

CIV-2017 -485-193

**IN THE HIGH COURTS OF NEW ZEALAND  
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 Ngāti  
Kere MACA Working  
Party for an order  
recognising Customary  
Marine Title and Protected  
Customary Rights for Ngati  
Kere hapu.

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**APPLICATION BY Ngāti Kere MACA Working Party on behalf of the hapū  
of Ngāti Kere**

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

Dated 29 March 2017

4 x Duplicates  
ISSUED.

Case Manager <i>Michaela</i>
Next Event: / /
<b>31 MAR 2017</b> ✓
THE HIGH COURT WELLINGTON

- To:** The Registrar of the High Court at Wellington;
- and to:** Hawke's Bay Regional Council with statutory functions in the application area
- and to:** Hawke's Bay Regional Council, Central Hawke's Bay District Council and the Department of Conservation 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:**

This is an application from Ngāti Kere Marine And Coastal Area (MACA) Working Party to the High Court for recognition orders pursuant to sections 51(1), 58, 59, 98 and 101 of the Marine and Coastal Area (Takutai Moana) Act 2011 to recognise the Customary Marine Title (CMT) and the Protected Customary Rights (PCR) of the Ngāti Kere hapū, which includes Ngāti Pīhere, Ngāti Manuhiri and Ngāti Hine-te-wai. The application is supported by affidavits prepared by Ms Morehu Smith (nee Tutaki) and Kaumatua Piri Sciascia.

This document will cover:

- The Applicant Group
- The Ngāti Kere MACA Working Party: mandate and activity
- The Applications
- The reasons for different application areas and engagement with other whānau/hapū/iwi
- The traditional use of marine and coastal area by Ngāti Kere
- The exercise of mana by Ngāti Kere
- Other forms of recognition of Ngāti Kere in the MACA region
- Grounds on which the Protected Customary Rights order is made
- Grounds on which the Customary Marine Title application is made

**The Applicant Group**

1. The wider applicant group on whose behalf the Ngāti Kere MACA Working Party has developed this application is/are the "Ngāti Kere hapū". This includes the hapū of Ngāti Manuhiri, Ngāti Pīhere and Ngāti Hine-te-wai. These four hapū, although distinguishable by whakapapa, for the most part live and act as one community and are generally known in the wider community as Ngāti Kere. The applicant group and the exercise of mana by Ngāti Kere hapū in the application area are discussed further below.

### **The Ngāti Kere MACA Working Party: mandate and activity**

2. The Ngāti Kere MACA Working Party lodging this application has done so with the mandate of Ngāti Kere hapū and the process and maintenance of that mandate is recorded below.
3. A Ngāti Kere Hui-a-hapū was held on 20<sup>th</sup> August 2016 whose sole focus was the Marine and Coastal Area (Takutai Moana) Act 2011. This was advertised via the hapū email list, Ngāti Kahungunu Iwi Incorporated email pānui and the Rongomaraeroa Marae Facebook page. At the hui it was moved by Jim Hutcheson and seconded by Ihaia Hutana that Ngāti Kere apply for a Customary Marine Title. The attendees decided to seek further information on Protected Customary Rights. It was moved by Paora Sciascia and seconded by Jim Hutcheson that the hapū (Ngāti Kere) give mandate for the Ngāti Kere Hapū Fisheries and Coastal Plan Development Working Party to coordinate the preparation of the Marine and Coastal Act Area applications and lodge applications for the Ngāti Kere hapū. There were no objections.
4. The name of the working party has since been changed to the Ngāti Kere MACA Working Party and the people active in the Ngāti Kere MACA Working Party are a subset of the members of the Ngāti Kere Hapū Fisheries and Coastal Plan Development Working Party.
5. Since the Hui-a-hapū in August 2016, MACA Working Party planning hui have been held in Napier on 8<sup>th</sup> November, 2016 and 7<sup>th</sup> March, 2017. The MACA Working Party invited Ngāti Kere hapū members and Te Hika a Papauma hapū members (a southern boundary neighbour) to Te Ahu a Tūranga marae, Woodville to meet with on 26<sup>th</sup> November 2016. MACA Working Party members also had phone calls with Ngāti Kahungunu and Rangitāne parties (other southern boundary neighbours). We also made attempts to call and meet with Catherine Clarkson, a Ngāti Kere hapū member who has submitted a MACA claim on behalf of three persons under the name Clarkson/Poronia Hineanga Te Rangi Whānau [CIV-2011-85-789].
6. The Rongomaraeroa Trustees Special General Meeting hui of the 4<sup>th</sup> March 2017, received a report of the Ngāti Kere MACA Working Party and voted unanimously to convene the Ngāti Kere MACA Working Party as a sub-committee of the Rongomaraeroa Marae Trustees. The longer term intention is to move this 'working group' to the Pōrangahau Hapū Development Trust at a time when that group becomes formally established.
7. Although hapū members have been unclear on some matters relating to Protected Customary Rights, on 18<sup>th</sup> March, 2017 the MACA Working Party recommended to Ngāti Kere hapū members that applications are lodged for Customary Marine Title and Protected Customary Rights over the areas stated later in this application. There were no objections.
8. The Working Party has continued to keep Ngāti Kere hapū informed by inviting them to hui and sending out updates and meeting minutes via email. A closed Facebook page called 'Ngāti

Kere claim marine and coastal customary rights' created on 14<sup>th</sup> October 2016, is the other avenue used to keep the hapū informed.

