

IN THE HIGH COURT OF NEW ZEALAND
WELLINGTON REGISTRY

CIV-2017-485-283
CIV-2017-485-281
CIV-2017-404-554

I TE KŌTI MATUA O AOTEAROA
WHANGANUI Ā TARA ROHE

IN THE MATTER OF the Marine and Coastal Area (Takutai Moana)
Act 2011 (the Act)

AND an application by Ngātiwai Trust Board for an
order recognising customary marine title and
protected customary rights

AND an application by Patuharakeke Te Iwi Trust
Board for an order recognising customary
marine title and protected customary rights

AND An application by Kare Rata on behalf of Ngā
Hapū o Ngāti Wai for an order recognising
customary marine title and protected
customary rights

JOINT AFFIDAVIT OF TE WARAHĪ KOKOWAI HETARAKA, HORI TE MOANAROA
PARATA, HONERI RAPATA, HARRY MAKI-MIDWOOD, NGAWAKA HASWELL
GRANT PIRIHI, HERBERT MANAPIRI AND APERAHAMA KEREPEPI-EDWARDS

Dated this 1st day of February 2024

 88232

OCEANLAW NEW ZEALAND

PO Box 921,
Nelson 7040

Telephone: (03) 548 4136

Counsel acting: Justine Inns / Karyn van Wijngaarden

EMAIL: justine@oceanlaw.co.nz / karyn@oceanlaw.co.nz

 88232

We, TE WARAHĪ KOKOWAI HETARAKA, HORI TEMOANAROA PARATA, HONERI RAPATA, HARRY MAKI-MIDWOOD, NGAWAKA HASWELL GRANT PIRIHI and APERAHAMA KEREPEŪ-EDWARDS, of Whangārei, and HERBERT MANAPIRI, of Auckland, jointly swear the following:

Introduction

1. My name is Te Warahi Kokowai Hetaraka. I whakapapa to Te Uri o te Ao, Ngātiwai, Kapotai and Ngāti Paoa. The kōrero I have contributed to this affidavit is based on knowledge derived from the teachings passed down from Tohunga of Ngātiwai and Te Kapotai. It also comes from a lifetime of experience in Te Ao Māori, in particular the practice of Whakairo, of which I have 50 plus years' experience.
2. My name is Hori Temoanaroa Parata. I am of Ngātiwai and Te Waiariki descent, from Te Kahu Whero of Ngāti Manaia. I have long been a committed kaitiaki in Te Ao Māori for our taonga tuturu. I am also recognised for my expertise in mātauranga Māori to harvest cultural materials from stranded whales and I am a kaumatua of Ngātiwai. I have given evidence in these proceedings previously, and in the related Waitangi Tribunal Inquiry. Annexed to this affidavit and marked "A" is a copy of that Brief of Evidence, dated 1 August 2020, that I provided for that Inquiry.
3. My name is Honeri Rapata. I am of Ngātiwai, Te Uri o Hikihiki, Ngāti Rehua, Tainui and Ngāpuhi descent. I was raised and still live on the whenua in Whangaruru. I give this kōrero based on the knowledge that I have been given from my tūpuna.
4. My name is Harry Maki-Midwood. I am a descendant of Patuharakeke, Te Uri o te Ao, Ngāti Wai, Ngapuhinuitonu and Ngāti Mahuta. I have a Bachelor of Arts with Honors in Matauranga Māori. I have worked on numerous historical research reports and cultural impact assessments. I have researched, written, and provided evidence for the Waitangi Tribunal in a number of historical and Kaupapa hearings. I was a founding member of Ngati Apakura Te Iwi Trust and Te Waha o Te Tuara.
5. My name is Ngawaka Haswell Grant Pirihi. I whakapapa to Patuharakeke and Ngātiwai. I was raised and still live on the whenua in Motupapa and have served in many capacities as a kaumatua for

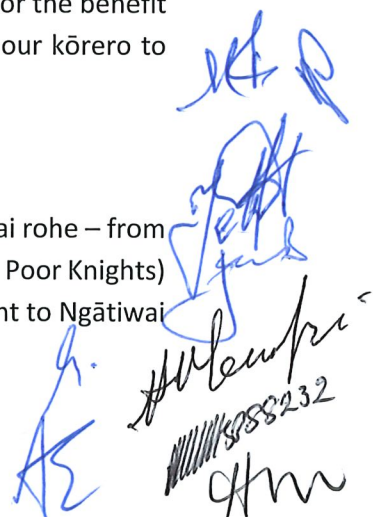
Handwritten signatures and notes in blue ink, including the name 'Herbert Manapiri' and the number '88232'.

my iwi and hapū. The kōrero I have contributed to this affidavit is based on knowledge that I have been given from my tūpuna.

