



Te Uri o Hau Marine and Coastal Area (Takutai Moana) 2011

Photo taken by Tesesa Brown

Timeline

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| 19 June 2003 | The <i>Ngāti Apa vs Attorney General</i> Court of Appeal decision was upheld, that the foreshore and seabed of the Marlborough Sounds was Māori customary land under the Te Ture Whenua Māori Act 1993 |
| 24 Nov 2004 | The Crown passed the Foreshore and Seabed Act to deal with claims to the foreshore and seabed following the decision of the Court of Appeal in the Ngāti Apa case. |
| 4 March 2009 | The Attorney-General began a review of the Foreshore and Seabed Act 2004, to determine whether the Act adequately maintains and enhances mana whenua and that both customary and public interests in the coastal marine areas are recognised and provided for. |
| 29 April 2009 | Te Uri o Hau Settlement Trust (“Trust”) filed an application in the High Court for a territorial customary rights order (TCR) to represent the interests of the following hapū under the Foreshore and Seabed Act 2004.

Ngai Tāhuhu, Ngāti Tahinga, Ngāti Rangī, Ngāti Mauku, Ngāti Kauae, Ngāti Kaiwhare and Ngāti Kura |
| June 2009 | Te Uri o Hau’s High Court application under the Foreshore and Seabed Act 2004, was adjourned pending the outcome the Attorney-General’s review

During the review Te Uri o Hau application was transferred to a Customary Marine Title (CMT) High Court application |

- 6 Sept 2010 The Marine and Coastal Area (Takutai Moana) Bill was introduced to Parliament
- 31 March 2011 The Marine and Coastal Area (Takutai Moana) 2011 received royal assent
- June 2011 Te Uri o Hau were granted adjournment in the High Court to progress a Crown negotiation pathway
- 30 Aug 2013 Te Uri o Hau wrote to the Minister of Treaty of Waitangi Negotiations with an application on behalf of the hapū of Te Uri o Hau for direct engagement with the Crown under s95 of the Act for both CMT and PCR
- Nov 2013 The process of engagement commenced between the Trust and Office of Treaty Settlements
- 1 May 2014 The Responsible Minister agreed to enter into formal engagement with Te Uri o Hau.
- October 2014 The Trust sought mandate to represent the hapū in engaging with the Crown. The most appropriate process for the Trust to undertake was by putting the following resolution:
- “That. The Te Uri o Hau Settlement Trust is appointed to engage with the Minister for Treaty of Waitangi Negotiations to enter into an agreement for the recognition of, and/or continue with the Te Uri o Hau Settlement Trust’s application to the High Court seeking a recognition order for, protected customary rights and/or customary marine title over Te Uri o Hau’s Takutai Moana under the Marine and Coastal Area (Takutai Moana) Act 2011”*
- Voting papers, were sent to all beneficiaries registered with the Trust.
- 21 September 2014 Te Uri o Hau Settlement Trust AGM held at Otamatea Marae, Tanoa Road. The Crown observer, in attendance, confirmed the Trust’s mandate was valid with 200 For and 10 Against (includes voting by postal ballot). The Crown observer reported 72 people in attendance.
- 21 October 2015 The Terms of Engagement was signed by Hon Christopher Finlayson on behalf of the Crown and on behalf of the hapū of Te Uri o Hau, the Te Uri o Hau Settlement Trust Trustees:



Russell Kemp, Gabriel Thompson, Henry Holyoake, Rawson Wright, Mikaera Miru, Paul Paikea, Georgina Connelly, Hori Ashby

	MinterEllsionRuddWatts confirmed a legal representative for the Trust for direct negotiations with the Crown and High Court application
September 2016	<p>The Trust reported in the Annual Report to hapū members that progress was slow in direct negotiations due to internal reviews being undertaken by the Crown.</p> <p>After a six-month delay whilst the Crown amended its financial policy, the Trust was able to progress its collect of traditional evidence and historic research</p>
3 April 2017	<p>Office of Treaty Settlement issued a deadline for filing applications under the Takutai Moana Act. The following applications were received.</p> <p>202 applications received by the High Court 387 lodged for Crown engagement 175 applied for both High Court and Crown engagement</p>
September 2017	<p>The Trust Annual purported to the hapū that a fully funded project implementation plan was provided by Office of Treaty Settlements (OTS).</p> <p>Environs Holdings Ltd was delegated the project management role to lead the collection of evidence and historic research.</p>
December 2018	Crown agreed to establish the Office for Māori Crown Relations – Te Arawhiti. The Prime Minister approved the responsibilities of Te Arawhiti.
26 June 2019	Environs meet with Te Arawhiti to update work program of traditional collection of evidence
Feb 2020	Te Arawhiti release a Crown Draft Engagement Strategy for feedback and submission
March 2020	Environs engaged Te Arawhiti on progressing the collection of evidence and historic research. A scheduled hui kanohi ki te kanohi was postponed due to COVID restrictions commenced.
24 April 2020	Te Uri o Hau completed a submission on the Crown Draft Engagement Strategy
7 May 2021	Justice Churchman found that the applicants including six hapū of Whakatōhea, as well as groups representing Ngāti Awa and Ngāi Tai, decision met the statutory tests for customary marine title and protected customary rights. In Feb 2022, a proposed second hearing for Whakatōhea to decide the terms of the joint customary marine titles, and the exact boundaries of the customary marine title areas
15 June 2021	Hon Andrew Little released an announcement on the approach the Crown will be taking to engage with and support takutai moana applicants through.

