

**I TE KŌTI TAIAO Ō AOTEAROA  
IN THE ENVIRONMENT COURT  
OF NEW ZEALAND**

**ENV-2019-AKL-117  
ENV-2019-AKL-127**

**UNDER** the Resource Management Act 1991 (the Act)

**IN THE MATTER OF** appeals pursuant to Clause 14 of the First Schedule of the Act against decisions of the Northland Regional Council on the proposed Northland Regional Plan

**BETWEEN**

**Bay of Islands Maritime Park Incorporated**  
ENV-2019-AKL-117

**The Royal Forest & Bird Protection Society of New Zealand Incorporated**  
ENV-2019-AKL-127

**Appellants**

**AND** **Northland Regional Council**

**Respondent**

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**STATEMENT OF EVIDENCE OF MARK BELLINGHAM ON BEHALF OF TE URI O  
HIKIHICI HAPU**

**DATED 7 April 2021**

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**Solicitor Acting**  
Jason Pou  
Tu Pono Legal Limited  
1222 Eruera Street  
Rotorua  
E: [pou@tupono.co.nz](mailto:pou@tupono.co.nz)  
Ph: 07 348 0043

**Barrister Acting**  
Rob Enright / Ruby Haazen  
Arapeta Chambers &  
Magdalena Chambers  
Wānaka / Tamaki Makaurau  
E: [rob@publiclaw9.com](mailto:rob@publiclaw9.com)  
Ph: +64 21 276 5787

## 1. INTRODUCTION

- 1.1. My name is Mark Bellingham. I hold a PhD in Planning from Auckland University and I am a full member of the New Zealand Planning Institute. I am a fellow of the Environment Institute of Australia and New Zealand and I am an accredited Ecology Specialist. I am currently employed as a Principal Ecologist at Ecology New Zealand based in Albany, Auckland. Previously I was employed as a Principal Planner and Ecologist at Terra Nova Planning in Orewa, specializing in environmental planning and resource management services to public and private clients in the upper North Island.
- 1.2. I have been a planner and ecologist working in environmental planning and ecological management for more than 40 years. I have provided planning and ecological advice to Te Uri o Hīkīhiki since 2008. I have appeared as an expert witness in cases before the Planning Tribunal and Environment Court since 1986, including cases proposing marine protected areas on Bay of Islands County (Deep Water Cove), Tauranga Harbour (Tauranga City), Northern Kaipara Harbour (Kaipara District) and parts of the Auckland Region CMA in the Rural subdivision appeals on the Auckland Unitary Plan.
- 1.3. My evidence has been prepared in support of the Te Ha o Tangaroa Management Areas (Te Ha o Tangaroa MA) which Te Uri o Hīkīhiki have introduced through the statement of 11 December 2020 provided to the parties before the Environment Court on the PNRP.
- 1.4. I have prepared this evidence in relation to Te Uri o Hīkīhiki Hapu's submission for the hearing and participation in the expert planning caucusing in preparation for the hearing. I have also attended meetings with staff representatives of the Northland Regional Council and other section 274 parties including Ngāti Kuta, Patukeha, Patuharakeke and Ngāti Kuri Trust Board.
- 1.5. I confirm that I have read the Code of Conduct for expert witnesses contained in the Court's Practice Note 2014 and that I agree to comply with the Code. I also confirm that I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed in my evidence.
- 1.6. My statement focuses on the Te Ha o Tangaroa Management Areas which comprises text and maps. A copy is **attachment 2**.
  - 1.6.1. For *indigenous biodiversity*: s 30(2) does not prevent the Council performing its s30(1)(ga) statutory function to maintain indigenous biodiversity. A regional council will

need to be satisfied that the exercise of the s 30(1)(ga) function is appropriately addressed.

1.6.2. For **other effects**: RMA control on other fishing effects such as intrinsic values, wāhi tapu, navigation, natural landscape, and public access to the marine environment (such as non-fishing, commercial, tourism or recreational activity (not an exclusive list)) would likely fall outside the s 30(2) restriction.

## 2. **Te Ha o Tangaroa Management Areas**

2.1 Te Ha o Tangaroa Management Areas have been developed as a spatial plan by the Te Au o Morunga taumata to provide for the continuance of customary practices over the rohe moana of Te Uri o Hikihiki.

2.2 They have been proposed that these areas be incorporated into the PNRP to give relief to the Te Uri o Hikihiki s.274 notice to the BOI and RFBPS appeals. It has been developed to provide a resource management framework in the PNRP for the area shown as Te Ha o Tangaroa on sheet 3 of the Attachments to Di Lucas' Evidence in Chief. Te Ha o Tangaroa MA focuses on providing a management framework where Te Uri o Hikihiki can exercise their customary activities, protect their customary relationship with their rohe moana, restoration of kaitiakitanga and protection of cultural, intrinsic and natural values from the adverse effects of fishing activities, filling a significant gap in the PNRP. It also future proofs the relationship tangata whenua have with their rohe moana for future generations; and sets up a spatial entity for co governance and co management; and enables additions to be made by way of plan change in the future.

2.3 The Te Ha o Tangaroa shown on Sheet 3 of the Attachments to Di Lucas' Evidence in Chief identifies areas of the coastal marine area (CMA) along inshore reef systems from the southern Bay of Islands to Mimiwhangata.

