

Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Bill (No 2)

Government Bill

Explanatory note

General policy statement

This Bill—

- gives effect to a deed of agreement between ngā hapū o Ngāti Porou and the Crown in relation to ngā rohe moana o ngā hapū o Ngāti Porou; and
- contributes to the legal expression, protection, and recognition of the continued exercise of mana by ngā hapū o Ngāti Porou in relation to ngā rohe moana o ngā hapū o Ngāti Porou.

Background

On 31 October 2008, the Crown and Te Rūnanga o Ngāti Porou (on behalf of certain hapū of Ngāti Porou) signed a deed of agreement in relation to ngā rohe moana o ngā hapū o Ngāti Porou (the **deed of agreement**).

On 29 September 2008, a Bill giving effect to the deed of agreement—the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Bill—was introduced to the House of Representatives. That Bill, in part, gave effect to agreements reached between the Crown and certain hapū of Ngāti Porou under the repealed Foreshore and Seabed Act 2004. That Act was repealed following a review by the Marine and Coastal Area (Takutai Moana) Act 2011. The Crown and Te Rūnanga o Ngāti Porou (on behalf of certain hapū of Ngāti Porou) have agreed to amend the deed of agreement to align it, where required, with the Marine and Coastal Area (Takutai Moana) Act 2011. This Bill gives effect to the amended deed of agreement where required. It replaces the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Bill introduced on 29 September 2008.

Te Rūnanga o Ngāti Porou has undertaken a process of seeking ratification of the amended deed of agreement by ngā hapū o Ngāti Porou. The ratification results have now been assessed. A deed to amend the deed of agreement was signed by the parties on 9 August 2017.

Purpose of Bill

The purpose of the Bill is to give effect to the deed of agreement between ngā hapū o Ngāti Porou and the Crown in relation to ngā rohe moana o ngā hapū o Ngāti Porou. This Bill will contribute to the legal expression, protection, and recognition of the continued exercise of mana by ngā hapū o Ngāti Porou in relation to ngā rohe moana o ngā hapū o Ngāti Porou.

The deed of agreement provides for ngā hapū o Ngāti Porou to have customary interests (including customary marine title) recognised within ngā rohe moana o ngā hapū o Ngāti Porou. *Part 4* of the Bill gives effect to these provisions. The Bill provides that, in ngā rohe moana o ngā hapū o Ngāti Porou, Parts 3 and 4 of the Marine and Coastal Area (Takutai Moana) Act 2011 cease to apply (with some exceptions) to ngā hapū o Ngāti Porou and *Part 4* of this Bill provides for the recognition of their customary interests instead.

The deed of agreement contains various recognition instruments. Some of those instruments require legislation to be given full effect, particularly those that affect other legislation such as the Conservation Act 1987, the Resource Management Act 1991, and the Fisheries Act 1996.

The Bill seeks to achieve the following outcomes:

- to recognise the unbroken, inalienable, and enduring mana of the hapū of Ngāti Porou in relation to ngā rohe moana o ngā hapū o Ngāti Porou, which is held and exercised as a collective right; and
- to provide legal mechanisms that support the expression and protection of the mana of the hapū of Ngāti Porou generally and in those specific areas where customary marine title rights are recognised in accordance with *Part 4* of the Bill; and
- to recognise that the Crown has a responsibility for public access in, on, and over the common marine and coastal area, and a role in regulating it; and
- to provide certainty about the use and administration of ngā rohe moana o ngā hapū o Ngāti Porou.

Deed of agreement

The marine and coastal area means the marine area that is bounded, on the landward side, by the line of mean high-water springs and, on the seaward side, by the 12-nautical-mile limit. The common marine and coastal area means the marine and coastal area other than—

- specified freehold land located in that area; and
- any area that is owned by the Crown and has the status of a conservation area within the meaning of section 2(1) of the Conservation Act 1987, a national park within the meaning of section 2 of the National Parks Act 1980, or a reserve within the meaning of section 2(1) of the Reserves Act 1977; and
- the bed of Te Whaanga Lagoon in the Chatham Islands.

Ngā rohe moana o ngā hapū o Ngāti Porou is the common marine and coastal area in the rohe of the hapū that ratified the amended deed of agreement. It is depicted in a map in *Schedule 3* of this Bill. In this Bill, ngā hapū o Ngāti Porou is defined in *clause 10* as the hapū of Ngāti Porou who have ratified the amended deed of agreement and are recorded in *Schedule 2*. The provisions in this Bill apply in ngā rohe moana o ngā hapū o Ngāti Porou.

The deed of agreement requires the Crown to provide recognition instruments or “mechanisms” to all ngā hapū o Ngāti Porou within ngā rohe moana o ngā hapū o Ngāti Porou. Where required, the Bill provides for these in *Part 2*. Where customary marine title is recognised under the provisions of this Bill in a particular area, additional mechanisms set out in *Part 3* of the Bill will apply.

This Bill provides for the mechanisms that have been negotiated and agreed between ngā hapū o Ngāti Porou and the Crown that require legislation to have effect. The following 8 mechanisms relate to the whole of ngā rohe moana o ngā hapū o Ngāti Porou:

- statutory overlay (*subpart 1 of Part 2* of the Bill): this mechanism ensures that a map of ngā rohe moana o ngā hapū o Ngāti Porou is attached to key public documents. It is also designed to provide for the effective participation of ngā hapū o Ngāti Porou in the processes relating to resource consent applications and applications under the Heritage New Zealand Pouhere Taonga Act 2014:
- environmental covenant (*subpart 2 of Part 2* of the Bill): this instrument provides for ngā hapū o Ngāti Porou to set out the issues, objectives, policies, and rules and other methods relating to the promotion of their world view, including in relation to the promotion of sustainable management of ngā rohe o ngā hapū o Ngāti Porou, and the protection of the cultural and spiritual identity of ngā hapū o Ngāti Porou. To the extent that the environmental covenant relates to resource management issues, Gisborne District Council will be required to review key public documents (such as its regional coastal plan) the next time those documents are reviewed under the Resource Management Act 1991 to ensure that those documents take the environmental covenant into account:
- protected customary activities (*subpart 3 of Part 2* of the Bill): this mechanism will provide a process by which ngā hapū o Ngāti Porou may obtain legal protection to ensure that they are able to continue their ongoing customary activities, uses, or practices within ngā rohe moana o ngā hapū o Ngāti Porou without the need for resource consent:
- wāhi tapu and wāhi tapu areas (*subpart 4 of Part 2* of the Bill): this mechanism will enable ngā hapū o Ngāti Porou, in certain circumstances, to identify wāhi tapu and wāhi tapu areas within ngā rohe moana o ngā hapū o Ngāti Porou and also provide for prohibitions or restrictions on persons accessing the identified wāhi tapu and wāhi tapu areas:
- customary fishing practices (*subpart 5 of Part 2* of the Bill): this mechanism recognises the special relationship that ngā hapū o Ngāti Porou have with the

fishing grounds within ngā rohe moana o ngā hapū o Ngāti Porou. This mechanism will allow for the making of new customary fishing regulations to cover ngā rohe moana o ngā hapū o Ngāti Porou. These regulations will enable ngā hapū o Ngāti Porou to manage customary fishing within ngā rohe moana o ngā hapū o Ngāti Porou:

- conservation mechanisms (*subpart 6 of Part 2 of the Bill*): these mechanisms will facilitate the effective participation of ngā hapū o Ngāti Porou in the processes related to establishing or extending marine reserves, establishing or extending conservation protected areas, and granting concessions. This mechanism also facilitates the effective participation of ngā hapū o Ngāti Porou in the processes related to establishing or extending marine mammal sanctuaries, granting authorisations in relation to wildlife matter and permits in relation to marine mammal matter, and making decisions on the management of stranded marine mammals and applications for marine mammal watching permits:
- official geographic names of features (*subpart 7 of Part 2 of the Bill*): this instrument will provide for the alteration of two existing place names within ngā rohe moana o ngā hapū o Ngāti Porou to names chosen by ngā hapū o Ngāti Porou:
- relationship instruments (*subpart 8 of Part 2 of the Bill*): this subpart of the Bill will require the noting of various relationship instruments entered into by the Crown with ngā hapū o Ngāti Porou under the terms of the deed of agreement in various departmental plans, strategies and registers.

The following mechanisms relate to customary marine title areas only:

- permission rights (*subpart 1 of Part 3 of the Bill*): this instrument provides customary marine title hapū with the right to give, or refuse to give, their permission to applications for resource consent and requests made by persons, in response to a regional council invitation under the Resource Management Act 1991 or to change a regional coastal plan:
- customary fishing practices—extended mechanism (*subpart 2 of Part 3 of the Bill*): this mechanism will extend the fisheries mechanism by allowing ngā hapū o Ngāti Porou to propose bylaws restricting or prohibiting fishing for sustainable utilisation or cultural reasons in customary marine title areas:
- environmental covenant—extended mechanism (*subpart 3 of Part 3 of the Bill*): this mechanism extends the environmental covenant by requiring Gisborne District Council to review its key public documents (that cover or directly affect a customary marine title area) to ensure that it recognises and provides for the issues, objectives, policies, and rules or methods set out in the environmental covenant to the extent that the environmental covenant relates to resource management issues:
- conservation processes—extended mechanism (*subpart 4 of Part 3 of the Bill*): this mechanism extends the conservation mechanism by allowing the customary marine title hapū to have the right to give, or refuse to give, their consent to

certain proposals or applications where they relate to the customary marine title area, including applications to establish or extend marine reserves under the Marine Reserves Act 1971, proposals to establish or extend conservation protected areas, applications for concessions, proposals to establish or extend marine mammal sanctuaries, and applications for marine mammal watching permits:

- taonga tūturu ownership (*subpart 5 of Part 3* of the Bill): this mechanism provides that any taonga tūturu found in a customary marine title area is prima facie the property of the customary marine title hapū:
- minerals ownership (*subpart 6 of Part 3* of the Bill): this mechanism provides that the customary marine title hapū has ownership of minerals (other than petroleum, gold, silver, and uranium existing in their natural condition) that are within the customary marine title area.

Departmental disclosure statement

The Office of Treaty Settlements is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2018&no=31>

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 states that the Bill commences on the day after the date on which it receives the Royal assent.

Part 1

Preliminary provisions

Clause 3 states that the purpose of the Bill is to contribute to the legal expression, protection, and recognition of the continued exercise of mana by ngā hapū o Ngāti Porou in relation to ngā rohe moana o ngā hapū o Ngāti Porou (**ngā rohe moana**). To this end, the Bill gives effect to the deed of agreement between ngā hapū o Ngāti Porou and the Crown that was signed on 31 October 2008 and amended on 9 August 2017 (the **deed of agreement**).

Clause 4 gives effect to the transitional, savings, and related provisions set out in *Schedule 1*.

Clause 5 states that the Bill binds the Crown.

Clause 6 states that, in relation to ngā rohe moana, the Bill applies to ngā hapū o Ngāti Porou instead of Parts 3 and 4 of the Marine and Coastal Area (Takutai Moana) Act 2011.

Clause 7 provides for Part 2 of the Marine and Coastal Area (Takutai Moana) Act 2011 to continue to apply to ngā rohe moana.

Clauses 8 to 12 relate to the interpretation of the Bill and include definitions of key terms.

Clause 13 preserves rights under certain provisions of the Marine and Coastal Area (Takutai Moana) Act 2011 and prevents certain things from affecting accommodated matters.

Part 2

Mechanisms that affect all of ngā rohe moana

Subpart 1—Statutory overlay

Clauses 14 to 18 provide for a statutory overlay over ngā rohe moana. The effect of the overlay is that—

- the relevant hapū of ngā hapū o Ngāti Porou may be party to proceedings regarding a resource consent application for an activity within, adjacent to, or directly affecting ngā rohe moana; and
- Gisborne District Council (the **Council**) must notify the relevant hapū and give them a copy of a resource consent application for an activity within, adjacent to, or directly affecting ngā rohe moana; and
- ngā hapū o Ngāti Porou have a right to be consulted about the terms of reference for, and to nominate a member to, a board of inquiry that is to inquire under the Resource Management Act 1991 (the **RMA**) into a matter of national significance within ngā rohe moana; and
- Heritage New Zealand Pouhere Taonga must treat the relevant hapū as persons directly affected by a decision it makes, or power it exercises, in relation to ngā rohe moana.

Subpart 2—Environmental covenant

Clause 19 enables ngā hapū o Ngāti Porou to develop an environmental covenant that sets out issues relating to, and objectives, policies, and rules or other methods for,—

- promoting the sustainable management of the natural and physical resources of ngā rohe moana; and
- protecting the integrity of ngā hapū o Ngāti Porou, including their cultural and spiritual identity with ngā rohe moana.

Clause 20 requires the Council to ensure that a key public document (being a regional policy statement, regional plan, district plan, or a document combining any of those

documents) that covers or directly affects ngā rohe moana takes the resource management matters in the environmental covenant into account.

Clauses 21 to 30—

- set out the process by which the Council must review its key public documents to ensure compliance with *clause 20*; and
- until the review is complete, require a consent authority (which may be the Council, a board of inquiry, or the Environment Court) to have regard to the resource management matters in the environmental covenant when considering resource consent applications; and
- set out how ngā hapū o Ngāti Porou may challenge decisions made by the Council about how it takes the environmental covenant into account in key public documents; and
- provide for ngā hapū o Ngāti Porou to review and amend the environmental covenant.

Clauses 31 to 33 provide for the environmental covenant to have certain other effects on documents or decisions relating to ngā rohe moana under the RMA, the Heritage New Zealand Pouhere Taonga Act 2014, and the Local Government Act 2002.

Subpart 3—Protected customary activities

Clauses 34 and 35 enable hapū of ngā hapū o Ngāti Porou that have a protected customary activity (a **protected customary activity hapū**)—

- to perform that activity despite restrictions that might otherwise apply under the RMA or under a rule in a district or regional plan; and
- to decide matters relating to the performance of the activity, including which members of the hapū may perform the activity and where.

Clauses 36 to 40 require the Minister of Conservation and a protected customary activity hapū to agree reasonable controls on a protected customary activity if the Minister determines that the activity has, or may have, a significant adverse effect on the environment. In making that determination, the Minister must, among other things, have particular regard to the views of the protected customary activity hapū.

Clauses 41 to 43—

- prohibit a consent authority from granting a resource consent application for an activity if—
 - the relevant protected customary activity hapū has not approved the activity; and
 - the authority decides that the activity will, or is likely to, have more than minor adverse effects on the performance of a protected customary activity; and
- set out how the consent authority makes that decision; and

- if the protected customary activity hapū approves the activity, provide for matters relating to that approval.

Clause 44 deals with how a protected customary activity and protected customary activity hapū must be treated for the purposes of certain provisions of the RMA and the Fisheries Act 1996. It also prohibits the Council from imposing a coastal occupation charge on the hapū in relation to the activity.

Subpart 4—Wāhi tapu and wāhi tapu areas

Clause 45 requires the Council to take actions agreed with the relevant hapū of ngā hapū o Ngāti Porou to encourage compliance with prohibitions or restrictions imposed in relation to wāhi tapu.

Clause 46 creates an offence punishable by a fine of up to \$5,000 for breaching a prohibition or restriction relating to wāhi tapu.

Clause 47 empowers the relevant hapū to appoint wardens to promote compliance with prohibitions or restrictions relating to wāhi tapu. It also empowers fishery officers to enforce those prohibitions or restrictions.

Subpart 5—Customary fishing practices

Clause 48 defines customary food gathering, the customary fishing area of ngā hapū o Ngāti Porou, and the area of interest of Ngāti Porou. The customary fishing area is—

- the area of ngā rohe moana extended to the outer limit of the exclusive economic zone; and
- the New Zealand fisheries waters in the area of interest of Ngāti Porou (which is fresh water).

Clause 49 provides for regulations to be made in accordance with the deed of agreement. The regulations will recognise and provide for—

- customary food gathering by ngā hapū o Ngāti Porou within the customary fishing area of ngā hapū o Ngāti Porou; and
- the special relationship between—
 - customary marine title hapū and places of customary food gathering in their customary marine title areas; and
 - ngā hapū o Ngāti Porou and places of customary food gathering in the area of interest of Ngāti Porou.

Clause 50 requires a person to recognise and provide for a fisheries management plan when performing or exercising relevant functions or powers under the Fisheries Act 1996.

Clause 51 states how regulations made under *clause 49* apply when other regulations would also apply.

Subpart 6—Conservation mechanisms

Clause 52 defines the term conservation process.

Clauses 53 to 55 require—

- notice of an application or a proposal for a conservation process to be given to the relevant hapū of ngā hapū o Ngāti Porou; and
- the Minister of Conservation or the Director-General of Conservation to have regard to any views of the relevant hapū on the application or proposal.

Clause 56 requires a Marine Mammals Officer to have particular regard to the views of the relevant hapū of ngā hapū o Ngāti Porou if a marine mammal is stranded within ngā rohe moana.

Clauses 57 to 61 relate to applications for the possession of wildlife matter or marine mammal matter. The Director-General of Conservation must not consider an application unless—

- the Director-General decides that the applicant's possession of the matter is essential for the conservation of the species or subspecies to which the wildlife or marine mammal belongs; or
- the relevant hapū of ngā hapū o Ngāti Porou have consented to the application.

Clause 62 allows ngā hapū o Ngāti Porou to possess wildlife matter or marine mammal matter found within ngā rohe moana without the need for an authorisation or a permit under the Wildlife Act 1953 or the Marine Mammals Protection Act 1978.

Clause 63 requires the Director-General of Conservation to—

- notify ngā hapū o Ngāti Porou if the Director-General has wildlife matter or marine mammal matter; and
- offer the matter first to ngā hapū o Ngāti Porou if the Director-General decides to dispose of it.

Subpart 7—Official geographic names of features

Clauses 64 to 67 rename East Island (Whangaokeno Island) as Whangaokeno / East Island and Hicks Bay as Wharekahika / Hicks Bay.

Subpart 8—Relationship instruments

Clauses 68 to 73 provide for certain matters relating to the whakamana accord and relationship instruments entered into by ngā hapū o Ngāti Porou and various Ministers. The instruments relate to artefacts, conservation, the environment, fisheries, and minerals. The matters provided for in *clauses 68 to 73* include the noting of instruments in certain documents under the RMA, the Fisheries Act 1996, and the Crown Minerals Act 1991.

Part 3

Mechanisms that affect customary marine title areas

Subpart 1—Permission rights in relation to Resource Management Act 1991

Clauses 74 and 75 prohibit the Council, the Environmental Protection Authority (the EPA), a Minister, or any other person from considering, processing, or otherwise acting on a resource consent for an activity within a customary marine title area unless—

- the customary marine title hapū has given permission for the activity; or
- the activity is an accommodated matter (as defined in *clause 12*).

