IN THE HIGH COURTS OF NEW ZEALAND CIV-2017- 485-799 WELLINGTON REGISTRY

IN THE MATTER OF

the Marine and Coastal Area (Takutai Moana) Act

2011 (the Act)

AND IN THE MATTER OF

an application by *Korokota Marae* for an order recognising Customary

Marine Title and Protected Customary Rights.

APPLICATION BY KOROKOTA MARE

FOR RECOGNITION ORDERS PURSUANT TO THE MARINE AND COASTAL AREA (TAKUTAI MOANA) ACT 2011

Dated Monday the 3rd of April, 2017

Case Manager

Next Event:

0 5 OCT 2017

THE HIGH COURT WELLINGTON

Buhall

MINISTRY OF JUSTICE -3 APR 2017

WHANGARE

To: The Registrar of the High Court at Wellington;

and to: Local authorities (Northland Regional Council and/or

Whangarei and Dargaville District Councils) with statutory

functions in the application area)

and to: Local authorities (Department of Conservation,

Department of Internal Affairs, Environment Protection Agency, MBIE, NZ Petroleum and Minerals) with statutory

functions relating to land adjacent to the application area)

and to: The Solicitor General on behalf of the Attorney-General.

This document notifies you that:

 Korokota Marae will apply to the High Court for an order pursuant to s98 of the Marine and Coastal Area (Takutai Moana) Act 2011 ("the Act") to recognise the customary marine title and/or protected customary rights of Te Prawhau Hapu.

Protected Customary Rights

- 2. Te Parawhau Hapu ancestors utilised the common marine and coastal area for Examples include:
 - non-commercial fishing (utilising nets, hinaki and hand-lines to catch Native fish, eels and other fish species).
 - non-commercial seeding and harvesting of shellfish (including pipi, cockles, oysters, mussels, scallops, karahu, toheroa, tuatua, tuangi, pupu, paapaka and more)

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- activities related to spiritual practices (such as rahui) mana whenua, mana moana, tino rangatiratanga, kaitiakitanga, wairuatanga, manaakitanga, whakapapa, mauri and whanaungtanga;
- planting and cultivating plant species in CMCA wet margins (such as flax, tī kouka, pingao, kumara and more);
- gathering edible and aquatic plants;
- extracting non-nationalised minerals for non-commercial purposes;
- collecting h\u00e4ngi stones for non-commercial purposes;
- collecting driftwood and other natural resources for non-commercial purposes;
- temporary camp-sites for ceremonial activities in the CMCA;
- tauranga waka.
- Seeding of Elver (Baby Tuna) and harvesting Eel (Tuna)
- · Seeding of Oi and Kiwi on Motu Matakohe

The Applicant Group:

3. The Te Parawhau Hapu whakapapa to tupuna Te Tirarau Tua Tahi and Tokaitaawhea to name but a few and have direct links to the application area. Korokota Marae was appointed to make this application for and on behalf of the Te Parawhu Hapu on 31st March 2017

Area to which the application relates:

- 4. The area to which this application relates is the common marine and coastal area (as defined in s9 of the Act) that is bounded:
 - a. on the landward side by the line of mean high-water springs;
 - b. on the seaward side by the outer limits of the territorial sea;
 - c. on the east ward side by a line that extends from the coast

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- abutting Manaia extending south ward beyond Te Paepae Atua to Mangwhai South including any islands to the outer limits of the territorial sea; and beyond
- d. on the west ward side by a line that extends from the coast abutting Maunganui Bluff including any islands, extending down towards the Southern Penninsula of the Kaipara Harbour entrance, The kaipara Harbour including the confluence of three tidal rivers, Te Wairoa, Te Wairua and Mangakahia and goes to the outer limits of the territorial sea and beyond
- The area includes the common marine and coastal area surrounding the following islands: Motu-o-taua, Motukaroro, Motukiore, Motu a Matakohe, Motuwairaka, Motutahi, Motukauau to name a few.

