



Fast-track Approvals Act 2024 – Treaty settlements and other obligations (Section 18) report

Project Name: FTAA-2511-1150 Bream Bay Sand Extraction Project

To:	Date:
Panel Convener, Jane Borthwick	5 March 2026

Number of attachments: 8	Attachments: <ol style="list-style-type: none">1. Provisions of section 18 of the Fast-track Approvals Act 20242. Project location map3. List of relevant Māori groups4. Maps of customary fishing areas/rohe moana5. Ngāti Manuhiri coastal statutory acknowledgement6. Excerpt from Ngāti Manuhiri conservation protocol7. Mana Whakahono ā Rohe between Northland Regional Council and hapū of Te Taitokerau8. Patuharakeke Hapū Environmental Management Plan
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Key points

1. As required by section 49 of the Fast-track Approvals Act 2024 (the Act), the Ministry for the Environment (on behalf of the Secretary for the Environment) has prepared this report on Treaty settlements and other obligations (section 18 of the Act) in relation to the substantive application FTAA-2511-1150 Bream Bay Sand Extraction Project.
2. The applicant, McCallum Bros Limited, proposes extracting up to approximately 150,000 cubic metres of sand per annum from Bream Bay for three years, and then up to approximately 250,000 cubic metres per annum for the remainder of the 35-year consent. The aim of the project is to provide a long-term sustainable source of marine sand to

Auckland, which is suitable for concrete and, in particular, high-strength concrete production. The applicant is seeking approvals under the Act that would otherwise be sought under the Resource Management Act 1991 (RMA) and the Wildlife Act 1953. The project area is within the marine and coastal area.

3. Section 18(2) of the Act requires that the report provide a list of relevant Māori groups, including relevant iwi authorities and Treaty settlement entities. Many of those groups must be invited by the panel to comment on a substantive application under section 53(2) of the Act.
4. While most historical Treaty of Waitangi claims in this area have yet to be settled, there are a significant number of relevant Māori groups, including iwi authorities, applicant groups under the Marine and Coastal Area (Takutai Moana) Act 2011 (MACA), tangata whenua for customary fisheries established by regulations made under the Fisheries Act 1996, and hapū who are parties to Mana Whakahono ā Rohe. We have listed all the relevant groups at **Attachment 3**.
5. The Treaty settlements most relevant to the project area are the Te Uri o Hau Claims Settlement Act 2002, Ngāti Manuhiri Claims Settlement Act 2012, and Te Kawerau ā Maki Claims Settlement Act 2015. While all three settlements incorporate part of the wider project area, the respective areas of interest do not include that part of the seabed from where sand is proposed for extraction.
6. The Ngāti Manuhiri settlement provides for a coastal statutory acknowledgement to the south of the proposed extraction area, which may be relevant if the proposed activities directly affect the statutory area. More broadly, inviting comments on the application from relevant MACA applicants and tangata whenua of customary fisheries under section 53 of the Act may provide the panel with further context regarding the potential impact of the application on those interests.
7. The Ngāti Manuhiri settlement also provides for a conservation protocol which includes consultation procedures for Wildlife Act 1953 approvals within the protocol area. We consider that these procedures are able to be accommodated within the process of inviting comment on the application under the Act, insofar as they apply to the approvals being sought over a proposed control area (which lies within the protocol area).
8. Under clause 5 of Schedule 3 to the Act, we consider the panel will need to comply with the relevant procedural requirements outlined in the Mana Whakahono ā Rohe between Northland Regional Council (NRC) and hapū of Te Taitokerau including:
 - a. providing copies of the application to Patuharakeke and Te Parawhau and inviting comments;
 - b. engagement with Patuharakeke and Te Parawhau on their comments;
 - c. observing the provisions relating to the appointment of hearing commissioners; and
 - d. recording the Hapū Environmental Management Plans and how they were considered in any decision documents.

Signature



Max Gander-Cooper
Acting Manager – Fast-track Operations

Introduction

9. For a substantive application that relates to a listed project, under section 49 of the Act, the Environmental Protection Authority (EPA) must request a report from the responsible agency (Secretary for the Environment) that is prepared in accordance with section 18(2) and (3)(a) of the Act (but does not contain the matters in sections 18(2)(l) and (m)).
10. The information which must be provided in this report includes:
 - a. relevant iwi authorities, Treaty settlement entities, applicant groups under MACA, and other Māori groups with interests in the project area; and
 - b. relevant principles and provisions in Treaty settlements and other arrangements.
11. This report is structured accordingly. We have provided a list of the relevant provisions of section 18 at **Attachment 1**.

Proposed project

12. The applicant, McCallum Bros Limited, proposes extracting up to approximately 150,000 cubic metres of sand per annum from Bream Bay for an initial period of three years, and up to approximately 250,000 cubic metres of sand per annum thereafter. The objective of the project is to provide a long-term sustainable source of marine sand to Auckland, which is suitable for concrete and, in particular, high-strength concrete production. The method of extraction is a motorised trailing suction dredge.
13. The applicant is seeking approvals under the Act that would otherwise be sought under the RMA (coastal permit for sand extraction and associated discharge) and the Wildlife Act 1953 (approval for the disturbance, capture, collection, and incidental killing of 'cup coral'). The applicant is requesting a 35-year consent. The project area is within the marine and coastal area, and is approximately 15.4km² in size. The closest distance between the sand extraction site and the shoreline is 4.7 km.
14. We have provided a location map at **Attachment 2**.

Relevant iwi authorities, Treaty settlement entities, and other Māori groups

15. We note that some entities identified below may be included in more than one category. We have included a composite list of all groups at **Attachment 3**, including contact details.¹

Iwi authorities

16. Under section 4(2) of the Act, 'iwi authority' has the same meaning as in section 2(1) of the RMA:

the authority which represents an iwi and which is recognised by that iwi as having authority to do so.
17. We consider the following groups to be the relevant iwi authorities for the project area:
 - a. Te Rūnanga o Ngāti Whātua, representing Ngāti Whātua;
 - b. Ngātiwai Trust Board, representing Ngātiwai;
 - c. Patuharakeke Te Iwi Trust Board, representing Patuharakeke;

¹ These are the contact details we could locate in the time available, and in some cases they will be the generic email address for the entity.

- d. Te Rūnanga a Iwi o Ngāpuhi, representing Ngāpuhi;
- e. Te Uri o Hau Settlement Trust, representing Te Uri o Hau;
- f. Ngāti Manuhiri Settlement Trust, representing Ngāti Manuhiri; and
- g. Te Kawerau Iwi Settlement Trust, representing Te Kawerau ā Maki.

Treaty settlement entities

18. Under section 4(1) of the Act, “Treaty settlement entity” means any of the following:

- (a) a post-settlement governance entity (PSGE):*
- (b) a board, trust, committee, authority, or other body, incorporated or unincorporated, that is recognised in or established under any Treaty settlement Act:*
- (c) an entity or a person that is authorised by a Treaty settlement Act to act for a natural resource feature with legal personhood:*
- (d) Te Ohu Kai Moana or a mandated iwi organisation (as those terms are defined in section 5(1) of the Maori Fisheries Act 2004):*
- (e) an iwi aquaculture organisation (as defined in section 4 of the Maori Commercial Aquaculture Claims Settlement Act 2004).*

19. Under the Act, a PSGE:

- (a) means a body corporate or the trustees of a trust established, for the purpose of receiving redress in the Treaty settlement of a claimant group,—*
 - (i) by that group; or*
 - (ii) by or under an enactment or order of a court; and*
- (b) includes—*
 - (i) an entity established to represent a collective or combination of claimant groups; and*
 - (ii) an entity controlled by an entity referred to in paragraph (a); and*
 - (iii) an entity controlled by a hapū to which redress has been transferred by an entity referred to in paragraph (a).*

20. In keeping with the procedural principles outlined at section 10 of the Act, we only identify those PSGEs which are specified in the relevant Treaty settlement Act or Treaty settlement deed.²

21. We have identified the following relevant Treaty settlement entities for this project area:

- a. Te Uri o Hau Settlement Trust, PSGE for Te Uri o Hau Claims Settlement Act 2002;
- b. Ngāti Manuhiri Settlement Trust, PSGE for Ngāti Manuhiri Claims Settlement Act 2012;
- c. Te Kawerau Iwi Settlement Trust, PSGE for Te Kawerau ā Maki Claims Settlement Act 2015;

² Should a panel be made aware of a Treaty settlement entity established after the Treaty settlement Act is enacted (e.g. on the advice of a PSGE), then there would appear to be nothing to prevent the panel from inviting that entity to comment on the application under section 53(2)(c) of the Act.

- d. Te Rūnanga a Iwi o Ngāpuhi, mandated iwi organisation, iwi aquaculture organisation;
- e. Ngātiwai Trust Board, mandated iwi organisation, iwi aquaculture organisation;
- f. Te Rūnanga o Ngāti Whātua, mandated iwi organisation, iwi aquaculture organisation; and
- g. Te Ohu Kaimoana.

22. We note that:

- a. the area of interest in the Te Uri o Hau deed of settlement extends as far north as Langs Beach, at the southern end of Bream Bay;
- b. the area of interest in the Ngāti Manuhiri deed of settlement extends as far north as Paepae-o-tū/Bream Tail, at the south end of Bream Bay;
- c. the area of interest in the Te Kawerau ā Maki deed of settlement extends as far north as Mangawhai Heads (i.e. does not include Bream Bay); and
- d. all three areas of interest include the proposed 'Remote Control Area' (see maps at Attachment 2).

Groups mandated to negotiate Treaty settlements

23. The following groups have recognised mandates to negotiate a Treaty settlement over an area which may include the project area, and are in the early stages of negotiating their Treaty settlements with the Crown:

- a. Te Rūnanga o Ngāti Whātua, representing Ngāti Whātua (remaining claims); and
- b. Ngātiwai Trust Board, representing Ngātiwai.

