

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

**I TE KŌTI MATUA O AOTEAROA
TE WHANGANUI-Ā-TARA ROHE**

CIV 2017 485 799

I TE TAKE O of the Marine and Coastal Area (Takutai Moana) Act
2011 (the Act)

Ā I TE TAKE O an application by Korokota Marae and Finnisha
Tuhiwai-Birchall on behalf of Te Parawhau Hapū for
orders recognising Customary Marine Title and
Protected Customary Rights

Korokota Marae and Finnisha Tuhiwai-Birchall on
behalf of Te Parawhau Hapū
Claimant

**AFFIDAVIT OF BOBBY JAMES TUHIWAI
ON BEHALF OF TE PARAWHAU HAPŪ**

**IN CONNECTION WITH
STAGE 1B WHANGĀREI COASTAL HEARING**

CIV 2017 485 799

Dated this ^{1st February}
~~January~~ 2024

Judicial Officer: Harvey J

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**AFFIDAVIT OF BOBBY JAMES TUHIWAI ON BEHALF OF TE
PARAWHAU HAPŪ**

I, Bobby James Tuhiwai, of Whangārei, Fisherman, swear/affirm:

[Mihi]

- 1 I was born at Whangārei Hospital and I have spent 95% of my life in the Whangārei region, mostly in Whangārei itself. I have always regarded Titoki as home for me.
- 2 I whakapapa to Te Parawhau hapū and te Ngāpuhi iwi. We are direct descendants and whakapapa off our tūpuna Ipu Whakapara, the oldest sister of Te Tirarau. I will provide my mihi when I give evidence.
- 3 I adopt and apply the evidence I have already given in respect of the Whangārei Harbour Area (as delineated for "Stage 1A" of the MACA Hearing) pursuant to my affidavit dated 16th August 2023.
- 4 In respect of the Whangārei Coastal Area (as delineated for "Stage 1B" of the MACA Hearing), I wish to give the following additional evidence.
- 5 I have fished and dived for more than five decades in the moana and coastal area from Bream Head to Bream Tail and right down to Mangawhai. I am a customary permit writer for our Marae, in accordance with Te Parawhau customary rights that were preserved by the partnership of Te Tiriti.
- 6 We've always been located along the Whangārei coast as Te Parawhau. When I come over the Brynderwyns I know I'm home on Te Parawhau rohe.
- 7 I recall that we were told by our kaumatua we could even go down to Te Arai as all this coastal and marine area that is included in the area

for "Stage 1B" of the MACA Hearing is part of the rohe of Te Parawhau and we have the right to exercise our authority throughout our rohe.

- 8 Te Arai was where we linked in to our whakapapa connection with Te Uri o Hau. We always made a point that if we were gathering this far south, that Te Uri o Hau would be told.
- 9 Also, we always made sure our fishing vessel came back into and landed in Te Parawhau territory, from Mangawhai north.
- 10 It was the same if we went out to gather kaimoana in the islands (Hen and Chicks), we always launched from and came back into Te Parawhau rohe.
- 11 There have been occasions where I have been challenged where I fished but I have always replied that I am Te Parawhau and this is our area including Manaia and the Harbour and all the coastal and marine area that is included in the "Stage 1B" of the MACA Hearing.
- 12 We also used to gather at Ocean Beach, and Taiauru, north of Manaia but that was due to our whakapapa connections with other northern iwi and hapū such as Ngatiwai.
- 13 But I want it known that we were told by our kaumatua that Te Parawhau's connection to the marine and coastal area goes as far north as Cape Brett because of our whakapapa. However, to go that far north we had to seek permission from northern customary fishing permit writers.
- 14 Our customary permit writing area extended up and down the coast towards Te Arai and Taiauru. I am 100% confident that the area covered went from Manaia to Mangawhai and extended out to the Hen and Chicks. If you wanted to gather kaimoana off these islands and came back to our rohe, then we wrote the permit.

A handwritten signature in blue ink, consisting of stylized, overlapping loops and a long, sweeping vertical stroke on the right side.

