

IN THE HIGH COURTS OF NEW ZEALAND
WHANGAREI REGISTRY

CIV-2017-

IN THE MATTER OF

the Marine and Coastal
Area (Takutai Moana) Act
2011 (the Act)

AND IN THE MATTER OF

an application by the
Ngātiwai Trust Board for
orders recognising
Customary Marine Title and
Protected Customary
Rights

**AFFIDAVIT OF HORI TEMOANAROA PARATA
IN SUPPORT OF NGĀTIWAI TRUST BOARD APPLICATION FOR
RECOGNITION ORDERS FOR PROTECTED CUSTOMARY RIGHTS
AND CUSTOMARY MARINE TITLE**

Dated March 2017

OCEANLAW NEW ZEALAND
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I, Hori Temoanaroa Parata of Whangārei, kaumātua, affirm that:

Introduction

1. I am of Ngātiwai and of Te Waiariki descent, from Te Kahu Whero of Ngāti Manaia. My principal marae are Patāua and Ngunguru.
2. I whakapapa to two Ngātiwai hapū, Ngāti Korora, (on my mother's side) and Ngāti Takapari, (on my father's side), both of which reside in Ngunguru Bay. On my Ngāti Takapari side I am a descendant of Mata Te Kura, who ensured the survival of her hapū following its near annihilation by Tainui. Mata Te Kura was a niece of Paratene Te Manu, one of the main chiefs Hongi would seek out from among Ngātiwai to accompany him in war.
3. Paratene's prowess as a warrior was legendary and he, along others would partake in all the customs of war, as Ngātiwai were well known as warriors. Hongi relied on Ngātiwai to call others from the surrounding district to support his *take* and cause when he was planning to go on a campaign. A call would go out from Whangārei Harbour and all the chiefs who responded were known as "tira paraoa", which is one of the reasons Whangārei Harbour has the name 'Te Rerenga Paraoa', meaning 'The Gathering-place of Whales'.
4. I and my 12 siblings were born and raised on our ancestral land at Patāua Island on the coast 16 miles due east of Whangarei. Our parents farmed our land and we were fortunate to be bought up with our old people. They taught us everything, including our environmental practices, both on the land and the sea.
5. At 19 I joined the 1st Battalion, New Zealand Regiment and served in the Sarawak Campaign in Borneo. By 1967 I had left the army and worked as a diver on inshore construction jobs in the Melbourne Harbour, and later as a deepsea diver on oil exploration rigs in Bass Straights (Victoria) and in the Timor Sea. (Darwin).
6. Following a brief prospecting stint in Far North Queensland, I returned to New Zealand to support my whānau, hapū and iwi on

issues concerned with injustices toward Māori under Te Tiriti o Waitangi. I joined the Mana Motuhake political party and, at the same time I became a trustee of the Ngātiwai Trust Board ("the Board") representing Ngāti Takapari and the Paratene Te Manu Marae.

7. I served on the Board from 1982 to 2004 and, as part of my mahi with the Board, I took on the development of the resource management and conservation portfolios. In that capacity, I was an inaugural member, on behalf of Ngātiwai, of Te Kotahitanga o Te Taitokerau. That group provided advice to the Department of Conservation when it prepared its Northland Conservation Management Strategy and also the Northland Regional Council on its Regional Policy Statement.
8. I am the named claimant in the Wai 245 claim to the Waitangi Tribunal on behalf of my whānau. I am also a claimant in the Ngātiwai iwi claim, Wai 244 and a witness and spokesman for Ngātiwai in the Wai 262 claim, the mātauranga Māori and flora and fauna claim. I have been a Ngātiwai negotiator in relation to Marine Reserves as affecting our offshore islands.
9. After 25 years on the Board I left about 10 years ago to advance my academic interests. I first obtained a Masters degree in Indigenous Studies from Te Whare Wānanga o Awanuiarangi and am now working on my PhD thesis.
10. I have long been a committed kaitiaki in te ao Māori for our taonga tuturu. I am also a resource management practitioner and I am undertaking my PhD in this field, studying the impacts of Crown resource management and conservation policies on our taonga, the kiore, on our offshore islands.
11. I am a kaumātua of Ngātiwai and the current chairperson of the Kāhui Kaumātua o Ngātiwai. I am providing this affidavit in support of the Board's application for customary marine title and protected customary rights. I understand that application is made on behalf of all hapū and whānau of Ngātiwai.