24. The project area is also within the rohe of Ngāpuhi. Ngā hapū o Ngāpuhi are currently at the pre-negotiation or mandating stage of Treaty settlement negotiations.

Takutai Moana groups and ngā hapū o Ngāti Porou

25. At the time of writing, there are no groups with court orders or agreements that recognise protected customary rights or customary marine title within the project area, under MACA.

26. The following applicant groups are seeking recognition of customary marine title (CMT) or protected customary rights (PCR) within the project area, under MACA:

- a. MAC-01-01-013/CIV-2017-404-566 Hapū o Te Waiariki, Ngāti Korora, Ngāti Takapari, CMT and PCR;
- b. MAC-01-01-073/CIV-2017-485-398 Ngāti Kawau and Te Waiariki Korora, CMT and PCR;
- c. MAC-01-01-040/CIV-2017-404-579 Ngā Hapū o Tangaroa ki Te Ihu o Manaia tai atu ki Mangawhai, CMT and PCR;
- d. MAC-01-01-101/CIV-2017-485-286 Patuharakeke Te Iwi Trust, CMT and PCR;
- e. MAC-01-01-136/CIV-2017-485-799 Te Parawhau Hapū, PCR and CMT;
- f. MAC-01-01-140/CIV-2017-404-563 Te Rūnanga o Ngāti Whātua, CMT and PCR;
- g. MAC-01-01-125/CIV-2017-404-570 Te Hikutu Whānau and Hapū, PCR;
- h. MAC-01-01-039/CIV-2017-404-554 Ngā Hapū o Ngāti Wai Iwi, CMT and PCR;

- i. MAC-01-01-059 Ngā Puhī Nui Tonu-Kota-toka-tutaha-moana o whaingaroa, PCR;
 - j. MAC-01-01-050/CIV-2017-404-537 Ngā Puhī Nui Tonu (Awataha Marae), Ngāti Rāhiri, Ngāti Awa, Ngāi Tāhuhu and Ngāitawake, CMT and PCR
 - k. MAC-01-01-102 Patuharakeke Te Iwi, CMT and PCR;
 - l. MAC-01-01-137/CIV-2017-485-305 Te Parawhau ki Tai;
 - m. MAC-01-01-060 Ngā Puhī, Ngāti Wai, Haki Pereki and Ngāwhetu Sadler Whānau Trust;
 - n. MAC-01-01-056 Ngā Puhī Nui Tonu (Te Kotahitangā Marae);
 - o. MAC-01-01-037 Ngā Hapū o Ngāi Tahu;
 - p. MAC-01-01-133/ CIV-2017-404-558 Te Kaunihera o Te Tai Tokerau, Ngāitawake;
 - q. MAC-01-01-090 Ngāti Wai;
 - r. MAC-01-01-131/CIV-2017-485-283 Iwi, whānau and hapū of Ngātiwai;
 - s. MAC-01-01-105/CIV-2017-485-515 Reti Whānau, Whangaruru, Whangārei and Whangaroa, CMT and PCR;
 - t. MAC-01-01-146 Te Uri o Tautohe;
 - u. MAC-01-01-023 Ihaia Paora Weka Tuwhera Gavala Murray Mahinepua Reserve Trust Ngatirua Iti Ngati Muri Ngatirumamahue Ngati Kawau Ngati Haiti Ngaitupango Nga Puhī Ngati Kahu Te Aupouri;
 - v. CIV-2017-404-573 Ngāti Tū ki Ngāpuhi, CMT and PCR;
 - w. MAC-01-01-143/CIV-2009-488-205 Te Uri o Hau Settlement Trust, CMT;
 - x. MAC-01-01-079/CIV-2017-404-545 Ngāti Manuhiri, CMT and PCR; and
 - y. MAC-01-01-080/CIV-2017-485-378 Ngāti Maraeariki and Ngāti Rongo and Hapū.
27. The project area is not within ngā rohe moana o ngā hapū o Ngāti Porou (as set out in the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019).

Iwi or hapū whose practices are recognised under the Fisheries Act 1996 through regulation or bylaws

28. The project area does not include a taiāpure-local fisheries area or mātaītai reserve.
29. However, the project area is within an area subject to regulations made under Part 9 of the Fisheries Act 1996. Pursuant to Regulation 9 of the Fisheries (Kaimoana Customary Fishing) Regulations 1998, the Fisheries (Notification of Tāngata Kaitiaki/Tiaki) for Area/Rohe Moana of Ngāti Kahu, Parawhau, Ngāti Tu and Patuharakeke) Notice 2021 (Notice No. MPI 1353) provides for the management of customary food-gathering within an area/rohe moana (Te Rerenga Paraoa) which includes the project area, by the appointed tangata kaitiaki/tiaki. The tangata whenua of the area/rohe moana under this notice are:
- a. Ngāti Kahu;
 - b. Parawhau;
 - c. Ngāti Tu; and
 - d. Patuharakeke.

30. The project area is also very close to another customary fisheries area/rohe moana. Fisheries (Kaimoana Customary Fishing) Notice (No. 1) 2009 (No. F482), issued under the Fisheries (Kaimoana Customary Fishing) Regulations 1998, provides for a rohe moana closer to the shore at Bream Bay. The tangata whenua is Patuharakeke. According to the applicant, the project area is outside, and just east, of this rohe moana.
31. We have provided maps of both customary fishing areas/rohe moana at **Attachment 4**.

Owners of identified Māori land where electricity infrastructure or land transport infrastructure is proposed

32. Section 39 of the Act provides that before a substantive application is lodged for a listed project or a referred project, the Minister may determine under section 23 or 24 that, for the purposes of the project, an activity described in section 5(1)(a) is not an ineligible activity if it:
- a. is the construction of electricity lines or land transport infrastructure by (or to be operated by) a network utility operator that is a requiring authority; and
 - b. would occur on identified Māori land that is Māori freehold land or General land owned by Māori that was previously Māori freehold land.
33. This project does not involve an activity described in section 23(1) (i.e. including both (a) and (b)) of the Act.

Iwi authorities and groups representing hapū who are party to relevant Mana Whakahono ā Rohe or joint management agreements

34. If the project area is within the boundaries of either a Mana Whakahono ā Rohe or joint management agreement, and the application includes a proposed RMA approval described in section 42(4)(a) to (d) (resource consent, certificate of compliance, or designation), we are required to identify the relevant iwi authority/group that represent hapū that are parties to these arrangements.
35. The project area is within the boundaries of a Mana Whakahono ā Rohe between NRC and each of:
- a. Patuharakeke Te Iwi Trust Board – signed December 2020; and
 - b. Te Pouwhenua o Tiakiriri Kukupa Trust (trading as Te Parawhau ki Tai)) signed April 2024.
36. We consider the coastal permit sought by the applicant falls within the scope of a proposed approval outlined in section 42(4)(a) of the Act (resource consent), under section 87(c) of the RMA.

Any other Māori groups with relevant interests

37. While their area of interest extends as far south as Manaia (maunga) near the entrance to Whangārei Harbour, we consider Te Rūnanga o Ngāti Hine may also have relevant interests.

Relevant principles and provisions in Treaty settlements and other arrangements

Treaty settlements

38. Under section 4(1) of the Act, a Treaty settlement includes both a Treaty settlement Act and a Treaty settlement deed which is signed by both the Crown and representatives of a group of Māori.
39. The following Treaty settlements relate to land, species of plants or animals, or other resources within the project area:
 - a. Te Uri o Hau Claims Settlement Act 2002;
 - b. Ngāti Manuhiri Claims Settlement Act 2012; and
 - c. Te Kawerau ā Maki Claims Settlement Act 2015.
40. As noted at paragraph 22, the areas of interest of the Te Uri o Hau and Ngāti Manuhiri settlements extend as far north as the southern end of Bream Bay, and therefore do not include the proposed 'Sand Extraction Area' (see maps at Attachment 2). The Te Kawerau ā Maki deed of settlement does not include Bream Bay, as its northwards extent is the Mangawhai Heads. However, all three settlements incorporate the proposed Remote Control Area.

Relevant principles and provisions

41. Section 7 of the Act requires all persons exercising powers and functions under the Act to act in a manner consistent with Treaty settlements. The relevant principles and provisions for each of these settlements are set out below.

Crown acknowledgements and apologies

42. The Crown offers acknowledgements and an apology to relevant groups as part of Treaty settlement redress to atone for historical wrongs that breached te Tiriti o Waitangi/the Treaty of Waitangi, to restore honour, and begin the process of healing.
43. As part of its apologies to Ngāti Manuhiri and Te Kawerau ā Maki, the Crown stated that it looked forward to building a new relationship with these groups based on co-operation, mutual trust, and respect for te Tiriti o Waitangi/the Treaty of Waitangi and its principles. The redress mechanisms provided for in Treaty settlements should be viewed in the context of these intentions.