- 15 We were told that there were a lot of fights on the islands in the old days. We were told never to go on them for this reason and also because they were used as a sanctuary for birds.
- 16 Our tūpuna would collect seabirds and abundant kaimoana via their waka in areas across the "Stage 1B" coastal and marine area. We derive our gathering authority from these longstanding practices that would've existed since before 1840.
- 17 Attached to, and forming part of, this affidavit and marked as "**Attachment 1**" is a hand-marked map of various general areas that are fishing grounds and notable coastal navigation landmarks for Te Parawhau Hapū in the "Stage 1B" coastal and marine area.
- 18 As you will see in Attachment 1, I am prepared to identify general areas of fishing beds – for crays, kina, teraki, scallops, paua, amongst other species of kaimoana – plus Three Mile Reef and MacGregors Rock (crayfish, kina) and scallops all in below Manaia and along Ruakaka. In addition, along Waipu rivermouth were snapper, kina, crayfish and kawhai. Marsden Point was a good area for scallops. In fact, when I started diving fifty years ago, the whole Coastal area was covered by scallops.
- 19 I know the "Stage 1B" coastal and marine area very well. We never had fish finders or GPS and so I often marked fishing beds by their alignment with coastal features including the line of maungas you can see when in the moana off the Whangārei coast. Manaia was a key navigation point and many poupos exist along the coast.
- 20 Over the decades I've been gathering kaimoana, we have often used the river mouths, both for fishing and launching fishing vessels, including from the Waipu awa and the Ruakaka awa.
- 21 Rivers like the Waipu are breeding grounds for many fish species. I've been able to catch whitebait up the Waipu and I've gone fishing right up the Waipu River including for eels but farm run-off makes the water very dirty so we don't go there as much as we used to do.



- 22 Wherever possible, I have acted in a kaitiaki role in respect of the "Stage 1B" coastal and marine area. I don't wear a suit and I don't appear on the coast in an official capacity. But if issues arise (such as overfishing or fishing in areas without a permit or in breach of permit conditions) I take such issues back to the Marae and address via a trustee meeting or elevate with the backing of the Marae to Te Parawhau more broadly if needed.
- 23 For example, more than ten years ago now I approached the Waipu Fishing Club over my concerns about the amount of boats fishing and depleting existing fishing stocks. The senior club official I spoke to agreed, because after the annual fishing tournament (known as the "Sea & Beach" Tournament) it would take 6 to 8 weeks for stocks to recover. Unfortunately, this was never followed up on by the Club although I was prepared to present my proposal to limit number of boats, size of fish taken, reduce the recurrence of the tournament etc.
- 24 I know that customary fishing permits are still actively being written in the "Stage 1B" coastal and marine area by representatives of Te Parawhau such as Pat Nepia, Potou Rakich, Damon Rakich, Harry Tuhiwai and myself.
- 25 These permits are closely held. It is an honour to represent our people and serve our community in accordance with our tikanga by being a permit writer. My own customary permit authority was passed on to me by my uncle. I have direct knowledge that for the duration of my life these permits have been written by holders appointed by Korokota Marae on behalf of Te Parawhau Hapū.
- 26 I've always said karakia before gathering for whanau or for tangi if tūpuna want to assist to feed their people. We give thanks when we come off the water and when we have a good catch. I have a spiritual attachment to the "Stage 1B" coastal and marine area but I do not wish to discuss this publicly or specifically.



27 However, I do state that I was brought up to know that the Whangārei coastal area is a taonga and must be respected. We have rights and responsibilities to this area, and all the life that we share this area with.

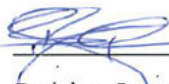
28 I repeat from my earlier affidavit that I support Te Parawhau seeking recognition of their customary rights in the Whangārei Coastal Area (as delineated for "Stage 1B") as I also do for the Whangārei Harbour Area (as delineated for "Stage 1A"). We, as Te Parawhau, have never ceased living in and with the Harbour and the Whangārei Coastal Area.

29 But I can only support these claims for recognition if customary title under MACA does not create limits or impose restrictions on us. We rely on Te Parawhau tikanga, including mana rangatira and kaitiakitanga. That should be enough. It already exists since before MACA and before 1840. We are not giving up customary rights of ours that were preserved by the partnership of Te Tiriti.

Sworn/ affirmed at Whangārei)

This ^{1st} day of ~~January~~ ^{FEBRUARY} 2024)

Before me)


Bobby James Tuhiwai


Justice of the Peace / Solicitor of the High Court of New Zealand

Tricia Bancroft
Deputy Registrar
High/District Court