KI MUA I TE ROOPŪ WHAKAMANA I TE TIRITI O WAITANGI **WAI 1112**

MŌ TE TAKE O Te Ture Tiriti o Waitangi 1975 (kua whakawhitia)

ME

TE TAKE O Te Rohe Pōtae

ME

TE TAKE O Te kerēme nā **MANIHERA WATSON FORBES** rāua ko **MERE GILMORE** mō te iwi me ngā hapū o Ngāti Hikairo – Te Kāwhia Moana, te awa o Ōpārau, me ngā kōawaawa me ngā moana katoa

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TĀPAETANGA O TE KERĒME O NGĀTI HIKAIRO

RECEIVED
Waitangi Tribunal
22 Dec 2011
Ministry of Justice
WELLINGTON

A. TE TURE – JURISDICTION

Te Kaitono

1. This Amended Statement of Claim is lodged by Manihera Watson Forbes and Mere Gilmore for and on behalf of themselves ("the Claimants") and Te Rūnanganui o Ngāti Hikairo Incorporated and for the benefit of the members of representative hapū and marae of Ngāti Hikairo.

2. The claimants make this claim for the benefit of the members of representative hapū and marae of Ngāti Hikairo to the extent that they choose to support this claim.

Te Kerēme

3. This claim relates to the waterways within Ngāti Hikairo's ancestral lands. For example, the claim covers the Kāwhia harbour, the various Kāwhia and the Ngāroto lakes, Lake Mangakāware, the Ōpārau, Ōkupata, Mangahoanga, Ōmanawa, Mangakotukutuku, Waikuku, Raukawa (Mangaora), Waipā, Manga-o-Tama, Mangauika, Mangakarā, Managawawa, Ngātaiparierua, Mangapiko Rivers and Streams and their tributaries.

4. The Claimants say that they, and Ngāti Hikairo, are or are likely to be prejudicially affected by the Ordinances, Acts, Regulations, Proclamations, Notices and other Statutory Instruments, and the policies, practices, acts or omissions of the Crown, the particular of which are set out in this Statement of Claim.

5. The Claimants further claim that all of the Acts, Regulations, Orders, policies, practices and actions taken, omitted or adopted by or on behalf of the Crown referred to are and remain inconsistent with the terms and principles of the Treaty of Waitangi.

6. While this claim may relate, in part, to lands within the "Waikato Claim area"[1] the allegations of the Claimants are made solely and exclusively on the basis of exclusive Ngāti Hikairo whakapapa and are not made on the basis of Waikato affiliations. In essence, the claims and interests alleged in this claim arise as a consequence of the customary interests of the Claimants' Ngāti Hikairo tūpuna rather than any Waikato whakapapa lines. Further, any claims within the confiscation district are non-"Raupatu" claims.[2]

7. The Claimants acknowledge that other iwi of Te Rohe Pōtae and kindred Waikato-Tainui tribal groups claim and hold interests and associations with the Kāwhia harbour, the Kāwhia lakes, the Ngāroto lake and the other rivers/lakes of the region. For the avoidance of doubt the Claimants do not purport to claim on behalf of any other iwi but Ngāti Hikairo and this claim does not affect any claims that other tribal groups of Kāwhia and Te Rohe Pōtae may have.

8. This claim may be known as the "Ngāti Hikairo – Kāwhia harbour, rivers and lakes customary interests claim".

[1] As defined in the Waikato Raupatu Claims Settlement Act 1995

[2] Should the Waitangi Tribunal consider that it does not have jurisdiction to inquire into any of these claims that relate to lands within the "Waikato Claim Area" then the Claimant requests that the claims and information therein be kept in mind as important context to the wider Ngāti Hikairo claims

B. BACKGROUND

Ngāti Hikairo

He koutu whenua e kore e taea te parepare

He koutu tangata ka taea te parepare

Kōtahi kei Kāwhia ko Whakatau anake [3]

9. The customary group for whom this claim is made consist of "*ngā uri whakatupu o Ngāti Hikairo*." A key ancestor of the iwi is Rakataura III (Rakataura-a-Tokohei), a direct descendant, of Rakataura II (Rakamaomao), and in turn Rakataura I, the son of Whakatau.

10. Ngāti Hikairo can be best described as a border iwi, as it straddles a small buffer region between the larger Ngāti Maniapoto and Waikato iwi. Ngāti Hikairo is closely affiliated to both its larger neighbours.

11. The principal hapū of Ngāti Hikairo are:

i. Te Whānau Pani;
ii. Ngāti Te Uru;
iii. Ngā Uri-o-Te Makaho;
iv. Ngāti Horotakere;
v. Ngāti Puhiawe;
vi. Ngāti Wai;
vii. Te Matewai;
viii. Ngāti Parehinga;
ix. Ngāti Purapura;
x. Ngāti Pare;
xi. Ngāti Hineue;
xii. Ngāti Whatitiri;
xiii. Ngāti Rāhui;
xiv. Ngāti Te Mihinga;
xv. Ngāti Pōkaia;
xvi. Ngāti Te Rahopupuwai;
xvii. Ngāti Ngāti;
xviii. Te Whānau-o-Te Ake;
xix. Ngāti Paretaikō;

[3] This whakatauki is ancient and refers to the immovable and resolute nature of Whakatau the father of Rakataura I, the tohunga of Tainui Waka. Ngāti Hikairo strongly associate with this whakatauki as it best describes our independence, character and perservance to defend our mana against all odds

xx. Ngāti Waikaha;
xxi. Ngāti Huritake; and
xxii. Ngāti Taiuru.

12. The customary rohe of Ngāti Hikairo is all those lands encompassed by the following area:

From Kārewa (Gannet Island) to Raukumara then south east to Pukeatua, then Turangatapuwae, then to Tirohanga Kaipuke, Te Rua-a-Te Kōrari (Te Rua-a-kariri), then crosses the Kāwhia-Kauroa Road north of the Mangaora Inlet, follows the ranges to Kaiwhā, Takapau, to the source of the Mangahoanga Stream, continues further northeast to the middle reaches of Ōtūngāoko Stream, a tributary of Ōpārau River then north east to Tahuanui Peak, , then down the north east slopes to Harapepe, then to Mangarata on the western bank of the Waipā River, where it crosses to the mouth of the Manga-o-Tama Stream, then following the stream to beyond the locality known as Manga-o-tama, northeast of Pukerimu, heading northeast to Te Akeake and then Karange, north of Ōhaupō. Following the Ōhaupō Ridge south including the lakes to the immediate east, until just north west of Te Rahu, then south to Kaipaka on the Mangapiko Stream to down the Mangapiko Stream to Tūpāpakurua, then Tutupōrutu, then on to Wharekauhoka, then to the middle of the Mangapōuri Swamp, to Ngāwhakahane, to the mouth of the Mangapōuri as it connects with the Waipā River. Crossing the Waipā to Whatiwhatihoe where it follows the western bank of the Waipā, to Toroakapakapa, Kaipiha, to Te Arataura, then slightly northeast to form the southern boundary of the Mangauika Block, to Koukouterūrū, to Pūremu, to Te Ake-a-Hikapiro, then south west along the western boundary of the Te Kōpua, Waiwhakaata, and Te Kauri 1 Blocks, then meets State Highway 31, just east of Rauāmoa Road, then heading to Kāwhia along the ridge marked by State Highway 31, until just east of the Kāwhia Harbour Road turn-off, then southwest to the Te Kauri Stream then follows the north bank to the Te Kauri Mouth, then to Tiritirimatangi and crosses the Kāwhia Harbour to the north point of Tānewhangō then directly to Paringatai and then to Te Puia and then back to Kārewa (Gannet Island).