Ngātiwai

12. Ngātiwai are, quite literally, the people of the sea. The moana surrounding our mainland rohe (Te Moana nui o Toi te Huatahi), the islands, islets and rocks that dot that moana (Ngā Poito o te Kupenga o Toi te Huatahi) are an integral part of our identity as a people. This ancient name for our islands was referred to by our Ngātiwai tūpuna in a waiata oriori sung during the investigation into ownership of Hauturu over a century ago:

*Me piki taua ki te tihi
O Hauturu muia ao.
Ma matakītaki taua
Ki nga poito o te kupenga
O Toi te huatahi
E tama tangi kine e*

13. Ngātiwai is unified in descent from one of the oldest descent groups in Te Taitokerau, Ngāti Manaia, with an unbroken line of descent from the eponymous ancestor Manaia; his descendant Manaia II and his people of Ngāti Manaia. It was in the wake of the famous battle of Mimiwhangata that the Ngāti Manaia survivors dispersed south to Whangārei, Ōmaha and Pākiri and out to Aotea and other offshore islands. This is lead to them being known as Ngātiwai ki te moana.
14. We are a coastal and seagoing iwi, who has travelled up and down the chain of islands from Aorangi and Tāwhitirahi to Aotea for centuries. More than any other iwi in Aotearoa, we are associated with constant travel on the sea, and with occupation of an extensive chain of islands.
15. Our seagoing traditions, as well as the moana and motu that make up a significant part of our tribal rohe, provide one of the origins of the name Ngātiwai. As the late Ngātiwai rangatira, Morore Piripi said:

*Ko ngā mana katoa o Ngatiwai kei te wai, i ngā taniwha me o
rātou mana.*

All the mana of Ngātiwai comes from the sea, from its guardian taniwha and their spiritual force.

16. Our moana, motu, tauranga ika and other special places are all protected by kaitiaki, one of the most famous of which is the manu known as Tūkaiāia (or Tū Te Mahurangi). This manu is a kaitiaki of our whole tribal rohe, particularly the moana and motu and is referred to in one of our best-known whakatauaiki:

*Kia tūpato!
Ka tangi Tūkaiāia ki te moana,
Ko Ngātiwai kei te moana e haere ana.
Ka tangi Tūkaiāia ki te tuawhenua,
Ko Ngātiwai kei te tuawhenua e haere ana.*

*Beware!
When Tūkaiāia calls at sea,
Ngātiwai are at sea
When Tūkaiāia calls inland,
Ngātiwai are inland.*

Ngātiwai Rohe Moana

17. The Ngātiwai rohe moana extends along the eastern coastline from Tapeka Point in the Bay of Islands, south along the eastern seaboard to the Matakanakana River in the south. It extends to the east well beyond the 12nm outer limit of the territorial sea and includes the chain of islands extending along the coastline, including, but not limited to:
- a. Motukōkako off Te Rāwhiti;
 - b. Rimuriki off Mimiwhāngata;
 - c. Tawhitirahi and Aorangi (The Poor Knights);
 - d. High Peak Rocks;
 - e. Sugar Loaf Rocks;
 - f. The Marotiri Islands and Tāranga (The Hen and Chickens Group);
 - g. Tūturu (Sail Rock);
 - h. Pokohinu and Motukino (The Mokohīnau Islands);

R
gp.

