

**BEFORE THE ENVIRONMENT COURT  
I MUA I TE KOOTI TAIAO O AOTEAROA**

**Decision No. [2020] NZEnvC 050**

IN THE MATTER of the Resource Management Act 1991  
AND of appeals pursuant to clause 14 of the First  
Schedule to the Act  
BETWEEN MOTITI ROHE MOANA TRUST  
(ENV-2015-AKL-134)  
NGĀTI MĀKINO HERITAGE TRUST  
(ENV-2015-AKL-140)  
AND NGĀTI RANGINUI IWI INCORPORATED  
SOCIETY  
(ENV-2015-AKL-141)  
Appellants  
AND BAY OF PLENTY REGIONAL COUNCIL  
Respondent

Court: Environment Judge J A Smith  
Environment Judge D A Kirkpatrick  
Environment Commissioner A C E Leijnen  
Environment Commissioner S K Prime  
Environment Commissioner M Pomare

Hearing: On the papers

Parties: R B Enright and R G Haazen for Motiti Rohe Moana Trust (MRMT)  
and Royal New Zealand Forest & Bird Protection Society Inc (Forest  
& Bird) (s 274 party)  
J M Pou for Ngāti Mākinō Heritage Trust (Ngāti Mākinō), Ngāti  
Ranginui Iwi Incorporated Society (Ngāti Ranginui)  
M H Hill for Bay of Plenty Regional Council (the Regional Council)  
J M Prebble and N C Anderson for Attorney-General for Ministry of  
Primary Industries (MPI)  
M E Casey QC and S J Ryan for Lowndes (s 274 party)  
M Exton for Sunchaser Investments Limited Partnership as  
successor to Motiti Avocados Ltd  
V J Hamm for Port of Tauranga, Ford Landholdings, Te Tumu  
Kaituna 14 Trust, and Te Tumu Landowners Group) abide the  
decision of the Court



Date of Decision: 24 April 2020

Date of Issue: 24 April 2020

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## FINAL DECISION OF THE ENVIRONMENT COURT

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- A: The Council's suggested provisions, as set out in **Annexure A**, are adopted except to the extent they are specifically amended in this decision.
- B: The mapping is confirmed as set out by the co-ordinates in **Annexure B**.
- C: The Council is to file an updated set of provisions amended in accordance with this decision for approval by the Court by the **30 May 2020** subject to an application for extension due to Covid 19 State of Emergency.
- D: This has been a difficult and extensive issue for the Council and Iwi alike. On a tentative basis, we do not see this as an appropriate case for the award of costs and consider that the usual practice of not awarding costs in appeals in Schedule 1 appeals should be followed. If any party wishes to apply, they are to do so within by the **30<sup>th</sup> May 2020**, with any response within 10 working days and any reply within a further five working days. Applications are not encouraged. The timetable is subject to application for extension due to Covid 19 State of Emergency.

## REASONS

### Introduction

[1] By our interim decision dated 11 May 2018<sup>1</sup> this Court concluded:

A: ... that changes to the proposed Bay of Plenty Regional Coastal Environment Plan would be appropriate as follows:

1. The damage, destruction, removal of flora and fauna within the three Marked Areas of the Motiti Natural Environment Management Area (**MNEMA**) in the Bay of Plenty proposed Regional Coastal Environment Plan (**PRCEP**) shall be prohibited. (See Map **Annexure A**.)




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<sup>1</sup> *Motiti Rohe Moana Trust and ors v Bay of Plenty Regional Council* [2018] NZEnvC 067.

2. *The imposition of controls within the balance of the MNEMA, in particular in relation to fishing methods that may damage the benthic environment or where they impact particularly on sea birds or other marine mammals, shall be part of the investigation and reporting undertaken in accordance with Methods 19A and 19AA of the Plan, taking into account the values already recognised and provided for in terms of the Regional Policy Statement and Plan. Those in **Exhibit B** are broadly acceptable, subject to finalisation.*

B: *The biodiversity, natural character and cultural values of an area in the CMA are able to be recognised by multiple methods under both the RMA and other legislation. It is intended that the Marked Areas are interim measures while various bodies seek to adopt an integrated approach to the avoidance of adverse effects on those values, and that a plan change or other mechanisms may be introduced in due course, either as part of the review process included in this plan, or by other bodies in conjunction with the Regional Council and other parties.*

C: *This decision is subject to:*

- a. *the appeal on jurisdiction being resolved; and*
- b. *wording being finalised to achieve the decision to be incorporated within the Plan.*

D: *To this end the Court directs:*

1. *The Council is to draft appropriate provisions and circulate those within thirty (30) working days.*
2. *The draft provisions are to be circulated to the parties for comment, and the parties have thirty (30) working days to provide their responses to the Council.*
3. *The Council is then to assemble the comments and provide to the Court and parties its prepared provisions, including:*
  - i. *what aspects currently require decisions of superior Courts; and*
  - ii. *its reasons for adopting the provisions rather than those proposed by other parties.*

*This shall be provided to the Court within a further twenty (20) working days.*

4. *The Court will consider the documents and any decision or pending decision of Superior Courts on jurisdiction. It may then issue further minutes/directions or convene a telephone conference.*

E: *Costs are reserved, pending substantive resolution of the appeal.*



### Progress since 11 May 2018

[2] Prior to the interim decision, the Court had made declarations<sup>2</sup> concerning the lawfulness of the proposed provisions in the RCEP in light of the restriction in s 30(2) RMA on performing certain functions to control fisheries resources for the purpose of managing fishing or fisheries resources controlled under the Fisheries Act 1996. Those declarations were subject to an appeal to the High Court which resulted in two decisions of the High Court<sup>3</sup> (both delivered prior to our interim decision) and to a further appeal to the Court of Appeal<sup>4</sup> which is the appeal referred to in conclusion C (a) of our interim decision. In the result, the Court of Appeal held, among other things that the effect of s 30(2) RMA is that a regional council may control fisheries resources in the exercise of its s 30 RMA functions including those listed in s 30(1) (d) provided it does not do so to manage those resources for Fisheries Act 1996 purposes.<sup>5</sup>

[3] Notwithstanding our directions in our substantive decision and the absence of any stay in respect of those, there was no immediate response to the Court's interim decision. This appears to have been based upon the parties awaiting the Court of Appeal's decision, which was delivered on 4 November 2019. This was clearly not this Court's intention, as our interim decision sought to advance the redrafting of the proposed RCEP provisions in the meantime.

[4] In July 2019, a memorandum was filed by the Regional Council updating the Court as to progress. This indicated that updated wording was circulated to the parties and that further mediation had occurred in March 2019. The respondent had circulated further draft provisions and received responses from Sunchaser Investments LP (as successor to Motiti Avocados Ltd), the Crown and Ngāti Ranginui. Motiti Rohe Moana Trust (**MRMT**) and the Royal Forest & Bird Protection Society of NZ Inc (**RFAB**) had not yet provided a substantive response to the updated provisions but MRMT had requested additional mapping which was arranged by the respondent and provided to the parties. RFAB advised that they did not intend to provide any substantive comments on the provisions but supported MRMT. MRMT also indicated that it wished to raise issues involving interpretation and scope of the interim decision.

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<sup>2</sup> *Attorney-General v Trustees of the Motiti Rohe Moana Trust* [2016] NZEnvC 240.

<sup>3</sup> *Attorney-General v Trustees of the Motiti Rohe Moana Trust (No. 1)* [2017] NZHC 1429 and *Attorney-General v Trustees of the Motiti Rohe Moana Trust (No. 2)* [2017] NZHC 1886.

<sup>4</sup> *Attorney-General v Trustees of the Motiti Rohe Moana Trust* [2019] NZCA 532.

<sup>5</sup> *Ibid.* at [81](a).



- [5] The Court issued directions for the following timetable on 12 July 2019:
- (a) The Respondent was to circulate its proposed provisions by 12 July 2019;
  - (b) Other parties were to comment by 2 August 2019;
  - (c) Any party seeking to raise an issue with the scope or interpretation of the interim decision to do so formally with the Court by 2 August 2019 to enable the other parties to formally respond;
  - (d) The Respondent was to file and serve a report which may reflect a joint position between some or all of the parties within 3 weeks of receipt of the Court of Appeal's decision;
  - (e) Any party wishing to respond to the Respondent's report was to file and serve written submissions within 2 weeks;
  - (f) The Respondent and the parties supporting the respondent were to file any submissions in reply to the matters raised within a further 2 weeks.

[6] The Court's directions requiring any party to raise any issue as to scope or interpretation of the interim decision required the application to be filed by 2 August.

[7] There is correspondence from the Regional Council's solicitor seeking an extension to 16 August 2019 for any application relating to scope or interpretation as well as the circulation of the Council's provisions. This was supported by most parties and it does appear that the Court may have advised the parties by email that such an extension was granted.

### **The role of Sunchaser Investments**

[8] A memorandum was filed by counsel for Sunchaser Investments LP on 16 August 2019 raising a jurisdictional issue. Sunchaser Investments LP purports to substitute for Motiti Avocados Ltd on the basis that it is now the owner of the latter's land on Motiti. The difficulty is that Motiti Avocados' position, as recorded at the hearing, was to abide the decision of the Court. The law is clear that a person substituting for another party cannot place themselves in a better position than the party they are substituting for. Given that Motiti Avocados was bound by its election to abide by the decision of the



Court, then its submission (or that of its successor) seeking further changes or clarification cannot be considered by the Court at this late stage. In any event Sunchaser are a signatory to the Regional Council Memorandum and support their position.

### **The position of Ngāti Makino and Ngāti Ranginui**

[9] A memorandum was filed by counsel for Ngāti Ranginui on 20 August 2019. The memorandum did not, on its face, appear to raise an issue as to jurisdiction. By a subsequent email on the same day, counsel confirmed that the submission was for Ngāti Ranginui and for Ngāti Makino. This memorandum is annexed **marked C** for ease of reference. The concern was with the wording of Method 19AA and particularly the reference to the community rather than to the appellants.

[10] This appeared to be a disagreement over the wording rather than a jurisdictional issue *per se*. The balance of that document (annexed and **marked C**) follows with their preferred wording and in particular, they prefer the wording annexed to the original decision. However, they have a fall-back provision if it is to be changed.

[11] We have concluded that this is not an argument as to jurisdiction but is more properly an argument about the appropriate wording to be included within the final Plan document. Accordingly, it was an issue to be addressed in the exchange of submissions directed by this Court. This being the case, no jurisdictional issue was raised by any party in respect of the interim decision on a timely basis.

### **The submission for Motiti Rohe Moana Trust**

[12] A memorandum dated 20 December 2019 and filed on behalf of MRMT does seek to raise jurisdictional issues. The memorandum asserts that the merits decision:

- (a) is an interim decision subject to jurisdiction in wording being finalised, paragraph 203 of the decision and applied the necessary test formulated by Whata J, in the High Court decision. The Court of Appeal confirmed that test is unlawful; it does not fetter final wording
- (b) anticipated but did not finally decide that controls of the balance MNEMA, outside the protected areas may be addressed through investigation and reporting under Methods 19 and 19AA, but was the subject to final s32 RMA analysis;
- (c) was 2 years ago – there has been substantial delay in finalising the rules framework, given the unjustified resort by some parties to the appeals process in light of that delay, the court will benefit from hearing from the parties; and



- (d) is subject to a final s32 and s32AA analysis, which inevitably requires further planning (a potentially other) evidence.

[13] MRMT sought to identify the differences between the two versions and request a judicial conference to set a timetable for the exchange of evidence on s32 and s32AA issues.

[14] We refuse the application by MRMT for a further hearing and deal with the contentions raised on the basis set out in the memorandum for MRMT. Our reasoning for refusal of a further hearing is addressed in consideration of the submissions. In short, our role is constrained in terms of our earlier decisions and remaining issues can be addressed on the basis of submissions.

### **Support for various provisions**

[15] Some other parties agree with the suggested version produced by the Council which is **annexed marked A**. Several of them make submissions preserving their position (such as Lowndes in relation to the Rena conditions). Several other submissions on the suggested wording changes for relevant provisions. Those for MRMT are **annexed marked D**. The key differences on provisions, including Methods 19A and 19AA, are contained within **annexure D**.

[16] The Regional Council's final provisions are supported by the Regional Council, the Attorney-General and Sunchaser Investments. We note that Sunchaser is bound to abide by the decision of the Court in any event. We understand Lowndes support very similar provisions circulated in November 2019.

### **Intention of the primary decision**

[17] It is clear from the interim decision dated 11 May 2018 that the Court's intention was to advance the finalisation of the potential wording while awaiting a decision from a higher Court on jurisdiction. Clearly, any decision on jurisdiction may limit what this Court could do on the Appeal or may obviate most of the changes sought. Nevertheless, a number of changes such as those under Methods 19A and 19AA, the subject of the Ngāti Makino and Ngāti Ranginui appeals, were matters that could be advanced and were likely to be provisions inserted within the plan, whatever the outcome of any decision on appeal.



[18] The finalisation of wording required the parties to try and settle (as far as possible) on appropriate wording and to identify the differences between them. The Court could then consider those in the context of the appeal decision. Given that the Court of Appeal's decision has now been delivered and is not the subject of further appeal, we can regard the legal position as settled.

[19] Although Mr Enright for MRMT put some weight on the "strictly necessary" test identified by the High Court<sup>6</sup> as influencing this Court's decision on the merits, we do not accept that. Our conclusion was that the values and attributes recognised in respect of the areas for which protection needs to be applied were clear. The jurisdiction for the Court to make a decision on that issue has been confirmed. The confirmation of the legality of that position means that we can now move to finalise the Plan wording.

[20] The Court's decision as to the balance of the area within the MNEMA and other areas sought by Ngāti Ranginui and Ngāti Makino more generally was that this would need to be informed by further identification of values and attributes and the degree of protection required for significant indigenous biodiversity.

[21] We did not conclude that this could not occur, but that there was insufficient information before us at that time to enable us to reach a conclusion. To that end, the parties accepted that the finalisation of the wording for Methods 19 and 19AA would be appropriate and it appears to us that the Court has undertaken most of the analysis required in terms of s32 RMA for this, depending on the wording that may finally be adopted.

[22] We therefore agree with the Regional Council's submission that the necessary analysis has mostly been undertaken and that a final analysis of the wording can be conducted by evaluation of the wording against the many different standards and tests we have discussed in the Interim Decision and against s32 and s32AA RMA. We note in particular that these provisions were intended as interim provisions and given it was effectively a test case, the further refinement of these issues would be addressed through a review of the Regional plan.

[23] To this end, we note that a submission has been made on behalf of Te Patuwai and potentially others and that a Taiapure is being sought in respect of some of the same



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<sup>6</sup> *Attorney-General v Trustees of the Motiti Rohe Moana Trust (No. 1)* fn3 at [20], [129] and [134]

areas. As the Court noted in its Interim Decision, this is an area where the relevant agencies need to work together. The application for another form of protection does not prevent the Council also including relevant provisions in its Plan if necessary (in the sense of desirable or expedient).

### **Finality**

[24] This matter has now been in train in excess of 5 years due to the appeals process. The balance of the Regional Plan is already settled and was made operative in December 2019. Most of it was settled earlier than this. It appears the Council may have been hoping to resolve this issue and make the entire Plan operative at the same time.

[25] The purpose of the Court's directions after its decision in May 2018 was to avoid the very type of argument that are now raised by some parties. We consider that we should move to finalise the wording now and take into account the matters discussed in the Decision and raised in the memoranda of the parties. In particular, we consider that issues about mapping and reasons for wording can be addressed by the Court at this stage. The ecological features which they support are matters which we can conclude on the basis of the evidence already presented. We are able to make an assessment of those under s32 and s32AA RMA as to which are the most appropriate. In particular, we are not satisfied that further planning evidence would assist us in undertaking the analysis required under s32.

[26] Subsequent to drafting this decision and just prior to the state of emergency for Covid 19 being delivered at least one public interest group was seeking information as to submissions made and progress on this file. This strengthens our view that finality is of public importance in this case.

### **Further constraints on the MNEMA**

[27] It appears that MRMT may be seeking to impose further constraints within the MNEMA outside the 3 protection areas in the interim decision. In our view, that is not open to our Court given that in our interim decision we concluded that controls within those areas would require further information and a decision by the Council. That is a matter on which the Court reached finality in its decision in May 2018 and on which the Court is *functus officio*.<sup>7</sup>



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<sup>7</sup> *Gardez Investments Limited v Queenstown Lakes District Council* C095/2005;

[28] Furthermore, this issue was not raised with the Court within the extended time limit of 16th August for any jurisdictional issues. The issue on which the Court reserved its position was as to the final wording of the Plan after adopting a s32 and s32AA analysis provision to consider which was the most appropriate. We also agree that the final mapping of the 3 areas was a matter on which we were to decide the most appropriate approach adopting the analysis under s32 and s32AA.

[29] So far as the wording of Methods 19AA and 19 is concerned, we have to settle the final wording of that, although the constraints in respect of those provisions are more pronounced. We understood there was particular potential for interaction between the protected areas within the MNEMA and the application of Methods 19A and 19AA to the balance of the MNEMA area as well as other areas sought by Ngāti Ranginui and Ngāti Makino.

[30] To that end, we would conclude that there must be a good and proper drafting reason arising under s32 or s32AA to justify a change to the wording of Methods 19 and 19AA.

[31] We now turn to consider the wording of the relevant provisions.

