

IN THE HIGH COURT OF NEW ZEALAND

CIV-2017-485-283

WELLINGTON REGISTRY

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

AFFIDAVIT OF PHILLIP REX WELLINGTON IN REPLY

Dated this 18th day of July 2024

OCEANLAW NEW ZEALAND

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Counsel acting: Justine Inns / Karyn van Wijngaarden

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I, PHILLIP REX WELLINGTON, retired, of Tūtūkākā, solemnly and sincerely affirm:

1. I whakapapa to Ngātiwai. My hapū are Ngāti Taka (Ngāti Takapari) and Te Waiariki and I am affiliated to Ngunguru marae. I also whakapapa to Te Uri o Hikihiki.
2. I have had a very strong association with Ngunguru marae for my whole life. I spend quite a bit of time doing things at the Marae now that I am retired.
3. Before I retired, I worked at sea as a commercial fisherman for more than 30 years and worked as the owner/operator of a charter boat taking people fishing out of Tūtūkākā. I hold a Commercial Launch Master and a Restricted Launchman's License.
4. Since 2018, I have been one of the Tāngata Tiaki/Kaitiaki for Te Whangai Mokopuna, our Gazetted rohe. Our kaitiaki also include members of Ngāti Korora and Te Waiariki, hapū in recognition of the whanaungatanga throughout our rohe moana. I am also a member of the working group who have applied for a mātaimai to be established in that area.
5. Te Whangai Mokopuna covers an area in the north from near Middle Gable southwards to Horahora River around the Red Cliffs.
6. I understand that Jacob Hore, a witness for the Attorney-General, has given evidence that relates to fishing in the area of Bream Bay, and around the Hen and Chicken Islands and Sail Rock.
7. The purpose of this affidavit is to put evidence before the Court of my experience of fishing and navigating around those Islands.

Family background

8. I followed in the footsteps of my father and grandfather when I went to sea. My grandfather, Wiremu Parata Wellington, was the eldest of 13 children born to Tame Haehae Wellington and Makere Kaupeka Piripi, of Te Uri o Hikihiki in Whangaruru.
9. Our family has always lived at Tūtūkākā, though we had close connections to other kainga across Ngātiwai.
10. I was only nine when my grandfather died, but one thing I remember is that he never allowed a piece of string to be thrown away; he



would sit for ages untangling balls of old string, which he would use to make fishing line.

11. He passed much of that knowledge down to my father, Eric Raymond Kauteawha Wellington, as well as my uncles. My father was a commercial fisherman, mainly targeting crayfish, and also knew the techniques to make fishing hooks, as well as lines and nets. In 2012 my father was interviewed, and he talks about this:

“My father [Wiremu Parata Wellington] made lures from the shell. In days gone by my ancestors made the hook out of pōhutukawa branch and bound the hook on with muka. We didn’t do that with the hook. We relied on the old number eight wire. We had more modern tools – a file and a hack saw and cotton. When we went fishing the paua lure would be trailed behind the boat and we waited for a strike. We never heard of rods, so we fished with hand lines. Also, we rowed our boat, so the action of the lure was made so as to spin at slow speed. It was very effective. Kahawai would be the target. Although they made a lure out of pōhutukawa wood for kingfish. Now people who make lures call them jigs”.¹

12. I suppose I learned to fish from my father and uncles. I definitely remember that when I was a child, I used to make craypots for my father, and he would pay me five bob for each one.
13. I remember family stories, that my grandfather built his own skiff, he did so in Whananaki, He would use it to travel to the gardens in Whangaruru and back here in Tūtūkākā. One time he came back with the skiff full to the gunwales with watermelons. I have no idea why he bought so many watermelons back, but I remember the story being told many times.
14. His brothers too, built themselves skiffs. My Uncle Te Ngaru, known to us as Uncle John had an old skiff in his paddock when I was a child and I understand that parts of one of those skiffs could still be at the old Wellington homestead in Ngunguru.

