

**OTAITI  
(ASTROLABE REEF)**

**REPORT ON CUSTOMARY INTERESTS AND OTHER MATTERS**

12 June 2013

**I. OVERVIEW**

1. The purpose of this report to undertake an assessment of the following:
  - Kinship groups who have interests in Otaiti (Astrolabe Reef), with a particular focus on those who might be affected by any application for consent to leave part of the wreck on or near Otaiti (Astrolabe Reef);
  - The nature of extent of cultural values attached to Otaiti (Astrolabe Reef), including activities undertaken at the reef and consideration of whether the reef has been seen as taonga in the past;
  - The impact on cultural values from the Rena grounding with a particular focus on the impact on cultural values from both full wreck removal or leaving part of the wreck on or near Otaiti (Astrolabe Reef).
2. The last issue is to be investigated to the extent possible, subject to recognition that further discussion with iwi and hapū might be required to properly assess the impact.
3. These issues have been approached through a focus on evidence and the actions of Maori kinship groups in relation to the reef as recorded in traditions and historical records. It does not consider the values attached to the reef in an abstract manner but rather by looking at the ways in which kinship groups have engaged with the marine environment and used the natural resources associated with the reef.
4. It is important to note that this report focuses largely on Otaiti (Astrolabe Reef), customary interests in the reef and cultural values associated with it, and does not consider the customary interests of other kinship groups in other parts of the marine environment or cultural values which might be affected by environmental change associated with the wreck in other parts of the marine environment. It does consider Motiti Island as the nearest land mass because it can assist in assessing customary interests in the reef but it does not, for example, consider other off shore islands or the coast on the mainland which might be affected by proposals relating to the wreck. This was not the focus of the assessment.

5. It should be emphasised that this report is focused on customary interests in the reef and the impact of the wreck on cultural values associated with the reef. It is not concerned with the merits of otherwise of the applications for customary marine title under the Marine and Coastal Area (Takutai Moana) Act 2011. In particular, the tests under this statute have a number of features and while some of the historical evidence and traditions considered in this report are relevant to them, these tests are a very different exercise. The findings of this report, therefore, should not be considered an assessment of customary marine title under that statute.

## II. KEY EVIDENCE

6. This brief assessment has been prepared very quickly within a limited timeframe, and these requirements have necessitated a strict focus on relevant evidence and commentary. It must be emphasised that it is not a comprehensive and thorough exercise as this simply could not be completed in the time available. It is based on four areas of research:
  - *Bay of Plenty Times*;
  - Native Land Court minute relating to Mōtītī;
  - Cultural values assessments undertaken after the Rena was grounded on Otaiti (Astrolabe Reef);
  - Other publications and reports relating to Mōtītī.
7. There is a particular focus on Mōtītī as this is the largest occupied landmass near Otaiti (Astrolabe Reef) and the community living there has used and relied on the adjacent marine environment for many generations.
8. There are three types of evidence which are useful for the purposes of this assessment. Historical evidence of customary interests in and use of the reef is usually slight and an extensive and intensive period of research would be required for the purposes of uncovering any such evidence. Research undertaken for this assessment has focused on a review of the local newspaper and the Native Land Court minutes as the most likely sources to contain reference to the reef.
9. Iwi traditions relating to the reef constitute among the most valuable evidence for the purposes of this assessment as they show an ongoing relationship between the marine environment and the iwi. Many of these traditions were recorded in the late nineteenth century and the twentieth century but have been handed down over many generations.

They are statements of both relationships with the marine environment and foundational narratives which establish iwi in particular locations in Aotearoa.

10. Finally, the kōrero of kaumatua and kuia speaks of their use and occupation of the marine environment over their lifetimes and usually those of their parents and grandparents. This covers most of the twentieth century and provides an important insight into the relationship of iwi to the marine environment which can be very useful in exploring customary interests in the reef. It has not been possible for me to meet with kaumatua and kuia to discuss such matters in the context of preparing this assessment but I have had the opportunity to review cultural values assessments prepared by iwi, some of which include such kōrero. I recognise that this kōrero has been provided in a particular context and for a particular purpose and I have attempted to approach it with considerable sensitivity. I have avoided commenting on the kōrero in any way, preferring instead simply to draw on it for the purposes of illustrating the relationship particular iwi have to the reef and the manner in which the participants or their tupuna have engaged with the marine environment. I have not reviewed these reports, either, as that is not required for the purposes of this report.
11. One last comment regarding evidence is necessary. During the nineteenth century, there was a great deal of conflict between a number of iwi and hapū over Mōtītī. There were many different causes of this conflict and several phases. Some of these conflicts continued in Native Land Court proceedings over Mōtītī island and the Court commented on these conflicts and made decisions about who would be included in the title to the land and who would be excluded. The detail of these conflicts do not provide much assistance in assessing customary interests in Mōtītī or Otaiti (Astrolabe Reef), other than identifying that particular iwi asserted customary interests and looked to use military force to protect them or repel others. In the context of this assessment, therefore, they are acknowledged but the detail of them is not reviewed.
12. In addition, though the Court gave findings on some of these conflicts, particularly between Te Arawa and Ngāi Te Rangi, these findings are not considered authoritative for the purposes of this assessment. While the Court's findings led to the exclusion of individuals associated with particular iwi from the title, and the inclusion of others, three points follow. First, it is evident from the proceedings that this had limited

practical impact as individuals were able to be included in the title through their shared whakapapa. Second, it is accepted that the Court's focus on conflict and conquest was a narrow way of conceiving and considering customary interests in land. Finally, the Court proceedings relating to the land mass and not the marine environment and it is likely the evidence presented and the Court's consideration of that evidence would have been very different had the proceedings extended to the marine environment.

### III. THE ORIGINS OF OTAITI (ASTROLABE REEF)

13. Te Arawa have oral traditions which explain the naming of the reef and associate it with Ngatoroirangi. Ngāti Whakahemo, for example, record the origins of the name Otaiti (Astrolabe Reef):

Otaiti was named by Ngatoroirangi as 'Te taunga o taupo iti o te tangata.' 'The resting place of the people' on board the Arawa canoe. It was viewed as an omen that motivated the people to journey on when they saw schools of fish beneath the surface of the water. Te Hapu (Patuwai) elders also acknowledge Otaiti as a significant gateway to the Maori Gods. Mōtītī (Te Moutere o Motu Iti) was named by Ngatoroirangi, he spent his elderly days on Taumaihi Island at his pa site called Materehua. Ngatoroirangi referred to Mōtītī as a spiritual island.<sup>1</sup>

14. Otaiti (Astrolabe Reef) was a pataka and a gateway to the gods. It had considerable spiritual significance and encouraged those on board the Arawa waka to continue their journey to the mainland. It was also the resting place of the people and provided a spiritual connection to Hawaiki. The reef was also significant as a navigational point for those travelling to and from Hawaiki. It was an important fishing ground for the Arawa people handed down over generations. It provided sustenance for those who made the journey from Hawaiki on board the Arawa waka.
15. In Ngāti Whakaue traditions, it was Ngatoroirangi who named the reef Otaiti (Astrolabe Reef) after the weary crew of the Te Arawa waka rested there on their long journey from Hawaiki to Aotearoa: Te Taunga o ta iti te tangata (the resting place):

Ngati Whakaue can recite their genealogy back to Hawaiki before the Arawa canoe came to New Zealand and describes the relationship that first connected Ngati Whakaue with Otaiti. The arrival of the Arawa canoe to the Bay of Plenty saw Ngatoroirangi recite a karakia (prayer) to give his people strength to journey further. An 'omen' of good fortune appeared in schools of fish, this sight motivated the people.<sup>2</sup>

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<sup>1</sup> 'Ngāti Whakahemo Iwi Cultural Values Assessment', August 2013, p. 10.