- i. Te Hauturu o Toi (Little Barrier);
 - j. Aotea (Great Barrier) and surrounding islets and rocky outcrops;
 - k. Te Kawau-tūmaro-o-Toi (Kawau Island); and
 - l. Te Mau Tohorā-o-Manaia (Motuora Island).
18. Annexed hereto, marked "A" is a map showing the rohe moana.
19. In addition, Ngātiwai has traditional and ancestral rights and interests that extend well beyond the rohe moana described above.
20. Ngātiwai accepts and acknowledges that the rights and interests of its hapū and whānau in parts of this extensive rohe moana overlap and intersect with those of other iwi, hapū and whānau.
21. Our relationship with our rohe moana is the subject of the following tauparapara:

*Tākina ake rā ki te tai tara ki Motukōkako
Whakataha ia ra ngā tikitiki a Tū-Te-Mahurangi
He manu i kawē ngā kī i roto o Pouerua
Ngā kohu i tatao o runga o Rākaumangamanga
Tahuna tapu te riri e
Whai mai ra ki au*

*Tū te Winiwini, tū te Wanawana
Ka tū putaina te whei ao, ki te ao marama*

*Ko Manaia te maunga, ko Manaia te tupuna
Tū atu nei i raro te wahapū
O Whangārei Terenga Parāoa*

*Ko ngā uri whakatupuranga o Toi te Huatahi
Hei unaunahi i whakapiri
Ki te Ika Nui a Māui-Tiki-a-Taranga*

Tihei mauriora!

22. Ngātiwai were traditionally a very mobile iwi, and our tūpuna were constantly moving around our rohe moana harvesting its abundant natural resources. We have maintained this resource use for the almost 180 years that has passed since the signing of Te Tiriti o Waitangi.
23. One example of this is the harvest of manu oi (mutton bird) which was undertaken from early to late summer on a number of motu, including those between Ōkokewa and Whangarara, Hauturu, Pokohinu and the islets and rocky outcrops around Aotea. This is a practice that continues to this day.
24. I have personally partaken in many of these traditional resource use practices, as well as working actively as a kaitiaki of those taonga over many years. One particular example of this is my research and work with whales. Over the years, I have continued and taught others the tikanga relating to beached whales. In 2010, this led to the development of a protocol on the management of marine mammal strandings being agreed between the Board and the Department of Conservation ("DoC"), the first of its kind in the country.

Tikanga

25. As noted in paragraph 16 above, our moana, motu, tauranga ika and other special places are guarded by numerous kaitiaki, in forms that include manu, tohorā (right whales), aihe or papahu (dolphins), whai (stingrays), mango (sharks) and even motu, such as the bush-clad Motu Tohorā just off the southern tip of Aotea. Among these, the shark, Tautahi, a protector of fishing grounds and shellfish beds, in the Whangaruru Harbour, is among the most famous.
26. There is extensive tikanga concerning the use of particular reefs and fishing grounds, particularly tauranga whapuku, each of which have their own unique tikanga, karakia and kaitiaki and traditionally came under the mana of particular rangatira. Using a fishing ground without first obtaining permission was a great hara (misdeed), which could lead to conflict and even fighting.

27. These practices continue today, with hapū having authority over particular fishing grounds, throughout the rohe moana, and exercising that authority through appointed kaitiaki. Those of one Ngātiwai hapū would not fish in the area of another hapū without first obtaining the permission of the relevant kaitiaki. I should say that these are tikanga that operate independent of customary fishing regulations.
28. An example of the centrality of the moana to Ngātiwai tikanga is found in the cave of Manawahuna, beneath Motu Kōkako. The rangatira Morore Piripi tells of how when Ngātiwai went to battle, they would first visit this cave and if they became wet from moisture that dripped for the cave's roof, they would take that as a propitious sign. If they didn't receive this 'blessing', it would be a bad omen for the battle to come. Other wai whakatā (cautioning waters) were also found within the rohe, including at Taiharuru and Marotiri.
29. The ways in which we, as Ngātiwai, have exercised our mana, use and occupation over our rohe moana has changed over the years, but persist to this day, nevertheless. For example, we have worked with DoC not only on the marine mammal stranding policy referred to in paragraph 24 above, but on other issues, particularly in relation to our offshore islands.
30. One example is Taranga, an island in the Hen and Chicken group, which was traditionally occupied by our tūpuna, but now regard as spiritually significant to us. We have partnered with DoC to eradicate kiore from the island, so that tuatara and indigenous birdlife there can flourish and no access is permitted to the island without the Board's approval.
31. Similarly, we have undertaken a number of other activities over recent years to advance and protect our taonga, which we regard as expressions of our kaitikitanga, including:
- a. Challenging the 1992 fisheries settlement, which purported to extinguish our customary rights without our consent;

