

Hon Andrew Little
Minister for Treaty of Waitangi Negotiations

Proactive release – Ngā Rohe Moana o Ngā Hapū o Ngāti Porou (Recognition of Customary Marine Title) Amendment Order

Date of issue: 12 May 2023

The following documents have been proactively released.

No.	Document	Comments
1	Ngā Rohe Moana o Ngā Hapū o Ngāti Porou (Recognition of Customary Marine Title) Amendment Order <i>Cabinet committee paper</i> Office of the Minister for Treaty of Waitangi Negotiations 9 March 2023	Released in full.
2	Ngā Rohe Moana o Ngā Hapū o Ngāti Porou (Recognition of Customary Marine Title) Amendment Order <i>Cabinet Legislation Committee Minute of Decision</i> Cabinet Office 9 March 2023	Released in full.
3	Ngā Rohe Moana o Ngā Hapū o Ngāti Porou (Recognition of Customary Marine Title) Amendment Order <i>Cabinet Minute of Decision</i> Cabinet Office 13 March 2023	Some information is withheld as it is out of scope.

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Office of the Minister for Treaty of Waitangi Negotiations

Chair, Cabinet Legislation Committee

Ngā Rohe Moana o Ngā Hapū o Ngāti Porou (Recognition of Customary Marine Title) Amendment Order

Proposal

- 1 This paper seeks authorisation for submission to the Executive Council of the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou (Recognition of Customary Marine Title) Amendment Order 2023 (the Amendment Order).
- 2 The Amendment Order amends the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou (Recognition of Customary Marine Title) Order 2020 (the 2020 Order) to include further customary marine title areas and correct a coordinate.

Background

- 3 Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 (the Act) enables me, as the responsible Minister, to make Ministerial determinations that one or more hapū of ngā hapū o Ngāti Porou have customary marine title in a specified area of ngā rohe moana o ngā hapū o Ngāti Porou (ngā rohe moana) if I am satisfied that the evidence establishes the applicant hapū:
 - 3.1 hold the area in accordance with tikanga; and
 - 3.2 have exclusively used and occupied it from 1840 to the present day without substantial interruption.
- 4 I first made determinations of customary marine title in parts of ngā rohe moana in September 2020. These first determinations were given effect to in February 2021 by the 2020 Order. In 2022, the management arrangement trusts, who represent the interests of hapū under the Act, asked me to make further determinations in respect of four further areas of ngā rohe moana (the four areas).
- 5 Before making Ministerial determinations for the four areas, I considered the evidence provided by hapū members about customary authority, and the values and concepts underpinning Ngāti Porou tikanga, including ahi kā roa, manaakitanga, and kaitiekitanga/kaitiakitanga. The evidence sets out the connection of hapū to the four areas and the coastal lands abutting them, and of the traditional and contemporary reliance by coastal hapū on ngā rohe moana.
- 6 I also considered evidence given of hapū boundaries, and within these boundaries of hapū members placing and enforcing rāhui and exercising other controls over access to and use of ngā rohe moana. Examples were given of place names and of landing and launching sites alongside evidence of names, locations, and use of customary fishing and kaimoana gathering grounds, the species that can be caught or gathered there and the tikanga that applies. This knowledge has been passed on from hapū ancestors to present day hapū members.

- 7 In addition to the evidence from hapū members, I also considered the evidence collected from official records and historical research, and the evidence gathered by officials from site visits and given by third-party users of ngā rohe moana. This evidence includes information on historical and contemporary abutting land ownership and use, public access points, roadways and structures in or near ngā rohe moana, as well as recreational and commercial activities in ngā rohe moana.