### **The relevant provisions**

[32] We use as our reference the response of MRMT to the provisions dated 20 December 2019. This is part of **annexure D**. We also refer to a more recent memorandum from the MRMT in relation to mapping received on 10 February 2020. This is attached and annexed marked **E**. The Council response dated 18 February is **annexed marked F**.

### **Introductory: Motiti Natural Environment Management Area (MNEMA)**

[33] As a general correction, in the phrase tāngata whenua the first “a” has a macron (ā) over it. With the support of the parties, this should be included wherever the phrase occurs in the plan.

[34] The Regional Council’s view is that the provisions should refer in full to the Motiti Natural Environment Management Area each time to avoid creating confusion for the



public who are less familiar with the plan. We conclude that this is a matter really of form that is within the Council's purview rather than a matter for the Court. Accordingly, we accept the Council's position that they would prefer the full wording. Provided they do so consistently, that is not a matter on which we need to undertake any particular analysis. We agree that under s32 and s32AA RMA the purpose of any particular provision should be as clear as possible.

### **Objective 5A**

[35] Consistent with their view that provision should be included for the wider MNEMA, MRMT seek to delete the words:

Protection Areas within the Motiti Natural Environment Management Area from inappropriate activities and uses

and substitute instead:

Protect the identified values and attributes of the Motiti Natural Environment Management Area from inappropriate activities and uses.

[36] We conclude this goes too far in light of the decision of the Court. We acknowledge that such provisions might be inserted within the plan in due course. There is at this stage, no specific controls outside the protection areas identified beyond those which would apply in terms of activity status throughout other similarly identified areas (ASCV, ONFL etc).

[37] In terms of analysis under s32 and s32AA we have undertaken this analysis already.

### **Objective 5B**

[38] The only change sought in that case is to use *MNEMA* given that we have concluded that the full name should be included as a matter of preference by the Council, we can see no particular reason under s32 or s32AA to interfere.

### **Policy NH19**

[39] In respect of Policy NH19, the Council version states:

... provide for the protection of indigenous biodiversity landscape natural character and cultural



values and attributes to Motiti protection areas of the Motiti Natural Environment Management Area.

The position for the MRMT is that we should provide directly for protection. They also seek addition of further words and avoid adverse effects of those values at the end of the Policy.

So, the provisions would read:

Protect the identified indigenous biological diversity landscape, natural character and cultural values and attributes in the Motiti Protection Area of the Motiti Natural Environment Management Area and avoid adverse effects on these values.

[40] We have considered the Council's objection to the first part of this, being that they intend to provide protection in due course. In the end, we consider that the more direct wording is clearer and shows a clearer intent. To the extent that the policy will not be fulfilled until their rules come into force is a matter of fact and is the same for all other provisions within the plan. We agree with the comment "Protect the identified...".

[41] In terms of s32 and s32AA, we believe the direct provision is clearer for readers of the plan given the conclusion of the Court in respect of the values and attributes within the Motiti Protection Areas. So far as the wording sought by MRMT and avoid adverse effects on those values, the Regional Council raises the point that the values include cultural values which may, by their very nature, be intangible. In addition, the Regional Council argues that this is outside the scope of the interim decision which was focused on the protection of indigenous biological diversity values.

[42] We agree with the Council that the insertion of further values, including how cultural values and attributes can be better recognised, is a process envisaged by Methods 19A and 19AA, particularly, as it relates to controls around the ASCV.<sup>8</sup>

[43] Overall, we conclude that under s32 and s32AA the most appropriate provisions

are those reading:

Protect the identified indigenous biological diversity, landscape, natural character and cultural values and attributes in the Motiti protection areas of the Motiti Natural Environment

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<sup>8</sup> *Royal Forest & Bird Protection Society of New Zealand Incorporated v Bay of Plenty Regional Council* [2018] NZENVC 157 at [79] – [85].



Management Area.

### **Policy NH20: Natural Heritage Policy**

[44] As the Council noted, this was offered by Council to support Method 29. Their wording would read:

Investigate appropriate measures to manage activities which are having adverse effects on the identified values and attributes of the Motiti Natural Environment Management Area.

Their intent therefore, would be to particularly support the relevant policies and investigate whether other provisions should be inserted within this area.

[45] MRMT however, seek a more direct intervention:

Outside the Motiti protection areas to avoid adverse effects on the benthic and other identified values of the MNEMA.

[46] In our view, the Court is *functus officio* on this issue as we discussed earlier. We have concluded that the process for areas outside the 3 protection areas even within the Motiti Natural Environment Management Area should be addressed by further Methods within the plan investigation, identification and processing in part. This was due to a concern by the Court that members of the public were not properly aware of the potential for further control in this wider area, given that the values and attributes of a wider area were far less specifically identified than those within the Protection Areas.

[47] Accordingly, we conclude that the Council's wording is to be preferred:

Investigate appropriate measure to manage activities which are having adverse effects on the identified values and attributes of the Motiti Natural Environment Management Area.

In terms of analysis under s32 and s32AA, this was addressed in our original decision. The most appropriate provision is one which supports Method 29 which in turn utilises Methods 19A and 19AA.

### **Policy NH21**

[48] On a similar basis to policy NH20, MRMT seeks a new policy NH21:

Identify activities which are having adverse effects on the values and attributes of the Motiti Natural Environment Management Area and avoid or remedy those adverse effects.



[49] Again, we could consider that this is a matter that was subject to the final decision by the Court in May 2018 where we concluded that there was not sufficient evidence at this stage to support particular provisions to avoid or remedy adverse effects. In part, this was due the fact that the values and attributes of these areas had not been sufficiently identified. It was intended that this be undertaken not only as part of Method 29, but as a part of the more broad-based review of these provisions under Methods 19A and 19AA. Again this reinforces that the council wording is the most appropriate under s32 and s32AA.

#### **Rule DD6A**

[50] In Rule DD6A MRMT sought to change the reference to the area to *MNEMA* rather than *Motiti Natural Environment Management Area*. As previously stated, the Court concludes that the full name should be used.

#### **Rule DD 10: New prohibited activity and associated definitions**

[51] There is significant difference between the Council and MRMT on this issue. Essentially, MRMT seek to prohibit dredging, use of nets, craypots, and long lines (with more than 3 hooks per line) within the MNEMA but outside the Protection Areas. They also seek to insert definitions as follows:

Dredging means any activity involving the dredging of the sea bed that could result in benthic contact.

Net means Danish seine, purse seine, gill or trawl nets.

Long line means a line to which a hook or hooks (whether baited or not) are attached.

[52] We agree entirely with the Council that this proposed addition sits well outside the scope of our decision in May 2018. Such further protection is clearly a possible outcome of any full review of the plan, particularly as contemplated under Methods 19A, 19AA and 29. Nevertheless, such inclusion now is clearly outside the scope of our earlier decision and furthermore is unsupported by the plan itself at this point. Thus, the support for the MRMT proposition is lacking in the plan generally and it is explicitly contemplated as being examined under the Methods in 19A, 19AA and 29. The most appropriate provisions under s32 and s32AA must be those proposed by the Council.

#### **Method 29(b): The role of the TAG**



[53] The change of the name to *MNEMA* is not supported for the same reasons already given and we concluded that full name should continue.

[54] The current wording (supported by the Council) of Method 29(b)(iv) is:

A future monitoring programme to be conducted in reference to the existing new or revised values and attributes.

[55] MRMT seek alternative wording:

A monitoring programme to be conducted and referenced to maintenance and protection of the existing new or revised values and attributes.

[56] The Council in response suggested an alternative (although their preference is with their original wording) to read:

A monitoring programme to be conducted in order to assess effects on the existing new or revised values and attributes.

[57] For our part, we have some difficulty in understanding the inclusion of words *maintenance and protection of revised values and attributes*. We prefer the Council's alternative wording. This allows positive effects to be recognised as well as negative effects and essentially focuses on what has occurred in relation to those values and attributes rather than maintenance and protection. For example, significant enhancement would fall within the programme. In our view, a broad wording to enable monitoring programmes to be devised and adapted as time goes on to provide helpful and useful information would be appropriate.

[58] In terms of s32 and s32AA the issue is the most appropriate drafting phrasing. We agree that the amended proposition by the Council remains a positive aspiration and thus is more appropriate than either alternative.

### **Method 30: Mauri monitoring**

[59] MRMT seek new wording to:

Carry out and implement Mauri monitoring to specifically address the state of the environment and changes to it within the Motiti Natural Environment Management Area.

[60] Council notes that RPS Method 44 requires Council to work with tāngata whenua



to develop Mauri models. Of course, this could apply quite clearly to the Motiti Natural Environment Management Area as well as other areas. Accordingly, Operative Methods 1, 1A, 2A and 19A require the Council to incorporate Mātauranga Mauri based methods and/or all cultural health indicators to assess and monitor the state of the regions natural and physical coastal environment.

[61] To include further methods specifically in relation to Motiti Natural Environment Management Area is opposed by the Council. We agree that it adds an unnecessary additional layer, repetitive of other provisions within the plan. More particularly, the Council notes that this was not part of the interim decision of the Court and that the Court has no jurisdiction to impose this method without the Council's agreement.

[62] Putting aside the jurisdictional issues for a moment, we do note that the Council says that there is substantial work underway to implement RPS Method 44. This gives us a reason to be satisfied that the most appropriate method at this stage is allow the Council and the interested parties to develop a comprehensive methodology to address issues within the natural environment including the coastal area of the region. Accordingly, we conclude under s32 and s32AA that this additional method is unnecessary given the provisions already within the Plan.

### **Method 30 (or new Method 31)**

[63] MRMT proposed amending the rest of Method 30 to be Method 31 and to extend the compliance monitoring from the Motiti Protection Areas to the Motiti Natural Environment Management Area. It is relatively specific in relation to certain requirements including notification signage at boat ramps and on-water identification of the Motiti Protection Areas and the Motiti Natural Environment Management Area to achieve compliance.

[64] The Council makes the point that compliance monitoring and enforcement are discretionary policy matters for the Council and are separate from its functions as a planning and consent authority.

[65] We conclude that it is difficult for the Court to prescribe how the Council should undertake its compliance functions under an RMA Plan. We do consider that some reference to compliance monitoring should be made particularly in relation to the Protection Areas.



To that end, the wording that is proposed by the Council reads:

Compliance monitoring of the Motiti Protection Areas.

Prepare and regularly review the Compliance Education Strategy designed to ensure public and private sector knowledge of the responsibilities imposed by the Motiti Protection Area Rules.

[66] We conclude that this is sufficient to indicate an educative role and does not interfere with the compliance obligation of the Regional Council to ensure compliance with its plan.

[67] The implementation responsibility refers to the Regional Council. However, given that there is an education strategy; MRMT notes that tāngata whenua could also be included in this. We see that such partnership would be reflective of the Treaty of Waitangi and of course, the biodiversity values that are pursued by MRMT on this occasion. How this might be done is not prescribed in the plan, but we see no proper reason why implementation responsibility of the educative role should not have input from tāngata whenua. We want to make it clear that it is not the intent of that provision as we have worded it that tāngata whenua undertake enforcement action as that is clearly the role of the Regional Council. This does not mean that the Council could not enter into such arrangements with tāngata whenua if it wished. We would add:

Implementation Responsibility: Regional Council and Tāngata Whenua

In terms of s32 and s32AA this wording better meets the various tensions and objections of the Plan, the NZCP and the Act.

### **Method 19AA**

[68] MRMT sought to alter the introductory words of Method 19AA by removing the words shown struck through and inserting the words shown underlined:

Council will ~~consider proposals from~~ partner with tāngata whenua ~~and/or the community~~ for additional spatial mechanisms for the coastal marine area ~~when a proposal is submitted that identifies that~~ identify and protect

[69] MRMT also sought to delete a series of criteria included by the Council for consideration of any such proposal.



[70] The fundamental issue with Method 19AA is whether or not other community groups should now be included within it. This appears to have been introduced as a result of community concern expressed to the Council in relation to these appeals. Motiti Avocados sought the inclusion of these provisions within 19AA and this is now supported by Sunchaser. Whether this was intended to apply to all persons and groups before the Court is not clear. We can say that Motiti Avocado abided the decision of the Court in relation to the Motiti Natural Environment Management Area and the particular proposals within it. Nevertheless, Methods 19A and 19AA have been discussed in various iterations through the process and other appeals.

[71] Method 19AA was intended to address specifically the concerns of tāngata whenua. We note that Mr Pou for Ngāti Ranginui and Ngāti Makino makes a similar point that the intent of this provision was to answer the appeals of his clients and not to provide another mechanism for general public involvement.

[72] This matter is finally balanced, but under s32 and s32AA, we believe that clarity would be of assistance. In the end, we consider that the introductory wording should be changed so that it reads:

Council will partner with tāngata whenua for additional spatial mechanisms for the coastal marine area that identify and protect:

[73] This wording focuses the concern directly to tāngata whenua. Although it does not prevent a wider proposal, it will mean that the consideration of other proposals would have to be taken in the context of their impacts on the treaty partners and tāngata whenua.

[74] We consider that the wording proposed by MRMT was too directive and essentially did not provide a separate method to that contained in Method 19A. On the other hand, the deletion of the criteria and the generalisation of the proposals to community groups would mean proposals could be made by third parties that were directly contrary to the interest of tāngata whenua without any consideration of the relevant factors.

[75] In terms of s32 and s32AA this is the most appropriate way to proceed with Method 19A. We note that these issues came to the fore as a result of Tāngata whenua appeals. Community interest has arisen subsequent to the declaration decision of the High Court and Court of Appeal.



[76] We note in particular that the relevant matters include the matters listed but that list does not prevent the consideration of other criteria. Overall, we consider that this is more appropriate under the Act and provides for open consultation while recognising the particular status of the treaty partners.

### **Mapping issues**

[77] The mapping issues represent a continuing major area of disagreement between the parties:

- (i) A fundamental difference between the proposal by the Council and that by MRMT relates to the way in which the areas are depicted.
- (ii) The Court concluded that 3 areas should be subject to protection: the Otaiti (Astrolabe Reef) / O Karapu / Brewis Shoal area, Motuhaku (Schooner Rocks) and Motunau (Plate Island). MRMT seems now to have included other areas around the eastern side of the island that are in fact contiguous and include areas that were explicitly excluded in the earlier decision by this Court. The reasons for that are covered in a detailed memorandum filed on 10 February after the date for exchange.

[78] The MRMT submission on areas included appears to be a complete revisiting of the issues which were the subject of the Court's decision. Quite simply, we do not believe it is open to MRMT now to suggest the inclusion of further Protection Areas. This was a matter which could have been the subject of appeal at the time given these areas are all within the MNEMA.

[79] We are particularly concerned to see the area of Taumaihi Island and the sunken vessel Taioma we proposed to be included within the Protection Area. In the decision, we explicitly recognised this as an area for ongoing diving. The intent of the Court's decision was to achieve a balance between areas of the highest biodiversity quality and those surrounding areas which could be the subject of on-going recreational and other activities.

[80] While we do recognise that there are other toka and reefs shown in the Values and Attributes Map, it is clear from our decision that we have not protected all of those. What we have sought to do is provide for the most important elements within the MNEMA with the highest values and attributes to be recognised in the meantime.



[81] The three areas shown in **annexure A** approximate those shown by the Court in its decision.

[82] What the Council has now done is regularise those to co-ordinate points defined by latitude and longitude. We have been particularly concerned to ensure that the identified areas are contained within those co-ordinates. This is shown by the red dotted line which shows the approximate positions of the original areas in the Court's decision. There are only two minor exceedances between points 1 and 5 on Motuhaku and in the area between points 3 and 4 on Motunau. In both cases, we consider their differences so minimal as to not provide any real difference. There are many places at which the original line is exceeded.

### **Use of latitude and longitude points**

[83] We agree with the Council that on the water it is difficult to ascertain exactly where a vessel is. Vessels, particularly fishing vessels, usually have very accurate GPS mapping systems which enable them to place themselves by latitude and longitude. To that end, we consider that the co-ordinate points identified give an enforceable and recognisable way of identifying the area on the water. Given that this contains an area larger than those shown by us, we believe the Council has been sufficiently cautious in setting those lines. We consider that the map shown in **annexure B** is accurate for the purposes of the Motiti Natural Environment Management Area and contains the area that the Court specifically sought to protect in our earlier decision. We consider clarity is the most appropriate method for mapping under s32 and s32AA.

[84] Accordingly, we have concluded that is the map that should be attached to the plan. We do not accept the arguments of MRMT that a wider area should be included and the specific reasons for their non-inclusion was discussed in general terms within our decision. More specifically, we consider that this decision is a first step towards adequate protection of this area and that the question of how the values and attributes closer to the island should be addressed is a matter that needs broader consideration.



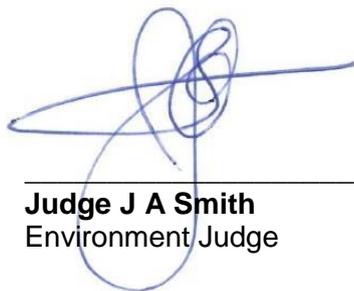
**Overall conclusion under s32 and s32A RMA**

[85] Our view is that the mapping now properly supports our earlier decision and is the most appropriate way of giving certainty to users of the area. The other provisions in our view broadly recognises the intent of our earlier decision and provide the most appropriate balance between the interests of the Appellants and of the wider public in achieving the purpose of the Plan and the Act. Accordingly, we endorse these provisions and direct that they are to be included within the Regional plan.