Coastal statutory acknowledgement

44. A statutory acknowledgement is an acknowledgement by the Crown of a 'statement of association' between the iwi and an identified area (the 'statutory area'). Under the RMA and the relevant settlement Acts, a consent authority must, when considering a resource consent for a proposed activity that is within, adjacent to, or directly affecting a statutory area:
 - a. provide a summary of the application to the holder of the statutory acknowledgement. The summary of the application must be the same as would be given to an affected person by limited notification under the RMA. The summary must be provided as soon as is reasonably practicable after the relevant consent authority receives the application, but before they decide whether to notify the application; and

- b. have regard to the statutory acknowledgement when deciding whether the holder (generally a PSGE) is an 'affected person' for the purposes of notification decisions under the RMA.³
45. The holder of a statutory acknowledgment may also cite this as evidence of their association with a statutory area in any submission before a relevant consent authority (or the Environment Court, Heritage New Zealand Pouhere Taonga, the EPA, or a board of inquiry), which may, in turn, take that statutory acknowledgement into account.
46. The Ngāti Manuhiri settlement provides for a coastal statutory acknowledgement over a statutory area with a northern boundary that extends seaward in a northeast direction from Paepae-o-tū/Bream Tail. The statutory area does not include the proposed Sand Extraction Area (as marked on the maps at Attachment 2), but it does incorporate the Remote Control Area. Based on the information provided by the applicant, it appears that no actual works requiring approvals are proposed for the Remote Control Area.
47. However, if the panel receives information to suggest that the proposed activities in the Sand Extraction Area (or any other activity within the scope of the application) will directly affect the statutory area, then the coastal statutory acknowledgement provisions come into play. We consider the process of inviting comment from the relevant Treaty settlement entities, including Ngāti Manuhiri Settlement Trust, under section 53(2)(c) of the Act (and providing information about the application), is comparable to the process under a Treaty settlement and the RMA of providing those who hold statutory acknowledgements with a summary of the application.
48. For your reference, we have provided the coastal statutory acknowledgement provisions for Ngāti Manuhiri, including the relevant statements of association and deed plans, at **Attachment 5**.

Conservation protocol

49. The Ngāti Manuhiri settlement provides for a conservation protocol with the Department of Conservation (DOC), including a commitment to identify categories of statutory authorisations that may impact on the cultural, traditional and/or historic values of Ngāti Manuhiri. DOC advise that they have agreed with Ngāti Manuhiri that permits under the Wildlife Act 1953 are in this category. The protocol provides that, in relation to such applications:
 - a. DOC will advise and encourage all prospective applicants to consult with the Ngāti Manuhiri Settlement Trust before filing an application;
 - b. DOC will consult with the Ngāti Manuhiri Settlement Trust on applications at an early stage;
 - c. both parties will agree on an appropriate response to each relevant application, in a timely manner, before a decision is made under the relevant legislation; and
 - d. DOC will notify the Ngāti Manuhiri Settlement Trust of the timeframes for providing advice on applications.
50. These procedures apply to statutory authorisations within the protocol area. Based on the information provided by the applicant, the approvals being sought under the Wildlife Act 1953 are for the disturbance, capture, collection and incidental killing of two species of cup coral, and pertain to the Sand Extraction Area (during both extraction and monitoring) and

³ In addition to consent authorities, the Environment Court and Heritage New Zealand Pouhere Taonga must also have regard to statutory acknowledgements in relation to some of their processes.

the associated control areas (during monitoring only). While the Sand Extraction Area is outside the protocol area, the Remote Control Area is within the protocol area.

51. We consider the consultation procedures set out in the protocol are able to be accommodated within the process of inviting Ngāti Manuhiri to comment on the application, and in any subsequent engagement with the panel, under the Act. The panel may want to consider whether to adopt this approach towards the Wildlife Act 1953 approval as it applies to the entirety of the project area, rather than just the Remote Control Area. We have provided the relevant excerpt from the Ngāti Manuhiri conservation protocol at **Attachment 6**.
52. We note that the Te Uri o Hau settlement also provides for a conservation protocol, but the protocol area is confined to land within their area of interest.

Maori Fisheries Act 2004

53. The Maori Fisheries Act 2004 provides a framework for the allocation and transfer of specified settlement assets to iwi, in the form of fisheries quota, and management of the remainder of those settlement assets. While this report has identified mandated iwi organisations which hold fishing quota in the wider Quota Management Area, it is not clear whether the application will affect these interests.

Maori Commercial Aquaculture Claims Settlement Act 2004

54. Similarly, the Maori Commercial Aquaculture Claims Settlement Act 2004 provides for the settlement of Māori claims to commercial aquaculture through the allocation and management of aquaculture settlement assets. While this report has identified iwi aquaculture organisations for the purposes of the Maori Commercial Aquaculture Claims Settlement Act 2004, the project area is not located within an aquaculture settlement area established under section 12 of that legislation (or within an area reserved for aquaculture through an individual iwi settlement).

Future settlement negotiations

55. The Office of Treaty Settlements and Takutai Moana – Te Tari Whakatau (Te Tari Whakatau) note that, with the exception of Te Rūnanga o Ngāti Whātua, iwi in the Bream Bay/Whangārei area have not yet entered Treaty settlement negotiations. Accordingly, there may be redress proposed in the future for these groups near the project area. For example, Te Tari Whakatau advise that there is adjacent land on the Ruakākā coast in the Treaty Settlements Landbank that the Minister for Treaty of Waitangi Negotiations may consider necessary for Treaty settlement purposes.
56. We also note that iwi and hapū are likely to have cultural associations with ancestral lands, water, sites, wāhi tapu, and other taonga beyond what is specifically identified in a Treaty settlement or other arrangements. Local tangata whenua and their representatives would be best placed to advise on such matters in the first instance.

Customary Marine Title/Protected Customary Rights

57. As noted above, the project area is not within a customary marine title area, protected customary rights area, or within or adjacent to ngā rohe moana o ngā hapū o Ngāti Porou.
58. However, as noted at paragraph 26, there are currently 25 applicant groups seeking recognition of PCR or CMT over areas which include the project area. Under section 53(2)(e) of the Act, the panel must also invite comments from MACA applicants identified in this report. This will provide groups an opportunity to comment on the application and

have their views taken into consideration by the panel when making a decision on the substantive application for this project.⁴

59. We note that if any of the CMT/PCR applications are ultimately successful, a number of rights would be conferred on the relevant applicants under MACA, including a permission right that applies to activities that are to be carried out under future resource consents within a CMT area.

Taiāpure-local fisheries/mātaimai reserves/areas subject to bylaws or regulations made under Part 9 of the Fisheries Act 1996

60. As noted at paragraphs 29-30, the project area is within an area/rohe moana subject to regulations under Part 9 of the Fisheries Act 1996 for the management of customary food-gathering, and is very close to another such area. The Fisheries (Notification of Tāngata Kaitiaki/Tiaki) for Area/Rohe Moana of Ngāti Kahu, Parawhau, Ngāti Tu and Patuharakeke) Notice 2021 (Notice No. MPI 1353), and the Fisheries (Kaimoana Customary Fishing) Notice (No. 1) 2009 (No. F482) (Patuharakeke), establishing these rohe moana were issued under Regulation 9 of the Fisheries (Kaimoana Customary Fishing) Regulations 1998.
61. These regulations/notices provide that the tangata kaitiaki/tiaki appointed for the areas may authorise any individual to take fisheries resources, managed under the Fisheries Act 1996, for customary food-gathering purposes from within the whole or any part of the area/rohe moana. No customary food-gathering of fisheries resources may take place in the area/rohe moana without an authorisation from a tangata kaitiaki/tiaki.
62. While the application itself does not include the proposed taking of fisheries resources, it is possible that the project may affect the ability of the tangata whenua to exercise customary food-gathering practices under the authority of the kaitiaki/tiaki. Tangata whenua are likely best placed to advise the panel on this matter.
63. In addition, the Ministry for Primary Industries (MPI) advise that the tangata whenua who appointed tangata kaitiaki under Notice 1353 and Notice F482 are currently developing applications for mātaimai reserves across most of their rohe. They are deciding whether to apply for one mātaimai covering both areas or to have two separate sites.
64. At the request of tangata whenua, there is also a temporary closure in place at Marsden Bank and Mair Bank to the taking of all shellfish except pipi and scallops, under the Fisheries (Marsden Bank and Mair Bank Temporary Closure) Notice 2024 (Notice No. MPI 1848). The application was made under section 186A of the Fisheries Act 1996, which is within Part 9, but closures are made directly under the statute rather than through regulations. The Minister for Oceans and Fisheries may make a closure to recognise and provide for the use and management practices of tangata whenua, by improving the availability or size of fisheries resources or by recognising a customary fishing practice. While the closure is close to shore at Marsden Point, and several kilometres north of the proposed Sand Extraction Area, MPI advise that the stability of the sand bank where the shellfish occur is critical to the maintenance of the fishery. Accordingly, the panel may wish to consider whether the application will have an impact on the long-term health of this fishery. Again, tangata whenua may be best placed to advise on possible effects.

⁴ We note sections 62(2) and 62A of MACA provide for CMT applicants to be notified of, and consulted on, applications for resource consents in that part of the common marine and coastal area where CMT is being sought.

Mana Whakahono ā Rohe/Joint management agreement

65. As noted above, the project area is within the boundaries of a Mana Whakahono ā Rohe between NRC and Patuharakeke Te Iwi Trust Board and Te Pouwhenua o Tiakiriri Kukupa Trust (Te Parawhau ki Tai), and the application includes a proposed approval outlined in section 42(4)(a) of the Act (resource consent).
66. Under section 18(2)(j)(ii) of the Act, this report must include the relevant principles and provisions in any relevant Mana Whakahono ā Rohe. In this instance, the Mana Whakahono ā Rohe is a single document agreed between NRC and the hapū of Te Taitokerau, which has been signed by three hapū entities to date: Patuharakeke Te Iwi Trust Board, Te Pouwhenua o Tiakiriri Kukupa Trust (Te Parawhau ki Tai), and Te Rūnanga o Ngāti Rēhia. We have provided a copy of the Mana Whakahono ā Rohe at **Attachment 7**.⁵
67. The Mana Whakahono ā Rohe includes a set of common relationship principles:
- a. working together in good faith and in a spirit of co-operation;
 - b. communicating with each other in an open, transparent, and honest manner;
 - c. recognising and acknowledging the benefit of working together by sharing each other's respective vision, aspirations and expertise; and
 - d. the Treaty of Waitangi Principles (citing the interpretation of the Waitangi Tribunal).
68. The Mana Whakahono ā Rohe has common provisions relating to regional plan and regional policy statement processes, including the status of Hapū Environmental Management Plans (HEMPs), identifying sites or areas of significance, policy statement and plan change prioritisation, consultation, hearing panels, hearings, and review of the regional plan and regional policy statement. The Mana Whakahono ā Rohe also includes provisions regarding resource consent monitoring, delegation of functions, powers or duties, and training opportunities.
69. Of most direct relevance to this application, the Mana Whakahono ā Rohe includes provisions relating to resource consent applications, including agreement that NRC will:
- a. provide a copy to hapū of all resource consent applications within their rohe;
 - b. provide hapū 12 working days to respond from the date the copy of the resource consent application was sent;
 - c. talk with hapū representatives (phone or meeting, followed by email) to get a better understanding of any concerns they have raised, or to let them know what NRC's response is to the concerns raised (with an explanation). This is to occur prior to a formal request for further information from the resource consent applicant, or before the decision on the resource consent application if no formal request for further information is made;
 - d. in all resource consent decision documents for activities within the rohe of the hapū, record any HEMP lodged with NRC and provide a summary of how the HEMP was considered;
 - e. decide whether to appoint a Māori commissioner is appointed to the hearing panel for a notified resource consent application and, if a Māori commissioner is to be appointed, it will be from a list of preferred independent Māori commissioners it

