the 1990s.
87. The weka were introduced to Kāpiti Island in the earlier years of the Island Nature Reserve and are hybrids of the North and South Island weka. Actual evidence of weka predation of titi is from the Titi Islands, near Stewart Island/Rakiura, where titi chicks are harvested from their burrows by iwi. That evidence formed the justification for them removing weka from those islands. We have evidence of weka in burrows at Kapiti Island but none of direct predation.
88. A few years ago, we got funding to trial a fence on Kapiti Island to protect the titi burrows from weka. The trials were unsuccessful, and we have commissioned a report on the trial, challenges and options for future management.
89. The claimant evidence referred to the possibility of cultural harvest of both weka and titi. Cultural harvest is not in place at the moment on Kāpiti Island and would have to be considered carefully, including in terms of the Nature Reserve classification; sustainability of the populations; and what is currently possible under legislation. For example:
- 89.1 As noted above, the Island titi population is currently small, and would have to be substantially increased before it was sustainable for cultural harvest;

- 89.2 Control of weka might (if all other factors referred to above were addressed) offer an opportunity for cultural harvest of weka.
90. The claimant evidence also referred to the fact that harvesting of kai moana is not possible in the adjacent Kāpiti Marine Reserve. The Reserve was established approximately 26 years ago, following extensive consultation, including with iwi. Fishing and other gathering of kai moana is generally not permitted in marine reserves. While I was not involved in that consultation, I have had the opportunity to speak with Colin Giddy who has worked for DOC since 1987 (when DOC was first established) and was involved in the consultation and establishment of the Kāpiti Marine Reserve. Colin has advised me that there was significant support for the Kāpiti Marine Reserve from iwi, including Te Ātiawa and Ngāti Toa. There was also concern in submissions, including from iwi, recreational fishers and commercial fishers, about loss of fishing rights. The Marine Reserve was approved, but its area was reduced, essentially reflecting a response to iwi and other submissions. The NTR Settlement Act also contains provision relating to the marine reserve.

WAIKANAE RIVER PROJECT

91. DOC is constantly looking at how it can improve ways that it works with iwi in conservation matters. An example of this unfolding is the Waikanae River Mountains to Sea Project.
92. Te Ātiawa ki Whakarongotai are mana whenua for the Waikanae River. A comprehensive approach to restoration of the River has been mooted for a number of years. At a hui held on 5 March 2019, the Minister of Conservation announced that the River has been chosen as one of 14 priority river catchments for restoration to a healthy functioning state, attracting significant new DOC funding. That funding in part reflects the importance of the River to iwi.
93. Since that hui, DOC has been working with interested parties to set up a collaborative process for the River's restoration. Our earliest engagements have been with Te Ātiawa ki Whakarongotai as our Treaty partner. Whilst it is too early to discuss details, DOC is viewing the Project as an opportunity to learn from the shortfalls of the past and to position mana whenua early and centrally in governance arrangements and ongoing work programmes. DOC believes iwi have a lot to contribute, including in governance and leadership; in development

of the vision and values for the Project, and in establishing environmental, social and economic research and monitoring frameworks. Success will be measured in terms of the River's restoration and DOC's relationship with mana whenua over the next ten years and beyond.



Jack Sinclair Mace

8 July 2019