6. My name is Herbert Manapiri. I am retired of Whangārei, Toetoe and Takahiwai but currently reside in Auckland. I am Te Parawhau, Patuharakeke and of Ngātiwai iwi. My evidence is based on my lived experience in and on the Whangārei Te Rerenga Paraoa Harbour and traditional knowledge passed down to me from Wharehau Te Rata Rimi and Ngarino Te Rina (Rina) Mackie (Maki), my grandparents. Their oral and traditional knowledge of the Whangārei area and its people, Ngātiwai, is widely acknowledged.
7. Ko Aperahama Kerepeti-Edwards tāku ingoa, he uri ahau no ngā hapū maha o Ngātiwai, o Te Waiariki, o Ngāti Kahungunu hoki. Ko tāku kaingā matua kei Matapōuri engari arā atu anō āku honongā, me āku herengā ki te rohe whānui o Ngātiwai. Ko ahau hoki tētahi o ngā uri i whakatupua i waengānui i ngā kōrero tuku iho o te iwi o Ngātiwai kia mau i ahau ngā mātauranga o ōku wheingā, o ōku matua tūpuna.
8. We have been asked by the Ngātiwai Trust Board (“NTB”), the Patuharakeke Trust Board (“PTB”) and Ngā Hapū o Ngātawai, who are all applicants in these proceedings, to share our experiences and knowledge of the whakapapa and customary practices associated with the takutai moana of the Whangārei coastline. For the purposes of this evidence, we have focused on the area between Te Whara (Bream Head) and Wakatarariki (Bream Tail), including the islands Marotere and Taranga also known as the Hen and Chickens and the moana surrounding and beyond them.
9. We are frustrated at having to divulge our mātauranga in this process, however we provide it essentially under duress to satisfy the Crown process, knowing that if we do not provide our kōrero we may be left behind while the Crown and tauwiwi take, manipulate and use our mātauranga. We are participating in this process for the benefit of our mokopuna, our future generations. We share our kōrero to tautoko all three applicants in their applications.

Ngā motu o Ngātiwai

10. The islands and rocky islets off the coast of the Ngātiwai rohe – from Aotea in the south to the Tāwhiti-Rahi and Aorangi (the Poor Knights) and Motukōkako in the north – are incredibly important to Ngātiwai

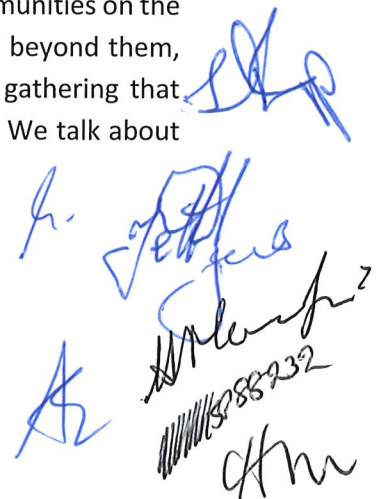


identity. We can name almost 100 of them (see exhibit 'HTP2' to annexure "A"). After all, the iwi was originally known as 'Ngātiwai ki te moana'. Our identity is also expressed in our tauparapara:

*Tākina ake rā te tai tara ki Motu Kōkako
Whakataha ia rā ngā tikitiki o Tu te Mahurangi
He manu kawē i ngā kī ki roto o Pouerua
Ngā kohu e tatao i runga o Rākaumangamanga
Kei tāhuna tapu te riri e
Whai mai rā ki a au!*

*Tēnā rā pea koe e pā e Te Apatunga!
Te kōrero a Wharena
Kia houhia te rongo
E kore e mau te rongo
Ka whakarauika a Ngāpuhi
Ka tū Taiharuru te moana
I hoea ai e Ngātiwai
Ki raro ki Putawiri
Ka mate ki reira ko Te Wehenga
Ka ora ki reira ko Te Au Kume Roa
Ngā tai e tō nā ki waho o mōrunga
He au here Toroa
Whai mai rā ki a au!*

11. Traditionally, our people travelled constantly between all of these islands, and between the islands and the coastal communities on the mainland. These islands, and the waters around and beyond them, were an essential component of the seasonal food gathering that formed an important part of the lives of our tūpuna. We talk about some of these activities more below.



Tawatawa. It is notable that the islands were not said to be owned by any particular Ngātiwai hapū and we believe Tawatawa would have had authority to fight for some of the hapū because he was a leading rangatira of the time and was related to all of the hapū up and down the coast. Tawatawa was the only person named on the Crown Grant for Taranga.

17. Records of the 1867 Native Land Court hearing that led to the Crown grant in the name of Tawatawa show that the rangatira Taurau and others of Ngāti Ruangaio/Te Parawhau, who had minor interests, agreed that should be the case. Those were people of Whangārei and they were on the rise at that time. They had a strong presence on the eastern seaboard but that was in nature of relational interests – they used parts of coast but when it came to title they would have deferred to the original owners of Taranga. Tirarau described himself as the roots in the soil and that’s what Ngātiwai was on the coast and islands.
18. This is the same as occurred with Hauturu – the hapū was listed as Ngātiwai ki te moana, which is a blanket name for all of us. At Judge Puckey’s hearing in relation to Hauturu, Paratene Te Manu shared a narrative in relation to te ao kohatu: the Judge said Ngātiwai claimed from ancestors from a period unknown to the Court and modern science when men were made of stone (alluding to Mount Manaia) and their descendants have continued to exercise rights of ownership to the present time without being dispossessed. This applies to all of the islands – the same names and families were put on the titles.
19. We say: if you go to sleep and you can see the islands and wake up and see them you are kaitaiki but if you can’t see them from where you live don’t tell us what to do. You can see them from as far away as Te Rāwhiti if you are in the right place.
20. The government’s assumption of authority over the islands, most recently through the Department of Conservation (**DoC**), has never changed our relationship with them, or with the waters that surround them. We talk more about our relationship with DoC below.

Handwritten signatures and initials in blue ink, including 'AE', 'G.', 'H.P.', and a signature with '85232'.