**Directions**

- A: The Council's suggested provisions, as set out in **Annexure A**, are adopted except to the extent they are specifically amended in this decision.
- B: The mapping is confirmed as set out by the co-ordinates in **Annexure B**.
- C: The Council is to file an updated set of provisions amended in accordance with this decision for approval by the Court by the **30 May 2020** subject to an application for extension due to Covid 19 State of Emergency.
- D: This has been a difficult and extensive issue for the Council and Iwi alike. On a tentative basis, we do not see this as an appropriate case for the award of costs and consider that the usual practice of not awarding costs in appeals in Schedule 1 appeals should be followed. If any party wishes to apply, they are to do so within by the **30<sup>th</sup> May 2020**, with any response within 10 working days and any reply within a further five working days. Applications are not encouraged. The timetable is subject to application for extension due to Covid 19 State of Emergency.

For the Court



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**Judge J A Smith**  
Environment Judge



# Part Four

## Activity-based policies and rules

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Part Four contains policies and rules specific to activities in the coastal marine area. The policies included in Part Three are also relevant to consideration of activities in the coastal marine area.

Assessment Guidelines for Areas of significant cultural value are included at the end of Part Four. These guidelines direct applicants and decision-makers to have regard to a range of matters when considering an application for resource consent for activities in:

- Areas of Significant Cultural Value identified in Schedule 6;
- Areas or sites of significant cultural value identified by Statutory Acknowledgments or Iwi and Hapū Management Plans; or
- Areas or sites of significant cultural value identified by evidence produced by tangata whenua and substantiated by pūkenga, kuia and/or kaumatua.

Where an Objective or Policy refers to the 'coastal marine area', this Plan provides rules that shall be implemented. Where an Objective or Policy refers to the 'coastal environment' this Plan either provides rules that shall be implemented for the area below mean high water springs or provides policy guidance on decision-making as it applies to the area landward of the coastal marine area.

Policies and rules are grouped according to the following topics:

1. Structures and occupation of space (SO)
2. Disturbance, deposition and extraction (DD)
3. Coastal discharges, dumping and disposal (CD)
4. Reclamation (RM)
5. Take, use, dam or divert coastal water (TD)
6. Aquaculture (AQ)
7. Biosecurity (BS)
8. Harbour Development Zone activities (HD)
9. Port Zone activities (PZ)
10. Noise (NS)
11. Geothermal resource use (GR)

A Summary of Rules is provided at the end of Part Four.



Any provisions relating to the Motiti Protection Areas in the Motiti Natural Environment Management Area shall not apply in respect of the resource consents to abandon the wreck of the Rena on Otaiti.

Schedule 14 to this Plan contains more information on the Marine and Coastal Area (Takutai Moana) Act 2011 and how it is relevant to this Plan and resource consent applications in the coastal marine area.

*[Existing Objectives]*

### **Natural Heritage**

- Objective 2 Protect the attributes and values of:
- (a) Outstanding natural features and landscapes of the coastal environment; and
  - (b) Areas of high, very high and outstanding natural character in the coastal environment;

from inappropriate subdivision, use, and development, and restore or rehabilitate the natural character of the coastal environment where appropriate.

- Objective 3 Safeguard the integrity, form, functioning and resilience of the coastal environment and sustain its ecosystems by:
- (a) Protecting Indigenous Biological Diversity Areas A; ....

*[New Objectives]*

Objective 5A Protect the identified values and attributes of the Motiti Protection Areas within the Motiti Natural Environment Management Area from inappropriate activities and uses.

Objective 5B Improve knowledge and understanding of the impact of activities on the values and attributes of the Motiti Natural Environment Management Area.

*[New Policies]*

### **2.1.4 Promoting protection and management of existing high value areas**

Policy NH19 Provide for the protection of indigenous biological diversity, landscape, natural character and cultural values and attributes in the Motiti Protection Areas of the Motiti Natural Environment Management Area.

Policy NH20 Investigate appropriate measures to manage activities which are having adverse effects on the identified values and attributes of the Motiti Natural Environment Management Area.

### **Disturbance, deposition and extraction (DD)**

Policy DD 7A Provide for scientific research activities (including those based on Mātauranga Maori) that contribute to a better understanding of subtidal marine habitats, biodiversity and ecosystems in the coastal marine area, and the effects of other activities on those species, habitats and ecosystems.



[New Rules]

**DD 6A Permitted - Specified activities in a Motiti Protection Area identified in Schedule 16A**

Unless consent is required under the Plan, the temporary or permanent damage or destruction or removal of plants or animals in a Motiti Protection Area within the Motiti Natural Environment Management Area (as identified in Schedule 16A), is a permitted activity for the following purposes:

- (a) Resource consent monitoring undertaken in accordance with resource consent conditions;
- (b) State of the environment monitoring undertaken by the Regional Council, the Department of Conservation or their agents;
- (c) Marine biosecurity incursion investigation and/or response;
- (d) Wildlife rescue;
- (e) Monitoring and enforcement carried out by a regulatory agency;
- (f) Mooring, anchoring and hauling small vessels ashore; carried out by a regulatory agency;
- (g) Scientific research, conservation activities and monitoring undertaken by, under the supervision of, or on behalf of, the following agencies:
  - i. Crown research Institutes;
  - ii. Recognised Māori research entities;
  - iii. Tertiary education providers;
  - iv. Regional Councils;
  - v. Department of Conservation;
  - vi. Ministry for Primary Industries.

**Rule DD 17 Prohibited – Specified activities in the coastal marine area**

The following activities are prohibited activities in the coastal marine area unless specifically provided for by another rule in this Plan (including where permitted under Rule DD6A):

...

- 9 The temporary or permanent damage or destruction or removal of plants or animals in a Motiti Protection Area within the Motiti Natural Environment Management Area as identified (as identified in Schedule 16A).

Advisory note: For the purpose of this Rule, removal includes the catching, taking or harvesting of plants and / or animals.



**1.10 Motiti Natural Environment Management Area**

Method 29 Undertake investigations and environmental monitoring of the Motiti Natural Environment Management Area, including:

(a) The establishment of a Technical Advisory Group (TAG) which may include (but need not be limited to):

1. Bay of Plenty Regional Council
2. Educational institutions
3. Scientific institutions
4. Other appropriately skilled and experienced experts
5. Motiti Rohe Moana Trust and other interested tangata whenua

(b) The role of the TAG is to make recommendations on:

(i) Such investigations and monitoring as considered necessary to establish the state of the Motiti Natural Environment Management Area marine environment and biodiversity including, as appropriate:

- the spatial extent of Motiti Natural Environment Management Area and relevant aspects of biodiversity\*, natural character, landscape (seascape) and cultural values and attributes;
- Existing values and attributes in Schedule 16B;
- Identification of new or revised values and attributes.

(iii) Measures necessary to enhance existing values and attributes; and

(iv) A future monitoring programme to be conducted in reference to the existing, new or revised values and attributes.

\*for the purposes of this method 'biodiversity' includes all forms of aquatic life (fish and other animals, seaweed and other plants), the benthic environment and seabirds.

Implementation responsibility: Regional Council, Department of Conservation, Ministry of Primary Industries and Tangata Whenua.

Method 30 Compliance Monitoring of the Motiti Protection Areas

Prepare and regularly review the Compliance Education Strategy designed to ensure public and private sector knowledge of the responsibilities imposed by the Motiti Protection Area rules.

Implementation responsibility: Regional Council

## 1.5 Cultural and Historic Heritage

...



Method 19A: In consultation with tangata whenua:  
(a) Review Schedule 6 Areas of Significant Cultural Value;

- (b) Identify areas or sites in the coastal environment of significance or special value to Maori;
- (c) Identify cultural landscapes and features in a manner consistent with NZCPS Policy 15(c)(viii);
- (d) Investigate the planning mechanisms and other methods available to provide protection to identified areas and sites and support customary activities in ASCV;
- (e) Investigate the planning mechanisms and other methods available to support the social, economic, cultural and recreational aspirations of tangata whenua in the coastal environment;
- (a) Identify options for providing for the expression of the relationship tangata whenua as kaitiaki have with their identified taonga such as water, wahi tapu and kaimoana.

The review, identification and investigation should:

- (f) Incorporate matauranga Maori as directed by NZCPS Policy 2(c);
- (g) Use the assessment criteria contained in the RPS Appendix F: Set Maori culture and traditions; and
- (h) Give consideration to the most appropriate provisions in the Plan for addressing matters arising out of the review.

*Implementation responsibility: Regional Council.*

Method 19AA Council will consider proposals from tāngata whenua and/or the community for additional spatial mechanisms for the coastal marine area when a proposal is submitted that identifies:

- (a) Areas or sites of cultural, biodiversity and/or natural character value that may require additional protection and/or restoration;
- (b) Areas or sites of cultural, biodiversity and/or natural character value that are, or are likely to be, adversely affected by activities (including fishing), and options to manage such activities for the protection of cultural, biodiversity and/or natural character values.

When considering such a proposal, and whether or not to implement it through a plan change process or other means, Council will take into account relevant matters including the following:

- (i) Te Tiriti o Waitangi Settlement processes;
- (ii) Whether there are outstanding applications for customary recognitions under the Marine and Coastal Area Act;
- (iii) Whether the group has undertaken consultation with other tangata whenua;
- (iv) Whether the proposal is supported by a relevant iwi or hapū management plan;
- (v) The level of support for the proposal from the community and other tāngata whenua that have a relationship with the area;



- (vi) Urban development capacity and current and future infrastructure needs;
- (vii) The extent to which the proposal provides for the social, economic and cultural well-being of the wider community, including consideration of current and future public access, and existing uses and activities; and
- (viii) Whether a collaborative approach to resource management is appropriate in accordance with Method 33 of the RPS.

Advice Note:

A Schedule 1 process will be required to incorporate any planning outcomes in a statutory framework, such as a regional, district or city plan.

Implementation responsibility: Tangata whenua, the community, Regional Council, city and district councils, the Department of Conservation and the Ministry Primary Industries.



# Part Six

## Schedules to the Regional Coastal Environment Plan

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There are 16 Schedules to the Regional Coastal Environment Plan:

- Schedule 1 River Mouths and Coastal Marine Area boundary.
- Schedule 2 Indigenous Biological Diversity Areas
- Schedule 3 Outstanding Natural Features and Landscapes.
- Schedule 4 Management Guidelines for Natural Features in Landscapes.
- Schedule 5 Regionally Significant Surf Breaks.
- Schedule 6 Areas of Significant Cultural Value.
- Schedule 7 Historic Heritage Inventory.
- Schedule 8 Harbour Development Zones.
- Schedule 9 Outline Development Plan for the Port of Tauranga 2013.
- Schedule 10 Water Quality Standards.
- Schedule 11 Financial Contributions.
- Schedule 12 High Risk Facilities.
- Schedule 13 Principles on Biodiversity Offsets.
- Schedule 14 Marine and Coastal Area (Takutai Moana) Act 2011.
- Schedule 15 Offshore Island
- Schedule 16A Motiti Protection Areas within the Motiti Natural Environment Management Area
- Schedule 16B Motiti Natural Environment Management Area – Values and Attributes

...



## New Schedule 16A Motiti Protection Areas within the: Motiti Natural Environment Management Area

<u>Motiti Protection Area (MPA)</u>	<u>Description of area</u>	<u>Area</u>	<u>Point Identification, Latitude and Longitude</u>
<u>Otaiti MPA 1</u>	Coastal marine area around Otaiti (Astrolabe Reef), Te Porotiti, o Karapu and Te Papa (also known as Brewis Shoals) extending 1km from the outermost extent of the reefs and toka within this area.	<u>Refer Map Sheet 43d</u>	<u>1 -37.524206 176.416492</u> <u>2 -37.526889 176.442055</u> <u>3 -37.581453 176.425474</u> <u>4 -37.600719 176.361756</u> <u>5 -37.591381 176.350051</u> <u>6 -37.580159 176.346041</u>
<u>Motunau MPA 2</u>	Coastal marine area around Motunau (also known as Plate Island) extending 1km from the outermost extent of Motunau.  The Motiti Protection Area includes the surrounding shelf areas.	<u>Refer Map Sheet 43d</u>	<u>1 -37.586617 176.527828</u> <u>2 -37.596707 176.551402</u> <u>3 -37.621452 176.530326</u> <u>4 -37.616305 176.515162</u> <u>5 -37.608026 176.510144</u> <u>6 -37.598403 176.511980</u>
<u>Motuhaku MPA 3</u>	Coastal marine area around Motuhaku (also known as Schooner Rocks or Schooner Island) extending 1km from the outermost extent of Motuhaku and associated reefs and toka.	<u>Refer Map Sheet 43d</u>	<u>1 -37.648364 176.568542</u> <u>2 -37.671950 176.587756</u> <u>3 -37.683320 176.573084</u> <u>4 -37.687466 176.540229</u> <u>5 -37.684779 176.513728</u> <u>6 -37.669504 176.517109</u>



## Schedule 16B - Motiti Natural Environment Management Area – Values and Attributes

### Summary of features that make up the Motiti Natural Environment Management Area – For information purposes only

<u>Location</u>	<u>ONC Category</u>	<u>ONFL Category</u>	<u>IBDA Category and description</u>	<u>ASCV and description</u>
<u>Otaiti (Astrolabe Reef)</u>	<u>Outstanding Natural Character</u>	<u>Outstanding</u>	<u>A76</u>	<u>ASCV 25</u>
<u>Motuhaku Island</u>	<u>Outstanding Natural Character</u>	<u>Outstanding</u>		<u>ASCV 25</u>
<u>Motunau Island</u>	<u>Outstanding Natural Character</u>	<u>Outstanding</u>	<u>A77 (the island) A78( the marine area)</u>	<u>ASCV9 and 25</u>
<u>Te Poroiti (Reef)</u>	<u>Outstanding Natural Character</u>	<u>Outstanding – part of Otaiti identified feature</u>		<u>ASCV 25</u>
<u>o Karapu (Reef)</u>	<u>Outstanding Natural Character</u>	<u>Outstanding – part of Otaiti identified feature</u>		<u>ASCV 25</u>
<u>Te Papa (Reef)</u>	<u>Outstanding Natural Character</u>	<u>(NA)</u>		<u>ASCV 25</u>
<u>Motiti Island margin (which incorporates the water and many small islands and reef systems around it).</u>	<u>High Natural Character</u>	<u>Outstanding</u>	<u>A75 (Motiti Island), includes Including Nukutai Reef (Motiti Islets: Motu Kaha Kaha (A27); Turi Tea (A28); Motu Pa Tiki (A29); Motu Arua (A30) and Te Haupapa Tiotio VMX24)</u>  <u>Coastal herbfields, pohutukawa-karo treeland and coastal rockland.</u>	<u>ASCV 25</u>
<u>Motuputa Island (located within the Motiti Island margin)</u>	<u>High Natural Character</u>	<u>Outstanding</u>	<u>A79</u>	<u>ASCV 25</u>
<u>Taumaihi Island (located within the Motiti Island margin)</u>	<u>High Natural Character</u>	<u>Outstanding</u>	<u>B133 Boulder Tombola Pohutukawa forest, flaxland, bracken fernland and coastal herbfields.</u>	<u>ASCV 25</u>



**Please note:** ASCV 25 and ASCV 9 list individual wahi tapu and wahi taonga.

### Outstanding Natural Feature and Landscape

<b>Motiti Island margin and associated islands, reefs and shoals – ONFL 44</b>		<b>Map Sheet 43a</b>
<p><b>Description:</b></p> <p>Motiti Island is the only permanently inhabited offshore island along the Bay of Plenty Coastline. Motiti is less intact than the other features within the grouping and less natural. Its coastline is considered to have high natural character and is included in the feature. The landward boundary of the ONFL on Motiti Island is similar to the high natural character area identified in Appendix I to the RPS. The small islands immediately surrounding Motiti are also included. The offshore islands of Motuhaku and Motunau are relatively small rocky islands with some coastal vegetation located upon the upper plateau of the islands. Other reefs and shoals exist around this wide grouping of islands including the Astrolabe Reef, Brewis Shoal and o Karapu Reef which form part of a wider complex of island features in the area and are included in the ONFL.</p>		
<p><b>Current uses:</b></p> <p>Motiti Island is the only island within this ONFL with man-made modifications. Current uses within the ONFL on Motiti Island include:</p> <ul style="list-style-type: none"> <li>• <u>Walking tracks and roads</u></li> <li>• <u>Fishing</u></li> <li>• <u>Limited agricultural and horticultural farming</u></li> </ul> <p>The surrounding reefs, shoals, rocky outcrops are also widely used for commercial and recreation fishing and diving.</p>		
<b><u>Evaluation</u></b>		<b><u>Rating</u></b>
<i>Natural science factors</i>	<p><u>Representativeness: The Motiti Island interior is a farmed rural landscape but the coastal margins retain significant landscape values that are expressive of cultured nature. The Astrolabe Reef and Motunau Island are known as nationally significant scenic dive sites, more recently the Astrolabe has been affected by the grounding of the cargo ship Rena.</u></p>	H
	<p><u>Research and education: Significant research surrounding the Astrolabe and associated reefs as a result of the grounding of the Rena.</u></p>	H
	<p><u>Rarity: The small islands along with the associated reefs and shoals, supporting marine and coastal habitats are not common within the region, but are not rare or threatened in the New Zealand context.</u></p>	M-H