¹ Eric Wellington, Ngunguru Marae, September 2012. P Wellington, V Hall, T Munro, G Dowsett, E Wellington, & Ngātiwai Education. (2015). *Ngā Kōrero Whakahoki Mahara : Ngātiwai stories we remember*. Ngātiwai Education.

15. Travelling long distances by rowboat was nothing back in those days. My grandfather and his brothers were known for being able to row far and fast. They would often go up to the Poor Knights.

Life at sea

16. A very large part of my life has been spent on, or near the water. That runs in the family, as I have indicated.
17. When I was a child, we didn't venture much further than the Hen and Chicks, Sail Rock and southwards to Bream Bay. We only had little boats back then.
18. While I can describe where I have visited the most over the last 70 or so years, I have marked on the attached excerpt from the navigational chart (annexed hereto and marked 'PRW01') in black marker the areas that we spent the most time.
19. I am not overstating it to say that I have visited every area on this map many times. I am simply highlighting the ones that I frequented the most.
20. The only area that I did not fish or anchor is the area in which the international cable comes ashore. That is between the Hen and Chicks and the Mokohinau Islands, which we also fished around, a lot. The Cable Protection Zone is marked on the charts, and I always observed it.
21. On and off throughout my life I have owned boats – sometimes small ones which are really only suitable for using close to the coast, through to commercial fishing vessels and charter vessels which I could take up to about a dozen passengers out to do some fishing. I would mostly spend my time in this area around Bream Bay and the Hen and Chickens.
22. When I was commercial fishing, it was mainly bottom long-lining (BLL) and surface long-lining (SLL). I also did some (bottom) trawling. Much of the BLL and SLL was around the Hen and Chickens, including the seaward side of the islands and further east from there, out beyond the Mokohinau Islands.
23. Any part of the Hen and Chickens was a reliable source of snapper, kingfish and (in the rocks) packhorse and rock lobster. Outside of



Coppermine Island, I would often target hapuka and snapper and around Sail Rock were often large school fish, such as trevally. I never fished for scallops but there are heaps out there.

24. Now that I am retired, I am out on the water in that area less frequently than I was. I am probably out on the water once or twice a month – sometimes more, sometimes less.
25. I was last on the water in Bream Bay about six weeks ago, kingfishing, as I was about to take some local kids up to the Bay of Islands for a kingfishing competition, so I needed to get out there and practise a bit. On that trip I was fishing just off the western edge of Lady Alice Island. We had pretty good success in the competition – the kids caught three kingfish, which we were all pleased with.
26. I mostly take my grandchildren out fishing now. The locations we go to vary, but generally we will go as far north as Whananaki, and as far south as Bream Bay. We also go out as far as the Hen and Chicks, depending on weather, what we are doing and what kind of kai we are looking for.
27. When I do go fishing now, if it's just for me, all I need is one fish, but usually I'll take an extra couple for my whānau who I know will need it and love a feed of fish. That's especially the case for those who used to fish and can't anymore. I do this using my recreational allowance, as I never need more than my recreational limit. I haven't ever really thought about whether its customary or recreational fishing – it's not commercial fishing like I used to do, and everything else is fishing for a feed, which is much more fun.

Landing on the islands

28. When I was a child, we often landed at the Hen and Chicks to go fossicking around the rocks, into the caves or to get pupu and kina. The kina were always juicy and delicious. There is also a camping spot on the southern side of Taranga Island, where I think there is now a DoC campground.
29. From my experience, the Hen and Chickens are particularly useful for mariners because no matter what sector the winds are coming from, there is always a safe anchorage to be found around the islands somewhere. There are also plenty of places to go ashore and I know



mutton-birds burrow on the some of the islands, but I've never gone there for them myself.