Use of the islands and waters

21. There are many stories of travel to and from the islands, and harvesting of resources from them told by our families. For the most part, it doesn't seem people occupied the islands year round, but they moved through the rohe all through the year and harvested seasonally.
22. We know there is archaeological evidence that shows there was significant occupation of Taranga and Marotere that was permanent or semi-permanent, because there were pā, urupa, stone ramparts and fortifications, and cultivations that must have been tended. It is Ngāti Manaia that would have occupied the islands – they would always leave a remnant of people on the islands to keep the fires burning but it wouldn't have been whole hapū – others would have moved around the rohe.
23. There was a lot of fishing and harvesting of kaimoana around the islands and in the waters beyond. We would go there for kina, crabs, pāua (especially around Tūturu, or Sail Rock) and crayfish (our tūpuna knew when the crayfish were on their heke or migrations) and there were big scallops at south end Taranga. There was also a lot of finfish: hāpuka near Tūturu and the little island behind the Hen & Chickens. About 200m off the eastern end of Taranga was another hāpuka spot. There was also Snapper and Tarakihi – the fish was so plentiful around there that we could be choosy about what we took.
24. The fishing grounds extend well beyond the islands, and the islands were markers to them. Some fishing grounds are so far offshore – 12nm and beyond – that you can only just see the land from them. We would catch hāpuka, kahawai, tuna and other pelagic fish out there. Hori recalls doing this in his younger days and in those days, before Seagull outboard motors, we would row as far as the Poor Knights.
25. A lot of Ngātiwai hapū would take part in this: Patuharakeke and Ngāti Kororā, as well as people from Taiharuru to Matapouri, Whananaki, Whangaruru, Aotea and other communities were involved. We can name people from earlier days: Ika Hetaraka was one who fished there; the Piripis did as well and took mutton-birds; Te Waikohua Arthur Pita Rata would go out to the islands - he had a

[Handwritten signatures and notes in blue ink, including names like 'Hori', 'Ika Hetaraka', and 'Te Waikohua Arthur Pita Rata', along with a phone number '85232' and other illegible scribbles.]

whaler boat which was powered by a small Seagull and motorised cutter boat; others we know include Hori Manapiri and Te Wharehau Rata.

26. Fishing would be seasonal but quite frequent. We would store tons of fish to sustain us through the winter, it would be smoked and dried. Fishers would share their catch within the community. The woman were in charge once it hit the shore and were responsible for sharing it around.
27. In pre-Pākehā times they would have used waka and after the Pākehā there were whaling boats. Trips were carefully planned, not haphazard, they included representatives of different whānau, and the timing was based on the maramataka and signs on the land like certain trees flowering.
28. Others fished there too, there was whanaungatanga and ahi ka; ahi kā know how to preserve the area to prevent over-fishing, etc. Ngāpuhi or even Ngāti Whatua could come and fish through whanaungatanga but Ngāti Manaia/Ngātiwai hold the ahi kā.
29. Ngātiwai are recorded as trading up and down the coast from the 1700s. Pu Mare Paama and Pu Pukekawa Maki moved between Whananaaki and Takahīwai trading, from the 1860s onwards. The traders and fishers used their understanding of the currents. For example, when going out to fish, there was a particular current that would hold them off Tūturu. The currents would take you all the way to Mokohinau and there were names for them.
30. Those islands and waters are still regarded as belonging to Ngātiwai despite any sale – they have also been used in customary and commercial terms. The descendants of those early traders are still commercial fishers.
31. People camped on the islands while they were harvesting and would stay out there for two to three days at a time. In those days the government for Ngātiwai was at Punaruku and people from Aotea would stop at those islands on the way, but all Ngātiwai would go there.

Handwritten signatures and notes in blue ink:
LSP
H. J. Jones
AE
H. Manapiri
SR 88232
AM

32. People would land on the Hen and Chickens and the small island behind them, but there is no landing place on Tūturu, and that is pāua country!
33. This is different, for example, from the Poor Knights Islands – there is a tapu on them which meant we still went to harvest at some times of the year but wouldn't land.
34. The daughter of the lighthouse keeper at Mokohinau spoke of people coming from Aotea and other places to harvest manu oi (mutton-birds) as recently as the 1940s. Whānau have continued this practice to the present day. Kiore, tuatara and other kai was also taken. Some of it was only found on those islands because of the damage Pākehā rats did on the mainland.
35. The Government assumed authority over the islands and we couldn't go onto them without a permit. That was too insulting for the kaumātua and they had to sneak on. It was proper for us to talk to our kaumātua before going to the islands, not ask the Government for permission.

Wāhi tapu

36. Throughout the rohe there are wāhi tapu and torero that are known to us but we are reluctant to divulge all of those places in this evidence. There are wāhi tapu and torero on the islands and surrounding moana that are known and documented. These include burial caves and tōrere, but there are also others. The burial caves were identified by W.M Fraser in 1928. The names of some wāhi tapu have been lost but some whānau have continued kaitiakitanga activities out there. Sites were looked at by kaumātua in the 1980s.
37. Marotere was one wai whakaata (divining waters) holding the mana and tapu of Ngātiwai. The connection of the islands with the birth of Māui Tikitiki a Taranga and his brothers makes them spiritually significant.
38. In the early 2000s, Ngātiwai had an agreement with DoC about restoration of flora and fauna on the islands (see below), but we tried to tell DoC that the islands are about more than endemic flora and fauna because there are also kōiwi there. Some of the contractors DoC sent to do work on the island defiled these places – we heard of