<i>Aesthetic values</i>	<u>Coherence: High degree of aesthetic coherence relating to the vegetation patterns surrounding Motiti Island's margin and the entire coverage of the smaller islands.</u>	<u>H</u>
	<u>Vividness: Motiti Island and Astrolabe Reef are highly vivid landscapes due to visual connection and more recent media coverage of the reef as a result of the grounding of the cargo ship Rena.</u>	<u>M-H</u>
	<u>Naturalness: Motiti Island is heavily modified for agricultural, horticultural and residential activities. The area identified within the ONFL supports the interface of native vegetation cover on land unsuitable for farming, along the coastal fringe. Indigenous vegetation consists of a narrow fringe of good quality pohutukawa forest around the coastal margin of the land with moderate diversity and regional significance. It is an excellent example of natural processes. The island's coastal margins support a range of seabirds, shorebirds and other native bird species.</u> <u>Motuhaku and Motunau Island are unmodified and have national significance. They are an excellent example of natural processes with no modifications to the coastal processes.</u>	<u>H</u>
	<u>Intactness: Motiti Island margins remain largely intact. The remaining islands are highly intact. The majority of the reefs and shoals are intact with some wrecks, including the remains of the wreckage MV Rena on Otaiti /Astrolabe Reef.</u>	<u>M-H</u>
<i>Expressiveness (Legibility)</i>	<u>The outer islands and Motiti Island's margins, along with the reefs and shoals are highly expressive of the natural processes that have formed them.</u>	<u>H</u>
<i>Transient values</i>	<u>The seasonal changes of the indigenous vegetation (i.e. pohutukawa) and associated terrestrial and marine wildlife is valuable. The dynamic character of open water and coastal marine processes, such as tides, swells, currents, water clarity, fish and seabird migration reflect the highly transient nature of the environment.</u>	
<i>Shared and recognised values</i>	<u>Highly recognised and valued. The waters, shoals and rocky outcrops surrounding Motiti are widely recognised for their natural science, aesthetic and recreational values – particularly as places to dive and fish. There are strong tangata whenua associated values with these features. The presence of shipwrecks including the MV Rena and Tahoma, are also recognised features of the maritime history of the area.</u>	
<i>Māori values</i>	<u>Kainga, mahinga kai, taunga ika. Motiti has a rich Māori history. The island and surrounding island and reefs have ancestral interests to various hapū and tribes of the Bay of Plenty area. The coastal marine area is identified as an area of Significant Cultural Value (ASCV 25) in Schedule 6.</u>	
<i>Historical associations</i>	<u>Landscape contains many archaeological sites, recorded in the New Zealand Archaeological Association Site Recording Scheme, which comprise physical evidence of past human activity.</u>	



**Natural Character Attributes**

<u>Name</u>	<u>Level of natural character</u>	<u>General description of area</u>	<u>Elements that describe natural character</u>	<u>Water</u>	<u>Land cover and land use</u>	<u>Terrestrial biotic</u>	<u>Abiotic systems and landform</u>	<u>Perceptual</u>
<b><u>Motiti Island Margin (Map 21) RPS</u></b>	<b><u>High</u></b>	Motiti Island is the only inhabited offshore island along the Bay of Plenty Coastline. As a flat plateau the island has been developed into cropping and grazing blocks. Much of the island's coastal vegetation has been cleared with pohutukawa extending along the rocky shoreline. The margin includes the	1 Vertical rocky cliffs clad with pohutukawa and native coastal bush cover along the immediate edge. 2 The coastal intertidal zone displays the dominant natural processes surrounding the island.	1 Some permanent modification around parts of the island has occurred to provide for ferry, vehicle and pedestrian access to the shoreline.	1 Motiti Island is heavily modified for agricultural, horticultural and residential activities. 2 The area identified supports the interface of native vegetation cover on land unsuitable for farming, along the coastal fringe.	1 Indigenous vegetation consists of a narrow fringe of good quality pohutukawa forest with some areas of exotic species including wilding pines around the coastal margin of the land with moderate diversity and regional significance.	1 Excellent example of natural processes with modifications to the coastal processes that have provided landing areas to enable access to and from the island.	Motiti Island has a part of its coastline which are inaccessible. Modifications to some parts contribute to the remoteness.



		<u>beaches, coastal cliffs and the indigenous vegetation dominated fringe.</u> <u>Where no significant vegetation is present on the cliffs, the area is up to the top of the cliffs.</u> <u>The small islands immediately surrounding Motiti</u>						
<u>Astrolabe Reef (AR) (Map 21)</u>	<u>Outstanding</u>	<u>Astrolabe Reef is located 25 km northeast of Tauranga, some 7 km north of Motiti Island.</u> <u>The volcanic reef structure rises some 70 – 75 m from the</u>	<u>1 Dominant volcanic processes and formation of subtidal reef system.</u> <u>2 Dynamic coastal processes occurring.</u> <u>3 The natural environment dominates the reef with the only visible</u>	<u>1 No modification to open coastal water body surrounding the reef.</u> <u>2 The reef breaks the water surface at low tide creating large breaking waves in rough seas.</u>	<u>Does not apply.</u>	<u>Does not apply.</u>	<u>1 Water movement around the reef enhances natural character.</u> <u>2 The physical structure of the reef remains largely unmodified.</u> <u>The rock formation is expressive of</u>	<u>1 Some level of activity around the reef, as a popular dive and fishing location, otherwise a high level of remoteness exists around the reef.</u> <u>2 Activities related to the Rena grounding.</u>



		<p><u>seabed and breaks the surface at low tide. The extent of the reef is broadly mapped at points between the sandy bed and the volcanic structure. The reef is renowned for its abundant marine life and is a regular haulout for NZ fur seals. More recently the reef is renowned nationally for the grounding of the now shipwreck</u></p>	<p><u>modification due to the grounding and wreckage of the Rena.</u></p>	<p><u>3 Reef has regional significance for seal use and fish communities with high abundance and diversity.</u>  <u>4 Some modifications due to the presence of Rena wreckage and sediment contamination.</u></p>			<p><u>the formative natural processes created by volcanic activity and the ocean.</u>  <u>3 Vertical rock faces, underwater caves and tomes and large boulders are distinctive of the natural processes.</u>  <u>4 The Rena shipwreck has damaged a small part of the overall physical reef</u></p>	<p><u>3 Breaking waves across the reef outcrops with remnant of ship wreck below the waterline</u>  <u>4 Perceptions are of a natural reef system impacted by the Rena grounding and wreckage. The wreck is now not visible above water and perceptual values relate to the underwater experience of visitors.</u></p>
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<b><u>Aro i te Moana - Marine Natural Character Assessment</u></b>				<b><u>Ngā āhuatanga motuhake - Attributes (with elements that enhance or diminish natural character)</u></b>			
<b><u>Te Ingoa o te Wāhi</u></b>	<b><u>Ko te toitū o ngā āhuatanga taketake o te wāhi</u></b>	<b><u>He pitopito kōrero mō ngā āhuatanga o te wāhi</u></b>	<b><u>Ko ngā mana atua, mana tangata hoki i pū mai ai ngā āhuatanga taketake</u></b>	<b><u>Te Wai tai - Takutai Moana Coastal Water &amp; Seabed</u></b>	<b><u>Te Korowai o Papatūānuku me ōna āhuatanga ahurei</u></b>	<b><u>Ngā āhuatanga tuku iho</u></b>	
<b><u>Name of site</u></b>	<b><u>Level of Natural Character</u></b>	<b><u>General description of the area</u></b>	<b><u>Elements that describe natural character</u></b>	<b><u>Marine biotic processes</u></b>	<b><u>Marine abiotic processes</u></b>	<b><u>Landcover &amp; Use Terrestrial Biotic</u></b>	<b><u>Perceptual</u></b>
<p><b><u>Motiti Natural Environment Area Map 21a</u></b></p> <p>This table includes the water, sand and rocky bottoms and the cluster of reefs to the north west of Motiti, and east near to Motunau island. The Motiti Natural Environment Area also includes the Coastal Marine Area surrounding Motiti Island, the islands of Motunau and Motuhaku and surrounding Te Tau o Taiti /Astrolabe reef.</p> <p><i>Advice note: The natural character attributes in the Motiti Natural Environment Area identified in Map 21A are separately</i></p>	<p><b><u>Teitei High</u></b></p> <p><i>Kāore anō kia aromatawaitia katoatia tēnei wāhi. Kua tohua ngā wāhanga hei āhuatanga tūturu i roto i te Rohe Moana me te whakarite i te taumata o te āhua tūturu.</i></p> <p>This area has not been assessed as an integrated whole. Component parts are identified as natural features within the Motiti Natural Environment Area and ascribed a ranking of natural character.</p> <p><i>E taunakitia ana kia whakamātautautia te wāhi whāiti hei whakarite i te āhua</i></p>	<p>1 <i>E kapi ana te rohe i ngā wai tata ki te 200m atu i te takutai o te Moutere o Motiti, ka neke mai i te 5 ki te 15 kiromita ki te moana e uru mai ai ngā tokarāranqi iti ake.</i></p> <p>The area covers the waters beyond approximately 200m off shore from Motiti Island, extending between 5 and 15 kilometres seaward to take in a number of smaller reefs.</p> <p>2 <i>The isolated position of the area around Motiti in the Bay</i></p>	<p>1 <i>Ko ngā tokarāranqi tūturu, ngā motu me ngā kohatu i roto i tētahi rohe ka horoia, ka tiakina e Te Moananui-a-Kiwa. Nā ētahi o ngā para paenga, parataiao i ahu mai i te paenga o te MV Rena me te paenga o te Taioma, ā, me te pokea e ngā mahi hī ika i whakarerekēhia ai te āhua tūturu.</i></p> <p>Natural reefs, islands and rocks within an area washed and sustained by the Pacific Ocean. Some wreckage and debris as a</p>	<p>1 <i>E huhua ana te tini a Tangaroa i te Pāpāmoana me te moana, otirā he maha, he kanorau.</i></p> <p>An abundance of biological life exists in the seabed and ocean surrounding the reefs which is characterised by relatively high populations and diversity.</p> <p>2 <i>I waho atu i te taha moana ko ngā toka me te nohoanga o ngā momo ika maha, arā ko ngā uri a Tangaroa e noho ana i te Pāpāmoana.</i></p> <p>Further out from the foreshore are</p>	<p>1 <i>Kāore he whakarerekētanga o ngā ngaru o te moana, te rere o te wai, te ia rānei o Tangaroa me ngā tauira kawenga parataiao o te Rohe Moana.</i></p> <p>No modification to the natural wave action, water movements or currents of the open coastal water body and sediment transport patterns surrounding Motiti.</p> <p>2 <i>He tino kaha te pātuki o ngā ngaru ki te Rohe Moana. I ngā wāhi pāpaku he kōhatu mai i ngā kirikiri, i ngā wai hōhonu he putunga</i></p>	<p><i>Kāore i te hāngai. Does not apply</i></p>	<p>1 <i>Ko te whakaaro he wāhi moana tūturu, pūnaha tokarāranqi i pā kinohia e te paenga o te Rena, me ngā ipu nui me ngā parataiao.</i></p> <p>Perceptions are of a natural marine area, reef system impacted by the Rena wreckage, containers and debris.</p> <p>2 <i>Ko te āhuatanga o te wai tai he riporipo tōna tohu ki te tangata i uta mā te ahunga me te kaha o te rere o te wai – mā te tae, te reka, me te rongō i te ahunga o te hau.</i></p>



<u>Aro i te Moana - Marine Natural Character Assessment</u>				<u>Ngā āhuatanga motuhake - Attributes (with elements that enhance or diminish natural character)</u>			
<u>Te Ingoa o te Wāhi</u>	<u>Ko te toitū o ngā āhuatanga taketake o te wāhi</u>	<u>He pitopito kōrero mō ngā āhuatanga o te wāhi</u>	<u>Ko ngā mana atua, mana tangata hoki i pū mai ai ngā āhuatanga taketake</u>	<u>Te Wai tai - Takutai Moana Coastal Water &amp; Seabed</u>		<u>Te Korowai o Papatūānuku me ōna āhuatanga ahurei</u>	<u>Ngā āhuatanga tuku iho</u>
<u>Name of site</u>	<u>Level of Natural Character</u>	<u>General description of the area</u>	<u>Elements that describe natural character</u>	<u>Marine biotic processes</u>	<u>Marine abiotic processes</u>	<u>Landcover &amp; Use Terrestrial Biotic</u>	<u>Perceptual</u>
<u>assessed for Astrolabe, AR – above the 75m contour, Motohaku Island (SCH), Motonau Island, MŌTŪ and Motiti Island margin (Motiti) in appendix J and identified in Map 21.</u>	<u>tūturu o ngā wāhi motuhake o te rohe taha moana. Site specific examination is recommended to determine the natural character of specific areas of the coastal marine area.</u>	<u>of Plenty renders the sense of its remoteness. Nā te noho wehe o Motiti i roto i te Moana a Toi ka noho pāmamao mai. 3 E mōhio whānuitia ana ko te Rohe Moana te 'pātaka kai' o te huhua o ngā uri a Tangaroa. The Motiti Natural Environment area is renowned as a 'food cupboard' for its abundant marine life.</u>	<u>result of the grounding of the MV Rena, the Taioma wreck and fishing pressure modify natural character. 2 Ngā Tauranga tia kukume o te hukarere o ngā Aturere. The anchors that connect to the winds and tides, pathway of the yellow-fin tuna. 3 Ko te hononga o te whenua ki ngā tokarāranqi; ko te wai moana e herehere katoa ana i ēnei. Ko te wai e pā ana ki Motiti ko taua wai anō o ngā motu iti me ngā tokarāranqi. Ko te wai moana e papaki ana i ngā</u>	<u>the breeding rocks and habitat of the many species of fish which are the descendants of Tangaroa who occupy the sea floor. 3 He maha ngā tokarāranqi me ngā wāhi whakahirahira, nohoanga hoki mō ngā tino momo, arā – Tāmure; Kahawai; Maomao; Tarakihi; Moki; Araara; Parore; Haku; Aturere; Kupu; Kumukumu; Patikirori; Mango; Wheke; Kōura; Pāua; Kuku; Tipa; Tio; Kina; Rori; Karengo. There are numerous</u>	<u>parataiao me ngā rauti mai i te whenua. The Motiti Natural Environment area is affected by a moderately high wave-energy environment. Near-shore substrate is coarser than deeper waters which tend to accumulate sediments and finer grained materials from land. 3 He whakarerekētanga nā te paenga o te Rena, ngā para me ngā kino o ngā parataiao. Some modification due to the presence of Rena wreckage, debris and sediment</u>		<u>The tidal waters are characterised by the rippling currents signalling to the people in the land through the direction and strength of flow – through the colour, through the taste, and feel of the direction of the wind. 3 Ko te tirohanga atu he pūnaha tūturu me ngā tauira tūturu, whakahaere me ngā āhuatanga e mārara ana, e noho rerekē ana i ētahi atu wāhi. Perceptions are of a natural system with natural patterns, processes and elements</u>



<u>Aro i te Moana - Marine Natural Character Assessment</u>				<u>Ngā āhuatanga motuhake - Attributes (with elements that enhance or diminish natural character)</u>			
<u>Te Ingoa o te Wāhi</u>	<u>Ko te toitū o ngā āhuatanga taketake o te wāhi</u>	<u>He pitopito kōrero mō ngā āhuatanga o te wāhi</u>	<u>Ko ngā mana atua, mana tangata hoki i pū mai ai ngā āhuatanga taketake</u>	<u>Te Wai tai - Takutai Moana Coastal Water &amp; Seabed</u>		<u>Te Korowai o Papatūānuku me ōna āhuatanga ahurei</u>	<u>Ngā āhuatanga tuku iho</u>
<u>Name of site</u>	<u>Level of Natural Character</u>	<u>General description of the area</u>	<u>Elements that describe natural character</u>	<u>Marine biotic processes</u>	<u>Marine abiotic processes</u>	<u>Landcover &amp; Use Terrestrial Biotic</u>	<u>Perceptual</u>
			<p><u>motu iti me ngā tokarāangi ko taua wai moana anō e pari ana ki ngā motu iti me ngā tokarāangi. Kāore e uru mai ana he wai rerekē.</u></p> <p>It is a <u>connectedness of the natural landscape features, the small islands and the reefs; it is the ocean water which binds them together. The ocean water that touches Motiti is the same water that touches the small islands and the reefs. There is no different water entering the area.</u></p> <p>4 <u>Ko ngā āhuatanga moana me te</u></p>	<p><u>significant reefs and special places and habitats for many prized species including – Tamure (snapper); Kahawai; Maomao; Tarakihi; Moki; Araara (trevally); Parore; Haku (yellow-tail Kingfish); Aturere (tuna); Kuparu (John Dory); Kumukumu (gurnard); Patikirori (sole); Mango (sharks); Wheke (octopus); Koura (crayfish); Paua (abalone); Kuku (mussels); Tipa (scallops); Tio (oysters); Kina (urchins); Rori (sea cucumbers); Karengo</u></p>	<p><u>contamination.</u></p>		<p><u>apparent and distinctive of its formation.</u></p>



