

IN THE HIGH COURT OF NEW ZEALAND  
WELLINGTON REGISTRY

CIV-2017-485-244

IN THE MATTER OF

The Marine and Coastal Area (Takutai Moana)  
Act 2011

AND IN THE MATTER OF

An application by the trustees of the **Ngāi Te Rangi Settlement Trust** for and on behalf of Ngā Hapū o Ngāi Te Rangi for orders recognising customary marine title and protected customary rights

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FIRST AMENDED APPLICATION FOR AND ON BEHALF OF NGĀ HAPŪ  
O NGĀI TE RANGI FOR ORDERS RECOGNISING CUSTOMARY MARINE  
TITLE AND PROTECTED CUSTOMARY RIGHTS

Dated 18 December 2017

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Case Manager  
Next Event: / /  
21 DEC 2017  
THE HIGH COURT  
WELLINGTON

MINISTRY OF JUSTICE  
18 DEC 2017  
TAURANGA  
P O Box 4369



NGĀI TE RANGI  
Settlement Trust

Mount Maunganui South 3116  
P: 07 575 3765  
F: 07 5753721  
Solicitor acting: J N Gear

**To:** The Registrar at Wellington;

**And to:** Bay of Plenty Regional Council;  
Waikato Regional Council;  
Thames Coromandel District Council;  
Tauranga City Council;  
Western Bay of Plenty District Council;  
The Minister of Local Government as the Territorial Authority for Motiti and Tuhua Islands

**And to:** The Solicitor General on behalf of the Attorney General

**THIS DOCUMENT NOTIFIES YOU THAT:**

1. The trustees of the Ngāi Te Rangi Settlement Trust (**NST**) apply to the Court for orders on behalf of Ngā Hapū o Ngāi Te Rangi (the **Applicant Group**):
  - 1.1 Recognising Ngāi Te Rangi customary marine title in all of the common marine and coastal area of the inner Tauranga Harbour from Bowentown (Otawhiwhi) in the North to Rangataua Bay in the South and the common marine and coastal area on the coast from Waiororo Stream in the north to Wairakei in the South extending seaward to the territorial sea boundary, and encompassing the common marine and coastal area surrounding Motiti Island and Tuhua Island (**Ngāi Te Rangi Marine Area**) (**Schedule A**);
  - 1.2 Recognising Te Whanau a Tauwhao customary marine title in the common marine and coastal area surrounding the Alderman islands including an area from mean high water springs on the landward side of the Alderman islands radiating seaward out 12 nautical miles (**Te Whanau a Tauwhao Marine Area**) (**Schedule B**);
2. Recognising protected customary rights in the Ngāi Te Rangi Marine Area and Te Whanau a Tauwhao Marine Area, such as Rāhui (Prohibition of collecting kai due to a death in the moana or to allow kaimoana to replenish), Mahinga mātaītai (Shellfish gathering), Ruku moana (Diving), Hī ika (Fishing), Hao ika (Netting), Whati rākau (Ceremonial), Rapu tuna (Eeling), Whakatō kai (transplanting kai), Kauhoe (Waka), Tua tamariki / iriiri

((Blessings), Whakahaere karakia (Ceremonial Prayers), Hikoi whenua (Historical korero), Mahi rongoa (Medicinal), Wāhi tapu (Sacred sites), Mahi toi (Arts), Wānanga (Higher learning), and Nohoanga (Cultural Camping).

### **The Applicant Group**

3. NST was established in July 2013 to receive and manage settlement redress from the Crown on behalf of Ngāi Te Rangi and act as a representative entity for Ngāi Te Rangi.
4. Ngāi Te Rangi is an iwi of the Mataatua waka whose founding ancestors are Te Rangihouhiri and Tamapahore.
5. The hapū and associated marae of Ngāi Te Rangi are:

<b>Hapu</b>	<b>Marae</b>
(a) Te Whanau a Tauwhao	Otawhiwhi
	Rangiwaea
(b) Ngāti Kuku	Whareroa
(c) Ngāi Tukairangi	Whareroa
	Hungahungatoroa
(d) Ngāti Tapu	Waikari
(e) Ngāi Tamawhariua	Te Rereatukahia
(f) Ngāi Tamawhariua ki Matakana	Oruarahi
(g) Ngāti He	Maungatapu
(h) Ngāti Tauaiti	Kutaroa
(i) Ngāi Tuwhiwhia	Opureora
(j) Te Ngare	Opounui
(k) Ngā Potiki	Tahuwhakatiki
	Tamapahore

6. Ngā Potiki is a hapū of Ngāi Te Rangi however the Ngā Potiki a Tamapahore Trust is mandated to represent Ngā Potiki in respect of

applications made under the Marine and Coastal Area (Takutai Moana) Act 2011.