13. The Ngāti Hikairo rohe, as described above, is broadly outlined at the attached map to this Amended Statement of Claim, marked "**MAP A**". Ngāti Hikairo asserts customary interests in all lands, waterways, wai and tūpuna wai (waters and ancestral waters),

puna wai (including groundwaters), forests, fisheries and other taonga within the Ngāti Hikairo rohe.

14. Some key landmarks within the Ngāti Hikairo rohe include:

    i. Kārewa Island
    ii. Kāwhia Harbour
    iii. Pirongia Maunga
    iv. Pukehoua
    v. Ōpārau and tributaries
    vi. Waipā River and tributaries
    vii. Manga-o-Tama Stream and tributaries
    viii. Mangapiko Stream
    ix. Mangauika Stream and tributaries
    x. Mangakarā Stream and tributaries
    xi. Mangawawa Stream and Tributaries
    xii. Ngātaiparierua Stream and Tributaries
    xiii. Lake Mangakāware
    xiv. Lake Ngāroto
    xv. Lake Parangi
    xvi. Mangawhero Lagoon
    xvii. Te Puia Springs, and
    xviii. Tasman Sea coastline (including seabed) between Te Puia and Raukūmara.

Kāwhia Moana – Te Tūpuna Moana

15. The Kāwhia harbour is a tūpuna moana of the Claimants, their iwi Ngāti Hikairo, hapū, whānau, and marae.

16. The Kāwhia harbour is an undivided entity or single whole that cannot be divided into coastlines and foreshores, adjacent lands, springs, banks, beds, water and lakes or swamps. The Kāwhia harbour includes all of the seabed, bed, adjacent lands, coastlines and foreshores, rivers, riverbeds and riverbanks, waters, flora, fauna (including fisheries), minerals, and resources within its streams, tributaries, swamps, springs and catchments.

17. The Kāwhia harbour has provided, and continues to provide, a spiritual essence, a life force to the members of Ngāti Hikairo and its hapū and marae, and to other tribal groups of Kāwhia, and to numerous taniwha, ika and ngārara who inhabit Kāwhia Habour.

18. Ngāti Hikairo has exercised tino rangātiratanga and has held mana within the region of the Kāwhia harbour since time immemorial and considers that the Kāwhia harbour is a taonga tuku iho.

19. Ngāti Hikairo has, since time immemorial, held, and continues to hold and assert, customary rights and interests in, and associations with, the Kāwhia harbour. Such interests can practically be equated with the legal notion of ownership, although Ngāti Hikairo belongs to the Moana as much as the Moana belongs to the tribe.

20. Since time immemorial the Kāwhia harbour has provided sustenance, food and material resources to Ngāti Hikairo of Kāwhia, including:

    (a) ika, koura, tuna and other fisheries;

    (b) pipi, cockles, kutai and other shellfisheries;

    (c) building, weaving, rongoa and other customary materials;

    (d) drinking and healing waters.

21. This is expressed in the pepeha:

    "*Kāwhia Moana, Kāwhia Kai, Kāwhia Tangata*".

22. Ngāti Hikairo has held, since time immemorial, and continues to hold responsibilities as tangata whenua and/or kaitiaki for the maintenance of the well-being, both physically and spiritually, of the Kāwhia harbour.

23. The Kāwhia harbour has provided the members of Ngāti Hikairo, its hapū and marae, and other tribes of Kāwhia, with a vital means of transport.

24. The Claimants acknowledge that other tribal groups, hapū, and marae of Kāwhia and Te Rohe Pōtae also assert, claim, and hold interests and associations with the Kāwhia harbour.

Kāwhia Lakes – Te Toto Oranga o Kāwhia

25. The Kāwhia lakes are of great significance to the Claimants and Ngāti Hikairo.

26. The Kāwhia lakes are an undivided entity or single whole that cannot be divided into adjacent lands and catchments, springs, pools, banks, beds, and waters. The Kāwhia lakes include all of the adjacent lands and catchments, beds, and foreshores, streams, rivers, tributaries, riverbeds, riverbanks, springs, waters, swamps, flora, fauna (including fisheries), minerals, and resources.

27. The Kāwhia lakes are the principal reason the Tainui people settled on the Western side of Kāwhia Harbour. The abundance of good clean water provided by the springs of Kāwhia fed its many lakes and swamps providing both food and drink. As in the statement,

> "*Kāwhiawhia nga puna, e kore e mimiti*".

28. The Kāwhia lakes have provided a spiritual life force and sustenance to the members of Ngāti Hikairo and its hapū and marae, and to other tribes of Tainui, since their arrival in Aotearoa.

29. Ngāti Hikairo has exercised tino rangatiratanga and mana within the region of the Kāwhia lakes since time immemorial and considers that the Kāwhia lakes are a taonga tuku iho.

30. Ngāti Hikairo has, since time immemorial, held, and continues to assert or hold, customary rights and interests in, and associations with the Kāwhia lakes. Such interests can practically be equated

with the legal notion of ownership, although Ngāti Hikairo belongs to the lakes as much as they belong to us.[4]

31. Since time immemorial, the Kāwhia lakes have provided sustenance, food and material resources to Ngāti Hikairo including:

    (a) ika, tuna and other fisheries;

    (b) fowl of various species;

    (c) building, weaving, and other customary materials; and

    (d) healing waters.

32. Ngāti Hikairo has held, since time immemorial, and continues to hold responsibilities as tangata whenua and/or kaitiaki for the maintenance of the well-being, both physically and spiritually, of the Kāwhia Lakes.

33. The Claimants acknowledge that other tribal groups, hapū, and marae of Kāwhia and Te Rohe Pōtae also assert, claim, and hold interests and associations with the Kāwhia lakes.