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<u>Te Ingoa o te Wāhi</u>	<u>Ko te toitū o ngā āhuatanga taketake o te wāhi</u>	<u>He pitopito kōrero mō ngā āhuatanga o te wāhi</u>	<u>Ko ngā mana atua, mana tangata hoki i pū mai ai ngā āhuatanga taketake</u>	<u>Te Wai tai - Takutai Moana Coastal Water &amp; Seabed</u>		<u>Te Korowai o Papatūānuku me ōna āhuatanga ahurei</u>	<u>Ngā āhuatanga tuku iho</u>
<u>Name of site</u>	<u>Level of Natural Character</u>	<u>General description of the area</u>	<u>Elements that describe natural character</u>	<u>Marine biotic processes</u>	<u>Marine abiotic processes</u>	<u>Landcover &amp; Use Terrestrial Biotic</u>	<u>Perceptual</u>
			<p><u>pupuhi o te hau, ngā ngaru, te rere o te wai, ngā ia, ngā ika me ngā manu.</u></p> <p>Dynamic coastal processes including wind and wave action, water movements, currents, fish and bird life.</p> <p><u>5 Ko te taiao tūturu e tino kitea ana.</u></p> <p>The natural environment dominates.</p>	<p>(seaweeds).</p> <p><u>4 E pā kinohia ana te tini a Tangaroa me ngā rauropi e ngā ahumahi hī ika me te nui haere o te hunga hī ika.</u></p> <p>Populations and biomass are severely impacted and threatened by commercial fishing and increasing recreational and charter fishing.</p> <p><u>5 Kei te Rohe Moana te oranga mō ngā manu moana me ngā manu whenua.</u></p> <p>The Motiti Natural Environment area supports a range of seabirds and shorebirds.</p>			



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<u>Te Ingoa o te Wāhi</u>	<u>Ko te toitū o ngā āhuatanga taketake o te wāhi</u>	<u>He pitopito kōrero mō ngā āhuatanga o te wāhi</u>	<u>Ko ngā mana atua, mana tangata hoki i pū mai ai ngā āhuatanga taketake</u>	<u>Te Wai tai - Takutai Moana Coastal Water &amp; Seabed</u>		<u>Te Korowai o Papatūānuku me ōna āhuatanga ahurei</u>	<u>Ngā āhuatanga tuku iho</u>
<u>Name of site</u>	<u>Level of Natural Character</u>	<u>General description of the area</u>	<u>Elements that describe natural character</u>	<u>Marine biotic processes</u>	<u>Marine abiotic processes</u>	<u>Landcover &amp; Use Terrestrial Biotic</u>	<u>Perceptual</u>
<u>ngā Tokararangī ko Okarapu, ko te Porotiti, ko Te Papa, Okarapu (reef) (Oka), Te Porotiti (reef) (TePo), Te Papa (reef) (Papa). Map 21a</u>	<u>Kohure Outstanding</u>	<u>1 Ka ara mai ēnei tokarārangī mai i te Pāpāmoana i ngā wai 40-50m te hōhonu ki te 30 me te 10m ki raro. Ka huihui mai ngā ika ki te kai, he nui te toiora moana e noho ana ki ngā nohoanga kanorau, haumako hoki o ngā tokarārangī. These rocky reefs rise from the sea floor in water 40-50m deep to between 30 and 10m depth. Fish congregate to feed on the relative abundance of marine life supported by the diverse and rich</u>	<u>1 He pērā anō mō te Rohe Moana i runga ake. As for Natural Environment Area above.</u>	<u>I tua atu i ngā whakamāramatanga mō te Rohe Moana (i runga ake) ka whakapikihia e ēnei kaupapa e whai ake te āhua tūturu: In addition to the descriptions for Motiti Natural Environment Area (above) the following elements increase natural character: 1 He tino ora ngā wai o te taha moana, ā, ko ōna tokarārangī te nohoanga o ngā momo ika rerekē o te papa me roto i te moana, ngā tipu moana me ngā rauropi i raro i te moana. Highly dynamic coastal waters with reefs supporting a</u>	<u>I tua atu i ngā whakamāramatanga mō te Rohe Moana (i runga ake) ka whakapikihia e ēnei kaupapa e whai ake te āhua tūturu: In addition to the descriptions for Motiti Natural Environment (above) the following elements increase natural character: 1 Ko te whakaaro he wāhi moana tūturu, pūnaha tokarārangī i pā kinohia e te paenga o te Rena, ngā ipu nui me ngā parataiao. Perceptions are of a natural marine area, reef system impacted by the Rena wreckage, containers and debris. 2 Ko te āhuatanga o</u>	<u>1 Kāore i te hāngai. Does not apply</u>	<u>1 Te tukituki o ngā ngaru i ngā tokarārangī. Ko te pupuhatanga o te wai te tohu o te pūnaha tokarārangī mai i runga o te moana. Breaking waves across the reef outcrops. Spectacular water spouts provide visual evidence of reef system from the surface of the water. 2 He pātaka kai ngā tokarārangī, ā, e mōhiotia ana he mātāpuna oranga. The reefs are perceived as a food storehouse and is experienced as a</u>



<u>Aro i te Moana - Marine Natural Character Assessment</u>				<u>Ngā āhuatanga motuhake - Attributes (with elements that enhance or diminish natural character)</u>			
<u>Te Ingoa o te Wāhi</u>	<u>Ko te toitū o ngā āhuatanga taketake o te wāhi</u>	<u>He pitopito kōrero mō ngā āhuatanga o te wāhi</u>	<u>Ko ngā mana atua, mana tangata hoki i pū mai ai ngā āhuatanga taketake</u>	<u>Te Wai tai - Takutai Moana Coastal Water &amp; Seabed</u>		<u>Te Korowai o Papatūānuku me ōna āhuatanga ahurei</u>	<u>Ngā āhuatanga tuku iho</u>
<u>Name of site</u>	<u>Level of Natural Character</u>	<u>General description of the area</u>	<u>Elements that describe natural character</u>	<u>Marine biotic processes</u>	<u>Marine abiotic processes</u>	<u>Landcover &amp; Use Terrestrial Biotic</u>	<u>Perceptual</u>
		<p>reef habitats.</p> <p><u>2 He maha ngā āhuatanga hira me ngā tokatū moana i raro i te moana, pēnei i ngā tokarāranqi, ngā taunga ika me ngā kai moana.</u></p> <p>There are many significant features and landmarks below sea level including reefs, fishing spots and food resources.</p>		<p>variety of pelagic and demersal fish species, macrophytes and benthic organisms.</p> <p><u>2 He maha ngā momo ika rerekē me ētahi atu momo a Tangaroa e tino huhua ana, rerekē hoki.</u></p> <p>A wide variety of representative fish species and other marine communities with relatively high abundance and diversity.</p>	<p><u>te wai tai he riporipo, ā, koinei te tohu ki te tangata i uta mā te ahunga me te kaha o te rere o te wai – mā te tae, te reka, me te rongo i te ahunga o te hau.</u></p> <p>The tidal waters are characterised by the rippling currents signalling to the people in the land through the direction and strength of flow – through the colour, through the taste, and feel of the direction of the wind.</p> <p><u>3 Ko te tirohanga atu he pūnaha tūturu me ngā tauira tūturu, whakahaere me ngā āhuatanga e mārāma ana, e noho rerekē ana i</u></p>		<p>source of sustenance.</p> <p><u>3 He wāhi e haerehia ana ngā tokarāranqi, he tino pai mō te ruku me te hī ika, atu i tēnei he wāhi tino pāmamao.</u></p> <p>Some level of activity around the reefs, as popular dive and fishing locations, otherwise a high level of remoteness exists within the area.</p> <p><u>4 He Papa hi ika, mataitai, taunga ika mo nga hapu o te Moutere o Motiti.</u></p> <p>There are many significant features and landmarks below sea level</p>



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<u>Te Ingoa o te Wāhi</u>	<u>Ko te toitū o ngā āhuatanga taketake o te wāhi</u>	<u>He pitopito kōrero mō ngā āhuatanga o te wāhi</u>	<u>Ko ngā mana atua, mana tangata hoki i pū mai ai ngā āhuatanga taketake</u>	<u>Te Wai tai - Takutai Moana Coastal Water &amp; Seabed</u>		<u>Te Korowai o Papatūānuku me ōna āhuatanga ahurei</u>	<u>Ngā āhuatanga tuku iho</u>
<u>Name of site</u>	<u>Level of Natural Character</u>	<u>General description of the area</u>	<u>Elements that describe natural character</u>	<u>Marine biotic processes</u>	<u>Marine abiotic processes</u>	<u>Landcover &amp; Use Terrestrial Biotic</u>	<u>Perceptual</u>
					<p><u>ētahi atu wāhi.</u> Perceptions are of a natural system with natural patterns, processes and elements apparent and distinctive of its formation.</p> <p>4 <u>Ka whakarei ake te rere o te wai i ngā tokarārangī i te āhua tūturu.</u> Water movement around the reefs enhance natural character.</p> <p>5 <u>Ka noho māori tonu te hanganga o ngā tokarārangī. E tohu ana te takoto o ngā toka i tōna waihangatanga mai i ngā mahi puia me te moana.</u> E tohu ana ngā tīhi, ngā mata</p>		including reefs, fishing spots and food resources utilised by the people of Motiti.



<u>Aro i te Moana - Marine Natural Character Assessment</u>				<u>Ngā āhuatanga motuhake - Attributes (with elements that enhance or diminish natural character)</u>			
<u>Te Ingoa o te Wāhi</u>	<u>Ko te toitū o ngā āhuatanga taketake o te wāhi</u>	<u>He pitopito kōrero mō ngā āhuatanga o te wāhi</u>	<u>Ko ngā mana atua, mana tangata hoki i pū mai ai ngā āhuatanga taketake</u>	<u>Te Wai tai - Takutai Moana Coastal Water &amp; Seabed</u>		<u>Te Korowai o Papatūānuku me ōna āhuatanga ahurei</u>	<u>Ngā āhuatanga tuku iho</u>
<u>Name of site</u>	<u>Level of Natural Character</u>	<u>General description of the area</u>	<u>Elements that describe natural character</u>	<u>Marine biotic processes</u>	<u>Marine abiotic processes</u>	<u>Landcover &amp; Use Terrestrial Biotic</u>	<u>Perceptual</u>
					<p><u>kōhatu poutū, ngā ana me ngā toma i raro moana me ngā toka nui i ngā mahinga tūturu.</u></p> <p>The physical structure of the reefs remain in a natural state. Rock formations are expressive of the formative natural processes created by volcanic activity and the ocean.</p> <p>Pinnacles, vertical rock faces, underwater caves and tomes and large boulders are distinctive of the natural processes.</p> <p>6 <u>He wai tai tino akiaki i ngā tihī, i puta ai ngā hanganga tokarāangi whakameremere, ngā ana me ngā</u></p>		



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<u>Te Ingoa o te Wāhi</u>	<u>Ko te toitū o ngā āhuatanga taketake o te wāhi</u>	<u>He pitopito kōrero mō ngā āhuatanga o te wāhi</u>	<u>Ko ngā mana atua, mana tangata hoki i pū mai ai ngā āhuatanga taketake</u>	<u>Te Wai tai - Takutai Moana Coastal Water &amp; Seabed</u>		<u>Te Korowai o Papatūānuku me ōna āhuatanga ahurei</u>	<u>Ngā āhuatanga tuku iho</u>
<u>Name of site</u>	<u>Level of Natural Character</u>	<u>General description of the area</u>	<u>Elements that describe natural character</u>	<u>Marine biotic processes</u>	<u>Marine abiotic processes</u>	<u>Landcover &amp; Use Terrestrial Biotic</u>	<u>Perceptual</u>
					<u>rua kōura.</u> Highly dynamic coastal waters around the pinnacles, creating striking reef structures, caves and crayfish holes. <u>7 Ka rangona i ngā tihi maunga o te Rohe Moana me ōna tokarāranqi ko Okarapu, Te Porotiti, Te Papa, me Tokeroa.</u> The mountain pinnacles of the Motiti Natural Environment Area are experienced with their reefs as Okarapu, Te Porotiti, Te Papa, and Tokeroa.		





## Areas of Significant Cultural Value

<u>Site Number</u>	<u>Site Name</u>	<u>Description</u>
<u>ASCV 25</u>	<u>Motiti Island and Associated Islands/Reefs and Shoals</u>	<p><u>Tāngata whenua of Motiti are Ngāi te Hapū, Te Patuwai and Te Whānau a Tauwhao ki Motiti.</u></p> <p><u>Motiti Island has a long history of Maioriori and Māori occupation beginning from the ancient ‘Uru’ ancestors and the arrival of the ancestral migration canoe, Te Arawa waka haurua, which landed at Maketū directly on-shore from Motiti. The first occupant was the esteemed Tohunga, Ngatoroirangi who named the parts of the island and lived there with Waitaha descendants.</u></p> <p><u>There are 30 distinct pā sites, 18 settlements and 20 ancient monuments that are situated throughout Motiti Island and the seabed and foreshore. These areas are located and coded in the “Motiti Island Native/Cultural Policy Management &amp; Administration Plan 2012”; however, the detailed cultural and historical data information regarding wāhi tapu and wāhi taonga is found in the Cultural Heritage Wāhi Tapu document held exclusively in the care of “Korowai Kāhui o Te Patuwai Native Tribal Council”. Access to this information is restricted.</u></p> <p><u>Motiti Island Management Plan identifies the reefs surrounding Motiti as mahinga kai, the fish species that was harvested and their cultural and spiritual significance.</u></p> <p><u>The seabed and foreshore boundaries of Ngāti Te Hapū extend out to seven significant historical ocean landmarks anchored to the bottom of the ocean floor. This relates to a proverb that link together the territorial boundary of Moutere o Motuiti.</u></p> <p><u>Ngā Tauranga tai kukume o te hukarere o ngā Aturere (the anchors that connect to the wind and the tides – that pathway of Aturere). Significant wāhi tapu heritage sites are located within the seabed and foreshore boundaries. Sites in the coastal marine area in close proximity to Motiti Island are identified in Appendix 3 to the Motiti Island Environmental Management Plan (MIEMP) and have the same reference point listed below (e.g. A1). Other wāhi tapu sites in the coastal marine area are identified in the Motiti Island Native/Cultural Policy Management &amp; Administration Plan and have the same reference (e.g. VX14). As part of the appeal process further Wāhi tapu sites were added from evidence provided (e.g. VMX21). These sites have been spatially identified in a map attached to this Schedule16B referenced as Motiti Natural Environment Management Area – Values and Attributes.</u></p>



<u>Traditional area of foreshore and seabed</u>	<u>Reference used in MIEMP</u>	<u>Traditional name of site</u>	<u>Nature of site (wāhi tapu wāhi taonga)</u>
<u>Otungahoro Bay, Motiti north</u>	<u>A1</u>	<u>Otungahoro</u>	<u>Toka of cultural and spiritual significance. Linked to Ahurewa o Marumaru toka.</u>
<u>Marumaru Bay, Motiti north</u>	<u>A2</u>	<u>Ahurewa o Marumaru (Te Rikarika rock)</u>	<u>Toka atua mana. Associated with: Te Maamangi, Koopu whakaairi.</u>
<u>Tumu Bay, Motiti north</u>	<u>A4</u>	<u>Toka o Moropu</u>	<u>Toka atua mana. Rock in the Tumu Bay.</u>
	<u>A5</u>	<u>Toka a Puwhatawhata</u>	<u>Cultural and spiritual observation platform for rituals.</u>
<u>Orongongatea Bay in an area known as “he kāinga tuturu o ngā tipuna” (sacred domain of the ancient ancestors)</u>	<u>A11</u>	<u>Te Ringa Moko Papaki o Tutarehia</u>	<u>Toka ao wairua. Rocks of high spiritual and cultural significance. Associated places: Te Kawakawa (Omahine).</u>
<u>Rotoharekeke Point, Motiti west</u>	<u>A12</u>	<u>Onuku Kino</u>	<u>Toka mana atua. Cultural site for Māori atua. Te haruharu o nuku kino ki te moana o pu maomao.</u>
<u>Wairere Bay, Motiti south</u>	<u>A15</u>	<u>Hani</u>	<u>Toka mana atua. Rock off-shore from Wairere Bay.</u>
<u>Parehua Upanepane o Matarehua</u>	<u>A16</u>	<u>Parehua Upanepane o Matarehua</u>	<u>Pa on Taumaihi Island. Important burial place of Te Hapu and his son Roropukai. Pa of Ngatoroirangi.</u>



		<u>Otuhoka Bay, Motiti south</u>	<u>A17</u>	<u>Toka tapu</u>	<u>Toka rere wairua, toka mana atua.</u> <u>Toka of Māori spirits and gods.</u>
			<u>A18</u>	<u>Toku Tai</u>	<u>Traditional marker . Toka here – toka Tauranga waka. Canoe anchorage area.</u>
		<u>Wairanaki Bay, Motiti northwest</u>	<u>A20</u>	<u>Muirtai</u>	<u>Toka tipua, toka mana atua.</u> <u>Highly significant cultural spiritual sacred rock.</u>
	<u>A21</u>		<u>Tahau</u>	<u>Cultural and spiritual observation platform.</u> <u>Associated toka: Muriwai, Takahuri, Horete, Tohu o Punui and Mauao.</u>	
	<u>A24</u>		<u>Takahuri</u>	<u>Cultural and spiritual observation platform.</u> <u>Associated with Tahau.</u>	
		<u>Huruhi Bay, Motiti east</u>	<u>A30</u>	<u>Motu Arua</u>	<u>Toka ao wairua (spiritual world).</u> <u>Cultural and spiritual observation platform.</u> <u>Associated with: Huruhi, Waewae.</u>
		<u>Okoroa Bay, Motiti west</u>	<u>A31</u>	<u>Manukakawhati</u>	<u>Taonga tukuiho.</u> <u>Rock pointer; determine summer solstice.</u>
		<u>Te Maamangi (MPA 1)</u>	<u>VX12</u>	<u>Otaiti</u>	<u>Toka tipua.</u> <u>Reef; traditional landmark “rapara o te kopu whakaari”; perform spiritual rituals that connect to the island.</u>
		<u>o Karapū</u>	<u>VX13</u>	<u>o Karapū</u>	<u>Toka tipua.</u>



