

Appendix A – Maca Application:

**Application by Te Runanga o Ngāti Ruanui Trust –
For recognition orders pursuant to the Marine and
Coastal Area (Takutai Moana) Act 2011**

Affidavit of Nigel Nuku – supporting application

Map - application area

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

CIV-2017- 485-282

IN THE MATTER OF

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

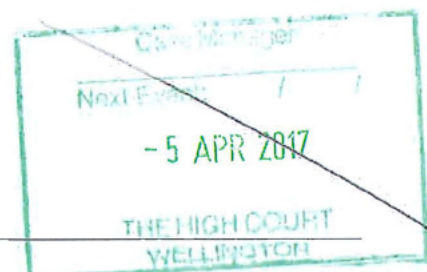
AND IN THE MATTER OF

an application by Te
Rūnanga o Ngāti Ruanui
Trust for orders
recognising Customary
Marine Title and Protected
Customary Rights

APPLICATION BY TE RŪNANGA O NGĀTI RUANUI TRUST

**FOR RECOGNITION ORDERS PURSUANT TO THE MARINE AND
COASTAL AREA (TAKUTAI MOANA) ACT 2011**

Dated 31 March 2017



OCEANLAW NEW ZEALAND

[REDACTED]
Solicitor acting: Justine Inns
EMAIL: justine@oceanlaw.co.nz

To: The Registrar of the High Court at New Plymouth;
and to: Taranaki Regional Council
and to: South Taranaki District Council
and to: The Solicitor General on behalf of the Attorney-General
and to: Te Korowai o Ngāruahine Trust
and to: Te Kāhui o Rauru

This document notifies you that:

1. Te Rūnanga o Ngāti Ruanui Trust ("the Trust") will apply to the High Court for an order pursuant to ss 98 and 100 of the Marine and Coastal Area (Takutai Moana) Act 2011 ("the Act") to recognise the customary marine title [and protected customary rights] of Ngāti Ruanui whānau, hapū and iwi (collectively, "Ngāti Ruanui") in relation to the area described in paragraph 5 below ("the takiwa moana").

Ngāti Ruanui

2. According to the traditions of Ngāti Ruanui passed down through the generations:
 - a. Within the takiwa of Ngāti Ruanui there can be found a multitude of family groups who form the basis of Ngā hapū of Ngāti Ruanui, Tangāhoe, Pakakohi and Ngāti Hine;
 - b. Prior to the arrival of the European, these hapu were self-governing economic entities who, when in time of need, combined as a unit under the unifying symbol of a common eponymous ancestor, namely Ruanui;
 - c. Within the history of the people of the Aotea Waka, can be found two eponymous ancestors with the name of "Ruanui":
 - i. The first is Ruanui-a-Pookiwa (Ruanui I), who was the grandfather of Rongorongo Tāpairu, the wife of Turi Ariki, Kaihautu of the Waka Aotea; and
 - ii. The second, who is the better known, is Ruanui-a-Tāneroroa (Ruanui II), the son of Tāneroroa, who was the daughter of Turi and Rongorongo, who married Uhenga Puanake; and
 - d. Ngāti Ruanui originated from the marriage of Uhenga Puanake and Tāneroroa.
3. The Whakatauki "Mai Kaupokonui tae atu ki Meremere tooku mana", indicates the boundaries of the Ngāti Ruanui takiwa as first stated by Turi Ariki upon the arrival of the Aotea people in Taranaki. Prior to 1840 Ngāti

Ruanui a Pookiwa resided within the South Taranaki area and also had interests within the Port Nicholson area.

4. The Trust is the mandated representative of Ngāti Ruanui and has authority to make this application.

Area to which the application relates

5. The area to which this application relates (the takiwa moana) is the common marine and coastal area (as defined in s9 of the Act) that is bounded:
 - a. On the landward side by the line of the mean high-water springs (or, where that line crosses a river, the landward boundary shall be whichever is the lesser of one kilometre upstream from the mouth of the river or the point upstream that is calculated by multiplying the width of the river mouth by five);
 - b. On the seaward side by the outer limits of the territorial sea;
 - c. On the northward side by a line that extends from the coast abutting the mouth of the Waingongoro River to the outer limits of the territorial sea; and
 - d. On the southward side by a line that extends from the coast abutting mouth of the Whenuakura River to the outer limits of the territorial sea.
6. The takiwa is shown on the map annexed to the affidavit of Nigel Nuku, filed herewith.
7. Within this area, names such as Rangatapu, Ohawe Tokotoko, Waihi, Waukena, Tangāhoe, Manawapou, Taumaha, Manutahi, Pipiri, Kaikura, Whitikau, Kenepuru, Te Pou a Turi, Rangitawhi, and Whenuakura denote the whereabouts of Ngāti Ruanui fishing grounds and reefs.
8. To the extent that parts of this area overlap or are shared with those of other iwi, these are to be regarded as constituting a form of joint exclusivity.

Customary Title/Rights

9. Ngāti Ruanui tūpuna exercised rangatiratanga and practiced kaitiakitanga in the takiwa moana and utilised that area for:
- a. Fishing, utilising nets, hinaki and hand-lines to catch hāpuka (groper), kaeo (sea tulip), kahawai, kanae (mullet), koeke (shrimp), kotore/humenga (sea anemone), koura (rock lobster), marari (butterfish), mako, 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, starfish and other fish.
 - b. Seeding and harvesting of shellfish (including kina, kutae/kuku (greenlipped mussels and blue mussels), paua, pipi, pupu (catseye), purimu (surfclam), pāpaka (crabs), rori (seasnail), tuangi (cockles), tuatua, waharoa (horse mussel), waikaka (mud snail), rock oysters and scallops.
 - c. Obtaining bone and other cultural materials from marine mammals;
 - d. Activities related to spiritual practices (such as rāhui);
 - e. Planting and cultivating plant species in the wet margins of the takiwa moana (such as flax, tī kouka and pingao);
 - f. Gathering edible and aquatic plants;
 - g. Gathering and extracting minerals;
 - h. Collecting hāngi stones;
 - i. Collecting driftwood and other natural resources;
 - j. Temporary campsites for seasonal harvesting and ceremonial activities;
 - k. Tauranga waka and navigation.

Grounds on which the protected customary rights order is sought:

10. The grounds on which this order is sought are:
- a. Ngāti Ruanui hapū and whānau has relied heavily on the inshore fish and shellfish food sources noted in paragraphs 9(a9.a) and 9.b) above and wetland food stocks foraged by whānau in the estuaries and coastal margins;

- b. Ngāti Ruanui fishermen sought deep water fish (including tāmure and others noted in paragraph 9(a) above) that were not available closer to shore;
 - c. Ngāti Ruanui hapū, whānau and individuals also undertake the following activities in the common marine and coastal area:
 - i. The practice of kaitiakitanga; and
 - ii. The other rights and activities outlined in paragraph 9(c) to (k) above;
 - d. Ngāti Ruanui has undertaken the activities listed above since before 1840 and continues to undertake these activities in the application area, albeit in some instances using modern equipment, and in accordance with tikanga; and
 - e. The further grounds set out in the affidavit of Nigel Nuku, filed herewith.
11. The Trust will provide more information once funding for research and legal representation is secured.