<sup>2</sup> 'Ngāti Whakaue ki Maketu Hapū Cultural Values Assessment', undated, p. 11.

16. The waka continued east along the Bay of Plenty to Whangaparoa before returning to land at Maketu, near Mōtītī.
17. The Ngāi Te Hapu cultural values assessment notes that Otaiti (Astrolabe Reef) is on the pathway returning to Hawaiki.<sup>3</sup> Indeed, one informant referred to a koroua who described the reef as ‘one of the stepping stones of our ancestors back to Hawaiki’ which were sacred.
18. While the reef is known as Otaiti (Astrolabe Reef) by many iwi and hapū, I note that the map associated with the Mōtītī Rohe Moana Trust application under the Marine and Coastal Area (Takutai Moana) Act 2011 for customary marine title labels the reef Te Mamangi rather than Otaiti. Some consideration of the reasons for this alternative name and what it means might be helpful as part of the dialogue with iwi.
19. The Te Arawa traditions regarding Otaiti (Astrolabe Reef) suggest an ancient connection to Hawaiki. This is consistent with other off shore islands along the East Coast which were the initial points of landfall for the waka after long voyages from the Pacific. Repanga and Ahuahau are two islands which have particular Te Arawa traditions associated with them.
20. Another reef in the Bay of Plenty which has been connected with the arrival of waka from Hawaiki is Nga Kuri a Wharei, located off the coast near Waihi Beach. Professor Stokes, in her paper on Te Whanau a Tauwhao, describes the hapū as the guardians of Nga Kuri a Wharei:
 

At Otawhiwhi, they are the guardians of the western outpost of the Mataatua waka – Nga Kuri a Wharei. This Hawaiki name was originally applied to some rocks on the mainland at Moehau. It is sometimes said these rocks were opposite the place where the canoes gathered off Ahuhau, Mercury Island. This name was referred to in the rahui imposed by Muriwai, sister of Toroa, commander of Mataatua, after her children were drowned at sea – Mai i Nga Kuri a Wharei ki Tikirau.<sup>4</sup>
21. It is worth noting that the Hauraki traditions relating to this reef differ significantly. The Hauraki kaumatua and scholar, Taimoana Turoa, identifies the reef as the boundary between Hauraki and Tauranga Moana. Though he is unclear about the origins of the name Wharei, he suggests ‘in all probably it associates back to Polynesia’. Unlike Stokes, he identifies the reef as ‘the dogs of Wharei’:

<sup>3</sup> Ngāi Te Hapū Cultural Values Assessment, undated, p. 19.

<sup>4</sup> Evelyn Stokes, ‘Whanau a Tauwhao. A History of a Ngaiterangi Hapu’, Occasional Paper 8, Centre for Maori Studies and Research, University of Waikato, October 1980, p. 5.

The reef, once lying just above the surface of the Pacific Ocean swell, is now submerged at a depth of some 6 m and on calm days it is easily visible. During storms they, like the eels on shore, are said to rise from the depths and bark so loudly that they can be heard ashore. In all stories concerning 'Nga Kuri-a-Whareī', they are said to be mystical and mysterious.<sup>5</sup>

22. Turoa identifies the reef as a significant and high quality fishing ground but emphasised the difficulties of fishing there. Nga Kuri a Whareī is a useful in considering customary interests in Otaiti (Astrolabe Reef) as it is a significant fishing ground for iwi in the region, like other coastal islands and reefs is connected to traditions derived from waka voyages from Polynesia and there are alternative traditions regarding the site.

#### IV. OTAITI (ASTROLABE REEF) IN THE NINETEENTH CENTURY

23. The circumstances regarding the grounding of the MV Rena on Otaiti (Astrolabe Reef) in October 2011 have been traversed in detail elsewhere and this is not required for the purposes of this assessment. However, some background regarding the reef as a navigational issue for coastal vessels is helpful.
24. With the arrival of European explorers and missionaries on a more regular basis from the early nineteenth century, the reef was regularly a risk for them as they travelled along the coast to visit Maori communities. Two incidents, in particular, were recorded in the late 1820s. The first, in February 1827, involved the French explorer and navigator, Dumont D'Urville. While sailing in the Bay of Plenty, he almost lost his ship, the *Astrolabe*, on the reef in a north-easterly storm.<sup>6</sup> The CMS schooner, *Herald*, with Rev. Henry Williams on board also came very close to the reef when sailing into the Bay of Plenty in April 1828.<sup>7</sup>
25. The reef was accurately charted in a survey by HMS *Pandora*, under the command of Captain Byron Drury, completed during 1852 and 1853.<sup>8</sup> Captain Drury recorded his observations of the coastal waters and islands as the survey proceeded. His comments on the Astrolabe Reef further emphasised the navigational risk posed by the reef and some concern at the manner in which the reef had been shown in charts in the past:

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<sup>5</sup> Taimoana Turoa, *Te Takoto o Te Whenua o Hauraki. Hauraki Landmarks*, Auckland: Reed, 2000, p. 120.

<sup>6</sup> A.H. Matheson, *Mōtītī Island, Bay of Plenty*, Monograph, Whakatane and District Historical Society, No. 2, Whakatane: Mann reprint, 2009, p. 79.

<sup>7</sup> *ibid.*

<sup>8</sup> *ibid.*

Astrolabe Rock is isolated, and uncovered at low water springs. The whole extent of the danger is not more than two tables, extending ENE and WSW. It would break almost always but as it is covered at high water, in very fine westerly with it might not show. Our boats approached it, and found twenty fathoms all round at fifty yards distant. The ship passed two cables from it, sounding in thirty to forty fathoms, green mud and broken shells.

The flat summit of Maunganui is exactly on level with the bridge of the tableland behind it. If you are inside the rock, Maunganui will appear above the distant land, and if outside it will appear below. This neighbourhood should be avoided at night, as there is no land near enough to guide Motiti being too low.