				<u>Includes Te Papa reef</u>	<u>Reef; traditional marker “rapara o te kopu whakaari”; perform spiritual rituals that connect to the island.</u>
		<u>Omaroa</u>	<u>VX14</u>	<u>Omaroa, part of wider area referred to as Okani</u>	<u>Taonga tukuiho. Reef; traditional land markers</u>
		<u>Ru o Tāne</u>	<u>VX15</u>	<u>Rua o Tāne part of a wider area that includes Matarehua</u>	<u>Taonga tukuiho. Reef; traditional marker.</u>
		<u>Mataraakiitia</u>	<u>VX16</u>	<u>Mataraakiitia</u>	<u>Tino tapu. Reef; traditional marker; battle site where many people lost their lives</u>
		<u>Tokoroa</u>	<u>VX17</u>	<u>Tokoroa</u>	<u>Toka tipua. Reef; heritage site links to star navigation – a traditional marker that forms part of the ancient equilateral triangle that connects Motiti Island and Maketū.</u>
		<u>Motu Haku</u>	<u>VX19</u>	<u>Mōtū Haku</u>	<u>Toka tipua. Island; traditional marker “raparapa ki te whaka rii o te ra”; spiritual rituals connect the rising sun; is a monument/reference to the departure of the ancestors.</u>
		<u>Okani</u>	<u>VX20</u>	<u>Okani</u>	<u>Taonga tukuiho. Reef; traditional land markers</u>



		<u>Manukakawhati</u>	<u>VMX21</u>	<u>Manukakawhati</u>	<u>Rock pointer to determine the summer solstice.</u>
		<u>Nukutai reef</u>	<u>VXM22</u>	<u>Nukutai reef</u>	<u>Part of the Motiti Island Reef system A75 ONF 44</u>
		<u>Otawahao</u>	<u>VXM23</u>	<u>Otawahao</u>	<u>Taonga tukuiho. Reef; traditional land markers</u>
		<u>Te Haupapa Tiotio</u>	<u>VXM24</u>	<u>Haupapa Titotio</u>	<u>Traditional marker to identify the arrival of the northern tropical tides.</u>
		<p><u>Otāiti is a reef within an area culturally known as Te Maamangi of particular cultural and spiritual significance to Te Patuwai, Ngāti Whakahemo, Ngāti Te Hapū and Ngāti Awa. The source of the mauri (spiritual essence) of Otāiti stems from ancient 'Uru' ancestors and rituals performed by the (high priest) of Te Arawa waka haurua Ngatoroirangi, who spent his last years at Motiti Island. Otaiti is a significant historical site of Te Arawa and is connected to the ancestor tohunga Ngatoroirangi who gave it its name. Otaiti marks the outer gateway to the moana o Te Arawa. It is connected to the geothermal pathways discovered by Ngatoroirangi.</u></p> <p><u>Te Patuwai, the hapū on Motiti Island (of Mataatua waka origins) continue to regard Otāiti as a toka tipua (reef imbued with spiritual and sacred qualities) alongside Mōtū Haku Island to the north east that holds the same status. Otāiti, Mōtū Haku and the Oromai Tāngata ancient rock monuments, that link to a spiritual rock at the rear of Motiti Island named Kopu Whakaari, with the same reverence iwi and hapū on the mainland have towards their maunga or mountain. These areas are also a significant traditional fisheries "kāinga mahinga ika and mahinga mataitai".</u></p>			
<u>ASCV 9</u>	<u>Motunau (Plate) Island</u>	<u>Motunau Island is a Māori-owned wildlife sanctuary protected under the Wildlife Act 1953 – gazetted under the Wildlife Sanctuary (Motunau Island) Order 1969. It is rated as a site of Special Wildlife Interest.</u>			



		<p><u>Motunau Island traditionally was a mahinga kai area within living memory, Tītī (mutton bird) was taken from the island. The rotation of harvesting enabled whānau and hapū access. Although the numbers of Tītī from Motunau were never in large numbers as those taken from Whakaari Island, they were nonetheless an important local mahinga kai and had significant cultural value to Ngāti Whakahemo whānau and hapū.</u></p> <p><u>Motunau Island remains in the ownership of Ngāti Whakahemo whānau. It is administered by DoC and three kaitiaki of Ngāti Whakahemo Iwi. Motunau is of high heritage significance to Ngāti Whakahemo as it is part of their ‘pātaka kai’.</u></p> <p><u>Taonga tukuiho - this site is linked to the study of stars – the road map to the Pacific Ocean.</u></p>
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Indigenous Biodiversity Area Attributes

<u>Indigenous Biological Diversity Area A</u>	<u>New Zealand Threat Status*</u> = <u>NZCPS Policy 11(a)(i)</u>	<u>International Threat Status*</u> = <u>NZCPS Policy 11(a)(ii)</u>	<u>Threatened or rare ecosystems and vegetation types</u> = <u>NZCPS Policy 11(a)(iii)</u>	<u>Habitat of indigenous species at limit of natural range or rare</u> = <u>NZCPS Policy 11(a)(iv)</u>	<u>Nationally significant area</u> = <u>NZCPS Policy 11(a)(v)</u>	<u>Biodiversity values protected by legislation</u> = <u>NZCPS Policy 11(a)(vi)</u>
<u>Motiti Island</u> <u>IDBA-A75</u>	<u>Flora:</u> <u>Lepidium oleraceum (Threatened – Nationally Vulnerable),</u> <u>New Zealand smpinacn (At Risk-Naturally Uncommon).</u> <u>Avifauna:</u>	<u>Kākā (Endangered).</u>	<u>Pohutukawa forest and treeland, coastal cliffs, and Sandfields.</u>		<u>Regionally significant</u>	<u>Unprotected</u>



<u>Indigenous Biological Diversity Area A</u>	<u>New Zealand Threat Status*</u> - <u>NZCPS Policy 11(a)(i)</u>	<u>International Threat Status*</u> - <u>NZCPS Policy 11(a)(ii)</u>	<u>Threatened or rare ecosystems and vegetation types</u> - <u>NZCPS Policy 11(a)(iii)</u>	<u>Habitat of indigenous species at limit of natural range or rare</u> - <u>NZCPS Policy 11(a)(iv)</u>	<u>Nationally significant area</u> - <u>NZCPS Policy 11(a)(v)</u>	<u>Biodiversity values protected by legislation</u> - <u>NZCPS Policy 11(a)(vi)</u>
	<u>Caspian tern (Threatened – Nationally Vulnerable),</u> <u>North Island kākā (Threatened – Nationally Vulnerable),</u> <u>Pied Shag (Threatened – Nationally Vulnerable),</u> <u>White-fronted tern (At Risk-Declining),</u> <u>Northern diving petrel (At Risk-Relict),</u> <u>Variable oystercatcher (At Risk – recovering).</u>					
<u>Astrolabe Reef</u> <u>IDBA-A76</u>			<u>Ecosystem uncommon in NZ as it has both tropical fish and a strong pelagic school fish component.</u> <u>Coastal rock stack ecosystems (pinnacles) are naturally rare ecosystems in New Zealand.</u>		<u>Regionally significant</u>	<u>Unprotected.</u>



<u>Indigenous Biological Diversity Area A</u>	<u>New Zealand Threat Status*</u> - <u>NZCPS Policy 11(a)(i)</u>	<u>International Threat Status*</u> - <u>NZCPS Policy 11(a)(ii)</u>	<u>Threatened or rare ecosystems and vegetation types</u> - <u>NZCPS Policy 11(a)(iii)</u>	<u>Habitat of indigenous species at limit of natural range or rare</u> - <u>NZCPS Policy 11(a)(iv)</u>	<u>Nationally significant area</u> - <u>NZCPS Policy 11(a)(v)</u>	<u>Biodiversity values protected by legislation</u> - <u>NZCPS Policy 11(a)(vi)</u>
<u>Motunau (Plate Island)</u> <u>IDBA-A77</u>	<u>Avifauna:</u> <u>Reef heron (Threatened – Nationally Vulnerable),</u> <u>Pied shag (Threatened – Nationally Vulnerable),</u> <u>Red-billed gulls (Threatened – Nationally Vulnerable),</u> <u>Northern little blue penguin (At Risk – declining),</u> <u>White-fronted tern (At Risk – Declining),</u> <u>Fluttering shearwater (At risk – Relict),</u> <u>New Zealand white-faced storm petrel (At Risk – Relict),</u> <u>Northern diving petrel (At Risk – Relict).</u> <u>Herpetofauna:</u> <u>Pacific gecko (At Risk – Relict),</u> <u>Northern tuatara (At Risk – Relict).</u>		<u>High quality examples of indigenous vegetation on an offshore island.</u>		<u>Nationally Significant</u>	<u>Protected (Plate Island Wildlife Sanctuary, Department of Conservation).</u>
<u>Motunau (Plate Island) – marine area</u>	<u>Fluttering shearwater (At Risk – Relict),</u> <u>White-fronted tern (At Risk – Declining).</u>		<u>Regionally threatened ecosystem containing surface</u>		<u>Nationally significant</u>	



<u>Indigenous Biological Diversity Area A</u>	<u>New Zealand Threat Status*</u> - <u>NZCPS Policy 11(a)(i)</u>	<u>International Threat Status*</u> - <u>NZCPS Policy 11(a)(ii)</u>	<u>Threatened or rare ecosystems and vegetation types</u> - <u>NZCPS Policy 11(a)(iii)</u>	<u>Habitat of indigenous species at limit of natural range or rare</u> - <u>NZCPS Policy 11(a)(iv)</u>	<u>Nationally significant area</u> - <u>NZCPS Policy 11(a)(v)</u>	<u>Biodiversity values protected by legislation</u> - <u>NZCPS Policy 11(a)(vi)</u>
<u>IDBA-A78</u>			<u>schooling trevally, kahawai and blue maomao. Trevally and kahawai schools are usually accompanied by fluttering shearwater and white fronted terns. Contains a rift in the middle of the island containing a range of deep water species in shallow water (less than 5 metres). Species include cup sponges, hydroids and bryozoans. This is the only example in the Bay of Plenty region.</u>			
<u>Motuputa Island</u> <u>IDBA-A79</u>	<u>Flora: Cook's scurvy grass (Threatened – Nationally Vulnerable) (1994).</u>		<u>Highest quality offshore rock stack in Motiti Ecological District.</u>		<u>Regionally significant</u>	<u>Unprotected.</u>



<u>Indigenous Biological Diversity Area B</u>	<u>New Zealand Threat Status*</u> - <u>NZCPS Policy 11(b)(i)</u>	<u>International Threat Status*</u> - <u>NZCPS Policy 11(b)(ii)</u>	<u>Threatened or rare ecosystems and vegetation types</u> - <u>NZCPS Policy 11(b)(iii)</u>	<u>Habitat of indigenous species at limit of natural range or rare</u> - <u>NZCPS Policy 11(b)(iv)</u>	<u>Nationally significant area</u> - <u>NZCPS Policy 11(b)(v)</u>	<u>Biodiversity values protected by legislation</u> - <u>NZCPS Policy 11(b)(vi)</u>
<u>Motiti Islets</u> <u>IBDA B132</u>	<u>Coastal herbfields, pohutukawa-karo treeland and coastal rockland.</u>		<u>Coastal herbfields, pohutukawa-karo treeland and coastal rockland.</u>			
<u>Taumaihi Island</u> <u>IBDA B133</u>	<u>Pohutukawa forest, flaxland, bracken fernland and coastal herbfields.</u>		<u>Pohutukawa forest, flaxland, bracken fernland and coastal herbfields.</u>			





*[New Definitions to be inserted in the Definitions section]*

Motiti Protection Area (MPA)            The areas identified in Schedule 16A and on map 43d within which Rules D6A and DD17 apply.

Motiti Natural Environment Management Area (MNEMA)    An area of significance to the tangata whenua of Motiti Island which contains the three Motiti Protection Areas as identified in Schedule 16A and on map 43d

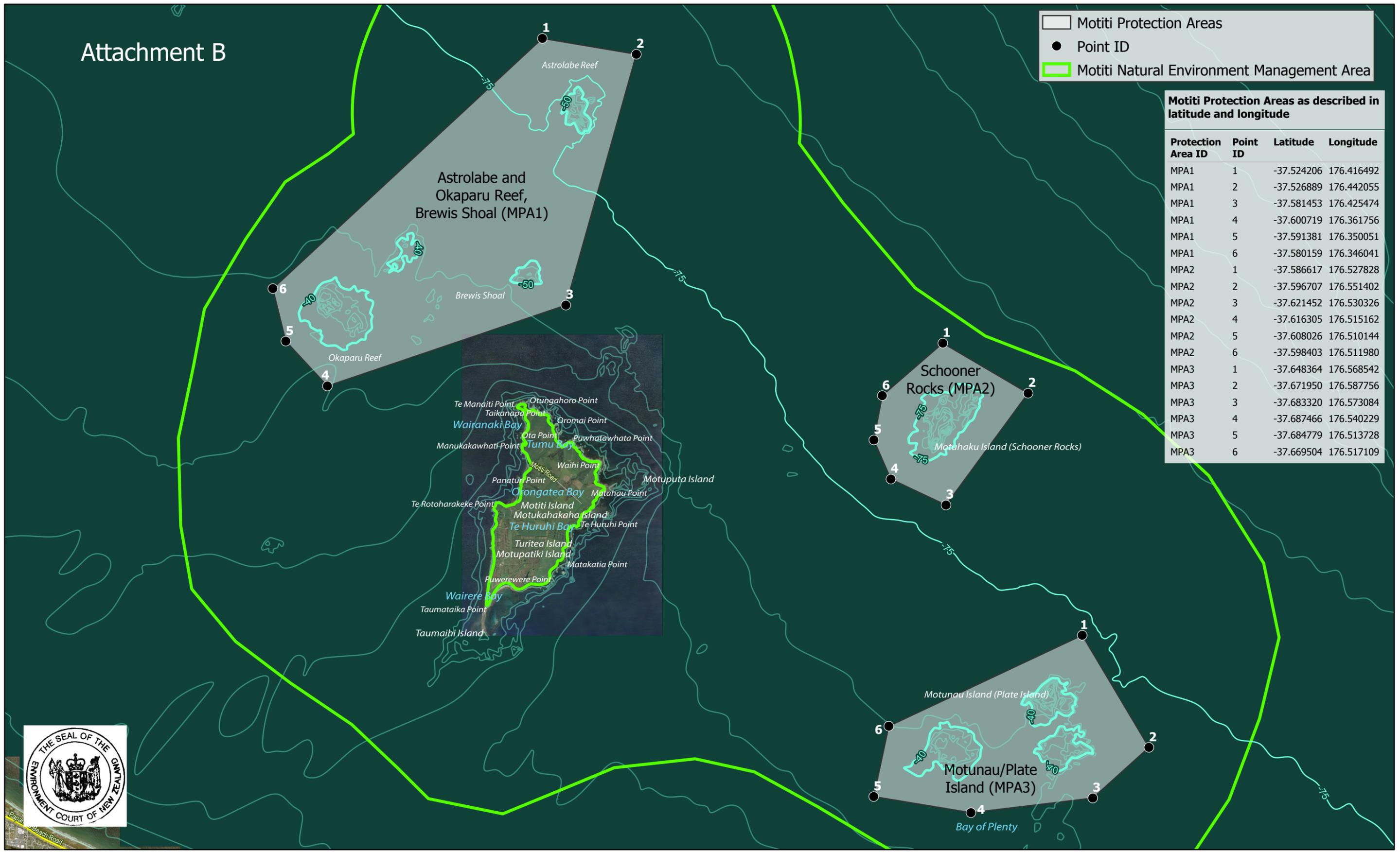


# Attachment B

Motiti Protection Areas  
 Point ID  
 Motiti Natural Environment Management Area

**Motiti Protection Areas as described in latitude and longitude**

Protection Area ID	Point ID	Latitude	Longitude
MPA1	1	-37.524206	176.416492
MPA1	2	-37.526889	176.442055
MPA1	3	-37.581453	176.425474
MPA1	4	-37.600719	176.361756
MPA1	5	-37.591381	176.350051
MPA1	6	-37.580159	176.346041
MPA2	1	-37.586617	176.527828
MPA2	2	-37.596707	176.551402
MPA2	3	-37.621452	176.530326
MPA2	4	-37.616305	176.515162
MPA2	5	-37.608026	176.510144
MPA2	6	-37.598403	176.511980
MPA3	1	-37.648364	176.568542
MPA3	2	-37.671950	176.587756
MPA3	3	-37.683320	176.573084
MPA3	4	-37.687466	176.540229
MPA3	5	-37.684779	176.513728
MPA3	6	-37.669504	176.517109

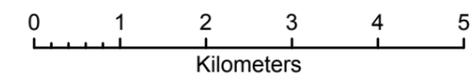


Proposed RCEP data as of published date April 2016

**Projection Information**  
 This map is in the New Zealand Transverse Mercator and uses both Coastal 2014 aerial photography and RDAM 2011 aerial photography.

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## 43d Motiti Protection Areas within Motiti Natural Environment Management Area



# Attachment C

Grace, Trent

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**From:** Jason Pou <pou@tupono.co.nz>  
**Sent:** Tuesday, 20 August 2019 2:55 p.m.  
**To:** Mary Hill; 'hugh.sayers01@gmail.com'; 'rob@publiclaw9.com';  
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'p.anderson@forestandbird.org.nz'; 'Megan Exton'; Rachel Boyte;  
'matt@casey.co.nz'  
**Cc:** Motusaga, Vasa  
**Subject:** RE: ENV-2017-348-000004 Proposed BOP Regional Coastal Environment Plan -  
Marine Spatial Planning

Kia ora Mary.