2.4 The natural character attributes and values of the islands and reefs shown on Sheets 4 to 10 of the Attachments to Di Lucas' Evidence in Chief.

2.5 Any inconsistencies can be overcome or addressed by having appropriate objectives, policies, methods and maps in the PNRP that recognize and provide for integrated decision making for activities within the Te Ha o Tangaroa Management Areas.

2.6 This requires the following in the PNRP:

- a. Additional Objectives and Policies that address the requirements of the NZ Coastal Policy Statement
- b. Additional Objectives and Policies that address the matters in the Northland Regional Policy Statement
- c. Additional methods to implement the additional Objectives and Policies in A & B above.

- d. Overlays where the above Additional Objectives and Policies, and Objectives and Policies and Methods in the PNRP will be implemented.
- 2.7 The Te Ha o Tangaroa MA is shown Sheet 3 of the Attachments to Di Lucas' Evidence in Chief. They are developed as a planning response to the locations that Carmen Hetaraka and and Ngati Kuta witnesses have identified in their evidence, and in response to the cultural evidence of these witnesses.
- 2.8 Te Ha o Tangaroa MA is designed to:
- 2.9 Address a resource management issue and objectives in the NZCPS and NRPS.
- 2.10 Give effect to the suite of PNRP resource management objectives identified below that are directed at achieving integrated management of resources to achieve sustainable management of natural, physical and cultural heritage from the adverse effects that fishing activities may have on them;
- 2.11 Provide policy and methods to manage adverse effects of fishing activities on the ability of Te Uri o Hikihiki to exercise rangatiratanga, unique functions and customary interests under sections 6(e & g), 7(a & aa) and 8 of the Act, and protection of marine habitat for indigenous flora and fauna that are mauri/taonga to tangata whenua;
- 2.12 The policies and methods are devised to ensure the mauri is restored and not adversely affected by fishing activities, within the areas of special significance to tangata whenua, identified by Carmen Hetaraka of Te Uri o Hikihiki, and the kaitiaki of Ngati Kuta/Patukeha, in accordance with tikanga.
- 2.13 The polices and rules also provide for Area C where fishing activities may be carried out by way of consent once ecosystem health and biodiversity has recovered sufficiently to a condition which is more likely to sustain taonga species of flora and fauna. Based on the evidence that temporary or permanent damage or destruction or removal of fish, aquatic life or seaweed is a major contributor to adverse effects on the marine environment in Te Hā o Tangaroa Protection Areas, the rules manage those activities. No distinction is made between commercial and recreational activities, or customary fishing – all activities are covered without distinguishing between who conducts them or why.
- 2.14 Within Area C (Te Au o Morunga & Ipiriri Rakaumangamanga), establish an ecological state under which marine management activities may be consented – subject to management planning and environmental thresholds (kina barren level) or pre-conditions which need to be met before these activities may commence. In this way fishing may be provided for, having established that intrinsic values, mauri, health of the ecosystem and indigenous biodiversity are not being adversely affected or have recovered to a point of relative equilibrium so that the nature and frequency of fishing techniques and methods ensure these customary and natural values can be sustained.

- 2.15 Establishing an indicator of ecological health that is reasonably efficient to measure and without great expense and be effective in determining whether there is sufficient recovery to assess the effects of an application for removal of marine flora or fauna. The advantages of using kina count as an indicator of ecological health are addressed in evidence by Vince Kerr.
- 2.16 Make provision in the Te Ha o Tangaroa MA for the area to be managed by way of management planning and their policies and rule sets for activities other than those that are the sole domain of the FA.
- 2.17 Prohibited status applies to fishing activities within the Area A, rāhui tapu to provide the appropriate degree of protection for the high to outstanding mauri and cultural values, biotic, abiotic, intrinsic values, and perceptual attributes and values of natural character that apply within those areas. Prohibited status is directed at managing all adverse effects of fishing activities within rāhui tapu as the most effective means of achieving protection and recovery of ecosystems and biodiversity through natural processes without interference, and to recognize and provide for their highly revered and tapu status.
- 2.17.1 The most invasive activities of dredging, trawling and seine netting are prohibited activities in Te Ha o Tangaroa Areas A, B and C. These activities produce significant adverse effects on indigenous biodiversity within marine sites of ecological value and on marine biodiversity within high natural character areas. Policy seeks to avoid adverse effects or significant adverse effects within Te Ha o Tangaroa MA<sup>1</sup>. It was not only the disturbance to seabed but the impact that these activities<sup>2</sup> have on the protection of customary values, recovery of ecosystems and indigenous biodiversity. These “physical” abiotic and biotic effects are in addition to the esoteric, experiential and perceptual impacts of the relationship tangata whenua have with these areas.
- 2.17.2 Gill netting was considered in the same manner as (a) above.
- 2.17.3 The question of whether other methods of fishing that may be consented or not under appropriate circumstances, and if so by what consent path, is a matter for management plans for the Te Ha o Tangaroa MAs, that Te Uri o Hikihiki propose to develop under a co-governance framework with NRC where the local community will be consulted on the management plan contents.