- b. Successfully defending our continuing ability to exercise our customary rights within the Poor Knights' Marine Reserve at Tawhitirahi and Aorangi;
 - c. Consistently opposing marine reserve proposals that would have the practical effect of extinguishing our customary rights;
 - d. Negotiating and reaching agreements with developers and users of coastal land and resources within our rohe, including those extracting sand offshore from Pākiri; and
 - e. Securing exceptions for customary (non-commercial) aquaculture activities from aquaculture prohibitions in the Northland Regional Council's Coastal Plan.
32. Particular uses and activities that we maintain within our rohe moana include:
- a. Fishing, utilising nets, hinaki and hand-lines to catch various species including but not limited to whapuku (groper), haku (kingfish) kaeo (sea tulip), kahawai, kanae (mullet), koeke (shrimp), kotore/humenga (sea anemone), koura (rock lobster), ngoiro (conger eel), maomao, marari (butterfish), mako, maratea (red moki), paraki/ngaiore (common smelt), para (frostfish), patiki (flounder), patukituki (rock cod), piharau (lamprey), pioke (school shark/rig), reperepe (elephant fish), rore/rori (sea cucumber), tāmure (snapper), tuna (eels), wheke (octopus), conger eel and starfish;
 - b. Harvesting, and in some cases seeding, of shellfish including but not limited to kina, kutai (mussels), ngākihi (limpet), paua, pipi, karapupu (catseye), āpurimu (surfclam), pāpaka (crabs), rori (seasnail), tipa (queen scallops), toheroa, tuangi (cockles), tuatua, waharoa (horse mussel), waikaka (mud snail), and tio (rock oysters);
 - c. Accessing and caring for stranded marine mammals, and obtaining bone and other cultural materials from deceased marine mammals, in accordance with tikanga;

- d. Activities related to spiritual practices such as caring for water burial sites and other wāhi tapu, and imposing rāhui;
- e. Planting, cultivating and gathering plant species in the wet margins of the rohe moana (such as flax, tī kouka and pingao);
- f. Gathering edible and aquatic plants, including kelp and other seaweeds;
- g. Gathering and extracting minerals, including our unique taonga, Onerahi chert and accessing sources of other minerals on our offshore islands, in particular, obsidian;
- h. Snaring, and accessing snaring and egg-gathering sites, for birds including but not limited to manu oi, hakoakoa (skua), kukupa (wood pigeon), kākā and kororā (little penguin);
- i. Collecting driftwood and other natural resources;
- j. Utilising temporary campsites for seasonal harvesting and ceremonial activities; and
- k. Navigation between coastal settlements on the mainland and offshore islands, using tauranga waka, safe harbours and refuge caves.

Conclusion

33. In conclusion, I wish to say that I am providing this affidavit because I support the Board's efforts to protect the rights and interests of Ngātiwai iwi, hapū and whānau. I do this, even though I regard the Act as a deeply flawed mechanism for protecting our customary title and customary rights. On that basis I provide this affidavit without prejudice to those customs and practices of our

ancestors that still continue today although without proper recognition by the Crown.

Parata

Hori Temoananui Parata

Affirmed

at WHANGAREI on 30th March 2017
before me:

(Kim Marec Kerr)

K.M. Kerr
4239

WHANGAREI

Justice of the Peace for New Zealand

~~A Solicitor of the High Court of New Zealand~~

Justice of the Peace

~~Registrar~~





Ngatiwai MACAA Map

Exhibit Note

This is the annexure marked "A" referred to in the within affidavit of *Hori Moanawaoi Paraki*.

and sworn at *WHANGAREI*

this *30th* day of *MARCH 2014* before me:

R.M. Keir
4239

Signature

WHANGAREI
Justice of the Peace for New Zealand

Solicitor of The High Court of New Zealand
(Solicitor to sign in part on Exhibit.)