Ōpārau – Te Tūpuna Awa

34. All rivers[5] that flow into the Kāwhia harbour have significance to the Claimants and Ngāti Hikairo and its hapū and marae, and to other tribes of Kāwhia.

35. The rivers of the Kāwhia region, are each an undivided entity or single whole that cannot be divided into adjacent lands or catchments, banks, beds, and waters. The Ōpārau, and other Kāwhia rivers, include all of the adjacent lands and catchments, riverbeds and riverbanks, waters, flora, fauna (including

[4] This assertion derives from the ability to practice the traditional tikanga of continuing ancestral connection (take tupuna), continuing occupation & use (ahi kā) and continuing to practice ātete (the ability to resist and retain claim)

[5] Including Ōpārau, Ōkupata, Mangahoanga, Ōmanawa, Mangakotukutuku, Waikuku, Raukawa (Mangaora), Waipā, Manga-o-Tama, Mangauika, Mangakarā, Managawawa, Ngātaiparierua, Mangapiko Rivers and Streams and their tributaries

fisheries), minerals, and resources within its streams, tributaries, swamps, and catchments.

36. This claim applies to all of the rivers of Kāwhia and throughout the rohe of Ngāti Hikairo. However, the Ōpārau river has a special status.

37. The Ōpārau river is a tūpuna awa of the Claimants and Ngāti Hikairo and its hapū and marae.

38. The Ōpārau river has special status because it flows off our sacred maunga Pirongia and is in the stories of our tūpuna about our earliest settlements on the maunga – the river with many marae.

39. The Ōpārau river is the home of the Kāwhia harbour's guardian taniwha and as such is regarded as the protector of all rivers that flow into the Kāwhia harbour.

40. The Ōpārau river has provided, and provides, a spiritual life force to the members of Ngāti Hikairo and its hapū and marae, and to other tribes of Kāwhia and Te Rohe Pōtae, and to numerous taniwha and ngārara.

41. Ngāti Hikairo has exercised tino rangatiratanga and mana within the Kāwhia region relating to the Ōpārau and other Kāwhia rivers since time immemorial and considers that the Ōpārau, and all Kāwhia rivers, are a taonga tuku iho.

42. Ngāti Hikairo has, since time immemorial, held, and continues to assert or hold, customary rights and interests in, and associations with the Ōpārau river and other rivers of the Kāwhia region its customary rohe. Such interests can practically be equated with the legal notion of ownership, although Ngāti Hikairo belongs to the rivers (including the moana) as much as they belong to us.[6]

[6] This assertion derives from the ability to practice the traditional tikanga of continuing ancestral connection (take tupuna), continuing occupation & use (ahi kā) and continuing to practice ātete (the ability to resist and retain claim)

43. Since time immemorial, the Ōpārau, and other rivers of the rohe of Ngāti Hikairo, have provided sustenance, food and material resources to Ngāti Hikairo, and to other tribes of Kāwhia, including:

    (a) koura, tuna, piharau, inanga, kōaro, kōkopu, and other fisheries;

    (b) kaoeo, ngupara, kākahi and other shellfisheries;

    (c) rongoa;

    (d) building, weaving, and other customary materials;

    (e) drinking and healing waters.

44. Ngāti Hikairo has held, since time immemorial, and continues to hold responsibilities as tangata whenua and/or kaitiaki for the maintenance of the well-being, both physically and spiritually, of the Ōpārau river and all rivers within the Ngāti Hikairo rohe.

45. The Ōpārau, and other rivers, have provided Ngāti Hikairo and its hapū and marae with vital means of transport.

46. The Claimants acknowledge that other tribal groups, hapū, and marae of Kāwhia and Te Rohe Pōtae also assert, claim, and hold interests and associations with these rivers.

Ngā Awa me Moana Katoa

47. This claim also covers a variety of other lakes, awa and waterways within the rohe of Ngāti Hikairo shown in Map A.

48. For example on the Eastern limits of the rohe of Ngāti Hikairo are the Mangauika awa and Ngāroto lake. These two waterways are specifically discussed below.

C. NGA HARA O TE KARAUNA – GENERAL CROWN TREATY BREACHES

Adoption of Other Claims

49. The Claimants adopt and support the following specific Ngāti Hikairo claims filed in Te Rohe Pōtae Inquiry:

    i. The Wai 1113 claim for Ngāti Hikairo;

    ii. The claim by Frank Thorne for himself and Ngāti Hikairo;

    iii. The claim by Phillipa Barton for herself and her whānau of Ngāti Hikairo.

50. The Claimants adopt and support the generic claims filed in Te Rohe Pōtae Inquiry.

51. The Claimants also adopt, by agreement, the generic aspects of the Ngāti Te Wehi Joint Statement of Claim of 9 December 2011 in relation to the Foreshore and Seabed.

Failure to Protect the Physical and spiritual Health of the Kāwhia harbour, and the lakes, and rivers within the rohe of Ngāti Hikairo.

52. The Crown has failed to protect and respect the spiritual health, mauri, wairua, or life force of the Kāwhia harbour, the Kāwhia lakes, the Ngāroto lake and other lakes, and the Ōpārau and other rivers.

53. The Crown has failed to protect, provide for, respect, or recognise Ngāti Hikairo relationship to the Kāwhia harbour, and with the lakes, rivers, and other waterways within the rohe of Ngāti Hikairo.

54. The Crown has failed to protect, provide for, respect, or recognise the exercise of Ngāti Hikairo customs, necessary to protect, respect, and keep in balance the spiritual health of the Kāwhia harbour, and with the lakes, rivers, and other waterways within the rohe of Ngāti Hikairo.

55. The Crown has, both directly or indirectly, caused, permitted or allowed the degradation of the spiritual and physical health of the Kāwhia harbour, and with the lakes, rivers, and other waterways within the rohe of Ngāti Hikairo through:

    (a) Pollution by sewage, farming effluent, rubbish dumping (for example at Te Wharu Bay from the former Kāwhia Landfill)[7], leachate, pesticides and herbicides, heavy metals, and other harmful contaminants;

    (b) Pollution by failure to prevent stock from grazing at the edge of the harbour, lakes and rivers;

    (c) Erosion and siltation;

    (d) Infestation by exotic fish (for example the Pacific Oyster[8], catfish, carp, trout), aquatic plant life, and other noxious flora and fauna;

    (e) Over-exploitation of fisheries and other resources by private interests and failure to adequately monitor the harvest by those interests;

    (f) Over-exploitation of fisheries and other resources by commercial interests and failure to adequately monitor the commercial harvest by those interests;

    (g) Obliteration of significant customary resources, such as:

        (i) Tuna fisheries;[9]

[7] To be supported by claimant evidence.
[8] Belgrave *et al*, #A76, p337.