⁵ The project area is outside the rohe of Ngāti Rehia.

maintains, to which hapū may nominate candidates, unless there is a good reason not to; and

- f. if requested by hapū, provide a written response within 20 working days outlining the reasons for its decision, for a notified resource consent application, to include a Māori commissioner on the hearing panel, and/or to select a particular Māori commissioner.

70. Further to paragraph 69(d), Patuharakeke have lodged a HEMP with NRC, which we have included as **Attachment 8** of this report. Patuharakeke raise a number of objectives, policies, and methods in their HEMP that are likely to be relevant to this application, including (but not limited to):

- a. requesting that councils and other relevant agencies afford cultural landscape and seascape values at least as high a priority as other landscape values when preparing plans and policies and when considering landscape values during resource consent processes;
- b. the mauri and cultural health of the harbour, Bream Bay and estuaries is to be protected and enhanced in ways that enable Patuharakeke to provide for their physical, social, economic and cultural wellbeing;
- c. coastal water quality is required to be consistent with protecting and enhancing customary fisheries, and with enabling Patuharakeke to exercise their customary rights and safely harvest kaimoana;
- d. Patuharakeke will participate fully in any decision-making over the management of coastal waters in our rohe;
- e. decision-makers will ensure that economic costs do not take precedence over the cultural, environmental and intergenerational costs of degrading coastal water quality;
- f. councils and other relevant agencies will recognise and support the use of cultural monitoring and assessment tools by Patuharakeke to compile base line data and assess the state of coastal water resources;
- g. councils issuing consents that could affect customary access to the coastal environment will include consent conditions to protect and enhance customary access;
- h. Patuharakeke will continue to advocate for a clean and healthy marine environment for marine life, including dolphins and whales;
- i. NRC will require protection or restoration mechanisms such as bonds, levies and mitigation funds as consent conditions for any application with the potential to adversely impact the Patuharakeke rohe moana; and
- j. NRC will require that water quality in the harbour, bays and estuaries is such that Patuharakeke can exercise customary rights to safely harvest kaimoana.

71. As far as we can ascertain in the time available, Te Parawhau has yet to lodge a HEMP with NRC. The panel may wish to make further enquiries to satisfy themselves that this is the case.

72. Under clause 5 of Schedule 3 to the Act, if a Mana Whakahono ā Rohe includes procedural arrangements relating to the appointment of a decision-making body for hearings and other procedural matters (including notice or consultation requirements), the panel convener or panel must comply with those arrangements or obtain the agreement of the relevant party to the Mana Whakahono ā Rohe to adopt a modified arrangement.

73. Accordingly, we consider the panel will need to comply with the relevant procedural requirements in the Mana Whakahono ā Rohe between NRC and hapū of Te Taitokerau including:
- a. providing copies of the application to Patuharakeke and Te Parawhau and inviting comments;
 - b. engagement with Patuharakeke and Te Parawhau on their comments;
 - c. observing the provisions relating to the appointment of hearing commissioners; and
 - d. recording the HEMPs and how they were considered in any decision documents.

Consultation with departments

74. In preparing this report, we are required to consult relevant departments. We sought advice from Te Puni Kōkiri and Te Tari Whakatau regarding the relevant Māori groups, and have incorporated their views into this report. We also consulted MPI in relation to customary fisheries, and have previously consulted with DOC on the status of the Ngāti Manuhiri conservation protocol.

Attachment 1: Provisions of section 18 of the Fast-track Approvals Act 2024

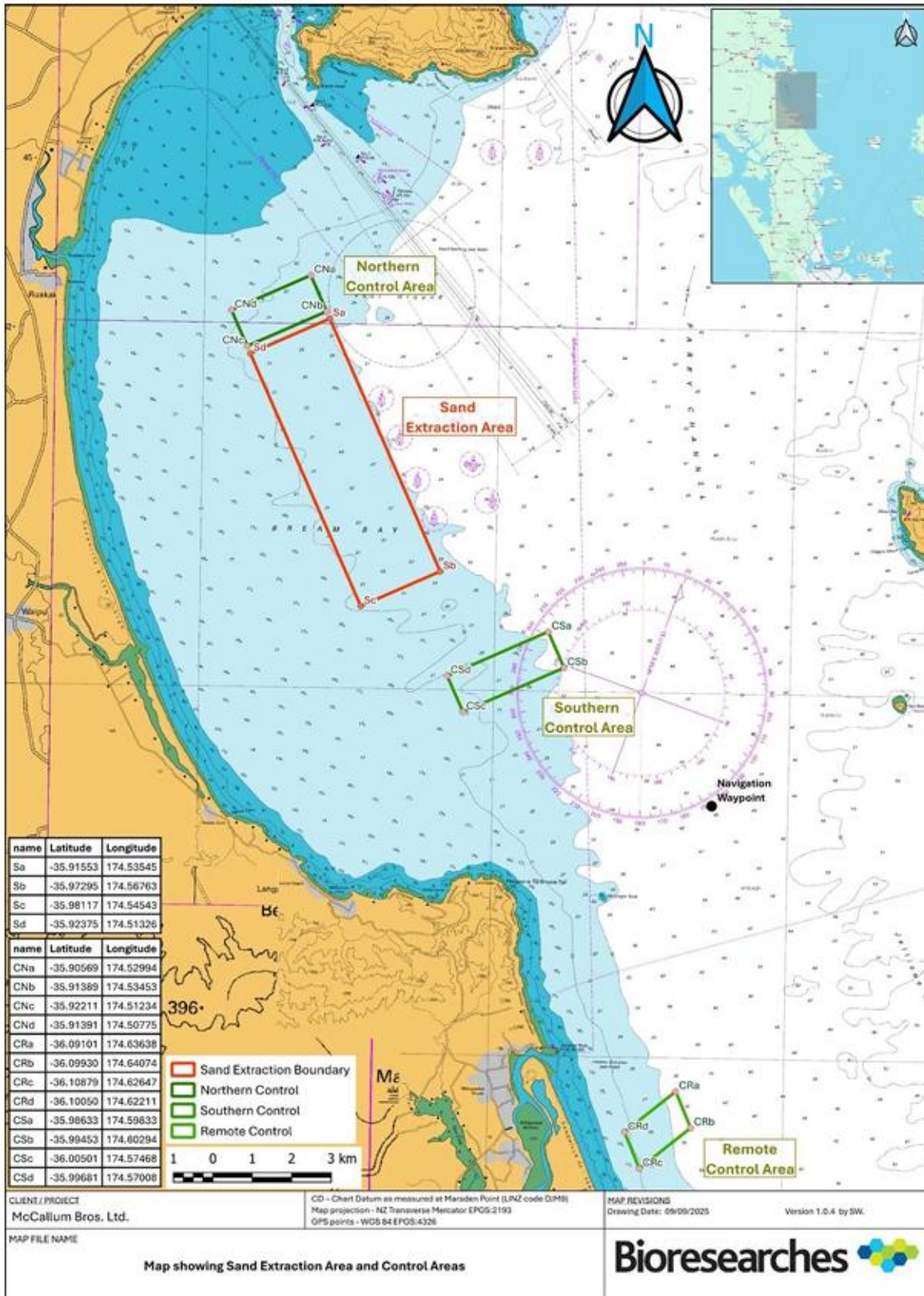
Section	Information required	Paragraph reference in this report
18(1)	The Minister must, for a referral application, obtain and consider a report that is prepared by the responsible agency in accordance with this section.	Not applicable to substantive applications – section 18 report is required by section 49.
18(2)(a)	Any relevant iwi authorities and relevant Treaty settlement entities	16-22
18(2)(b)	Any Treaty settlements that relate to land, species of plants or animals, or other resources within the project area	38-40
18(2)(c)	The relevant principles and provisions in those Treaty settlements, including those that relate to the composition of a decision-making body for the purposes of the Resource Management Act 1991	41-56
18(2)(d)	Any recognised negotiation mandates for, or current negotiations for, Treaty settlements that relate to the project area.	23-24
18(2)(e)	Any court orders or agreements that recognise protected customary rights or customary marine title within the project area.	25, 57
18(2)(f)	Any applicant groups under the Marine and Coastal Area (Takutai Moana) Act 2011 that seek recognition of customary marine title or protected customary rights within the project area.	26, 58-59
18(2)(g)	Whether the project area would be within or adjacent to, or the project would directly affect, ngā rohe moana o ngā hapū o Ngāti Porou (and, if so, the relevant provisions of the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019).	27, 57
18(2)(h)	Whether the project area includes any taiāpure-local fisheries, mātaītai reserves, or areas that are subject to bylaws or regulations made under Part 9 of the Fisheries Act 1996 (and, if so, who the tangata whenua are).	28-31, 60-64
18(2)(i)	Whether the project involves an activity that could be the subject of a determination under 23 (and, if so, who the owners of the land are).	32-33
18(2)(j)	If the proposed approvals include an approval described in any of section 42C(4)(a) to (d) (resource consent, certificate of compliance, or designation),	34-36, 65-73