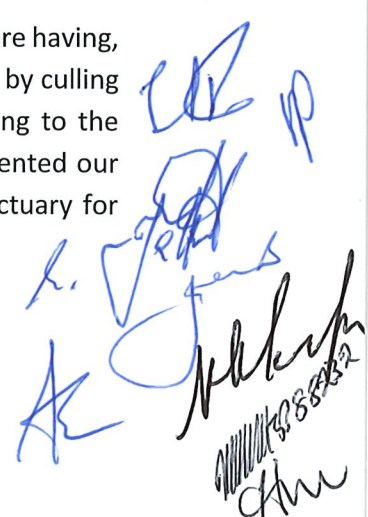
Handwritten notes and signatures in blue ink, including the name "Mauri" and the number "588232".

them rolling one of the Balancing Rocks down the hill and video filming in one of the burial caves. After that Hori asked that DoC stop all further work there.

39. There have been wahi tapu on those islands forever; it's our tūpuna in those burial caves. Pakehā went raiding those places back in the day and the Government has never properly protected them.

Dealings with DoC

40. The 2020 Brief of Evidence of Hori (annexed, marked "A") has attached to it an internal DoC memorandum that reflects agreement between Ngātiwai and DoC that no one should be able to go onto our islands without us knowing. That includes the Hen and Chickens.
41. We were dealing with the local Conservancy over all of our offshore islands at that time and had a focus on matauranga for Wai 262. In terms of matauranga, Hori and Witi McMath used to say 'use it or lose it'. We always had a relationship with DoC – sometimes good, sometimes bad – and we really helped create them because so much of the Ngātiwai rohe (islands, land and sea) and taonga are under DoC. But it was the creation of DoC, and the government giving it authority over all endemic flora and fauna that was part of what led to Wai 262.
42. What is distinctive about the Hen and Chickens, in terms of our relationship with DoC, is the kiore. DoC had wanted to eradicate the kiore as they had in other areas, which some iwi in those areas now regret, but Witi McMath said to tell them to back off. We (Hori and the Ngātiwai Trust Board Resource Management Unit) were involved with Auckland University in research of kiore mitochondria and that gave us ability to discuss the kiore with DoC. DoC thought rats were rats but kiore are significantly different from Pakehā rats – they look the same but they aren't.
43. We went with DoC to the islands to see the impact kiore were having, and they were having an impact. Our tikanga is to manage by culling but it was because the Government had stopped us going to the islands 60 years earlier unless we had a permit that prevented our tikanga being applied. Now Māuitaha is managed as sanctuary for kiore.



44. There are other examples of working together with DoC, such as restoration of vegetation, and research on the islands' biota in conjunction with Auckland University School of Biological Sciences. This was in the early 2000s and they looked at tuatara, weta, stick insects, pupu harakeke, etc. Hori and the Resource Management Unit went onto the islands with researchers.
45. Over this period we have also taken back control over some of the islands. Through a 2010 co-management agreement we took back Māuitaha, the smallest of the Chickens, and Araara, the small islet close to it. That was given back to us for the kiore and we legally have control and management of it (see exhibit 'HTP-11' of annexure "A" of this affidavit).
46. We see that as a beginning of the Crown giving our taonga back to us, just a step along the way. The other islands aren't covered by that arrangement but we still exercise kaitiakitanga over them because we are out there among the islands looking after Māuitaha.
47. Part of the control and management of Taranga also rests with the Ngātiwai Trust Board because no one is allowed on the island without Board approval, though we know DoC gives permits to do work without asking us. We police that as best we can and complain to DoC when we hear about that happening but the people in DoC change all the time, they aren't constant like us.

Conclusion

48. We are in no doubt that the islands known as the Hen and Chickens, and the takutai moana, fishing grounds and other taonga around and beyond them belong to Ngātiwai. Always have, always will.

Te Warahi Kokowai Hetaraka

Hori Te Moanaroa Parata

Honeri Rapata

Honeri Rapata

H. Maki-Midwood

Harry Maki-Midwood

Ngawaka Haswell Grant Pirihi

Ngawaka Haswell Grant Pirihi

H Manapiri

Herbert Manapiri

Sworn at Auckland this Last day of
February 2024, before me
James Griffiths Maxwell JP
88232

Aperahama Kerepeti-Edwards

James Griffiths Maxwell J.P.
29 miles ave papatoetoe nz
ph2777-302 reg no 88232

SWORN at Whangārei this 1st day of February 2024

before me: *Janelle Leoda May BEAZLEY*

Janelle Beazley (JP)

Janelle Beazley, JP
#2103
WHANGAREI
Justice of the Peace for New Zealand

(Deputy) Registrar
Justice of the Peace

A Solicitor of the High Court of New Zealand



IN THE WAITANGI TRIBUNAL

KEI MUA I TE ROOPU WHAKAMANA
I TE TIRITI O WAITANGI

WAI 2764
WAI 2660

IN THE MATTER OF the Treaty of Waitangi Act 1975

AND

IN THE MATTER OF the Marine and Coastal Area (Takutai
Moana) Act 2011 Inquiry

AND

IN THE MATTER OF a claim by the Ngātiwai Trust Board on
behalf of Ngātiwai whānau, marae and
hapū