Determinations of customary marine title

- 8 Based on the evidence provided by hapū members and the evidence collected by officials (including the views of third-party users), on 12 October 2022 I made the following Ministerial determinations of customary marine title.
- 9 Te Whānau a Hunaara has customary marine title in the part of ngā rohe moana:
- 9.1 Waipapa Stream to Te Wharenaonao Point from the landward boundary of ngā rohe moana to $\frac{1}{4}$ nautical miles seaward from that boundary (the Hautai Beach area).
- 10 Te Whānau a Rakaimataura, Te Whānau a Karuai, Te Whānau a Rakaihoea, Te Whānau a Pokai, Ngāti Horowai, Te Whānau a Mahaki, Te Whānau a Uruhonea, and Te Whānau a Hineauta have customary marine title in the part of ngā rohe moana:
- 10.1 Waiotautu Stream to Ōnepoto from the landward boundary of ngā rohe moana to 3 nautical miles seaward from that boundary (the Port Awanui area).
- 11 Te Whānau a Umuariki, Te Whānau a Ruataupare ki Tuparoa, and Ngāi Tangihaere have customary marine title in the part of ngā rohe moana:
- 11.1 Koutuamoa Point to Kaimoho Point from the landward boundary of ngā rohe moana out to $\frac{1}{2}$ nautical mile seaward of that boundary (the Tūpāroa area).
- 12 Te Whānau a Rakairoa, Te Whānau a Iritekura and Ngāi Taharora have customary marine title in the part of ngā rohe moana:
- 12.1 Mataahu to Pōkurakura Point from the seaward boundary of ngā rohe moana out to $\frac{1}{2}$ nautical mile seaward of that boundary (the Waipiro Bay area).
- 13 As required by section 112 of the Act, following my determinations of customary marine title I must recommend an Order in Council be made, or recommend an amendment to an already made Order in Council, to give effect to the recognition of customary marine title.

Coordinate correction

- 14 The Amendment Order also corrects the coordinates of a point specified in Schedule 5 of the 2020 Order. While the correction does not affect the size nor location of the customary marine title areas already recognised in Schedule 5, it is required to prevent an inconsistency between the descriptions of those areas and the new area being added.

Financial Implications

- 15 There are no financial implications. Financial implications were considered through the development and implementation of the Act.

Timing and the 28-day rule

- 16 The Amendment Order will come into effect on 13 April 2023, 28 days after notification in the *New Zealand Gazette*.

Compliance

- 17 The Amendment Order complies with each of the following:
- 17.1 the principles of the Treaty of Waitangi;
 - 17.2 the rights and freedoms contained in the New Zealand Bill of Rights Acts 1990 or the Human Rights Act 1993;
 - 17.3 the principles and guidelines set out in the Privacy Act 1993;
 - 17.4 relevant international standards and guidelines;
 - 17.5 the Legislation Guidelines (2018) edition, which are maintained by the Legislation Design Advisory Committee.

Regulations Review Committee

- 18 There are no grounds for the Regulations Review Committee to draw the amendment to the Order in Council to the attention of the House under Standing Order 319.

Consultation

- 19 Land Information New Zealand, the Department of Conservation, the Ministry for Primary Industries, the Ministry of Business, Innovation and Employment, the Ministry for the Environment, and the Ministry for Culture and Heritage have been advised. The Department of Prime Minister and Cabinet has been informed.

Certification by Parliamentary Counsel

- 20 Parliamentary Counsel has certified that the Amendment Order is in order.

Impact analysis

- 21 The regulatory impact analysis requirements do not apply.

Publicity

- 22 As required by the Act, I have written to the management arrangement trusts to inform them of the determinations I have made in the four areas.

Proactive Release

- 23 I intend to proactively release this paper within 30 business days, subject to the redaction of any materials as consistent with the Official Information Act 1982.

Recommendations

I recommend that Cabinet:

- 1 **note** that on 12 October 2022 I made determinations of customary marine title under the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 for which I must recommend an Order in Council be made, or recommend an amendment to an Order in Council already made, to recognise that customary marine title
- 2 **note** that a correction is needed to a coordinate in Schedule 5 of the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou (Recognition of Customary Marine Title) Order 2020 to prevent an inconsistency in the way areas are described
- 3 **note** that the Ngā Rohe Moana o Ngā hapū o Ngāti Porou (Recognition of Customary Marine Title) Amendment Order comes into force on 13 April 2023
- 4 **authorise** the submission to the Executive Council of the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou (Recognition of Customary Marine Title) Amendment Order 2023.