Grounds on which the customary marine title application is made:

12. The grounds on which this order is sought are:
- a. Ngāti Ruanui whānau and hapū have held the takiwa moana in accordance with tikanga since before 1840.
 - b. Ngāti Ruanui whānau and hapū have exclusively used and occupied much or all of the takiwa moana (but for navigation by third parties) since before 1840 to the present day without substantial interruption;
 - c. The customary title held by Ngāti Ruanui in the takiwa moana has not, since 1840, been extinguished as a matter of law; and
 - d. The further grounds set out in the affidavit of Nigel Nuku filed herewith.

Matters relevant to whether customary marine title exists

13. Although very little coastal land abutting the takiwa moana remains in the hands of Ngāti Ruanui, this is overwhelmingly due to the raupatu (confiscations) the iwi suffered during the Nineteenth Century, which themselves resulted from the refusal of Taranaki iwi to willingly part with their land.

14. Members of Ngāti Ruanui exercise non-commercial customary fishing rights in the takiwa moana as noted in paragraph 9 above, and have done so from 1840 to the present day.
15. The Trust will provide more information once funding for research and legal representation is secured.

Holder of the recognition order(s)

16. The holder of the order(s) as representative of the applicant group will be the Trust or some other entity or person appointed by Ngāti Ruanui for that purpose.

Contact Details:

17. Contact details (address for service) for Te Rūnanga o Ngāti Ruanui Trust, on behalf of Ngāti Ruanui, are:

C/- Justine Inns
Solicitor
Oceanlaw New Zealand



Email: justine@oceanlaw.co.nz

18. This application relies on ss51 58, 59, and 98-113 of the Act, and the affidavit of Nigel Nuku dated 29 March 2017 and filed herewith.

Dated at Nelson on the 31st day of March 2017.


Justine Inns

DUPLICATE

IN THE HIGH COURT OF NEW ZEALAND
NEW PLYMOUTH REGISTRY

CIV-2017- 485-282

IN THE MATTER OF

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

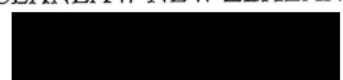
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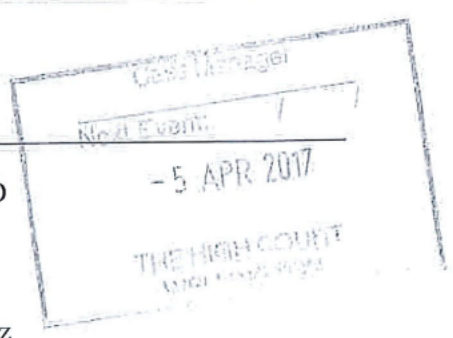
**AFFIDAVIT OF NIGEL NUKU
IN SUPPORT OF TE RŪNANGA O NGĀTI RUANUI TRUST APPLICATION
FOR RECOGNITION ORDERS FOR PROTECTED CUSTOMARY RIGHTS
AND CUSTOMARY MARINE TITLE**

Dated 29 March 2017

OCEANLAW NEW ZEALAND



Solicitor acting: Justine Inns
EMAIL: justine@oceanlaw.co.nz



I, Nigel Nuku of Hawera, Pou Tuara Te Runanga o Ngati Ruanui Trust swear/affirm that:

Introduction

1. I Nigel Nuku, 61 years of age, am a registered descendant of Ngati Ruanui, hapu of Ngati Tupaea, Ngati Tanewai and Araukuku; I am an elected Trustee (Pou Tuara) of Te Rūnanga o Ngāti Ruanui Trust ("the Trust").
2. The Te Runanga o Ngati Ruanui Trust "Deed of Trust" set out the history of the Trust. The Iwi of Ngati Ruanui have had long-standing grievances in respect of action of the Crown since 1840 that have prejudicially affected Ngati Ruanui. These grievances, together with the grievances of other Taranaki Maori, were heard by the Waitangi Tribunal between 1990 and 1995. In the context of these hearings the Crown acknowledged that certain of its actions against Taranaki Maori, including Ngati Ruanui, were unjust and in breach of the Treaty of Waitangi. The Waitangi Tribunal issued its report on the grievances of Taranaki Maori in 1996, in which it recognised the need for a settlement.
3. In April 1998 the Crown recognised the mandate of the Ngati Ruanui Muru me te Raupatu Working Party to represent Ngati Ruanui (including Pakakohi and Tangaahoe) in negotiations for a settlement with the Crown.
4. The Deed of Settlement between Ngati Ruanui and the Crown, which was ratified by a majority of 88% of the votes in a postal ballot of the Registered Uri aged 18 years old or older as at 6 April 2001 was signed on 12 May 2001, under which the Crown, in recognition of its unjust actions and breaches of the Treaty of Waitangi and its principles, agreed to provide the Redress to a governance entity to be established and ratified by the Registered Uri of Ngati Ruanui.

5. The original Trust Deed signed on 10 December 2001 and the trust created (Te Runanga o Ngati Ruanui Trust) was ratified as the governance entity to receive the Redress on behalf of Ngati Ruanui. The Crown paid or transferred redress to Te Runanga, as the ratified governance entity to receive the Redress on behalf of Ngati Ruanui as part of the commercial redress to Ngati Ruanui. There is nothing in the Deed of Settlement that infringed or extinguished the customary rights and title of Ngati Ruanui.
6. Te Runanga o Ngati Ruanui Trust is committed to assisting whanau, hapu and marae, as kaitiaki, to take whatever measures are necessary to ensure the wellbeing and future health of the people of Ngati Ruanui.
7. I am providing this affidavit in support of the Trust's application for customary marine title and protected customary rights. I understand that application is made on behalf of all hapū and whānau of Ngāti Ruanui.

The Ngāti Ruanui Takiwa Moana

8. I acknowledge that Te Runanga o Ngati Ruanui Trust is the mandated voice for the members of the 16 hapu that comprise Ngati Ruanui. The takiwa (tribal region) of Ngati Ruanui is bounded by the Whenuakura River in the South and the Waingongoro River in the North and extends inland to the east to the Matemateonga Ranges. I acknowledge and affirm the intrinsic relationship of Ngati Ruanui with our natural environment.
9. The concept of borders and boundaries is something that is contemporary and has become as a significance of the korero from the Deed of Settlement. In respect of Moana our kaitiakitanga, our whanaungatanga, our attachments, our mana our whakapapa is not defined by boundaries; we extend until the cosmological atmosphere meets the end of the sea.