#### *Rohe*

7. The Ngāi Te Rangi rohe generally comprises the lands and waters of Tauranga Moana.
8. The rohe runs from Ngā Kuri a Whareī on the east coast inland westward to Mount Te Aroha then south along the Kaimai ranges to Otanewainuku and back out to Wairakei on the east coast.
9. The rohe of Ngāi Te Rangi includes:
  - 9.1 The islands of Motiti, Matakana, Rangiwaea, Motuhua, Tuhua, Motuotau, Moturiki and Karewa and the surrounding common marine and coastal area;
  - 9.2 Te Moana a Toi being the coastal waters of the Bay of Plenty; and
  - 9.3 Tauranga harbour and its associated channels and waterways.

#### *The Aldermen Islands*

10. The application as it relates to the Aldermen Islands is specific to the Ngāi Te Rangi hapū Te Whanau a Tauwhao. Te Whanau a Tauwhao has a history of occupying the offshore islands such as the Aldermen Islands, Tuhua Island, and Motiti Island. The hapū and its marae currently reside at Rangiwaea Island in the inner Tauranga Harbour and at Otawhiwhi (Bowentown).
11. The Alderman Islands and the surrounding coastal area is a favoured resource for Te Whanau a Tauwhao, and the surrounding common marine and coastal area is still accessed by hapū members to keep the connection to their traditional customary fishing grounds alive.

**Grounds on which customary marine title is sought:**

12. The Applicant Group meets the requirements in s 58 of the Act because they:
  - 12.1 hold the Ngāi Te Rangi Marine Area and Te Whanau a Tauwhao Marine Area in accordance with tikanga;
  - 12.2 have exclusively used and occupied the Ngāi Te Rangi Marine Area and the Te Whanau a Tauwhao Marine Area from 1840 to the present day without substantial interruption; and
  - 12.3 customary marine title in the Ngāi Te Rangi Marine Area and the Te Whanau a Tauwhao Marine Area has not been extinguished as a matter of law.

**Matters that may be taken into account to determine whether customary marine title exists**

13. The majority of Ngāi Te Rangi marae and maori communities are situated in locations that abut the common marine and coastal area.
14. Furthermore, large tracts of Maori freehold land remain within the Ngāi Te Rangi rohe and abut the common marine and coastal area.
15. The people of Ngāi Te Rangi have been, and continue to be, kaitiaki over the specified common marine and coastal areas from 1840 to the present day.
16. Ngāi Te Rangi also exercise non-commercial customary fishing rights to uphold their tikanga in the specified common marine and coastal areas and they have done so from 1840 to the present day.

**Grounds on which protected customary rights are sought:**

17. The Applicant Group meets the requirements in s 51 of the Act because:
  - 17.1 Ngāi Te Rangi have undertaken the following activities since 1840 in various places throughout the specified common marine and coastal areas, rahui, mahinga mātaītai, ruku moana, hī ika, rapu tuna, kauhoe, whakahaere karakia, hikoi whenua, mahi rongoa, wāhi tapu, waahi whakahirahira, mahi toi, and wānanga in the specified common marine and coastal areas to this application; and

17.2 Ngāi Te Rangi continues these activities in accordance with tikanga and continues to undertake them albeit in some instances using modern equipment.

#### **Contact address**

18. The contact address for NST is:

#### **Ngāi Te Rangi Settlement Trust**

Physical address: Te Awa o Tukorako Lane,  
Taiaho Place,  
Mount Maunganui

Postal address: P O Box 4369  
Mount Maunganui  
3116

#### **Orders granted**

19. The orders should be made in the name of the trustees of NST, Charlie Tawhiao, Turi Ngatai, Ngareta Timutimu, Puhirake Ihaka, Ngaraima Taingahue, Bevan Taikato, Eddie Bluegum, Taparoto Nicholson, Mate Samuels, Mita Ririnui, and Margaret Broughton.
20. The applicants respectfully seek orders:
- 20.1 recognising Ngāi Te Rangi protected customary rights and/or customary marine title over the Ngai Te Rangi Marine Area;
  - 20.2 recognising Te Whanau a Tauwhao protected customary rights and/or customary marine title over the Te Whanau a Tauwhao Marine Area;
  - 20.3 that the trustees of the Ngāi Te Rangi Settlement Trust for and on behalf of Ngāi Te Rangi are named as the holders of the protected customary rights and customary marine title orders;
  - 20.4 costs in the event that this application is opposed by any other party;  
and
  - 20.5 any other order that the Court deems just.

## Application made in reliance

21. This application is made in reliance on:

21.1 Sections 51(1), 58, 94, 98, 100, 101 and 107 of the Marine and Coastal Area (Takutai Moana) Act 2011;

21.2 The affidavits filed in support of the amended application of Charlie Tawhiao dated 14 December 2017, Hauata Palmer dated 15 December 2017 and Reon Tuanau dated 18 December 2017;

21.3 *Re Tipene* [2016] NZHC 3199; and

21.4 Further evidence to be filed on behalf of Ngāi Te Rangi.

Date: 18 December 2017 at Tauranga



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**J N Gear**

Counsel for Ngāi Te Rangi Settlement Trust

This document is filed by **JOSHUA NATHAN GEAR**, solicitor on record for the Ngāi Te Rangi Settlement. The address for service of Ngāi Te Rangi is at its office at Te Awa o Tukorako Lane, Taiaho Place, Mount Maunganui.