	<ul style="list-style-type: none"> (i) iwi authorities and groups that represent hapū that are parties to any relevant Mana Whakahono ā Rohe or joint management agreements. (ii) The relevant principles and provisions in those Mana Whakahono ā Rohe and joint management agreements. 	
18(2)(k)	Any other Māori groups with relevant interests.	37
18(2)(l)	<p>A summary of—</p> <ul style="list-style-type: none"> (i) comments received by the Minister after inviting comments from Māori groups under section 17(1)(d) and (e); (ii) any further information received by the Minister from those groups 	Not applicable to substantive applications
18(2)(m)	The responsible agency's advice on whether, due to any of the matters identified in this section, it may be more appropriate to deal with the matters that would be authorised by the proposed approvals under another Act or Acts.	Not applicable to substantive applications
18(3)	<p>In preparing the report required by this section, the responsible agency must—</p> <ul style="list-style-type: none"> (a) consult relevant departments; and (b) provide a draft of the report to the Minister for Māori Development and the Minister for Māori Crown Relations: Te Arawhiti. 	74 (section 18(3)(a) Section 18(3)(b) not applicable to substantive applications
18(4)	Those Ministers must respond to the responsible agency within 10 working days after receiving the draft report	Not applicable to substantive applications

Attachment 2: Project location map



Figure Two: Aerial of the Location of the Te Ākau Bream Bay Sand Extraction Area).



Attachment 3: List of relevant Māori groups

Name of group	Type of group (section of Act)	Contact person	Contact email
Te Rūnanga o Ngāti Whātua	Iwi authority (s18(2)(a)); Treaty settlement entity – mandated iwi organisation & iwi aquaculture organisation (s18(2)(a)); mandated entity (s18(2)(d))	Dame Naida Glavish	
Ngātiwai Trust Board	Iwi authority (s18(2)(a)); Treaty settlement entity – mandated iwi organisation & iwi aquaculture organisation (s18(2)(a)); mandated entity (s18(2)(d))	Aperahama Edwards, Tania McPherson	
Patuharakeke Te Iwi Trust Board	Iwi authority (s18(2)(a)); tangata whenua for customary fisheries (s18(2)(h)); party to Mana Whakahono ā Rohe (s18(2)(j))	Deborah Harding, chair	
Te Rūnanga-Ā-Iwi-O-Ngāpuhi	Iwi authority (s18(2)(a)); Treaty settlement entity – mandated iwi organisation & iwi aquaculture organisation (s18(2)(a))	Moana Tuwhare Phil Grimshaw	
Te Uri o Hau Settlement Trust	Iwi authority (s18(2)(a)); Treaty settlement entity (s18(2)(a));	Jonathan Rishworth, CE	
Ngāti Manuhiri Settlement Trust	Iwi authority (s18(2)(a)); Treaty settlement entity (s18(2)(a));	Terrence (Mook) Hohneck	
Te Kawerau Iwi Settlement Trust	Iwi authority (s18(2)(a)); Treaty settlement entity (s18(2)(a));	Edward Ashby	

Te Ohu Kaimoana	Treaty settlement entity (s18(2)(a))	Kylie Grigg	
MAC-01-01-013/CIV-2017-404-566 Hapū o Te Waiariki, Ngāti Korora, Ngāti Takapari, CMT and PCR	MACA applicant (s18(2)(f))	John Kahukiwa	
MAC-01-01-073/CIV-2017-485-398 Ngāti Kawau and Te Waiariki Korora, CMT and PCR	MACA applicant (s18(2)(f))	Louisa Collier	
MAC-01-01-040/CIV-2017-404-579 Ngā Hapū o Tangaroa ki Te Ihu o Manaia tai atu ki Mangawhai, CMT and PCR	MACA applicant (s18(2)(f))	Waimarie Kingi	
MAC-01-01-101/CIV-2017-485-286 Patuharakeke Te Iwi Trust, CMT and PCR	MACA applicant (s18(2)(f))	Patuharakeke Te Iwi Trust Board	
MAC-01-01-136/CIV-2017-485-799 Te Parawhau Hapū, PCR and CMT	MACA applicant (s18(2)(f))	Korokota Marae	
MAC-01-01-140/CIV-2017-404-563 Te Rūnanga o Ngāti Whātua, CMT and PCR	MACA applicant (s18(2)(f))	Alan Riwaka	
MAC-01-01-125/CIV-2017-404-570 Te Hikutu Whānau and Hapū, PCR	MACA applicant (s18(2)(f))	Anania Wikaira, Jane Hotere, Rosaria Hotere	
MAC-01-01-039/CIV-2017-404-554 Ngā Hapū o Ngāti Wai Iwi, CMT and PCR	MACA applicant (s18(2)(f))	Kare Rata	

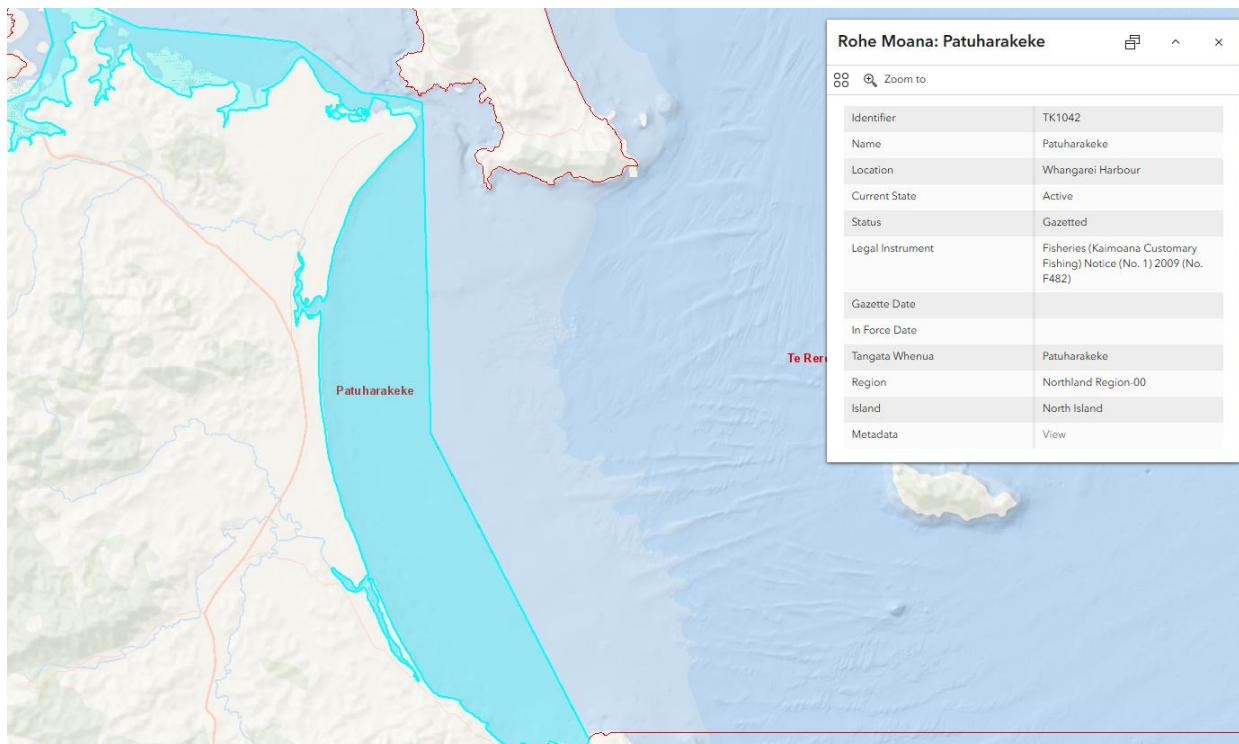
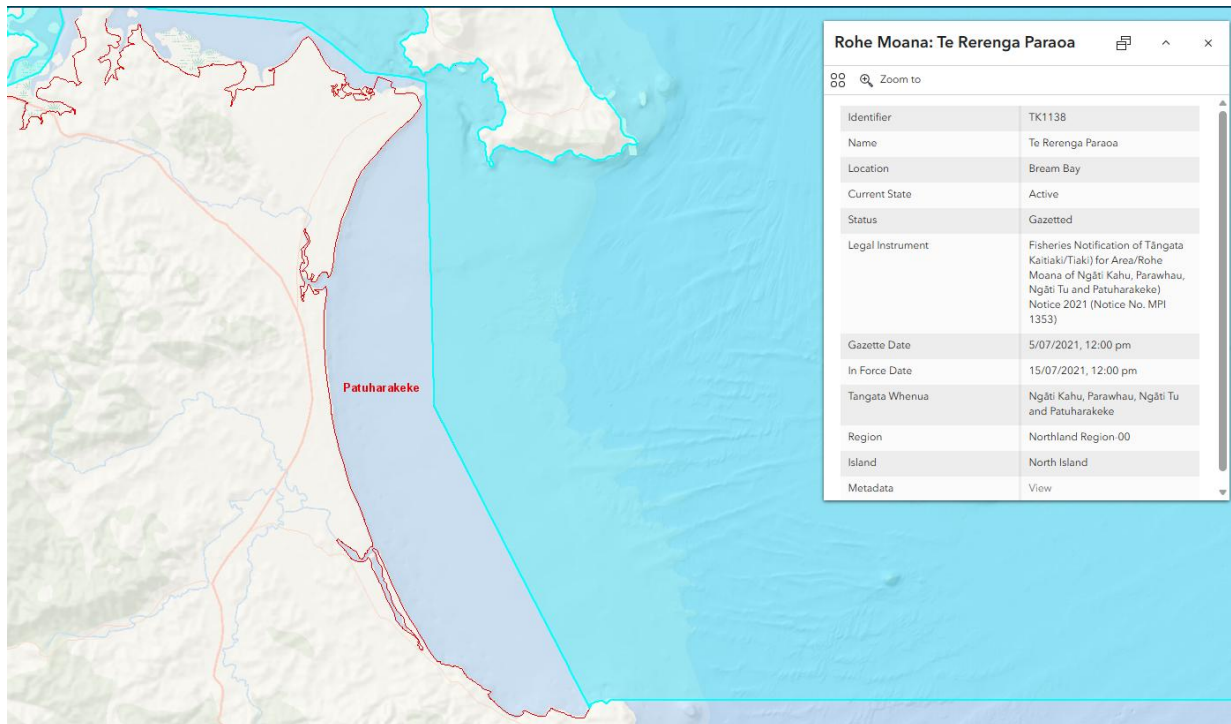
MAC-01-01-059 Ngā Puhi Nui Tonu-Kotatoka-tutaha-moana o whaingaroa, PCR	MACA applicant (s18(2)(f))	Ngati Ruamahue Marae	
MAC-01-01-050/CIV-2017-404-537 Ngā Puhi Nui Tonu (Awataha Marae), Ngāti Rāhiri, Ngāti Awa, Ngāi Tāhuhu and Ngāitawake, CMT and PCR	MACA applicant (s18(2)(f))	Joseph Robert Kingi	
MAC-01-01-102 Patuharakeke Te Iwi, CMT and PCR	MACA applicant (s18(2)(f))	Patuharakeke Te Iwi Trust Board	
MAC-01-01-137/CIV-2017-485-305 Te Parawhau ki Tai	MACA applicant (s18(2)(f))	Marina Fletcher	
MAC-01-01-060 Ngā Puhi, Ngāti Wai, Haki Pereki and Ngāwhetu Sadler Whānau Trust	MACA applicant (s18(2)(f))	Chris Sadler	
MAC-01-01-056 Ngā Puhi Nui Tonu (Te Kotahitangā Marae)	MACA applicant (s18(2)(f))	Joseph Robert Kingi	
MAC-01-01-037 Ngā Hapū o Ngāi Tahu	MACA applicant (s18(2)(f))	Ropu o Rangiriri	
MAC-01-01-133/ CIV-2017-404-558 Te Kaunihera o Te Tai Tokerau, Ngāitawake	MACA applicant (s18(2)(f))	Rihari Dargaville	
MAC-01-01-090 Ngāti Wai	MACA applicant (s18(2)(f))	Maia Heteraka	
MAC-01-01-131/CIV-2017-485-283 Iwi, whānau and hapū of Ngātiwai	MACA applicant (s18(2)(f))	Ngātiwai Trust Board	