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<sup>11</sup> EIC Dr Nicholas Shears 19 March 2021; EIC Dr Mark Morrison [29-39] 19 March 2021;

2.18 The balance area of the Te Ha o Tangaroa MA is identified as waahi taonga where fishing activities and their status in the plan are set out. The relevant consent path depends on the state of ecosystem health, generally by reference to the management plan for that area and kina barrens counts.

### **3. Additional Planning Provisions in the Proposed Northland Regional Plan**

3.1. The PNRP is a combined regional air, land, water and coastal plan. The introductory chapter of the proposed plan states “Of relevance to the region and this Plan are the higher-level provisions within national policy statements and the Regional Policy Statement. Under the RMA, this Plan is required to give effect to these higher order documents.” (pg.9 Appeals version).

3.2. I have reviewed the PNRP and its contents in relation to the coastal plan matters directly relevant to the matters raised by Te Uri o Hikihiki. I consider that it fails to consider or implement a number of National and Regional Objectives and Policies of these higher order documents. It also fails to implement these National and Regional Objectives and Policies that are absent from the PNRP through rules or other methods in the plan.

3.3. To overcome these deficiencies and to enable the measures proposed by Te Uri o Hikihiki be implemented, I propose the following Objectives, Policies and overlays be added to the PNRP:

- a) Additional Objectives and Policies that address the requirements of the NZ Coastal Policy Statement;
- b) Additional Objectives and Policies that address the matters in the Northland Regional Policy Statement;
- c) Additional methods to implement the additional Objectives and Policies in a & b above.
- d) Overlays to identify where the above Additional Objectives and Policies, and current Objectives and Policies and Methods in the PNRP to be implemented.

3.4. The key Objectives and Policies of the NZ Coastal Policy Statement that are absent from the PNRP Objective 3: “To take account of the principles of the Treaty of Waitangi, recognise the role of tangata whenua as kaitiaki and provide for tangata whenua involvement in management of the coastal environment by:

- recognising the ongoing and enduring relationship of tangata whenua over their lands, rohe and resources;
- promoting meaningful relationships and interactions between tangata whenua and persons exercising functions and powers under the Act;
- incorporating mātauranga Māori into sustainable management practices; and

- recognising and protecting characteristics of the coastal environment that are of special value to tangata whenua.”

3.5. Objective 3 is directly implemented through Policy 2. The NZCPS Guidance Note states that Policy 2 of the NZCPS 2010 “concerns the Treaty of Waitangi; and the connection and relationships that tangata whenua have with the coastal environment, promotes tangata whenua involvement in coastal decision-making, and recognises the importance of Māori cultural and heritage values.

3.6. In his witness statement Mr Hetaraka<sup>3</sup> has described how Te Uri o Hikihiki and their tupuna have had continuous occupation of the coastline from Motukokako (Cape Brett) to Mimiwhangata for 28 generations and are in the final process of getting customary title for the seabed over this area through the Marine and Coastal Areas Act. At no point in the drafting or development of the PNRP have Northland Regional Council consulted the hapu or Mr Hetaraka, who is the lead kaumatua for the MACA claim.

3.7. I have examined the Draft NRP and the summary of submissions to the draft regional plan<sup>4</sup> and I have been unable to identify any processes the Council undertook to consult with tangata whenua, particularly the hapu affected by these appeals. I have been unable to find:

- any feedback from any iwi and hapu consultation regarding their relationship with their rohe moana;
- any acknowledgement of mātauranga Māori from iwi and hapu, and its incorporation into sustainable management practices in the PNRP; and
- any parts or characteristics of the coastal environment that are of special value to tangata whenua that have been identified and protected through interactions between tangata whenua and staff or agents of the Council preparing this plan.

3.8. Regional policy statements and regional plans must give effect to the NZCPS. The Supreme Court has determined that ‘give effect to’ means ‘to implement’.<sup>5</sup>

3.9. The Northland Regional Policy Statement Objectives 13-18 address the NZCPS Objective 3 and Policy 2, but these matters have not been carried forward into the PNRP so that these national and regional objectives and policies can be implemented.

3.10. I recommend the addition of the following Objectives and Policies that address the requirements of the NZ Coastal Policy Statement, in relation to the matters raised by Te Uri o Hikihiki:

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<sup>3</sup> EIC Carmen Hetaraka March 2021;

<sup>4</sup> Draft Regional Plan for Northland SUMMARY OF FEEDBACK October 2016  
<https://www.nrc.govt.nz/media/sr5kmcd0/summaryoffeedbackondraftregionalplan.pdf>

<sup>5</sup> <https://www.courtsofnz.govt.nz/cases/environmental-defence-society-incorporated-v-the-new-zealandking-salmon-company-limited-ors>, at paragraph 77