Grounds on which the protected customary rights order is sought:

- 6. The grounds on which this order is sought are that:
 - a. Te Parawhau Hapu being both a coastal and non-coastal group has relied heavily on the Non-Commercial fishing and seeding or harvesting of shellfish and wetland food stocks foraged by whānau in the estuaries and coastal margins; and
 - b. *Te Parawhau Hapu* fishermen sought the deep water fish that were not available around the inner shoreline; and
 - c. Te Parawhau Hapu also undertakes the following activities in the common marine and coastal area: under the tikanga of mana whenua, mana moana, tino rangatiratanga, kaitiakitanga, wairuatanga, manaakitanga, whakapapa, mauri and whanaungatanga.

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- d. Te Parawhau Hapu has undertaken these activities listed above since before 1840 and continues to undertake these activities in the application area, albeit in some instances using modern equipment, and in accordance with tikanga.
- Te Parawhau Hapu will provide more information once funding for research and legal representation is secured.

Grounds on which the customary marine title application is made:

- 8. The grounds on which this order is sought are that:
 - a. Te Parawhau Hapu has held the application area in accordance with tikanga since before 1840 to present time.
 - b. Te Parawhau Hapu has used and occupied the application area from before 1840 to the present day without substantial interruption.
- Te Parawhau Hapu will provide more information once funding for research and legal representation is secured.

Contact Details:

- 6. The Korokota Marae contact for Te Parawhau Hapu is:
 Finnisha Tuhiwai-Birchall
 1136 State Highway 14, RD9
 Maungatapere
 Whangarei 0179
- 7. This application relies on s51(1), s58, s98-113 of the Act and the affidavit of *Te Parawhau Hapu* kaumātua.

Dated at Whangarei High Court on the 3rd day of April 2017

Bruhall

Application for Te Parawhau Hapu



Seeking to Engage with the

High Court for Recognition of

Customary Marine Title and/or Protected Customary Rights

under the

Marine and Coastal Area (Takutai Moana) Act 2011

Part 1

Application Group Name

Te Parawhau Hapu

What are the names of the founding Tupuna?

- Te Tirarau Tua Tahi
- Tokaitaawhea

(NOT exclusive to these named tupuna)

What are the names of the constituent iwi, hapu and whanau related to this application?

Te Parawhau Hapu

What are the names of marae associated with the applicant group, if any?

- Korokota Marae Contact Person Finnisha Tuhiwai-Birchall
- Te Tirarau Marae Contact Person Druis Barrett
- Maungarongo Marae Contact Person Hona Edwards
- Ngararatunua Marae Contact Person Waimarie Bruce
- Toe Toe Marae Contact Person Marina Flethcher
- Takahiwai Marae Contact Person Debbie Harding
- Te Hauhanga Marae Contact Person Walter Nesbit

(NOT entirely exclusive)

How many people currently affiliate to the applicant group?

Estimated: Over 8,000 plus

(NOT Conclusive, only an estimated number)

NB: Te Parawhau Hapu are currently working on setting up a databse.

Part 2

Representation for Te Parawhau Hapu

Legal Entity: Korokota Marae on behalf of Te Parawhau Hapu

Primary Contacts: Finnisha Tuhiwai-Birchall

(Korokota Marae Hapu Consultant - Te Parawhau Hapu)

Postal: 1136 State Highway 14,

Maungatapere RD9, Whangarei 0179

Address: 508 Tokiri Road,

Titoki, Whangarei

Ph: 09 4348209 or 02108718673

Email: hoori2ey@gmail.com

Question:

Explain the process undertaken for appointing a person or entity to represent Te Parawhau Hapu ?

Korokota Marae is situated in Titoki approx 35km West of Whangarei on Tokiri Road. Korokota is one of seven listed affiliated Marae of Te Parawhau Hapu (NOT exclusive). (See Map) Korokota Marae in coordinance with the other Te Parawhau Hapu Marae has authority to represent the interests of Te Parawhau Hapu in discussions and negotiations with the Crown.