Clauses 76 to 78 set out the process for providing resource consent applications to customary marine title hapū for them to consider whether to give permission for an activity.

Clauses 79 to 83 set out general provisions relating to the permission right, including—

- the ability of the Council or EPA to seek costs from applicants; and
- the suspension of time frames under the RMA to allow for customary marine title hapū to exercise their permission rights; and
- an offence for carrying out activities, other than accommodated matters, without permission.

Subpart 2—Customary fishing practices—extended mechanism

Clause 84 is a signpost to provisions for regulations to be made for customary fishing practices in relation to customary marine title areas.

Subpart 3—Environmental covenant—extended mechanism

Clause 85 requires the Council to recognise and provide for the resource management matters in the environmental covenant (*see clause 19*) in key public documents that cover or directly affect a customary marine title area.

Clause 86 requires a consent authority to recognise and provide for the resource management matters in the environmental covenant when considering resource consent applications until the Council completes its review of key public documents under *clause 21*.

Subpart 4—Conservation processes—extended mechanism

Clause 87 prohibits the Minister of Conservation or the Director-General of Conservation from considering an application or a proposal for a conservation process relating to a customary marine title area without the permission of the customary marine title hapū.

Clauses 88 to 90 set out—

- the process by which the Minister or Director-General provide the application or proposal to the customary marine title hapū for the hapū to consider whether to give permission; and
- the limits that permission places on the Minister or Director-General when deciding the application or proposal.

Clause 91 prohibits a customary marine title hapū from charging for the exercise of its rights under this subpart.

Subpart 5—Taonga tūturu ownership

Clause 92—

- states that taonga tūturu found in a customary marine title area are prima facie the property of the customary marine title hapū; and
- specifies how the Protected Objects Act 1975 applies to the taonga tūturu.

Subpart 6—Minerals ownership

Clause 93 states that a customary marine title hapū has ownership of minerals (other than petroleum, gold, silver, and uranium existing in their natural condition) that are within its customary marine title area.

Clause 94 provides for—

- the continuation of privileges, and associated rights and obligations, that already exist when an area becomes a customary marine title area; and
- the payment of royalties to the customary marine title hapū for the minerals it owns under *clause 93*.

Part 4

Recognition of protected customary activities, wāhi tapu, and customary marine title

Subpart 1—Recognition of protected customary activity

Clause 95 provides for hapū of ngā hapū o Ngāti Porou and the Crown to enter into protected customary activity agreements that recognise protected customary activities within ngā rohe moana. The clause—

- sets out the requirements for an application to enter into an agreement; and
- requires the responsible Minister to be satisfied, before entering into the agreement, that the activity has been performed by the hapū in accordance with tikanga since 1840 (and that any right to perform the activity has not been extinguished).

Clauses 96 and 97—

- require the responsible Minister to give public notice of a protected customary activity agreement; and
- provide for the protected customary activity to have effect on and from the date the notice is published.

Clause 98 provides for the High Court (the **court**) to recognise protected customary activities by court order. The court must apply the same test as the responsible Minister applies under *clause 95*. In all other respects, an applicant must apply, and the court must determine an application, in accordance with the Marine and Coastal Area (Takutai Moana) Act 2011.

Clause 99 sets out certain activities that cannot be recognised as protected customary activities (for example, activities that are regulated under the Fisheries Act 1996).

Clause 100 provides for the registration of protected customary activity agreements and protected customary activity orders (being court orders made under *clause 98*).

Clause 101 provides for the variation or cancellation of protected customary activity orders, which may be done only by application to the court.

Subpart 2—Recognition of wāhi tapu or wāhi tapu area

Clause 102 provides for hapū of ngā hapū o Ngāti Porou and the Crown to enter into agreements that recognise wāhi tapu or wāhi tapu areas (being land that contains 1 or more wāhi tapu) within ngā rohe moana. The clause—

- sets out the requirements for an application to enter into an agreement; and
- requires the responsible Minister to be satisfied, before entering into the agreement, that—
 - the hapū have a connection with the wāhi tapu or wāhi tapu area in accordance with tikanga; and
 - the prohibitions or restrictions proposed by the hapū to protect the wāhi tapu or wāhi tapu area are required.

Clause 103 requires the responsible Minister to give public notice of the recognition of a wāhi tapu or wāhi tapu area.

Clause 104 provides for the recognition of a wāhi tapu or wāhi tapu area that has been recognised by agreement to also be varied or cancelled by agreement.

Clause 105 requires the responsible Minister to give public notice of a variation or cancellation.

Clause 106 states that the prohibitions or restrictions associated with a recognised wāhi tapu or wāhi tapu area have effect on and from the date on which they are publicly notified.

Clause 107 requires the responsible Minister to give a copy of a public notice under *clause 103 or 105* to key persons.

Clause 108 states that a notice under *clause 103 or 105* is a disallowable instrument and must be presented to the House of Representatives.

Clause 109 enables a hapū of ngā hapū o Ngāti Porou that is seeking to have customary marine title recognised by court order under *clause 113* to also seek to have a wāhi tapu or wāhi tapu area recognised by the court in the customary marine title area.

Clause 110 provides for the registration of wāhi tapu and wāhi tapu areas.

Subpart 3—Recognition of customary marine title

Clauses 111 and 112 provide—

- for the responsible Minister to determine whether a hapū of ngā hapū o Ngāti Porou has customary marine title within ngā rohe moana; and
- for the customary marine title to be recognised by Order in Council.

To determine that customary marine title exists, the responsible Minister must be satisfied that the hapū—

- holds the area in accordance with tikanga; and
- has exclusively used and occupied the area since 1840 without substantial interruption or received the area after 1840 through a customary transfer.

Clause 113 provides for the court to recognise customary marine title by court order. The court must apply the same test as the responsible Minister applies under *clause 111*. In all other respects, an applicant must apply, and the court must determine an application, in accordance with the Marine and Coastal Area (Takutai Moana) Act 2011.

Clause 114 states, to avoid doubt, that customary marine title recognised under the Bill is recognised only for the purposes of the Bill.

Clause 115 provides for the registration of—

- documents relating to Orders in Council that recognise customary marine title; and
- court orders that recognise customary marine title.

Clause 116 enables a customary marine title hapū to apply to the court to vary or cancel a court order that recognises its customary marine title.

Clause 117 prevents any further recognition of customary marine title under *clause 112 or 113* within an area where customary marine title has already been recognised.

Subpart 4—Application of Resource Management Act 1991 to customary marine title and wāhi tapu and wāhi tapu areas

Clause 118—

- states that a customary marine title hapū is to be treated as a customary marine title group for the purposes of clauses 2 and 3 of Schedule 1 of the RMA; and
- prohibits the Council from imposing a coastal occupation charge on a customary marine title hapū exercising a right under this Act in relation to its customary marine title area.

Clause 119 modifies the application of the RMA so that a consent authority is prohibited from granting a resource consent that would be contrary to the prohibitions or restrictions associated with a wāhi tapu or wāhi tapu area.

Part 5

Miscellaneous provisions

Clause 120 provides for management arrangements to represent the hapū of ngā hapu o Ngāti Porou and to exercise the rights and perform the responsibilities of the hapū.

Clause 121 requires people who are required to deal with the hapū under the Bill or deed to deal with the management arrangements.

Clause 122 allows a management arrangement to delegate any rights or responsibilities that it exercises or performs on behalf of a hapū.

Clauses 123 and 124 provide for changes to be made to—

- the management arrangements; and
- the hapū that comprise ngā hapū o Ngāti Porou; and
- the area that comprises ngā rohe moana, if required by a change to the hapū that comprise ngā hapū o Ngāti Porou.

Clause 125 specifies the limits of the effects of the Bill (for example, that the Bill does not affect the manner in which a person must make a decision under another enactment, except as provided for in the Bill).

Clause 126 removes the jurisdiction of any court, tribunal, or other judicial body in respect of the deed, the Bill, or a document issued in accordance with the deed or the Bill. However, the jurisdiction is preserved in relation to the interpretation and implementation of the deed and the Bill and in relation to the judicial processes provided for in the Bill.

Clause 127 disapplies the rule against perpetuities from any trust whose trustees are a management arrangement and from any document entered into to give effect to the deed.

Clauses 128 to 130 provide for the deed and certain agreements entered into, and notices published, under the Bill to be made publicly available.

Clause 131 gives effect to the consequential amendment set out in *Schedule 5*.

Hon Andrew Little

Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Bill (No 2)

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act **(No 2) 2018**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent. 5

Part 1

Preliminary provisions

3 Purpose

- (1) The purpose of this Act is to contribute to the legal expression, protection, and recognition of the continued exercise of mana by ngā hapū o Ngāti Porou in relation to ngā rohe moana o ngā hapū o Ngāti Porou. 10
- (2) To this end, this Act gives effect to the deed of agreement between ngā hapū o Ngāti Porou and the Crown.

4 Transitional, savings, and related provisions 15

The transitional, savings, and related provisions set out in **Schedule 1** have effect according to their terms.

5 Act binds the Crown

This Act binds the Crown.

6 Act applies to ngā hapū o Ngāti Porou in ngā rohe moana (instead of Parts 3 and 4 of Marine and Coastal Area (Takutai Moana) Act 2011) 20

- (1) This section specifies the law that applies to different hapū or persons in respect of ngā rohe moana.
- (2) Parts 3 and 4 of the Marine and Coastal Area (Takutai Moana) Act 2011 cease to apply to ngā hapū o Ngāti Porou, but continue to apply to other hapū or persons, in respect of ngā rohe moana. 25
- (3) This Act applies to ngā hapū o Ngāti Porou in respect of ngā rohe moana.
- (4) To avoid doubt, for a non-ratifying hapū of Ngāti Porou,—

- (a) until the hapū becomes part of ngā hapū o Ngāti Porou, the Marine and Coastal Area (Takutai Moana) Act 2011 continues to apply to the hapū in respect of ngā rohe moana; and
- (b) if the hapū has a customary marine title or protected customary right recognised under the Marine and Coastal Area (Takutai Moana) Act 2011 in respect of its rohe outside ngā rohe moana, and the hapū becomes part of ngā hapū o Ngāti Porou and its rohe becomes part of ngā rohe moana, those rights will instead become recognised for the purposes of this Act (*see clause 1 of Schedule 1*). 5
- (5) In this section, **non-ratifying hapū of Ngāti Porou** means the hapū of Ngāti Porou who are entitled to, but have not, become party to the deed of agreement and become part of ngā hapū o Ngāti Porou under **section 124**. 10
- 7 Application of Part 2 of Marine and Coastal Area (Takutai Moana) Act 2011 in ngā rohe moana**
- Part 2 of the Marine and Coastal Area (Takutai Moana) Act 2011 applies with the following modifications in respect of ngā rohe moana: 15
- (a) section 12(2) applies as if the reference to a customary marine title area includes a customary marine title area under this Act:
- (b) section 32(1) applies as if land declared to be Crown land under that section is also declared not to be subject to this Act: 20
- (c) section 43 applies as if a reference to a customary marine title group or area includes a customary marine title hapū or area under this Act.

Interpretation

- 8 Interpretation of Act generally**
- The provisions of this Act are to be interpreted in a manner that best furthers the agreements expressed in the deed of agreement. 25
- 9 Interpretation**
- In this Act, unless the context otherwise requires,—
- accommodated matter** has the meaning given by **section 12**
- combined document** means a document prepared by Gisborne District Council under section 80 of the Resource Management Act 1991, being a document that meets the requirements of 2 or more of the following: 30
- (a) a regional policy statement:
- (b) a regional plan (including a regional coastal plan):
- (c) a district plan 35
- common marine and coastal area** has the meaning given by section 9 of the Marine and Coastal Area (Takutai Moana) Act 2011

complete, in relation to the review of a key public document under **section 21**, means that—

- (a) Gisborne District Council has—
 - (i) reviewed the document; and
 - (ii) changed or varied the document as necessary to comply with **section 20 or 85**; and 5
 - (iii) given any notice required by **section 22**; and

(b) any reconsiderations or appeals relating to the review have been decided
concession means a concession granted following the process required by Part 3B of the Conservation Act 1987 10

consent authority—

- (a) has the meaning given by section 2 of the Resource Management Act 1991; and
- (b) includes a board of inquiry or the Environment Court to which a resource consent application is referred for decision under that Act 15

conservation management plan has the meaning given by section 2 of the Conservation Act 1987

conservation management strategy has the meaning given by section 2 of the Conservation Act 1987

conservation process has the meaning given by **section 52** 20

conservation protected area means an area that is protected, primarily for the purposes of conserving natural resources or the historical and cultural heritage of the area, under 1 or more of the following Acts:

- (a) Conservation Act 1987:
- (b) National Parks Act 1980: 25
- (c) Reserves Act 1977:
- (d) Wildlife Act 1953

court means the High Court

Crown has the meaning given by section 2 of the Public Finance Act 1989

customary marine title area means an area in which 1 or more hapū of ngā hapū o Ngāti Porou are recognised as having customary marine title— 30

- (a) by an Order in Council made under **section 112**; or
- (b) by a court order made under **section 113**; or
- (c) under **clause 1 of Schedule 1**

customary marine title hapū means the 1 or more hapū of ngā hapū o Ngāti Porou whose customary marine title in an area is recognised— 35

- (a) by an Order in Council made under **section 112**; or

- (b) by a court order made under **section 113**; or
- (c) under **clause 1 of Schedule 1**
- customary marine title order** means a court order made under **section 113**
- deed of agreement**—
- (a) means the original deed of agreement dated 31 October 2008, as amended by the deed of amendment, between— 5
- (i) ngā hapū o Ngāti Porou; and
- (ii) the Crown; and
- (b) includes— 10
- (i) the schedules of, and appendices to, the deed; and
- (ii) any other amendments to the deed or its schedules and appendices
- deed of amendment** means the deed of amendment dated 9 August 2017 that amended the deed of agreement
- Director-General** means the Director-General of Conservation
- district plan**— 15
- (a) has the meaning given by section 2 of the Resource Management Act 1991; but
- (b) includes a proposed district plan that is a proposed plan (as defined by that section)
- environmental covenant or covenant**— 20
- (a) means the environmental covenant developed and signed under **section 19**; and
- (b) includes any amendments to the environmental covenant made under **section 30**
- EPA** has the meaning given by section 2 of the Resource Management Act 1991 25
- fisheries plan** means a plan approved under section 11A of the Fisheries Act 1996
- key public document** means each of the following documents of Gisborne District Council: 30
- (a) a regional policy statement:
- (b) a regional plan (including a regional coastal plan):
- (c) a district plan:
- (d) a combined document
- management arrangement** means an entity, or the trustees of a trust, whose details are specified in a Part of **Schedule 2** (and which represents, and exercises and performs rights and responsibilities of, each hapū of ngā hapū o Ngāti 35

- Porou named in that Part in respect of the area of ngā rohe moana o ngā hapū o Ngāti Porou described in that Part)
- marine and coastal area register** means the register as defined by section 9 of the Marine and Coastal Area (Takutai Moana) Act 2011
- marine mammal** has the meaning given by section 2 of the Marine Mammals Protection Act 1978 5
- marine mammal matter** means the bones, teeth, and baleen of a dead marine mammal
- marine mammal sanctuary** means a marine mammal sanctuary declared under section 22 of the Marine Mammals Protection Act 1978 10
- marine reserve** has the meaning given by section 2 of the Marine Reserves Act 1971
- marine reserve application** means an application under section 5(1)(a) of the Marine Reserves Act 1971 for an Order in Council declaring an area to be a marine reserve 15
- mineral** has the meaning given by section 2 of the Crown Minerals Act 1991
- national park management plan** has the meaning given to **management plan** by section 2 of the National Parks Act 1980
- national policy statement**—
- (a) has the meaning given by section 2 of the Resource Management Act 1991; but 20
- (b) includes a New Zealand coastal policy statement
- New Zealand coastal policy statement** has the meaning given by section 2 of the Resource Management Act 1991
- ngā hapū o Ngāti Porou** has the meaning given by **section 10** 25
- ngā rohe moana** and **ngā rohe moana o ngā hapū o Ngāti Porou** have the meaning given by **section 11**
- petroleum** has the meaning given by section 2 of the Crown Minerals Act 1991
- plan** has the meaning given by section 2 of the Resource Management Act 1991 30
- prohibition or restriction**, in relation to a wāhi tapu or wāhi tapu area, means a prohibition or restriction imposed by the *Gazette* notice, court order, or agreement by which the wāhi tapu or wāhi tapu area is recognised
- proposed plan** has the meaning given by section 2 of the Resource Management Act 1991 35
- protected customary activity** means a protected customary activity of 1 or more hapū of ngā hapū o Ngāti Porou that is recognised—
- (a) by a protected customary activity agreement; or

- (b) by a protected customary activity order; or
- (c) under **clause 1 of Schedule 1**
- protected customary activity agreement** means an agreement entered into in accordance with **section 95**
- protected customary activity hapū** means the 1 or more hapū of ngā hapū o Ngāti Porou whose protected customary activity is recognised— 5
- (a) by a protected customary activity agreement; or
- (b) by a protected customary activity order; or
- (c) under **clause 1 of Schedule 1**
- protected customary activity order** means a court order made under **section 98** 10
- protected customary right** has the meaning given by section 9 of the Marine and Coastal Area (Takutai Moana) Act 2011
- regional plan**—
- (a) has the meaning given by section 2 of the Resource Management Act 1991; but 15
- (b) includes a proposed regional plan that is a proposed plan (as defined by that section)
- regional policy statement**—
- (a) has the meaning given by section 2 of the Resource Management Act 1991; but 20
- (b) includes a proposed regional policy statement that is a proposed policy statement (as defined by that section)
- relevant hapū**, in relation to a thing or matter under this Act, means the 1 or more hapū of ngā hapū o Ngāti Porou that are affected by the thing or matter 25
- resource consent** has the meaning given by section 2 of the Resource Management Act 1991
- resource consent application** means an application under section 88 of the Resource Management Act 1991 for a resource consent
- responsible Minister** has the meaning given by section 9 of the Marine and Coastal Area (Takutai Moana) Act 2011 30
- rule** has the meaning given by section 2 of the Resource Management Act 1991
- taonga tūturu** has the meaning given by section 2 of the Protected Objects Act 1975 35
- wāhi tapu** or **wāhi tapu area** means a wāhi tapu or wāhi tapu area recognised in relation to 1 or more hapū of ngā hapū o Ngāti Porou—
- (a) by a *Gazette* notice published under **section 103**; or

- (b) by a court order made under **section 109**; or
- (c) under **clause 1 of Schedule 1**

wildlife—

- (a) has the meaning given by section 2 of the Wildlife Act 1953; but
- (b) does not include the wildlife specified in Schedules 1 and 5 of that Act 5

wildlife matter means the body or a part of the body of dead wildlife

working day has the meaning given by section 2 of the Resource Management Act 1991.