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- 3.10.1. To provide for partnerships with the active involvement of tāngata whenua in management of the coastal environment when activities may affect their taonga, interests and values.**
- 3.10.2. Te Uri o Hikihiki have proposed co-management of two areas adjoining the Mimiwhangata Rāhui Tapu Area, in order for marae at Mokau and Whananaki to actively participate in the protection of the rāhui tapu. This has been opposed by Northland Regional Council in their initial response to Te Uri o Hikihiki's summary statement.<sup>6</sup>
- 3.10.3. Objective 14 of the NRPS provides for "Tāngata whenua are able to undertake customary activities in the coastal marine area, and access to sites used for cultural practices, gathering kaimoana, mahinga mātaimai and areas of cultural significance is maintained or enhanced."
- 3.10.4. I strongly support the following policies to be added to the PNRP to implement this NRPS Policy:
- 3.10.5. Provision be made for Te Uri o Hikihiki, Ngati Kuta and Patukeha to actively co-manage Te Ha o Tangaroa Management Areas within the CMA of their rohe moana."**
- 3.10.6. Co-management methods will include management plans for each of the Te Ha o Tangaroa Management Areas.**
- 3.10.7. Co-management will include agreement on monitoring methods to monitor the cultural, biotic and abiotic health, landscape and natural character values of the Te Ha o Tangaroa Management Areas within the CMA.**
- 3.11. To implement NRPS Objectives 15 and 16, Te Uri o Hikihiki are seeking the following policies to be added to the PNRP:
- 3.11.1. Protect the identified values and attributes of the Te Ha o Tangaroa Management Areas from inappropriate activities and uses.**
- 3.11.2. Provide for the protection of indigenous biological diversity, landscape, natural character and cultural values and attributes in the Te Ha o Tangaroa Management Areas**
- 3.11.3. Restore or rehabilitate areas of cultural significance, including significant cultural landscape features and culturally sensitive landforms and the mauri of coastal waters, where customary activities are restricted or compromised.**
- 3.11.4. Improve knowledge and understanding of the impact of activities on the values and attributes of the Te Ha o Tangaroa Management Areas.**
- 3.11.5. Provide for scientific research activities (including those based on Mātauranga Maori) that contribute to a better understanding of subtidal marine habitats, biodiversity**

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<sup>6</sup> NRC response to TUOH statement ??/1/2021.

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and ecosystems in the coastal marine area, and the effects of other activities on those species, habitats and ecosystems.

- 3.11.6.** Investigate appropriate measures to manage activities which are having adverse effects on the identified values and attributes of the Te Ha o Tangaroa Management Areas

#### **4 Basis on which Te Ha o Tangaroa MAs have been identified**

- 4.10 The provisions give effect to the maps and schedules of values and attributes as set out in the statement to the Court (11 Dec 2020).
- 4.11 Experts engaged by Te Uri o Hikihiki address the effects that fishing activities have had on the ecology and mauri of the CMA within the Te Ha o Tangaroa MA and most noticeably around Mimiwhangata. I do not propose to address those effects instead I rely on their statements.
- 4.12 My observation as a planner and ecologist, but not having specific expertise in subtidal marine science, is that the information available on the state of environment for the proposed Mimiwhangata Rāhui Tapu has some of the longest period of monitoring and information gathering for any subtidal area in New Zealand; this has combined with the strong and detailed relationship tangata whenua have with the area including taonga species. The poor control of adverse fisheries activities under the Mimiwhangata Marine Park regulations (FA) gives a strong indication that more permanent measures to protect the cultural and natural heritage values of the area from the adverse effects of fishing activities are warranted, in order to achieve the purpose of the RMA and directives of NZCPS, RPS and objectives of the PNRP, and the issues raised by Te Uri o Hikihiki in their s.274 notice, including exercising rangatiratanga and actively protecting their relationship with their taonga species.
- 4.13 The issue statement together with the objectives on integrated management, natural heritage and iwi resource management establish the need for appropriate measures to be put in place to address the impact that fishing activities create on the environment with particular attention to Te Uri o Hikihiki Hapu exercising their unique functions and customary interests under sections 6(e & g), 7(a & aa) and 8 of the Act, protecting the cultural values and attributes of ecosystems and biodiversity values within areas of outstanding, very high or high natural character.
- 4.14 The Te Ha o Tangaroa MA are listed below and mapped on the Te Uri o Hikihiki Statement to all parties on 7 December 2020:

<b>Traditional Area</b>	<b>Traditional Name</b>
A	Mimiwhangata Rāhui Tapu

B	Mimiwhangata Buffer Areas
C	Te Au o Morunga

- 4.10 My planning response to the evidence, both expert, customary and anecdotal evidence, as well as my own observations, are that fishing activities have had significant adverse effects on biodiversity and the natural state of the environment and the customary relationship tangata whenua have had with their rohe moana. To encourage restoration of mauri, ecological health and biodiversity; and to avoid, remedy or mitigate adverse effects on the natural heritage values (natural character, and ONFLs), intrinsic values, cultural attributes and values present, it would be appropriate to introduce management controls to ensure adverse effects of fishing activities are managed.
- 4.11 A review of the PNRP objectives, policies and methods identified that the plan fails to address NZCPS and RPS objectives and policies and fails to implement these with appropriate methods.
- 4.12 There are no policies and methods in the PNRP to manage the adverse effects of fishing activities cultural and natural values and attributes of Te Ha o Tangaroa MAs identified by Te Uri o Hikihiki and its expert. It is appropriate to provide policies and methods to achieve the objectives and to avoid adverse effects of fishing activities on the outstanding qualities of the area and to avoid significant adverse effect on the values and attributes of these areas of high and very high natural character.