9. Erin Tehekenga Petuha has led the Ngāti Kere MACA Working party since the 20<sup>th</sup> August 2016 Hui-a-hapū. She was formally mandated to submit the application for and on behalf of Ngāti Kere hapū by the SGM of the Rongomaraeroa Trustees on 4 March, 2017. This application has been prepared by two members of the Ngāti Kere MACA Working Party, Ms Petuha and Dr David Tipene-Leach.
10. The applicant group does not yet have a person or entity that is mandated to and can be named as the holder of the recognition orders. This will be established through the application process.

### **The Applications**

11. **A recognition order is sought for Customary Marine Title on the basis that Customary Marine Title exists for Ngati Kere hapū in the application area pursuant to sections 58 and 59 of the Act, and:**

- Ngāti Kere hapū has held the application area in accordance with tikanga since the 1700s.
- Ngāti Kere hapū has exclusively used and occupied the application area from the 1700s to the present day without substantial interruption.
- Whānau of Ngati Kere hapū own land on a number of properties abutting the application area.
- Ngati Kere hapū exercise non-commercial customary fishing rights in the application area and have done so since the 1700s.

This is detailed further below, in the affidavit(s) and Ngāti Kere hapū will provide even further information once funding for research and legal representation is secured.

12. We note Kere's ascendancy to be about 1700 (based on the marriage of his great-granddaughter Hineiwhakarata to Tamaiwhakahoroa, the son of Tuanui who meet Cook on board the Resolution in 1772). In addition however, we would state that there is no history of any catastrophic loss of mana of the our ancestors on this land that lead to any widespread out-migration of a defeated people, or any domination and occupation by others. Rather, our long term history from the 1100s, is of exchange from one form of the same descendant group to another form of that group and various waves of immigration who settled here, mostly by marriage. We of the present Ngāti Kere hapū, were also once an integral part of the Ngāti Ira/Ngai Tahu and Rangitane/Ngai Tara groups, and before that we were of Te Tini-o-Toi. We have 25 generations of blood descent 'living on this land'.

13. As part of the application for the Customary Marine Title, the application seeks to include recognition and protection of a waahi tapu and waahi tapu areas discovered through the research phase of the application process if and where Ngati Kere can provide evidence and waahi tapu conditions to meet the requirements of section 78 of the Act.
14. **The area to which this application for a Customary Marine Title relates** is the common marine and coastal area (as defined in s9 of the Act) that is bounded:
- on the landward side by the line of mean high-water springs;
  - on the seaward side by the outer limits of the territorial sea;
  - on the northward side by a line that extends from the coast abutting Ouepoto Stream (at or about NZTM [1927556, 5548945]) to the outer limits of the territorial sea; and
  - on the southward side by a line that extends from the coast abutting Te Wainui Stream (at or about NZTM [1901710, 5511158]) (at Herbertville) to the outer limits of the territorial sea; and,
  - The area includes the common marine and coastal area including estuarine waters and tidal waters of river mouths and offshore islands/features such as Taikura rock (See Map 1 of Appendix 1 attached).
15. Ngāti Kere considers that it has a valid claim for ‘mana moana’ from Ouepoto in the north to Akitio in the south but we acknowledge that we share the area between Te Poroporo and Akitio with our southern neighbours of Te Hika o Papauma hapū and Rangitāne. Ngāti Kere therefore wishes to avoid lodging a claim for a Customary Marine Title that overlaps with our southern neighbours in a fashion that is unlikely to be accepted by the dictates of the Act. Therefore, Ngāti Kere is only applying for a Customary Marine Title from Ouepoto Stream to Te Wainui Stream in the south. If Customary Marine Titles were allowed to overlap, Ngāti Kere would be applying for a Customary Marine Title from Ouepoto to Akitio. If a valid claim is not lodged over the area between Te Wainui and Akitio, Ngati Kere would like the opportunity to consider amending this application to cover this area.
16. **A recognition order is sought for Protected Customary Rights for Ngati Kere hapu on the basis that PCR customary activities have been undertaken by the applicant group in the PCR application area that can meet the meaning of section 51(1) of the Act, and:**
- Ngāti Kere hapū being a coastal hapū relies/has relied heavily on fishing and food gathering in the estuaries and coastal margins of this area. This includes (but may not be limited to):
    - in-shore fish species like pātiki (both flounder and turbot), mullet, kahawai, and butterfish
    - kina and koura

- deep water fish like tāmure (snapper), gurnard, trevally, hāpuku, moki, terakihi, and mako
  - shellfish like paua, pipi, tuangi (cockles), tuatua, toheroa, kuku (mussels), clams, limpets and pūpū
  - other estuarine and wetland food stocks like īnanga, tuna (eels), kōkopu and other galaxids
  - sea vegetables like karengo and sea apples
- Ngāti Kere also undertakes/has undertaken the other activities in the common marine and coastal area. This includes (but may not be limited to):
    - collection of rongoā
    - collection of pīngoa and of harakeke
    - collection of whitebait
    - bird snaring
    - collection of kōau eggs at Parikoau (the 'cliff-face of the shag') and Te Arataura (the place of climbing down by rope)
    - transport along the coastal routes (banned by Henare Matua when war threatened Gisborne)
    - transfer of knowledge of hapū marine culture, seasonal kaimoana exchange with inland hapū, access to gardens on land, social interaction, manaakitanga
    - activities relating to spiritual practices (such as rahui)
    - planting and cultivating plant species in coastal wet margins such as flax, tī, kouka and pingao
    - launching and using waka
    - customary activities relating to enhancement of the environment
    - undertaking non-commercial aquaculture activities
    - use of tools and equipment in association with fisheries activities
    - gathering other natural resources and use for non-commercial purposes.
  - We also have tauranga waka at Aramoana, Parimahu, Te Paerahi, at Whangaehu, at Te Wainui and at Akitio on the coast and in the estuaries of all the coastal rivers including Taurekaitai at Pōrangahau, Whangaehu, Arataura, Tautāne, Wainui, Waimate and Akitio. There are a number of wāhi tapu and other significant sites along the coast of the application area.