10 Meaning of ngā hapū o Ngāti Porou

In this Act, **ngā hapū o Ngāti Porou—** 10

- (a) means the hapū of Ngāti Porou named in any Part of **Schedule 2**; and
- (b) includes any group that forms part of or evolves from a hapū referred to in **paragraph (a)**.

11 Meaning of ngā rohe moana

(1) In this Act, **ngā rohe moana** and **ngā rohe moana o ngā hapū o Ngāti Porou—** 15

- (a) mean the area that is the combination of each area described in a Part of **Schedule 2**; and
- (b) to avoid doubt, include the customary marine title areas within the areas covered by **paragraph (a)**. 20

(2) **Schedule 3** contains a map that is intended to show the combined area defined in **subsection (1)(a)**, but that definition prevails if it conflicts with the map.

12 Meaning of accommodated matter

(1) In this Act, **accommodated matter** means the following matters within ngā rohe moana o ngā hapū o Ngāti Porou: 25

- (a) the rights conferred or described in sections 18, 21, 26, 27, and 28 of the Marine and Coastal Area (Takutai Moana) Act 2011; and
- (b) an activity that can be lawfully undertaken without a resource consent; and 30
- (c) an activity that is lawfully undertaken in accordance with a resource consent that exists at the start of the date of the deed of amendment; and
- (d) any existing infrastructure and its associated operations (as defined in **subsection (2)**); and
- (e) a seawall that exists at the start of the date of the deed of amendment; 35
- (f) a structure described in **Schedule 4**; and

- (g) an emergency activity (as defined in **subsection (3)**); and
- (h) scientific research by—
- (i) the Department of Conservation or a Crown Research Institute (within the meaning of section 2 of the Crown Research Institutes Act 1992) or any person that takes over the scientific research functions of the department or the Crown Research Institute: 5
- (ii) a person who has the permission of the relevant hapū and the Crown; and
- (i) a marine reserve that exists at the start of the date of the deed of amendment; and 10
- (j) a conservation protected area that exists at the start of the date of the deed of amendment; and
- (k) a marine mammal sanctuary that exists at the start of the date of the deed of amendment; and
- (l) a concession in a conservation protected area if the concession exists at the start of the date of the deed of amendment; and 15
- (m) a permit for a commercial operation granted under the Marine Mammals Protection Regulations 1992 that exists at the start of the date of the deed of amendment; and
- (n) a permit to take or possess wildlife matter or marine mammal matter granted under section 53 of the Wildlife Act 1953 or section 5 of the Marine Mammals Protection Act 1978 that exists at the start of the date of the deed of amendment. 20
- (2) In **subsection (1)(d)**, **existing infrastructure and its associated operations**— 25
- (a) means infrastructure (including structures and associated operations) within ngā rohe moana that was lawfully established before the date of the deed of amendment, where—
- (i) **infrastructure** means infrastructure (as defined by section 2 of the Resource Management Act 1991) that is owned, operated, or carried out by 1 or more of the following: 30
- (A) the Crown, including a Crown entity:
- (B) a local authority or a council-controlled organisation:
- (C) a network utility operator (as defined by section 166 of the Resource Management Act 1991): 35
- (D) an electricity generator (as defined by section 2(1) of the Electricity Act 1992):
- (E) a port company (as defined by section 2(1) of the Port Companies Act 1988):

- (F) a port operator (as defined by Part 3A of the Maritime Transport Act 1994); and
- (ii) **associated operations** means activities that are necessary for the functioning of the infrastructure; and
- (b) includes any maintenance work on the infrastructure and its associated operations on or after the date of the deed of amendment, but only if any significant adverse effects of the maintenance work on the following will be, or are likely to be, temporary: 5
- (i) a protected customary activity affected by the work; or
- (ii) the relationship of a customary marine title hapū with the environment in their customary marine title area; and 10
- (c) includes any change to the infrastructure and its associated operations made on or after the date of the deed of amendment, but only if any significant adverse effects of the change on the following will be, or are likely to be, the same as, or similar in character, intensity, and scale to, the effects that existed before the change: 15
- (i) a protected customary activity affected by the change; or
- (ii) the relationship of a customary marine title hapū with the environment in their customary marine title area.
- (3) In **subsection (1)(g), emergency activity**— 20
- (a) means an activity undertaken within ngā rohe moana to prevent—
- (i) an actual or imminent danger to human health or safety; or
- (ii) a danger to the environment or property so significant that immediate action is required to remove the danger; and
- (b) includes any activity within ngā rohe moana authorised by legislation for the purpose of preventing any of the matters referred to in **paragraph (a)**, including an activity in relation to— 25
- (i) a state of emergency declared under the Civil Defence Emergency Management Act 2002; or
- (ii) a biosecurity emergency declared under section 144 of the Biosecurity Act 1993; or 30
- (iii) a special emergency or an emergency declared under section 49B or 136 of the Hazardous Substances and New Organisms Act 1996; or
- (iv) a marine oil spill response under the Maritime Transport Act 1994; or 35
- (v) an emergency for the purposes of section 6 of the Fire and Emergency New Zealand Act 2017; or

- (vi) emergency works described in section 330 of the Resource Management Act 1991.
- (4) For the purposes of **subsection (1)(h)**, neither the relevant hapū nor the Crown may unreasonably withhold their or its permission if—
- (a) the research concerned will have a public benefit; and 5
 - (b) the results of the research, or a summary of the results, will be available publicly.
- 13 Preservation of certain rights and accommodated matters**
- (1) This Act does not affect the rights conferred or described in sections 18, 21, 26, 27, and 28 of the Marine and Coastal Area (Takutai Moana) Act 2011, but section 28(1) of that Act applies in respect of ngā rohe moana— 10
- (a) as if it also stated that nothing in this Act (not just in that Act) prevented the exercise of the relevant rights; but
 - (b) subject to any provision of this Act that relates to a wāhi tapu or wāhi tapu area. 15
- (2) The following things must not prevent, restrict, or otherwise affect any accommodated matter:
- (a) the performance of a protected customary activity in accordance with **subpart 3 of Part 2**;
 - (b) the exercise of any right or power by a hapū of ngā hapū o Ngāti Porou under **subpart 6 of Part 2 or subpart 4 of Part 3** (which relate to the conservation mechanisms and extended mechanism); 20
 - (c) the exercise of any right or power by the customary marine title hapū of a customary marine title area under **subpart 1 of Part 3** (which relates to permission rights in relation to the Resource Management Act 1991). 25
- (3) Neither ngā hapū o Ngāti Porou nor the Crown may do the following, except as expressly provided in any enactment:
- (a) prevent, restrict, or otherwise affect any accommodated matter; or
 - (b) impose, directly or indirectly, any charge in relation to any accommodated matter. 30

Part 2

Mechanisms that affect all of ngā rohe moana

Subpart 1—Statutory overlay

- 14 Map of ngā rohe moana must be attached to key public documents**
- (1) The person responsible for a key public document that wholly or partially covers ngā rohe moana o ngā hapū o Ngāti Porou must attach to the document a map that—
- (a) identifies the area to which the document relates; and
 - (b) identifies the area within that area that is ngā rohe moana; and
 - (c) notes that the area identified as ngā rohe moana—
 - (i) is identified in accordance with this section; and
 - (ii) is subject to this Act.
- (2) The person referred to in **subsection (1)** must comply with that subsection—
- (a) as soon as practicable after the commencement of this Act; and
 - (b) as soon as practicable after the area that is ngā rohe moana is changed by an order made under **section 124**.
- (3) The attachment of a map to a key public document under **subsection (1)**—
- (a) is for the purposes of public notice only; and
 - (b) to avoid doubt,—
 - (i) is not an amendment to the document for the purposes of the Resource Management Act 1991, the Conservation Act 1987, or the Fisheries Act 1996; and
 - (ii) may be done by the person responsible without any authority other than this section.
- (4) In this section,—
- key public document** has the meaning given by **section 9**, but also includes—
- (a) a conservation management strategy; and
 - (b) a fisheries plan
- person responsible**, in relation to a key public document, means,—
- (a) for a key public document other than a conservation management strategy or fisheries plan, Gisborne District Council;
 - (b) for a conservation management strategy, the Director-General;
 - (c) for a fisheries plan, the Minister of Fisheries.

15 Relevant hapū may be party to Environment Court proceedings

- (1) **Subsection (2)** applies to proceedings before the Environment Court for an application for a resource consent for an activity within, adjacent to, or directly affecting ngā rohe moana o ngā hapū o Ngāti Porou.
- (2) For the purposes of section 274(1) of the Resource Management Act 1991, the relevant hapū are persons who have an interest in the proceedings that is greater than the interest that the general public has. 5

16 Resource consent applications notified and provided to relevant hapū

- (1) Gisborne District Council must treat the relevant hapū as prescribed persons for the purposes of public notification if a resource consent application is— 10
- (a) for an activity within, adjacent to, or directly affecting ngā rohe moana o ngā hapū o Ngāti Porou; and
- (b) given public notification.
- (2) The Council must treat the relevant hapū as affected persons under section 95B of the Resource Management Act 1991 if a resource consent application is— 15
- (a) for an activity within, adjacent to, or directly affecting ngā rohe moana; and
- (b) not given public notification.
- (3) The Council must give the relevant hapū a copy of the application when serving notice of the application, unless the application has already been referred to the hapū under **section 76** of this Act. 20
- (4) In this section, **public notification** has the meaning given by section 2AA(2) of the Resource Management Act 1991. 10

17 Boards of inquiry into matters of national significance

- (1) This section applies if— 25
- (a) a Minister or Ministers make a direction under section 142(2)(a) or 147(1)(a) of the Resource Management Act 1991 to refer a matter to a board of inquiry; and
- (b) the matter is within ngā rohe moana o ngā hapū o Ngāti Porou.
- (2) The Minister or Ministers who make the direction must,— 30
- (a) as soon as practicable after making the direction, give ngā hapū o Ngāti Porou a copy of the direction; and
- (b) consult ngā hapū o Ngāti Porou on the terms of reference (if any) for the board of inquiry; and
- (c) ask ngā hapū o Ngāti Porou to nominate an individual (who need not be a member of ngā hapū o Ngāti Porou) to be a member of the board of inquiry; and 35

- (d) appoint the nominated individual (as one of the 3 to 5 members appointed under section 149J(3)(a) of the Resource Management Act 1991).
- (3) Any individual nominated to be a member of the board of inquiry must be nominated within a time specified by the Minister or Ministers (which must be at least 10 working days after ngā hapū o Ngāti Porou is asked to nominate an individual). 5

18 Decisions of Heritage New Zealand Pouhere Taonga

For the purposes of sections 45(4)(b), 56(5)(b)(ii), 58(1), and 59(1)(a)(iv) of the Heritage New Zealand Pouhere Taonga Act 2014, the relevant hapū must be treated as persons directly affected by a decision of, or the exercise of a power by, Heritage New Zealand Pouhere Taonga if the decision, or the exercise of the power, relates to ngā rohe moana. 10

Subpart 2—Environmental covenant

19 Development and signing of covenant

- (1) Ngā hapū o Ngāti Porou may develop and sign an environmental covenant setting out issues relating to, and objectives, policies, and rules or other methods for,— 15
- (a) promoting the sustainable management of the natural and physical resources of ngā rohe moana o ngā hapū o Ngāti Porou; and
- (b) protecting the integrity of ngā hapū o Ngāti Porou, including their cultural and spiritual identity with ngā rohe moana. 20
- (2) Ngā hapū o Ngāti Porou must provide a copy of the environmental covenant to Gisborne District Council as soon as practicable after ngā hapū o Ngāti Porou and the responsible Minister have signed it.
- (3) To avoid doubt, a rule set out in the environmental covenant is not a rule as defined by section 2 of the Resource Management Act 1991 and does not have the force of law. 25

20 Recognition of covenant in key public documents

- (1) To the extent that a key public document covers or directly affects ngā rohe moana o ngā hapū o Ngāti Porou (other than a customary marine title area), Gisborne District Council must ensure that the document takes into account the matters in the environmental covenant that relate to resource management issues. 30
- (2) *See section 85* if the document covers or directly affects a customary marine title area. 35

*Review of key public documents***21 Gisborne District Council must review key public documents**

- (1) For the purposes of **sections 20 and 85**, Gisborne District Council must review each key public document that covers or directly affects ngā rohe moana o ngā hapū o Ngāti Porou— 5
- (a) after it receives a copy of the environmental covenant under **section 19(2)**; and
- (b) each time it receives a copy of the amended covenant under **section 30(3)**.
- (2) The review of a key public document must commence on the earlier of the following: 10
- (a) the date that is the next date by which the Council must commence a review of the document under section 79 of the Resource Management Act 1991;
- (b) the initiation of any change or variation to the document under that Act. 15

22 Outcome of review

- (1) As soon as practicable after Gisborne District Council reviews a key public document under **section 21**, it must—
- (a) initiate any changes or variations to the document in the manner provided in Schedule 1 of the Resource Management Act 1991; or 20
- (b) give public notice of its decision that no changes or variations to the document are necessary and the reasons for that decision.
- (2) If the Council initiates changes or variations to some provisions of the document in accordance with **subsection (1)(a)**, it must give public notice of—
- (a) any decision not to change or vary other provisions of the document that relate to matters in the environmental covenant; and 25
- (b) the reasons why no change or variation to those provisions is necessary.

23 Covenant must be attached to key public documents until review completed

- (1) Gisborne District Council must attach a copy of the environmental covenant to a key public document until the Council completes its review of that document. 30
- (2) Despite **subsection (1)**, the Council is not required to provide a copy of the environmental covenant to any person holding a copy of the key public document.
- (3) To avoid doubt, the attachment of a copy of the environmental covenant to a key public document under **subsection (1)**— 35
- (a) is not an amendment to the document for the purposes of the Resource Management Act 1991; and

- (b) may be done by the Council without any authority other than this section.

24 Effect of covenant on resource consent applications until review completed

- (1) This section applies if—
- (a) a consent authority is considering a resource consent application for an activity within, adjacent to, or directly affecting ngā rohe moana; and 5
- (b) the Council has not completed its review of the key public documents that are relevant to the consideration.
- (2) When considering the application, the consent authority must have regard to the matters in the environmental covenant that relate to resource management issues. 10
- (3) *See section 86* if the activity is within, adjacent to, or directly affecting a customary marine title area.

Review of key public documents: reconsideration and appeal

25 Ngā hapū o Ngāti Porou may require Gisborne District Council to reconsider decision 15

- (1) Ngā hapū o Ngāti Porou may, by written notice, require Gisborne District Council to reconsider—
- (a) a decision that no changes or variations to a key public document are necessary; or 20
- (b) a decision that no changes or variations to certain provisions of a key public document are necessary.
- (2) Ngā hapū o Ngāti Porou must give notice no later than 30 working days after the Council gives public notice of the decision.

26 Reconsideration by Gisborne District Council 25

- (1) If Gisborne District Council receives a notice from ngā hapū o Ngāti Porou under **section 25(1)**, it must reconsider the decision concerned as soon as practicable.
- (2) After reconsidering the decision, the Council may—
- (a) confirm the decision, and give written notice to ngā hapū o Ngāti Porou of the confirmation and the reasons for it; or 30
- (b) change its decision, and initiate changes or variations to the document in accordance with **section 22**.

27 Appeal to Environment Court from reconsideration

- (1) Ngā hapū o Ngāti Porou may appeal to the Environment Court against a decision of Gisborne District Council under **section 26(2)**. 35

- (2) Ngā hapū o Ngāti Porou must give notice of their appeal to the Environment Court within—
- (a) 30 working days after receiving notice of the Council’s decision; or
 - (b) any longer period that the Environment Court may permit.
- 28 Environment Court’s decision** 5
- (1) On an appeal under **section 27(1)**, the Environment Court may—
- (a) order Gisborne District Council to initiate specified changes or variations to the key public document in accordance with Schedule 1 of the Resource Management Act 1991; or
 - (b) dismiss the appeal. 10
- (2) The Environment Court may make an order under **subsection (1)(a)** if it considers that the document should be changed or varied to take into account, or recognise and provide for, the matters in the environmental covenant that relate to resource management issues.
- Review and amendment of environmental covenant* 15
- 29 Periodic review**
- (1) Ngā hapū o Ngāti Porou may review the environmental covenant to ensure it accurately provides for the matters described in **section 19(1)**.
- (2) However, ngā hapū o Ngāti Porou must not start—
- (a) the first review until at least 3 years after the responsible Minister signs the covenant: 20
 - (b) each subsequent review until at least 3 years after the previous review is completed.
- 30 Amendment after review**
- (1) Ngā hapū o Ngāti Porou may amend the environmental covenant after carrying out a review. 25
- (2) The covenant is amended by ngā hapū o Ngāti Porou signing the amended version.
- (3) Ngā hapū o Ngāti Porou must, as soon as practicable after amending the environmental covenant,— 30
- (a) give written notice of the amendment to Gisborne District Council; and
 - (b) provide the Council with a copy of the amended covenant.

*Effect of environmental covenant on other documents and decisions***31 Effect on other resource management documents**

- (1) The Minister for the Environment must consider the environmental covenant when preparing a proposed national environmental standard (as defined by section 2 of the Resource Management Act 1991) that directly affects ngā rohe moana. 5
- (2) A board of inquiry appointed under section 47 of the Resource Management Act 1991 to inquire into a proposed national policy statement that directly affects ngā rohe moana must treat the environmental covenant as a relevant matter for the purposes of section 51(1)(e) of that Act. 10
- (3) Any other person who, under a process established under section 46A(3)(b) of the Resource Management Act 1991, prepares a report and recommendations for a proposed national policy statement that directly affects ngā rohe moana must treat the environmental covenant as a relevant matter for the purposes of section 51(1)(e) of that Act. 15

32 Effect on decisions under Heritage New Zealand Pouhere Taonga Act 2014

- (1) This section applies if an application is made under section 44, 56, or 61 of the Heritage New Zealand Pouhere Taonga Act 2014 in relation to a site or locality within ngā rohe moana o ngā hapū o Ngāti Porou.
- (2) With respect to the application and any appeal against a decision made on the application, the environmental covenant must be treated as— 20
- (a) a matter set out in section 59(1)(a) of that Act, if the application is made under section 44 or 61 of that Act; or
- (b) a matter to which Heritage New Zealand Pouhere Taonga must have regard under section 56(3) of that Act, if the application is made under section 56 of that Act. 25

33 Effect on Gisborne District Council decision-making processes

- (1) For a decision that relates to ngā rohe moana o ngā hapū o Ngāti Porou, Gisborne District Council must consider the environmental covenant—
- (a) when identifying and assessing options under section 77 of the Local Government Act 2002; and 30
- (b) as part of giving consideration to the views and preferences of persons likely to be affected by, or to have an interest in, a matter for the purposes of section 78(1) of that Act; and
- (c) when exercising the Council's responsibility to make judgments about the manner in which section 81(2)(b) of that Act (which relates to Māori contributions to decision-making) is to be complied with; and 35
- (d) in exercising its discretion under section 82(3) of that Act (which relates to the observance of principles of consultation).