The Trustees of the *Korokota Marae* are appointed by the beneficiaries by way of an election process in accordance with the Te Ture Whenua Maori Act 1993.

On behalf of *Te Parawhau Hapu*, *Korokota Marae* was endorsed by *Te Parawhau Hapu* to make an application to the Crown seeking a recognition agreement of customary marine title ("CMT") and/or protected customary rights ("PCR") in their area of interest identified under the Marine and Coast Area (Takutai Moana) Act 2011 ("MACA"). Due to the time retraints and lack of resources this application process imposed on *Te Parawhau Hapu*, a Hui a Hapu was unable to be held before the 3rd April 2017 application deadline, however a korero with key representatives from *Te Parawhau Hapu* was had and the tautoko to lodge this application was endorsed. A letter of engagement will be sent to all identified affiliated *Te*

Parawhau Hapu Marae.

Question:

Explain how your representative will be accountable to your group prior to any formal appointment process

Korokota Marae continues to be accountable to Te Parawhau Hapu.

Reporting to all Te Parawhau Hapu beneficiaries will be made via *Te Parawhau Hapu* Hui, Wananga, Social Media, Email, Telephone, General Post (When necessary) or General dialogue (Kanohi to Kanohi)

Korokota Marae have nominated kaumatua Pereri Tito of *Te Parawhau Hapu* to sign an affidavit in support of the appointment of Korokota Marae as legal entity and Finnisha Tuhiwai-Birchall as primary contact for the applicant group *Te Parawhau Hapu*.

The applicant contact Finnisha Tuhiwai-Birchall will assist to organise the administration of Hapu consultation hui and will notify all beneficiaries of any application progress by any neccesary means. See above.

Part 3

Recognition of Customary Marine Title (CMT) & Protected Customary Rights (PCR)

1. The areas in which Te Parawhau Hapu are applying for CMT are: The area commencing from Manaia (approx -35.815933, 174.559933); on the east Coast; across to the West Coast beginning at Maunganui Bluff (approx -35.703983, 173.510747)(See Map); extending to the South of Poutu near the Southern Penninsula of the entrance to Kaipara Harbour, extending into the Kaipara Harbour to Puatahi, (Inclusive of the Kaipara Harbour and the confluence of the three tidal rivers Te Wairoa, Te Wairua and Mangakahia (Te Ripo); From Puatahi; extending across land to the East Coast, South of Mangawhai (approx -36.152761, 174.641763) towards the North to Te Paepae Atua, extending then to Whangarei Harbour back to Manaia; (Including all Islands in Te Parawhau Hapu area of interest); extending from MHWS seaward from both coasts to the 12 nautical mile boundary and beyond (See Map) - Please note this is a general guideline

2. The areas in which Te Parawhau Hapu are applying for PCR are:

The area commencing from Manaia (approx -35.815933, 174.559933); on the east Coast; across to the West Coast beginining at Maunganui Bluff (approx -35.703983, 173.510747)(See Map); extending to the South of Poutu near the Southern Penninsula of the entrance to Kaipara Harbour, extending into the Kaipara Harbour to Puatahi, (Inclusive of the Kaipara Harbour and the confluence of the three tidal rivers Te Wairoa, Te Wairua and Mangakahia (Te Ripo); From Puatahi; extending across land to the East Coast, South of Mangawhai (approx -36.152761, 174.641763) towards the North to Te Paepae Atua, extending then to Whangarei Harbour back to Manaia; (Including all Islands in Te Parawhau Hapu area of interest); extending from MHWS seaward to the 12 nautical mile boundary from both coasts and beyond (See Map) - Please note this is a general guideline

3. Exclusive and Shared Use and Occupation by *Te Parawhau Hapu* since 1840: There are both Exclusive and Shared Use and Occupation areas of interest in *Te Parawahau Hapu* CMT & PCR areas

Customary activities carried out in the areas of interest

NB: Please note. The below mentioned Customary activites are only some of many carried out in areas of interest by *Te Parawhau Hapu*.