This rock is in such a very different position from that assigned to the Astrolabe Reef that were we not convinced that no rocks exist in the old position of the Astrolabe, I should have hesitated to give it this name.<sup>9</sup>

26. On 14 January 1878, the *Bay of Plenty Times* reported that the schooner *Nellie* ran onto the Astrolabe Reef the previous evening and suffered significant damage.<sup>10</sup> The sailing conditions were light and all on board were saved. Though damaged, the schooner was taken off the reef and beach on the eastern shore of Mōtītī where the cargo of foodstuffs was saved. The captain was injured in the collision and transferred to Tauranga by a boat belonging to one of the Pakeha residents of Mōtītī. The vessel was a 60 tonne schooner built at Mahurangi in 1876 and had competed in the previous year's regatta at Tauranga and at other regattas. It was owned by an Auckland firm, and traded primarily between Auckland and Lyttleton. The newspaper later reported that the cargo and some of the schooner's fittings and rigging were collected by another ship from Mōtītī. The cargo was brought from the island to the ship by boats belonging to the Maori communities residing there. The captain of this ship reported that the schooner was rapidly breaking up in the sea conditions. The hull had, earlier that week, been sold by the insurance company. The cargo was transferred to another vessel at Tauranga to be taken to Auckland.
27. Less than two weeks after the loss of the schooner, a judicial inquiry was heard before two justices of the peace and a nautical assessor at Tauranga.<sup>11</sup> The *Bay of Plenty Times* reported that the collector of customs had applied for the inquiry alleging negligence on the part of the captain in failing to exercise 'sufficient caution' by keeping a special lookout given the navigational dangers. The Crown, the ship's master and the insurance company were all represented at the hearing by counsel.

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<sup>9</sup> Bryan Byrne, *The Pandora Survey: the Completion of the 1848-1856 Great Survey of New Zealand by HMS Pandora, Together With an Account of its Genesis and Initial Phase*, Auckland: T. B. Byrne, 2007, pp. 178-179.

<sup>10</sup> *Bay of Plenty Times*, 14 January 1878.

<sup>11</sup> *Bay of Plenty Times*, 26 January 1878.

28. The evidence presented showed that the captain had left the deck and gone below and a junior crew member had relieved the mate, who had also gone below, and was in charge of the vessel when it struck the reef. The captain had taken bearings and he and the crew believed the reef was some distance off the vessel's course. According to one of the witnesses, the vessel was grounded on the reef for about three minutes. It was taking on water when it came off the reef. The captain attempted to run the vessel up the beach on the eastern side of Mōtītī but was unable to do so and instead pushed her onto the rock on the northern side of the island. The captain attributed the grounding to tidal flow and the accuracy of the Admiralty Chart available to him at the time. However, the inquiry rejected this for lack of evidence and found the accident was a result of neglect on the part of the captain who either should have been on deck or provided for a lookout given the proximity of the reef. The certificate of competency of the captain was suspended for one month. Costs of the inquiry were also awarded against him.
29. A local historian who prepared a small book on the history of Mōtītī in 1979, A.H. Matheson, argues that it is these same reefs and other dangers to shipping which make the waters around Mōtītī one of the best fishing grounds in the Bay of Plenty.<sup>12</sup>

## V. NATIVE LAND COURT PROCEEDINGS

30. The creation of the original title of Mōtītī was particularly odd. The chief judge of the Native Land Court, F.D. Fenton, presided at the hearing at Maketu in 1867.<sup>13</sup> However, Mōtītī was included in the boundaries of the Tauranga Confiscation District and was therefore beyond the jurisdiction of the Court. Fenton later explained, as a witness in a subsequent hearing for Mōtītī in the 1880s, that the civil commissioner for Tauranga, H.T. Clarke, 'had agreed to abandon the Crown right'.<sup>14</sup> He insisted that this created the jurisdiction for the Court but went on to admit that as the Crown did not 'formally or legally' abandon its claims, no order of the Court could be issued. However, lists of names were approved by the Court and the Crown grant was drawn up on the basis of this list.<sup>15</sup> Boast notes that the original proclamation confiscating the land may have provided for then eating because it extended only to 'such portions

<sup>12</sup> Matheson, p. 81.

<sup>13</sup> R.P. Boast, 'Confiscation and Regrant: Matakana, Rangiwaea, Motiti and Tuhua. Raupatu and Related Issues', November 2000, Wai 215, J1, p. 35.

<sup>14</sup> Statement by F.D. Fenton, cited in Boast, p. 36.

<sup>15</sup> Boast, pp. 35-36.



of Mōtītī or Flat Island as shall be adjudged to belong to the Ngai Te Rangi tribe'.<sup>16</sup> Title to the island was intensely disputed among Te Patuwai, Ngai Te Rangi and Te Arawa (though the Te Patuwai witness, Te Maruki, acknowledged that Ngāti Pikiao had interests in the island).

31. The Court awarded the southern end of the island to Te Whanau a Tauwhao and the northern end to Te Patuwai. The part awarded to Te Whanau a Tauwhao was the larger portion of the island.
32. In his cultural heritage report for the Department of Internal Affairs, *Te Moutere o Mōtītī*, Dr Kahotea provides a detailed description of the proceedings relating to the lands on Mōtītī.<sup>17</sup> His primary focus is on the various hearings of the Native Land Court and the disputes between Te Patuwai and Te Whanau a Tauwhao. He also provides an account of the interests of Te Patuwai on the mainland in the eastern Bay of Plenty which were affected by raupatu and the return of certain areas of land.
33. I do not consider it necessary to review these proceedings in detail. Dr Kahotea's narrative provides a sufficient overview at this point. Rather, my concern is to review the minutes for the purposes of identifying instances where people left the island to go to Otaiti (Astrolabe Reef), presumably to exploit the fishing resource there.

## **VI. SHARED OR COMMON INTERESTS IN OTAITI (ASTROLABE REEF)**

34. Otaiti (Astrolabe Reef) is part of a complex customary landscape with interests derived over many generations of conflict and intermarriage between descendants of the Te Arawa, Mataatua, Tainui and Takitimu waka. All are associated with the marine environment of Te Moana a Toi (Bay of Plenty).
35. There are three iwi and hapū where evidence shows customary interests in Otaiti (Astrolabe Reef). They are:
  - Te Arawa;
  - Te Patuwai (who share whakapapa with Ngāti Awa and Te Arawa);

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<sup>16</sup> *ibid.*, p. 36.

<sup>17</sup> Des Tatana Kahotea, 'Te Moutere o Motiti. Cultural Heritage Report', prepared for the Department of Internal Affairs, May 2012 'Te Moutere o Mōtītī', May 2012, pp. 28-46.