- (2) **Subsection (1)(a) and (b)** is subject to the Council’s responsibility to make judgments in accordance with section 79 of the Local Government Act 2002.

Subpart 3—Protected customary activities

Performance of protected customary activities

- 34 Performance of protected customary activities** 5
- (1) A protected customary activity may be performed despite—
- (a) sections 9 to 17 of the Resource Management Act 1991; or
 - (b) a rule in a plan or a proposed plan.
- (2) **Subsection (1)** applies to a protected customary activity only if the activity is performed— 10
- (a) by a person who the protected customary activity hapū has decided under **section 35(1)(a)** may perform the activity; and
 - (b) in an area of ngā rohe moana o ngā hapū o Ngāti Porou that— 15
 - (i) is specified in the protected customary activity agreement or protected customary activity order; and
 - (ii) the hapū has decided under **section 35(1)(b)** is an area in which the activity may be performed (if the hapū has decided on any areas); and
 - (c) in accordance with— 20
 - (i) any limitations specified in the protected customary activity agreement or protected customary activity order; and
 - (ii) any limitations imposed on a decision by the hapū under **section 35(2)**; and
 - (iii) any controls on the activity agreed between the hapū and the Minister of Conservation under **section 36**. 25
- 35 Hapū may decide who may perform protected customary activity, and where**
- (1) The protected customary activity hapū for a protected customary activity may decide on—
- (a) the member or members of the hapū who are able to perform the activity; and 30
 - (b) the areas within ngā rohe moana in which the activity may be performed (being 1 or more of the areas specified in the protected customary activity agreement or protected customary activity order).
- (2) The hapū may do 1 or more of the following: 35
- (a) impose limitations on a decision for any reason:

- (b) suspend a decision for any reason:
- (c) derive a commercial benefit from the performance of the protected customary activity.

Controls on protected customary activities

- 36 Determining whether protected customary activity has significant adverse effects** 5
- (1) The Minister of Conservation may at any time determine whether a protected customary activity has, or may have, a significant adverse effect on the environment.
 - (2) For the purposes of **subsection (1)**, the Minister— 10
 - (a) must seek the views of the protected customary activity hapū about the effects of the protected customary activity on the environment; and
 - (b) may obtain any information he or she thinks relevant, but must seek the views of the hapū on any information obtained; and
 - (c) must have particular regard to— 15
 - (i) the views of the hapū; and
 - (ii) the rights of the hapū, and of ngā hapū o Ngāti Porou generally, under this Act and the potential effect of controls on those rights; and
 - (iii) the matters in the environmental covenant that relate to resource management issues; and 20
 - (d) must have regard to—
 - (i) the effects on the environment of performing the activity; and
 - (ii) the views expressed by any person the Minister has consulted; and
 - (iii) any other relevant information and views that the Minister has received; and 25
 - (e) may have regard to—
 - (i) any relevant national policy statement; and
 - (ii) Gisborne District Council’s regional policy statement; and
 - (iii) Gisborne District Council’s district plan and regional plan; and 30
 - (f) must make his or her determination in consultation with the Minister for Māori Development; and
 - (g) must prepare a report under **section 37**.
 - (3) For the purposes of **subsection (2)(a) to (c)(i)**,—
 - (a) the Minister must seek the views of the hapū by written notice that specifies a reasonable time frame within which the hapū must provide its views; and 35

- (b) the Minister need only have particular regard to views provided within the specified time frame.

37 Significant adverse effects report

- (1) The Minister of Conservation must prepare a significant adverse effects report after making a determination under **section 36**. 5
- (2) A significant adverse effects report must be in writing and include—
 - (a) the details of the protected customary activity concerned; and
 - (b) an outline of the views of the protected customary activity hapū and the information received by the Minister under **section 36(2)(b)**; and
 - (c) the Minister’s determination and the reasons for it. 10
- (3) The Minister of Conservation must, as soon as practicable after completing a significant adverse effects report,—
 - (a) provide a copy of the report to the protected customary activity hapū; and
 - (b) make the report publicly available for at least 1 year after its completion. 15

38 Agreement on controls if protected customary activity has significant adverse effects

- (1) This section applies if the Minister of Conservation determines in accordance with **section 36** that a protected customary activity has, or may have, a significant adverse effect on the environment. 20
- (2) The Minister and the protected customary activity hapū must as soon as practicable, by working together in good faith, agree in writing on any controls on the activity (including terms, standards, and restrictions).
- (3) Controls on a protected customary activity must—
 - (a) not prevent the activity from being performed; and 25
 - (b) be reasonable and, in the circumstances, not unduly restrictive; and
 - (c) be necessary to avoid, remedy, or mitigate the significant adverse effects of the activity on the environment.
- (4) Neither the Minister nor the hapū may unreasonably withhold agreement to any proposed controls on a protected customary activity. 30

39 Notice of agreement on controls

The Minister of Conservation must, as soon as practicable after an agreement under **section 38** is reached, provide the following persons with a copy of the agreement:

- (a) ngā hapū o Ngāti Porou; and 35
- (b) Gisborne District Council; and
- (c) the Attorney-General; and

- (d) the Minister for Māori Development; and
- (e) the chief executive of Land Information New Zealand; and
- (f) the chief executive of the Ministry of Justice.

40 Registration of agreement on controls

- (1) The chief executive of Land Information New Zealand must enter an agreement under **section 38** on the marine and coastal area register as if the agreement were a notice given under section 57 of the Marine and Coastal Area (Takutai Moana) Act 2011. 5
- (2) The chief executive must enter the agreement on the register without delay after receiving the notice referred to in **section 96** if the chief executive is satisfied that the agreement meets the requirements for registration referred to in section 114(3) of the Marine and Coastal Area (Takutai Moana) Act 2011. 10
- (3) Controls take effect when the agreement is registered.

Restrictions on grants of resource consents

41 Restrictions on grants of resource consents

15

- (1) This section applies if a resource consent application for an activity to be carried out in an area recognised in a protected customary activity agreement or protected customary activity order is lodged on or after the date that the protected customary activity takes effect.
- (2) A consent authority must not grant an application for a resource consent for an activity (including a controlled activity) to be carried out in the area if the consent authority decides, in accordance with **section 42**, that the activity will, or is likely to, have adverse effects that are more than minor on the performance of a protected customary activity. 20
- (3) However, **subsection (2)** does not apply if— 25
 - (a) the proposed activity is an accommodated matter; or
 - (b) the protected customary activity hapū gives its written approval for the proposed activity (*see section 43*).

42 Determination of adverse effects

- (1) If **section 41** applies, the consent authority must decide whether a proposed activity will, or is likely to, have adverse effects that are more than minor on the performance of a protected customary activity. 30
- (2) In making the decision described in **subsection (1)**, the consent authority must—
 - (a) seek the views of the protected customary activity hapū about the effects of the proposed activity on the protected customary activity; and 35
 - (b) have particular regard to—

- (i) the views of the hapū; and
- (ii) the effects of the proposed activity on the protected customary activity; and
- (iii) the matters in the environmental covenant that relate to resource management issues; and 5
- (c) consider the following:
 - (i) the area that the proposed activity would have in common with the protected customary activity; and
 - (ii) the degree to which the proposed activity, and the protected customary activity, must be carried out to the exclusion of other activities; and 10
 - (iii) whether the protected customary activity may be performed only in a particular area; and
 - (iv) whether an alternative location for or method of carrying out the proposed activity would avoid, remedy, or mitigate any adverse effects of it on the protected customary activity; and 15
 - (v) whether any conditions could be included in a resource consent for the proposed activity that would avoid, remedy, or mitigate any adverse effects of the proposed activity on the protected customary activity. 20
- (3) For the purposes of **subsection (2)(a) and (b)(i)**,—
 - (a) the consent authority must seek the views of the hapū by written notice that specifies a reasonable time frame within which the hapū must provide its views; and
 - (b) the consent authority need only have particular regard to views provided within the specified time frame. 25

43 Written approval and scope of resource consent

- (1) This section applies if a protected customary activity hapū gives written approval under **section 41(3)(b)** for a proposed activity.
- (2) If the effect of carrying out the proposed activity under the resource consent sought would be to prevent, in whole or in part, the performance of a protected customary activity, the written approval must acknowledge that effect. 30
- (3) The written approval—
 - (a) forms part of the application for the resource consent for the proposed activity; and 35
 - (b) if a resource consent is granted, forms part of the resource consent for that activity.
- (4) Approval given by a protected customary activity hapū cannot be revoked, but may be given for a limited duration specified in the approval.

- (5) A consent authority must not grant a resource consent for a proposed activity with a different scope to that in the application for the resource consent unless the protected customary activity hapū has consented in writing to the different scope.

Application of other legislation to protected customary activity 5

44 Application of other legislation to protected customary activity

- (1) A protected customary activity is to be treated as—
- (a) a protected customary right for the purposes of sections 6(g), 28A(1)(c), 35(2)(e), 58(gb), 85A, 85B, and 309 and clause 6 of Schedule 4 of the Resource Management Act 1991; and 10
 - (b) an activity undertaken under a protected customary rights order for the purposes of—
 - (i) sections 89B and 186ZB of the Fisheries Act 1996; and
 - (ii) section 35(5)(jb) of the Resource Management Act 1991.
- (2) A protected customary activity hapū is to be treated as a protected customary rights group for the purposes of section 85B and clause 6 of Schedule 4 of the Resource Management Act 1991. 15
- (3) Gisborne District Council must not impose a coastal occupation charge under section 64A of the Resource Management Act 1991 on a protected customary activity hapū exercising a right under this Act in relation to its protected customary activity. 20

Subpart 4—Wāhi tapu and wāhi tapu areas

45 Duties of Gisborne District Council

- (1) Gisborne District Council must take any appropriate action (which may include erecting signs and fences) that it agrees with the relevant hapū is reasonably necessary to encourage public compliance with any prohibition or restriction imposed in relation to a wāhi tapu or wāhi tapu area. 25
- (2) *See **subpart 2 of Part 4*** for how a wāhi tapu or wāhi tapu area is recognised under this Act.

46 Offences 30

- (1) A person who intentionally fails to comply with a prohibition or restriction imposed in relation to a wāhi tapu or wāhi tapu area commits an offence and is liable on conviction to a fine not exceeding \$5,000.
- (2) However, a person does not commit an offence if he or she—
- (a) is carrying out an emergency activity (as defined by **section 12(3)**); or 35
 - (b) acts in accordance with an exemption that applies to the prohibition or restriction.

47 Wardens and fishery officers

- (1) Wardens may be appointed by the relevant hapū, in accordance with regulations made under section 118 of the Marine and Coastal Area (Takutai Moana) Act 2011, to promote compliance with a prohibition or restriction imposed in relation to a wāhi tapu or wāhi tapu area. 5
- (2) For the purposes of **subsection (1)**, those regulations apply—
- (a) as if the relevant hapū were a customary marine title group under the Marine and Coastal Area (Takutai Moana) Act 2011; and
 - (b) as if the wāhi tapu or wāhi tapu area were recognised under that Act; and
 - (c) as if the prohibitions or restrictions were wāhi tapu conditions imposed under that Act; and 10
 - (d) with any other necessary modifications.
- (3) A warden appointed under **subsection (1)** is responsible to the relevant hapū for the functions described in section 80(2) of the Marine and Coastal Area (Takutai Moana) Act 2011. 15
- (4) A fishery officer may enforce prohibitions or restrictions imposed in relation to a wāhi tapu or wāhi tapu area if, and to the extent that, any fishing breaches the prohibitions or restrictions.
- (5) For the purpose of **subsection (4)**, a fishery officer may enter a wāhi tapu or wāhi tapu area— 20
- (a) to assist in implementing a prohibition or restriction:
 - (b) to advise fishers of any applicable prohibition or restriction:
 - (c) to warn fishers to leave the wāhi tapu or wāhi tapu area:
 - (d) to record any failure of a fisher to comply with a prohibition or restriction, and the details of the fisher, if the officer has reason to believe the failure is intentional: 25
 - (e) to report any such failure to a constable.
- (6) In this section, **fishery officer** and **fishing** have the meanings given by section 2 of the Fisheries Act 1996.

Subpart 5—Customary fishing practices 30**48 Meaning of customary food gathering and customary fishing area of ngā hapū o Ngāti Porou**

In this subpart,—

area of interest of Ngāti Porou means the Ngāti Porou area of interest defined by paragraph 21.1c of schedule 2 of the deed of agreement 35

customary fishing area of ngā hapū o Ngāti Porou means—

- (a) the area of ngā rohe moana; and

- (b) the extension of that area to the outer limit of the exclusive economic zone as follows:
- (i) all straight lines described in the description of the area in a Part of **Schedule 2** are extended in the same direction (from the outer limit of the territorial sea) to the outer limit of the exclusive economic zone: 5
 - (ii) but, for the description of the area in **Part 7 of Schedule 2**, the straight line described in **paragraph (d)** is not extended, and the straight line described in **paragraph (e)** is instead joined by another straight line from its end at 38°40'11.9"S and 178°01'49.5"E (at the outer limit of the territorial sea) to 38°36'34.5"S and 182°38'41.8"E (at the outer limit of the exclusive economic zone): 10
 - (iii) the extended or new straight lines for each Part of **Schedule 2** are joined by a line along the outer limit of the exclusive economic zone; and 15
- (c) the New Zealand fisheries waters in the area of interest of Ngāti Porou **customary food gathering** means the traditional rights confirmed by the Treaty of Waitangi and the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, being the taking of fish, aquatic life, or seaweed or managing of fisheries resources, as authorised by certain persons, to the extent that the gathering is consistent with tikanga Māori and is neither commercial in any way nor for pecuniary gain or trade. 20

49 Regulations for customary fishing practices

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister of Fisheries, make regulations under this section. 25
- (2) For the purposes of giving effect to the Crown's obligations to ngā hapū o Ngāti Porou under section 10 of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, the Minister of Fisheries must, in accordance with the deed of agreement, recommend to the Governor-General that regulations be made under this section for the purposes of recognising and providing for the following matters in accordance with that deed: 30
- (a) customary food gathering by ngā hapū o Ngāti Porou within the customary fishing area of ngā hapū o Ngāti Porou; and
 - (b) the special relationship between—
 - (i) customary marine title hapū and places of customary food gathering in their customary marine title areas; and 35
 - (ii) ngā hapū o Ngāti Porou and places of customary food gathering in the area of interest of Ngāti Porou.
- (3) Without limiting **subsection (2)**, the Minister of Fisheries may recommend that regulations be made to— 40

- (a) establish 1 or more fisheries management committees for the customary fishing area of ngā hapū o Ngāti Porou, and provide for the appointment of members to and removal of members from the committees:
- (b) recognise members of fisheries management committees as kaitiaki:
- (c) provide for persons to issue, on behalf of the members of a fisheries management committee, all authorisations or only authorisations of a certain type under **paragraph (g)**, and provide for the appointment of the persons and the cancellation of their appointments: 5
- (d) prescribe the functions and duties of fisheries management committees:
- (e) provide for fisheries management committees to make fisheries management plans for the customary fishing area of ngā hapū o Ngāti Porou: 10
- (f) prescribe the matters to be included in fisheries management plans:
- (g) provide for fisheries management committee members to issue oral and written authorisations to take, hold, and distribute fisheries resources for customary food gathering purposes: 15
- (h) provide for fisheries management committees to propose bylaws for any of the following areas that are covered by a fisheries management plan:
- (i) a customary marine title area:
- (ii) an area of the New Zealand fisheries waters in the area of interest of Ngāti Porou: 20
- (i) provide for the Minister of Fisheries to consider and, by notice in the *Gazette*, make bylaws that are proposed by a fisheries management committee, after the Minister satisfies the relevant requirements in the deed of agreement:
- (j) provide for record keeping, document management, and reporting requirements for fisheries management plans, written and oral authorisations, and bylaws to which this subsection applies: 25
- (k) provide for offences, defences, and penalties:
- (l) provide, in certain situations, for arrangements (as defined in **section 51(5)**) that are made under the Fisheries (Kaimoana Customary Fishing) Regulations 1998 within the customary fishing area of ngā hapū o Ngāti Porou in respect of ngā hapū o Ngāti Porou to be treated as arrangements under the regulations made under this section: 30
- (m) provide for any other matters contemplated by this subpart or necessary for giving it full effect. 35
- (4) Before making a recommendation under this section, the Minister of Fisheries must consult ngā hapū o Ngāti Porou.
- (5) Regulations made under this section must be treated for all purposes as being made under section 186(1) of the Fisheries Act 1996, and that Act applies accordingly, except that— 40

- (a) section 186(3) of that Act does not apply to bylaws made under the regulations; and
- (b) the notice in the *Gazette* for bylaws made under the regulations is neither a legislative instrument nor a disallowable instrument for the purposes of the Legislation Act 2012 and does not have to be presented to the House of Representatives under section 41 of that Act. 5
- (6) The publication in the *Gazette* of bylaws purporting to have been made under regulations made under this subsection is conclusive evidence that the bylaws have been properly made.
- 50 Performance of functions and exercise of powers under Fisheries Act 1996** 10
- (1) A person, when performing a function or exercising a power under the Fisheries Act 1996, must recognise and provide for a fisheries management plan if the function to be performed or power to be exercised affects the area within the customary fishing area of ngā hapū o Ngāti Porou to which the plan applies. 15
- (2) In this section, **fisheries management plan** means a fisheries management plan made in accordance with regulations made under **section 49**.
- 51 Relationship between customary fishing practices regulations and other regulations**
- (1) Regulations made under **section 49** prevail over the Fisheries (Amateur Fishing) Regulations 2013— 20
- (a) in relation to any area within the customary fishing area of ngā hapū o Ngāti Porou for which arrangements have been made under the regulations; but
- (b) only to the extent of any inconsistency. 25
- (2) **Subsections (3) and (4)** specify how regulations about customary fishing apply to different hapū or persons in respect of any fisheries resources within the customary fishing area of ngā hapū o Ngāti Porou.
- (3) Regulations made under **section 49** apply instead of the Fisheries (Kaimoana Customary Fishing) Regulations 1998 in respect of ngā hapū o Ngāti Porou, but the Fisheries (Kaimoana Customary Fishing) Regulations 1998 continue to apply in respect of any other hapū or persons. 30
- (4) However, the Fisheries (Kaimoana Customary Fishing) Regulations 1998 continue to apply in respect of ngā hapū o Ngāti Porou in the following ways:
- (a) those regulations apply to any arrangements that were already made under them, or are made as a result of a process described in **paragraph (b)**: 35
- (b) any process for arrangements that is started under those regulations must be completed under them:

- (c) regulations 7 and 8, other than regulation 8(1)(b) and (3)(a), apply (covering submissions and dispute resolution about tangata whenua or an area/rohe moana, but not about Tangata Kaitiaki/Tiaki).
- (5) In **subsection (4), arrangements** includes the following:
- (a) definition of a customary food gathering area/rohe moana: 5
 - (b) confirmation of the tangata whenua of an area/rohe moana:
 - (c) declaration of a mātaimai reserve:
 - (d) appointment of a Tangata Kaitiaki/Tiaki:
 - (e) authorisation to take fisheries resources:
 - (f) preparation of a management plan or strategy for an area/rohe moana: 10
 - (g) bylaws restricting or prohibiting the taking of fisheries resources from within a mātaimai reserve.

