

Application 2021.039 Oruku Landing (Northland Development Corporation)

To:	Required action:
Hon David Parker, Minister for the Environment	Consider this report prior to making a decision jointly with the Minister of Conservation under section 24 of the FTCA
Hon Kiritapu Allan, Minister of Conservation	Consider this report prior to making a decision jointly with the Minister for the Environment under section 24 of the FTCA
Date submitted: 19 August 2021	

Ministry for the Environment contacts

Position	Name	Cell Phone	1 st Contact
Principal Author	Pip Lee		
Manager	Stephanie Frame		✓
Director	Sara Clarke	s9(2)(a)	

Introduction

1. The Ministry for the Environment has prepared this report in consultation with the Office for Māori Crown Relations – Te Arawhiti and in accordance with section 17 of the Covid-19 Recovery (Fast-track Consenting) Act 2020 (the FTCA).
2. To satisfy obligations under section 6 of the FTCA, you must both consider this report before you make any decision under section 24 of the FTCA to accept the application to refer the Oruku Landing project to an expert consenting panel (a panel).

Proposed project

3. The applicant proposes to construct and operate a comprehensive hotel and entertainment precinct on the true left bank of the Hātea River in central Whangārei. Location maps are in Attachment 1.
4. Parts of the project, including creation of a marina and ferry terminal, and widening of an existing public boardwalk, will occur in the coastal marine area (CMA).

Essential information

5. The following information is required under section 17(3) of the FTCA for the project area.

Section of the FTCA	Information required	Detail
s17(3)(a)	Relevant iwi authorities	Te Rūnanga-Ā-Iwi-O-Ngāpuhi Ngātiwai Trust Board <i>Contact details are in Attachment 2</i>
s17(3)(b)	Relevant Treaty settlements	None
s17(3)(a)	Relevant Treaty settlement entities	None
s17(3)(c)	Relevant principles & provisions of the Treaty settlements	None
s17(3)(d)	Negotiation mandates recognised by the Crown	Ngātiwai Trust Board
s17(3)(d)	Current Treaty settlement negotiations	None
s17(3)(e)	Court orders recognising customary marine title or protected customary rights under the Marine and Coastal Area (Takutai Moana) Act 2011 or another Act	None that are relevant

Supporting material

Project area

6. The project site is located at 44 Riverside Drive, Riverside, Whangārei. It covers approximately 1.5 hectares and, as shown in Attachment 3 (Map A), includes:
- privately owned land currently occupied by several buildings used for light industrial purposes
 - a strip of land owned by Whangārei District Council, that includes river bed within the CMA
 - a narrow strip of land owned by Marsden Maritime Holdings (Northland Harbour Board), on the river bed within the CMA
 - land within the common marine and coastal area of the CMA, which is subject to the Marine and Coastal Area (Takutai Moana) Act 2011 (MACAA).
7. We note in relation to the land noted in paragraph 6(b), described more fully as Part lot 3 DP 50078, that parts of the title below mean high water springs (MHWS) became part of the common marine and coastal area under section 11(3) of the MACAA, however the ownership recorded on the title does not change until the Minister of Conservation or Whangārei District Council take action under section 23 of the MACAA to effect this.

8. The land noted in paragraph 6(c), described more fully as Area BD SO 67457, was revested in the Crown under the Foreshore and Seabed Endowment Revesting Act 1991 but as no action was taken to cancel the title, ownership remained with Marsden Maritime Holdings. Subsequently the land became part of the common marine and coastal area under section 11(3) of the MACAA but the ownership does not change until the Minister of Conservation takes action under section 22 of the MACAA to cancel the title.
9. The project site lies within the Ngāpuhi ki Whangārei takiwā (region) of the Ngāpuhi rohe, and in the rohe of Ngātiwai. It also lies close to the indicative area of interest of Ngāti Whātua.¹
10. There are five nearby marae, shown on Attachment 1. Their associated iwi and hapū are as follows:
 - a. Terenga Parāoa – located in central Whangārei City, this marae is connected to the iwi of Ngātiwai, Ngāti Hine, Ngāti Whātua and Ngāpuhi²
 - b. Ngāraratunua – situated on the corner of Pipiwai and Church roads in Ngāraratunua, this marae affiliates to the Ngāpuhi confederation and its primary hapū is Te Kahu o Torongare³
 - c. Takahiwai – located on the southern side of Whangārei Harbour, near Marsden Point. This marae belongs to the Patuharekeke hapū of Ngātiwai, with connections to Ngāti Whātua, Ngāpuhi and Te Uri o Hau⁴
 - d. Pehiāweri – on the north-eastern outskirts of Whangārei, the hapū associated with this marae are Ngāti Hau, Te Parawhau and Ngāti Hao of Ngāpuhi. Pehiāweri Marae is associated with the maunga named Parihaka, the Hātea River and the waka Ngātokimatawhaorua⁵
 - e. Toetoe – located in Otaika, Whangārei. The principal hapū are Te Uriroi and Te Parawhau of Ngāpuhi and Te Uri o Hau of Ngāti Whātua⁶.