17. Ngāti Kere hapū has undertaken these activities listed above since long before the arrival of Pākeha in this land. We continue to undertake these activities in the application area, albeit in some instances using modern equipment, but nevertheless, in accordance with tikanga Māori.

18. The PCR application is to cover those of the aforementioned customary activities that fit within the bounds of section 51(1) of the Act and any other customary activities discovered during the

research process that meets the meaning of PCR under section 51(1) of the Act. Ngāti Kere hapū will provide more information once funding for research and legal representation is secured.

19. **The area to which this application for a Protected Customary Right relates** is the common marine and coastal area (as defined in s9 of the Act) that is bounded:

- on the landward side by the line of mean high-water springs;
- on the seaward side by the outer limits of the territorial sea;
- on the northward side by a line that extends from the coast abutting Ouepoto Stream (at or about NZTM [1927556, 5548945]) to the outer limits of the territorial sea; and
- on the southern side by a line that extends from the coast abutting Akitio River outlet (at or about NZTM [1889143, 5499013]) to the outer limits of the territorial sea;
- The area includes the common marine and coastal area including estuarine waters and tidal waters of river mouths and offshore islands/features such as Taikura rock.

(See Map 2 of Appendix 1 attached).

#### **The reasons for different application areas and engagement with other whānau/hapū/iwi**

20. As stated, Ngāti Kere considers that the hapu has 'mana moana' in a traditional sense and therefore might apply for both Customary Marine Title and Protected Customary Rights from Ouepoto in the north to Akitio in the south. The reasons why the area over which Ngāti Kere hapū is applying for Customary Marine Title is less extensive than the area over which Ngāti Kere hapū is applying for a Protected Customary Right are as follows.

21. Ngāti Kere has been advised that Protected Customary Rights are allowed to overlap between applicant groups under the Act and so Ngāti Kere is applying for a PCR along the whole of the Ngāti Kere rohe moana coastline from Ouepoto to Akitio. We are cognisant of historically shared rights with our closely related southern neighbours who, have well established exclusive rights of their own, in their own rohe. This area between Te Wainui and Akitio includes the same extended families who, in contemporary times, now gather in different political moieties.

22. In regards to CMT however, Ngāti Kere has been advised that overlapping Customary Marine Titles are unlikely to be granted. With this in mind, and out of respect to our neighbouring hapū, Ngāti Kere moved to engage with our neighbours to gain agreement on application boundary areas to avoid overlapping claims. Ngāti Kere commenced engagement with our southern neighbours on 26<sup>th</sup> November 2016 meeting with Te Hika o Papauma Mandated Iwi Authority. This was intended to be a meeting between Ngati Kere hapū and Te Hika a Papauma hapū

members. Ms Petuha invited Robin Potangaroa and the hapū to attend this hui through closed Facebook page Te Hika a Papauma ki Wairarapa on 6<sup>th</sup> November 2017.

23. Following that hui it became clear that there are multiple other hapū clusters with an internally contested mandate over the area to the south of Te Poroporo. The Te Hika o Papauma Mandated Iwi Authority, the Te Hika o Papauma hapū cluster associated with the Ngāti Kahungunu ki Wairapapa Tamaki-nui-a-Rua Trust and the Rangitāne Hāmua hapū associated with Rangitāne Tū Mai Rā Trust all have overlapping claims in this area. Ngāti Kere considered that it was unlikely that within the timeframes available that Ngāti Kere could negotiate an application boundary with those parties to the south of Te Poroporo prior to lodging applications. In the interests of a timely application we desisted from this consultation.
24. Our northern neighbouring hapū is Ngāti Hikatoa at Pourērere. Ngāti Kere did not find a group on the ground to engage with. Ngāti Kere spoke with the representative of Pourērere on the He Toa Takitini Treaty claim/Heretaunga Tamatea PSGE group. There was no argument on his behalf that the often-stated northern boundary of Ngāti Kere hapū of Ouepoto Stream is accurate and we are confident that no overlapping claim will be lodged by our neighbouring hapū to the north.
25. Due to time constraints Ngāti Kere has not engaged further with our northern and southern neighbouring hapū other than to write to them informing them of our claim. Ngāti Kere hapū wrote to our northern and southern neighbouring hapū on 27<sup>th</sup> March 2017 explaining that we do not intend to engage further with them prior to lodging our application and the reasons why.
26. Ngāti Kere is aware that an application has been lodged by Poronia Hineana Te Rangi Whanau in the area between Whangaehu and Te Poroporo (Cape Turnagain inclusive) (CIV 2011 485 789 Clarkson v The Crown). We have attempted to engage with Ms Clarkson with no success. On 7<sup>th</sup> March 2016, a conference call was held with Geoff Melville, Counsel for Attorney General, Judge Mallone and Morehu Smith. Despite Ms Clarkson indicating on Friday 4<sup>th</sup> March 2016 that she would join the conference call Catherine Clarkson did not respond to the conference call. Morehu Smith is a submitter on the Poronia Hineana Te Rangi Whanau application and a member of the Ngāti Kere MACA Working Party. Ms Smith also invited Ms Clarkson to join us at the hui convened with Te Hika o Papauma Iwi Authority on 26<sup>th</sup> November 2016 and Ms Clarkson declined to attend. Ms Petuha also contacted Ms Clarkson via email on 22<sup>nd</sup> March 2017 inviting Ms Clarkson to call Ms Petuha because Ngāti Kere MACA Working Party still wish to speak with her about our respective applications. On the date that this application was filed Ms Clarkson had not responded. The application lodged by Ms Clarkson seems to be on behalf of only three members of one of Ngāti Kere's constituent whānau but does not seem to be supported by the wider members of that family.