(ii) inanga, pipi mangō, whai, pātiki, kanae, kahawai, pāpaka, tāmure, kumukumu, hoka, parore, mohimohi, koura, tupa, tio, kūtae, kokota, tuatua, pupu, kina, and the harbour fishery habitat;

(iii) the forest mahinga-kai and natural resources for building and weaving;

(iv) swamp ecosystems for food, para, and medicine;

(h) Pollution and destruction of traditional environment by the creation of roads through tidal inlets (for example at Tōrea, Manawatuhatuha, and Pūtī);[10]

(i) Failure to prevent deforestation of the Ōpārau watershed and its tributaries;[11]

(j) Pollution of the Ngāroto lake;[12]

(k) Establishment of commercial aquaculture.

56. The Crown has failed to replenish those customary resources which have been obliterated nor those which are in significant danger thereof.

57. The Crown has directly or indirectly caused, permitted or allowed many of the Kāwhia lakes and the Ngāroto lake, to be drained or partly drained and this has degraded their spiritual and physical health.[13]

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[9] See specific pleadings in this Claim in relation to Paretao, but also including those at Tokiwhati, Ōweka Lagoon, Mangauika and Whatiwhatihoe and Belgrave *et al*, #A76, p 360.
[10] To be supported by claimant evidence.
[11] To be supported by claimant evidence.
[12] To be supported by claimant evidence.
[13] Belgrave *et al*, #A76, p222.

58. The Crown has directly or indirectly, caused, permitted or allowed the degradation of the spiritual and physical health of the Ōpārau, and other rivers, through:

    (a) Water extraction for irrigation and other uses;[14]

        (i) The piping of Pouewe alienating the stream from tangata whenua;

        (ii) Use of Te Rore Bore for water supply purposes;

        (iii) Mismanagement of Kāwhia Water Supply; and;[15]

        (iv) Gravel extraction or the mining or collection of other minerals or resources.

59. The Crown has failed and/or refused to adequately remedy the degradation of, or impairment to, the spiritual and physical degradation of the Kāwhia harbour, and of the lakes, rivers, and other waterways within the rohe of Ngāti Hikairo.

60. The Crown has failed to adequately protect the taniwha and ngārara of the Kāwhia harbour, and of the lakes, rivers, and other waterways within the rohe of Ngāti Hikairo.

61. The Crown has caused, contributed to, failed to remedy or mitigate, or failed to monitor or investigate, the adverse affects upon the physical health of the members of Ngāti Hikairo and its hapū and marae through the consumption of tuna containing dioxins, herbicides, pesticides, heaving metals, and other harmful contaminants caught from the Kāwhia harbour, and from the lakes, rivers, and other waterways within the rohe of Ngāti Hikairo.

[14] Belgrave *et al*, #A76, p20.
[15] To be supported by claimant evidence, for example the lack of consultation by Ōtorohanga Distict council in relation to Kāwhia water Supply.

Failure to Provide for Tangata Whenua Ownership and guardianship in the preservation of the Kāwhia harbour, and the lakes and rivers of the rohe of Ngāti Hikairo.

62. At 1840, Ngāti Hikairo exercised tino rangatiratanga and kaitiakitanga over the environment within its rohe including the Kāwhia harbour, and over the lakes, rivers, and other waterways within the rohe of Ngāti Hikairo.

63. The Crown has failed to recognise that Ngāti Hikairo has never ceded its tino rangatiratanga or kaitiakitanga of Kāwhia harbour, nor of the lakes, rivers, and other waterways within the rohe of Ngāti Hikairo.[16]

64. The Crown by negotiating the Waikato Deed of Settlement and including Kāwhia moana in that process has failed to recognise the tino rangatiratanga or kaitiakitanga of Ngāti Hikairo.

65. The Crown has failed to recognise, protect, and provide for the customary rights, interests and associations of the members of Ngāti Hikairo and its hapū and marae to the Kāwhia harbour, and to the lakes, rivers, and other waterways within the rohe of Ngāti Hikairo by enacting s14 of the Coal-mines Act Amendment Act 1903 and its antecedents (including s354(1)(c) of the Resource Management Act 1991) and by other specific legislation.

66. The Crown has also failed to recognise, protect, and provide for the customary rights, interests, and associations of the members of Ngāti Hikairo and its hapū and marae to the Kāwhia harbour, and to the lakes, rivers, and other waterways within the rohe of Ngāti Hikairo, by applying the *ad medium filum aquae* common law rule and/or failing to remedy any prejudice caused by the application of that common law rule.

[16] To be supported by tangata whenua evidence. The Crown's acknowledgement that it required tangata whenua permission to open the harbour for wider use is admission

67. The Crown has failed to adequately protect Ngāti Hikairo interests in their tribal lands in the Kāwhia harbour, and in the lakes, rivers, and other waterways within the rohe of Ngāti Hikairo through the:

    (a) Failure to affirm that the transactions between rangatira of Ngāti Hikairo, and of other Kāwhia hapū, and European settlers were conducted in accordance with tikanga Māori prior to the signing of the Treaty of Waitangi;

    (b) Failure to protect the interests of Ngāti Hikairo in the process leading to the making of Crown Grants over land in Kāwhia harbour;

    (c) Building of roads into the Kāwhia harbour, and the erection of harbour beacons and a port township on tribal lands without first gaining consent of Ngāti Hikairo and the hapū of Kāwhia; and,

    (d) Military occupation of lands in Kāwhia harbour, around 1883, without first gaining the consent of Ngāti Hikairo and the hapū of Kāwhia;

    (e) The compulsory taking of the Mangauika watershed for water purposes in the 1970s; [17]

    (f) The use of Te Rore bore for water supply purposes.

68. The Crown has failed to properly recognise, protect, and provide for the ownership of the members of Ngāti Hikairo and its hapū and marae of the waters of the Kāwhia harbour, and to waters of the lakes, rivers, and other waterways within the rohe of Ngāti Hikairo.

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that tangata whenua held tino rangatiratanga and kaitiakitanga post 1840 and did not cede that.

[17] David Alexander, Public Works and other takings in Te Rohe Pōtae District, #A063, p258, 259.

69. The Crown has failed to properly recognise, protect, and provide for the ownership of the members of Ngāti Hikairo and its hapū and marae of the material and other resources of the Kāwhia harbour, and of the lakes, rivers, and other waterways within the rohe of Ngāti Hikairo.

70. The Crown has failed to protect the interests of the members of Ngāti Hikairo and its hapū and marae by the compulsory taking of land on banks of, and in the vicinity of, the Kāwhia harbour, and the lakes, rivers, and other waterways within the rohe of Ngāti Hikairo for reserves, and other 'public purposes'.

71. The Crown has failed to adequately recognise and protect the wāhi tapu of the members of Ngāti Hikairo and its hapū and marae in and around the Kāwhia harbour, and the lakes, rivers, and other waterways within the rohe of Ngāti Hikairo.

