

**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

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**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      day of February 2024*

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We, TE WARAHĪ KOKOWAI HETARAKA, HORI TEMOANAROA PARATA, HONERĪ RAPATA, HARRY MAKI-MIDWOOD, NGAWAKA HASWELL GRANT PIRIHI and APERAHAMA KEREPETI-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 Honerī 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 Mātauranga 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 Ngāti 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

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 rongō  
E kore e mau te rongō  
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.

12. There was also permanent and semi-permanent occupation of many of these islands, and archaeological evidence of this remains. It is likely that this occurred in the days of Ngāti Manaia and the earliest days of Ngātiwai. There are no kōrero of specific hapū or rangatira being associated with the Marotere and Taranga and it seems likely that the occupants would have been drawn from the mainland communities, but charged with maintaining ahi kā on the islands of Marotere (also known as Marotiri) and Taranga - The Hen and Chickens.
13. The island group off Bream Bay, known to Pakehā as the Hen and Chickens, is made up of a number of separate islands:
  - (a) Taranga (Hen Island);
  - (b) Tūturu (Sail Rock), just south of Taranga (some Ngātiwai refer to this as Tīheru, a name shared by a small island just south of Motukōkako),; and
  - (c) The Marotere (or Marotiri) Islands – four large and several small islands and stacks, comprising the Chickens, the largest being (from west to east: Māui Tikitiki a Taranga, Māuitaha, Māuimua (Lady Alice Island), Māuiroto (Whatupuke Island) and Māuipae (Coppermine Island)).
14. As the names of the Marotere Islands and Taranga suggest, they feature in Ngātiwai traditions related to the birth of Māui Tikitiki a Taranga and his brothers. In the later story of Māui fishing up his great Ika, Aotea and the smaller rocks and islets off the Mahurangi coastline were the scales and spines of the fish (Ngā Unahi me ngā Taratara o Te Ika Roa a Māui) discarded by his brothers.

### **Ownership**

15. We understand that it is said our tūpuna sold these islands, or some of them, in the 19th Century. As far as we are concerned, these islands were never sold and have always belonged to Ngātiwai. Our tūpuna protested the suggestion of sale and subsequent assumption of Crown ownership and there were several petitions and investigations as a result.
16. Efforts to have Ngātiwai ownership of the various islands recognised were led, from the 1840s, by the Ngātiwai rangatira Hoterene

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.

## 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

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.

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

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.

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Te Warahi Kokowai Hetaraka

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Hori Te Moanaroa Parata

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Honeri Rapata

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Harry Maki-Midwood

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Ngawaka Haswell Grant Pirihi

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Herbert Manapiri

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Aperahama Kerepeti-Edwards

**SWORN** at Whangārei this    day of January 2024

before me:

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(Deputy) Registrar  
Justice of the Peace  
A Solicitor of the High Court of New Zealand