BRIEF OF EVIDENCE OF HORI TEMOANAROA PARATA

Dated 7 August 2020

Exhibit Note

This is the Annexure marked "A" referred to in the affidavit of

Te Warahi Kokowai Hetaraka, Hori Te Moanaroa Parata,
Honeri Rapata, Harry Maki-Midwood, Ngawaka Haswell Grant Pirihi,
Herbert Manapiri And Aperahama Kerepeti-Edwards

and sworn at Whangārei this day of

before me *Janelle Beazley*

Signature *Janelle Beazley JP*

Solicitor of The High Court of New Zealand



RECEIVED

Waitangi Tribunal

10 Aug 2020

Ministry of Justice
WELLINGTON

Janelle Beazley, JP
#2103
WHANGAREI
Justice of the Peace for New Zealand

Henderson Reeves Lawyers

Contact: Stuart Henderson

96 Bank Street
PO Box 11

Whangārei 0140

P: +64 9 430 4350

F: +64 9 438 6420

E: paulawilson@hendersonreeves.co.nz

MAY IT PLEASE THE TRIBUNAL

Introduction

1. I am of Ngātiwai and of Te Waiariki descent, from Te Kahu Whero of Ngāti Manaia. My principal marae are Pātaua 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 parāoa", which is one of the reasons Whangārei Harbour has the name 'Te Rerenga Parāoa', meaning 'The Gathering place of Whales'
4. I and my 12 siblings were born and raised on our ancestral land at Pataua Island on the coast 16 miles due east of Whangārei. 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 deep-sea 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 whanau, 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 located in Ngunguru.
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 whanau. 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 Master's degree in Indigenous Studies from Te Whare Wananga 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 also recognised nationally for my expertise in mātauranga Māori to harvest cultural materials from stranded whales.
12. I am a kaumātua of Ngātiwai and the current chairperson of the Kāhui Kaumātua o Ngātiwai.

Te Iwi o Ngātiwai

13. 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 Pōito 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 tāua ki te tihī o Hauturu muia ao.
Mā mātakitaki taua
Ki nga pōito o te kupenga
O Toi te Huatahi
E tama tangi kine e*

14. 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, Omaha and Pakiri and out to Aotea and other offshore islands. This is lead to them being known as Ngātiwai ki te Moana.
15. We are a coastal and seagoing iwi, who has travelled up and down the chain of islands from Aorangi and Tawhitirahi 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.

16. 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 rangātira, Morore Piripi said:

Ko ngā mana katoa o Ngātiwai 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.

17. 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 Tūkaiaia (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 whakatauki:

Kia tūpato!

Ka tangi Tūkaiaia kei te moana,

Ko Ngātiwai kei te moana e haere ana.

Ka tangi Tūkaiaia kei tuawhenua,

Ko Ngātiwai kei te tuawhenua e haere ana.

Ngātiwai Rohe Moana

18. 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:

Motukokako off Te Rawhiti;

Rimuriki off Mimiwhangata;

Tawhitirahi and Aorangi (The Poor Knights);

High Peak Rocks;

Sugar Loaf Rocks;

The Marotiri Islands and Taranga (The Hen and Chickens Group);

Toturu (Sail Rock);

Pokohinu and Motukino (The Mokohinau Islands);

Te Hauturu o Toi (Little Barrier);

Aotea (Great Barrier) and surrounding islets and rocky outcrops;

Te Kawau-tūmaro-o-Toi (Kawau Island); and

Te Mau Tohorā-o-Manaia (Motuora Island).

19. Attached and marked "HTP-1" is a map showing the Ngātiwai rohe moana.
20. Attached and marked "HTP-2" is a list of 96 islands, islets, rocky outcrops and reefs within the Ngātiwai rohe moana. We whakapapa to all of these and continue to exert our tino rangatiratanga over our rohe moana.

21. In addition, Ngātiwai has traditional and ancestral rights and interests that extend well beyond the rohe moana described above.
22. Ngātiwai accepts and acknowledges that the rights and interests of its hapū and whanau in parts of this extensive rohe moana overlap and intersect with those of other iwi, hapū and whanau.
23. Our relationship with our rohe moana is the subject of the following tauparapara:

*Takina ake rā ki te tai tara ki Motukokako
Whakataha ia rā ngā tikitiki a Tū-Te-Mahurangi*

*He manu i kawē ngā ki roto o Pouerua
Ngā kohu i tatao o runga o Rākaumangamanga*

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

*Ko Manaia te maunga, ko Manaia te tupuna
Tū atu nei i raro te wahapa
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!*

24. 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.
25. 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. The shark Tautahi, a protector of fishing grounds and shellfish beds, in the Whangaruru Harbour, is among the most famous of our kaitiaki.
26. There is extensive tikanga concerning the use of particular reefs and fishing grounds, particularly tauranga whapūku (grouper, *Polyprion oxygeneios*), each of which have their own unique tikanga, karakia and kaitiaki and traditionally came under the mana of particular rangātira. 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 Motukokako. The rangātira 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 from 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 whakata (cautioning waters) were also found within the rohe, including at Taiharuru and Marotiri.
29. Ngātiwai have fought over the years for the Crown and others to recognise our place in our rohe moana. I work closely with many universities and agencies that seek guidance from me on behalf of Ngātiwai when working in our rohe moana.
30. In July 2020 Professor Tom Trnski Head of Natural Sciences at the Auckland War Memorial Museum Tāmaki Paenga contacted me on behalf of the Ngātiwai Trust Board to name a new species of manaia (sea horse, *Hippocampus abdominalis*).
31. Following a hui with our Kahui Kaumātua o Ngātiwai it was determined to name this new species Te Tūpari o Manaia in honour of our Ngātiwai ancestor Manaia.