## 5 s32AA Assessment

- 5.1 The s 32AA assessment in the first instance involves consideration of alternative methods – those other than RMA. The options are:
- a. For the Mimiwhangata Rāhui Tapu: Marine Reserve under the Marine Reserves Act 1971, these are referred to as Marine Protected Areas Type 1 (MPA Type 1) because of the high level of protection they provide. A broad range of activities can be managed, controlled or excluded.
  - b. Marine Protected Areas Type 2 (MPA Type 2); There are a broad variety but to be Type 2 they must meet a protection standard which requires prohibition of bottom trawling, Danish Seining and purse seining, and dredging (amateur and commercial). In some locations and conditions bottom gill netting and potting may be required to be prohibited and other fishing and non-fishing activities shall not unduly disturb ecological systems, natural species composition and trophic linkages. Currently work on identifying locations to establish a network of representative examples of a full range of marine habitats and ecosystems is being carried out. This is a much larger

project on a grander scale than these areas within the rohe moana of hapu in eastern Northland. It may take some time to identify, let alone establish, networks of representative examples through the north eastern biogeographic region (or bioregion of NZ) comprising the entire east coast of the North Island from west of North Cape to East Cape.

- c. Temporary Closure to Fisheries under Section 186A Fisheries Act.  
An application for closure has been made and refused.
  - d. Status quo – will not address the adverse impacts of fishing on the relevant cultural, landscape and natural character values and relationships identified.
- 5.2 The options considered above, under other legislation, cannot deal adequately with the RMA purpose or range of matters addressed under the RMA by the NZCPS and Northland RPS. Nor can they manage effects of fishing appropriately, taking into account the protection of matters advanced by Te Uri o Hīkīhiki for the implementation of ss. 6 natural, intrinsic and cultural considerations within the CMA at a regional level in the manner provided for by way of the PNRP with proposed amendments.
- 5.3 An application under the Marine Reserves Act was proposed by DOC, but this was abandoned by DOC. The proposal did not provide for Te Uri o Hīkīhiki and Te Whanau Whero to exercise kaitiakitanga to the proposed MPA area.
- 5.4 A brief evaluation of the use of a generic Management Area or Management Plan as a method to manage areas of high value in order to achieve kaitiakitanga and an appropriate restored natural state recognizing and providing for indigenous biodiversity and tangata whenua values. This establishes that the proposed Management Area approach provides an effective and efficient means of achieving NZCPS and NRPS objectives policies.
- 5.5 Fuller evaluation of the proposed Te Ha o Tangaroa MA comparing do nothing option with the Council's option and the Te Ha o Tangaroa MA option is set out in the Table below:

<b>Method</b>	<b>Positive &amp; Negative issues</b>
Management & Protection of Te Ha o Tangaroa MA as proposed by hapu	Can address kaitiakitanga, active involvement of tangata whenua in the management of rohe moana, protection and management of cultural values and customary practices in rohe moana. Along with protection and management of biodiversity, natural character and landscape values. Active involvement of tangata whenua in management of buffer areas provides for active management of biodiversity values to protect rahui tapu including kutai reseeding and kina removal.
DOC MPA Type 2	Can address protection and management of biodiversity, natural character and landscape values.

	Does not address kaitiakitanga, active involvement of tangata whenua in the management of rohe moana, protection and management of cultural values and customary practices in rohe moana.
Temporary Closure to Fisheries under s.186A FA	Only addresses FA issues on a temporary basis (usually 2 years). Does not address kaitiakitanga, active involvement of tangata whenua in the management of rohe moana, protection and management of cultural values and customary practices in rohe moana.
Do nothing option	No positive issues, does not address kaitiakitanga, active involvement of tangata whenua in the management of rohe moana.

## 6 Conclusion

- 6.1 For the reasons set out above and in the expert evidence produced by Te Uri o Hikihiki, I recommend the amendment of the PNRP to implement the Te Ha o Tangaroa MA Areas A, B and C.
- 6.2 The absence of the policy requirements of the NZCPS and Northland RPS in the NRP, in my view has precipitated the NRP not appropriately addressing:
- a. Consultation with tangata whenua of the identified Te Te Ha o Tangaroa Areas;
  - b. Recognition of the role of tangata whenua as kaitiaki;
  - c. Active involvement of tangata whenua managing Te Ha o Tangaroa Areas within their rohe moana; and
  - d. Active involvement of tangata whenua in protecting Te Ha o Tangaroa Areas within their rohe moana.

Dr Mark Bellingham

Principal Planner

Aristos Consultants Ltd

[m.bellingham96@gmail.com](mailto:m.bellingham96@gmail.com)

7 April 2021

## Attachments

### 1 Form 33 – Notice of Person who wish to be a party to the proceedings

#### Form 33

#### Notice of person's wish to be party to proceedings Section 274, Resource Management Act 1991

To the Registrar  
Environment Court  
Auckland

Te Uri o Hikihiki Hapu, wish to be a party to the following proceedings:

- a. ENV-2019-AKL-000127 Notice of appeal by The Royal Forest and Bird Protection Society of New Zealand (Forest & Bird) against parts of the decisions of the Northland Regional Council on the proposed Northland Regional Plan (proposed Plan).
- b. ENV-2019-AKL-000117 Notice of appeal by The Bay of Islands Maritime Park Incorporated (BOIMP) against parts of the decisions of the Northland Regional Council on the proposed Northland Regional Plan.