## **Traditional use of the marine and coastal area by Ngāti Kere**

27. The ancestors of the Ngāti Kere hapū utilised the common marine and coastal area for (including but may not be limited to):

### **Food collection**

- non-commercial fishing utilising nets, hinaki, lures, pots and hand-lines to catch pātiki (both flounder and turbot), mullet, kahawai, lemon fish, tāmure (snapper), gurnard, trevally, hāpuku, terakihi, mako and koura
- Non-commercial fishing of estuary food stocks including īnanga, tuna (eels) kōkopu and other galaxids
- non-commercial harvesting of shellfish including pipi, tuangi (cockles), mussels, toheroa, tuatua, pupu, clams, limpets, paua, and kina
- collection of tītī chicks (mutton birds), koau/koauau (shag) eggs
- historical hunting moa and tuatara
- using beached whales (the history of Hineiwhakarata dividing the whale amongst the hapū and their chiefs)
- gathering edible aquatic plants including karengo and sea apples
- gathering plants for medicinal uses
- temporary camp sites for fishing
- tauranga waka

### **Other activities**

- wāhi tapu/sacred places along the coast held by chiefly families for non-commercial fishing
- environmental educational activities
- activities related to spiritual practices (such as rahui)
- planting and cultivating plant species in coastal wet margins such as flax, tī kouka, pingao
- extracting non-nationalised minerals for non-commercial purposes
- collecting driftwood and other natural resources for non-commercial purposes
- temporary camp-sites for ceremonial activities in the coastal marine area
- wāhi tapu sites including urupā and other sites of cultural significance along the coast of the application area.

It is likely that the ancestors of the Ngāti Kere hapū also utilised the common marine and coastal area for other activities that will be identified through the research phase of this application process and if identified further evidence provided later in the application process.

## The exercise of mana by Ngāti Kere

28. The wider applicant group on whose behalf the Ngāti Kere MACA Working Party has developed this application is/are the “Ngāti Kere hapū”. This includes the hapū of Ngāti Manuhiri, Ngāti Pīhere and Ngāti Hine-te-wai. These four hapū, although distinguishable by whakapapa, for the most part live and act as one community and are generally known in the wider community as Ngāti Kere.
29. The Ngāti Kere cluster of hapū (Ngāti Kere, Ngāti Manuhiri, Ngāti Pīhere and Ngāti Hine-te-wai) whakapapa and derive mana primarily from the ancestor Kere, who was a son of Te Rangiwāwāhia, who was a son of Te Whatuiāpiti. The ‘Pōrangahau part’ of Te Whatuiāpiti’s descendants legacy of mana whenua in this area began in the ‘kaihawkai’ of the late 1600s – the feasting competitions between Te Whatuiāpiti (our ancestor) and Te Angiangi (our ancestor in possession of the lands at the time) of Ngāti Ira/Ngai Tahu descent. Te Whatuiāpiti did not occupy the lands and passed mana to his son Te Rangiwāwāhia (who organised the collection of the food) who in turn passed it to his wives, Taurito and Te Huiangaiwaho and their offspring, Te Rangihirawea, Kiore and Kere, and his brother-in-law, Kaitahi. Mana also passed to the hapū on the land who helped collect food, effectively releasing them from their client status relationship with Te Angiangi.
30. The area from Te Poroporo to Ouepoto has long been recognised as the Ngāti Kere coastline. The unification of mana under Ngāti Kere began with the injection of the ariki Te Huki’s mana into the area. His daughter, Hineraru, was married to Te Rangihirawea’s son Te Hōpara-o-te-rangi. Their son, Te Urupū married Kiore’s grand-daughter, Te Uira-o-te-rangi. Their son, Ngārangiwhakaūpoko, married the grand-daughter of Kere, Hinematekitawhiti.
31. Ngārangiwhakaūpoko united the many hapū of the time under his leadership. His chiefly descent, his marriage to the puhī of the region, Hinematekitawhiti, and his war-like nature had enabled him to do this. Ngāti Manuhiri, Ngāti Tānehimoa, Ngāti Hinepare, Ngāti Hine-te-wai, Ngāti Tamatea and Ngāti Kaitahi came to live as one with Ngāti Kere under his mana. Ngārangiwhakaūpoko’s southern pa was Te Poroporo in the Cape Turnagain area. Ngārangiwhakaūpoko was known as *te pou whakarunga o te kupenga a Te Huki* (the southern post of Te Huki’s net) an alliance of marriages purposefully arranged up by the ariki, Te Huki, to keep peace. This stretched from Whāngara in the north to Pōrangahau in the south.
32. By the time of Ngārangiwhakaūpoko’s great grandson, Henare Matua giving evidence in the Māori Land Court in the 1880s the hapū being referred to were Ngāti Kere and Ngāti Manuhiri and not too long after the hapū called Ngāti Pīhere arose from within the Ngāti Kere moiety. Ngāti Hine-te-wai is one of the older hapū the utterance of whose name has not been lost on the pae kōrero of Rongomaraeroa.