- Te Whanau a Tauwhao (Ngai Te Rangi with shared whakapapa with Ngāi Awa).<sup>18</sup>

## VII. TE ARAWA

36. Te Arawa have a longstanding history connected with Mōtītī and the surrounding waters through the occupation of Ngatoroirangi and the significant battle fought there with people from Hawaiki. This relationship with the island and the surrounding waters is of profound importance to the identity of the iwi of the Te Arawa waka. Over generations, however, their occupation of the island was displaced in the post-1840 period. It is important to note that both Te Arawa iwi and Ngai Te Rangi continued to occupy the island at different times for different purposes through to 1840.
37. For Te Arawa, Mōtītī and its surrounding marine environment, including Otaiti (Astrolabe Reef) is a sacred site. It is not just associated with one of the founding tupuna of Te Arawa but of a key tradition of their origins, arrival and settlement in Aotearoa from the Pacific. It is also a tradition in which the marine environment is a crucial element in their success at overpowering their enemies from Hawaiki who would destroy them. It is this marine environment which responded to the calls of their tupuna Ngatoroirangi which did not just protect his people but overwhelmed and devastated their enemies.
38. Professor Stokes, in her paper on Te Whanau a Tauwhao, acknowledges the significance of the Te Arawa claim to the island through the residence of Ngatoroirangi at Matarehua and the battle of Maikukutea.<sup>19</sup> The Te Arawa waka made landfall at Whangaparaoa in the eastern Bay of Plenty and travelled north up the coast to Moehau. They returned to the Bay of Plenty and came ashore at Maketu, where the people established a base from which to explore the region. Ngatoroirangi travelled inland and it was during this trip that he is said to have brought geothermal activity to Rotorua and Taupo. Trapped in a snow storm on the slopes of Tongaririo, he called on his sisters, Kuiu and Hauhungaroa, for assistance. They responded and

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<sup>18</sup> The Ngāi Te Rangi cultural values assessment includes an extended narrative which gives the iwi's perspective on the conflicts following the arrival of Te Rangihouhiri and his descendants in the western Bay of Plenty. Through these conflicts with those they found already in occupation in the region, Ngāi Te Rangi settled initially at Maketū and subsequently at Tauranga Moana.

<sup>19</sup> Stokes, p. 13.

came to his aid with warmth. Wherever they stopped, hot pools, geysers and steaming ground remained when they continued on their journey.

39. The tradition of Ngatoroirangi and the battle of Maikukutea follows from this. This tradition is drawn largely from the narrative recorded by George Grey in his *Polynesian Mythology*. Kuiwai was married to Manaia and they lived in Hawaiki. On one occasion, Manaia became enraged by Kuiwai's cooking and threatened to cook Ngatoroirangi. Kuiwai communicated this insult to Ngatoroirangi who returned to Hawaiki with his people to challenge Manaia. A series of battles followed in which Ngatoroirangi was victorious, but Manaia was able to escape each time.
40. Ngatoroirangi returned to Aotearoa leaving Manaia to plan his revenge. Ngatoroirangi settled on Mōfītī where he built a settlement called Matarehua. This was located at the southern end of the island, looking toward Maketu. He lived with his wife there while the other people of Te Arawa lived at Maketu on the mainland across the water. After a time, Manaia sailed to Aotearoa to take his revenge on Ngatoroirangi. A great fleet of waka and armed men made the journey and arrived at the landing place at Mōfītī. Manaia addressed Ngatoroirangi and challenged him to fight immediately, before the day ended. Ngatoroirangi responded that the fighting should take place the next day as the sun was beginning to set. Manaia agreed to his proposal and, at Ngatoroirangi's suggestion, took their waka out and anchored them in the bay. Ngatoroirangi did not leave his high fortified settlement during this exchange.
41. According to Grey, Ngatoroirangi and his wife spent the evening 'in the sacred place, performing enchantments and repeating incantations; and having finished them, they both returned to their house, and there they continued to perform religious rites, calling to their aid the storms of heaven'.<sup>20</sup> In expectation of a great victory in the morning, Manaia and his men celebrated the certain destruction of Ngatoroirangi. Later in the night, they sang songs taunting Ngatoroirangi and his wife. As they did so, Ngatoroirangi responded:

... calls upon the thunder and lightning, that they may all rise and destroy the host of Manaia; and the god Tawhirimatea harkened unto the priest, and he permitted the winds to issue forth, together with the hurricanes and gales, and storms, and thunders and lightnings; and the priest and his wife harkened anxiously that they might hear

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<sup>20</sup> *ibid.*, p. 14.

the first bursting forth of the winds, and thunders and lightnings, and the rain and hail.<sup>21</sup>

42. Great destruction followed but Ngatoroirangi and his wife remained safe in their home:

Then, when it was the middle space between the commencement of night and the commencement of the day, burst to forth the winds, and the rain, and the lightning, and the thunder, and into the harbour poured all the mountainous waves of the sea, and there lay the host of Manaia overcome with sleep, and snoring loudly; but when the ancient priest and his wife heard the rushing of the winds and the roaring of the waves, they closed their house up securely, and they lay composedly down to rest, and as they lay they could hear a confused noise, and cries of terror, and a wild and tumultuous uproar from a mighty host, but before very long, all the loud confusion became hushed, and nothing was to be heard but the rolling of the surges upon the beach; nor do the storm itself last very long – it had soon ceased.<sup>22</sup>

43. There were no survivors and little of their remains were visible, such was the ferocity of the storm. Manaia was only identified by the tattoos on one of his arms.
44. This is the most significant recorded tradition relating to Mōtītī and the surrounding marine environment. In my view, it establishes Te Arawa interests in the reef and these traditions, which are fundamental to the identity of Te Arawa, speak of the founding of the iwi in Aotearoa and their relationship to new lands and waters. In consequence, I am confident that Te Arawa would consider Otaiti (Astrolabe Reef) a taonga for the iwi.
45. Te Arawa's ongoing occupation and use of Mōtītī was severely undermined by colonisation, though it is not clear that this extended to Otaiti (Astrolabe Reef). There was conflict between Te Arawa and Ngai Te Rangi in the late 1830s and early 1840s and tension continued to simmer but there was no resolution of the issues. Mōtītī was not a particular focus on this tension but it was a consideration. In addition, Mōtītī was connected with some of the armed raids from the north into Hauraki, the Bay of Plenty and the East Coast. Te Arawa continued to press their claims to the island even though they were unable to use military force to resolve the tensions.
46. The Native Land Court eventually rejected their claims for inclusion in the land titles for the island, long with those of other iwi, in 1867.<sup>23</sup> In my view, this does not diminish their customary interests either in the island or in the reef. It is also likely

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<sup>21</sup> *ibid.*

<sup>22</sup> *ibid.*

<sup>23</sup> Matheson, p. 24.

that individuals of Te Arawa were included in the land titles through shared whakapapa with Te Patuwai. This relationship, between Te Patuwai at Mōtītī and Te Arawa at Maketu, continued to be of considerable importance through the twentieth century. Moreover, Te Arawa continued to press their claims to the island and, in August 1885, the *Bay of Plenty Times* reported on a written request from Te Arawa to Ngai Te Rangi which had been rejected by the latter.<sup>24</sup> Te Arawa had asked for Mōtītī to come under their mana.