Cultural Harvest

32. Our rohe moana is where we exercise our kaitiakitanga and tikanga including the cultural harvest of taonga within our rohe moana.
33. 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 Okokewa and Whangarara, Hauturu, Pokohinu and the islets and rocky outcrops around Aotea. This is a practice that continues to this day.
34. 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.

Marine Mammals

35. The Waitangi Tribunal in its WAI 262 report 'Ko Aotearoa Tenei' acknowledged specifically the relationship that we as Ngātiwai have with tohorā:

Ngāti Wai, who (as we have said) revere whales and their relationship with them, led the country in developing a whale-stranding protocol with DOC through the 1990s.

The protocol provides a means by which this iwi can exercise their rangatiratanga and revive their traditions in regard to harvesting of bone and teeth from beached

*whales once they have died.*¹

36. When I came back to New Zealand the old people asked me to stop DOC burying the whales in the dunes and disturbing our wāhi tapu. Over the years I worked with Ramari Stewart and also the late Sir Archie Taiaroa, and Te Ohu Kaimoana supported us as well with our mahi reclaiming our matauranga Māori and culturally harvesting from the whales
37. I have led our people Ngātiwai in working on the beaches wherever whales strand in our rohe moana. I have attended over 500 whale strandings. As Ngātiwai we also travel throughout the motu to assist other hapū and iwi when whales strand in their rohe moana.²
38. In 1998 I authored with the Department of Conservation the "Protocol for management of whale strandings in Ngātiwai rohe including the recovery of bone by Ngatiwai and the provision of scientific samples: an agreement between the Ngātiwai Trust Board and the Department of Conservation, Northland and Auckland Conservancies"
39. This protocol was the first of its kind in the country. This protocol affirms our ability to exercise our kaitiakitanga and utilise our matauranga Māori in our rohe moana.
40. The objectives of the protocol are to:
- (a) provide guidelines for the joint management of marine mammal strandings in Ngatiwai rohe;
 - (b) in the event of a permit being granted, provide guidelines for the recovery of baleen, ink, sinew, spermaceti, ambergris (found in-situ), blubber, organs, tissue, and oil by Ngatiwai from dead marine mammals for cultural purposes;
 - (c) provide guidelines and opportunities for training in scientific sampling for Ngatiwai staff and their delegated representatives, if required by both the Trust Board and DOC;
 - (d) provide guidelines for the research and development of future resources from dead marine mammals for cultural purposes.³
41. Attached and marked "HTP-3" is a copy of this protocol which was updated in 2010.

¹ Waitangi Tribunal, "Ko Aotearoa Tēnei", Volume 1, (Wellington: Legislation Direct, 2011) p 354

² Emma Marris, "This This Man Has Helped Give 460 Dead Whales a Second Life—As Art", National Geographic, 9 April 2018 available at <https://www.nationalgeographic.com/news/2018/04/new-zealand-maori-beached-whales-flensing.html>; see also Eleanor Ainge Roy, "What is the sea telling us": Māori Tribes fearful over whale strandings" The Guardian, 3 January 2019 available at <https://www.theguardian.com/environment/2019/jan/03/what-is-the-sea-telling-us-maori-tribes-fearful-over-whale-strandings>

³ Parata H, Donoghue M, "Protocol for management of whale strandings In Ngātiwai rohe Including the recovery of bone by Ngatiwai and the provision of scientific samples : an agreement between the Ngātiwai Trust Board and the Department of Conservation, Northland and Auckland Conservancies' Department of Conservation, Ngātiwai Trust Board 1998; Protocol for the Management of marine mammal strandings In the Ngātiwai rohe, Department of Conservation, May 2010 ; p 9.

42. We have our own matauranga Māori knowledge related to marine mammal strandings. This body of knowledge is centuries old.
43. And we do this mahi, our kaitiakitanga in our rohe moana. We also travel around Aotearoa to help other hapū and iwi when whales strand in their rohe moana. When I receive a call from other hapū or iwi my crew and I can travel to be with them in 24 hours.⁴

Cultural Practices

44. 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 whapūku (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), tamure (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), ngakihi (limpet), paua, pīpī, karapupu (catseye), apurimu (surfclam), papaka (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 activities related to spiritual practices such as caring for water burial sites and other wahi tapu, and imposing rahui;
 - (d) Planting, cultivating and gathering plant species in the wet margins of the rohe moana (such as flax, ti kouka and pingao);
 - (e) Gathering edible and aquatic plants, including kelp and other seaweeds;
 - (f) Gathering and extracting minerals, including our unique taonga, Onerahi chert and accessing sources of other minerals on our offshore islands, in particular, obsidian;
 - (g) Snaring, and accessing snaring and egg-gathering sites, for birds including but not limited to manu oi, hakoakoa (skua), kukupa (wood pigeon), kaka and korora (little penguin);

⁴ John Boynton, "Northland iwi influential in whale strandings" RNZ News, 28 November 2019 available at <https://www.nz.co.nz/news/te-manu-korihini/377013/northland-iwi-influential-in-whale-strandings>

- (h) Collecting driftwood and other natural resources;
 - (i) Utilising temporary campsites for seasonal harvesting and ceremonial activities; and
 - (j) Navigation between coastal settlements on the mainland and offshore islands, using tauranga waka, safe harbours and refuge caves.
45. 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.