33. In 1865, the time when Wairarapa Hauhau wanted to travel to the Gisborne wars, Henare Matua set up an area called Te Pootiririkore (no anger shall be vented) to prevent them from crossing. This area went from the Akitio River in the south to the Taurekaitai (Pōrangahau) River in the north. Henare Matua was able to stretch his mana that far on the basis of his birth mother (Henekura of Rangitāne) and his influence with his cousin Hoera Rautu, who was the great-grandson of Rautu (the brother of Ngārangiwhakaūpoko) and who held sway in this area.
34. Ngāti Kere have continued to use this area of coastline since the time of Pākeha settlement. Even after the sale of the Pōrangahau Block in 1858/1859 (north of the Taurekaitai/Pōrangahau River) and some of the coastal lands south of the river estuary, only Ngāti Kere and hapū and whānau sanctioned by the mana whenua fished and gathered seafood from this coast. The Matua, Rōpiha, Te Kuru, Te Atua, Pōtangaroa and Tūtaki whanau groups are some of the sentinel whānau of the region.
35. In the 1980s when human bones were found at Herbertville (Te Wainui), Ngāti Kere elders Henare (Te Atua) Hokianga and Henare (Pōtangaroa) Petuha went to clear the area of any spiritual disturbance.
36. This clearly provides a foundation for demonstrating that Ngati Kere hapū has held the Customary Marine Title application area (and beyond that application area) in accordance with tikanga since before 1840. Whanau that are part of the collective Ngati Kere hapū own land abutting parts of the specified application area and have done so without substantial interruption since before 1840 until the present day. Those whanau properties are referred to in Ms Smith's affidavit. Pursuant to sections 58, 59(a)(i) and 59(4) of the Act, the information presented goes toward establishing that Customary Marine Title exists for Ngati Kere hapū in the Customary Marine Title application area (and an area beyond that). It is intended that information about some of the properties held by whanau abutting the application area, and other information pursuant to sections 58 and 59 of the Act, will be presented as further evidence later in this application process after further research.

#### **Other forms of recognition of Ngāti Kere in the application areas**

37. Ngāti Kere boundaries have been recognised through:
  - the Māori Land Court under the Ture Whenua Act 1990,
  - the Te Taiapure o Pōrangahau under the Fisheries Act 1983 and Fisheries (Pōrangahau Taiapure) Order 1996,
  - and the appointment of Tangata Kaitiaki under the Fisheries (Kaimoana Customary Fishing) Regulations 1998.
38. Our boundaries and mana moana have also been acknowledged by the Department of Conservation and Ministry for the Environment during a three-year Foundation of Research,

Science and Technology (FORST)-funded research study of 'Maori methods and indicators for marine protection' undertaken with Ngāti Kere commencing in 2002 and with three reports produced between 2005 - 2007<sup>1</sup>.

39. Ngāti Kere is the recognised 'haukainga' hapū of the Te Angiangi Marine Reserve which lies within the boundaries of this application for recognition orders for CMT and PCR. *"Established in August 1997, Te Angiangi Marine Reserve is managed by the Department of Conservation and a local committee. It covers an area of about 1.3 square nautical miles (446 hectares) and extends 1 nautical mile (1.85 km) offshore from the mean high water mark between Aramoana and Blackhead beaches. Ngati Kere are represented on the Marine Reserve Committee."* *"The name Te Angiangi was chosen by the Ngati Kere hapū to honour their tipuna (see para 11). Although in his time he owned lands from Ouepoto to Akitio, in the gifting of lands to Te Whatuiapiti, Te Angiangi retained the land from Ouepoto to Rangitoto (near Parimahu) for his own use. Te Angiangi Marine Reserve is within this area, historically set aside for Te Angiangi himself"* (Ngati Kere, DOC and MfE, 2007).
40. *"Ngāti Kere Rohe Trustee appointed its Tangata Kaitiaki in May 2003 under regulation 9(1) of the Fisheries (Kaimoana Customary Fishing) Regulations 1998. The boundaries are identified as the coastline between Ouepoto Stream and Akitio River, out to the North and South Madden Banks."* *"Regulations, roles and management have been clearly defined in the Tangata Kaitiaki Application"* (Ngati Kere, DOC and MfE, 2007<sup>2</sup>).
41. *"In August 1992 the Government passed legislation whereby Ngāti Kere hapū were able to create Te Taiapure o Pōrangahau; under section 54 of the Fisheries Act 1983. The boundaries are identified as: coastal and estuarine waters (including Pōrangahau and Waikaraka Rivers) within a straight line from Cape Turnagain (Poroporo) in the south, to Waikaraka creek, north of Blackhead (Parimahu) Point, to the mean high water mark"* (Ngati Kere, DOC and MfE, 2007).
42. Ngāti Kere were also the hapū involved in Ngāti Kahungunu Iwi Incorporated inductions onto the 3000 ha station at Tautane in 2013.
43. The traditional Maori fishing grounds and foods are of prime importance to Ngāti Kere. Ngati Kere have exercised non-commercial customary fishing rights in the application area and have