72. The Crown has, through its various Native Land Acts and their successors caused and permitted the taking, fragmentation and individualisation of communal tribal titles to the lands of the Kāwhia harbour, and the lakes, rivers, and other waterways within the rohe of Ngāti Hikairo.

    (a) The Crown created titles to sandbanks (Tānewhangō) but failed to create titles equitably between tangata whenua with interests in Kāwhia Harbour.[18]

73. The Crown has permitted or allowed the taking of gravel and other resources from the Ōpārau and other rivers, without due regard for the customary rights, interests, and associations of the members of Ngāti Hikairo and its hapū and marae nor with the proper consent of such persons.

[18] To be supported by claimant evidence.

Failure to recognise and provide for te tino rangatiratanga o Ngāti Hikairo in the foreshore and seabed of of the Kāwhia harbour.

74. The Crown failed to adequately recognize and provide for Ngāti Hikairo ownership of, and interests in, the foreshore and seabed within Kāwhia harbour.

75. The Crown failed to adequately consult with Ngāti Hikairo in the development and implementation of its foreshore and seabed policy first published in August 2003, enacted through the Foreshore and Seabed Act 2004, and further enacted in the Marine and Coastal Area (Takutai Moana) Act 2011.

76. The Crown took or appropriated, in law, the ownership and title of the "public foreshore and seabed" (as defined in section 5 of the Foreshore and Seabed Act 2004) now defined in section 9 of the Marine and Coastal Area (Takutai Moana) Act 2011 as "common marine and coastal area" within the lands of Ngāti Hikairo without the consent of Ngāti Hikairo.

77. The Crown failed to allow due process of law and removed (by section 12 of the Foreshore and Seabed Act 2004) the jurisdiction of the Māori Land Court to hear an application by Ngāti Hikairo relating to sections 18(1)(h); 18(1)(i); and 132 of Te Ture Whenua Māori Act 1993.

78. Further the Crown has failed to restore the right of Ngāti Hikairo to make application in the Māori Land Court relating to sections 18(1)(h); 18(1)(i); and 132 of Te Ture Whenua Māori Act 1993.

79. The right to enter into an agreement with the Crown provided for in section 95 of the Marine and Coastal Area (Takutai Moana) Act 2011 or to apply to the High Court for "Customary marine title" and "protected customary right" provided for in section 98 of the Marine and Coastal Area (Takutai Moana) Act 2011 does not equate to that right which existed prior to either the Foreshore and Seabed

Act 2004 or the Marine and Coastal Area (Takutai Moana) Act 2011.

Failure to Provide for Rangatiratanga and Kaitiakitanga over the Kāwhia harbour, and over the lakes, rivers, and other waterways within the rohe of Ngāti Hikairo

80. The Crown has through various statutes, policies, practices, and other instrumentalities, including in particular the Resource Management Act 1991, expropriated from Ngāti Hikairo and its hapū and marae, without consent, te tino rangatiratanga and management rights over the Kāwhia harbour, and over the lakes, rivers, and other waterways within the rohe of Ngāti Hikairo. In doing so the Crown has failed to adequately provide for or recognise their role as kaitiaki over them.

81. The Crown has failed to adequately recognise, respect, or provide for the right of the members of Ngāti Hikairo and its hapū and marae to development relating to the Kāwhia harbour, and to the lakes, rivers, and other waterways within the rohe of Ngāti Hikairo.

The Crown has failed to Protect the Access of Ngāti Hikairo and its hapū and marae to customary non-commercial fisheries and resources of the Kāwhia harbour, and of the lakes, rivers, and other waterways within the rohe of Ngāti Hikairo

82. The Crown has denied the members of Ngāti Hikairo and its hapū and marae proper access to their customary non-commercial fisheries, the proper exercise of their fishing rights and the use of their customary foods of the Kāwhia harbour, and of the lakes, rivers, and other waterways within the rohe of Ngāti Hikairo. In particular, the Crown has failed to protect the access of the members of ngā marae o Ngāti Hikairo to tuna, and to the fresh

water and harbour fishery as guaranteed by the Treaty of Waitangi.

83. The Crown has imposed legislation, regulations and rules that regulate and restrict the customary gathering of kai moana and kai from the fresh water fisheries that breach the rights of Ngāti Hikairo to its customary non-commercial fisheries.

84. The Crown has denied, and/or inhibited, the members of Ngāti Hikairo and its hapū and marae from proper access to and use of their customary material resources within the Kāwhia harbour, and within the lakes, rivers, and other waterways within the rohe of Ngāti Hikairo.

Failure to Protect Navigation

85. The Crown has not properly provided for nor protected the rights of Ngāti Hikairo and its hapū and marae over navigation and rights to use all rivers within the rohe of Ngāti Hikairo for navigation.

D. SPECIFIC CROWN TREATY BREACHES

Mangauika Water Works Public Taking

86. The Crown failed to consider alternative tenure options before taking the Mangauika B2s2 Block for waterworks.

Particulars

i. The Mangauika B2s2 Block is located on the upper slopes of Pirongia Maunga and has the Mangauika Awa passing through it. [19]

ii. Pirongia maunga itself as a symbol of Ngāti Hikairo identity. It is the home of several mauri of the iwi and Patupaiarehe. It is one of Ngāti Hikairo's most important wāhi tūpuna. Also, the forests and the resources therein are important to Ngāti Hikairo for numerous reasons.[20]

iii. The Mangauika Awa is an important ancestral river of Ngāti Hikairo. It has many wāhi tapu associated with it. [21]

iv. The water supply for Te Awamutu had been drawn for some years from the Mangauika Awa below the Mangauika B2s2 Block. However, the Ngāti Hikairo owners of the Mangauika B2s2 Block had carried out some logging on the block and this had affected the water supply downstream. Up to this point the timber resource had been identified by the Waipapa Marae Committee, as a primary source of revenue via timber leases to fundraise for a new whare.

v. Rather than broker some protective covenants with Ngāti Hikairo, the Council decided to compulsorily take the

[19] To be supported by tangata whenua evidence
[20] To be supported by tangata whenua evidence

Mangauika 2Bs2 Block by public works. There is no information available as to why the Council decided that a compulsory taking was required when the Council could simply have sought to reach an agreement with the Ngāti Hikairo owners to protect the water supply.[22] Presumably up until the logging began, and the problem occurred, the Māori ownership of the catchment lands had been accepted and the circumstances seemed to work well enough.[23]

vi. The Council notified its intention to compulsorily acquire the Mangauika B2s2 block. No objections were received to the notice of intension to take. Accordingly, on 29 August 1968 the Ministry of Works went ahead and took the Mangauika B2s2 block of about 428:2:00 acres and vested the land in Te Awamutu Borough Council for the Te Awamutu Water Supply. The taking was made pursuant to the the Public Works Act 1928. [24]

vii. Ngāti Hikairo remain distressed that the Council did not seek to come to some sort of agreement - that is, to take less than the freehold title for the Mangauika 2BsB block (i.e leasehold interest or easement).[25]

Paretao Tribal Eel Reserve and Kāwhia H Tribal Reserve

87. The Crown failed to recognise and protect the reserve the Paretao Tribal Eel Reserve (Kāwhia S) and the Kāwhia H Tribal Reserve.