MAC-01-01-105/CIV-2017-485-515 Reti Whānau, Whangaruru, Whāngarei and Whangaroa, CMT and PCR	MACA applicant (s18(2)(f))	Elvis Reti
MAC-01-01-146 Te Uri o Tautohe	MACA applicant (s18(2)(f))	Tamihana Akitai Paki
MAC-01-01-023 Ihaia Paora Weka Tuwhera Gavala Murray Mahinepua Reserve Trust Ngatirua Iti Ngati Muri Nagatiruamahue Ngati Kawau Ngati Haiti Ngaitupango Nga Puhi Ngati Kahu Te Aupouri	MACA applicant (s18(2)(f))	Tahua Murray - Mahinepua Reserve Ririwha Trust Matangirau Trust
CIV-2017-404-573 Ngāti Tū ki Ngāpuhi, CMT and PCR	MACA applicant (s18(2)(f))	Maia Maria Nova Honetana
MAC-01-01-143/CIV-2009-488-205 Te Uri o Hau Settlement Trust, CMT;	MACA applicant (s18(2)(f))	Fiona Kemp
MAC-01-01-079/CIV-2017-404-545 Ngāti Manuhiri, CMT and PCR	MACA applicant (s18(2)(f))	Merehora Taurua Trustees of the Ngāti Manuhiri Settlement Trust
MAC-01-01-080/CIV-2017-485-378 Ngāti Maraeariki and Ngāti Rongo and Hapū	MACA applicant (s18(2)(f))	Michael Beazley
Te Pouwhenua o Tiakiriri Kukupa	Tangata whenua for customary fisheries (s18(2)(h)); party to	Pari Walker, chair

Trust (Te Parawhau ki Tai)	Mana Whakahono ā Rohe (s18(2)(j))		
Ngāti Kahu o Torongare	Tangata whenua for customary fisheries (s18(2)(h))	Opania George	
Ngāti Tu ki Ngāpuhi	Tangata whenua for customary fisheries (s18(2)(h))	Riki Solomon Maia Honetana	
Te Rūnanga o Ngāti Hine	other Māori groups with relevant interests (s18(2)(k))	Hohipere Williams Rowena Tana	

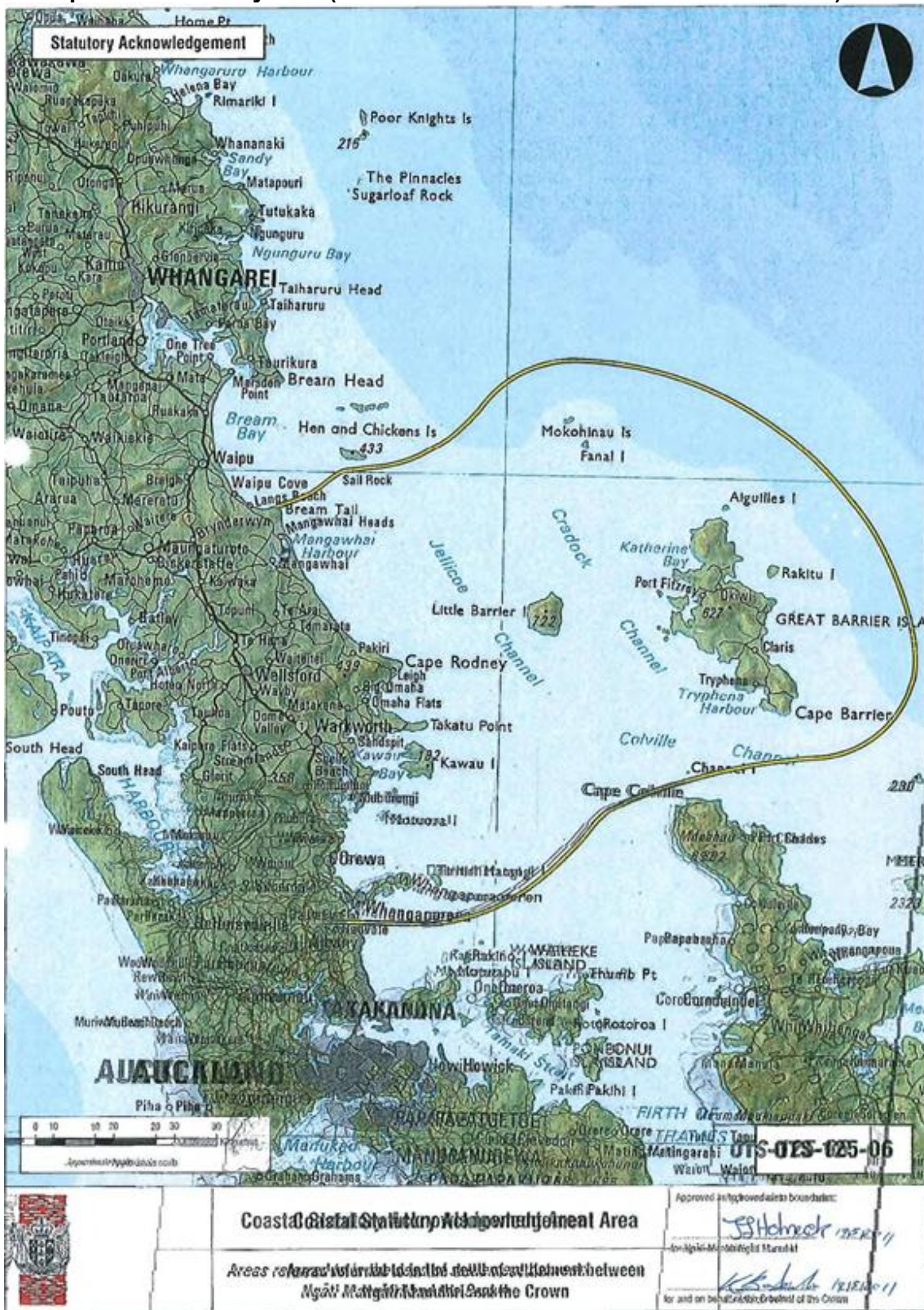
Attachment 4: Maps of customary fishing areas/rohe moana

Sourced from National Aquatic Biodiversity System, Ministry for Primary Industries



Attachment 5: Ngāti Manuhiri coastal statutory acknowledgement

Deed plan for statutory area (attachments schedule to deed of settlement)



Excerpts from statements of association (documents schedule to deed of settlement)

COASTAL STATUTORY ACKNOWLEDGEMENT AREA

Statutory Area

The area to which this Statutory Acknowledgement applies is the Ngāti Manuhiri Coastal Acknowledgement Area, as shown on deed plan OTS-125-06. This statutory acknowledgment should be considered alongside the Ngāti Manuhiri statutory acknowledgments for the adjoining coastal environment, rivers and the offshore islands.

Statement of Association for the Ngāti Manuhiri Coastal Statutory Acknowledgement Area

The coastal marine area and the coastal environment adjoining are central to the origins, mana and identity of Ngāti Manuhiri as an iwi, and as part of the ocean-focused tribal grouping Ngāti Wai ki te Moana.