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<sup>1</sup> Ngati Kere, Ministry for the Environment, Department of Conservation, 2005. *Maori methods and indicators for marine protection Ngati Kere interests and expectations for the rohe moana.*

Ngati Kere, Ministry for the Environment, Department of Conservation, 2007. *Maori methods and indicators for marine protection A process to identify tohu (marine indicators) to measure the health of the rohe moana of Ngati Kere.*  
Carla Wilson, Debbie Freeman, Kerry Hogan and Kati Thompson, 2007. *Maori methods and indicators for marine protection: Summary of findings.*

<sup>2</sup> Ngati Kere, Ministry for the Environment, Department of Conservation, 2007. *Maori methods and indicators for marine protection A process to identify tohu (marine indicators) to measure the health of the rohe moana of Ngati Kere.*

done so since the 1700s. As explained above, this has been recognised through rights under the establishment of Te Taiapure o Pōrangahau and the appointment of Tangata Kaitiaki.

44. Our traditional fishing grounds for the area between Parimahu and Cape Turnagain were documented in 1992<sup>3</sup> in our Taiapure application. Some of the important species documented there included cockles, karengo (seaweed), flounder on the Pōrangahau beach and estuary, kina and paua, crayfish (free diving harvesting almost extinct), tuatua on the beaches, wet fish (some species heavily reduced), whitebait, toheroa and tuna. Other traditional kai had included mutton birds, moa, whale, and tuatara. It was stated that over time these birds, fish and sea life have suffered reduction. It was also stated that the Pōrangahau *“estuary itself is the largest and least modified on the East Coast south of Ohiwa, in the Bay of Plenty, and is classified as being nationally significant feeding and wintering area for native and migratory waders.”*
45. The substantial sea spit to seaward is famous for bird life. It was also stated that *“The land between Porangahau River and Waikaraka Stream remains the Waikaraka Educational trust, as set aside by the original chiefs. Pukepuketauhinu the island between the Porangahau golf course created by the changing outflow of the Porangahau river was never given away in the feast battle, because of its special significance for seafood”*.
46. The reef at Parimahu is *“an extensive reef which provides shelter and is an important source for many types of sea life”*.
47. Hao-o-Nga Hapuku fishing ground is a traditional fishing ground for hapuku. These grounds are located using three hills and Parikoau Point and are located approximately 1.5km offshore (information from late rangatira Terehuka Tutaki).
48. Taikura Rock, named after the son of the early Polynesian explorer Kupe, *“is a dominant rock in the Pōrangahau Bay and is an important source for traditional sea foods”*.
49. Tainui, Takapau and Whakarapurapu rocks *“found between Porangahau and Whangaehu at Makaramu, had special significance for food. Takapau had a permanent rahui (ban on harvesting) because it is the main breeding ground for karengo (seaweed) for this area of coastline. Also a traditional crayfish ground.”*
50. Wharerauaruhe is a traditional fishing ground out to sea from Parikoau for hāpuku and moki located approximately 2km offshore by aligning Taikura rock with other hills and Mākaramu Rocks to the west (information from kaumatua Aratotara Te Kuru).

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<sup>3</sup> “Nga Taonga o Ngati Kere” Taiapure Proposal for Porangahau. Prepared and submitted by The Porangahau Taiapure Steering Committee initiated by the Ngati Kere Hapū. 18 August 1992.

51. Omaruraho Rock located 0.8km out to sea and slightly south of Mākaramu is a tapu rock. *“It marks one end of the tapu area, (which goes back toward Whangaehu) under Maori custom. The rocks protected the safe anchorage area called Pariwhakaruru where canoe were tied and a seasonal fishing camping ground contained the house Maianeī. This is the spot where the tete (prow) of a waka tete (fishing canoe) was found.”*
52. Also *“Within this tapu area, and on the shore, is the white rock, Nga Mahanga (woman with child on her back turned to stone). This story telling of a woman breaking the tapu and receiving her fate, is a good example of the emphasis once placed on resource management customs.”*
53. Kahutara reef, which is located at Whangaehu, *“protects the main boat landing area on the beach. It provides a safe launch and anchor area today as it once did for many fishing canoe. Hapuku, seaweed, pupu (Booboo) were once plentiful here.”*
54. Arakeiaoroa Rock is a fishing ground outside of Whangaehu where hapuku were caught.
55. A rock at Poroporo, Waipapa rock, was where hāpuku were caught. *“Traditional fishing grounds cover the whole of the proposed [Taiapure] area and extend out to sea. Local Maori people still rely heavily for aquatic life for their food and medicinal uses, both in the home and on the marae.”*
56. Parimahu and its reef and rocky outcrop was particularly significant for koura, paua, kina, kūtai, hāpuku, moki and kahawai. Between Parimahu and Te Paerahi (Pōrangahau Beach) pipi, flounder and mussels were harvested. Flounder, sole and cockles were harvested up the Pōrangahau River and estuary. Steep cliffs boarder the whole stretch from Te Paerahi to the Cape. *“Small pockets of seaweed occur from Paerahi and at Poroporo. Most species occur similar to Pari-o-Mahu except mussels, pipis and to a lesser extent kina.”*
57. It was explained that *“Due to the rock structures and strong sea currents the area south of Porangahau provides one of the few and substantial breeding and development grounds for crayfish in New Zealand. This was recognised in Maori traditional culture. Whales, seals, sea elephant, mutton birds, sea birds eggs and moa eggs were once of significance and are no longer found in the area.”*
58. It is likely that there will be other traditional fishing grounds identified in the Customary Marine Title and Protected Customary Rights application areas, which are more extensive than the Taiapure area, during further research for this recognition order application. It is intended that further evidence will be provided.
59. In the 1992 Taiapure proposal it was further explained that *“These waters are surrounded by numerous pa sights located along the shore of the Taiapure. It is estimated that a population*