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[21] To be supported by tangata whenua evidence
[22] Alexander, #A63, p20
[23] To be supported by tangata whenua evidence
[24] Alexander, #A63, p258
[25] To be supported by tangata whenua evidence; Alexander, #A63, p20

88. The Crown also failed to ensure that the legal owners of the reserves were regarded as trustees.[26]

Particulars

(a) Kāwhia had many springs, which by tradition come from a single source. These springs were a key part of the water supply, a key part of the community's life for Ngāti Hikairo. The proverb associated with the water supply, Te Wai o Rona, with an added emphasis on ongoing kaitiakitanga, is '*ka mimiti noa Te Wai o Rona, ka whērā hoki te mana ki te whenua*.' [27]

(b) In the Kāwhia Block the Paretao lagoon was fed by the puna and this became a prized location for its tuna. The Paretao Tribal Eel Reserve (Kāwhia S reserve) was a 72:0:32 acre reserve established in 1892 to protect the interests of eight hapū of Ngāti Hikairo in the eel fishery of the Paretao lagoon. In addition there was the Kāwhia H Tribal Reserve. Both reserves were identified as inalienable and reserved as tribal reserves of Ngāti Hikairo under the trusteeship of selected trustees. [28]

(c) However, the Paretao lagoon was drained because it was regarded as a health hazard. [29]

(d) Further, the Native Land Court identified the trustees as owners, and inserted more individuals on the title. The consequence was that the owners were able to

[26] To be supported by tangata whenua evidence; Belgrave *et al*, #A76, p20; Berghan, #A60, pp 275.
[27] To be supported by tangata whenua evidence; Belgrave *et al*, #A76, p20; Berghan, #A60, pp 275.
[28] To be supported by tangata whenua evidence; Belgrave *et al*, #A76, p20; Berghan, #A60, pp 275.
[29] To be supported by tangata whenua evidence; Belgrave *et al*, #A76, p20; Berghan, #A60, pp 275.

individually alienate their interests in the reserve once it was dry land. [30]

The Ōweka Lagoon

89. The Crown also failed to protect the Ōweka lagoon for Ngāti Hikairo.[31]

Particulars

(a) Ōweka, was another swampy lake split in half by the Kāwhia M and Kāwhia P blocks. It was drained about the same time as Paretao. [32]

(b) The puna remaining are the principal source of Kāwhia's Town Water supply, creating further tensions between the puna as a Ngāti Hikairo wāhi tapu and the puna as a resource for the wider community. [33]

Ngāroto Lake

90. The Crown has failed to protect Ngāroto Moana from damage and/or desecration and has failed to properly recognise and provide for the importance of the moana to Ngāti Hikairo.

Particulars

(a) The Ngāroto Moana is the ancestral homeland for Ngāti Hikairo. The lake is a very sacred lake as it was the site of a large number of battles and there are several wāhi tapu associated with the lake [34]

[30] To be supported by tangata whenua evidence; Belgrave *et al*, #A76, p20; Berghan, #A60, pp 275.
[31] To be supported by tangata whenua evidence; Belgrave *et al*, #A76, p20; Berghan, #A60, pp 275.
[32] To be supported by tangata whenua evidence; Belgrave *et al*, #A76, p20; Berghan, #A60, pp 275.
[33] To be supported by tangata whenua evidence; Belgrave *et al*, #A76, p20; Berghan, #A60, pp 275.
[34] To be supported by tangata whenua evidence

(b) Ngāti Hikairo, Ngāti Maniapoto, and Ngāti Apakura all have customary connections with the lake.[35]

(c) The lake was declared Crown land when it was confiscated in 1865. Prior to the turn of the century the lake, in its natural condition, had an area of 218ha (540ac). By 1907, this had been reduced through drainage "improvement" to about 145ha (360ac). Further lowering of the drainage outfall to the Mangaotama Stream continued until 1962 when the Ngāroto Drainage Board reduced the size of the lake to 89ha (220ac). The Regional Water Board established a minimum level in 1969 and the minimum lake area was increased to 97ha (240ac). However by 1995 this had decreased further to 74.86ha, which is around the present day size.[36]

(d) Accordingly, the draining of the Ngāroto Lake means the lake is much smaller than it was in times past. Ngāti Hikairo had deposited taonga for safekeeping in the lake, but with the draining many became exposed and were misappropriated. [37]

(e) Several Pā were made within the lake as man-made islands. Some are now surrounded by dry lands and are accessed and grazed by stock. The Ngāroto Lake is directly linked to the well-known Hingakākā battle. [38]

(f) Ngāti Hikairo are most concerned that the water quality is terrible.

(g) Ngāti Hikairo view consultation as a point of contention as the local Waipā Council only consults with a group

[35] To be supported by tangata whenua evidence; Belgrave et al, #A76, p30
[36] To be supported by tangata whenua evidence; Belgrave et al, #A76, p47
[37] To be supported by tangata whenua evidence
[38] To be supported by tangata whenua evidence

called Ngā Iwi Toopu o Waipā rather than the directly affected tangata whenua. [39]

Te Wai o Rona

91. The Crown has failed to protect Te Wai o Rona.

Particulars

(a) Kāwhia had many springs, which by tradition come from a single source. These springs were a key part of the water supply, a key part of community life for Ngāti Hikairo. The proverb associated with the water supply, Te Wai o Rona, with an added emphasis on ongoing kaitiakitanga, is: '*ka mimiti noa Te Wai o Rona, ka whērā hoki te mana ki te whenua*.' [40]

(b) Various of the lakes such as Paretao and Ōweka that were fed by the puna have been drained. [41]

(c) The Paretao lake and the Tokiwhati lagoon feed water from the puna into the Pouewe stream. Following the draining of the Paretao lake and with the growing Kāwhia township, the Pouewe stream is not entirely covered over and piped. Many of the puna have dried up.[42]

(d) Kāwhia uses what water it can from the puna, but with urban development there is pressure on the supply and tensions between Ngāti Hikairo and the community. For example, Ngāti Hikairo wish to continue collecting watercress from around the base of the springs, but many in the community are concerned that this activity will jeopardise a clean water supply. Also, the Council