Handwritten signature and initials, possibly 'SH' and 'ZY', in the bottom right corner.

10. Ngati Ruanui has a responsibility of kaitiakitanga as an inherited responsibility of those who hold mana whenua to ensure that the mauri of the natural resources of our takiwa are healthy and strong, and the life-supporting capacity of these ecosystems are preserved.
11. Ngati Ruanui is a coastal focused iwi where reliance upon the foreshore and kaimoana is central to our wellbeing. Interaction with coastal waters, sites and significant locations especially where rivers and stream intersect with Moana along with reefs and estuaries is ongoing and define who we are. Although the raupatu and other Treaty breaches Ngati Ruanui suffered over the years placed significant burdens and impediments on the iwi, we have continued to exercise our customary rights and fulfil our kaitiakitanga obligations to the best of our ability.
12. The importance and connection with Moana is demonstrated by our settlement with the Crown identifying shellfish species and taonga species. Overall our settlement recognises our physical connection with Moana through our coastal statutory acknowledgment.
13. The resources found within Te Moananui A Kupe have, since time immemorial, provided the people of Ngati Ruanui with a constant supply of food resources. The hidden reefs provided koura, paua, kina, pupu, papaka, pipi, tuatua, and many other species of reef inhabitants.
14. Hapuka, moki, kanae, mako, and patiki swim freely between the many reefs that can be found stretching out into the spiritual waters of Te Moananui A Kupe and along the Ngati Ruanui coastline. Names such as Rangatapu, Ohawe Tokotoko, Waihi, Waokena, Tangahoe, Manawapou, Taumaha, Manutahi, Pipiri, Kaikura, Whitikau, Kenepuru, Te Pou a Turi, Rangitawhi, and Whenuakura depict the whereabouts of either a fishing ground or fishing reef. All

along the shoreline from Rangatapu to Whenuakura food can be gathered, depending on the tides, weather, and time of year.

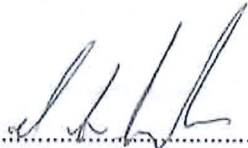
15. Annexed hereto, marked "A" is a map showing the takiwa moana (for the purpose of this application, only).
16. I have had an active involvement with the coastal waters of Ngati Ruanui including the practice of kaitiakitanga roles, accessing sites of marine mammal stranding, managing waahi tapu sites and gathering of kaimoana and fishing at traditional sites acknowledged by Ngati Ruanui including reefs. I have also had further involvement in rahui (temporary closing of a coastal area).
17. As a trustee of Te Runanga o Ngati Ruanui Trust I have had extensive involvement in kaitiakitanga roles, site protection and the definition of coast waters important to Ngati Ruanui, hapu and whanau. I have been part of the efforts to oppose seabed mining in the waters of Ngati Ruanui. Further I have had an active role in assisting with customary fishing applications within the takiwa.

Tikanga Information

18. Customary use of coastal waters and the wider oceans are evident in Ngati Ruanui traditional song and stories. For example near Patea is Parara ki Te Uru, Patea Beach, a well-known site (recorded in the song 'No Runga') where ancestors Turi and Rongorongo sustained their hapu by growing gardens and gathering seafood including pupu in the mudflats. This beach and coastal waters has been valued for generations. Further up the coast is Whitikau (a fishing village) where Turi and Rongorongo daughter Taneroroa lived sustaining the next generation of the hapu. Manawapou, further along the coast is a significant waahi tapu where the Wharenui Manawapou was built to host the meeting of the

Rangatira for where the whakatauki 'Te Tangata Too Mua, Te Whenua Too Muri' was derived.

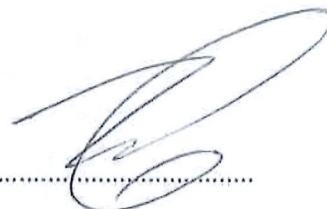
19. In the immediate coastal area Ngati Ruanui have association with and continued interaction with sites which have a geographical patter of distribution along the entire coast line. These sites are predominately associated with fishing activities and have been supported with other archaeological sites immediate adjacent to many of these areas; including evidence of middens, ovens and stone net sinkers.
20. Ngati Ruanui has strong and continued association with the reefs commonly known as the North and South Traps and the area known as Te Poho Omaru.
21. Ngati Ruanui has continued to occupy and actively use many of these areas (reefs and sites).
22. Ngati Ruanui acknowledges that cross boundaries with Nga Rauru Iwi will also be affected by the Board's application in respect of the North and South Traps.


.....

Nigel Nuku

~~Sworn~~/affirmed

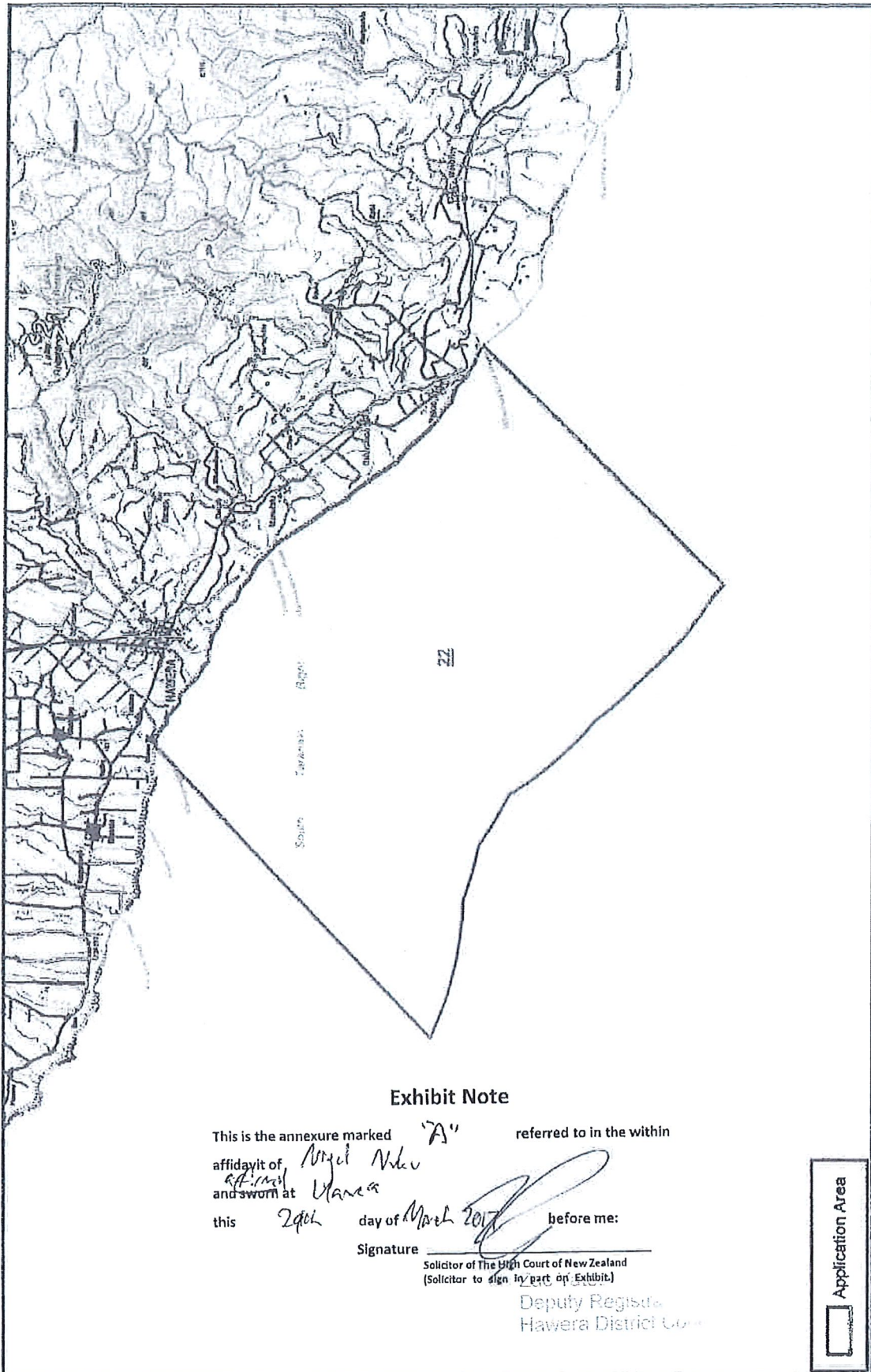
at Hawera on 29/03/2017
before me:


.....

A Solicitor of the High Court of New Zealand

Zac Yates	Justice of the Peace
Deputy Registrar	
Hawera District Court	Registrar

"A"

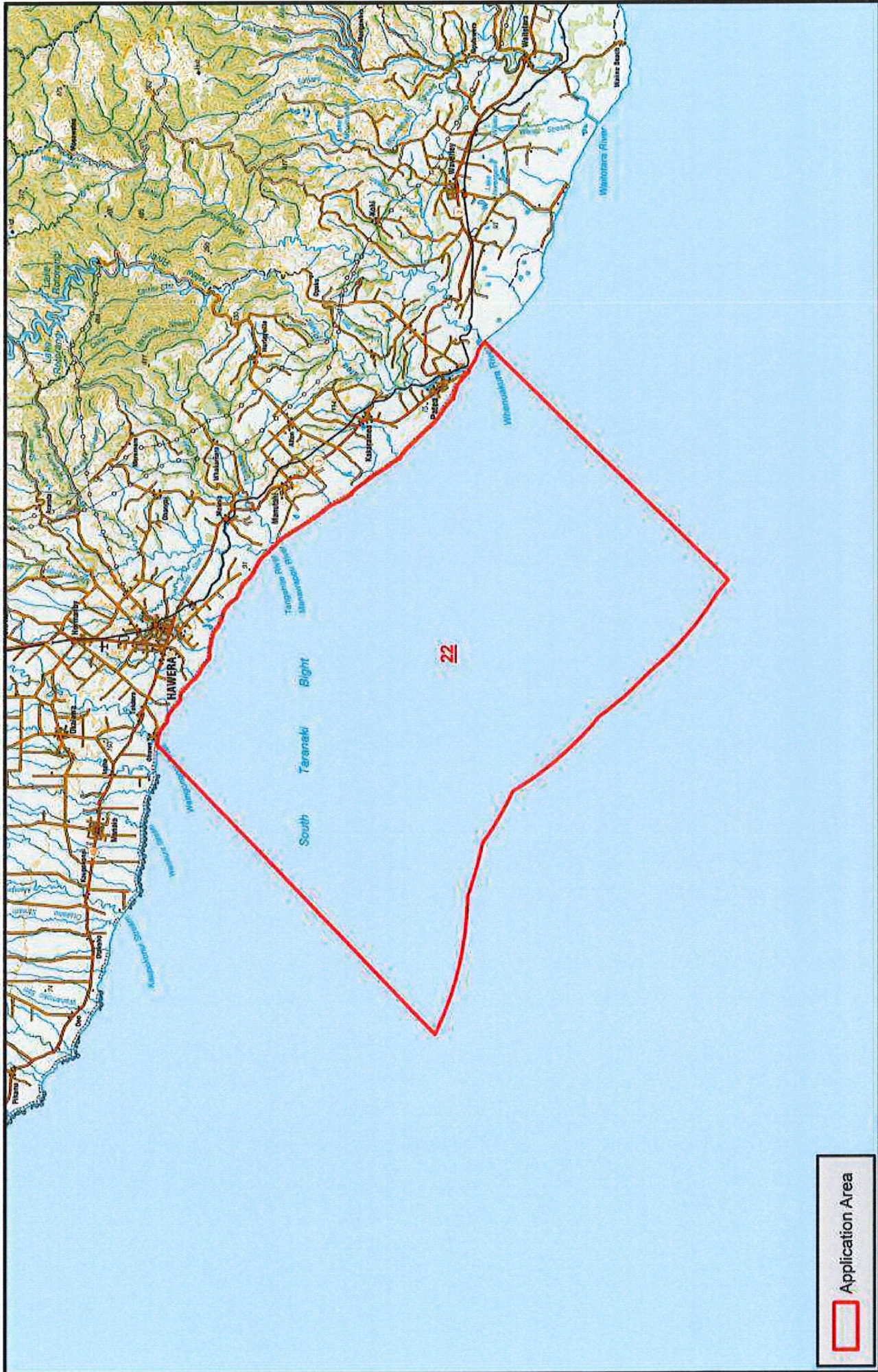


Scale: 1:320,000



Map: Individual Map Active Areas V16
Date: 6/12/2016

Te Rūnanga o Ngāti Ruanui Trust
Determination-Customary Marine Title and Protected Customary Rights



 Application Area

Kilometers 0 3.75 7.5 15

Scale: 1:320,000

Te Rūnanga o Ngāti Ruanui Trust
Determination-Customary Marine Title and Protected Customary Rights

Map: Individual Map Active Areas V16
Date: 6/12/2016

Appendix B - Statutory Acknowledgement Coastline Map



Statutory Acknowledgement and Deed of Recognition

Taranaki Land District
Territorial authority:
Taranaki Region



TERRALINK LIMITED

Te Moananui A Kupe O Ngāti Ruauui (Coastal Area)

Areas referred to in the Deed of Settlement between
Ngāti Ruauui and the Crown

Approved as to boundaries:

[Signature] 24/12/19

for Ngāti Ruauui

[Signature] 28/2/2001

for and on behalf of The Crown

SO 14739

**Appendix C - Deed of Settlement:
Cultural Redress Schedule Part 1:
Protocols: Fisheries Protocol**

DEED OF SETTLEMENT: CULTURAL REDRESS SCHEDULE

PART 1: PROTOCOLS: FISHERIES PROTOCOL

FISHERIES PROTOCOL

(Clause 9.1.5)

AAA
2020

DEED OF SETTLEMENT: CULTURAL REDRESS SCHEDULE

PART 1: PROTOCOLS: FISHERIES PROTOCOL

**A PROTOCOL Issued by the CROWN through the MINISTER OF FISHERIES and CHIEF
EXECUTIVE, MINISTRY OF FISHERIES
regarding INTERACTION with NGAATI RUANUI on
FISHERIES ISSUES**

1. INTRODUCTION

- 1.1 Under the deed of settlement dated [] between Ngaati Ruanui and the Crown (the "Deed of Settlement"), the Crown agreed that the Minister of Fisheries (the "Minister") would issue a protocol (the "Fisheries Protocol") setting out how the Ministry of Fisheries (the "Ministry") will interact with the Ngaati Ruanui Governance Entity (the "Governance Entity") in relation to matters specified in the Fisheries Protocol. These matters are:
- 1.1.1 recognition of the interests of Ngaati Ruanui in all species of fish, aquatic life or seaweed that exist within the Fisheries Protocol Area, including provisions covering:
 - taonga fish species;
 - tuna (eel);
 - paua fishery; and
 - prohibition of commercial harvest;
 - 1.1.2 development of sustainability measures, fisheries regulations and Fisheries Plans (as defined in **clause 6.1**);
 - 1.1.3 customary non-commercial fisheries management;
 - 1.1.4 research planning;
 - 1.1.5 nature and extent of fisheries services;
 - 1.1.6 contracting for services; and
 - 1.1.7 employment of staff with customary non-commercial fisheries responsibilities.
- 1.2 The Governance Entity is the body representative of the whanau, hapu and iwi of Ngaati Ruanui who have an interest in all species of fish, aquatic life and seaweed that exist within the Fisheries Protocol Area. Ngaati Ruanui also has a responsibility in relation to the preservation, protection and management of its customary non-commercial fisheries through its tino rangatiratanga and kaitiakitanga. This derives from Ngaati Ruanui's status as tangata whenua in the Fisheries Protocol Area and is inextricably linked to whakapapa and has important cultural and spiritual dimensions.
- 1.3 The obligations of the Ministry in respect of fisheries are to ensure ecological sustainability, to meet Treaty of Waitangi and international obligations, to enable efficient resource use and to ensure the integrity of fisheries management systems.
- 1.4 The Ministry and the Governance Entity are seeking a relationship consistent with the Treaty of Waitangi and its principles. Those principles provide the basis for the relationship between the parties to this Fisheries Protocol, as set out in this Fisheries Protocol.

DEED OF SETTLEMENT: CULTURAL REDRESS SCHEDULE

PART 1: PROTOCOLS: FISHERIES PROTOCOL

- 1.5 The Minister and the Chief Executive of the Ministry (the "Chief Executive") have certain functions, powers and duties in terms of the Fisheries Legislation and the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992. With the intention of creating a relationship that achieves, over time, the fisheries policies and outcomes sought by both Ngaati Ruanui and the Ministry consistent with the sustainable utilisation of fisheries, this protocol sets out how the Ministry, the Minister and Chief Executive will exercise their functions, powers and duties in relation to matters set out in this protocol. The Governance Entity will have the opportunity for input into the policy, planning and decision-making processes relating to the matters set out in this protocol.

2. PROTOCOL AREA

- 2.1 This Fisheries Protocol applies across the Fisheries Protocol Area which means the area identified in the map included in **Attachment A** of this protocol, together with the adjacent waters.

3. TERMS OF ISSUE

- 3.1 This protocol is issued pursuant to section [] of the Ngaati Ruanui Claims Settlement Act [] (the "Settlement Legislation") and **clause 9.1.5** of the Deed of Settlement and is subject to the Settlement Legislation and the Deed of Settlement.
- 3.2 This protocol must be read subject to the terms of issue set out in **Attachment B**.

4. IMPLEMENTATION AND COMMUNICATION

- 4.1 The Ministry will maintain effective consultation processes and communication networks with the Governance Entity:
- 4.1.1 The Ngaati Ruanui Environmental Officer (the "EO") will be the contact person for the Governance Entity in relation to the Fisheries Protocol. Contact details will be provided by the Governance Entity to the Department;
- 4.1.2 The Senior Fisheries Manager responsible for fisheries management in the Taranaki area (the "SFM Taranaki") will be the primary Ministry contact person for the EO and he or she will act as a liaison person with other Ministry staff;
- 4.1.3 The SFM Taranaki will meet with the EO every six months at a mutually acceptable venue to review implementation of this protocol. The meetings will be timed to enable the Governance Entity to have input into the Ministry's annual business planning and policy development, particularly at the time when priorities are being set for the following year. The frequency of these meetings may be varied by mutual agreement; and
- 4.1.4 The SFM Taranaki and other relevant Ministry staff will attend an annual hui at the invitation of the Governance Entity to review the Ministry's activities over the previous year, to report on matters of significance to Ngaati Ruanui and to discuss with Ngaati Ruanui its concerns on conservation issues within the Fisheries Protocol Area, and any other issues of mutual concern in fisheries management.

DEED OF SETTLEMENT: CULTURAL REDRESS SCHEDULE

PART 1: PROTOCOLS: FISHERIES PROTOCOL

4.2 The Ministry will:

4.2.1 train relevant staff on this protocol and provide ongoing training as required, and invite the EO and other Ngaati Ruanui people nominated by the Governance Entity to participate or assist in this training; and

4.2.2 inform relevant fisheries stakeholders about this protocol and the settlement of the historical claims of Ngaati Ruanui, and provide ongoing information as required.

5. SPECIES OF FISH, AQUATIC LIFE AND SEAWEED

Taonga Fish Species

5.1 The Crown, through the Minister and Chief Executive, recognises that Ngaati Ruanui have a customary non-commercial interest in, and a special relationship with, all species of fish, aquatic life and seaweed found within the Fisheries Protocol Area and managed by the Ministry under the Fisheries Legislation. The Ministry also recognises the particular customary non-commercial interest of Ngaati Ruanui in the Taonga Fish Species (Ministry of Fisheries) specified in **Attachment C**.