47. The kōrero of Te Arawa relating to the reef also refers to its importance as a fishing site. Kaumatua of Ngāti Whakahemo spoke of the importance of Otaiti (Astrolabe Reef) as a fishing ground where the hāpuku was a particularly important catch. It was also a significant fishing site for Ngāti Whakaue. Ngāti Whakaue elders spoke of fishing at Otaiti (Astrolabe Reef) from their childhood with their elders.
48. It should be noted that not all Te Arawa iwi assert customary interests in the reef. The Te Arawa cultural values assessment (possibly prepared by Ngāti Makino), identifies Hei of the Te Arawa waka as the common ancestor of Waitaha, Makino and Tuwharetoa.<sup>25</sup> There appears no suggestion that these iwi have interest in the island or reef but that their interests are located in the Bay of Plenty coast. To that extent, the marine environment is significant to these iwi and they continue to have an interest in any decisions made regarding the future of the wreck on Otaiti (Astrolabe Reef). The reef is an important feature of the marine environment for them:

The reference to the Moana o Te Arawa refers to the view of kaumatua that the taka, Otaiti, defines the waters of Te Arawa coast and likens Otaiti to the coral reefs which surround other Polynesian Islands. It is believed that Ngatoroirangi drew this analogy from Hawaiki and was demarcating the inner waters of a coral reef that surround many Polynesian islands. At the point of Otaiti the deeper waters of Moananui o Kiwa are distinguished from the calmer inner coastal waters. Otaiti is the gateway to the Moana o Te Arawa, 'Te Tau O Taiti'. Otaiti is a Te Arawa cultural icon, an important part of defining who we are.<sup>26</sup>

49. Further consideration of any other customary interests they have in Otaiti (Astrolabe Reef) may be required to better understand the nature and extent of their interests in the reef.

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<sup>24</sup> *ibid.*

<sup>25</sup> [Maketu (Te Arawa) Cultural Values Assessment], undated, p. 11.

<sup>26</sup> *ibid.*, p. 19.

## VIII. TE PATUWAI AND TE WHANAU A TAUWHAO OF MŌTĪTĪ

50. It is generally agreed that Te Patuwai are a hapū of Ngāti Awa with whakapapa relationships with the Te Arawa iwi of Ngāti Whakahemo and Waitaha and with Ngāti Pukenga of Tauranga Moana.<sup>27</sup> In the initial proceedings of the Mōtītī island hearings, Hori Te Whetuki of Te Patuwai described the kinship group as a ‘hapu of Waitaha ... related to the Arawa’.<sup>28</sup> On several occasions, Matheson refers to the close relationship between Te Patuwai and Te Arawa in the nineteenth century.
51. Evidence presented during Native Land Court proceedings in the nineteenth and early twentieth century relating to Mōtītī Island suggests close relationships between Te Patuwai and both Ngāti Pukenga and Ngāti Whakahemo. The Court repeatedly found that only people of Te Patuwai had interests in the island but the connections between those living at Maketu (both Ngāti Whakahemo and Ngāti Pukenga) and the three other kainga of Ngāti Pukenga (Ngapeke, Manaia, Pakikaikutu) were frequently referred to in evidence. It is highly likely that people of these iwi were included in the titles to the northern part of Mōtītī Island through their Te Patuwai whakapapa.
52. Te Patuwai are descendants of Toroa of the Mataatua waka. According to Matheson, Te Patuwai came from Hakuranui in the migration led by Te Rangihouhiri, the tupuna of Ngai Te Rangi.<sup>29</sup> However, before the migration arrived at Tauranga Moana, where they would settle, Te Hapu, the tupuna of Te Patuwai, led his people to Mōtītī and took possession of the island. They were initially known as Ngai Te Hapu. Te Patuwai share their whakapapa with Ngāti Awa of Whakatane but, during the nineteenth century, became particularly associated with the iwi through intermarriage. However, Te Patuwai also have close relationships with Ngāti Pukeko of Ngāti Awa, Ngāti Whakahemo of the Te Arawa, Mataatua and Takitimu waka and Ngāti Pukenga of Tauranga Moana (and an iwi also descended from the Mataatua waka). According to Te Patuwai tradition (Hone Te Whetuki), the island was unoccupied when Te Hapu arrived there.<sup>30</sup>

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<sup>27</sup> It should be noted that Ngāti Whakahemo have other waka affiliations.

<sup>28</sup> Maketu Native Land Court minute book 1, 17 October 1867, p. 27.

<sup>29</sup> Matheson, p. 25.

<sup>30</sup> *ibid.*, p. 27.

53. Te Whanau a Tauwhao later occupied the island, Hori Tupaea claiming that they acquired it by force from the descendants of Te Rangihouhiri (Te Patuwai and Ngai Te Rangi).
54. Stokes describes Te Whanau a Tauwhao as a hapū of Ngai Te Rangi of the Mataatua waka who were traditionally associated with several islands around Tauranga Moana. They include Tuhua, Mōtītī, Rangiwaea and Otawhiwhi. She emphasises the importance of the marine environment for this hapū and notes that they were also known as Te Papaunahi, a reference to the quantities of fish scales which were found around their pa at Tuhua.<sup>31</sup> Te Whanau a Tauwhao descend from Tauwhao of Ngāti Awa and Tamaoho of Ngai Te Rangi. Both were descendants of Toroa, the ariki of the Mataatua waka. Tamaoho was a grandson of Te Rangihouhiri. Stokes observes that few of the traditions regarding Te Whanau a Tauwhao and Mōtītī island have survived.
55. At the initial hearing for Motiti, Hori Tupaea led the claim for Te Whanau a Tauwhao and described himself as Ngāti Raukawa and Ngāti Awa.<sup>32</sup> He insisted that Ngai Te Rangi's land interests were located on the mainland and that Te Whanau a Tauwhao had interests, with others of Ngāti Awa, in Motiti. Other witnesses supported his evidence on this point. The possibility that Te Whanau a Tauwhao was a kinship group of Ngāti Awa, at least those residing on Motiti, appears at odds with current understandings of the hapū's connection with Ngai Te Rangi. However, it is important to note that it also consistent with the whakapapa of Tauwhao who was of Ngāti Awa.
56. Boast also observes that the people of Te Whanau a Tauwhao who lived on Mōtītī were known as Papaunahi. He speculates that this was because of their skill in fishing for barracuda.<sup>33</sup> Te Whanau a Tauwhao also resided at Tuhua, Rangiwaea and Katikati at different times of the year. Boast argues that Tuhua and Mōtītī were 'Te Whanau a Tauwhao's ancient home and despite their links with Ngai Te Rangi and Ngāti Awa they seem at least in those places to have rights by settlement and descent

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<sup>31</sup> Stokes, p. 1.

<sup>32</sup> Maketu Native Land Court minute book 1, 22 October 1867, fol. 85.