Te Whangarei Terenga Paraoa;

The gathering place of chiefs, and also the many canoes and Whales. The one history of *Te Parawhau Hapu* tells us that this is the place where four gods would wait for Te Roroa to bring news from Hawaiki. The Hawaiki referred to is not located on earth, but instead, in the heavens. And so it was *Te Parawhau Hapu* alone were the guardians of the words handed down from the gods. Most of the descendants who had competent knowledge of this history have since passed. There are only a few *Te Parawhau Hapu* descendants alive today who continue this tradition.

Te Paepae Atua;

The foreshore, stretching from the river mouth of Te Whangarei Terenga Paraoa to the river of Waipu and on to Mangawhai.

Te Paepae Atua extends from Whangarei Harbour entrance to Mangawhai. The coastline marks the threshold between Atua, Tangaroa to the sea, Tane inland and Tumatauenga the Atua of man and war in the middle.

Islands;

There are only some of the islands Te Parawhau inhabited before 1840 and continue to have an interest in to present day.

- Motu Otaua This Island was reserved for the distinguished warriors of Ngapuhi. There were a multitude of warriors who assembled on the Island in preparation and to heed the sentiments of Tumatauenga, before heading into battle.
- Motu Karoro This Island is known to have Ko Iwi (Human Bones) on it, left there from past ihabitants after battles between rival Hapu.
- Motu Kiore Island which today still inhabits the Native rat (Kiore) which was a staple food source for Te Parawhau Hapu among other kai harvested from the Island.
- Motu Matakohe This Island known as Limestone Island to some. Te Parawhau Hapu inhabited this island before 1840 and still have vested interest today. Te Parawhau Hapu grew kumara gardens (Maara kai) on the island (Among other harvested kai), and still grow kumara today on the island. Kaumatua Fred Tito is an active Te parawhau Hapu member who assists with this mahi. Te Parawhau Hapu play an integral part in the release programme of Kiwi & Oi (Petrel Bird) on the island in conjunction with the Department of Conservation again Kaumatua Fred Tito is actively involved with this mahi
- Hihiaua te Pou Herenga Waka Located in the Whangarei Harbour near what
 is known today as Whangarei Town Basin connecting with Hoteo river. Te
 Parawhau Hapu have interest in this area and once used it as a place to
 launch waka and also as a campsite (Not exclusive of other activities Te
 Parawhau Hapu may still practice today). The harbour being of great
 interest to Te Parawhau Hapu is used by many people as Commercial
 Business area and more.
- Kaipara Harbour/entrance- Kaipara Harbour/entrance is a important area of interest for Te Parawhau Hapu as it is the gate way to the upper river reaches within the Te Parawhau Hapu rohe. During seasonal times Eel (Tuna) larvae drift with the currents from Tonga to the Kaipara Harbour where they enter the harbour to the mouth of the Wairoa River, up towards the confluence of the three rivers Te Wairoa, Te Wairua and The Mangakahia. The larvae transform into Elver (Baby Tuna) and sort themselves into long and short fin species. The longfin Elver travel up the Mangakahia River to the upper reaches and the Shortfin travel up the Wairua River to the area below the Omiru Falls aka Wairua Falls, near the Hydroelectric Station on Wairua River. Korokota Marae on behalf of Te Parawhau Hapu in conjunction with Northpower Ltd and N.I.W.A manage the Elver (Tuna) transfer Project and transfer the Elver from this point to the upper Wairua River reaches. They are destined for the Hikurangi Catchment where they mature over a number of years (Approx 30years plus, known to live over 100years). In the seasonal

change the mature Eel (Tuna) leave the upper reaches of both The Wairua River and Mangakahia River and head south to the Kaipara Harbour before heading out to sea towards Tonga to spawn. This cycle occurs every year. Eel (Tuna) is referred by Maori as "Nga kai o nga Rangatira" food of the Chiefs and is held in high regard. Tuna continue to be a staple kai source for Te Parawhau Hapu and it is how we Manaakitanga our guest who visit our Marae.