The Hapu has an interest in the proceedings that is greater than the interest of the general public in that

1. The Hapu is the tangata whenua for the coastal and marine area from Motukokako to Mimiwhangata and has ahi kaa.
2. The Hapu is recognised by the Waitangi Tribunal as the mandated Hapu for the area from Motukokako to Mimiwhangata, and has a registered application with the Office for Maori Crown Relations (Marine and Coastal Area Act – MAC -01-01-144). The Northland Regional Council has been notified by OMCR of this application and others within the Northland Region.
3. The Hapu seeks to exercise its unique functions and customary interests under sections 6(e & g), 7(a & aa) and 8 of the Act.
4. In doing so protect rohe moana (customary marine waters and seabed, and coastal environment) for the purposes of sections 6 (a, b, c, e, g), 7 (a, aa, b, c, d, f, g & i) of the Act.

The Hapu is not a trade competitor for the purposes of section 308C or 308CA of the Resource Management Act 1991.

The Hapu is directly affected by the effects of the subject of the appeals and the decisions of the Northland Regional Council on the plan changes to the Proposed Northland Regional Plan, as they adversely affect the environment and our exercise of customary functions and kaitiakitanga.

The Hapu has not been consulted on the matters affecting the Hapu within the plan changes to the Proposed Northland Regional Plan or the Council's decisions that affect the coastal marine area within our rohe moana.

The Hapu is interested in that part of the proceedings referred to above and the matters in the appeals by

- Bay of Islands Maritime Park Incorporated and including the matters referred to in paragraphs 20-24 of the BOIMP appeal.
- Royal Forest and Bird Protection Society of New Zealand Incorporated including the matters referred to in paragraphs 6-8 of the Forest & Bird appeal.

The Hapu generally supports the relief sought by these appellants because they address some of the matters 2—4 referred to above.

The Hapu agrees to participate in mediation or other alternative dispute resolution of the proceedings.

Carmen Hetaraka

Person authorised to sign on behalf of Te Uri o Hikihiki Hapu wishing to be a party

Date            1st July 2019

Address for service of person wishing to be a party: 96 Bethells Rd, Waitakere 0781

Telephone: 021552295

Fax/email: m.bellingham96@gmail.com

Contact person: Dr Mark Bellingham

**2. Te Uri o Hikihiki memo re. scope of s.274 notice circulated to parties 10 December 2020**

**3. NRC response to Te Uri o Hikihiki statement February 2021**

## **Te Mana o Tangaroa Protection Areas – Northland Regional Plan**

These provisions will protect the:

1. Mimiwhangata Rahui Tapu (Totally closed area as proclaimed by Hopeke Piripi in 2003)
2. Buffer areas around the Rahui Tapu to be managed by NRC & Te Uri o Hikihiki marae.
3. Te Au o Morunga (the offshore reefs) from bottom-trawling, purse-seine & Danish seine trawling to protect the mauri of Te Uri o Hikihiki, Ngati Kuta and Patukeha hapu, including– albatross and other seabirds, white pointer, dolphins, electric ray and other species.

### **F OBJECTIVES**

#### **F.1.? Te Mana o Tangaroa Protection Areas**

Protect the mauri and taonga species and their habitats, and customary values that make up Te Mana o Tangaroa Protection Areas from inappropriate disturbance, use and development.

#### **F.1? Investigate Additional Te Mana o Tangaroa Protection Areas**

Investigate areas that may qualify as further Te Mana o Tangaroa Protection Areas and implement measures for those areas that will protect them from inappropriate disturbance, use and development.

### **D POLICIES**

#### **D.2.? Manage adverse effects In Te Mana o Tangaroa Protection Areas**

- (1) Avoid adverse effects of activities on the identified characteristics, qualities and customary values of Te Hā o Tangaroa /Te Mana o Tangaroa Protection Areas – Sub Areas A
- (2) Avoid, remedy or mitigate adverse effects of activities on the identified characteristics, qualities and customary values of Te Hā o Tangaroa /Te Mana o Tangaroa Protection Areas – Sub Areas other than Sub Areas A

#### **D.2.? Additional Te Mana o Tangaroa Protection Areas**

- (1) Provide for proposals from tāngata whenua and/or the community to identify, investigate and monitor areas of the coastal marine area that are, or are likely to be, adversely affected by activities (including fishing).
- (2) Where Te Mana o Tangaroa Protection Areas have been identified, introduce the further marine spatial planning mechanisms that may be required to protect and restore them.

### **C Rules**

#### **C.1 Coastal activities**

##### **C.1.9 Te Mana o Tangaroa Protection Areas**

##### **C.1.9.1 Temporary or permanent minor damage or destruction or removal of plants or animals in a Te Mana o Tangaroa Protection Area – permitted activities**

The following activities in a Te Hā o Tangaroa /Te Mana o Tangaroa Protection Area involving the temporary or permanent damage or removal of plants or animals are permitted activities, where

this is for the purpose of protecting or enhancing a Te Hao Tangaroa Protection Area and consistent with the values and purposes of that area, subject to any other applicable rules:

1. Kina management.
2. Customary marine management by hapu, whanau or marae as provided for in an Area B management plan
3. Resource consent monitoring undertaken in accordance with resource consent conditions.
4. Marine biosecurity incursion investigation and/or response.
5. Wildlife rescue.
6. Monitoring and enforcement carried out by a regulatory agency.
7. Mooring, anchoring and hauling small vessels ashore.
8. Scientific research, conservation activities and monitoring undertaken by, under the supervision of, or on behalf of, the following entities:
  - i. Crown research Institutes.
  - ii. Recognised Māori research entities.
  - iii. Tertiary education providers.
  - iv. Regional Councils.
  - v. Department of Conservation.
  - vi. Ministry for Primary Industries.
  - vii. An incorporated society or trust having as one of its objectives the scientific study of marine life or natural history, or the maintenance of matauranga Maori.