<sup>33</sup> Boast, p. 11.

quite unconnected with the Ngai Te Rangi conquest and settlement of Tauranga led by Te Rangihouhiri'.<sup>34</sup>

57. Conflict between Te Patuwai and Te Whanau a Tauwhao continued over generations. According to Matheson, Te Patuwai left the island after Matarehua Pa was destroyed in one of the northern incursions to the Bay of Plenty. They lived at Whakatane with their Ngāti Awa kin and returned to the island in 1852.
58. Hapū of Te Patuwai have resided on the island since the start of the twentieth century.<sup>35</sup> There appears a general consensus that Te Whanau a Tauwhao alienated their land in the nineteenth century and have not lived there since. It is also notable that the Ngai Te Rangi cultural values assessment does not indicate any particular customary interests in Otaiti (Astrolabe Reef) which might be affected. It does, however, include general statements of interests in the marine environment which includes Otaiti (Astrolabe Reef). The specific focus of the report is on Ngai Te Rangi's interests in the mainland coast and the way in which these interests could be affected by the ongoing environmental effects of the grounding.
59. Dr Kahotea appears to suggest that while Te Patuwai continued to occupy and cultivate their lands at the north of the island, Te Whanau a Tauwhao people lived away from the island and their lands were either alienated by sale or leased to Te Patuwai people.<sup>36</sup> Interests associated with the Te Patuwai whanau also acquired land in Mōtītī B, which Matheson describes as the land disputed in the Native Land Court between Te Patuwai and Te Whanau a Tauwhao, from the Pakeha purchaser.<sup>37</sup> Te Patuwai have retained all of the land awarded to them in the north of the island in the nineteenth century. There is one parcel of land located near the northern point which is now general land but it is owned by Maori (it possibly became general land (formerly known as European land) by declaration under Part I of the Maori Affairs Amendment Act 1967).

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<sup>34</sup> *ibid.*, p. 12.

<sup>35</sup> Matheson, p. 30.

<sup>36</sup> Kahotea, 'Te Moutere o Mōtītī', May 2012, pp. 63-64.

<sup>37</sup> See cl 12 of the first schedule to the Special Powers and Contracts Act 1886, s 14 of the Native Land Claims Adjustment and Laws Amendment Act 1901 and s 21 of the Native Land Amendment and Native Land Claims Adjustment Act 1919.



60. Fishing activities were a central feature of life on Mōtītī and Otaiti (Astrolabe Reef) was a hāpuku fishing ground of great importance to Te Patuwai but great care was required to fish there. The *Auckland Weekly News* reported in December 1889 that the hāpuku fishing ground was located a little to the east of Mōtītī and was ‘one of the best to be found anywhere’.<sup>38</sup> Ten years later, the *Auckland Weekly News* reported in March 1899 that there were ‘famous fishing grounds, both for hapuku and tarakihi close to’ Mōtītī.<sup>39</sup> The hāpuku was caught by those living on the island and preserved as gifts to ‘inland tribes’. There was also a significant supply of crayfish (lobsters).

61. According to Dr Kahotea:

For Te Patuwai and in the past for Ngaitauwhao [sic], life was centred on the sea. In other contexts of ‘water’ iwi and hapu located on the Whanganui River and lower Waikato are seen as ‘people of the river’, where life was centred on the river, the river was a living life force, its resources were important and their spiritual world surrounded the river. The cliff edge, rocks, reefs and beaches remain natural or unmodified and the location of the pa, highlight the cultural representation of the sea. The sea cannot be separated from the landscape of the Island. The traditional harvesting of the resources of the sea has not changed, the methods and tools are the same just that the boats and tools used today are designed and made with modern technology. There [are] a number of tapu rocks around the island in the sea as much as on the land and they are an object of respect rather than prohibition.<sup>40</sup>

62. Dr Kahotea refers to cropping on Mōtītī during the nineteenth century which was frequently commented on in local press reports.

63. Reports in the *Bay of Plenty Times* in the late nineteenth century show that Mōtītī was a thriving and dynamic Maori community. Other evidence shows that this community was primarily Te Patuwai, though there were many connections with the mainland in both Tauranga Moana, Maketu and the eastern Bay of Plenty. The mainstay of the island economy was maize, though there were also references to commercial fishing activity. Through the income generated by their agricultural activities, Te Patuwai were able to build houses and community facilities on the island as well as acquire the area of land which they had disputed with Te Whanau a Tauwhao through the Native Land Court hearings. It is also remarkable, given the experience of iwi and hapū elsewhere, that Te Patuwai have been able to retain all of the land awarded to the hapū by the Native Land Court in the nineteenth century in Maori ownership.

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<sup>38</sup> Kahotea, ‘Te Moutere o Mōtītī’, May 2012, p. 60.

<sup>39</sup> *ibid.*

<sup>40</sup> *ibid.*, p. 55.

64. Newspaper reports suggests shipping between the island and the mainland was on larger vessels while the kōrero of pakeke and old photographs suggests that people went to fish and dive at Otaiti (Astrolabe Reef) on smaller craft. These were manoeuvred onto the reef and fishing was by line and people dived from the boats. Fishing occurred both from Mōtītī and from the mainland.<sup>41</sup>
65. Given the connection of Te Patuwai with the marine environment and the island over many generations, the significance of the marine environment for those of the hapū who resided on Mōtītī Island from the late nineteenth century to the present, and the importance of the fishery associated with Otaiti (Astrolabe Reef), the available historical evidence indicates Te Patuwai considered the reef a taonga for the hapū.

#### **IX. TREATY SETTLEMENTS RELATING TO OTAITI (ASTROLABE REEF)**

66. The following comments are based entirely on publicly available documents entered into between the Crown and mandated iwi representatives to settle historical Treaty of Waitangi claims. These include deeds of settlement with iwi and, where negotiations are have not reached that stage, agreements in principle or similar documents. The focus of this discussion is on negotiations where the Crown has either offered specific redress over Otaiti (Astrolabe Reef) or the adjacent marine environment or land masses (particularly Mōtītī), or where the Crown has recognised an ‘area of interest’ which includes Otaiti (Astrolabe Reef).

##### **a. Ngāti Awa**

67. Te Patuwai is identified as a hapū of Ngāti Awa.<sup>42</sup>

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<sup>41</sup> The Ngāi Te Hapu CVA includes kōrero identifying a fisherman of Ngāti Pukenga who lived at Ngapeke who regularly fished at Otaiti (Astrolabe Reef). The kōrero states that he would stop at Mōtītī to collect the informant, who was a child at the time, and they would fish at the reef for hāpuku after performing appropriate karakia and rituals. See p. 18. Note, too, that the Motiti Island Native Resource Management Plan, updated in August 2012, includes a request for the Ministry of Agriculture and Fisheries to place Moutere o Motuiti and a number of other areas, including Otaiti (Astrolabe Reef) on ‘their emergency list’ and establish a marine reserve to protect and preserve the fishery there. The plan indicates local residents are deeply concerned about fish stocks around the island and the reef. ‘Ngāti Te Hapu Whanau Whanui Native Resource Management Plan 2011, revised August 2012’, p. 127.