Project details

11. A concept layout for the project is in Attachment 3 (Map B). It includes two stages, which may progress concurrently:
 - a. Stage One –
 - i. a hotel in the central part of the site, containing approximately 132 guest rooms, a restaurant, bar and swimming pool. This building will be approximately 22 metres high and will have a footprint of approximately 1621 square metres. At its southern end, the building will be cantilevered over the CMA
 - ii. a mixed-use building approximately 18.5 metres high, and with a footprint of approximately 2966 square metres, at the western end of the site. This will

¹ According to the map provided on TKM.

² <https://maorimaps.com/marae/terenga-paraoa>.

³ <https://maorimaps.com/marae/ngararatunua>

⁴ <https://maorimaps.com/marae/takahiwai>

⁵ <https://maorimaps.com/marae/pehiaweri>

⁶ <https://maorimaps.com/marae/toetoe>

incorporate approximately 17 residential apartments, retail/commercial tenancies and a car park for approximately 190 cars

- iii. a wider section of the existing Hātea Loop walkway boardwalk alongside the Hātea River, which will be partially cantilevered over the CMA
- iv. a marina in the Hātea River on the southern side of the site, which will provide for approximately 29 new berths and a ferry terminal. The works associated with the marina will require approximately 25,000 cubic metres of initial dredging to prepare the site.

b. Stage Two –

- i. a multi-purpose conference and events centre at the eastern end of the site. Covering 2946 square metres and with a height of approximately 16.5 metres, it will incorporate a main hall/theatre, back of house facilities, cafe, meeting rooms and other associated facilities.

Statutory matters relating to this report

- 12. Parts of the proposed project will occur in the CMA, so, in accordance with section 16(1) of the FTCA, decisions relating to the referral of the project to a panel must be made jointly by the Minister for the Environment and the Minister of Conservation.
- 13. Section 17(1) of the FTCA requires you both to consider this report before making a decision under section 24 of the Act to refer the project to a panel, in order to satisfy your joint obligations under section 6 (Treaty of Waitangi) of the FTCA.
- 14. Section 17(3)(e) of the FTCA requires this report to identify any court orders granted under the MACAA or another Act which recognise, in relation to the project area, customary marine title or protected customary rights. We confirm that currently there are no such court orders relevant to the project area to consider in your referral decision.⁷

Iwi and iwi authorities

Information sources

- 15. Under section 7(1) of the FTCA, a relevant iwi authority for a referred project means an iwi authority whose area of interest includes the area in which a project will occur.
- 16. The FTCA does not define iwi authority, so under section 7(2) of the FTCA, it has the same meaning as in the Resource Management Act 1991 (RMA): the authority which represents an iwi and which is recognised by that iwi as having authority to do so.
- 17. To identify the iwi authorities for RMA purposes which are relevant to the project area, information was sourced from:
 - a. The Iwi Areas of Interest viewer, an online application managed by the Ministry of Māori Development - Te Puni Kōkiri (TPK)

⁷ The Ngā Rohe Moana o Ngā Hapū o Ngāti Porou (Recognition of Customary Marine Title) Order 2020 came into force 1 February 2021. It establishes customary marine title areas for a specific part of ngā rohe moana o ngā hapū o Ngāti Porou (on the east coast of the North Island) aligning with those in schedule 2 to the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019. This does not affect the proposed project area.