Authorised for lodgement

Hon Andrew Little
Minister for Treaty of Waitangi Negotiations



Cabinet Legislation Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Ngā Rohe Moana o Ngā Hapū o Ngāti Porou (Recognition of Customary Marine Title) Amendment Order

Portfolio Treaty of Waitangi Negotiations

On 9 March 2023, the Cabinet Legislation Committee:

- 1 **noted** that on 12 October 2022, the Minister for Treaty of Waitangi Negotiations made determinations of customary marine title under the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 for which they must recommend an Order in Council be made, or recommend an amendment to an Order in Council already made, to recognise that customary marine title;
- 2 **noted** that a correction is needed to a coordinate in Schedule 5 of the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou (Recognition of Customary Marine Title) Order 2020 to prevent an inconsistency in the way areas are described;
- 3 **noted** that the Ngā Rohe Moana o Ngā hapū o Ngāti Porou (Recognition of Customary Marine Title) Amendment Order comes into force on 13 April 2023;
- 4 **authorised** the submission to the Executive Council of the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou (Recognition of Customary Marine Title) Amendment Order 2023 [PCO 25202/4.0].

Rebecca Davies
Committee Secretary

Present:

Hon Grant Robertson (Chair)
Hon Andrew Little
Hon David Parker
Hon Kieran McAnulty
Hon Dr Duncan Webb
Hon Willow-Jean Prime
Tangi Utikere, MP

Officials present from:

Office of the Prime Minister
Officials Committee for LEG

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CAB-23-MIN-0072



Cabinet

Minute of Decision

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Report of the Cabinet Legislation Committee: Period Ended 10 March 2023

On 13 March 2023, Cabinet made the following decisions on the work of the Cabinet Legislation Committee for the period ended 10 March 2023:

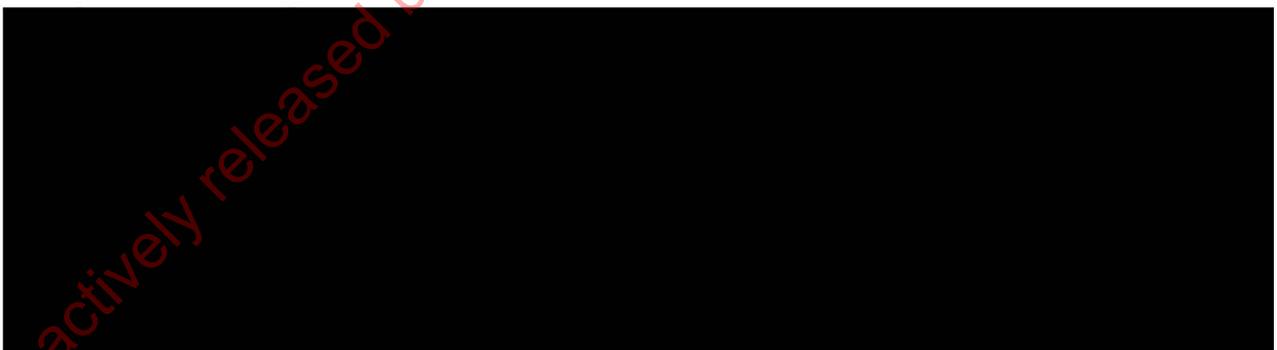


Out of scope

LEG-23-MIN-0013

**Ngā Rohe Moana o Ngā Hapū o Ngāti Porou
(Recognition of Customary Marine Title) Amendment
Order**
Portfolio: Treaty of Waitangi Negotiations

CONFIRMED



Out of scope

Rachel Hayward
Secretary of the Cabinet