- Many other native fish species like Inganga (White Bait) etc.. also make this same journey.
- Te Ripo Confluence of three Rivers Te Wairoa, Te Wairua & Mangakahia, Near Titoki. aka The Highway to Ngapuhi, is also a noted area for trade and other activities conducted by both Te Parawhau Hapu and European Settlers.
- Maungakokopu Pa. One of the Pa of te Kukupa. It is here that some of the cultivations were established, close to the river Te Wairua, Tirohia and Pukengahere.
- Hoeroa The prevailing tides which sweep up the Kaipara Harbour into Te Wairoa river, continues towards Te Ripo (Confluence of the three rivers) and splits to travel up both Te Wairua river and Mangakahia river well past Te Ripo.
- Maunganui The Mamari Waka was wrecked at the foot of Maunganui at a place called Omamari. This Maunga marks our connections and relationship to our tupuna from the Hokianga. Taramainuku was the grandfather of Kukupa who resided in this area at one stage. Maunganui marks an area of seasonal food collection from the west Coast for Te Parawhau Hapu. Te Parawhau Hapu still gather kaimoana from this area to this day.
- Te Ripiro Te Parawhau Hapu Toheroa gathering grounds before 1840 to present day.
 - NB: Te Parawhau Hapu presently hold Customary Fishing Permit Rights within both the East and West Coast of the Te Parawhau Hapu boundary. (See Map) Korokota Marae is a recognised permit issuing representatives on behalf of Te Parawhau Hapu in these areas and have been since Te Parawhau hapu had their customary fishing permit interests recognised. Korokota Marae seek to maintain their representation on behalf of Te Parawhau Hapu.
- Maungaru Maungaru has many Pa site on it. It was a Te Parawhau Hapu strong hold. Many battles were fought here with neighbouring Hapu such as Te Roroa, Te Uri o Hau, Ngati Rangi, Te Whiu, Ngati Whatua and Ngat Toki. Reason for the battles was mana motuhake/ownership and resources.

The level and extent of third party use of the area:

In the Te Parawhau Hapu areas of interest under CMT & PCR

On the East Coast is Whangarei City. It has high density urban residential and commercial buisness areas. There are public infrastructure, public roads, oil refinery, wharves, marinas, railways, regional airport, boating ramps etc... Customary, recreational and Commercial fishing is undertaken in this area along with Commercial Tourism. There are both marine reserves and coastal reserves, papakainga in this area to name a few. (Most of what you would typically find in City areas)

On the West Coast is the Kaipara. The Dargaville township is situated near the Kaipara Harbour and has high density residential and commercial areas. There are Commercial tourism operations in the Kaipara Harbour, Public infrastructure, public roads, wharves, railways, boating ramps, There are coastal reserves and papakainga in this area to name a few. (Most of what you woud typically find in Township areas).

a. Other groups (iwi, hapu, whanau) who claim to have customary interests in the PCR and CMT AOI area:

Te Uriohau, Te Roroa, Ngatiwhatua have shared interest in areas of Te Parawhau Hapu PCR and CMT AOI. (NOT exclusive of other iwi/hapu/whanau)

4. Boundaries of sites the *Te Parawhau Hapu* have wāhi tapu recognised (in the CMT & PCR areas)

NB: General statement regarding sites within Te Parawhau Hapu Rohe

Te Parawhau Hapu hold the opinion that there is no such thing as a "site of significances" within te ao Maori, because to Te Parawhau Hapu that notion suggests that one place is more important than another. The old people said "Mai te rangi ko Ranginui ki te whenua te papa o Papatuanuku".

By naming a site, our tupuna implemented the mana over particular areas. The naming of specific places are important as they relate to an event or person. A name carries Mauri and Wairua It is on this basis that *Te Parawhau Hapu* state, all of the places named by Tupuna are equally important and reflects the Mana of the Tupuna who gave the name.

NB: Tuatara Kauika was the son of Tangaroa, god of the sea.