- b. Te Kāhui Māngai (TKM), an online directory of iwi and Māori organisations maintained by TPK
- c. Ministry for the Environment
- d. Northland Regional Council and Whangārei District Council, as the relevant local authorities.

Iwi authorities relevant to project

18. The TKM website identifies two iwi authorities for the area within which the project site lies:
- a. Te Rūnanga-Ā-Iwi-O-Ngāpuhi, representing Ngāpuhi
 - b. Ngātiwai Trust Board, representing Ngātiwai.

Treaty settlements and Treaty settlement entities

19. There are no relevant Treaty settlements or Treaty settlement entities for the proposed project area.

Current negotiation mandates and settlement negotiations

20. The Crown recognised the Ngātiwai Trust Board's Deed of Mandate to negotiate a Treaty settlement on behalf of Ngātiwai in 2015. However work towards signing terms of negotiation is paused to allow the Trust Board and the wider Ngātiwai claimant community to engage in a mediation process to find solutions to matters concerning hapū representation and governance.
21. In December 2019 the Minister for Treaty of Waitangi Negotiations and the Minister for Māori Development invited mandate proposals from regional Ngāpuhi hapū groupings to negotiate the settlement of their historical Treaty of Waitangi claims.
22. There is no deadline for the submission of mandate proposals, and to date one mandate proposal has been confirmed by the Crown. Once a mandate proposal has been confirmed, hapū groupings will undertake a formal mandate process before the Crown decides whether to recognise the mandate and enter into Treaty settlement negotiations with the group.

Details in this report affect certain provisions of the FTCA

Notices of referral decision

23. Under section 25 of the FTCA, you must give notice of the decisions made on an application for referral of a project to a panel, and the reasons for your decisions, to the applicant and anyone invited to comment under section 21 of the FTCA.
24. You did not invite comment on the referral application from iwi authorities or other Māori groups. However, if you decide to refer this project to a panel, the notice of decisions and associated reasons must be given to:
- a. the relevant iwi authorities identified in this report
 - b. any other iwi authorities you consider have an interest in the matter
 - c. any group that is or party to either a joint management agreement or Mana Whakahono ā Rohe under the RMA that relates to the project area.

25. The two relevant iwi authorities for receipt of the notice are identified in paragraph 5.
26. The Minister for Treaty for Waitangi Negotiations has advised that the project site lies close to the indicative area of interest of Ngāti Whātua iwi. The Minister has requested that the notice of decisions along with a copy of the referral application is forwarded to Te Rūnanga o Ngāti Whātua. According to information held on TKM, this entity represents Ngāti Whātua as an iwi authority for RMA purposes.
27. There are no relevant joint management agreements or Mana Whakahono ā Rohe to consider.
28. The Minister for Treaty for Waitangi Negotiations has also requested that the notice of decisions and referral application is forwarded to:
 - a. representatives of the five marae nearby to the project site
 - b. applicants for customary marine title and/or protected customary rights under the MACAA in the common marine and coastal area of the Hātea River, which lies adjacent to the project site.
29. Should you decide to refer the project, we also consider it would be appropriate to provide the notice of decision to the Ngāti Kahu o Torongare Hapū and Hapū Cultural Designer representatives who sit on the Project's governance committee.
30. Contact details are in Attachments 2 and 4.

Expert consenting panel membership

31. If a project is referred to a panel, the appointed panel must include one person nominated by the relevant iwi authorities under clause 3(2)(b) of Schedule 5 of the FTCA.
32. In the event iwi authorities nominate more than one person, the panel convener must decide which nominee to appoint. The panel convener has discretion to increase the panel membership to accommodate the matters specified in clause 3(6)(a) – 3(6)(e), which include matters unique to any relevant Treaty settlement Act.
33. The two relevant iwi authorities for the project are identified in paragraphs 5 and 18; contact details are in Attachment 2.