[39] To be supported by tangata whenua evidence
[40] To be supported by tangata whenua evidence; Belgrave *et al*, #A76, p20; Berghan, #A60, pp 275.
[41] To be supported by tangata whenua evidence
[42] To be supported by tangata whenua evidence

does not support any development on the Ngāti Hikairo lands in the catchment above the water supply.[43]

(e) Ngāti Hikairo also have a concern that a stream from one of the puna flows past an urupā, through the town refuse dump, then past a cemetery before running into Kāwhia moana.[44]

[43] To be supported by tangata whenua evidence; Belgrave *et al*, #A76, p186
[44] To be supported by tangata whenua evidence; Belgrave *et al*, #A76, p186

E. SPECIFIC FAILURE TO PROTECT AND PROVIDE FOR CUSTOMARY TUNA FISHERY

92. The Claimants allege that the Crown has failed to adequately protect and provide for the exercise of customary Māori fishing and the Māori customary tuna fisheries in the Ōpārau and other and with the lakes, rivers, and other waterways within the rohe of Ngāti Hikairo.

Particulars

i. The Claimants and Ngāti Hikairo possess customary fishing rights in respect of the tuna fishery in the waterways of Ngāti Hikairo.

ii. The obligations of the Crown under the Treaty of Waitangi in respect of non-commercial tuna fishery in the waterways of Ngāti Hikairo are expressly recognised pursuant to s10 of the Treaty of Waitangi (Fisheries Claims) Act 1992.

iii. In particular the Claimants allege that:

a. The Crown intends to enter tuna as a 4th schedule species into a commercial management environment ("the QMS");

b. The Crown is currently in the process of actively promoting the entry of tuna into QMS;

c. The Crown is likely to designate some, or all of, the waterways of Ngāti Hikairo as Quota Management Areas ("the QMA") for which commercial tuna fishing rights will be allocated;

d. The tuna fishery in the waterways of Ngāti Hikairo has been chronically depleted and is generally in a state of extreme stress;

e. Priority should be given to re-establishing the non-commercial tuna fishery in the waterways of Ngāti Hikairo before any are included in any QMA for the commercial catch of tuna; and,

f. To the extent that it is necessary to include any of the waterways of Ngāti Hikairo in a QMA for the purpose of introduction of tuna into the QMS, appropriate provision should be made by the Crown to give priority to and protect the non-commercial customary rights and interests of the Claimants and Ngāti Hikairo in their tuna fishery.

93. The Claimants reserve the right to further particularise the above Historical Treaty Claims and amend them as required.

E. TE MAMAE – THE PREJUDICE

94. As a consequence of the Crown's legislation, its actions, omissions, practices and policies set out in this Statement of Claim the Claimants and the members of Ngāti Hikairo and its hapū and marae have suffered and continue to suffer numerous prejudicial effects including:

i. The physical and spiritual degradation of the Kāwhia harbour, the Kāwhia lakes, and the Ōpārau and other Kāwhia rivers, which the Crown has caused, contributed to, or failed to remedy or mitigate, has in turn adversely affected the physical and spiritual health and well-being of the members of Ngāti Hikairo and its hapū, marae and whānau.

ii. The loss of their ownership rights in the foreshore and seabed of the Kāwhia Harbour;

iii. The loss of their ownership rights in the bed of the Kāwhia lakes (including in particular the Paretao and Ōweka lagoons), rights in the bed of the Ōpārau river and all rivers that flow into Kāwhia harbour;

iv. The loss of, or lack of provision for, their proprietary rights in the waters of the Kāwhia harbour, Kāwhia lakes, Ōpārau river and all rivers that flow into Kāwhia harbour;

v. The reduction, to the point of near extinction, of their customary harbour and fresh water fisheries;

vi. The absolute decimation of Te Ārea shellfish bank;[45]

vii. The proposed introduction of tuna fisheries into the QMS without either:

[45] To be supported by claimant evidence.

(i) excluding the Kāwhia rivers from the QMA that are to be established upon the introduction of tuna into QMS; or,

(ii) implementing appropriate measures, designed to protect and prioritise Māori non-commercial customary rights and interests in the tuna fisheries of the Kāwhia rivers, in conjunction with the introduction of the tuna fisheries into QMS.

viii. The build-up within their fishery of dioxins, herbicides, pesticides, heavy metals, and other harmful contaminants;

ix. The degradation of the spiritual force of their tūpuna - Kāwhia moana, Kāwhia lakes and awa including te Ōpārau;

x. The loss of their fresh water supplies, ngā puna wai Māori (freshwater springs);

xi. The loss of their swamps and lakes (including Paretao and Ōweka), mahinga-kai and weaving resources through drainage and other methods;

xii. The loss of mana;

xiii. The loss of certain taniwha, kaitiaki, tupua, and ngārara;

xiv. The loss of, or impairment to, their management control and tino rangatiratanga over the Kāwhia harbour, the Kāwhia lakes, over the Ōpārau river and all rivers that flow into Kāwhia harbour;

xv. The damage to and reduction of the ability to carry out their duties, obligations, and functions as kaitiaki;

xvi. The damage and reduction of their ability to properly host manuwhiri with provisions of mahinga kai, mahinga tuna

and other materials gifts from the Kāwhia harbour, the Kāwhia lakes, and from the Ōpārau river and from all rivers that flow into Kāwhia harbour;

xvii. The loss or reduction of their fisheries, material resources, and flora and fauna of the Kāwhia harbour, the Kāwhia lakes, from the Ōpārau river and from all rivers that flow into Kāwhia harbour;

xviii. The loss of water purity and the general physical degradation of the Kāwhia harbour, the Kāwhia lakes, and the Ōpārau river and other Kāwhia rivers and eutrophication of parts of the Kāwhia harbour and Ōpārau river and to rivers that flow into Kāwhia harbour;

xix. The degradation of their spiritual and physical health;

xx. The loss of knowledge and understanding of their customs, tikanga, ture, kawa, reo Māori, traditions, whakapapa, role as kaitiaki, and customary practices relating to the Kāwhia harbour, the Kāwhia lakes, and the Ōpārau and other Kāwhia rivers;

xxi. The loss and destruction, both wholly and partly, of their wāhi tapu;

xxii. The loss of their economic interests in and rights to develop the Kāwhia harbour, the Kāwhia lakes and the Ōpārau and other Kāwhia rivers;

xxiii. The loss of tribal lands along, and including, the banks of the Ōpārau river and all the banks of rivers that flow into the Kāwhia harbour, and the foreshores of the Kāwhia lakes;

xxiv. Their experience of anxiety, hurt, stress and trouble; and,

xxv. The gross offence to their customary right, title, mana, ihi and wehi.