Part 4

Recognition of any Protected Customary Rights (PCR)

1. The types of activities, uses or practices and their purpose

Te Parawhau Hapu continue to undertake customary activities, uses and/or practices in the PCR area (Please refer to MAP). The tikanga which governs the activities, uses and/or practises in this area are listed below:

Te Parawhau Hapu adhere to Article 2 of Te Tiriti o Waitangi (Not The Treaty of Waitangi), He Whakaputanga O Te Rangatiratanga o Niu Tireni)

Te Parawhau Hapu continue to practice;

- mana whenua;
- mana moana;
- tino rangatiratanga;
- kaitiakitanga;
- wairuatanga:
- manaakitanga;
- whakapapa;
- mauri; and
- whanaungatanga

This application continues to demonstrate *Te Parawhau Hapu* aspirations in promoting and working towards a sustainable future for their hapu and iwi.

Some of the *activities* and uses that continue to be practiced by our people since our Tupuna settled in this area are mentioned above. Our people enjoy these activities, uses and practices at various stages of the year depending on the purpose of the use and the availability of the practice based on the principles of tikanga above.

Such activities, uses and/or practices include, but are not limited to:

• Maginga kai/Mara kai:

Harvesting of toheroa, inanga, tuna, flounder, pipi, tuatua, seaweed, hi ika & planting of kumara and other such kai

Flaura and Fauna:

Driftwood for carving and fuel, raupo and others

Wananga

Hi ika, whakahaere karakia. Transfer of baby Tuna (Elver), Tohora. Io-Matua-Kore, being the supreme being, sent word to all the paroa (sperm whale) at Hawaiki in the heavens to share a sacred and secret korero.

There were four Atua waiting in the upper harbour to receive that korero from Paraoa, however only the strongest Paraoa made it to the harbour. It was called Te Whanga a Reipae. That paraoa gave the secret and sacred korero to the four Atua, who in turn gave that korero to *Te Parawhau Hapu*, who were the keepers of that korero. They named the harbour after this incident, Te Whanga a reipae and Whangarei Terenga Paraoa.

The names of the four Atua are no longer remembered. It was three Tohunga who received that korero, and they only shared it with the selected few.

To *Te Parawhau Hapu*, whales are important because they bring messages from the Atua, and therefore they are sacred. Our tupuna never hunted whale. However, if a whale became beached, it was looked upon as a gift from the Atua, Tangaroa. If the whale were to be pushed back by man, it would be looked upon as an insult by the Atua and cause great offence - the payment would be human life. Whale bone carving is a common practice for *Te Parawhau Hapu* when the bone is made available.

Rahui is still a common practice of *Te Parawhau Hapu* in the areas of interest when appropriate or required.

There are many activities not included which are still excercised today.

Waka ama is a common practice in *Te Parawhau Hapu* rohe along with many other water activity.

Please refer to Map

Step 5: Sign this form

By submitting this application form, you authorise the High Court to publicly release your group's identity and the information in your application. The highly sensitive information will only be made available once the High Court receives authorisation from you to do so.

I/we hereby certify that, to the best of my/our knowledge and belief, the information given in this application is true and correct.