30. I remember as a child that there were areas around the islands where old World War II ammunition was dumped.
31. Once, when I was still at school, I remember that there was one of those old WWII naval mines with horns on it that floated ashore. It floated ashore at Ngunguru sandspit beach. This occurred, I think, because some of those islands were used as bombing practice around the time of the war out by the Mokohinau's.
32. I recall that Hori Parata told me that there are the bones of tūpuna on the top of Taranga, but I don't know whose bones they are. What I do know is that its really steep to get up to the top, so it would have been a real challenge to get up there for that purpose.
33. There are some small waterfalls on some of the islands, and maybe some springs on Taranga, so I think people could easily have lived on them for extended periods, as long as they liked eating fish. However, from what I've heard I think they were most important as a stopping-off place for people travelling back and forth between Aotea to the northern end of the rohe.


Ocean Currents

34. The area in which the Hen and Chickens are situated is an area where the coastal and oceanic currents mingle. The area is on the outer edge of the Hauraki Gulf which has its own current patterns but is also the place where oceanic currents from the west coast of south America meet. The flow of these currents connects Ngātiwai to their wider rohe moana and have done for a very long time.
35. I recall that a surfer drowned at the Mangawhai Bar back in the 1980s. He was missing for several days, and his body washed up on one of the Chicks. I actually know the person who found him. The local currents took him there. I don't recall if a rāhui would have been put in place back then, but these days it would be. I have been involved in placing rāhui closer to Tūtūkākā. When my father's cousin was alive, Uncle Sonny Wellington, we often looked to him to place rāhui, but these days it is usually the responsibility of Hori Parata or Aperahama Kerepeti-Edwards.

36. As mentioned above, some of us have spent many years trying to get a mātaítai put in place over coastal rohe moana. I would hope that the Takutai Moana Act could help us protect the areas around the Hen and Chickens Islands, because it's a pretty special place.



AFFIRMED at Whangārei this 18th day of July 2024
before me:



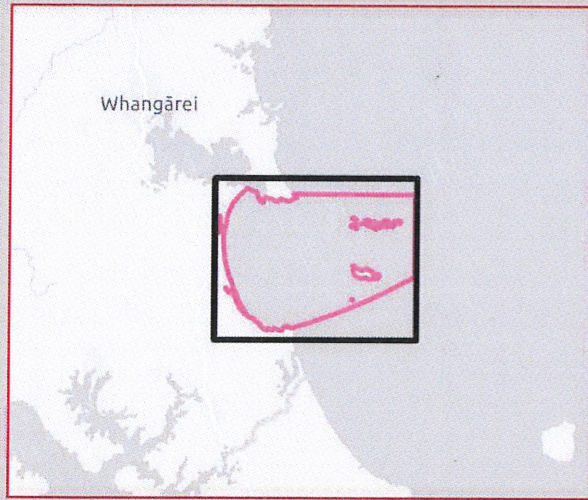
~~(Deputy) Registrar~~
~~Justice of the Peace~~
A ~~Solicitor~~ of the High Court of New Zealand

RICHARD MARK HARRISON
BARRISTER
WHANGAREI
NEW ZEALAND

Map series 2:
Geography

2(b) Hydrographic chart - Hearing area

"PRW01"



- - - LINZ boundary of mean high water
- - - Map Index
- Indicative mean high water springs