Paua

5.2 The Ministry recognises that Ngaati Ruanui have a customary non-commercial interest in the Paua Fishery in the Fisheries Protocol Area and the Deed of Settlement contains undertakings which reflect the particular significance of the Paua Fishery in the Fisheries Protocol Area to Ngaati Ruanui.

Prohibition on the taking of certain species for commercial purposes unless specially authorised

5.3 Pursuant to clause 9.6.1 of the Deed of Settlement, the taking of the following species as target species for commercial purposes is, or will be from the Settlement Date, prohibited within the Fisheries Protocol Area:

5.3.1 blue mussel (kuku);

5.3.2 greenlipped mussel (kuku);

5.3.3 lamprey (piharau);

5.3.4 pipi;

5.3.5 mud snail (waikaka);

5.3.6 catseye (pupu);

5.3.7 sea urchin (kina); and

5.3.8 freshwater crayfish (waikoura).

5.4 Pursuant to clause 9.6.2 of the Deed of Settlement:

APW

DEED OF SETTLEMENT: CULTURAL REDRESS SCHEDULE

PART 1: PROTOCOLS: FISHERIES PROTOCOL

- 5.4.1 if it is demonstrated to the satisfaction of the Minister that there are sufficient quantities of any of the species referred to in **clause 5.3** to provide for a commercial catch of that species, the Minister will consult with the advisory committee referred to in **clause 9.1.20** of the Deed of Settlement in respect of any proposal to authorise the commercial taking of that species (a "**Commercial Catch Proposal**") in accordance with:
- (a) section 10 of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992; and
 - (b) section 12 of the Fisheries Act 1996;
- 5.4.2 the Minister will consult with the advisory committee referred to in **clause 9.1.20** of the Deed of Settlement in relation to any proposal for the commercial fishing of the Paua Fishery in the Fisheries Protocol Area (a "**Paua Commercial Catch Proposal**"); and
- 5.4.3 the Minister will, in considering a Commercial Catch Proposal or a Paua Commercial Catch Proposal, ensure that the customary non-commercial fishing interests of Ngaati Ruanui in the species concerned are recognised and provided for in accordance with:
- (a) section 10 of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992; and
 - (b) where the Commercial Catch Proposal relates to the setting or varying of the Total Allowable Commercial Catch, section 21 of the Fisheries Act 1996.

Tuna/Eels

- 5.5 The Ministry recognises that Ngaati Ruanui have a customary non-commercial interest in the tuna (eel) fishery within the Fisheries Protocol Area and in particular, the possibility of the enhancement of that fishery through the transfer of elvers and the possibility of farming tuna (eel).
- 5.6 Pursuant to **clause 9.6.8** of the Deed of Settlement in each of the three years after the Settlement Date, upon receipt of written notice that the Governance Entity intends to apply to the Minister for a special permit under section 64 of the Fisheries Act 1983 or section 97 of the Fisheries Act 1996, Ministry staff shall meet with representatives of the Governance Entity, at a mutually acceptable venue and consult with the Governance Entity on:
- 5.6.1 the maximum quantity of undersize tuna (eel) that is likely to be permitted to be taken under section 64 of the Fisheries Act 1983 or section 97 of the Fisheries Act 1996 (the "**Permitted Catch**") from each of not more than three sites within the Fisheries Protocol Area specified by the Governance Entity to the Ministry in writing (up to a maximum of nine sites during the three year period after the Settlement Date); and
 - 5.6.2 the likely conditions of any Permitted Catch under section 64 of the Fisheries Act 1983 or section 97 of the Fisheries Act 1996, in relation to each of those specified sites, including the likely conditions in relation to the relocation of any of that Permitted Catch in:

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- (a) Waterways in the Fisheries Protocol Area; and
 - (b) aquacultural farms.
- 5.7 In recognition of the particular importance of the tuna (eel) fishery to Ngaati Ruanui, the Chief Executive will consider, in accordance with the relevant legislation and operational processes, any application from the Governance Entity for a special permit to take undersized tuna (elvers or glass eels) from Waterways within the Fisheries Protocol Area as part of any enhancement or aquaculture project.
- 5.8 For the purposes of clauses 5.5 to 5.7:
 - 5.8.1 tuna (eel) is defined as:
 - (a) *anguilla dieffenbachii* (longfinned eel);
 - (b) *anguilla australis* (shortfinned eel); and
 - (c) *anguilla rheinhartii*; and
 - 5.8.2 undersized tuna is defined as tuna (eel) with a weight of less than 220 grams.
- 6. **DEVELOPMENT OF SUSTAINABILITY MEASURES, FISHERIES REGULATIONS AND FISHERIES PLANS**
 - 6.1 If any person is exercising powers or functions, under the Fisheries Legislation or the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, relating to the setting of sustainability measures, or the making of fisheries regulations, or the development/implementation of a fisheries plan for the purposes of section 11A of the Fisheries Act 1996 (a "Fisheries Plan"), for any species of fish, aquatic life or seaweed within the Fisheries Protocol Area, that person must:
 - 6.1.1 provide the Governance Entity with all reasonably available background information in relation to the setting of sustainability measures, the making of fisheries regulations, and the development/implementation of Fisheries Plans;
 - 6.1.2 inform the EO within the Governance Entity, in writing, of any proposed changes in relation to the setting of sustainability measures, the making of fisheries regulations, and the development/implementation of Fisheries Plans as soon as reasonably practicable to enable Ngaati Ruanui to respond in an informed way;
 - 6.1.3 meet with the Governance Entity to discuss any proposed sustainability measures, fisheries regulations, or Fisheries Plans, if requested by the Governance Entity to do so;
 - 6.1.4 provide opportunities for the Governance Entity to participate and have input into any process to consider sustainability measures, fisheries regulations, or Fisheries Plans, including any proposals put forward by the Governance Entity itself;
 - 6.1.5 incorporate the views of the Governance Entity into any advice given to the Minister or other stakeholders on matters that affect their interests and provide a copy of that advice to the Governance Entity; and

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6.1.6 report back to the Governance Entity within 20 working days of any final decision in relation to sustainability measures, fisheries regulations, or Fisheries Plans.

7. MANAGEMENT OF CUSTOMARY NON-COMMERCIAL FISHERIES

7.1 The Ministry undertakes to provide the Governance Entity with information and assistance to assist in the management of customary non-commercial fisheries and the implementation and administration of the Fisheries (Kaimoana Customary Fishing) Regulations 1998. This information and assistance may include but is not limited to:

7.1.1 discussions with the Ministry's Fisheries Management and Compliance teams on the implementation of the regulations within the Fisheries Protocol Area; and

7.1.2 provision of existing information, if any, relating to the sustainability, biology, fishing activity and fisheries management within the Fisheries Protocol Area.

8. RESEARCH PLANNING PROCESS

8.1 The Ministry will provide the Governance Entity with all reasonably available background information (including information on processes, timelines and Ministry objectives) so that the Governance Entity may have input into and participate in the research planning process of the Ministry.

