

Information Agenda

Date: Friday, 19 April, 2024

Elected Members: His Worship the Mayor Vince Cocurullo
Cr Gavin Benney
Cr Nicholas Connop
Cr Ken Couper
Cr Jayne Golightly
Cr Phil Halse
Cr Deborah Harding
Cr Patrick Holmes
Cr Scott McKenzie
Cr Marie Olsen
Cr Carol Peters
Cr Simon Reid
Cr Phoenix Ruka
Cr Paul Yovich

For any queries regarding this meeting please contact
the Whangarei District Council on (09) 430-4200.

1. Information Reports**1.1 Marine and Coastal Area (Takutai Moana) Act update****3****2. Public Excluded Business**

1.1 Marine and Coastal Area (Takutai Moana) Act Update

Agenda: Information Agenda
Publish date: 19 April 2024
Reporting officer: Simon Weston – Chief Executive

1 Purpose / Te Kaupapa

The purpose of this paper is to update Council on the progress of the claims made in the Whangārei area under the Marine and Coastal Area (Takutai Moana) Act 2011.

2 Background / Horopaki

Marine and Coastal Area (Takutai Moana) Act 2011

The Marine and Coastal Area (Takutai Moana) Act 2011 (MACA) recognises the customary interests of Māori in the marine and coastal area. The marine and coastal area is the area between high water springs and twelve nautical mile limits of the territorial sea.

A claim under the MACA can result in the recognition of three types of legal interest:

1. A right to participate in conservation processes;
2. Customary Marine Title (CMT); and
3. Protected Customary Rights (PCR).

The MACA process does not create the interest, but provides for the recognition and protection of existing rights through a legal mechanism.

Claim Process in Whangārei

Applications were made by seventeen claimants for recognition of customary marine title and protected customary rights. A list of the applicants and interested parties are included in Appendix 1. The Applications themselves are quite general in the nature of the claim, with the detail of exact location, nature of claim and historic references likely to emerge through evidence exchange and the hearing process.

While the applications were originally made in 2017, a number of procedural and other delays have meant that the hearings have only recently started. The hearings for the Whangārei area have been divided into Whangārei Harbour and Whangārei Coast (as illustrated on the map below).

Protected customary rights

- There is no requirement for a hapū/iwi group obtaining PCR to obtain any resource consent for the customary activity, use or practice that would otherwise be required.
- Local authorities will be required to monitor the exercising of PCR, and provision to apply to the Minister of Conservation for controls to be imposed on such rights.
- The ability for local authorities to carry out an assessment of environmental effects of a PCR at their own initiative, or when requested to do so by the Minister of Conservation (as a prerequisite to the Minister making a decision on whether to impose controls on the exercise of the relevant right).

Customary marine title

- Recognition of CMT can give iwi, hapū or whānau the right to say yes or no to proposed activities that need resource consent or permits within the CMT area (with some exceptions). CMT is a non-alienable interest in the land and can therefore not be sold or converted to freehold title.
- A requirement on Regional Council's to initiate a process to determine whether to alter their regional policy statements and regional coastal plans, and if so to what extent, to 'recognise and provide for' matters in a planning document applying within a CMT area. Decisions on alterations must follow the process set out in Schedule 1 of the RMA and meet the requirements of Part 5 of the RMA.
- A requirement on local authorities to take appropriate action to encourage public compliance with conditions applying to a wāhi tapu area (which can exclude public exclusion). The evidential threshold for obtaining wāhi tapu recognition and protection over a site is particularly high.

Once the hearings have completed, staff will provide an update on any outcomes that will affect Council. This is likely to be in late 2024/early 2025.

4 Attachments / Ngā Tāpiritanga

Appendix 1: List of Applicants and Interested Parties

Appendix 1: Applicants and Interested Parties

CIV	Applicant Group	Hearing	Application
CIV-2017-404-537	Ngā-Puhi-nui-tonu	Both	
CIV-2017-404-554	Nga Hapu o Ngati Wai Iwi	Both	
CIV-2017-404-563	Te Runanga o Ngati Whatua	Both	CIV-2017-404-000563 Te Runanga o Ngāti Whātua — Courts of New Zealand (courtsofnz.govt.nz)
CIV-2017-404-566	Te Waiariki, Ngati Korora, Ngati Takapari	Both	CIV-2017-404-000566 Te Waiariki, Ngati Korora, Ngati Takapari Hapu/Iwi, Hapu of Niu Tirenī — Courts of New Zealand (courtsofnz.govt.nz)
CIV-2017-404-573	Ngāti Tu ki Ngāpuhi	Both	CIV-2017-404-000573 Ngāti Tu ki Ngāpuhi — Courts of New Zealand (courtsofnz.govt.nz)
CIV-2017-404-579	Ngā Hapū o Tangaroa ki Te Ihu o Manaia tae atu ki Mangawhai	Both	CIV-2017-404-000579 Nga Hapu o Tangaroa ki Te Ihu o Manaia tae atu ki Mangawhai — Courts of New Zealand (courtsofnz.govt.nz)
CIV-2017-485-231	Ngati Hine	Harbour Only	CIV-2017-485-000231 Ngati Hine — Courts of New Zealand (courtsofnz.govt.nz)
CIV-2017-485-239	Te Rae Ahu Whenua Trust	Harbour Only	CIV-2017-485-000239 Te Rae Ahu Whenua Trust — Courts of New Zealand (courtsofnz.govt.nz)
CIV-2017-485-250	Ngati Pukenga	Harbour Only	CIV-2017-485-000250 Ngati Pukenga — Courts of New Zealand (courtsofnz.govt.nz)
CIV-2017-485-281	Patuharakeke Te Iwi	Both	CIV-2017-485-000281 Patuharakeke Te Iwi — Courts of New Zealand (courtsofnz.govt.nz)
CIV-2017-485-283	Ngātiwai	Both	CIV-2017-485-000283 Ngātiwai — Courts of New Zealand (courtsofnz.govt.nz)
CIV-2017-485-305	Te Parawhau	Both	CIV-2017-485-000305 Te Parawhau — Courts of New Zealand (courtsofnz.govt.nz)

CIV-2017-485-398	Ngati Kawau & Te Waiariki Korora	Both	CIV-2017-485-000398 Ngati Kawau & Te Waiariki Korora — Courts of New Zealand (courtsofnz.govt.nz)
CIV-2017-485-515	Reti Whanau	Both	CIV-2017-485-000515 Reti Whanau — Courts of New Zealand (courtsofnz.govt.nz)
CIV-2017-485-799	Te Parawhau Hapu	Both	CIV-2017-485-000799 Te Parawhau Hapu — Courts of New Zealand (courtsofnz.govt.nz)
CIV-2009-488-205	Te Uri O Hau Settlement Trust	Coast Only	CIV-2009-488-000205 Te Uri O Hau Settlement Trust — Courts of New Zealand (courtsofnz.govt.nz)
CIV-2017-404-555	Te Whanau o Hone Papita Raua Ko Rewa Ataria Paama	Coast Only	CIV-2017-404-000555 Te Whanau o Hone Papita Raua Ko Rewa Ataria Paama — Courts of New Zealand (courtsofnz.govt.nz)
Interested Parties	Attorney-General		
	Channel Infrastructure		
	Marsden Cove		
	Northport		
	Waka Kotahi		
	Langs Beach Society and Langs Cove Residents Association		