Panel invitations to comment

34. A panel must invite comments on a resource consent application or notice of requirement for a referred project from the parties listed in clause 17(6) of Schedule 6 of the FTCA. This includes:
 - a. the relevant iwi authorities, including those identified in this report
 - b. any applicant group under the MACAA identified in the report obtained under section 17(1).
35. The relevant iwi authorities for the proposed project are listed in paragraph 5 and 18.
36. A MACAA applicant group means one or more iwi, hapū, or whānau groups that seek recognition under Part 4 of the MACAA of their protected customary rights or customary marine title by either a recognition order granted by the High Court; or an agreement negotiated with the Crown (through The Office of Māori Crown Relations – Te Arawhiti). The 14 groups who have applications under the MACAA in the common marine and coastal area adjacent to the project site are listed in Attachment 4.
37. A panel may also invite comments from any other person it considers appropriate.

38. We consider it would be appropriate for a panel to invite comment from the Ngāti Kahu o Torongare Hapū and Hapū Cultural Designer representatives who sit on the Project's governance committee.
39. The Minister for Treaty of Waitangi Negotiations has requested that you direct a panel to invite comments from Te Rūnanga o Ngāti Whātua and the parties listed in paragraph 26(a) and 26(b) above. The requirement for a panel to seek comment from the parties noted in paragraph 26(b) is already provided via the identification of those parties in Attachment 4 of this report. Contact details for the remaining parties are included in Attachment 2.