4 August 2021

Kanohi ki te kanohi hui with Te Arawhiti held at Te Uri o Hau Offices in Whangarei. Discussion focused on the roll out of the Crown Engagement Strategy, progress on evidence gathering, and progress with overlapping applicants.



What is a Marine and Coastal Area?

The marine and coastal area extends from mean high-water springs (roughly the highest point washed by the tide) to 12 nautical miles offshore. It runs along the whole coastline of New Zealand, including off-shore islands.

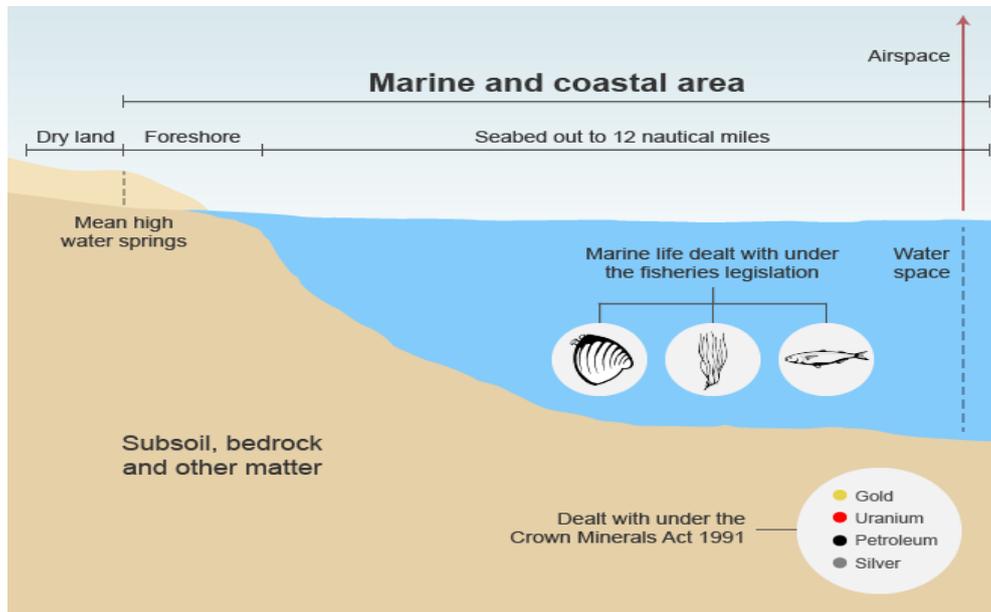


Figure taken <https://teara.govt.nz/en/photograph/8522/foreshore-and-seabed> ¹

Protected Customary Rights and Customary Marine Title

The Crown set up a process to formally recognise iwi and hapū interests in the marine and coastal area through the Marine and Coastal Area (Takutai Moana) Act 2011.

Under this Act Māori can apply to the Crown or the High Court to seek recognition of customary interests in the marine and coastal area. There are two sorts of rights that can be gained:

Protected customary rights (PCRs) lets applicant groups carry out the protected activity without needing a resource consent. Local authorities can't issue resource consents that would have adverse effects that are more than minor on a protected activity, unless the applicant group agrees.

A protected customary right does not include an activity that:

- Is regulated under the Fisheries Act 1996
- Is a commercial aquaculture activity
- Involves the exercise of any commercial or non-commercial Māori fishing right
- Relates to wildlife or marine mammals
- Is based on a spiritual or cultural association, unless that association is shown by a physical activity use of resources.
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¹ This diagram shows the legal extent of the foreshore and seabed under the Marine and Coastal Area (Takutai Moana) Act 2011. The foreshore is the land between the high and low water marks at mean spring tides, while the seabed is the land covered by sea water out to 12 nautical miles (in other words, New Zealand's territorial waters).

Note that non-commercial aquaculture, including enhancement activities, and whitebaiting can potentially be protected customary rights.

Customary marine title (CMT) If recognised it will give a number of rights, with some exceptions, the ability to say yes or no to activities that need resource consents or permits. Click the following link to read through the list of rights

<https://www.justice.govt.nz/assets/Documents/Publications/Blue-Book.pdf>

Specific minerals are excluded under the current law, and marine life is covered by other legislation, including the Fisheries acts 1983 and 1996, and the Māori Fisheries Act 2004.

Te Uri o Hau MACA Team

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