Ngāti Manuhiri have an important ancestral relationship with the coastal marine area extending from Mangawhai (the Mangawhai Harbour) to Matakana (the Matakana Estuary). Broader and shared ancestral interests are also maintained within a coastal area covering the seaway known as Te Moana Nui ō Toi – the great sea of Toi (the central and northern Hauraki Gulf). In the north, Ngāti Manuhiri share ancestral relationships and interests from Paepae ō Tū (Bream Tail) on the eastern coastline, out to the islands of Tūturu (Sail Rock) and Pokohinu (the Motuhinau Islands group).

The Ngāti Manuhiri coastal statutory acknowledgement area encompasses the islands of Hauturu-o-Toi / Little Barrier Island, and Aotea (Great Barrier Island), where Ngāti Manuhiri have shared ancestral interests, including on Rangiahua (Flat Island), Motu Mahuki, Motu Taiko, and their marine environs. Ngāti Manuhiri accept that their relatives Ngāti Rehua act as primary kaitiaki of these interests at Aotea.

The southern boundary of the Ngāti Manuhiri coastal statutory acknowledgement area extends from the south western extremity of Aotea (Great Barrier Island) through the seas known traditionally as Taitūmata and Te Awanui ō Hei, to Takapou (Channel Island). It then runs westward through the seaway known as Moana Te Rapu, to the south of the Whāngaparāoa Peninsula, to reach the eastern coastline of the Auckland region at Ōkura. There are places of spiritual, historical, cultural and economic importance to Ngāti Manuhiri along the entire coastline between Ōkura and Paepae ō Tū (Bream Tail). Seaways of particular significance to Ngāti Manuhiri include Waimiha (Ōmaha Bay) which was associated with the annual whale migrations described below, Moanauriuri (Kawau Bay), and Waihi (the North Channel of Kawau Bay). This latter area is a place of particular mana associated with the landmarks and ritually important areas of Karangatuoro, Matatūahu, Tangaroa and Tokatū.

Te Moana Nui ō Toi Te Huatahi – The Great Sea of Toi Te Huatahi

Ngāti Manuhiri trace descent from the famous early Māori ancestor and voyager Toi Te Huatahi, after whom Te Moana Nui ō Toi (the central and northern Hauraki Gulf) is named. This ocean area, and its mauri or spiritual essence, kaitiaki or spiritual guardians, biodiversity, seaways, islands, and traditions, lie at the heart of the identity of Ngāti Manuhiri. Te Moana Nui ō Toi, and its islands and coastal margins are also associated with the earliest ancestral origins of Ngāti Manuhiri, through descent from the ancestors Maui Pae, Manaia, and Tahuhuniorangi. This seaway was also associated with the arrival of the Tainui and Aotea waka in the region, and the renowned ancestors Rakataura and Turi from whom the eponymous ancestor Manuhiri descends.

The annual whale migrations through Te Moana nui ō Toi were of major significance to Ngāti Manuhiri, and remain so. They symbolise ancestral associations, the changing of the seasons, and the rich marine biodiversity contained within this vast ocean area. The coastal seaways between Whāngaparāoa, 'the bay of the sperm whales', and Tokatū Point, provided a resting place for migrating whales and their calves. The seaway lying to the north of Tāwharanui, and extending towards Hauturu-o-Toi / Little Barrier Island, was known traditionally as Waimiha or Te Aumiha. This name has layers of meaning relating to the whale calves that rested in the coastal waters, the ambergris cast ashore by the whales, and the heavy seas that arise in this area. Whales often stranded on this part of the coast, in particular on the northern side of the Tokatū Peninsula, bringing a rich bounty for Ngāti Manuhiri. On occasions whales were also caught by the young men of the tribe, both as a symbol of manhood and as a resource. The name of the nineteenth century Ngāti Manuhiri leader Te Kiri Kaiparaoa symbolises this activity and the exercise of rangatiratanga:

He reirei ngā niho parāoa, he parāoa ngā kauae.

"If you wear a necklace of sperm whale teeth, you need the jaws of a sperm whale to carry them".

Te Ao ō Tangaroa - The Realm of Tangaroa

The seas of Te Moana Nui ō Toi provided a vast source of food for Ngāti Manuhiri over the generations, including sea mammals, a great variety of fish, shellfish, seaweed and sea birds. Knowledge relating to the location and resources of individually named tauranga ika (fishing grounds) was handed down over the generations until this practice was disrupted by the introduction of modern sonar devices. Of particular importance to Ngāti Manuhiri were tauranga ika associated with whāpuku (groper), tarakihi, tawatawa (mackerel), tāmure (snapper), kahawai, and haku (kingfish). The tauranga mango (shark fishing grounds) of Kawau Bay were used by Ngāti Manuhiri and others to catch the school shark species known locally as muri. This important winter food source was coveted by iwi and became the cause of significant conflict in the eighteenth century. Ngāti Manuhiri continued to harvest muri from this area regularly until the establishment of a shark oil processing factory at Sandspit in the late nineteenth century, and periodically until the 1920s.

Te Takutaimoana – the Coastline

The coastline extending between the Whāngaparāoa Peninsula and Paepae ō Tū (Bream Tail) includes a wide range of rocky, sandy and estuarine marine habitats, once rich in a variety of inshore fish species, koura and shellfish. Ngāti Manuhiri were traditionally reliant on this kaimoana resource, which was harvested seasonally according to strict customary practices until the alienation of most of the Ngāti Manuhiri tribal domain by the late nineteenth century. In spite of this, the Ngāti Manuhiri rangatira Te Kiri Kaiparaoa continued to assert rights over the resources of the coastline between Tokatū and Pākiri until his death in 1873. Prior to the introduction of animal pest species, deforestation and land clearance in the mid nineteenth century, the coastal environment also contained seal colonies, for example Te Pūrei Kekenō at Hāwera (Tī Point). There were also large seabird breeding colonies on most of the larger coastal headlands from which birds and eggs were harvested. Settlement was focused around sheltered bays, harbours and river mouths, with fortified pā protecting the resources of each of these communities.

Places of special significance to Ngāti Manuhiri on this coastline include: Tiritiri Mātangi Island, named after the Waikato birthplace of the eponymous ancestor Manuhiri, Whangaparāoa, "the bay of the sperm whales", Motu Mahurangi (Mahurangi Island), Awa Waiwerawera (the Waiwera River), Te Awa Pūhoi (the Pūhoi River), Te Muri ō Tarariki, Waihē (the Mahurangi River), Te

Korotangi (a fortified pā), Ōpahi, Motu Kororā (Saddle Island), Matakanakana (a fortified pā), Awa Matakanakana (Matakana Harbour and River), Purahurawai (Scandrett's Bay/Mullet Point), and the islands of Te Mau Tohorā ā Manaia (Motuora), Moturekareka, Motumanu, Motuketekete, Taungamārō, Takangaroa, Ruakoura, Tangaroa, and Te Kawau Tūmārō ō Toi (Kawau Island).

The coastline extending from Matakanakana northward around the Tokatū Peninsula to Whāngateau contains numerous areas of significance to Ngāti Manuhiri. These include traditional inshore fishing grounds, netting and kaimoana gathering areas, pā, kāinga, wāhi tapu, tūahu, and navigational and historical landmarks. Examples are provided by: Waimarumarū, Wai ihe, Pākarakā, Karangatuoro, Te Ngaere, Waikauri, Matatūahu, Ōponui (a fortified pā), Mangatāwhiri, Pāhī (a fortified pā), Tokatū, Waikōkōwai, Pukeruhiruhi (a fortified pā), Waimaru, Waitapu, Te Kiekie, Te Wairenga and Te Taumutu (Ōmaha Spit), Whāngateau, Waikōkopu, Uruhau, Pātito (a fortified pā), Koekoea (a fortified pā), Hāwera, Te Pūrei Kekenō, Piupiu (a fortified pā), Kohuroa (Matheson Bay), Whānga ō maha (Leigh Harbour), Panetiki, Motururu, Wakatūwhenua, Motu Hāwera, Ōkākari (a fortified pā), Pitokuku, Taumata (a fortified pā), Ngā One Haea (Pāhiri Beach), Te Ārai ō Tāhuhu (a fortified pā), Mangawhai, and Paepae ō Tū (Bream Tail). Several of these coastal sites, including the main harbours and the region's longest east coast beach, are of particular significance to Ngāti Manuhiri as outlined below.

...

Ongoing Association with the Coastal Area

Following the alienation of most of their coastal land in the nineteenth century, Ngāti Manuhiri continued to utilise the resources of the coastal marine area. The Ngāti Manuhiri rangatira Te Kiri Kaiparaoa operated the coastal trading vessel *Industry* from 1858. His son in law Tenetahi Te Riringa was a renowned sailing captain, operating such vessels as the *Rangatira*, and his sons Wi Taiawa and Kiri Paraone ran a trading service and commercial fishing operation out of Whānga ō Maha (Leigh Harbour) for many years. Ngāti Manuhiri were involved in commercial fishing operations in the area until recently, and continue to hold significant commercial fishing interests through the Ngāti Wai Trust Board. Ngāti Manuhiri were associated with the establishment and operation of the Hauraki Gulf Maritime Park in 1967, and have more recently played an active role on the Hauraki Gulf Forum established under the provisions of the Hauraki Gulf Marine Park Act 2000.

16

DOCUMENTS SCHEDULE

2: STATEMENTS OF ASSOCIATION

In their role as kaitiaki, Ngāti Manuhiri continue to play an active role in coastal planning, monitoring and management processes administered by the Auckland Council and the Department of Conservation. Ngāti Manuhiri has also played an active partnership role with the Auckland Council in the establishment and management of the Tāwharanui Open Sanctuary ecological restoration project, and its associated Marine Protection Area. As the iwi develops further capacity it looks forward to being fully engaged in exercising kaitiakitanga in partnership with other iwi, the Crown and the wider community, within its coastal acknowledgement area. .