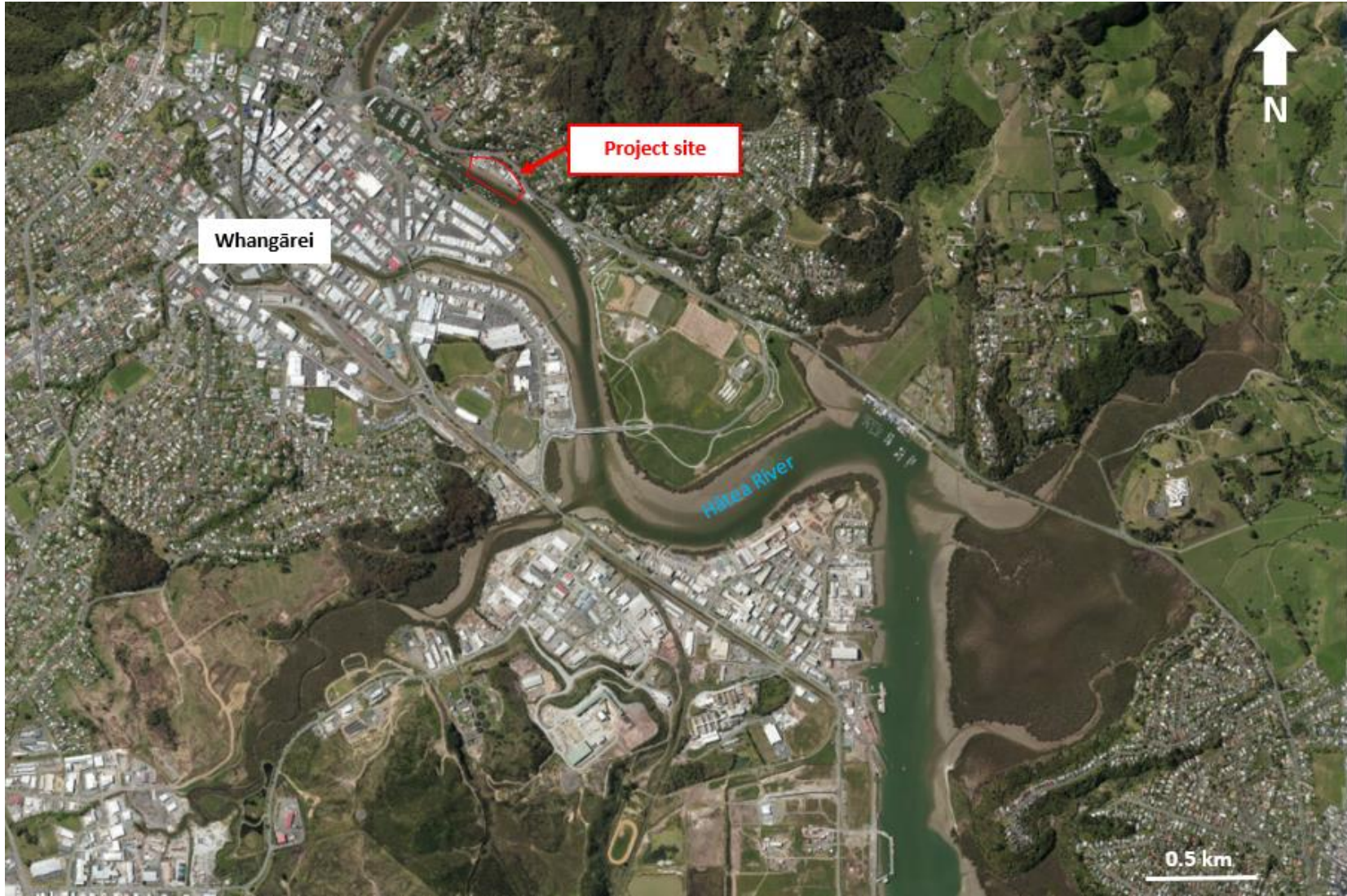
Provision of Cultural Impact Assessment

40. Any resource consent application that is submitted to a panel for determination must include a cultural impact assessment prepared by or on behalf of the relevant iwi authority or a statement of any reasons given by the relevant iwi authority for not providing that assessment.⁸ The Environmental Protection Authority (that provides support services to a panel) will not confirm an application as complete until this requirement has been satisfied.
41. Where there is more than one relevant iwi authority, it will be necessary for the project applicant to engage with each to determine their requirements for a cultural impact assessment, including whether they wish to prepare one individually or jointly, or whether they may wish defer to another iwi in respect of the matter. The relevant iwi authorities for the Oruku Landing project are listed in paragraph 5.

⁸ Clause 9(5) of Schedule 6 to the FTCA.

Attachment 1 - Location





Attachment 2 - Contact information

Iwi/hapū	Representative body	Contact details	RMA Iwi authority	Treaty settlement entity	Other	Contact person	Copies to
Ngāpuhi	Te Rūnanga-Ā-Iwi-O-Ngāpuhi	P O Box 263 Kaikohe 0440	Represents Ngāpuhi as an iwi authority for RMA purposes			CEO: Sam Napia s9(2)(a)	RMA contact: Tania Pene s9(2)(a)
Ngātiwai	Ngātiwai Trust Board	PO Box 1332 Whangārei 0140	Represents Ngātiwai as an iwi authority for RMA purposes		Mandate recognised by the Crown for Treaty of Waitangi settlement negotiations	Chairperson: Aperahama Edwards ngatiwai@ngatiwai.iwi.nz	RMA contact: Alyx Pivac s9(2)(a)
Ngāti Whātua	Te Rūnanga o Ngāti Whātua	PO Box 1784 Whangārei 0140	Represents Ngāti Whātua as an iwi authority for RMA purposes			Chairperson: Dame Rangimarie Naida Glavish runanga@ngatiwhatua.iwi.nz	RMA Contact: Antony Thompson s9(2)(a)
Ngātiwai, Ngāti Hine, Ngāti Whātua & Ngāpuhi	Terenga Parāoa Marae	10 Porowini Ave, Morningside Vinetown Whangārei Northland 0110				Janelle Beazley s9(2)(a)	
Te Kahu o Torongare (Ngāpuhi)	Ngāraratunua Marae	2 Church Road Ngāraratunua Whangārei Northland 0185				Betty Dunn s9(2)(a) s9(2)(a)	
Patuharekeke hapū (Ngātiwai)	Takahiwai Marae	PO Box 63, Ruakaka				Chairman: Bronwyn Mackie s9(2)(a) marae@takahiwai.co.nz	Secretary: Heidi Pirihi s9(2)(a)
Ngāti Hau, Te Parawhau &	Pehiāweri Marae	99 Ngunguru Rd Glenbervie Whangarei				s9(2)(a)	

Ngāti Hao (Ngāpuhi)		Northland 0173					
Te Urioroī and Te Parawhau (Ngāpuhi) & Te Uri o Hau (Ngāti Whātua)	Toetoe Marae	62 Toetoe Rd, Toetoe Otaika Northland 0170				Mira Norris §9(2)(a)	
	Project Governance Committee members					Ngāti Kahu o Torongare Hapū representative: Major (retired) Richard Shepherd – kaumatua Ngāti Kahu o Torongare §9(2)(a) Hapū Cultural Designer: Jade Kaka (Matakohe Architecture & Urbanism) §9(2)(a)	