#### **C.1.9.2 Temporary or permanent damage or destruction or removal of plants or animals in a Te Mana o Tangaroa Protection Area – Sub Area A**

1. Any activity involving the temporary or permanent damage of the seabed or destruction or removal of fish, aquatic life or seaweed that is not a permitted activity in Section C.1.9 of this Plan, is a prohibited activity.
2. Any activity involving the temporary or permanent or removal of the following species of shark: mangō taniwha/great white\* (*Carcharodon carcharias*), mako (*Isurus oxyrinchus*), thresher (*Alopias vulpinus*), blue (*Prionace glauca*), ururoa/hammerhead (*Sphyrna zygaena*), and bronze whaler (*Carcharhinus brachyurus*), is a prohibited activity.

#### **C.1.9.3 Temporary or permanent damage or destruction or removal of plants or animals in a Te Mana o Tangaroa Protection Area – Areas Other than Sub-Area A**

1. Any activity involving the temporary or permanent damage of the seabed or destruction or removal of fish, aquatic life or seaweed by:
  - a. Bottom trawling.
  - b. Bottom pair trawling.
  - c. Danish seining.
  - d. Purse seining,
  - e. Longlining without the use of approved seabird mitigation devices, other technology to avoid seabird capture, and on-board monitoring cameras and devices;



that is not a permitted activity in Section C.1.9.1 of this Plan, is a prohibited activity.

2. Any activity involving the temporary or permanent damage of the seabed or destruction or removal of fish, aquatic life or seaweed by scallop dredging in Sub-Area B is a prohibited activity.
3. Any activity involving the temporary or permanent damage of the seabed or destruction or removal of fish, aquatic life or seaweed that is not a permitted activity in Section C.1.9.1 of this Plan and is not a prohibited activity in Section C1.9.3.1, is a discretionary activity.
4. Any activity involving the temporary or permanent damage of the seabed or removal of fish, aquatic life or seaweed that is not a permitted activity in Section C.1.9.1 of this Plan, must be provided for in the management plan for Mimiwhangata Buffer Area West and Mimiwhangata Buffer Area East, otherwise it is a non-complying activity.
5. The Management Plan(s) will provide site specific rules for the matters in Rule C.1.9.1 (a-i).
6. Northland Regional Council will consult with Te Uri o Hīkīhiki Hapu and Mokau and Whānānaki Marae Committees in the preparation of Hapu Management Plans for the Mimiwhangata Buffer Areas (West & East) with an agreed process.
7. Customary management will be undertaken in accordance with the management plan(s) for Mimiwhangata Buffer Areas West & East.
8. Customary management by Te Uri o Hīkīhiki Hapu, through the Mokau and Whānānaki Marae cannot commence until a management plan for a buffer area has been completed and notified.
9. Management plans will be reviewed every 10 years or at a lesser term as may be determined by management needs of the respective marae committee.

## MAPS

Map Layer	Description
Te Mana o Tangaroa Protection Areas	<p>These areas are overlays within identified Significant Ecological Areas, Significant Bird Areas, Significant Marine Mammal and Seabird Areas, Sites and areas of significance to tangata whenua or Outstanding or High Natural Character areas. The areas have been identified as being particularly vulnerable to environmental or cultural degradation such that specific protection is justified, focused on avoiding adverse effects arising from extraction of flora and fauna, and disturbance of the seabed.</p> <p>In some cases, Taiapure and Mataitai areas are excluded. This is where the management of those areas already satisfies the objectives</p>