Ngātiwai Protection of Interests

46. We have fought the Crown for over a century to protect our rohe moana. I personally have been involved in over three decades of litigation to defend our interests in the takutai moana.
47. Attached and marked "HTP-4" is a list of the cases that the Ngātiwai Trust Board has taken on behalf of its people in recent years to protect its rohe moana.

Aotea/Great Barrier – Recognition of Customary Title

48. In 1995 the Ngātiwai Trust Board also supported our hapū on Aotea/Great Barrier and applied to the Māori Land Court for customary title to all the islands and rock outcrops in and around Aotea.

49. In 1998 the Māori Land Court decided in our favour and made the orders that⁵:

(a) Pursuant to s.131/93 (formerly under s.161/53 in the application by John da Silva), the Court determines the status of all the islands and rock outcrops in the environs of Aotea to which title has not previously been determined, to be Māori customary land.

(b) Pursuant to s.132/93, the Court determines the owners of the islands and rock outcrops in (a) above to be Ngāti Rehua, to hold the same as kaitiaki for themselves and, in accordance with the tikanga of whanaungatanga, for Ngāti Wai ki Aotea and Marutūahu ki Aotea.

Marine Reserves, Customary Title and Customary Rights

50. We have four Marine Reserves in our rohe moana. These Marine Reserves were established without our permission and without consultation. These Marine Reserves do not recognise our customary title and rights in our rohe moana.

⁵ *da Silva v Aotea Maori Committee* [1999] 25 Tai Tokerau MB 212 at p 24

51. Attached and marked “HTP-5” is a map of current Marine Reserves⁶ in our rohe moana including:
- (a) Cape Rodney-Okarari Marine Reserve (Goat Island) – established 1975
 - (b) Poor Knights Marine Reserve – established 1981
 - (c) Tawharanui Marine Reserve – established 2011 (originally a marine park established in 1981)
 - (d) Whangārei Harbour Marine Reserves – established 2006
52. In 1998 we successfully challenged the decision of the Minister of Conservation to ban customary fishing in the Poor Knights Marine Reserve.⁷
53. And in 2005 we filed for judicial review against the Minister of Conservation and the Director-General of Conservation for not recognising our customary rights in relation to the off-shore Island Reserves within the Ngatiwai rohe.
54. Attached and marked “HTP-6” is a copy of our Notice of Application (CIV-2005-488-265) for this judicial review.
55. We withdrew our judicial review application however when our goal was achieved. On 16 May 2008 the Minister of Fisheries refused to grant consent for the establishment of the marine reserve in Aotea.⁸
56. Attached and marked “HTP-7” is a copy of the 16 May 2008 media release from the Minister for Fisheries.
57. We will continue to fight for our rohe moana. We should be like a waka hourua and paddling together with the Crown instead of the Crown telling us what to do all the time and cutting us out.

Mimiwhangata

58. On 20 August 2016 Te Whanau Whero, Te Akitai, Te Uri o Hikihiki, Ngati Rehua ki Whananaki and Ngātiwai came together to erect a pou whenua at Mimiwhangata. I was one of the kaumatua along with Te Warahi Hetaraka and Aperahama Kerepeti-Edwards who blessed the pou which was named Manaia in honour of our tūpuna.⁹
59. We erected this pou to send a message to the Crown of our dissatisfaction with its proposed marine legislation not only in Mimiwhangata but also the Crown’s plans for the marine legislation

⁶ Marine Reserves Map, Department of Conservation available at <https://www.doc.govt.nz/nature/habitats/marine/marine-reserves-a-z/marine-reserves-map/>, downloaded 10 August 2020

⁷ *Ngatiwai Trust Board & Anor v Smith* HC, Whangārei, CP 39-98 22 December 1998, Smellie J at p 24

⁸ New Zealand Government, Minister for Fisheries and Aquaculture “Minister of Fisheries declines application for marine reserve at Great Barrier Island (Aotea)” (media release 16 May 2008) <https://www.beehive.govt.nz/release/minister-fisheries-declines-application-marine-reserve-great-barrier-island-aotea>

⁹ Ngātiwai Trust Board “Hapū make a stand at the homeland of Te Iwi o Ngātiwai” (media release) 14 September 2016 available at <http://www.ngatiwai.iwi.nz/p256nui/hapu-make-a-stand-at-the-homeland-of-te-iwi-o-ngatiwai>

in the Hauraki Gulf and the Kermadec Islands. None of this legislation recognises us and our customary and commercial fishing rights.

Pi Manu/Whakairiora – Ngunguru Sandspit

60. In 2011 I was witness for the Ngātiwai Trust Board when we challenged the decision of the New Zealand Historic Places Trust (Pouhere Taonga) to issue permits to a private land owner to allow for the disturbance of wāhi tapu on Pi Manu/Ngunguru Sandspit in the Ngātiwai rohe moana.¹⁰
61. Although we were unsuccessful in this appeal, eventually however the Board, the hapū and the community at Ngunguru succeeded in stopping the development and subdivision of Pi Manu.
62. The sandspit is of great historic and cultural importance to Ngātiwai hapū and whanau. In 1838 there was a significant battle on the sandspit and many of the tupuna are buried on the sandspit and the adjacent urupā on the mountain Whakairiora which is located at the foot of the sandspit.
63. In 2011 the Crown purchased the sandspit and allocated it to the Department of Conservation as a scenic reserve. Attached and marked “HTP-8” is a copy of this 25 May 2011 press release
64. Ngātiwai marae still exercise rangatiratanga over this area of the takutai moana as evidenced by the Ngunguru Marae’s 2015 rahui over the gathering of kaimoana in this area. Attached and marked “HTP-9” is a copy of this rahui panui.