Subpart 6—Conservation mechanisms

Conservation processes

- 52 Meaning of conservation process** 15
- In this subpart, **conservation process** means any of the following applications or proposals:
- (a) applications made under section 5 of the Marine Reserves Act 1971 for the purpose of declaring or extending a marine reserve:
 - (b) proposals under section 22 of the Marine Mammals Protection Act 1978 to define and declare or extend a marine mammal sanctuary: 20
 - (c) proposals under the enactments relevant to conservation protected areas to declare or extend conservation protected areas:
 - (d) complete applications for concessions:
 - (e) applications made under regulation 12 of the Marine Mammals Protection Regulations 1992 for permits authorising commercial operations. 25
- 53 Participation in conservation processes**
- The relevant hapū have the right to participate in conservation processes in ngā rohe moana o ngā hapū o Ngāti Porou in accordance with **sections 54 and 55**. 30
- 54 Notification of conservation process**
- (1) Notice must be given to the relevant hapū if an application or a proposal for a conservation process is made in respect of an area that is within, adjacent to, or directly affecting ngā rohe moana.
 - (2) The notice must be given by— 35

- (a) the Minister of Conservation or the Director-General, as the case may be, if the conservation process is of a kind referred to in **section 52(a) to (d)**; or
- (b) the applicant, if the conservation process is of the kind referred to in **section 52(e)**. 5
- (3) The notice must be given—
- (a) as soon as practicable after the Minister of Conservation or the Director-General receives the application, if the conservation process involves an application; or
- (b) before the Minister of Conservation makes the decision or recommends the making of the Order in Council to which the proposal relates, if the conservation process involves a proposal. 10
- (4) If the application or proposal is made in respect of an area within ngā rohe moana, the notice must—
- (a) be in writing; and 15
- (b) include advice that the relevant hapū may provide its views on the application or proposal; and
- (c) specify a reasonable time frame within which the hapū must provide its views; and
- (d) provide sufficient information about the subject matter and scope of the application or proposal— 20
- (i) to assist the hapū to decide whether it wishes to provide its views on the application or proposal; and
- (ii) to advise where further information on the application or proposal may be viewed. 25
- (5) If the application or proposal is made in respect of an area adjacent to or directly affecting ngā rohe moana, the notice must—
- (a) be in writing; and
- (b) inform the relevant hapū that the application has been received or that the proposal is being considered. 30

55 **Obligation to have particular regard to views**

In considering an application or a proposal for a conservation process, the Minister of Conservation or the Director-General must have particular regard to any views provided by the relevant hapū within the time frame specified by the notice. 35

Stranded marine mammals

56 **Stranded marine mammals**

- (1) This section applies if a marine mammal is stranded within ngā rohe moana.

- (2) When making decisions about managing a stranded marine mammal, a Marine Mammals Officer must—
- (a) ensure that the welfare of the marine mammal and public safety are the primary considerations; and
 - (b) have particular regard to any views expressed to the officer by relevant hapū. 5
- (3) In this section, **Marine Mammals Officer**—
- (a) means a person declared or appointed to be a Marine Mammals Officer under section 11 of the Marine Mammals Protection Act 1978; and
 - (b) includes any other person authorised under section 18 of that Act to manage stranded marine mammals. 10

Applications to possess wildlife matter and marine mammal matter

57 Consideration of applications

- (1) This section applies if the Director-General receives—
- (a) an application under section 53 of the Wildlife Act 1953 for authorisation to possess wildlife matter found within ngā rohe moana; or 15
 - (b) an application under section 5 of the Marine Mammals Protection Act 1978 for a permit to possess marine mammal matter found within ngā rohe moana.
- (2) The Director-General may consider the application only if— 20
- (a) the Director-General has decided in accordance with **section 60** that the applicant's possession of the wildlife matter or marine mammal matter is essential for the conservation of the species or subspecies to which the wildlife or marine mammal belongs; or
 - (b) the relevant hapū has consented in writing to the application. 25

58 Referral of applications to relevant hapū

- (1) This section applies if—
- (a) the Director-General receives an application of a kind described **section 57(1)**; and
 - (b) a relevant hapū has neither consented to the application nor declined to consent to it. 30
- (2) As soon as practicable after receiving the application, the Director-General must refer it to the hapū to decide whether it wishes to consent to the application. Referral must be made—
- (a) orally, if the application is urgent (but written confirmation of it must be given as soon as practicable); or 35

- (b) by written notice, if the application is not urgent, together with a copy of—
- (i) the application; and
 - (ii) the details provided by the applicant.
- (3) On receiving an application, the hapū must either consent to the application or decline to consent to it. 5
- (4) If the Director-General has referred the application—
- (a) orally, the hapū must give its response under **subsection (3)** as soon as practicable and, in any event, no later than 24 hours after receiving the application: 10
 - (b) by written notice, the hapū must give its response under **subsection (3)** no later than 40 working days after receiving the application.
- (5) If the hapū does not respond in the time specified in **subsection (4)**, the hapū must be treated as having given its consent to the application.
- (6) In deciding whether to consent to an application, the hapū is not required to have regard to any of the provisions of the Wildlife Act 1953 or the Marine Mammals Protection Act 1978. 15
- 59 Terms of permit or authorisation if relevant hapū consents**
- (1) This section applies if the relevant hapū has consented to an application in accordance with **section 58**. 20
- (2) The Minister of Conservation or the Director-General (whichever is making the decision) must not grant the permit or authorisation for that application on terms different from those in the application unless—
- (a) the relevant hapū has consented in writing to the different terms; or
 - (b) the Minister or Director-General decides in accordance with **section 60** that the different terms are essential for the conservation of the species or subspecies to which the wildlife or marine mammal belongs. 25
- 60 Decision on whether possession essential to conservation**
- (1) The Minister of Conservation or the Director-General must make a decision for the purposes of **section 57(2)(a) or 59(2)(b)** by— 30
- (a) seeking the views of the relevant hapū and taking any views provided into account; and
 - (b) taking into account the following in relation to the species or subspecies of the wildlife or marine mammal:
 - (i) its taxonomic status; and 35
 - (ii) its threatened status or rarity; and

- (iii) the current state of knowledge about it and whether any information gained as a result of granting the application would be an important addition to that knowledge; and
- (iv) whether its population is being actively managed; and
- (v) whether it is included in a species recovery plan; and 5
- (vi) any other matter similar in nature to the matters set out in **subparagraphs (i) to (v)**.
- (2) For the purposes of **subsection (1)(a)**, the Minister or Director-General—
- (a) must seek the views of each hapū by written notice that specifies a reasonable time frame within which the hapū must provide its views; and 10
- (b) need only take into account views provided within the specified time frame.
- Notice of decision*
- (3) The Minister or Director-General must provide the relevant hapū with written notice of— 15
- (a) a decision made under this section; and
- (b) the reasons for the decision.
- 61 Costs**
- A hapū of ngā hapū o Ngāti Porou may not charge for the exercise of its rights under this subpart. 20
- Possession of wildlife matter and marine mammal matter by ngā hapū o Ngāti Porou or Director-General*
- 62 Ngā hapū o Ngāti Porou may possess wildlife matter and marine mammal matter** 25
- (1) Ngā hapū o Ngāti Porou may possess wildlife matter or marine mammal matter that has been lawfully obtained within ngā rohe moana without an authorisation or a permit under—
- (a) the Wildlife Act 1953; or
- (b) the Marine Mammals Protection Act 1978. 30
- (2) For each piece of matter possessed under **subsection (1)**, ngā hapū o Ngāti Porou must keep a written register containing a current and accurate record that includes—
- (a) the name of the person who possesses the matter; and
- (b) a description of the wildlife or marine mammal from which the matter was obtained; and 35
- (c) where and when the wildlife or marine mammal was obtained.

- (3) If requested by the Director-General, ngā hapū o Ngāti Porou must enable him or her to—
- (a) access the register held under **subsection (2)**; and
 - (b) access the wildlife matter or the marine mammal matter possessed by ngā hapū o Ngāti Porou under **subsection (1)**; and 5
 - (c) collect data about and samples from the wildlife matter or marine mammal matter if the Director-General considers that to do so is essential for the conservation of the species to which the animal belongs.
- 63 Wildlife matter and marine mammal matter in Director-General’s possession** 10
- (1) This section applies if the Director-General comes into possession of wildlife matter or marine mammal matter that has been obtained within ngā rohe moana.
- (2) The Director-General must—
- (a) give ngā hapū o Ngāti Porou written notice of the possession of that matter, including details of the matter; and 15
 - (b) if the Director-General wishes to dispose of the matter, offer to gift it to ngā hapū o Ngāti Porou (and receive written notice refusing the offer) before disposing of it in any other way.
- (3) **Section 62(2) and (3)** applies to any wildlife matter or marine mammal matter that ngā hapū o Ngāti Porou receives as a result of **subsection (2)(b)**. 20

Subpart 7—Official geographic names of features

- 64 Interpretation**
- In this subpart,—
- Board** has the meaning given by section 4 of the NZGB Act 25
- NZGB Act** means the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008
- official geographic name** has the meaning given by section 4 of the NZGB Act.
- 65 Official geographic names** 30
- (1) A name specified in the second column of the following table is the official geographic name of the feature in ngā rohe moana o ngā hapū o Ngāti Porou that is named in the first column, and described in the third and fourth columns, of the table:

Existing name	New name	Location (Topo50 map sheet and grid reference)	Type of geographic feature
East Island (Whangaokeno Island)	Whangaokeno / East Island	BD45 918138	Island
Hicks Bay	Wharekahika / Hicks Bay	BD45 703296-703263	Bay

- (2) Each official geographic name is to be treated as if it were an official geographic name that takes effect on the commencement of this Act by virtue of a determination of the Board made under section 19 of the NZGB Act.

66 Publication of official geographic names

- (1) The Board must, as soon as practicable after the commencement of this Act, give public notice in accordance with section 21(2) and (3) of the NZGB Act of each official geographic name that takes effect under **section 65**. 5
- (2) However, the notice must state that—
- (a) each name became an official geographic name on the date of commencement of this Act; and 10
 - (b) each official geographic name may be altered only with the written consent of ngā hapū o Ngāti Porou.

67 Subsequent alteration of official geographic names

The official geographic name of a feature to which **section 65** applies may be altered in accordance with the NZGB Act, but only with the written consent of ngā hapū o Ngāti Porou. 15

Subpart 8—Relationship instruments

68 Interpretation

In this subpart,—

artefact relationship instrument means the instrument entered into by ngā hapū o Ngāti Porou and the Minister for Arts, Culture and Heritage under paragraph 18 of schedule 2 of the deed of agreement, including any amendments to the instrument 20

conservation relationship instrument means the instrument entered into by ngā hapū o Ngāti Porou and the Minister of Conservation under paragraph 18 of schedule 2 of the deed of agreement, including any amendments to the instrument 25

environment relationship instrument means the instrument entered into by ngā hapū o Ngāti Porou and the Minister for the Environment under paragraph 18 of schedule 2 of the deed of agreement, including any amendments to the instrument 30

- fisheries relationship instrument** means the instrument entered into by ngā hapū o Ngāti Porou and the Minister of Fisheries under paragraph 18 of schedule 2 of the deed of agreement, including any amendments to the instrument
- minerals relationship instrument** means the instrument entered into by ngā hapū o Ngāti Porou and the Minister of Energy and Resources under paragraph 18 of schedule 2 of the deed of agreement, including any amendments to the instrument 5
- relationship instruments** means the artefact relationship instrument, the conservation relationship instrument, the environment relationship instrument, the fisheries relationship instrument, and the minerals relationship instrument 10
- whakamana accord** means the instrument entered into by ngā hapū o Ngāti Porou and the Crown under paragraph 17 of schedule 2 of the deed of agreement, including any amendments to the instrument.
- 69 Noting of conservation relationship instrument** 15
- (1) The Director-General must note a summary of the terms of the conservation relationship instrument on any national park management plan, conservation management strategy, or conservation management plan that affects ngā rohe moana.
- (2) The noting of the summary is— 20
- (a) for the purposes of public notice only; and
- (b) not an amendment to the national park management plan, the conservation management strategy, or the conservation management plan for the purposes of section 171 of the Conservation Act 1987 or section 46 of the National Parks Act 1980.
- 70 Noting of fisheries relationship instrument** 25
- (1) The chief executive under the Fisheries Act 1996 must note a summary of the terms of the fisheries relationship instrument in a fisheries plan affecting ngā rohe moana.
- (2) The noting of the summary is— 30
- (a) for the purposes of public notice only; and
- (b) not an amendment to the fisheries plan for the purposes of section 11A of the Fisheries Act 1996.
- 71 Noting of minerals relationship instrument**
- (1) The chief executive under the Crown Minerals Act 1991 must note a summary of the terms of the minerals relationship instrument in— 35
- (a) a register of protocols and relationship instruments maintained by the chief executive; and

- (b) the minerals programmes that affect ngā rohe moana, but only when those programmes are changed.
- (2) The noting of the summary is—
 - (a) for the purposes of public notice only; and
 - (b) not an amendment to the minerals programme for the purposes of the Crown Minerals Act 1991. 5
- (3) In this section, **minerals programme** has the meaning given by section 2 of the Crown Minerals Act 1991.

72 Limitations of relationship instruments

- (1) The artefact relationship instrument does not have the effect of granting, creating, or providing evidence of an estate or interest in, or rights relating to, taonga tūturu (as defined by section 2 of the Protected Objects Act 1975). 10
- (2) The conservation relationship instrument does not have the effect of granting, creating, or providing evidence of—
 - (a) rights relating to the common marine and coastal area; or 15
 - (b) an estate or interest in land held, managed, or administered under the conservation legislation; or
 - (c) an interest in, or rights relating to, flora or fauna managed or administered under the conservation legislation.
- (3) The environment relationship instrument does not have the effect of granting, creating, or providing evidence of an estate or interest in, or rights relating to, resources managed or administered under the Resource Management Act 1991. 20
- (4) The fisheries relationship instrument does not have the effect of granting, creating, or providing evidence of an estate or interest in, or rights relating to, assets or other property rights (including in respect of fish, aquatic life, or seaweed) that are held, managed, or administered under any of the following enactments: 25
 - (a) the Fisheries Act 1996:
 - (b) the Maori Commercial Aquaculture Claims Settlement Act 2004:
 - (c) the Maori Fisheries Act 2004:
 - (d) the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992. 30
- (5) The minerals relationship instrument does not have the effect of granting, creating, or providing evidence of an estate or interest in, or rights relating to, minerals.
- (6) In this section, **conservation legislation** means the Conservation Act 1987 or an enactment listed in Schedule 1 of that Act. 35

73 Whakamana accord and relationship instruments not restrictive of certain matters

The whakamana accord and the relationship instruments do not restrict—

- (a) the ability of the Crown to exercise its powers and perform its functions and duties in accordance with the law and Government policy; for example, the ability—
 - (i) to introduce legislation and change Government policy; and
 - (ii) to interact with or consult a person the Crown considers appropriate, including any iwi, hapū, marae, whānau, or other representative of tangata whenua; or
- (b) the responsibilities of a responsible Minister or a department of State; or
- (c) the legal rights of ngā hapū o Ngāti Porou.

Part 3 10

Mechanisms that affect customary marine title areas

Subpart 1—Permission rights in relation to Resource Management Act 1991

Resource consent applications for proposed activities in customary marine title area 15

74 Applications to be considered only in certain circumstances

- (1) If Gisborne District Council or the EPA receives a resource consent application for a proposed activity in a customary marine title area, it may consider, process, or act on the application under the Resource Management Act 1991 only if— 20
 - (a) the customary marine title hapū has given permission in writing to the proposed activity; or
 - (b) the proposed activity is an accommodated matter.
- (2) Permission given by the hapū cannot be revoked, but may be given for a limited duration specified in the permission. 25
- (3) **Subsection (1)** applies despite any other enactment, including (to avoid doubt) sections 87A(2)(a) and 104A of the Resource Management Act 1991.
- (4) In this subpart, **Council or EPA**, in relation to a resource consent application, means whichever of Gisborne District Council and the EPA receives the application. 30

75 Further restrictions on applications

- (1) If **section 74** prevents the Council or EPA from considering, processing, or acting on a resource consent application under the Resource Management Act 1991, no other person may consider, process, or act on the application under that Act. 35

- (2) Without limiting **subsection (1)**, a Minister may not take the following steps under Part 6AA of the Resource Management Act 1991 in relation to the resource consent application:
- (a) decide whether it is, or is part of, a proposal of national significance:
 - (b) make a direction to refer it to a board of inquiry or the Environment Court for decision. 5
- 76 Referral of applications to customary marine title hapū**
- (1) This section applies if the Council or EPA receives a resource consent application for a proposed activity in a customary marine title area and—
- (a) the customary marine title hapū has not given permission in writing, or refused in writing to give permission, for the proposed activity; and 10
 - (b) the proposed activity is not an accommodated matter.
- (2) The Council or EPA must refer the application to the hapū to determine whether it wishes to give permission for the proposed activity for the purposes of **section 74(1)(a)**. 15
- (3) The application must be referred to the hapū as soon as practicable after it is received.
- 77 Customary marine title hapū to determine whether to give permission for activity**
- (1) A customary marine title hapū may, by notice to the Council or EPA no later than 40 working days after the referral of a resource consent application under **section 76**,—
- (a) give permission in writing for the proposed activity for the purposes of **section 74(1)(a)**; or
 - (b) decline in writing to give permission for the proposed activity. 25
- (2) If the hapū does not give notice by the deadline in **subsection (1)**, the hapū is to be treated as having given its permission in writing for the proposed activity for the purposes of **section 74(1)(a)**.
- 78 Further information may be requested**
- (1) This section applies if the Council or EPA has referred, under **section 76**, a resource consent application for a proposed activity in a customary marine title area to the customary marine title hapū. 30
- (2) Before determining whether to give permission, the hapū may, by notice to the Council or EPA, seek further information of any type from the applicant to assist the hapū in determining whether to give permission. 35
- (3) On receipt of a request from the hapū, the Council or EPA must promptly seek the further information from the applicant.