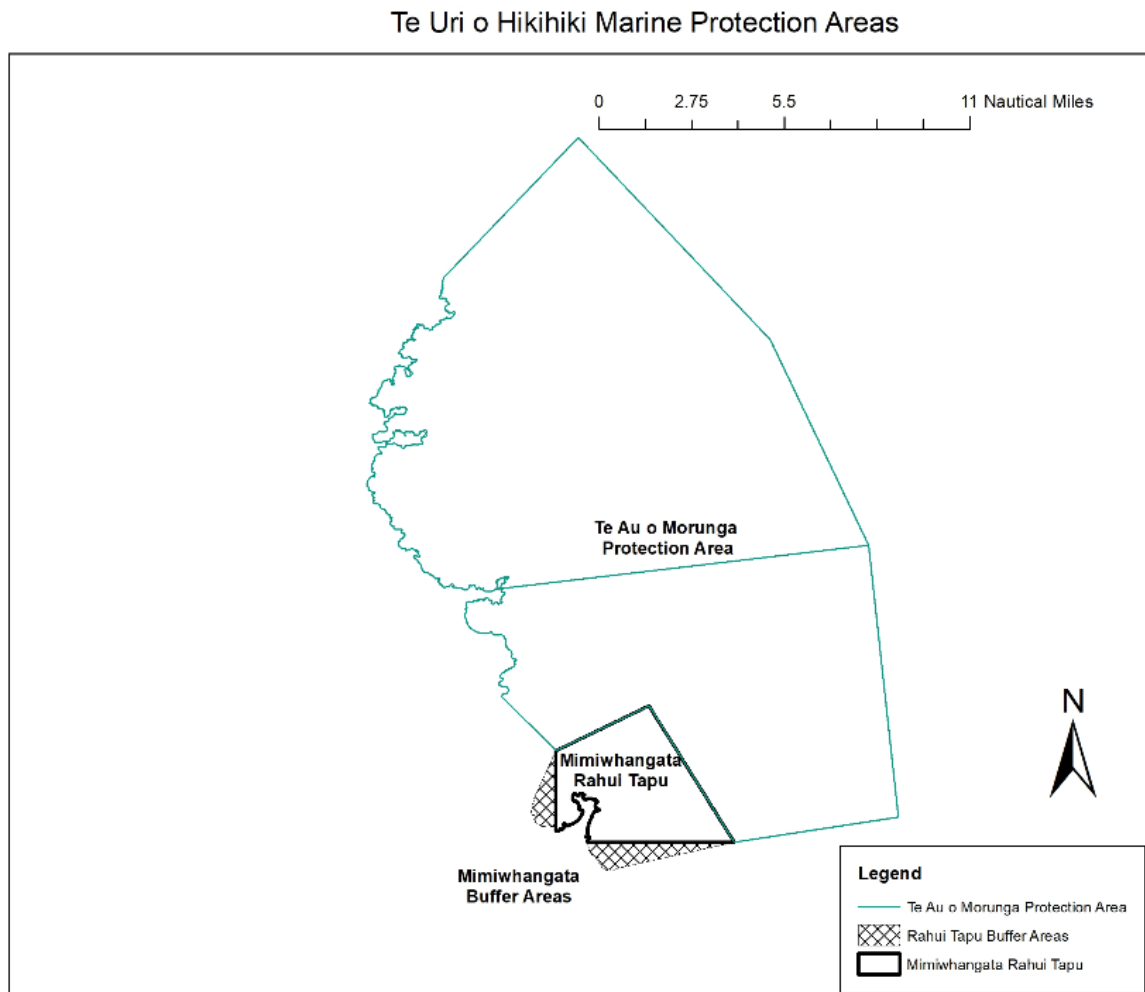
	<p>of Te Hāo Tangaroa Protection Areas and iwi / hapu have determined that further protection through this regional plan is not required.</p> <p>Te Mana o Tangaroa Protection Areas are broken down into sub-areas which have different combinations of characteristics, qualities and values and appropriate levels of protection from activities that may permanently or temporarily damage these characteristics, qualities and values – (see the Te Hā o Tangaroa Protection Area Assessment Sheets [or Schedules]).</p> <p>Note that rohe moana areas often overlap and hapu have come together to map the Te Hao Tangaroa Protection Areas where there are shared rohe moana.</p>
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These areas appear to fit best in the Sites and Areas of Significance to Tangata Whenua layer (D.1)

Plan provides for landscapes of significance to TW to be considered for consent applications D.1.5.3(b) footnote.

**MAPS**

**Te Mana o Tangaroa Protection Areas – Te Uri o Hikihiki**



**Topic 14 – Marine Protected Areas**  
**Northland Regional Council position**  
**5 February 2021**

Northland Regional Council's position on the Appellants and Te Uri O Hīkīhiki Hapu's relief for fishing controls in the Bay of Islands and Mimiwhangata is as follows:

- Council supports the principle of fishing controls in BOI and at Mimiwhangata in some form to protect at-risk indigenous biodiversity and/or habitat from the adverse effects of fishing.
- Based on the evidence to date, council considers there is merit in fishing controls for:
  - Bay of Islands*
    - Area A
    - Area B (restricting dredging only, not other fishing techniques)
  - Mimiwhangata*
    - Rahui Tapu area
- Based on the evidence to date, council is not yet convinced of the merit of fishing controls for:
  - Bay of Islands*
    - Area A buffer zone
    - Area B (with exception of dredging)
    - Area C
  - Mimiwhangata*
    - Buffer areas around the Rahui Tapu area
    - Te Au o Morunga area (beyond the Rahui Tapu area)
- There are specific aspects of the proposals council is unlikely to support for planning or legal reasons:
  - Te Uri o Hīkīhiki's proposal process for preparing a management plan and linking rules to the output of the management plan.
  - Provisions directing actions for councils (e.g. council to investigate x). The structure of the Regional Plan does not include methods (other than rules).
  - Proposed rules in the Te Uri o Hīkīhiki proposal providing an exception for "customary marine management".
  - Te Uri o Hīkīhiki's proposed species-specific restrictions (such as prohibitions on catching certain types of shark).
- Other specific comments:
  - The objectives should better define what the proposed controls aim to achieve (particularly from an ecological perspective) in each management area.
  - Further expert comment on the expected benefits of the size of BOI Area A (as a no-take area) would assist in assessing the merits of the proposal.
  - A clear explanation for the boundaries of the Rahui Tapu area, including why it does not match the current marine park boundary.
- Reserves its position on all other aspects of the proposal (including the specific wording of the provisions) until its evidence in chief.