*of some 6000 inhabited this coastline attracted by the abundance of bird and sea life for kaimoana. Given that today's population of the area is well below this figure, some interesting management contrasts must be drawn between the habits of conservation practised traditionally by Maori and those of today as we face increasing concerns over the diminishing size of the resource. The original hapū fished both close to and well offshore. There is a story, that Captain Cook saw a mile long fishing net out in the bay as he passed along the coast. There is no question that a great deal of deep water fishing was done from canoes in the bay. The Porangahau Marae flag shows Te Huki's net of unity with one pole which stood at Whangara (Gisborne) the other at Poroporo (Cape Turnagain). Ngarangiwhakaupoko who received the mana from the union of hapū is also named on the flag. He controlled the conservation and husbandry of food sources so necessary for the well being of his people. It is this tradition of care which is needed to refurbish these once plentiful fishing waters, protected and husbanded by the original hapū laws and customs and now suffering through lack of care and concern. In all instances only half of the river were allowed to be netted, the dual object being to allow a fair portion of the fish life to reach the sea for spawning and to give downstream tribes, whether friend or foe, a share of food".*

60. During research on 'Maori methods and indicators for marine protection' with the Department of Conservation it was explained that *"Our [Ngāti Kere's] use of these key species is in part for whanaungatanga and as a presentation to manuhiri/visitors at our marae, which reinforces our mana. The predominant use is for sustenance, as operational necessities in our lives, and in education. These species were also traditionally used in an educational manner. Our elders made us aware of the role that these species play in our environment, our water systems and our riparian habitats. We were taught the importance of streamside vegetation to water quality and fish health. We were taught how one species is important to the life cycle of all species – how birds eat fish, how big fish follow the little fish upstream and affect the waters there, about how the interactions of paua, crayfish and gopro form an ongoing cycle. We use these species to remember the stories that teach us how to understand and manage our rohe moana. Apart from giving us food, these species and a variety of inland flora provide tools for weaving and carving, ornaments and components of our crafts, ropes, clothing, and the means to catch kai. We are reminded of these species through waiata/songs and the stories told by kaumatua/elders and rangatira on the paepae/threshold area/front. Species are also depicted in the adornment of our wharenui/meeting house through carvings, kowhaiwhai/rafter patterns and tukutuku/woven flax panels."*

61. It continues, *"Traditionally we [Ngāti Kere] harvested our main kaimoana species with nets, hand lines, lures and pots. The journals of James Cook record the Endeavour finding mile-long Maori nets within the Porangahau Bight. Hapū social structure dictated that only a certain limited number of people performed the catching of kaimoana; certain families tended to catch and provide specific species and distribute them to the rest of the hapū. The chiefly families had their wahi tapu/sacred places along the coast and people from the other classes would ask the*

*chiefly families for permission to fish within that area with the expectation that they would hand over a portion of the catch in compensation. Crayfish could be hand-collected from knee-deep pools or pots could be placed in the water from the reef shelves. Mussels and kina could be collected from rocks, rock shelves and pools at low tide. Lines could be thrown from the beach or riverbank or nets could be set and retrieved from canoes. Pipi and cockles could be easily collected from tidal sandy beaches. Creating cray pots from pirita/supplejack was time-consuming as was making kupenga/nets from harakeke/flax. These items tended to be works of art and they became taonga in the water so they were not left unattended while in use (unlike today's nets that can be left unattended in the water for days). Gathering specifically for preserving was practised throughout the year at the exact moment when a particular species was at its best. Not all kai species are at their best in the same season” (Ngati Kere, DOC and MfE, 2005).*

62. Ngati Kere hapū has clearly exercised non-commercial fishing rights in the application area and has done so since the 1700s. This matter may be taken into account in determining that Customary Marine Title exists for Ngati Kere hapū pursuant to section 59(1) of the Act. This information presented also goes toward establishing that Customary Marine Title exists for Ngati Kere hapū in the application area. It is expected that further evidence will be found during the research phase of this application process and presented as further evidence later.