8.2 The Ministry will consult with the Governance Entity on all research proposals for fisheries within the Fisheries Protocol Area.

8.3 The Ministry will provide the Governance Entity, within 30 working days of the execution of the Fisheries Protocol, with information on the requirements for becoming an 'Approved Research Provider'. Should the requirements for becoming and remaining an 'Approved Research Provider' change over time, the Ministry will inform the Governance Entity about those changes.

9. NATURE AND EXTENT OF FISHERIES SERVICES

9.1 The Ministry will each year consult with the Governance Entity on the nature and extent of services that the Ministry is planning on providing within the Fisheries Protocol Area in the following year, including any recovery of costs for the provision of those services from the commercial fishing industry, where appropriate.

10. CONTRACTING FOR SERVICES

10.1 The Ministry will consult with the Governance Entity in respect of any contract for the provision of services that may impact on the management of fisheries within the Fisheries Protocol Area, if the Ministry is proposing to enter into such a contract.

11. EMPLOYMENT OF STAFF WITH CUSTOMARY FISHERIES RESPONSIBILITIES

11.1 The Ministry will consult with the Governance Entity on certain aspects of the employment of Ministry staff if a particular vacancy directly affects the fisheries interests of Ngaati Ruanui.

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11.2 The level of consultation shall be relative to the degree to which the vacancy impacts upon the interests of other iwi as well as those of Ngaati Ruanui, and may be achieved by one or more of the following:

11.2.1 direct notification of the vacancy;

11.2.2 consultation on the job description and work programme;

11.2.3 consultation on the location of the position; and

11.2.4 input into the selection of the interview panel.

Date:

SIGNED for and on behalf of)
HER MAJESTY THE QUEEN In right)
of New Zealand by)
[]
the Minister of Fisheries)

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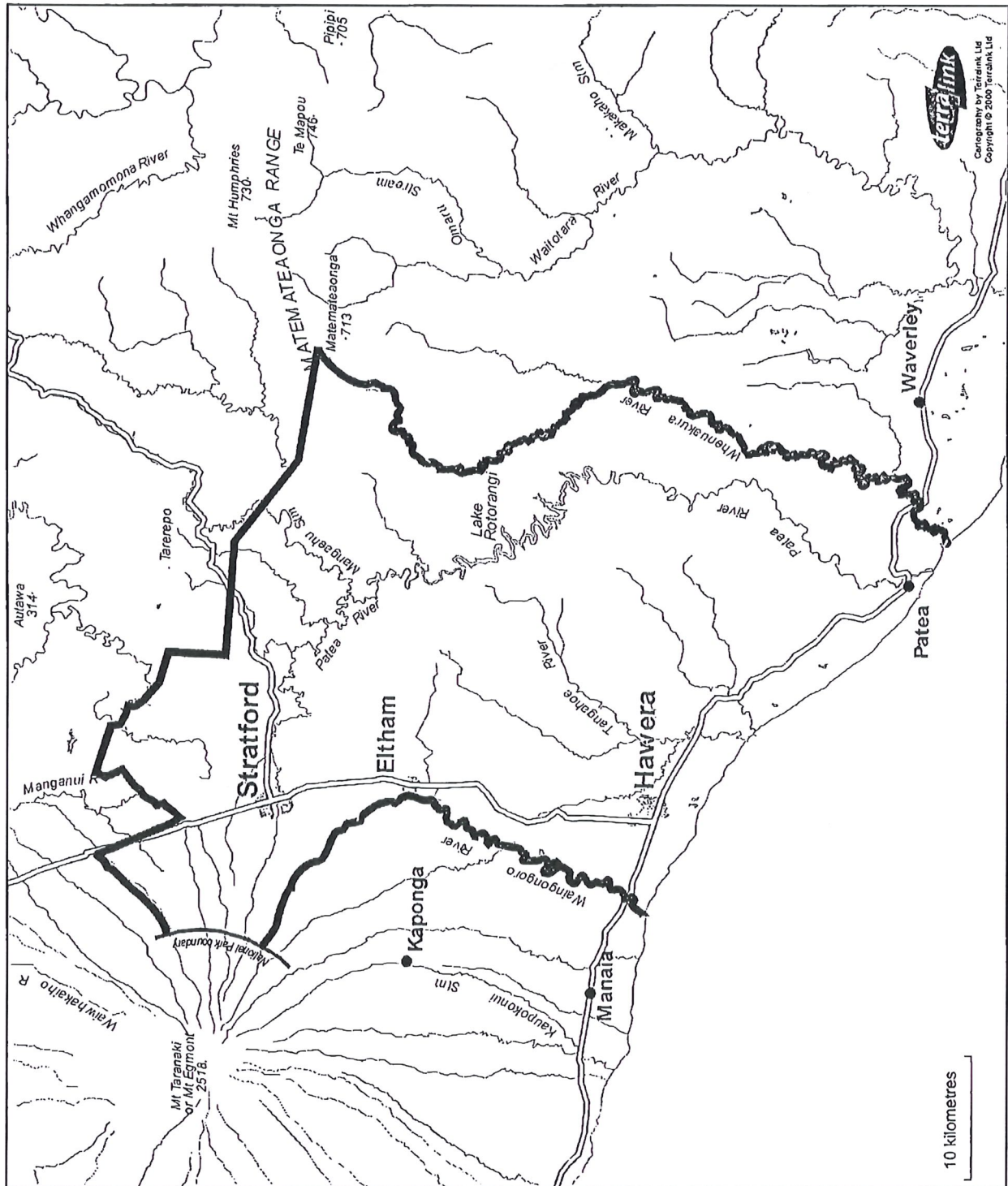
ATTACHMENT A

FISHERIES PROTOCOL AREA

The map follows this page.

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FISHERIES PROTOCOL AREA FOR NGAATI RUANUI



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ATTACHMENT B

TERMS OF ISSUE

1. DEFINITIONS

In this Attachment terms defined in this Fisheries Protocol have the same meaning and:

Crown means Her Majesty the Queen in right of New Zealand and includes, where appropriate, the Ministers and Departments of the Crown that are involved in, or bound by the terms of the Deed of Settlement to participate in, any aspect of the redress under the Deed of Settlement;

Fisheries Legislation means the Fisheries Act 1983 and the Fisheries Act 1996;

Governance Entity means *[insert name and description once entity established in accordance with the Deed]*;

Ngaati Ruanui has the meaning set out in clause 1.4 of the Deed of Settlement;

Protocol means a statement in writing, issued by the Crown through the Minister to the Governance Entity under the Settlement Legislation and the Deed of Settlement and includes this Fisheries Protocol.