Hauturu/Little Barrier

65. In the WAI 262 claim the Waitangi Tribunal already heard evidence about how our tūpuna were removed from Hauturu forcibly at gunpoint in the 1896 to make way for a nature reserve.¹¹
66. Not only did the Crown fail to protect and uphold our tino rangatiratanga in our rohe moana then but it continues to do so now.

Off Shore Islands

67. Our rohe moana is our highway of life – we live our lives in our rohe moana seeking sustenance from Tangaroa and looking after all the treasures within his domain.

¹⁰ *Ngatiwai Trust Board v New Zealand Historic Places Trust (Pouhere Taonga)* [1998] NZRMA 1

¹¹ *Matauranga Maori and Taonga : The Nature and Extent of Treaty Rights Held by Iwi and Hapu in Indigenous Flora and Fauna, Cultural-Heritage Objects, Valued Traditional Knowledge*. Wellington : Waitangi Tribunal, 2001 (doc K6); see also section 8 (9)- (11) Ngāti Manuhiri Ngāti Manuhiri Claims Settlement Act 2012

68. At least ninety percent of Ngatiwai historic treaty claims are for land and resources administered by the Department of Conservation within the Ngatiwai rohe moana.
69. Since 1991 we have had an agreement in place with the Department of Conservation that no-one goes onto our islands without us knowing.
70. Attached and marked "HTP-10" is a copy of the 14 October 1991 internal memo to Department of Conservation staff notifying them of this requirement.
71. Over the years we have also been successful in getting some of our islands and rohe moana back from the Department of Conservation.
72. 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.
73. I was also the negotiator for Ngātiwai when we successfully obtained the control and management of Mauitaha and Araara (Marotiri Islands - Hen and Chicken Islands) through a co-management agreement with the Department of Conservation in 2010). These islands which were traditionally occupied by our tūpuna, and are still regarded as spiritually significant to us.
74. Attached and marked "HTP-11" is a copy of the 25 May 2010 Gazette Notice for the control and management agreement for Mauitaha and Araara Islands.¹²
75. Ngātiwai also has a management agreement in place with the Department of Conservation for Motukauri Island in the Whangaruru Harbour.
76. Attached and marked "HTP-12" is a copy of the 25 November 2008 Gazette notice for the control and management agreement for Motukauri Island.¹³

Conclusion

77. On 31 March 2017 I filed an affidavit in support of Ngātiwai Trust Board's application to the High Court for customary marine title and protected customary rights in the Ngātiwai rohe moana (CIV-2017-485-203).

¹² "Appointment of the Ngatiwai Trust Board to Control and Manage Parts of the Hen and Chicken Islands Nature Reserve" 27 May 2010, Vol 60, New Zealand Gazette, p 1729, available at [https://www.dia.govt.nz/pubforms.nsf/NZGZT/NZGazette60May10.pdf/\\$file/NZGazette60May10.pdf#page=46](https://www.dia.govt.nz/pubforms.nsf/NZGZT/NZGazette60May10.pdf/$file/NZGazette60May10.pdf#page=46)

¹³ "Appointment of the Ngatiwai Trust Board to Control and Manage Parts a Scenic Reserve" 4 December 2008, Vol 188, New Zealand Gazette, p 4969 available at [https://www.dia.govt.nz/pubforms.nsf/NZGZT/NZGazette188Dec08.pdf/\\$file/NZGazette188Dec08.pdf#page=50](https://www.dia.govt.nz/pubforms.nsf/NZGZT/NZGazette188Dec08.pdf/$file/NZGazette188Dec08.pdf#page=50)

78. While I support the Board's applications I noted in my affidavit that I regard the MACA Act as a deeply flawed mechanism for protecting our customary title and customary rights.
79. Yet again the Crown is not protecting what is ours or recognising our rights in our rohe moana. All we will get under the MACA is a bundle of permission rights – for example the right to agree or disagree with a resource consent application.
80. My view on the MACA Act is that nothing has changed and Ngātiwai are still shedding blood and tears and money to uphold our Treaty rights.
81. As I said to the Waitangi Tribunal in the WAI 262 Inquiry¹⁴:

"Ngatiwai have over the years been to the Courts, we have been to the Maori Land Court, to the District Court, to the High Court, to the Supreme Court, to the Court of Appeal, to the Government, to the Ministers, to Parliament, to the Governor-General, to the Queen, to the district councils, to regional councils, to county councils. We have pleaded, made submissions, argued, discussed, been consulted, objected, been objected to, all in keeping up our side of the promises that our tupuna made in the Treaty of Waitangi. Ngatiwai have shed tears for the Treaty of Waitangi. Ngatiwai have shed blood for the Treaty of Waitangi. We have shed tears for our tupuna. As a Treaty partner we have shed tears and as a Treaty partner we have shed blood. Ngatiwai ask when will this stop?"

Dated this 7th day of August 2020



HORI TEMOANAROA PARATA

¹⁴ WAI 262, #A33, Brief of Evidence of Hori Parata; see also WAI 262 4.1.1 Transcript of Evidence of Hori Parata, Ngatiwai Trust Board, (18 September 1997, Whangarei) tape 9 (of 11), p 1.