The position for Ngati Ranginui was set out in Pia's email dated 26 April 2019. I copy its content below:

*Method 19AA was supposed to settle part of the Ranginui appeal on Tangata Whenua Development Zones. It doesn't do that and the latest version dilutes the intent even further by introducing "the community" into a mechanism that was meant for Maori to be able to plan for our 'development' aspirations. No 'community' group raised a similar issue in any appeal so we don't support those additions. The community is already catered for. Maori are not. It's that simple. Please leave it alone if you can't cope with it being a mechanism that provides for Maori. That way, it will have maximum impact as the opening for my thesis where I intend to demonstrate the hegemonic processes and attitudes that exist within RMA processes that all work to diminish the voice and participation of Maori and our rangatiratanga over our taonga.*

As such, while my clients support the proposals of MRMT, they do not agree that the purview of 19AA should necessarily be restrictive and limited to the identification, preservation and protection. If it is to be changed, they prefer the following:

**Method 19AA:** Partner with tangata whenua to progress the establishment of additional spatial mechanisms for the coastal marine area when a proposal is submitted to

- a) assist local authorities to comply with their statutory duties under the Act, including through the implementation of [sections 6\(e\), 7\(a\), and 8](#).
- b) support the maintenance, restoration and rehabilitation of kaimoana and mahinga kai areas;
- c) support the maintenance, restoration and rehabilitation of taonga species and habitats
- d) support the maintenance and development of cultural practices associated with the coastal environment
- e) support the revitalisation of 'disrupted' coastal customary practices and associated tikanga
- f) support the revitalisation and transmission of matauranga Maori
- g) support the maintenance and restoration of cultural seascapes and features
- h) support the exercise of kaitiakitanga in accordance with the relevant tikanga monitoring
- i) preserve natural character of the CMA
- j) properly plan for future cultural opportunities, including development opportunities

In initiating, developing, and implementing Method 19AA, the parties should be guided by the principles of Mana Whakahono a Rohe and use their best endeavours—

- i. to achieve the purpose of Method 19AA in an enduring manner:
- ii. to enhance the opportunities for collaboration, including by promoting—
  - (a) the use of integrated processes;
  - (b) co-ordination of resources required to undertake the obligations and responsibilities of the parties
- iii. to work together in good faith and in a spirit of co-operation:
- iv. to communicate with each other in an open, transparent, and honest manner:



- v. to recognise and acknowledge the benefit of working together by sharing their respective vision and expertise:
- vi. to commit to meeting statutory time frames and minimise delays and costs associated with the statutory processes:

**Advice Note:**

A Schedule 1 process will be required to incorporate any planning outcomes in a statutory framework, such as a regional, district or city plan.

Implementation responsibility: Tangata whenua, the community, Regional Council, city and district councils, the Department of Conservation and the Ministry Primary Industries.

Jason Pou  
Director



**Tu Pono Legal Limited**  
Barristers and Solicitors

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ROTORUA 3040 DX JP30025

**From:** Mary Hill <MHill@clmlaw.co.nz>

**Sent:** Tuesday, 20 August 2019 11:16 a.m.

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**Cc:** 'Motusaga, Vasa (Vasa.Motusaga@justice.govt.nz)' <Vasa.Motusaga@justice.govt.nz>

**Subject:** RE: ENV-2017-348-000004 Proposed BOP Regional Coastal Environment Plan - Marine Spatial Planning

Dear all,

I have just been forwarded a copy of MRMT's comments, which were circulated to Rachel Boyte yesterday but were not sent directly to me. Thank you for providing these. The below comments only apply to Forest and Bird, Ngati Makino and Ngati Ranginui,

Ngā mihi

**Mary Hill** Partner

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**CooneyLeesMorgan**



**From:** Mary Hill

**Sent:** Tuesday, 20 August 2019 11:12 a.m.

**To:** [hugh.sayers01@gmail.com](mailto:hugh.sayers01@gmail.com); [rob@publiclaw9.com](mailto:rob@publiclaw9.com); [tekani@wwandd.co.nz](mailto:tekani@wwandd.co.nz); [Rohemoana@gmail.com](mailto:Rohemoana@gmail.com); 'rosemary.dixon@crownlaw.govt.nz'; Jason Pou ([pou@tupono.co.nz](mailto:pou@tupono.co.nz)); Vanessa Hamm; 'admin@ngatimakino.co.nz'; [carltonbidois@xtra.co.nz](mailto:carltonbidois@xtra.co.nz); [piatarihi@icloud.com](mailto:piatarihi@icloud.com); 'p.anderson@forestandbird.org.nz'; 'Megan Exton'; Rachel Boyte; [matt@casey.co.nz](mailto:matt@casey.co.nz)

**Cc:** Motusaga, Vasa ([Vasa.Motusaga@justice.govt.nz](mailto:Vasa.Motusaga@justice.govt.nz))

**Subject:** RE: ENV-2017-348-000004 Proposed BOP Regional Coastal Environment Plan - Marine Spatial Planning

**Importance:** High

Dear parties

In accordance with the Court's directions, all parties were to have provided their comments on Council's provisions by Friday 16 August. This date was agreed on by all parties. Any applications raising an issue of scope / interpretation were also due by the same day. To date we have received the following:

- Email from counsel for Lowndes dated 26 July affirming its earlier comments;
- Comments on behalf of the Crown by email dated 16 August;
- Letter from counsel for Sunchaser dated 16 August providing comments;
- Memorandum of counsel for Sunchaser raising an issue as to scope / interpretation dated 16 August.

We have not yet received any correspondence from MRMT, Forest and Bird, Ngati Makino, or Ngati Ranginui, despite Council having first circulated the (post-mediation) provisions over 3 months ago (on 12 April).

The continued delay is disappointing given that formal timetable directions were sought because those parties previously failed to comply with the timetable agreed at mediation. If a substantive response from those parties is not received by 5 p.m. today we will be seeking a judicial teleconference to discuss with the Court the on-going failure to comply with timetable directions by some parties. If a party does not intend to provide any comments, please confirm this as a courtesy.

Ngā mihi

**Mary Hill** Partner

DD 07 927 0590 | FX 07 578 1433 | E [mhill@clmlaw.co.nz](mailto:mhill@clmlaw.co.nz)

ANZ Centre, Level 3, 247 Cameron Road, Tauranga

PO Box 143, Tauranga 3144, New Zealand | DX HP40001

[www.cooneyleesmorgan.co.nz](http://www.cooneyleesmorgan.co.nz)

**CooneyLeesMorgan**

---

**From:** Megan Exton [<mailto:Megan.Exton@hobec.co.nz>]

**Sent:** Friday, 16 August 2019 4:59 p.m.

**To:** Motusaga, Vasa; Rachel Boyte; [matt@casey.co.nz](mailto:matt@casey.co.nz)

**Cc:** [hugh.sayers01@gmail.com](mailto:hugh.sayers01@gmail.com); [rob@publiclaw9.com](mailto:rob@publiclaw9.com); [tekani@wwandd.co.nz](mailto:tekani@wwandd.co.nz); [Rohemoana@gmail.com](mailto:Rohemoana@gmail.com);

'rosemary.dixon@crownlaw.govt.nz'; Jason Pou ([pou@tupono.co.nz](mailto:pou@tupono.co.nz)); Vanessa Hamm; 'admin@ngatimakino.co.nz'; [carltonbidois@xtra.co.nz](mailto:carltonbidois@xtra.co.nz); [piatarihi@icloud.com](mailto:piatarihi@icloud.com); 'p.anderson@forestandbird.org.nz'; Mary Hill

**Subject:** RE: ENV-2017-348-000004 Proposed BOP Regional Coastal Environment Plan - Marine Spatial Planning

Hi all,

Please see the attached memorandum of counsel filed on behalf of Sunchaser Investments Limited Partnership.

rds,



**HOLLAND BECKETT**  
LAW

**Megan Exton / Solicitor**  
DDI 07 927 2236 / M 022 059 4358  
E [Megan.Exton@hobec.co.nz](mailto:Megan.Exton@hobec.co.nz)  
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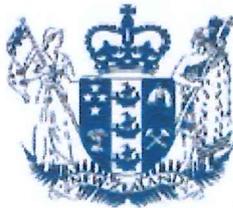
**From:** Motusaga, Vasa <[Vasa.Motusaga@justice.govt.nz](mailto:Vasa.Motusaga@justice.govt.nz)>  
**Sent:** Tuesday, 6 August 2019 9:04 a.m.  
**To:** Rachel Boyte <[RBoyte@clmlaw.co.nz](mailto:RBoyte@clmlaw.co.nz)>; [matt@casey.co.nz](mailto:matt@casey.co.nz)  
**Cc:** [hugh.sayers01@gmail.com](mailto:hugh.sayers01@gmail.com); [rob@publiclaw9.com](mailto:rob@publiclaw9.com); [tekani@wwandd.co.nz](mailto:tekani@wwandd.co.nz); [Rohemoana@gmail.com](mailto:Rohemoana@gmail.com); 'rosemary.dixon@crownlaw.govt.nz' <[rosemary.dixon@crownlaw.govt.nz](mailto:rosemary.dixon@crownlaw.govt.nz)>; Jason Pou ([pou@tupono.co.nz](mailto:pou@tupono.co.nz)) <[pou@tupono.co.nz](mailto:pou@tupono.co.nz)>; Vanessa Hamm <[Vanessa.Hamm@hobec.co.nz](mailto:Vanessa.Hamm@hobec.co.nz)>; 'admin@ngatimakino.co.nz' <[admin@ngatimakino.co.nz](mailto:admin@ngatimakino.co.nz)>; Megan Exton <[Megan.Exton@hobec.co.nz](mailto:Megan.Exton@hobec.co.nz)>; [carltonbidois@xtra.co.nz](mailto:carltonbidois@xtra.co.nz); [piatarihi@icloud.com](mailto:piatarihi@icloud.com); 'p.anderson@forestandbird.org.nz' <[p.anderson@forestandbird.org.nz](mailto:p.anderson@forestandbird.org.nz)>  
**Subject:** RE: ENV-2017-348-000004 Proposed BOP Regional Coastal Environment Plan - Marine Spatial Planning

Good morning parties

**ENV-2017-348-000004 Proposed BOP Regional Coastal Environment Plan - Marine Spatial Planning**

The request for an extension has been granted.

Kind regards



**Vasa Motusaga**  
Hearing Manager  
Environment Court | Auckland Registry  
Level 2, 41 Federal Street  
Auckland  
DX CX10086 | Auckland  
DDI: +64 9 916 9284 | Ext 59284

**From:** Motusaga, Vasa  
**Sent:** Thursday, 1 August 2019 10:07 a.m.  
**To:** 'Rachel Boyte' <[RBoyte@clmlaw.co.nz](mailto:RBoyte@clmlaw.co.nz)>; 'matt@casey.co.nz' <[matt@casey.co.nz](mailto:matt@casey.co.nz)>  
**Cc:** [hugh.sayers01@gmail.com](mailto:hugh.sayers01@gmail.com); [rob@publiclaw9.com](mailto:rob@publiclaw9.com); [tekani@wwandd.co.nz](mailto:tekani@wwandd.co.nz); [Rohemoana@gmail.com](mailto:Rohemoana@gmail.com); 'rosemary.dixon@crownlaw.govt.nz' <[rosemary.dixon@crownlaw.govt.nz](mailto:rosemary.dixon@crownlaw.govt.nz)>; Jason Pou ([pou@tupono.co.nz](mailto:pou@tupono.co.nz)) <[pou@tupono.co.nz](mailto:pou@tupono.co.nz)>; Vanessa Hamm ([Vanessa.Hamm@hobec.co.nz](mailto:Vanessa.Hamm@hobec.co.nz)) <[Vanessa.Hamm@hobec.co.nz](mailto:Vanessa.Hamm@hobec.co.nz)>; 'admin@ngatimakino.co.nz' <[admin@ngatimakino.co.nz](mailto:admin@ngatimakino.co.nz)>; Megan Exton ([Megan.Exton@hobec.co.nz](mailto:Megan.Exton@hobec.co.nz)) <[xtton@hobec.co.nz](mailto:xtton@hobec.co.nz)>; [carltonbidois@xtra.co.nz](mailto:carltonbidois@xtra.co.nz); [piatarihi@icloud.com](mailto:piatarihi@icloud.com); 'p.anderson@forestandbird.org.nz' <[son@forestandbird.org.nz](mailto:son@forestandbird.org.nz)>  
**Subject:** RE: ENV-2017-348-000004 Proposed BOP Regional Coastal Environment Plan - Marine Spatial Planning



**IN THE ENVIRONMENT COURT OF NEW ZEALAND  
AUCKLAND REGISTRY**

**I MUA I TE KOOTI TAIAO O AOTEAROA  
TAMAKI MAKAURAU ROHE**

**UNDER** the Resource Management Act 1991  
(RMA)

**IN THE MATTER** of appeals under clause 14 of the First Schedule

**BETWEEN** **MOTITI ROHE MOANA TRUST**

**ENV 2015 AKL 000134**

**NGATI MAKING HERITAGE TRUST**

(ENV-2015-AKL-000140)

**NGATI RANGINUI IWI INCORPORATED SOCIETY**

(ENV-2015-AKL-000141)

**Appellants**

**AND** **BAY OF PLENTY REGIONAL COUNCIL**

**Respondent**

**AND** **VARIOUS**

**Section 274 parties**

---

**MEMORANDUM OF COUNSEL FOR MOTITI ROHE MOANA TRUST IN RELATION TO  
INTERIM DECISION [2018] NZENVC067**

**Dated 20<sup>th</sup> December 2019**

---

Counsel Acting:  
Rob Enright / Ruby Haazen  
Magdalene Chambers  
Tāmaki Makaurau & Wānaka  
e: [rob@publiclaw9.com](mailto:rob@publiclaw9.com)  
e: [rghaazen@gmail.com](mailto:rghaazen@gmail.com)



## May it please the Court

- 1 Resolving the policy and methods framework for MNEMA, is the final stage in 5 years litigation between the parties. MRMT and supporting parties were successful in confirming jurisdiction at Environment Court level, and in generally defending the Environment Court decision in the senior courts.<sup>1</sup> Jurisdiction challenges by the Crown and other parties were not justified. The appeals process has delayed finalising coastal plan provisions, and biodiversity and cultural values (that are identified as outstanding and high) remain unprotected.
  
- 2 The merits decision confirmed that a prohibited rules framework for Protected Areas is appropriate and meets the statutory tests. Prohibited status reflects the weight of scientific and cultural evidence. Enhanced protection for other parts of the MNEMA may be justified in the lifetime of the coastal plan. The merits decision:
  - (a) Is an interim decision (subject to jurisdiction, and wording being finalised)<sup>2</sup>;
  - (b) applied the “strictly necessary” test formulated by Whata J in the High Court decision. The Court of Appeal confirmed that test as unlawful; it does not fetter final wording;
  - (c) anticipated (but did not finally decide) that controls for the balance of the MNEMA, outside the Protected Areas, may be addressed through investigation and reporting under Methods 19 and 19AA, but this was subject to final s32 RMA analysis;
  - (d) was 2 years ago - there has been substantial delay in finalising the rules framework, given unjustified resort by some parties to the appeals process. In light of that delay, the Court will benefit from hearing from the parties;
  - (e) is subject to a final s32 and s32AA analysis, which inevitably requires further planning (and potentially other) evidence;<sup>3</sup>
  - (f) this is the first rules framework of its kind to be introduced into a regional coastal plan in NZ. It is likely to be treated as a template for other regional coastal plan reviews underway. Further hearing time is merited.

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<sup>1</sup> *Attorney General v Trustees of Motiti Rohe Moana Trust* [2019] NZCA 532 (**CA decision**)  
*Attorney General v Trustees of Motiti Rohe Moana Trust* [2017] NZHC 1429 (**HC 1<sup>st</sup> Decision**)  
*Attorney General v Trustees of Motiti Rohe Moana Trust* [2017] NZHC 1886 (**HC 2<sup>nd</sup> Decision**)  
*Trustees of Motiti Rohe Moana Trust v Bay of Plenty Regional Council* [2018] NZEnvC 067 (**merits decision**)  
*Motiti Rohe Moana Trust v Bay of Plenty Regional Council* [2016] NZEnvC 240 (**EC Declaration**)  
*Motiti Rohe Moana Trust v Bay of Plenty Regional Council* [2016] NZEnvC 190; [2017] NZRMA 87 (**EC strike-out**)

<sup>2</sup> Merits decision at [203], direction (C).

<sup>3</sup> Merits decision at [151]-[152]:

“[151] Section 32AA requires an evaluation as necessary given the changes envisaged in accordance with s 32 of the Act. This requires that the changes, which are evaluated under s 32, but must be undertaken at a level of detail that corresponds to the scale and significance of the changes. Section 32AA points out that this can be undertaken as part of the decision-making record.

[152] It is premature to undertake a full s 32 report, as this is an interim decision only and final wording would need to be evaluated. Nevertheless, we have already noted that the RMA, NZCPS, Regional Policy Statement and settled provisions of the objectives and policies of the Regional Coastal Plan all militate towards the active protection and enhancement of outstanding natural features, landscapes and significant indigenous vegetation.”



- 3 This context is relevant to the agreed position put forward by Council, on behalf of 4 parties.<sup>4</sup> This memorandum provides an initial response to:
- (a) Identify differences between the two versions;
  - (b) Request a judicial conference for timetabling; alternatively hearing time for exchange of evidence on s32 and s32AA before provisions are finalised.