- (4) An applicant who receives a request from the Council or EPA seeking further information must, no later than 15 working days after receiving the request,—
- (a) provide the information to the Council or EPA; or
 - (b) advise the Council or EPA by written notice that the applicant agrees to provide the information; or 5
 - (c) advise the Council or EPA by written notice that the applicant refuses or is unable to provide the information.
- (5) If the Council or EPA receives a notice under **subsection (4)(b)**, it must inform the applicant, by written notice, of the date by which the applicant is required to provide the information (being 30 working days later, or any earlier date required by the hapū). 10
- (6) The Council or EPA must promptly provide the hapū with information received from the applicant under this section.
- (7) The time period between the following dates must be excluded from the deadline calculation described in **section 77(1)**: 15
- (a) the date on which the Council or EPA receives the hapū's request for further information from the applicant; and
 - (b) the date that, as the case may be,—
 - (i) the Council or EPA provides the further information to the hapū; or 20
 - (ii) is 15 working days after the date of the request from the Council or EPA, where the applicant fails to respond to that request; or
 - (iii) the time limit expires under **subsection (5)**, if the applicant fails to provide the further information by that time limit; or
 - (iv) the Council or EPA gives notice to the hapū that the applicant refuses or is unable to provide the information. 25

General provisions

79 Scope of resource consent if customary marine title hapū gives permission

- (1) This section applies if a customary marine title hapū gives permission in writing for a proposed activity for the purposes of **section 74(1)(a)**. 30
- (2) A consent authority must not grant a resource consent for a proposed activity with a different scope to that in the application for the resource consent unless the hapū has consented in writing to the different scope.

80 Decision-making by customary marine title hapū under this subpart

To avoid doubt, in making decisions under this subpart, a customary marine title hapū is not limited by, or required to comply with, decision-making processes in the Resource Management Act 1991 that apply to a consent authority. 35

81 Costs

If the Council or EPA refers a resource consent application to a customary marine title hapū under **section 76**, the Council or EPA may require the applicant to pay the Council's or EPA's reasonable costs in complying with this subpart in relation to the application.

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82 Suspension of time frames in Resource Management Act 1991

(1) This section applies to a resource consent application for a proposed activity in a customary marine title area that is referred to a customary marine title hapū for any purpose under this subpart.

(2) The statutory time frames in the Resource Management Act 1991 that apply to the resource consent application are suspended until the hapū has exercised its rights under this subpart, including any rights of appeal or rehearing under that Act in relation to rights under this subpart.

10

83 Offences

(1) This section applies to a proposed activity in a customary marine title area, other than an accommodated matter, that requires the permission of the customary marine title hapū for the purposes of **section 74(1)(a)**.

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(2) It is an offence to commence the activity in the area unless the hapū has given permission for the purposes of **section 74(1)(a)**.

(3) A person who commits an offence against **subsection (2)** is liable on conviction,—

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(a) in the case of a natural person, to imprisonment for a term not exceeding 2 years or a fine not exceeding \$300,000;

(b) in the case of a person other than a natural person, to a fine not exceeding \$600,000.

25

(4) A person convicted of an offence under this section is also liable for the full value of—

(a) any revenue or profits earned by, or accruing to, the offender as a result of the offence; or

(b) any revenue or profits lost by the customary marine title hapū as a result of the offence; or

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(c) any savings in costs made by, or accruing to, the offender as a result of the offence.

(5) If a person is convicted of an offence under this section and a fine is imposed, the Environment Court must—

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(a) deduct 10% from the total sum of the fine imposed and the full amount payable under **subsection (4)**, to be credited to a Crown Bank Account nominated by the Minister of Finance for the purposes of this section; and

- (b) order that the balance of the total sum described in **paragraph (a)** be paid—
 - (i) in full to the customary marine title hapū that brought the prosecution; or
 - (ii) if another person brought the prosecution, to that person and the customary marine title hapū in any proportion that the Environment Court directs. 5
- (6) Proceedings under this section must be heard—
 - (a) by an Environment Judge sitting alone; or
 - (b) in the District Court and, unless the Chief District Court Judge directs otherwise, by a District Court Judge who is an Environment Judge. 10

Subpart 2—Customary fishing practices—extended mechanism

84 Regulations for customary fishing practices in relation to customary marine title areas

See section 49(2)(b)(i), (3)(h)(i), (3)(i), and (3)(j) for provisions that empower the making of regulations that— 15

- (a) recognise and provide for the special relationship between customary marine title hapū and places of customary food gathering in their customary marine title areas; and
- (b) provide for fisheries management committees to propose bylaws for any customary marine title area that is covered by a fisheries management plan and for the Minister of Fisheries to consider and make the bylaws; and 20
- (c) provide for record-keeping, document management, and reporting requirements for the bylaws. 25

Subpart 3—Environmental covenant—extended mechanism

85 Recognition of covenant in key public documents

- (1) To the extent that a key public document covers or directly affects a customary marine title area, Gisborne District Council must ensure that the document recognises and provides for the matters in the environmental covenant that relate to resource management issues. 30
- (2) *See section 20* if the document covers or directly affects an area of ngā rohe moana that is not a customary marine title area.

86 Effect of covenant on resource consent applications until review of key public documents completed 35

- (1) This section applies if—

- (a) a consent authority is considering a resource consent application for an activity within, adjacent to, or directly affecting a customary marine title area; and
- (b) Gisborne District Council has not completed its review under **section 21** of the key public documents that are relevant to the consideration. 5
- (2) The consent authority must recognise and provide for the matters in the environmental covenant that relate to resource management issues when considering the application.
- (3) *See* **section 24** if the activity is within, adjacent to, or directly affecting an area of ngā rohe moana that is not a customary marine title area. 10

Subpart 4—Conservation processes—extended mechanism

87 Conservation processes may not proceed without permission of relevant hapū

If an application or a proposal for a conservation process is made in respect of a customary marine title area, the Minister of Conservation or the Director-General must not consider the application or proposal without the written permission of the customary marine title hapū. 15

88 Referral to customary marine title hapū

- (1) The Minister of Conservation or the Director-General must refer an application or a proposal for a conservation process to the customary marine title hapū for the customary marine title area concerned, unless the person making the application or proposal has already sought permission from the hapū. 20
- (2) In referring the application or proposal, the Minister or Director-General must,—
 - (a) in the case of a marine reserve application, also refer details of the signs, boundary markers, and management activities that may be placed or undertaken in the proposed marine reserve: 25
 - (b) in the case of a proposal for a marine mammal sanctuary, also refer details of the management activities that may be undertaken in the proposed marine mammal sanctuary: 30
 - (c) in the case of a proposal to establish or extend a conservation protected area, an application for a concession, or an application for a permit authorising a commercial operation, also refer all the relevant details that are available to him or her.

89 Decision of customary marine title hapū on whether to give permission 35

- (1) The customary marine title hapū must, no later than 40 working days after it receives an application or a proposal for its consideration under **section 88**,—

- (a) decide whether to give or decline permission for the Minister of Conservation or the Director-General to consider the application or proposal; and
- (b) give written notice of that decision to the Minister of Conservation or the Director-General. 5
- (2) The customary marine title hapū is to be treated as having given its permission if notice of its decision is not received within the time frame specified in **subsection (1)**.
- (3) Permission given by the customary marine title hapū cannot be revoked.
- 90 Terms of grant or approval if customary marine title hapū consent 10**
- (1) This section applies if the customary marine title hapū has given its permission for an application or a proposal under **section 89**.
- (2) The Minister of Conservation or the Director-General must not grant the application or approve the proposal on terms different from those in the application or proposal. 15
- (3) However, **subsection (2)** does not apply in relation to a marine reserve application if—
- (a) the only change is to reduce the customary marine title area that is to be a marine reserve; and
- (b) the Director-General has notified the customary marine title hapū of the change. 20
- 91 Costs**
- A customary marine title hapū may not charge for the exercise of its rights under this subpart.
- Subpart 5—Taonga tūturu ownership 25**
- 92 Newly found taonga tūturu**
- (1) Any taonga tūturu found in an area after it has become a customary marine title area is prima facie the property of the customary marine title hapū.
- (2) Accordingly, section 11(1) of the Protected Objects Act 1975 does not apply to the taonga tūturu. 30
- (3) Any person who finds a taonga tūturu in a customary marine title area has a duty to notify the finding to the chief executive or the nearest public museum within 28 days, in accordance with section 11(3) of the Protected Objects Act 1975.
- (4) The obligations of the chief executive under section 11(4) of the Protected Objects Act 1975 apply, but with the following modifications: 35

- (a) the customary marine title hapū is entitled to have interim custody of the taonga tūturu, at the discretion of the chief executive and subject to any conditions that the chief executive considers fit; and
- (b) the public notice given by the chief executive must provide for a period of 6 months from the date of the notice for any claims of ownership to the taonga tūturu to be lodged. 5
- (5) To avoid doubt, the discretion conferred on the chief executive or other person by section 11(2) of the Protected Objects Act 1975 to apply to the Māori Land Court also applies under this section.
- (6) If no competing claims have been lodged with the chief executive within 6 months after the date of the notice given under **subsection (4)(b)**, the customary marine title hapū becomes the owner of the taonga tūturu. 10
- (7) If competing claims are lodged in respect of the taonga tūturu within the specified time,—
- (a) the customary marine title hapū must be treated as having also lodged a claim for the ownership of the taonga tūturu; and 15
- (b) the ownership of the taonga tūturu must be determined in accordance with sections 11(6) and (7) and 12 of the Protected Objects Act 1975.
- (8) Section 11(8) and (9) of the Protected Objects Act 1975 applies to the finding of taonga tūturu to which this section applies. 20

Subpart 6—Minerals ownership

93 Status of minerals in customary marine title area

- (1) This section applies in relation to an area after it has become a customary marine title area.
- (2) The customary marine title hapū has, and may exercise, ownership of minerals (other than petroleum, gold, silver, and uranium existing in their natural condition) that are within the customary marine title area. 25
- (3) The reservation of minerals in favour of the Crown continued by section 16(2) of the Marine and Coastal Area (Takutai Moana) Act 2011 ceases.
- (4) This section does not limit or have any effect on section 11(1A) of the Crown Minerals Act 1991 (which excludes the reservation of minerals in favour of the Crown from applying to pounamu to which section 3 of the Ngai Tahu (Pounamu Vesting) Act 1997 applies). 30

94 Status of existing privileges within common marine and coastal area

- (1) Despite **section 93(2) and (3)**, the following privileges, rights, obligations, functions, and powers (including those preserved by the transitional provisions in Part 2 of the Crown Minerals Act 1991) continue as if **section 93** had not been enacted: 35

-
- (a) privileges in existence immediately before the area became a customary marine title area; and
- (b) rights that can be exercised under the Crown Minerals Act 1991 by the holders of those privileges or any other person; and
- (c) subsequent rights and privileges granted to those holders or any other person following the exercise of the rights referred to in **paragraph (b)** (including those provided for by section 32 of the Crown Minerals Act 1991); and 5
- (d) the obligations on those holders or any other person imposed by or under the Crown Minerals Act 1991; and 10
- (e) the performance and exercise by the Crown of its functions and powers under the Crown Minerals Act 1991 in relation to any of the matters referred to in **paragraphs (a) to (d)**.
- (2) A customary marine title hapū is entitled to receive the following royalties from the Crown: 15
- (a) any royalties paid to the Crown under the Crown Minerals Act 1991 in respect of minerals (other than petroleum, gold, silver, and uranium existing in their natural condition) that are subject to any privilege referred to in **subsection (1)(a) to (d)** that applies to its customary marine title area; and 20
- (b) any royalties for sand and shingle taken from the customary marine title area imposed by regulations made under the Resource Management Act 1991.
- (3) The royalties—
- (a) are payable from the date on which the area becomes a customary marine title area; but 25
- (b) must be calculated based on the minerals to which the royalties relate that are taken from the area from the date on which the application is made for recognition of the customary marine title area under **section 111 or 113**. 30
- (4) If any amount of royalties due to the customary marine title hapū is unknown, the hapū and the Crown must calculate and agree to the amount by taking into account factors that include the following:
- (a) the relative sizes of the area to which the relevant privilege referred to in **subsection (1)(a) to (d)** applies and the area of the customary marine title area to which the relevant privilege applies: 35
- (b) the estimated value of the minerals to which the royalties relate.

Part 4

Recognition of protected customary activities, wāhi tapu, and customary marine title

Subpart 1—Recognition of protected customary activity

- 95 Recognition of protected customary activity by the Crown** 5
- (1) The responsible Minister may, on application, enter into a protected customary activity agreement with the relevant hapū to recognise 1 or more hapū of ngā hapū o Ngāti Porou as having 1 or more protected customary activities in an area of ngā rohe moana o ngā hapū o Ngāti Porou.
- (2) An application must be made by the relevant hapū no later than 2 years after the commencement of this Act. 10
- (3) An application must—
- (a) describe each activity that the relevant hapū wish to have recognised; and
 - (b) name each hapū that performs each activity; and 15
 - (c) describe the boundaries of the area where each activity is performed; and
 - (d) describe the scale, extent, and frequency of each activity; and
 - (e) include evidence that each activity—
 - (i) has been performed since 1840; and
 - (ii) continues to be performed in a particular part of ngā rohe moana, in accordance with tikanga, by the named hapū that perform the activity, whether it continues to be performed in exactly the same or a similar way, or has evolved over time; and 20
 - (iii) is not performed under a right that has been extinguished as a matter of law. 25
- (4) The responsible Minister may agree to recognise a protected customary activity only if the Minister is satisfied that the evidence establishes the matters described in **subsection (3)(e)** in relation to that activity.
- (5) A protected customary activity agreement may specify limitations on the scale, extent, or frequency of the performance of a protected customary activity. 30
- (6) A protected customary activity agreement cannot recognise an activity that is described in **section 99**.
- 96 Public notice for protected customary activity agreement**
- (1) The responsible Minister must give public notice of a protected customary activity agreement as soon as practicable after entering into it. 35
- (2) The public notice must be given by publishing a notice—
- (a) in the *Gazette*; and

- (b) in a newspaper circulating in the vicinity of the area covered by the agreement; and
- (c) in any other way, if the Minister considers it desirable.
- (3) The notice must—
- (a) describe each activity recognised by the agreement; and 5
- (b) name each hapū recognised as a protected customary activity hapū; and
- (c) describe the boundaries of the area where each activity is performed; and
- (d) describe any limitations on the scale, extent, or frequency of each activity; and
- (e) state that, on and from the date of publication of the notice in the *Gazette*, each activity described in the notice is a protected customary activity. 10
- (4) The responsible Minister must give a copy of the notice to—
- (a) the protected customary activity hapū; and
- (b) Gisborne District Council; and 15
- (c) the Minister of Conservation; and
- (d) the Minister for Māori Development; and
- (e) the chief executive of the Ministry of Justice; and
- (f) the chief executive of Land Information New Zealand; and
- (g) the chief executive of the Department of Conservation. 20
- (5) The notice published in the *Gazette*—
- (a) is a disallowable instrument for the purposes of the Legislation Act 2012; and
- (b) must be presented to the House of Representatives under section 41 of that Act. 25
- 97 Effective date for protected customary activity agreement**
- A protected customary activity described in a *Gazette* notice published under **section 96**—
- (a) has effect on and from the date of publication of the notice; and
- (b) ceases to have effect if the *Gazette* notice is revoked. 30
- 98 Recognition of protected customary activity by court order**
- (1) The relevant hapū may apply to the court for a court order that 1 or more hapū of ngā hapū o Ngāti Porou have 1 or more protected customary activities in an area of ngā rohe moana o ngā hapū o Ngāti Porou.
- (2) An application must be made by the relevant hapū no later than 2 years after the commencement of this Act. 35

- (3) The court may make the order only if it is satisfied that the evidence establishes that an activity—
- (a) has been performed since 1840; and
 - (b) continues to be performed in a particular part of ngā rohe moana, in accordance with tikanga, by the 1 or more hapū, whether it continues to be performed in exactly the same or a similar way, or has evolved over time; and 5
 - (c) is not performed under a right that has been extinguished as a matter of law.
- (4) The court order cannot recognise an activity that is described in **section 99**. 10
- (5) In all other respects, the applicants must make the application, and the court must determine the application, in accordance with the Marine and Coastal Area (Takutai Moana) Act 2011.
- (6) If the court makes and seals an order applied for under this section, the hapū named in the order are recognised as having a protected customary activity described in the order on and from the effective date, meaning the date on which the order is sealed. 15
- (7) A protected customary activity recognised under this section is subject to any limitations on the scale, extent, or frequency of the exercise of the activity described in the court order. 20
- (8) For the purposes of this section, a reference in the Marine and Coastal Area (Takutai Moana) Act 2011 to a protected customary right (other than in section 51 of that Act) must be read as a reference to a protected customary activity.
- 99 Fishing, aquaculture activities, etc, that cannot be recognised as protected customary activities** 25
- The following activities cannot be recognised as protected customary activities:
- (a) an activity that is regulated by the Fisheries Act 1996:
 - (b) an activity that is a commercial aquaculture activity (within the meaning of section 4 of the Maori Commercial Aquaculture Claims Settlement Act 2004): 30
 - (c) an activity that involves the exercise of—
 - (i) any commercial Māori fishing right or interest, being a right or an interest declared by section 9 of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 to be settled; or
 - (ii) any non-commercial Māori fishing right or interest, being a right or an interest subject to the declarations in section 10 of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992; or 35
 - (d) an activity that relates to—

- (i) wildlife within the meaning of the Wildlife Act 1953, or any animals specified in Schedule 6 of that Act; or
- (ii) marine mammals within the meaning of the Marine Mammals Protection Act 1978.
- 100 Registration of protected customary activity agreement or order** 5
- Protected customary activity agreement*
- (1) After a protected customary activity agreement is entered into under **section 95**, the responsible Minister must provide a copy of the agreement to the persons specified in section 97 of the Marine and Coastal Area (Takutai Moana) Act 2011 as if the agreement were an agreement to which that section applied. 10
- (2) The agreement must be registered in accordance with section 114 of that Act as if it were an agreement to which that section applied.
- Protected customary activity order*
- (3) After a court order is made under **section 98**, the following must be done as if the order were made under the Marine and Coastal Area (Takutai Moana) Act 2011: 15
- (a) the Registrar of the court and the responsible Minister must comply with section 110 of that Act; and
- (b) the order must be registered in accordance with section 114 of that Act.
- 101 Variation or cancellation of protected customary activity order** 20
- (1) A protected customary activity hapū may apply to the court to vary or cancel a protected customary activity order of the hapū.
- (2) The application may be made at any time after the commencement of this Act.
- (3) In all other respects, the applicants must make the application, and the court must determine the application, in accordance with section 111 of the Marine and Coastal Area (Takutai Moana) Act 2011. 25
- (4) If the order is varied or cancelled, the following must be done as if the order were made under the Marine and Coastal Area (Takutai Moana) Act 2011:
- (a) the Registrar of the court and the responsible Minister must comply with section 110 of that Act; and 30
- (b) the variation or cancellation must be registered in accordance with section 114 of that Act.
- (5) For the purposes of this section, a reference in the Marine and Coastal Area (Takutai Moana) Act 2011 to a protected customary right must be read as a reference to a protected customary activity. 35

Subpart 2—Recognition of wāhi tapu or wāhi tapu area

102 Recognition of wāhi tapu or wāhi tapu area by the Crown

- (1) The responsible Minister may, on application, agree with 1 or more hapū of ngā hapū o Ngāti Porou to recognise any of the following in ngā rohe moana o ngā hapū o Ngāti Porou: 5
- (a) a wāhi tapu, meaning a place sacred to Māori in the traditional, spiritual, religious, ritual, or mythological sense (as defined by section 6 of the Heritage New Zealand Pouhere Taonga Act 2014):
 - (b) a wāhi tapu area, meaning any land that contains 1 or more wāhi tapu (as defined by that section). 10
- (2) An application must be made by the relevant hapū no later than 2 years after the commencement of this Act.
- (3) An application must—
- (a) name the hapū in relation to which the wāhi tapu or wāhi tapu area is proposed to be recognised; and 15
 - (b) describe the boundaries of the proposed wāhi tapu or wāhi tapu area; and
 - (c) specify the prohibitions or restrictions that are to apply in relation to the proposed wāhi tapu or wāhi tapu area, and the reasons for them; and
 - (d) if applicable, specify the following details about exemptions from the prohibitions or restrictions: 20
 - (i) the individuals, or class of individuals, who are to be exempt when performing certain protected customary activities in relation to the proposed wāhi tapu or wāhi tapu area; and
 - (ii) the protected customary activities that the individuals may perform; and 25
 - (iii) any conditions that apply to the performance of the protected customary activities; and
 - (e) include evidence to establish—
 - (i) the connection of the named hapū with the wāhi tapu or wāhi tapu area in accordance with tikanga; and 30
 - (ii) that the named hapū require the proposed prohibitions or restrictions on access to protect the wāhi tapu or wāhi tapu area.
- (4) The responsible Minister may agree to recognise the wāhi tapu or wāhi tapu area only if the Minister is satisfied that the evidence establishes the matters described in **subsection (3)(e)**. 35

103 Public notice for wāhi tapu and wāhi tapu areas

- (1) The responsible Minister must give public notice of the recognition of a wāhi tapu or wāhi tapu area as soon as practicable after agreeing to it.