Full Name: Finnisha Melisa Mary Ann Tuhiwai-Birchall

and Position: Korokota Marae Hapu Consultant - Te Parawhau Hapu

Date: 18+ April 2017
Signature: Buhall

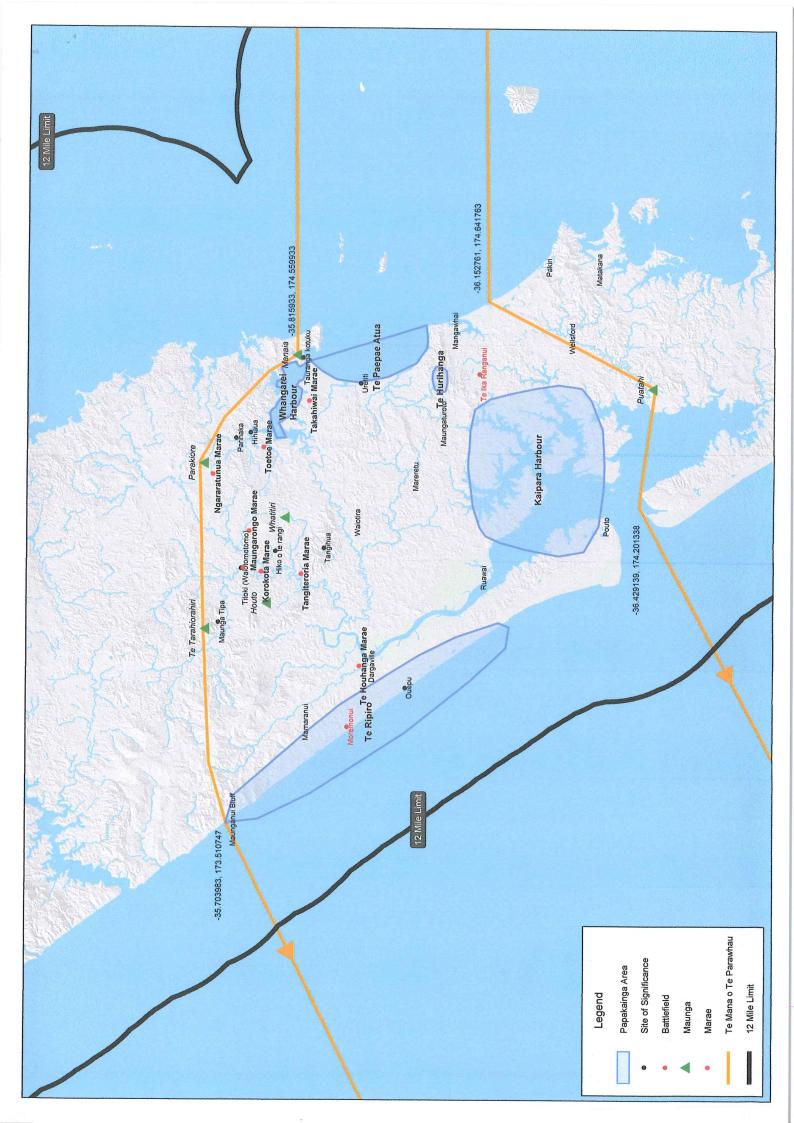
Privacy Statement

We will share information about your application with other government agencies as part of our assessment. We will use the information you have supplied to research your application, and related uses of your application area, including:

historical information: land records; and resource consent information.

Your application may be published on the High Court website as part of our public notification process. Your information will also be provided to people making applications for this information under the Official Information Act 1992.

If you are concerned about protecting any sensitive or confidential information in your application, please contact The High Court in advance to discuss possible options.





3rd April 2017

Wellington High Courts
Solicitor General on behalf of the Attorney General
2 Molesworth Street
DSXS11199
WELLINGTON

Tena koe,

AMENDED MAP: APPLICATION FOR RECOGNITION AGREEMENT UNDER THE MARINE AND COASTAL AREA (TAKUTAI MOANA) ACT 2011

- 1. Under sections 98 of the Marine and Coastal Area (Takutai Moana) Act 2011 ("MACA"), the *Te Parawhau Hapu* are seeking to engage with the Crown for recognition of Customary Marine Title ("CMT") and/or the Protection of Customary Rights ("PRC") along *Te Parawhau Hapu* Rohe (See Attached Map).
- 2. This Map <u>enclosed</u> is provided by the *Korokota Marae* on behalf of *Te Parawhau Hapu* and is an amended version of the Map filed at the High Courts Whangarei dated the 3rd April 2017. (See attached copy of filed confirmation).

I now hereby submit the following;

- This Cover letter
- Copy of amended Map. Please consider this Map for processing Te Parawhau Hapu application and disregard the previous Map/s submitted.

Hei kona,

Finnisha Tuhiwai-Birchall Korokota Marae Hapu Consultant c/o *Te Parawhau Hapu*

Buhall

MINISTRY OF JUSTICE 7102 99A E – 13AADNAHW