<sup>42</sup> See paragraph 1.2.2, Hapū of Ngāti Awa, on p. 24. During the rehearing for Mōtītī North at Tauranga in February 1894, representatives of owners associated with Te Patuwai identified a number of hapū, including Ngāi Kauaewera, Ngāti Te Uru, Ngāti Makakerewai and Ngāti Pau (who were represented by Tiaki Rewiri) and Ngāti Hapu, Ngāti Pau and Ngāti Takahanga (who were represented by Wi Tere Whakahau). See Judge von Sturmer Native Land Court minute book 11, 13 February 1894, fols 8-9.

68. Mōtītī Island is not shown on the map illustrating the iwi's area of interest but the definition includes the word 'together with the adjacent waters and Offshore Islands' (see).<sup>43</sup> 'Offshore Islands' is defined in the deed and a number of islands are specified, including Mōtītī Island.<sup>44</sup> Mōtītī Island is, therefore, in Ngāti Awa's area of interest.
69. The historical account included in the Ngāti Awa deed of settlement includes a description of the iwi's rohe. This description states that Ngāti Awa claim that prior to 1866, they exercised tino rangatiratanga as tangata whenua over an area of land and water which included Mōtītī Island.<sup>45</sup>

**b. Affiliate Te Arawa Iwi/Hapū**

70. In the Claimant Definition Schedule to the deed of settlement of the historical claims of the affiliate Te Arawa iwi/hapū Ngāti Whakahemo is defined as a subgroup of Ngāti Pikaio.<sup>46</sup>
71. The area of interest shown in the map attached to the deed of settlement shows a boundary line located on the mainland only (Schedule 6). The boundary line does not join and it is unclear what islands or coastal areas are included in the area of interest. The map does not include any offshore islands. There is no description of the area of interest in the deed of settlement.<sup>47</sup>

**c. Ngāti Ranginui**

72. The reef and Mōtītī Island are included in the area of interest and described as the 'Ngāti Ranginui Coastal Area of Interest'. This distinguishes it from an area of the mainland described as the 'Ngāti Ranginui Area of Interest'. There is no specific redress relating to Otaiti (Astrolabe Reef) or Mōtītī Island.
73. In cl 4.6.1, the Crown acknowledges that hapū of Ngāti Ranginui 'are of the view that they have exclusively used and occupied the marine and coastal area in their area of interest from 1840 to the present day without substantial interruption and that they continue to hold that area in accordance with tikanga'. The deed notes that hapū of

<sup>43</sup> See Attachment 1.1, on p. 39 and paragraph 1.2.2, Area of Interest, on p. 24.

<sup>44</sup> See section 15.1, p. 221.

<sup>45</sup> See paragraph 3.1(B) on p. 59.

<sup>46</sup> See paragraph 1.17.3(a).

<sup>47</sup> Clause 16.3, p. 130.

Ngāti Ranginui believe they have grounds to seek recognition of protected customary rights and customary marine title under the Marine and Coastal Area (Takutai Moana) Act 2011. The deed states that the Crown's acknowledgement is not a determination on this point but cl 4.8 states that it will treat cl 4.6 as an application to seek a recognition agreement. The deed includes provisions relating to engagement and cl 4.11 specifically notes that the provisions in the deed are not an acknowledgement by the Crown that hapū of Ngāti Ranginui do hold customary marine title over their area of interest. It is important to note that this would appear to suggest that there is an application for CMT by the hapū of Ngāti Ranginui.

#### **d. Ngāti Pūkenga**

74. Otaiti (Astrolabe Reef) and Mōtītī Island are both located inside the boundary of the area of interest but it should be noted that the boundary line shown on the map in the coastal and marine area is dashed rather than solid as it is on the mainland and there is no explanation for this difference. It should also be noted that the boundary does not join on the seaward side. There is no specific redress relating to Otaiti (Astrolabe Reef) and Mōtītī Island, though Ngāti Pūkenga share, with other iwi, the collective redress set out in the Tauranga Moana Iwi Collective deed (described below).
75. Ngāti Pūkenga share whakapapa in common with Te Patuwai and their interests in the island were acknowledged by Te Patuwai in the nineteenth century in proceedings in the Native Land Court. The Court did not award interests in the titles to Mōtītī Island to Ngāti Pūkenga.

#### **e. Tauranga Moana Iwi Collective**

76. The Tauranga Moana Iwi Collective deed was initialed on 2 November 2012 and was subsequently ratified by the constituent iwi. Negotiations are continuing to finalise the deed for signing. Deeds with the three iwi of the collective, Ngāi Te Rangi, Ngāti Ranginui and Ngāti Pūkenga, have all been signed but will not progress to legislation until the collective deed has been signed off.
77. In the deed, the meaning of 'Tauranga Moana' and 'moana' does not include waters and natural resources situated on offshore islands where the Minister of Local Government is the territorial authority (clause 2.20.2(a), Mōtītī Island is identified specifically). Mōtītī Island is excluded from Area A of the Tauranga Moana

Framework on a map which is labelled ‘for discussion purposes only’ but Otaiti (Astrolabe Reef) is included in this area.<sup>48</sup>

78. Under cl 2.20 of the Tauranga Moana Iwi Collective deed, Tauranga Moana includes the waters, other natural resources and geographic features in the coastal marine area marked ‘A’ on an unspecified SO plan. Presumably this is the area marked ‘Area A’ on the deed plan in the attachments. It would appear, therefore, that Otaiti (Astrolabe Reef) is included in the definition of Tauranga Moana. The deed of settlement includes an offer by the Crown to introduce legislation to the House of Representatives which will, among other things, establish a statutory committee and provide for the preparation of a Tauranga Moana framework document (cl 2.11).

#### **f. Ngāi Te Rangī**

79. The following kinship groups are included in the definition of Ngāi Te Rangī in the Ngāi Te Rangī and Nga Potiki deed of settlement signed in December 2013:
- Te Whānau a Tauwhao (see paragraph 8.6.2(a));
  - Ngāi Tukairangi (see paragraph 8.6.2(f));
80. where the individuals in those kinship groups descend from one or more Ngāi Te Rangī ancestors.
81. The area of interest shown in the map attached to the Ngāi Te Rangī and Nga Potiki deed of settlement shows a boundary line located on the mainland only. The boundary line does not join and it is unclear what islands or coastal areas are included in the area of interest. It is therefore possible that the reef and Mōtītī Island are included in the area of interest but it is not clear. There is no description of the area of interest in the deed of settlement.<sup>49</sup>
82. The reef and Mōtītī Island are included in a statutory acknowledgement area (Waiororo ki Maketu, OTS-078-13). Under cl 5.16.3-5.16.5, the Crown agrees to include in the settlement legislation an acknowledgement of the ‘traditional association’ of Ngāi Te Rangī and Nga Potiki with this area. The settlement legislation will also provide for consent authorities to take certain actions with respect to the iwi and allow the iwi and related groups ‘to cite the statutory acknowledgement

<sup>48</sup> Attachments, p. 3.