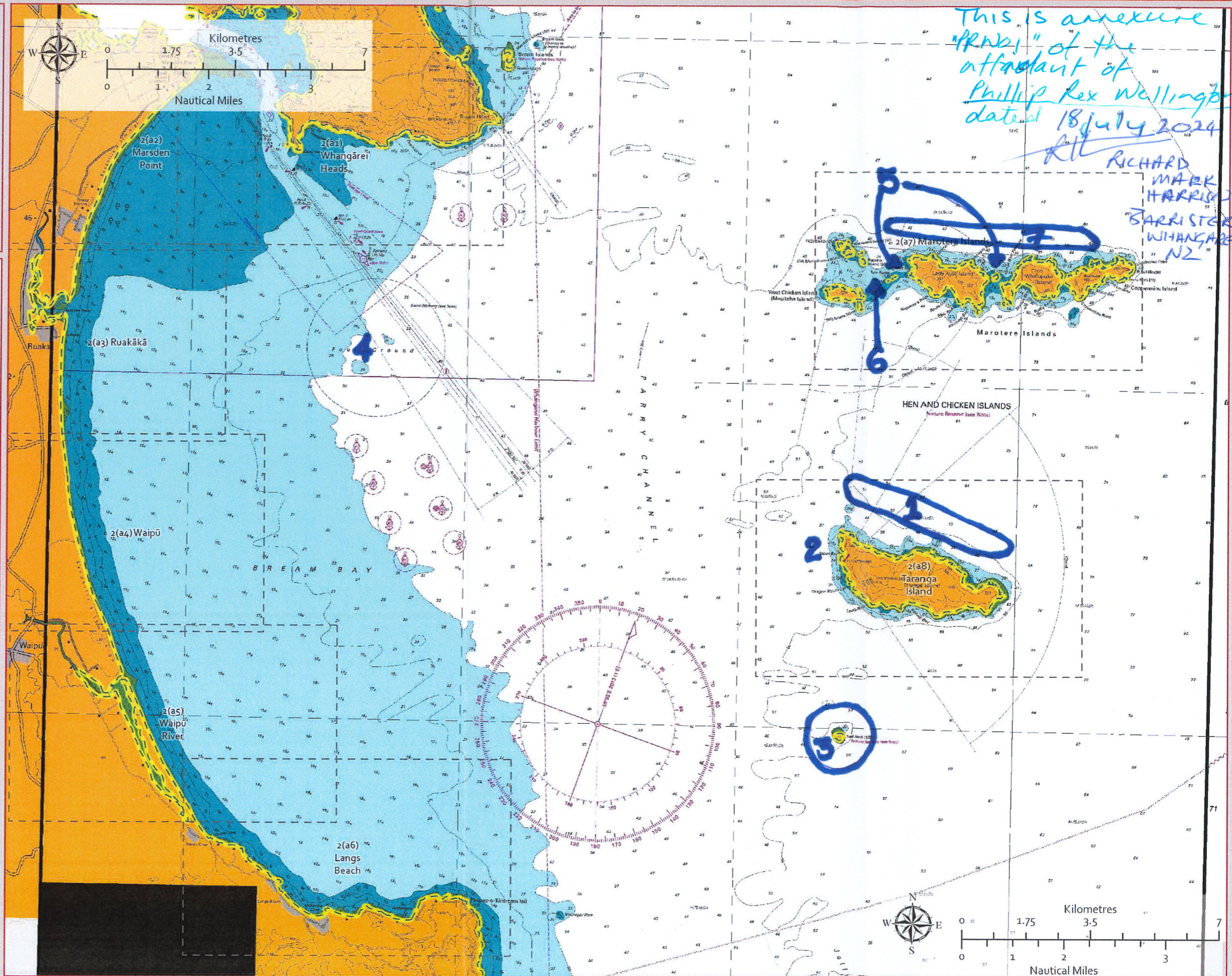
1. Snapper
2. Anchorage
3. Big Schools of Trevally & Kingfish
4. Foal Ground - Snapper & Tarakihi
5. Anchorage
6. Kingfish & Snapper
7. Good Fishing

Hydrographic charts:
NZ 521 Cape Brett to Paepae-o-Tū / Bream Tail
NZ 5219 Approaches to Marsden Point

NZGD 2000 New Zealand Transverse Mercator
Scale: 1:100,000

This map has been produced for the purpose of a High Court application for recognition of Customary Marine Title and/or Protected Customary Rights. Access to material filed in the High Court is governed by the Senior Courts (Access to Court Documents) Rules 2017.

Produced by Te Arawhiti on 19/04/2024 11:52 am



This is an annexure "PRW01" of the affidavit of Phillip Rex Wellington dated 18 July 2024
All RICHARD MARK HARRIS BARRISTER WHANGĀREI NZ