Documents for service on Ngāi Te Rangi may be left at that address for service or may be:

- Posted to their solicitor at P O Box 4369, Mount Maunganui 3116;
- Transmitted to the solicitor by fax to 07 575 3721;
- Emailed to [joshua@ngaiterangi.iwi.nz](mailto:joshua@ngaiterangi.iwi.nz).

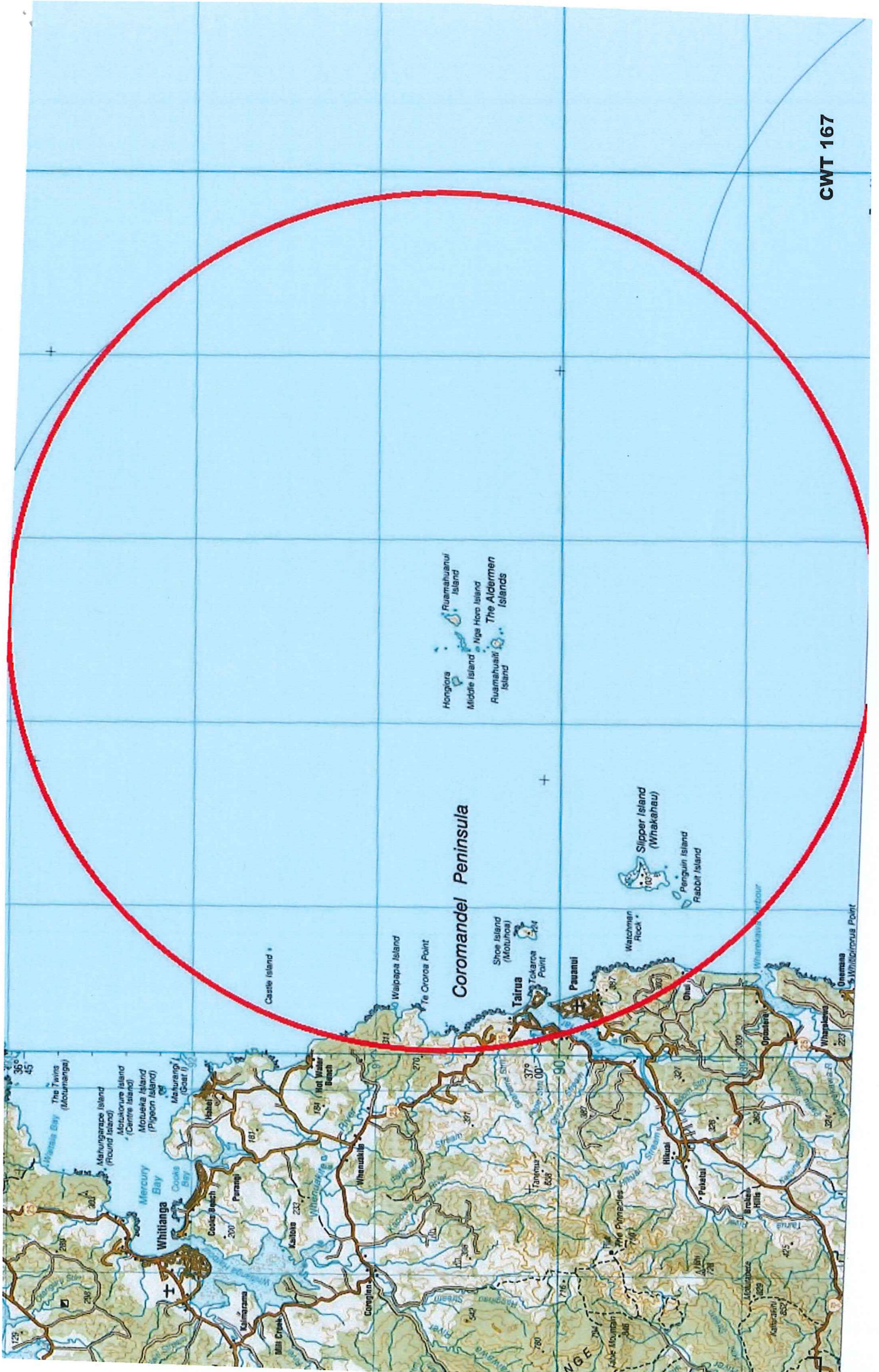
**Schedule A**





CWT 166

**Schedule B**



**Coromandel Peninsula**

Hongira  
Middle Island  
Ruamahutū Island  
Nga Horo Island  
The Aldermen Islands

Slipper Island (Whakohau)  
Penguin Island  
Rabbit Island