<sup>49</sup> See Part 6 of the General Matters Schedule, p. 13.

as evidence of Ngāi Te Rangi and Ngā Pōtiki's association with the area over which Ngāi Te Rangi or Ngā Pōtiki have a statutory acknowledgement'. Note also that cl 5.18 limits the statutory acknowledgement to the marine and coastal area as it is defined in s 9 of the Marine and Coastal Area (Takutai Moana) Act 2011.

83. There is no specific redress relating to Otaiti (Astrolabe Reef) or Mōtītī Island.

**g. Waitaha**

84. There is no specific redress relating to Otaiti (Astrolabe Reef) or Mōtītī Island and neither the reef nor the island was included in the area of interest.

**X. APPLICATIONS UNDER THE MARINE AND COASTAL AREA (TAKUTAI MOANA) ACT 2011**

85. All applications relating to Mōtītī Island and the surrounding common marine and coastal area have been declined engagement by the responsible minister. The applications are:

Location: Common marine and coastal area surrounding Mōtītī Island, Bay of Plenty (from mean high water springs on the landward side, out to 12 nautical miles)

Applicant: **Mōtītī Rohe Moana Trust**

Description: Application for customary marine title through recognition agreement with the Crown

Date on which commencement to engage was declined: 17 December 2013

Location: Common marine and coastal area of Mōtītī Island between Panaturi Point and Te Rua Karamea, including Te One Bay and Te Rere Cove (Mick's Bay)

Applicant: **Ngā Uri o ngā Tupuna Whānau**

Description: Application for customary marine title through recognition agreement with the Crown

Date on which commencement to engage was declined: 17 December 2013

Location: Common marine and coastal area surrounding Mōtītī Island, Bay of Plenty (from mean high water springs on the landward side, out to 12 nautical miles)

Applicant: **Korowai Kahui o Te Patuwai Tribal Council**

Description: Application for customary marine title and protected customary rights through recognition agreement with the Crown

Date on which commencement to engage was declined: 17 December 2013

Location: Common marine and coastal area surrounding Mōtītī Island, Bay of Plenty

Description: Application for customary marine title and protected customary rights through recognition agreement with the Crown

Date on which commencement to engage was declined: 17 December 2013

**XI. IMPACT OF LEAVING PART OF THE WRECK ON OTAITI (ASTROLABE REEF)**

86. At this point, I do not consider that I have sufficient information to offer an opinion on the impact on cultural values of any proposal to leave part of the wreck on Otaiti (Astrolabe Reef). Such a proposal would profoundly affect the physical environment both in terms of the traditions relating to the reef and the reef as a significant fishing ground. However, it is also important to acknowledge that Maori communities have adapted to changes in the natural environment which have been a consequence of natural events. The most significant was probably the eruption of Mount Tarawera in 1886. Maori have also modified the environment in the past to protect and support communities. These include substantial earthworks to create fortifications and modifying rivers to protect fisheries and improve catches.
87. The tikanga set out in the Ngāi Te Hapu cultural values assessment reflects the hapū's relationship with the reef and the marine environment. My only observation to make on this assessment is that the history of both pre-colonial and colonial Aotearoa is one of exploitation and use of the natural environment and the resources it holds (as is acknowledged in the report). However, it is also one of adaptation to changes in the natural environment, both in consequence of human change and natural change (such as flooding, earthquakes, tsunami and volcanic eruptions). Maori communities learned to manage and protect the natural environment while dealing with environmental change and disasters.
88. Nevertheless, the wreck is not part of the natural marine environment and the disaster is not a consequence of the natural environment but a result of human activity. Without taking into account any other factors, the cultural values attached to the reef require the removal of the wreck. It is a foreign object located in a marine environment which profoundly affects the ecosystem of the reef and could do so for decades to come. The reef has been used as a fishing and diving site for many generations and these resources have sustained local Maori communities. The wreck will limit the extent to which those Maori communities can continue to use the resource of the reef to feed and support their people, undertake traditional activities and exercise their kaitiakitanga.

89. However, the process of removing the wreck could potentially have a greater impact on cultural values associated with the reef, particularly if the marine environment suffers further adverse effects. Consideration of the scientific data on these effects and an understanding of the engineering possibilities will be essential to dialogue with iwi and hapū over the impact on cultural values which might arise from any plans for the wreck. An assessment of the impact on cultural values cannot take place in the absence of this vital information. Cultural values cannot stand apart from scientific and engineering considerations in these circumstances. Understanding the impact of any proposal on cultural values associated with Otaiti (Astrolabe Reef) will require options for the future disposition of the wreck to be reviewed in a discussion with well-informed tangata whenua who have access to impartial and robust scientific and engineering expertise.

## **XII. DR KAHOTEA'S CULTURAL VALUES ASSESSMENT**

90. Dr Kahotea produced a cultural values assessment for the Rena owner in January 2014 and an updated and expanded version, dated May 2014, was prepared by Dr Kahotea and Shadrach Rolleston and submitted with the application for resource consent.<sup>50</sup> I have had the opportunity to consider both documents. My focus here is on the report's consideration of customary interests in Otaiti (Astrolabe Reef).
91. According to Dr Kahotea, it is 'generally accepted the main hapū groups connected to Otaiti are Te Patuwai and Te Whanau a Tauwhao', though he acknowledges Te Arawa 'also have an intimate connection to the reef through the eponymous [sic] ancestor Ngatoroirangi'.<sup>51</sup> It is possible to read this as suggesting that Te Arawa's interests in the reef are of lesser significance but it is likely that is not intended as Dr Kahotea does not seek to marginalise or diminish the interests of Te Arawa elsewhere in the report, though he does describe them as 'ancestral' in his section on 'proposed mitigation'.<sup>52</sup> This characterisation could be read as 'historical' and superseded by other customary interests but this is not clear.
92. However, it should also be noted that I am not convinced he produces evidence to support his contention that it is 'generally accepted' that Te Patuwai and Te Whanau a

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<sup>50</sup> Desmond Kahotea, 'Rena Cultural Assessment', January 2014; Desmond Kahotea and Shadrach Rolleston, 'Cultural Assessment', May 2014.

<sup>51</sup> Desmond Kahotea, 'Rena Cultural Assessment', May 2014, p. 2.

<sup>52</sup> *ibid.*, p. 42.



Tauwhao are the main hapū groups connected to the reef. Certainly, as has been acknowledged earlier in this report, Te Patuwai has a long history of living near the reef at Mōtītī. Te Whanau a Tauwhao were also awarded interest in Mōtītī but their occupation is much more limited due to the alienation of those interests in the nineteenth century. It is highly likely, however, that other Te Arawa and Tauranga Moana iwi would dispute the assertion as it applies to Otaiti (Astrolabe Reef) (and some, at least, to Mōtītī too).

93. Dr Kahotea describes the reef as a taonga to tangata whenua.<sup>53</sup>

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<sup>53</sup> *ibid.*, p. 37.

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