- (2) The public notice must be given by publishing a notice—
- (a) in the *Gazette*; and
 - (b) in a newspaper circulating in the vicinity of the wāhi tapu or wāhi tapu area; and
 - (c) in any other way, if the Minister considers it desirable. 5
- (3) The notice must—
- (a) name the hapū in relation to which the wāhi tapu or wāhi tapu area is recognised; and
 - (b) describe the boundaries of the wāhi tapu or wāhi tapu area; and
 - (c) specify the prohibitions or restrictions that apply in relation to the wāhi tapu or wāhi tapu area, and the reasons for them; and 10
 - (d) if applicable, specify the following details about exemptions from the prohibitions or restrictions:
 - (i) the individuals, or class of individuals, who are exempt when performing certain protected customary activities in relation to the wāhi tapu or wāhi tapu area; and 15
 - (ii) the protected customary activities that the individuals may perform; and
 - (iii) any conditions that apply to the performance of the protected customary activities; and 20
 - (e) state that, on and from the date of publication of the notice in the *Gazette*,—
 - (i) the wāhi tapu or wāhi tapu area is recognised; and
 - (ii) the specified prohibitions or restrictions are imposed, subject to any specified exemptions. 25

104 Variation or cancellation of wāhi tapu or wāhi tapu area

- (1) The responsible Minister may, on application, agree the following with the 1 or more hapū of ngā hapū o Ngāti Porou in relation to which a particular wāhi tapu or wāhi tapu area has been recognised under this Act:
- (a) to vary the recognition of the wāhi tapu or wāhi tapu area in respect of any matter specified in the *Gazette* notice by which it was recognised, including by adding, removing, or changing any prohibitions, restrictions, or exemptions; or 30
 - (b) to cancel the recognition of the wāhi tapu or wāhi tapu area.
- (2) An application may be made at any time after the commencement of this Act. 35
- (3) An application for a variation must—

- (a) specify all of the information required to give effect to the variation, including the reasons for any additional or changed prohibitions or restrictions; and
- (b) include evidence to establish that the prohibitions or restrictions on access, as varied, are required to protect the wāhi tapu or wāhi tapu area. 5
- (4) The responsible Minister may agree to vary the wāhi tapu or wāhi tapu area only if the Minister is satisfied that the evidence establishes the matters described by **subsection (3)(b)**.
- 105 Public notice for variation or cancellation of wāhi tapu or wāhi tapu area**
- (1) The responsible Minister must give public notice of the variation or cancellation of the recognition of a wāhi tapu or wāhi tapu area as soon as practicable after agreeing to it. 10
- (2) The public notice must be given by publishing a notice—
- (a) in the *Gazette*; and
- (b) in a newspaper circulating in the vicinity of the wāhi tapu or wāhi tapu area; and 15
- (c) in any other way, if the Minister considers it desirable.
- (3) The notice must,—
- (a) for a variation, specify all of the information required to give effect to the variation, including the reasons for any additional or changed prohibitions or restrictions; and 20
- (b) state that, on and from the date of publication of the notice in the *Gazette*,—
- (i) the recognition of the wāhi tapu or wāhi tapu area is varied or cancelled, as the case may be; and 25
- (ii) the specified prohibitions or restrictions are imposed, subject to any specified exemptions.
- 106 Effective date of prohibitions, restrictions, and exemptions**
- The prohibitions or restrictions specified in a *Gazette* notice published under **section 103 or 105** that recognises or varies a wāhi tapu or wāhi tapu area— 30
- (a) have effect, subject to the exemptions specified in the notice, on and from the date of publication of the notice; and
- (b) cease to have effect if the *Gazette* notice is revoked or if the wāhi tapu or wāhi tapu area is cancelled by a *Gazette* notice published under **section 105**. 35
- 107 Notice to relevant hapū and Council**
- The responsible Minister must, as soon as practicable after a *Gazette* notice is published under **section 103 or 105**, provide a copy of the notice to—

- (a) the relevant hapū; and
- (b) Gisborne District Council; and
- (c) the chief executive under the Marine and Coastal Area (Takutai Moana) Act 2011.
- 108 Gazette notice is disallowable instrument** 5
- A *Gazette* notice published under **section 103 or 105**—
- (a) is a disallowable instrument for the purposes of the Legislation Act 2012; and
- (b) must be presented to the House of Representatives under section 41 of that Act. 10
- 109 Recognition of wāhi tapu or wāhi tapu area by court order**
- (1) The relevant hapū may, in applying to the court for a court order in accordance with **section 113**, seek to include recognition of a wāhi tapu or a wāhi tapu area in the order as if under section 78 of the Marine and Coastal Area (Takutai Moana) Act 2011. 15
- (2) If the court makes and seals the order, recognising a wāhi tapu or a wāhi tapu area and setting out wāhi tapu conditions in accordance with section 79 of that Act, then, on and from the effective date, meaning the date on which the order is sealed,—
- (a) the wāhi tapu or wāhi tapu area is recognised; and 20
- (b) the prohibitions or restrictions specified in the wāhi tapu conditions are imposed, subject to any exemptions specified in the conditions.
- (3) An application under **section 116** may seek to vary or cancel a wāhi tapu condition as if section 79(3)(a) of the Marine and Coastal Area (Takutai Moana) Act 2011 applied. 25
- 110 Registration of wāhi tapu or wāhi tapu area**
- Crown's recognition*
- (1) The responsible Minister must, when providing a copy of a *Gazette* notice to the chief executive under **section 107(c)**, include any other information required by the chief executive of Land Information New Zealand for the purposes of registration under **subsection (2)**. 30
- (2) The details of the wāhi tapu or wāhi tapu area recognised by the *Gazette* notice must be registered under section 114 of Marine and Coastal Area (Takutai Moana) Act 2011 as if the wāhi tapu or wāhi tapu area were recognised in an agreement to which that section applied. 35

Court order for recognition

- (3) See **section 115(3)** for how a court order (including an order that sets out wāhi tapu conditions) is registered under the Marine and Coastal Area (Takutai Moana) Act 2011.

Subpart 3—Recognition of customary marine title 5

111 Recognition of customary marine title by the Crown

- (1) The responsible Minister may, on application, determine whether 1 or more hapū of ngā hapū o Ngāti Porou have customary marine title in an area of ngā rohe moana o ngā hapū o Ngāti Porou.
- (2) An application must be made by the relevant hapū no later than 2 years after the commencement of this Act. 10
- (3) An application must—
- (a) name the proposed customary marine title hapū; and
 - (b) describe the boundaries of the proposed customary marine title area; and
 - (c) include evidence that the hapū— 15
 - (i) hold the area in accordance with tikanga; and
 - (ii) have, in relation to the area,—
 - (A) exclusively used and occupied it from 1840 to the present day without substantial interruption; or
 - (B) received it, at any time after 1840, through a customary 20 transfer.
- (4) The responsible Minister may make a determination that the hapū have customary marine title only if the Minister is satisfied that the evidence establishes the matters described in **subsection (3)(c)** in accordance with sections 58 and 59 of the Marine and Coastal Area (Takutai Moana) Act 2011. 25
- (5) The responsible Minister must give written notice to the applicant of the determination and the reasons for the determination.

112 Order in Council for customary marine title

- (1) If the responsible Minister determines under **section 111** that 1 or more hapū have customary marine title in an area of ngā rohe moana, he or she must recommend the making of an Order in Council to recognise the customary marine title. 30
- (2) The responsible Minister must recommend that the Order in Council—
- (a) name the customary marine title hapū; and
 - (b) describe the boundaries of the customary marine title area; and 35
 - (c) specify the management arrangement that represents the hapū in respect of the area of ngā rohe moana (*see section 120*); and

- (d) state that, on and from the effective date specified in the order, the hapū are recognised as having customary marine title in the area.
- (3) The Governor-General may make the Order in Council on the recommendation of the responsible Minister.
- (4) To avoid doubt, the Order in Council may do the things recommended under **subsection (2)** by amending another Order in Council. 5
- 113 Recognition of customary marine title by court order**
- (1) The relevant hapū may apply to the court for a court order that 1 or more hapū of ngā hapū o Ngāti Porou have customary marine title in an area of ngā rohe moana o ngā hapū o Ngāti Porou. 10
- (2) An application must be made by the relevant hapū no later than 2 years after the commencement of this Act.
- (3) The court may make the order only if it is satisfied that the evidence establishes the following matters in accordance with sections 58 and 59 of the Marine and Coastal Area (Takutai Moana) Act 2011: 15
- (a) that the 1 or more hapū hold the area in accordance with tikanga; and
- (b) that the 1 or more hapū have, in relation to the area,—
- (i) exclusively used and occupied it from 1840 to the present day without substantial interruption; or
- (ii) received it, at any time after 1840, through a customary transfer. 20
- (4) In all other respects, the applicants must make the application, and the court must determine the application, in accordance with the Marine and Coastal Area (Takutai Moana) Act 2011.
- (5) If the court makes and seals an order applied for under this section, the hapū named in the order are recognised as having customary marine title in the area of ngā rohe moana specified in the order on and from the effective date, meaning the date on which the order is sealed. 25
- 114 Customary marine title recognised only for purposes of this Act**
- To avoid doubt, customary marine title recognised by an Order in Council made under **section 112** or a court order made under **section 113** is recognised only for the purposes of this Act (not the Marine and Coastal Area (Takutai Moana) Act 2011). 30
- 115 Registration of recognition document or order for customary marine title**
- Crown's recognition document*
- (1) After an Order in Council is made under **section 112**, the responsible Minister must— 35
- (a) prepare a document that—

-
- (i) specifies the details of the recognition of customary marine title under the order; and
- (ii) includes any other information required by the chief executive of Land Information New Zealand for the purposes of registration under **subsection (2)**; and 5
- (b) provide a copy of the document to the persons specified by section 97 of the Marine and Coastal Area (Takutai Moana) Act 2011 (as if the document were an agreement).
- (2) The document must be registered in accordance with section 114 of that Act as if it were an agreement to which that section applied. 10
- Court order for recognition*
- (3) After a court order is made under **section 113**, the following must be done as if the order were made under the Marine and Coastal Area (Takutai Moana) Act 2011:
- (a) the Registrar of the court and the responsible Minister must comply with section 110 of that Act; and 15
- (b) the order must be registered in accordance with section 114 of that Act.
- 116 Variation or cancellation of customary marine title order**
- (1) A customary marine title hapū may apply to the court to vary or cancel a customary marine title order of the hapū. 20
- (2) The application may be made at any time after the commencement of this Act.
- (3) In all other respects, the applicants must make the application, and the court must determine the application, in accordance with section 111 of the Marine and Coastal Area (Takutai Moana) Act 2011.
- (4) If the order is varied or cancelled, the following must be done as if the order were made under the Marine and Coastal Area (Takutai Moana) Act 2011: 25
- (a) the Registrar of the court and the responsible Minister must comply with section 110 of that Act; and
- (b) the variation or cancellation must be registered in accordance with section 114 of that Act. 30
- 117 Customary marine title area is exclusive**
- (1) This section applies to an area of ngā rohe moana o ngā hapū o Ngāti Porou that has become a customary marine title area under this Act.
- (2) **Sections 112 and 113** cease to apply to the customary marine title area (so that no other customary marine title can be recognised over the area under those 2 sections). 35

- (3) If a process is underway under either of those 2 sections for recognition in an area that includes all or part of the customary marine title area, the process ends immediately in respect of the customary marine title area.

Subpart 4—Application of Resource Management Act 1991 to
customary marine title and wāhi tapu and wāhi tapu areas 5

118 Application of Resource Management Act 1991 to customary marine title

- (1) A customary marine title hapū under this Act is to be treated as a customary marine title group for the purposes of clauses 2 and 3 of Schedule 1 of the Resource Management Act 1991.
- (2) Gisborne District Council must not impose a coastal occupation charge under section 64A of the Resource Management Act 1991 on a customary marine title hapū exercising a right under this Act in relation to its customary marine title area. 10

119 Application of Resource Management Act 1991 to prohibitions or restrictions for wāhi tapu or wāhi tapu areas 15

Section 104(3)(c)(iv) of the Resource Management Act 1991 applies to a wāhi tapu or wāhi tapu area under this Act as if the provision referred to the prohibitions or restrictions imposed in relation to the wāhi tapu or wāhi tapu area (so that a consent authority must not grant a resource consent contrary to the prohibitions or restrictions). 20

Part 5

Miscellaneous provisions

Management arrangements

120 Management arrangement represents hapū in area and exercises rights and performs obligations of hapū 25

- (1) A management arrangement whose details are specified in a Part of **Schedule 2** represents each hapū of ngā hapū o Ngāti Porou named in that Part in respect of the area of ngā rohe moana o ngā hapū o Ngāti Porou described in that Part.
- (2) Any rights or responsibilities of any hapū of ngā hapū o Ngāti Porou (including a customary marine title hapū or a protected customary activity hapū) under this Act or the deed of agreement are to be exercised or performed on behalf of the relevant hapū by the management arrangement that represents that hapū in respect of the relevant area of ngā rohe moana o ngā hapū o Ngāti Porou. 30

121 Dealings with hapū to be done with management arrangements

- (1) Any person, including the Crown, that is required to deal with any hapū of ngā hapū o Ngāti Porou (including a customary marine title hapū or a protected 35

- customary activity hapū) under this Act or the deed of agreement must deal with—
- (a) the management arrangement that represents the relevant hapū in respect of the relevant area of ngā rohe moana o ngā hapū o Ngāti Porou; or
 - (b) if the dealing relates to rights or responsibilities delegated to persons under **section 122**, with those persons. 5
- (2) In this section, to **deal** with a hapū includes to consult, provide notice to, consider or take into account the views of, or seek the consent or permission of the hapū.
- 122 Delegation of rights or responsibilities by management arrangement** 10
- (1) A management arrangement may delegate to any persons any rights or responsibilities that it exercises or performs on behalf of any hapū of ngā hapū o Ngāti Porou under **section 120(2)**.
 - (2) The rights or responsibilities must be delegated by written notice to the responsible Minister specifying— 15
 - (a) the rights or responsibilities that are delegated; and
 - (b) the persons to whom the rights or responsibilities are delegated; and
 - (c) the date on which the rights or responsibilities are delegated, which must be after the date on which the Minister is given the notice; and
 - (d) if applicable, the date on which the delegation ends. 20
 - (3) A management arrangement may at any time end the delegation of rights or responsibilities by written notice to the Minister specifying—
 - (a) the rights or responsibilities that were delegated; and
 - (b) the persons to whom the rights or responsibilities were delegated; and
 - (c) the date on which the delegation ends. 25
 - (4) A management arrangement may continue to exercise or perform the rights or responsibilities it has delegated.
 - (5) A management arrangement remains responsible for the exercise or performance of the rights or responsibilities it has delegated.
- Changes to management arrangements, ngā hapū o Ngāti Porou, and ngā rohe moana* 30
- 123 Changes to management arrangements**
- (1) The Governor-General may, by Order in Council made on the recommendation of the responsible Minister,—
 - (a) amend **Schedule 2** to change the management arrangements for ngā hapū o Ngāti Porou; and 35

- (b) if necessary, amend **Schedule 1** to set out transitional provisions for the change (such as provisions for a new management arrangement to take over processes started by a previous management arrangement).
- (2) The responsible Minister must make a recommendation for the purposes of **subsection (1)** if satisfied that, to the extent that they have changed, the new management arrangements— 5
- (a) have been ratified by the relevant hapū in accordance with a ratification process agreed in writing between ngā hapū o Ngāti Porou and the responsible Minister; and
- (b) are appropriate to exercise the rights and responsibilities of the relevant hapū under this Act and the deed of agreement; and 10
- (c) are of a nature that is capable of suing and being sued on behalf of the relevant hapū in relation to their rights and responsibilities under this Act and the deed of agreement; and
- (d) have a structure that— 15
- (i) provides for transparent decision making; and
- (ii) represents, and is accountable to, the members of the relevant hapū; and
- (iii) includes a dispute resolution process; and
- (e) provide for each of the relevant hapū to be the effective decision maker in relation to their respective interests within ngā rohe moana under this Act and the deed of agreement. 20
- (3) If an Order in Council is to be made under both this section and **section 124**,—
- (a) a reference in this section to **ngā hapū o Ngāti Porou** or **relevant hapū** includes any hapū that is to become ngā hapū o Ngāti Porou by that Order in Council; and 25
- (b) a reference in this section to **ngā rohe moana** includes any area that is to become ngā rohe moana by that Order in Council.
- 124 Changes to ngā hapū o Ngāti Porou and ngā rohe moana** 30
- (1) The Governor-General may, by Order in Council made on the recommendation of the responsible Minister,—
- (a) amend any Part of **Schedule 2** to—
- (i) add the name of 1 or more hapū (the **new hapū**) to that Part (which will become part of ngā hapū o Ngāti Porou, and will be represented by the management arrangement whose details are specified in that Part in respect of the area described in that Part); and 35
- and

- (ii) if applicable, change the area described in that Part (which will become part of ngā rohe moana o ngā hapū o Ngāti Porou); and
 - (b) if an amendment is made under **paragraph (a)(ii)**, amend **Schedule 3** by replacing the map with a map that adds the rohe moana of the new hapū; and 5
 - (c) if necessary, amend **Schedule 1** to set out transitional provisions for the change (such as provisions for any part of a process started under the Marine and Coastal Area (Takutai Moana) Act 2011 to be treated as part of a process under this Act).
- (2) The responsible Minister must make a recommendation for the purposes of **subsection (1)** if satisfied that— 10
- (a) the new hapū have become party to the deed of agreement in accordance with that deed; and
 - (b) the management arrangement whose details are specified in that Part represents, and is accountable to, the new hapū in respect of the area described in that Part; and 15
 - (c) for an amendment to be made under **subsection (1)(a)(ii)**, the new area adds the rohe moana of the new hapū.
- (3) If an Order in Council is to be made under both this section and **section 123**,— 20
- (a) a reference in this section to a Part of **Schedule 2** includes a Part that is to be inserted by that Order in Council, and that Part may be inserted as amended in accordance with this section; and
 - (b) a reference in this section to a management arrangement includes an entity or trustees that are to become a management arrangement by that Order in Council. 25

Limitations on effect of this Act

125 Limitations on effect of this Act

- (1) This Act does not create or confer any right, power, or privilege in connection with ngā rohe moana o ngā hapū o Ngāti Porou other than the rights, powers, and privileges set out in this Act. 30
- (2) Except as expressly provided, this Act—
- (a) does not limit or affect section 10 or 11 of the Crown Minerals Act 1991 or any other enactment; and
 - (b) does not affect the manner in which a person considers a matter, makes a decision or recommendation, or exercises a power or performs a function or duty under any enactment or bylaw; and 35
 - (c) does not affect the rights of ngā hapū o Ngāti Porou or any person under any enactment.