Statutory acknowledgement provisions (Ngāti Manuhiri Claims Settlement Act 2012)

Version as at
30 November 2022

Ngāti Manuhiri Claims Settlement Act 2012

Part 2 s 29

Subpart 2—Statutory acknowledgement and deed of recognition

Statutory acknowledgement

26 Interpretation

In this subpart,—

relevant consent authority, for a statutory area, means a consent authority of a region or district that contains, or is adjacent to, the statutory area

statements of association means the statements—

- (a) made by Ngāti Manuhiri of their particular cultural, spiritual, historical, and traditional association with the statutory areas; and
- (b) that are in the form set out in part 2 of the documents schedule

statutory acknowledgement means the acknowledgement made by the Crown in section 27 in respect of each statutory area, on the terms set out in this subpart

statutory area means an area described in Schedule 1, with the general location (but not the precise boundaries) indicated on the deed plan referred to in relation to the area.

27 Statutory acknowledgement by the Crown

The Crown acknowledges the statements of association.

28 Purposes of statutory acknowledgement

The only purposes of the statutory acknowledgement are—

- (a) to require relevant consent authorities, the Environment Court, and Heritage New Zealand Pouhere Taonga to have regard to the statutory acknowledgement, as provided for in sections 29 to 31; and
- (b) to require relevant consent authorities to forward summaries of resource consent applications, or copies of notices of resource consent applications, to the trustees, as provided for in section 33; and
- (c) to enable the trustees and members of Ngāti Manuhiri to cite the statutory acknowledgement as evidence of the association of Ngāti Manuhiri with a statutory area, as provided for in section 34.

Section 28(a): amended, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

29 Relevant consent authorities to have regard to statutory acknowledgement

- (1) On and from the effective date, a relevant consent authority must have regard to the statutory acknowledgement relating to a statutory area in deciding, under section 95E of the Resource Management Act 1991, whether the trustees are affected persons in relation to an activity within, adjacent to, or directly affect-

ing the statutory area and for which an application for a resource consent has been made.

- (2) Subsection (1) does not limit the obligations of a relevant consent authority under the Resource Management Act 1991.

30 Environment Court to have regard to statutory acknowledgement

- (1) On and from the effective date, the Environment Court must have regard to the statutory acknowledgement relating to a statutory area in deciding, under section 274 of the Resource Management Act 1991, whether the trustees are persons who have an interest in proceedings that is greater than the interest that the general public has in respect of an application for a resource consent for activities within, adjacent to, or directly affecting the statutory area.
- (2) Subsection (1) does not limit the obligations of the Environment Court under the Resource Management Act 1991.

31 Heritage New Zealand Pouhere Taonga and Environment Court to have regard to statutory acknowledgement

- (1) If, on or after the effective date, an application is made under section 44, 56, or 61 of the Heritage New Zealand Pouhere Taonga Act 2014 for an authority to undertake an activity that will or may modify or destroy an archaeological site within a statutory area,—
 - (a) Heritage New Zealand Pouhere Taonga, in exercising its powers under section 48, 56, or 62 of that Act in relation to the application, must have regard to the statutory acknowledgement relating to the statutory area; and
 - (b) the Environment Court, in determining under section 59(1) or 64(1) of that Act any appeal against a decision of Heritage New Zealand Pouhere Taonga in relation to the application, must have regard to the statutory acknowledgement relating to the statutory area, including in making a determination as to whether the trustees are persons directly affected by the decision.
- (2) In this section, **archaeological site** has the meaning given in section 6 of the Heritage New Zealand Pouhere Taonga Act 2014.

Section 31: replaced, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

32 Recording statutory acknowledgement on statutory plans

- (1) On and from the effective date, a relevant consent authority must attach information recording the statutory acknowledgement to all statutory plans that wholly or partly cover a statutory area.
- (2) The information attached to a statutory plan must include—
 - (a) the provisions of sections 26 to 31 and 33 to 36 in full; and

- (b) the descriptions of the statutory areas wholly or partly covered by the plan; and
 - (c) any statements of association for the statutory areas.
- (3) The attachment of information to a statutory plan under this section is for the purpose of public information only and, unless adopted by the relevant consent authority as part of the statutory plan, the information is not—
- (a) part of the statutory plan; or
 - (b) subject to the provisions of Schedule 1 of the Resource Management Act 1991.

33 Provision of summaries or notices of certain applications to trustees

- (1) Each relevant consent authority must, for a period of 20 years starting on the effective date, provide the following to the trustees for each resource consent application for an activity within, adjacent to, or directly affecting a statutory area:
- (a) if the application is received by the consent authority, a summary of the application; or
 - (b) if notice of the application is served on the consent authority under section 145(10) of the Resource Management Act 1991, a copy of the notice.
- (2) The information provided in a summary of an application must be the same as would be given to an affected person by limited notification under section 95B of the Resource Management Act 1991, or as may be agreed between the trustees and the relevant consent authority.
- (3) A summary of an application must be provided under subsection (1)(a)—
- (a) as soon as is reasonably practicable after the consent authority receives the application; but
 - (b) before the consent authority decides under section 95 of the Resource Management Act 1991 whether to notify the application.
- (4) A copy of a notice of an application must be provided under subsection (1)(b) no later than 10 working days after the day on which the consent authority receives the notice.
- (5) This section does not affect a relevant consent authority's obligation,—
- (a) under section 95 of the Resource Management Act 1991, to decide whether to notify an application, and to notify the application if it decides to do so; or
 - (b) under section 95E of that Act, to decide whether the trustees are affected persons in relation to an activity.

34 Use of statutory acknowledgement

- (1) The trustees and any member of Ngāti Manuhiri may, as evidence of the association of Ngāti Manuhiri with a statutory area, cite the statutory acknowledgement that relates to that area in submissions to, and in proceedings before, a relevant consent authority, the Environmental Protection Authority or a board of inquiry under Part 6AA of the Resource Management Act 1991, the Environment Court, or Heritage New Zealand Pouhere Taonga concerning activities within, adjacent to, or directly affecting the statutory area.
- (2) The content of a statement of association is not, by virtue of the statutory acknowledgement, binding as fact on—
 - (a) relevant consent authorities;
 - (b) the Environmental Protection Authority or a board of inquiry under Part 6AA of the Resource Management Act 1991;
 - (c) the Environment Court;
 - (d) Heritage New Zealand Pouhere Taonga;
 - (e) parties to proceedings before those bodies;
 - (f) any other person who is entitled to participate in those proceedings.
- (3) However, the bodies and persons specified in subsection (2) may take the statutory acknowledgement into account.
- (4) To avoid doubt,—
 - (a) neither the trustees nor members of Ngāti Manuhiri are precluded from stating that Ngāti Manuhiri has an association with a statutory area that is not described in the statutory acknowledgement; and
 - (b) the content and existence of the statutory acknowledgement do not limit any statement made.

Section 34(1): amended, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

Section 34(2)(d): replaced, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

35 Trustees may waive rights

- (1) The trustees may waive the right to be forwarded summaries, and copies of notices, of resource consent applications under section 33 in relation to a statutory area.
- (2) Rights must be waived by written notice to the relevant consent authority stating—
 - (a) the scope of the waiver; and
 - (b) the period for which it applies.
- (3) An obligation under this subpart does not apply to the extent that the corresponding right has been waived under this section.

36 Application to river or stream

- (1) If any part of the statutory acknowledgement applies to a harbour, that part of the acknowledgement also applies to the bed of the harbour and everything above the bed.
- (2) If any part of the statutory acknowledgement applies to a river or stream, that part of the acknowledgement—
 - (a) applies only to—
 - (i) the continuously or intermittently flowing body of fresh water, including a modified watercourse, that comprises the river or stream; and
 - (ii) the bed of the river or stream, meaning the land that the waters of the river or stream cover at its fullest flow without flowing over its banks; but
 - (b) does not apply to—
 - (i) a part of the bed of the river or stream that is not owned by the Crown; or
 - (ii) an artificial watercourse; or
 - (iii) a tributary flowing into the river or stream.

Attachment 6: Excerpt from Ngāti Manuhiri conservation protocol

5 STATUTORY AUTHORISATIONS

- 5.1 The strategic objectives for the relationship will guide the parties to determine appropriate engagement on Statutory Authorisations within the Protocol Area.
- 5.2 As part of these strategic objectives, the Governance Entity and the Department will identify categories of statutory authorisations that may impact on the cultural, traditional and/or historic values of Ngāti Manuhiri. These categories will be reviewed as agreed. The Department will advise and encourage all prospective applicants within the Protocol Area to consult with the Governance Entity before filing their application. The Department will also consult the Governance Entity at an early stage on such categories of authorisations or renewal of authorisations within the Protocol Area.
- 5.3 The Department will consult with the Governance Entity and have regard to its views for Statutory Authorisations for Te Hauturu-o-Toi / Little Barrier Island.
- 5.4 For the types of statutory authorisations that Ngāti Manuhiri and the Department agree have potential significance the Department and the Governance Entity see the benefit of seeking agreement, in a timely manner, on an appropriate response to the application, before the decision is made under the relevant legislation.
- 5.5 As the Department works within time limits to process concession applications, it will notify the Governance Entity (as part of the meetings referred to in paragraph 4.2) of the time frames for providing advice.
- 5.6 It is expected that the strategic objectives for the relationship will guide the parties to determine potential opportunities for Ngāti Manuhiri to obtain statutory authorisations on public conservation land within the Protocol Area, including concessions for cultural tours.

The entire document can be found at this link [Ngāti Manuhiri Deed of Settlement Schedule - Documents 21 May 2011](#) (pages 31-42)

Attachment 7: Mana Whakahono ā Rohe between Northland Regional Council and hapū of Te Taitokerau

Attachment 8: Patuharakeke Hapū Environmental Management Plan