Attachment 3 – Project site details

A. Existing site



B. Conceptual layout



Source: Northland Development Corporation
 Landscape and Urban Design Concept
 January 2020 v2.0

Key :

	Promenade		Pedestrian link at grade		Pou herenga waka hammock
	Plaza		Pou herenga waka		Lot boundaries
	Hotel & Car park manoeuvring		Pōhutukawa tree		Cafe table & chairs
	Gardens		Benches & seat		Tree pit
	Living Roof		Marina gates		Kiosk

Attachment 4 - Applicants for a customary marine title area or protected customary rights area

No	Application No	Applicant	Contact details	Track	Status
1	MAC-01-01-005	Whānau of Ohawini	Samuel Phillip George Jnr s9(2)(a)	Crown engagement	Not determined
	CIV-2017-485-306		Alternative representative: Mylie George s9(2)(a)		
2	MAC-01-01-039	Ngā hapū o Ngātiwai iwi	Solicitor: Winston McCarthy s9(2)(a)	High Court	Not determined
	CIV-2017-404-554		Solicitor: Charl Hirschfeld s9(2)(a)	High Court	Not determined
3	MAC-011-01-040	Ngā Hapū o Tangaroa ki Te Ihu o Manaia tae atu ki Mangawhai	Waimarie Kingi s9(2)(a)	Crown engagement	Not determined
	CIV-2017-404-579		Solicitors: Darrell Naden and Steph Roughton s9(2)(a) s9(2)(a)	High Court	Not determined
4	MAC-01-01-059	Ngāpuhi Nui Tonu-Kota-toka-tutaha-moana o whaingaroa	Jack Ralston Wylie s9(2)(a) info@bekindbeauty.co.nz	Crown engagement	Not determined
5	MAC-01-01-062	Ngāti Hau	Te Raa Nehua s9(2)(a) s9(2)(a)	Crown engagement	Not determined
6	MAC-01-01-073	Ngāti Kawau and Te Waiariki Korora	Solicitor: Janet Mason s9(2)(a)	Crown engagement	Not determined
	CIV -2017-485-398			High Court	Not determined
7	MAC-01-01-084	Ngāti Rēhua – Ngātiwai ki Aotea	Solicitor: Roimata Smail s9(2)(a)	Crown engagement	Not determined
	CIV-2017-404-546		chair@ngatirehua.com	High Court	Not determined
8	MAC-01-01-090	Ngāti Wai	Maia Heteraka	Crown engagement	Not determined

			s9(2)(a)		
	CIV-2017-485-283		Alternative contact: s9(2)(a)		
			Solicitor: Justine Inns s9(2)(a)	High Court	Not determined
9	MAC-01-01-125	Te Hikutu whānau and hapū	Eve Rongo s9(2)(a)	Crown engagement	Not determined
10	MAC-01-01-131	Iwi, whānau and hapū of Ngātiwai	Justine Inns s9(2)(a)	Crown engagement	Not determined
	MAC-01-01-136	Te Parawhau Hapū	Korokota Marae s9(2)(a)	Crown engagement	Not determined
11	CIV-2017-485-799		Alternative contact: Solicitor: Cameron Hockly s9(2)(a)	High Court	Not determined
	MAC-01-01-137	Tamihana Akitai Paki (Te Parawhau ki Tai)	Marina Fletcher s9(2)(a)	Crown engagement	Not determined
12	CIV-2017-485-305		Cameron Hockly s9(2)(a)	High Court	Not determined
	MAC-01-01-140	Te Rūnanga o Ngāti Whātua	Primary representative: Alan Riwaka runanga@ngatiwhatua.iwi.nz	Crown engagement	Not determined
13	CIV-2017-404-563		Solicitor: Mai Chen s9(2)(a)	High Court	Not determined
	MAC-01-01-153	Te Whānau o Hōne Papita Rāua ko Rewa	Solicitor: Charl Hirschfeld	Crown engagement	Not determined
14	CIV-2017-404-555	Ataria Pāma	s9(2)(a)	High Court	Not determined

Source: Kōrero Takutai (Te Kete Kōrero a Te Takutai Moana Information Hub – Te Arawhiti) and Te Arawhiti