## Conclusion

63. Information presented provides a strong foundation for establishing that a Customary Marine Title exists for Ngati Kere hapū within the application area (and beyond). **A recognition order is sought for Customary Marine Title for Ngati Kere hapū on the grounds that pursuant to sections 58 and 59 of the Act a Customary Marine Title exists for Ngati Kere hapū in the application area:**
- Ngāti Kere hapū has held the application area in accordance with tikanga since the 1700s.
  - Ngāti Kere hapū has exclusively used and occupied the application area from the 1700s to the present day without substantial interruption.
  - Whānau of the collective Ngati Kere hapū own land on a number of properties abutting the application area
  - Ngati Kere hapū exercise non-commercial customary fishing rights in the application area and have done so since the 1700s.
64. **A recognition order is sought for Protected Customary Rights for Ngati Kere hapū on the grounds that** Ngāti Kere hapū has undertaken customary activities within the Protected Customary Rights application area since the 1700s. A number of these customary activities fit within the bounds of section 51(1) of the Act and can be protected by a Protected Customary Rights as they have been undertaken by Ngati Kere hapū since long before 1840 and we



continue to undertake these activities in the application area, albeit in some instances using modern equipment, but nevertheless, in accordance with tikanga Māori.

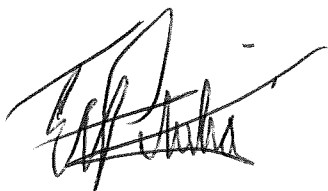
65. This application is supported by the affidavits of Ms Morehu Smith (nee Tutaki) and Kaumatua Piri Sciascia.
66. Ngāti Kere hapū intends to provide even further information to support these applications once funding for research and legal representation is secured.

Contact Details:

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Nā māua



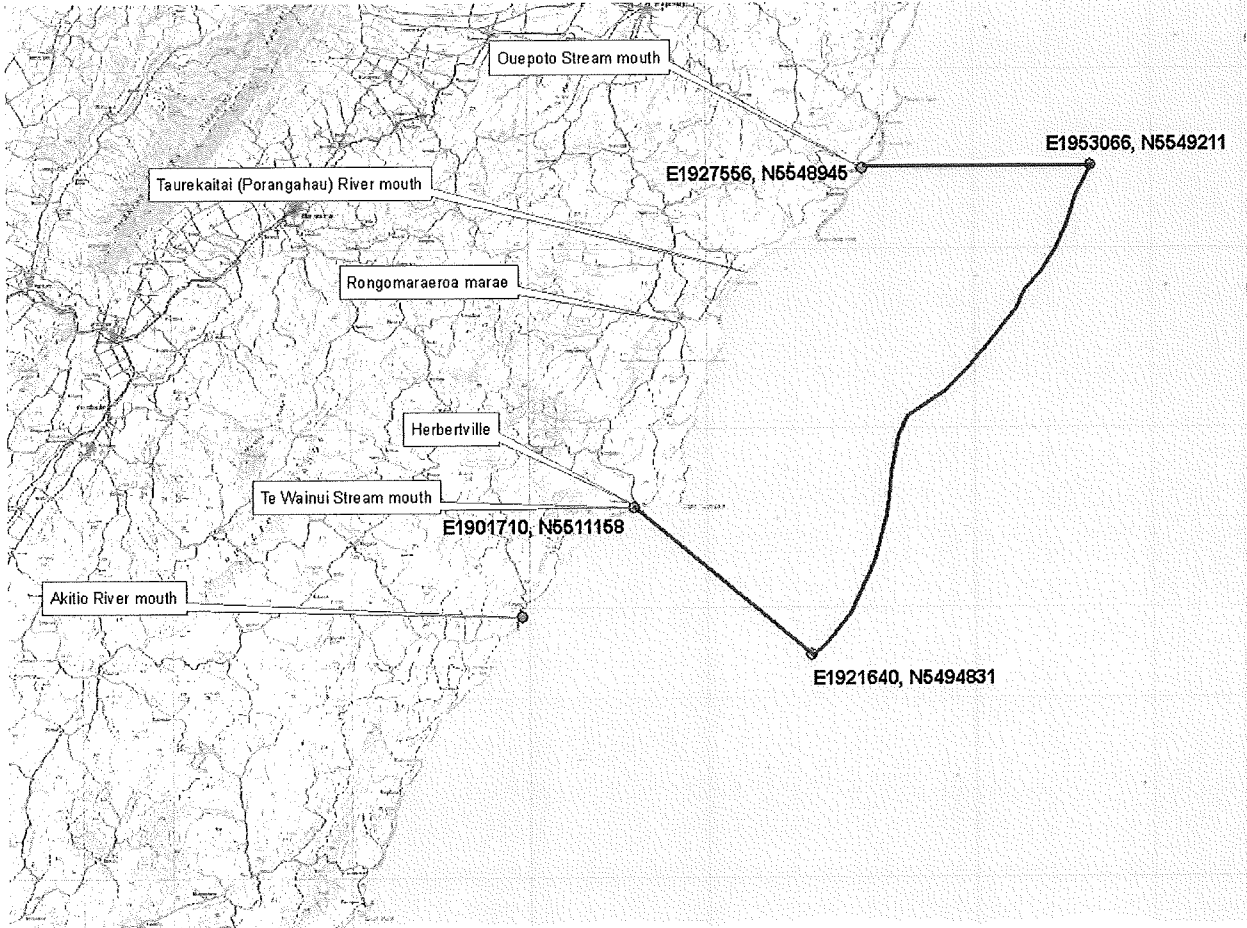
Ms Erin Tehekenga Petuha



Dr David Tipene-Leach

## Appendix 1: Maps

Map 1: Coast-line for Ngāti Kere Customary Marine Title application (coordinates shown in NZTM)



Map 2: Coast-line for the Ngāti Kere Ngāti Protected Customary Rights application  
(coordinates shown in NZTM)