- (3) Without limiting **subsection (2)**, the following provisions do not limit the rights of any person (including any member of a relevant hapū) to make submissions in relation to, or to object to, an application or a proposal under any enactment:
- (a) **sections 41 to 43** (which relate to the approval of certain resource consent applications): 5
 - (b) **subpart 6 of Part 2** and **subpart 4 of Part 3** (which relate to the conservation mechanisms and extended mechanism):
 - (c) **subpart 1 of Part 3** (which relates to permission rights in relation to the Resource Management Act 1991). 10

Removal of jurisdiction

126 Removal of jurisdiction

- (1) Despite any other enactment or rule of law, no court, tribunal, or other judicial body has jurisdiction (including the jurisdiction to inquire or further inquire, or to make a finding or recommendation) in respect of— 15
- (a) the deed of agreement; or
 - (b) this Act; or
 - (c) any document issued in accordance with the deed of agreement or this Act.
- (2) **Subsection (1)** does not exclude the jurisdiction of a court, tribunal, or other judicial body in respect of— 20
- (a) the interpretation or implementation of the deed of agreement or this Act; or
 - (b) any judicial process provided for in this Act.

Rule against perpetuities 25

127 Rule against perpetuities does not apply

- (1) The rule against perpetuities and the provisions of the Perpetuities Act 1964—
- (a) do not prescribe or restrict the period during which—
 - (i) a trust whose trustees comprise a management arrangement may exist in law; or 30
 - (ii) any trustees who comprise a management arrangement may, in their capacity as trustees, hold or deal with property or income derived from property; and
 - (b) do not apply to a document entered into to give effect to the deed of agreement if the application of that rule or the provisions of that Act would otherwise make the document, or a right conferred by the document, invalid or ineffective. 35

- (2) However, if a trust whose trustees comprise a management arrangement is or becomes a charitable trust, the application (if any) of the rule against perpetuities or of any provision of the Perpetuities Act 1964 to that trust must be determined under the general law.

Documents to be publicly available 5

128 Access to deed of agreement

The chief executive of the Ministry of Justice must make copies of the deed of agreement available—

- (a) for inspection free of charge, and for purchase at a reasonable price, at the head office of the Ministry of Justice in Wellington between 9 am and 5 pm on any working day; and 10
- (b) free of charge on an Internet site maintained by or on behalf of the Ministry of Justice.

129 Certain other agreements to be publicly available

The chief executive of the Ministry of Justice must make copies of the following publicly available: 15

- (a) any protected customary activity agreement in relation to which a *Gazette* notice has been published under **section 96**;
- (b) any agreement on controls made under **section 38** for a protected customary activity: 20
- (c) any *Gazette* notice published under **section 103 or 105** in relation to a wāhi tapu or a wāhi tapu area.

130 Making documents publicly available

If a provision of this Act requires a chief executive of a ministry or department to make a document publicly available, the chief executive must make copies available— 25

- (a) for inspection free of charge, and for purchase at a reasonable price, at the head office of the ministry or department between 9 am and 5 pm on any working day; and
- (b) free of charge on an Internet site maintained by or on behalf of the ministry or department. 30

Consequential amendment

131 Consequential amendment

The enactment specified in **Schedule 5** is amended in the manner indicated in that schedule. 35

Schedule 1

Transitional, savings, and related provisions

s 4

Part 1

Provisions relating to Act as enacted

5

Existing matters recognised under other legislation may become recognised under this Act

1 Existing matters recognised under other legislation may become recognised under this Act

- (1) This clause applies if a group becomes part of ngā hapū o Ngāti Porou, and a related area becomes part of ngā rohe moana, either when this Act commences or when an order is made under **section 124** (the **transition point**). 10
- (2) If, immediately before the transition point,—
- (a) the group is recognised as having customary marine title in the related area under the Marine and Coastal Area (Takutai Moana) Act 2011, the customary marine title must be treated as if it were recognised under the appropriate provision of this Act; or 15
- (b) the group is recognised as having a protected customary right in the related area under the Marine and Coastal Area (Takutai Moana) Act 2011, the protected customary right must be treated as if it were a protected customary activity recognised under the appropriate provision of this Act; or 20
- (c) a wāhi tapu or wāhi tapu area in the related area is recognised in relation to the group under the Marine and Coastal Area (Takutai Moana) Act 2011, the wāhi tapu or wāhi tapu area must be treated as if it were recognised under the appropriate provision of this Act. 25

Processes that are unresolved when this Act commences

2 Notice about seeking agreement given before commencement

- (1) This clause applies if,—
- (a) before this Act commences, a group gives notice to the responsible Minister of its intention to seek an agreement under section 95 of the Marine and Coastal Area (Takutai Moana) Act 2011 to recognise a protected customary right or customary marine title; and 30
- (b) when this Act commences,—
- (i) an agreement has not been entered into; and 35
- (ii) the notice has not been withdrawn; and

- (iii) the group becomes part of ngā hapū o Ngāti Porou; and
- (iv) the area to which the application relates becomes part of ngā rohe moana.
- (2) The group must be treated as having applied for recognition of—
- (a) 1 or more protected customary activities under **section 95**; or 5
- (b) customary marine title under **section 111**.
- (3) If the group was seeking to include recognition of a wāhi tapu or wāhi tapu area in an agreement to recognise customary marine title, the group must be treated as having applied for recognition of a wāhi tapu or wāhi tapu area under **section 102**. 10
- (4) If the responsible Minister considers that the information provided before commencement (if any) is insufficient to meet the requirements of **section 95(3), 102(3), or 111(3)**, the Minister must advise the group of his or her view by written notice as soon as practicable after this Act commences.
- 3 Court processes started before commencement** 15
- (1) This clause applies if,—
- (a) before this Act commences, a group applies to the court under section 100 of the Marine and Coastal Area (Takutai Moana) Act 2011—
- (i) for a recognition order to recognise a protected customary right or customary marine title; or 20
- (ii) to vary or cancel a recognition order that recognises a protected customary right or customary marine title; and
- (b) when this Act commences,—
- (i) the application has not been decided or withdrawn; and
- (ii) the group becomes part of ngā hapū o Ngāti Porou; and 25
- (iii) the area to which the application relates becomes part of ngā rohe moana.
- (2) The group must be treated as having applied—
- (a) for recognition of 1 or more protected customary activities under **section 98**; or 30
- (b) for recognition of customary marine title under **section 113**; or
- (c) to vary or cancel—
- (i) a protected customary activity order under **section 101**; or
- (ii) an order recognising customary marine title under **section 116**.
- 4 Hapū with no management arrangement at commencement** 35
- (1) This clause applies until **Part 7 of Schedule 2** is amended under **section 123** to specify the details of a management arrangement.

-
- (2) The rights or responsibilities of the hapū Ngāti Oneone under this Act or the deed of agreement cannot be exercised or performed, as if the hapū were not part of ngā hapū o Ngāti Porou.
 - (3) There is no requirement to deal with the hapū Ngāti Oneone under this Act or the deed of agreement, as if the hapū were not part of ngā hapū o Ngāti Porou. 5
 - (4) However, this Act and the deed continue to apply without modification to the extent required to make the amendment described in **subclause (1)**.

Schedule 2

Management arrangements, rohe moana, and hapū

ss 9–11, 120

Part 1

Area of Pōtikirua to Whangaokeno

5

Details of management arrangement

Potikirua ki Whangaokena Takutai Kaitiaki Trust established by a trust deed dated 26 July 2017.

Description of area (in which hapū are represented)

The area of Pōtikirua to Whangaokeno within the following lines: 10

- (a) from the starting point at 37°32'32.6"S and 178°05'06.9"E (landward at Pōtikirua); then
- (b) by a straight line to 37°20'33.7"S and 178°04'18.2"E (seaward of Pōtikirua); then
- (c) by a line along the outer limit of the territorial sea to 37°40'50.9"S and 178°49'42.2"E (seaward of Whangaokeno); then 15
- (d) by a straight line to 37°41'35.5"S and 178°32'59.7"E (landward at Whangaokeno); then
- (e) by a line along the landward boundary of the common marine and coastal area to the starting point (landward at Pōtikirua). 20

Names of hapū (represented by management arrangement in area)

Te Whānau a Tapaeururangi

Ngāi Tuere

Te Whānau a Tuwhakairiora

Te Whānau a Te Aotaki

25

Te Whānau a Kahu

Ngāi Tamakoro

Te Whānau a Hunaara

Te Whānau a Hinerupe

Te Whānau a Tarahauiti

30

Te Whānau a Te Aopare

Te Whānau a Te Aotaihi

Part 2

Area of Whangaokeno to Ōnepoto

Details of management arrangement

Whangaokena ki Onepoto Takutai Kaitiaki Trust established by a trust deed dated 28 July 2017. 5

Description of area (in which hapū are represented)

The area of Whangaokeno to Ōnepoto within the following lines:

- (a) from the starting point at 37°41'35.5"S and 178°32'59.7"E (landward at Whangaokeno); then
- (b) by a straight line to 37°40'50.9"S and 178°49'42.2"E (seaward of Whangaokeno); then 10
- (c) by a line along the outer limit of the territorial sea to 37°49'55.5"S and 178°45'24.1"E (seaward of Ōnepoto); then
- (d) by a straight line to 37°50'32.4"S and 178°26'20.0"E (landward at Ōnepoto); then 15
- (e) by a line along the landward boundary of the common marine and coastal area to the starting point (landward at Whangaokeno).

Names of hapū (represented by management arrangement in area)

Te Whānau a Takimoana

Te Whānau a Tapuhi 20

Te Whānau a Te Uruahi

Te Whānau a Tinatoka

Te Whānau a Rerewa

Ngāti Hokopu

Te Whānau a Rakaimataura 25

Ngāti Putaanga

Ngāti Nua

Te Whānau a Ngāi Tāne

Te Whānau a Hinepare

Te Whānau a Karuai 30

Te Whānau a Hinerupe ki Waiapu

Te Whānau a Rakaihoea

Te Whānau a Pokai

Ngāti Horowai

Te Whānau a Mahaki 35

Te Whānau a Uruhonea

Te Whānau a Hineauta

Part 3

Area of Ōnepoto to Rāhuimānuka

Details of management arrangement 5

Whanau Hapu of Te Papatipu o Uepohatu me te Papatipu o te Ngaere Takutai Kaitiaki Trust established by a trust deed dated 4 August 2017.

Description of area (in which hapū are represented)

The area of Ōnepoto to Rāhuimānuka within the following lines:

- (a) from the starting point at 37°50'32.4"S and 178°26'20.0"E (landward at Ōnepoto); then 10
- (b) by a straight line to 37°49'55.5"S and 178°45'24.1"E (seaward of Ōnepoto); then
- (c) by a line along the outer limit of the territorial sea to 37°56'25.0"S and 178°39'52.4"E (seaward of Rāhuimānuka); then 15
- (d) by a straight line to 37°56'53.7"S and 178°23'44.6"E (landward at Rāhuimānuka); then
- (e) by a line along the landward boundary of the common marine and coastal area to the starting point (landward at Ōnepoto).

Names of hapū (represented by management arrangement in area) 20

Ngāi Tangihaere

Ngāti Rangi

Ngāti Uepohatu

Te Whānau a Umuariki

Te Whānau a Ruataupare ki Tuparoa 25

Te Whānau a Hinetapora

Te Whānau a Hinekehu (Rauru Marae)

Part 4

Area of Rāhuimānuka to Mataahu

Details of management arrangement 30

Whanau Hapu of Te Aitanga a Mate Te Aowera and Te Whanau a Hinekehu Takutai Kaitiaki Trust established by a trust deed dated 27 July 2017.

Description of area (in which hapū are represented)

The area of Rāhuimānuka to Mataahu within the following lines:

- (a) from the starting point at 37°56'53.7"S and 178°23'44.6"E (landward at Rāhuimānuka); then
- (b) by a straight line to 37°56'25.0"S and 178°39'52.4"E (seaward of Rāhuimānuka); then 5
- (c) by a line along the outer limit of the territorial sea to 37°58'43.4"S and 178°38'50.6"E (seaward of Mataahu); then
- (d) by a straight line to 37°59'08.3"S and 178°22'04.0"E (landward at Mataahu); then 10
- (e) by a line along the landward boundary of the common marine and coastal area to the starting point (landward at Rāhuimānuka).

Names of hapū (represented by management arrangement in area)

- Te Aitanga a Mate
- Te Aowera 15
- Te Whānau a Hinekehu

Part 5**Area of Mataahu to Koutunui Point****Details of management arrangement**

- Nga Hapu o Waipiro Takutai Kaitiaki Trust established by a trust deed dated 28 July 2017. 20

Description of area (in which hapū are represented)

The area of Mataahu to Koutunui Point within the following lines:

- (a) from the starting point at 37°59'08.3"S and 178°22'04.0"E (landward at Mataahu); then 25
- (b) by a straight line to 37°58'43.4"S and 178°38'50.6"E (seaward of Mataahu); then
- (c) by a line along the outer limit of the territorial sea to 38°05'49.6"S and 178°37'54.5"E (seaward of Koutunui Point); then
- (d) by a straight line to 38°06'35.7"S and 178°21'30.7"E (landward at Koutunui Point); then 30
- (e) by a line along the landward boundary of the common marine and coastal area to the starting point (landward at Mataahu).

Names of hapū (represented by management arrangement in area)

- Ngāi Taharora 35

Te Whānau a Iritekura
 Te Whānau a Rakairoa
 Te Whānau a Te Haemata

Part 6

Area of Mawhai Point to Marau Point

5

Details of management arrangement

Ngāti Wakarara and Ngāti Hau Takutai Kaitiaki Trust established by a trust deed dated 3 August 2017.

Description of area (in which hapū are represented)

The area of Mawhai Point to Marau Point within the following lines: 10

- (a) from the starting point at 38°10'35.2"S and 178°22'00.3"E (landward at Mawhai Point); then
- (b) by a straight line to 38°09'52.4"S and 178°37'13.3"E (seaward of Mawhai Point); then
- (c) by a line along the outer limit of the territorial sea to 38°16'37.2"S and 178°36'45.0"E (seaward of Marau Point); then 15
- (d) by a straight line to 38°17'19.8"S and 178°21'35.8"E (landward at Marau Point); then
- (e) by a line along the landward boundary of the common marine and coastal area to the starting point (landward at Mawhai Point). 20

Names of hapū (represented by management arrangement in area)

Ngāti Hau
 Ngāti Wakarara

Part 7

Area of Pouawa River to Te Toka ā Taiau

25

Details of management arrangement

None.

Description of area (in which hapū are represented)

The area of Pouawa River to Te Toka ā Taiau within the following lines:

- (a) from the starting point at 38°36'29.8"S and 178°11'13.2"E (landward at Pouawa River); then 30
- (b) by a straight line to 38°35'48.1"S and 178°26'28.0"E (seaward of Pouawa River); then

- (c) by a line along the outer limit of the territorial sea to 38°53'43.5"S and 178°09'29.1"E (seaward of the entrance to the Port of Gisborne); then
- (d) by a straight line to 38°40'40.7"S and 178°00'59.4"E (seaward of Te Toka ā Taiau); then
- (e) by a straight line to 38°40'11.9"S and 178°01'49.5"E (landward at Te Toka ā Taiau); then 5
- (f) by a line along the landward boundary of the common marine and coastal area to the starting point (landward at Pouawa River).

Names of hapū (represented by management arrangement in area)

Ngāti Oneone 10

Schedule 3

Map of ngā rohe moana o ngā hapū o Ngāti Porou

s 11(2)



Schedule 4
Existing structures that are accommodated matters

s 12

Structure	Location	GPS location
Lighthouse	Tuahine Point	3842490, 17804156
Boat ramp	Tatapouri	3838681, 17808881
Culvert	Turihaua Point	3837840, 17809720
Boat ramp	Waipiro Bay	3802263, 17820448
Culvert	Te Araroa	3737848, 17825018
Wharf	Hicks Bay	Not recorded
Boat ramp	Hicks Bay	Not recorded
Launch markers	Hicks Bay	37335226, 17818103
Boat ramp	Lottin Point	3733100, 17820448

Schedule 5
Consequential amendment

s 131

Fisheries (Kaimoana Customary Fishing) Regulations 1998 (SR 1998/434)

After regulation 4(1A)(b), insert:

5

- (c) **section 49** of the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act (**No 2**) **2018**.