95. Accordingly the members of the Ngāti Hikairo and its hapū and marae have held for many generations, a strong sense of grievance against the Crown.

96. Furthermore the members of Ngāti Hikairo and its hapū and marae hold, and have held for many generations, a perception that:

    i. The Crown has not acted in good faith;

    ii. The Crown has not properly protected their customary rights and interests in, and associations with, the Kāwhia harbour, the Kāwhia lakes, and the Ōpārau and other Kāwhia rivers;

    iii. The Crown has not properly protected their customary rights and interests in, and associations with, ancestral and traditional customary fishing grounds associated with the Kāwhia harbour, the Kāwhia lakes, and the Ōpārau river and all rivers that flow into the Kāwhia harbour; and,

    iv. The Crown has not kept to its solemn undertakings under the Treaty of Waitangi and Te Rohe Pōtae Sacred Compact.

F. UTU – THE RELIEF

97. The Claimants seek recommendations to remove, alleviate, or mitigate the prejudice inflicted upon and experienced by Ngāti Hikairo and its hapū and marae and accordingly requests recommendations from the Waitangi Tribunal that the Crown:

    i. Provides a full and comprehensive public apology for the actions and omissions regarding the Kāwhia harbour, and regarding the lakes, rivers, and other waterways within the rohe of Ngāti Hikairo and associated traditional customary fishing grounds that were in breach of the articles and principles of the Treaty of Waitangi and the spirit of Te Rohe Pōtae Sacred Compact;

    ii. Works under the direction of Ngāti Hikairo, and its hapū and marae, to institute, monitor, and regulate a programme for the physical and spiritual recovery of the Kāwhia harbour, and of the lakes, rivers, and other waterways within the rohe of Ngāti Hikairo;

    iii. Provides for and works under the direction of Ngāti Hikairo hapū and marae to institute, monitor, and regulate a programme for the protection, growth, and recovery of the customary tuna population in the Kāwhia harbour, and in the lakes, rivers, and other waterways within the rohe of Ngāti Hikairo;

    iv. Protects, in full, the customary non-commercial fishing rights of the members of Ngāti Hikairo and its hapū and marae relating to the tuna of the Kāwhia harbour, and of the lakes, rivers, and other waterways within the rohe of Ngāti Hikairo and their associated traditional customary fishing grounds;

    v. Protects, in full, the customary rights of the members of Ngāti Hikairo and its hapū and marae to gather, extract,

or collect foods, rongoa, and all customary materials and resources of the Kāwhia harbour, and of the lakes, rivers, and other waterways within the rohe of Ngāti Hikairo;

vi. Returns all land owned by the Crown within and around the Kāwhia harbour, and within and around the lakes, rivers, and other waterways within the rohe of Ngāti Hikairo and any improvements thereon including reserved and conservation land to the members of Ngāti Hikairo and its hapū, marae, and whānau;

vii. Pursuant to s 8A-8H of the Treaty of Waitangi Act 1975, returns to Ngāti Hikairo and its hapū and marae any memorialised land in the Kāwhia region including:

(a) Lands held in Crown title;

(b) Land held by any State Owned Enterprise;

(c) Land held by any institution under the Education Act 1989; and,

(d) Land vested under the New Zealand Railway Corporation Restructuring Act 1990 or any interest in any such land and together with improvements thereon;

viii. Pursuant to s 8HA-8HH of the Treaty of Waitangi Act 1975, returns to Ngāti Hikairo and its hapū and marae any Crown Forest land in the Kāwhia region and the payment of compensation under the Crown Forest Assets Act 1989;

ix. Enacts legislation to recognise the ownership by Ngāti Hikairo and its hapū and marae of the Kāwhia harbour, and of the lakes, rivers, and other waterways within the rohe of Ngāti Hikairo, including their waters and to provide for Ngāti Hikairo to act on those ownership rights;

x. Compensates Ngāti Hikairo and its hapū and marae for the prejudicial effects that have resulted from the Crown's legislation, acts, omissions, policies and practices as identified in this Statement of Claim;

xi. Makes provision for Ngāti Hikairo to exercise its mana whenua, tino rangatiratanga and kaitiakitanga through improved participation of its representatives at iwi, hapū and marae level on all statutory boards, local and regional authorities, agencies, companies and other Crown and quasi-Crown organisations, Government bodies, agencies, and departments that function within, or with regard to, the Kāwhia harbour, and the lakes, rivers, and other waterways within the rohe of Ngāti Hikairo and including the fisheries and other resources;

xii. Provides statutory, regulatory, and other appropriate mechanisms and resources to enable iwi leadership, self regulation, management, and governance for Ngāti Hikairo and its hapū and marae relating to the Kāwhia harbour, and to the lakes, rivers, and other waterways within the rohe of Ngāti Hikairo and including the fisheries and other resources;

xiii. Prior to or at the time of the introduction of the tuna fishery into the QMS guarantees to the Claimants and Ngāti Hikairo, and it's hapū and marae, exclusive customary fishing rights over the lakes, rivers, and other waterways within the rohe of Ngāti Hikairo and either:

(a) Excludes the lakes, rivers, and other waterways within the rohe of Ngāti Hikairo from the QMA that are established upon the introduction of tuna into QMS; or

(b) Implements and provides for appropriate measures, designed to protect and prioritise Māori non-commercial customary rights and interests in the tuna fisheries of the lakes, rivers, and other waterways within the rohe of Ngāti Hikairo, in conjunction with the introduction of the tuna fisheries into QMS;

(c) Pays the full costs of the Claimants and Ngāti Hikairo and its hapū and marae for the preparation and presentation of this claim and the costs of recovering any land recommended to be returned or other costs incurred in securing the implementation of Tribunal recommendations; and,

(d) Any further relief the Tribunal deems appropriate.

This Statement of Claim is filed by DOMINIC WILSON, solicitor for the Claimants, of the firm of Wackrow Williams & Davies Limited.

The address for service on the Claimants is at the offices of Wackrow Williams & Davies Limited Solicitors, Level 14, 48 Emily Place, Auckland City, Auckland.

Documents for service on the Claimants may be left at the address for service or may be:

(a) Posted to the solicitor at Wackrow Williams & Davies Limited, PO Box 461, Shortland Street, Auckland; or

(b) Left for the solicitor at a document exchange for direction to Wackrow Williams & Davies Limited, DX CP 20503, Auckland; or

(c) Transmitted to the solicitor by facsimile to Facsimile No. (09) 377 6553.

Dated, at Auckland, 14 December 2011

Dominic Wilson

Counsel for Ngāti Hikairo

MAP A

Approximate Core Rohe of Ngāti Hikairo

The above map only provides a very approximate area of the core customary interests of Ngāti Hikairo and shows some of the various waterways and Kāwhia Moana