2. AUTHORITY TO ISSUE, AMEND OR CANCEL PROTOCOLS

2.1 Section [] of the Settlement Legislation provides that:

2.1.1 subject to clause 2.1.2(b), the Minister may issue a Protocol and may amend or cancel that Protocol; and

2.1.2 a Protocol may be amended or cancelled at the initiative of:

- (a) the Governance Entity; or
- (b) the Minister only after consulting with, and having particular regard to the views of, the Governance Entity.

3. PROTOCOLS SUBJECT TO RIGHTS AND OBLIGATIONS

3.1 Section [] of the Settlement Legislation provides that the Protocol will not:

3.1.1 restrict the ability of the Crown to:

- (a) perform its functions and duties, and exercise its powers, in accordance with the law and government policy; and
- (b) introduce legislation (including amending legislation) and change government policy; or

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- (c) interact or consult with any person or persons the Crown considers appropriate including, without limitation, any other iwi, hapu, marae, whanau or other representatives of tangata whenua;

3.1.2 detract from the responsibilities of the Minister or the Ministry; or

3.1.3 restrict the legal rights of Ngaati Ruanui.

4. NOTING OF PROTOCOLS

4.1 Section [] of the Settlement Legislation provides that:

4.1.1 the existence of the Fisheries Protocol, (once issued, and as amended from time to time), together with a summary of the terms of issue of the Fisheries Protocol, must be noted in Fisheries Plans from time to time affecting the Fisheries Protocol Area; and

4.1.2 the noting of the Fisheries Protocol under **clause 9.1.6(a)** of the Deed of Settlement:

(a) is for the purpose of public notice only; and

(b) is not an amendment to the relevant plans for the purposes of section 11A of the Fisheries Act 1996.

5. ENFORCEABILITY OF PROTOCOLS

5.1 Section [] of the Settlement Legislation provides that:

5.1.1 the Crown must comply with its obligations under a Protocol as long as the Protocol is in force; and

5.1.2 if the Crown fails, without good cause, to comply with its obligations under a Protocol, the Governance Entity may, subject to the Crown Proceedings Act 1950, enforce the Protocol, but may not recover damages, or any form of monetary compensation (other than any costs related to the bringing of proceedings awarded by a Court), from the Crown.

5.2 The provisions included in the Settlement Legislation under **clause 9.1.16** of the Deed of Settlement will not apply to any guidelines developed in relation to a Protocol.

6. BREACH OF PROTOCOLS NOT BREACH OF DEED

6.1 The Deed of Settlement provides that a failure by the Crown to comply with its obligations under a Protocol is not a breach of the Deed.

7. LIMITATION OF RIGHTS

7.1 Section [] of the Settlement Legislation provides that the Fisheries Protocol does not have the effect of granting, creating or providing evidence of any estate or interest in, or any rights of any kind whatsoever relating to, any assets or other property rights held, managed or administered under the Fisheries Legislation (including fish, aquatic life or seaweed).

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ATTACHMENT C

(Fisheries Protocol clause 5.1)

TAONGA FISH SPECIES (MINISTRY OF FISHERIES)

Fish Species

Maori Name	Common Name	Formal Name
Hapuka	Groper	<i>Polypion oxygenios</i>
Kaeo	Sea tulip	<i>Pyura pachydermatum</i>
Kahawai	Sea trout	<i>Arripus trutta</i>
Kanae	Mullet	<i>Mugil cephalus</i>
Koeke	Common shrimp	<i>Palaemon affinis</i>
Marari	Butterfish	<i>Odax pullus</i>
Moki	Blue moki	<i>Latridopsis ciliaris</i>
Paraki/Ngaiorre	Common smelt	<i>Retropinna retropinna</i>
Para	Frostfish	<i>Lepidopus caudatus</i>
Patiki mohoao	Black flounder	<i>Rhombosolea retiaria</i>
Patiki rore	New Zealand sole	<i>Peltorhamphus novaezeelandiae</i>
Patiki tore	Lemon sole	<i>Pelotretis flavilatus</i>
Patiki totara	Yellowbelly	<i>Rhombosolea leporina</i>
Patiki	Sand flounder	<i>Rhombosolea plebeia</i>
Patukituki	Rock Cod	<i>Parapercis colias</i>
Pioke	School shark/rig	<i>Galeorhinus galeus</i>
Reperepe	Elephant fish	<i>Callorhynchus milii</i>
Tuna heke	Eel – long finned	<i>Anguilla dieffenbachii</i>
Tuna roa	Eel – short finned	<i>Anguilla australis</i>
Wheke	Octopus	<i>Octopus maorum</i>
Koiro, ngoiro, totoke, hao, ngoio, ngoingoi, putu	Conger eel	<i>Conger verreauxi</i>
Koura	Rock lobster/Crayfish	<i>Jasus edwardsii</i>
Kaunga	Hermit crab	<i>Pagurus novaeseelandiae</i>
Papaka parupatu	Mud crab	<i>Helice sp.</i>
Papaka	Paddlecrab	<i>Ovalipes catharus</i>
Kotore, humenga	Sea anemone	<i>Cnidaria group</i>

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Rore, rori	Sea cucumber	<i>Stichopus mollis</i>
Patangatanga, patangaroa, pekapeka	Starfish	<i>Echinoderms</i>

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Shellfish

Maori Name	Common Name	Formal Name
Kina	Sea urchin/kina	<i>Evechinus chloroticus</i>
Kutae/Kuku	Green lipped mussel	<i>Perna canaliculus/mytilus edulis</i>
Kutae/Kuku	Blue mussel	<i>Perna canaliculus/mytilus edulis</i>
Paua	Paua – black foot (Abalone)	<i>Haliotis iris</i>
Hihīwa	Paua – yellow foot	<i>Haliotis australis</i>
Pipi/kakahi	Pipi	<i>Paphies australe</i>
Pupu	Pupu	<i>Turbo smaragdus/ zediloma</i> <i>spps</i>
Purimu	Surfclam	<i>Dosinia anus, Paphies</i> <i>donacina, Mactra discor, Mactra</i> <i>murchsoni, Spisula</i> <i>aequilateralis, Basina yatei, or</i> <i>Dosinia subrosa</i>
Rori	Seasnail	<i>Scutus breviculus</i>
Tuangi	Cockle	<i>Austrovenus stutchburgi</i>
Tuatua	Tuatua	<i>Paphies subtriangulata, Paphies</i> <i>donacina</i>
Waharoa	Horse mussel	<i>Atrina zelandica</i>
Waikaka	Mudsnail	<i>Amphibola crenata, Turbo</i> <i>smaragdus, Zedilom spp.</i>
Karauria, ngakihi, tio, repe	Rock oyster	<i>Crassostrea glomerata</i>
Kuakua, pure, tipa, tipai, kopa	Scallop	<i>Pecten novaezelandiae</i>

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