### Relevant differences

- 4 These are identified in the marked-up version filed herein, together with maps to be separately emailed by MRMT. A primary difference is that MRMT seeks prohibited status for destructive harvesting practices throughout the MNEMA, and not just the 3 Protected Areas; this is reflected in amended policies as well as rules. Dredging, cray-pots, netting and long-line fishing (over 3 hooks) generate significant adverse impacts to the outstanding and high values within the MNEMA.<sup>5</sup> Method 30 (mauri monitoring) gives effect to the equivalent RPS provision. The dredging rule reflects a similar prohibited status rule for Marlborough's proposed coastal plan.
- 5 There is a methodology dispute as to mapping of the 3 protected areas. This cannot be resolved absent relevant evidence. MRMT contends that the mapping methodology should reflect relevant landscape, cultural and biodiversity markers, not the "straight line" approach now adopted by the Respondent's report.
- 6 The merits decision, being interim, enables consideration of MRMT's framework. This reflects the interim status of the decision which (as noted) reserved final s32 and s32AA analysis. The Respondent's Report cannot be accepted at face value; those provisions must first be justified as most appropriate under s32 and s32AA, without resort to the "strictly necessary" test. Tikanga supports the framework proposed, to protect s6 RMA matters of national importance. These are not issues of scope and interpretation. The merits decision was clear on its face that a further s32 RMA process was required.

### Directions sought

- 6 MRMT seeks that a judicial conference be convened for directions to set the appeals down for a hearing, including exchange of evidence relating to s32 and s32AA RMA.

**Dated** this 20<sup>th</sup> day of December 2019



---

**Rob Enright / Ruby Haazen**  
**Counsel for Trustees of Motiti Rohe Moana Trust**

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<sup>4</sup> Joint memorandum dated 25 November 2019, filed by the Respondent on behalf of four parties (**Respondent's Report**).

<sup>5</sup> Transcript references are not provided, because MRMT seeks a judicial conference to address how final provisions may be resolved, including relevant evidence.



## Part Four

### Activity-based policies and rules

---

Part Four contains policies and rules specific to activities in the coastal marine area. The policies included in Part Three are also relevant to consideration of activities in the coastal marine area.

Assessment Guidelines for Areas of significant cultural value are included at the end of Part Four. These guidelines direct applicants and decision-makers to have regard to a range of matters when considering an application for resource consent for activities in:

- Areas of Significant Cultural Value identified in Schedule 6;
- Areas or sites of significant cultural value identified by Statutory Acknowledgments or Iwi and Hapū Management Plans; or
- Areas or sites of significant cultural value identified by evidence produced by tāngata whenua and substantiated by pūkenga, kuia and/or kaumatua.

Where an Objective or Policy refers to the 'coastal marine area', this Plan provides rules that shall be implemented. Where an Objective or Policy refers to the 'coastal environment' this Plan either provides rules that shall be implemented for the area below mean high water springs or provides policy guidance on decision-making as it applies to the area landward of the coastal marine area.

Policies and rules are grouped according to the following topics:

1. Structures and occupation of space (SO)
2. Disturbance, deposition and extraction (DD)
3. Coastal discharges, dumping and disposal (CD)
4. Reclamation (RM)
5. Take, use, dam or divert coastal water (TD)
6. Aquaculture (AQ)
7. Biosecurity (BS)
8. Harbour Development Zone activities (HD)
9. Port Zone activities (PZ)
10. Noise (NS)
11. Geothermal resource use (GR)

A Summary of Rules is provided at the end of Part Four.



Any provisions relating to the Motiti Protection Areas in the ~~Motiti Natural Environment Management Area MNEMA~~ shall not apply in respect of the resource consents to abandon the wreck of the Rena on Otaiti.

Schedule 14 to this Plan contains more information on the Marine and Coastal Area (Takutai Moana) Act 2011 and how it is relevant to this Plan and resource consent applications in the coastal marine area.

[insert definition of ~~Motiti Natural Environment Management Area as MNEMA~~ – use consistently]

~~MNEMA. Motiti Natural Environment Management Area is spatially defined in map x.~~

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## **Integrated Management**

Objective 1

.....

Move objective "5A" and "5B" below so they are located with other integrated management objectives.

## **Natural Heritage**

Objective 2 Protect the attributes and values of:  
(a) Outstanding natural features and landscapes of the coastal environment; and  
(b) Areas of high, very high and outstanding natural character in the coastal environment;

from inappropriate subdivision, use, and development, and restore or rehabilitate the natural character of the coastal environment where appropriate.

Objective 3 Safeguard the integrity, form, functioning and resilience of the coastal environment and sustain its ecosystems by:  
(a) Protecting Indigenous Biological Diversity Areas A; .....

[New Objectives]

As stated above, move Objective 5A and 5B so they are located with other integrated management objectives.

~~Objective 5A Protect the identified values and attributes of the MNEMA from inappropriate activities and uses. Protection Areas within the Motiti Natural Environment Management Area from inappropriate activities and uses.~~

~~Objective 5B Improve knowledge and understanding of the impact of activities on the values and attributes of the MNEMA Motiti Natural Environment Management Area.~~

[New Policies]

### **2.1.4 Promoting protection and management of existing high value areas**

Marine Spatial Plan Provisions – Revised 12 April 2019



~~Policy NH19~~ ~~Provide for the protection of~~ Protect the identified indigenous biological diversity, landscape, natural character and cultural values and attributes in the Motiti Protection Areas of the Motiti Natural Environment Management Area MNEMA, and avoid adverse effects on those values.

~~Policy NH20~~ ~~Investigate appropriate measures to manage activities which are having adverse effects on the identified values and attributes of the Motiti Natural Environment Management Area.~~

~~New Policy NH20~~ ~~Outside the Motiti Protection Areas avoid adverse effects on the benthic and other identified values of the MNEMA.~~

~~New Policy NH21~~ ~~Identify activities which are having adverse effects on the values and attributes of the MNEMA and avoid or remedy those adverse effects.~~

#### **Disturbance, deposition and extraction (DD)**

~~Policy DD 7A~~ ~~Provide for scientific research activities (including those based on Mātauranga Maori) that contribute to a better understanding of subtidal marine habitats, biodiversity and ecosystems in the coastal marine area, and the effects of other activities on those species, habitats and ecosystems.~~

*[New Rules]*

#### **DD 6A Permitted - Specified activities in a Motiti Protection Area identified in Schedule 16A**

Unless consent is required under the Plan, the temporary or permanent damage or destruction or removal of plants or animals in a Motiti Protection Area within the ~~Motiti Natural Environment Management Area MNEMA~~ (as identified in Schedule 16A), is a permitted activity for the following purposes:

- (a) Resource consent monitoring undertaken in accordance with resource consent conditions;
- (b) State of the environment monitoring undertaken by the Regional Council, the Department of Conservation or their agents;
- (c) Marine biosecurity incursion investigation and/or response;
- (d) Wildlife rescue;
- (e) Monitoring and enforcement carried out by a regulatory agency;
- (f) Mooring, anchoring and hauling small vessels ashore; carried out by a regulatory agency;
- (g) Scientific research, conservation activities and monitoring undertaken by, under the supervision of, or on behalf of, the following agencies:



- i. Crown research Institutes;
- ii. Recognised Māori research entities;
- iii. Tertiary education providers;
- iv. Regional Councils;
- v. Department of Conservation;
- vi. Ministry for Primary Industries.

#### **Rule DD 17 Prohibited – Specified activities in the coastal marine area**

The following activities are prohibited activities in the coastal marine area unless specifically provided for by another rule in this Plan (including where permitted under Rule DD6A):

...

- 9 The temporary or permanent damage or destruction or removal of plants or animals in a Motiti Protection Area within the Motiti Natural Environment Management Area as identified (as identified in Schedule 16A).

Advisory note: For the purpose of this Rule, removal includes the catching, taking or harvesting of plants and / or animals.

- 10 In the MNEMA (outside the Motiti Protection Areas), dredging, use of: ~~Danish Seine nets, Purse Seine nets, craypots, long lines (with more than 3 hooks per line).~~

Add New Definitions for:

Dredging<sup>1</sup> Means any activity involving the dredging of the seabed that could result in benthic contact.

Net means ~~Danish Seine nets, or Purse Seine, gill or trawl nets.~~

Long line<sup>2</sup> means a line to which a hook or hooks (whether baited or not) are attached.

### **1.10 Motiti Natural Environment Management Area**

Method 29 Undertake investigations and environmental monitoring of the Motiti Natural Environment Management Area, including:

- (a) The establishment of a Technical Advisory Group (TAG) which may include (but need not be limited to):
  - 1. Bay of Plenty Regional Council
  - 2. Educational institutions
  - 3. Scientific institutions
  - 4. Other appropriately skilled and experienced experts

<sup>1</sup> Definition taken from Marlborough , Vol 2, Chapter 25, Definitions.

<sup>2</sup> Definition take from: Fisheries (Commercial Fishing) Regulations 2001, s 3 Interpretation.



5. Motiti Rohe Moana Trust and other interested taāngata whenua

(b) The role of the TAG is to make recommendations on:

(i) Such investigations and monitoring as considered necessary to establish the state of the ~~Motiti Natural Environment Management Area~~ MNEMA marine environment and biodiversity including, as appropriate:

- the spatial extent of Motiti Natural Environment Management Area and relevant aspects of biodiversity\*, natural character, landscape (seascape) and cultural values and attributes;
- Existing values and attributes in Schedule 16B;
- Identification of new or revised values and attributes.

(iii) Measures necessary to enhance existing values and attributes; and

(iv) A future monitoring programme to be conducted in reference to ~~maintenance and protection of~~ the existing, new or revised values and attributes.

*\*for the purposes of this method 'biodiversity' includes all forms of aquatic life (fish and other animals, seaweed and other plants), the benthic environment and seabirds.*

*Implementation responsibility: Regional Council, Department of Conservation, Ministry of Primary Industries and Taāngata Whenua.*

Add

Method 30 Mauri Monitoring

Carry out and implement Mauri Monitoring to specifically address the state of the environment and changes to it within the MNEMA.

Method 319 Compliance Monitoring of the ~~Motiti Protection Areas~~ MNEMA

Prepare and regularly review the Compliance Education Strategy in a way that:

- a) Promotes public and private sector knowledge of the responsibilities imposed by the MNEMA rules.
- b) Promotes compliance through such techniques as electronic and remote sensing and recording of management outcomes ~~designed to ensure public and private sector knowledge of the responsibilities imposed by the Motiti Protection Area rules.~~
- c) Includes:
  - i. signage at boat ramps identifying the MNEMA and Motiti Protection Areas and the rules that apply to restrictions on activities in those areas; and



- II. any on-water identification of the MNEMA and Motiti Protection Areas as may be necessary to achieve compliance.

*Implementation responsibility: Regional Council and Tāngata Whenua*

## 1.5 Cultural and Historic Heritage

...

Method 19A: In consultation with tāngata whenua:

- (a) Review Schedule 6 Areas of Significant Cultural Value;
- (b) Identify areas or sites in the coastal environment of significance or special value to Maori;
- (c) Identify cultural landscapes and features in a manner consistent with NZCPS Policy 15(c)(viii);
- (d) Investigate the planning mechanisms and other methods available to provide protection to identified areas and sites and support customary activities in ASCV;
- (e) Investigate the planning mechanisms and other methods available to support the social, economic, cultural and recreational aspirations of tāngata whenua in the coastal environment;
- (a) Identify options for providing for the expression of the relationship tāngata whenua as kaitiaki have with their identified taonga such as water, wahi tapu and kaimoana.

The review, identification and investigation should:

- (f) Incorporate matauranga Maori as directed by NZCPS Policy 2(c);
- (g) Use the assessment criteria contained in the RPS Appendix F: Set Maori culture and traditions; and
- (h) Give consideration to the most appropriate provisions in the Plan for addressing matters arising out of the review.

*Implementation responsibility: Regional Council.*

Method 19AA ~~Council will consider proposals from partner with tāngata whenua and/or the community for additional spatial mechanisms for the coastal marine area that identify and protect coastal marine area when a proposal is submitted that identifies:~~

- (a) Areas or sites of cultural, biodiversity and/or natural character value that may require additional protection and/or restoration;
- (b) Areas or sites of cultural, biodiversity and/or natural character value that are, or are likely to be, adversely affected by activities (including fishing), and options to manage such activities for the protection of cultural, biodiversity and/or natural character values.

~~When considering such a proposal, and whether or not to implement it through a plan change process or other means, Council will take into account relevant matters including the following:~~

*Marine Spatial Plan Provisions – Revised 12 April 2019*



- ~~(i) Te Tiriti o Waitangi Settlement processes;~~
- ~~(ii) Whether there are outstanding applications for customary recognitions under the Marine and Coastal Area Act;~~
- ~~(iii) Whether the group has undertaken consultation with other tangata whenua;~~
- ~~(iv) Whether the proposal is supported by a relevant iwi or hapū management plan;~~
- ~~(v) The level of support for the proposal from the community and other tangata whenua that have a relationship with the area;~~
- ~~(vi) Urban development capacity and current and future infrastructure needs;~~
- ~~(vii) The extent to which the proposal provides for the social, economic and cultural well-being of the wider community, including consideration of current and future public access, and existing uses and activities; and~~
- ~~(viii) Whether a collaborative approach to resource management is appropriate in accordance with Method 33 of the RPS.~~

Advice Note:

A Schedule 1 process will be required to incorporate any planning outcomes in a statutory framework, such as a regional, district or city plan.

Implementation responsibility: *Taāgata whenua, the community, Regional Council, city and district councils, the Department of Conservation and the Ministry Primary Industries.*



# Part Six

## Schedules to the Regional Coastal Environment Plan

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There are 16 Schedules to the Regional Coastal Environment Plan:

- Schedule 1 River Mouths and Coastal Marine Area boundary.
- Schedule 2 Indigenous Biological Diversity Areas
- Schedule 3 Outstanding Natural Features and Landscapes.
- Schedule 4 Management Guidelines for Natural Features in Landscapes.
- Schedule 5 Regionally Significant Surf Breaks.
- Schedule 6 Areas of Significant Cultural Value.
- Schedule 7 Historic Heritage Inventory.
- Schedule 8 Harbour Development Zones.
- Schedule 9 Outline Development Plan for the Port of Tauranga 2013.
- Schedule 10 Water Quality Standards.
- Schedule 11 Financial Contributions.
- Schedule 12 High Risk Facilities.
- Schedule 13 Principles on Biodiversity Offsets.
- Schedule 14 Marine and Coastal Area (Takutai Moana) Act 2011.
- Schedule 15 Offshore Island
- Schedule 16A Motiti Protection Areas within the Motiti Natural Environment Management Area
- Schedule 16B Motiti Natural Environment Management Area – Values and Attributes

...



**New Schedule 16A Motiti Protection Areas within the: Motiti Natural Environment Management Area**

*Marine Spatial Plan Provisions – Revised 12 April 2019*



<b>Motiti Protection Area (MPA)</b>	<b>Description of area</b>	<b>Area</b>	<b>Point Identification, Latitude and Longitude</b>
<u>Otaiti MPA 1</u>	Coastal marine area around Otaiti (Astrolabe Reef), Te Porotiti, o Karapu and Te Papa (also known as Brewis Shoals) extending 1km from the outermost extent of the reefs and toka within this area.	<u>Refer Map Sheet 43d</u>	<a href="#">1-37.524206 176.416492</a> <a href="#">2-37.526889 176.442055</a> <a href="#">3-37.581453 176.425474</a> <a href="#">4-37.600719 176.361756</a> <a href="#">5-37.591381 176.350051</a> <a href="#">6-37.580159 176.346041</a>
<u>Motunau MPA 2</u>	Coastal marine area around Motunau (also known as Plate Island) extending 1km from the outermost extent of Motunau.  The Motiti Protection Area includes the surrounding shelf areas.	<u>Refer Map Sheet 43d</u>	<a href="#">1-37.586617 176.527828</a> <a href="#">2-37.596707 176.551402</a> <a href="#">3-37.621452 176.530326</a> <a href="#">4-37.616305 176.515162</a> <a href="#">5-37.608026 176.510144</a> <a href="#">6-37.598403 176.511980</a>
<u>Motuhaku MPA 3</u>	Coastal marine area around Motuhaku (also known as Schooner Rocks or Schooner Island) extending 1km from the outermost extent of Motuhaku and associated reefs and toka.	<u>Refer Map Sheet 43d</u>	<a href="#">1-37.648364 176.568542</a> <a href="#">2-37.671950 176.587756</a> <a href="#">3-37.683320 176.573084</a> <a href="#">4-37.687466 176.540229</a> <a href="#">5-37.684779 176.513728</a> <a href="#">6-37.669504 176.517109</a>
<u>Motiti margin MPA 4</u>	<u>Motiti Island</u> <u>Motuputa Island</u> <u>Taumaihi Island</u>	<u>Refer Map Sheet 43d</u>	



## **Schedule 16B - Motiti Natural Environment Management Area – Values and Attributes**

### **Summary of features that make up the Motiti Natural Environment Management Area – For information purposes only**

<b><u>Location</u></b>	<b><u>ONC Category</u></b>	<b><u>ONFL Category</u></b>	<b><u>IBDA Category and description</u></b>	<b><u>ASCV and description</u></b>
<u>Otaiti (Astrolabe Reef)</u>	<u>Outstanding Natural Character</u>	<u>Outstanding</u>	<u>A76</u>	<u>ASCV 25</u>
<u>Motuhaku Island</u>	<u>Outstanding Natural Character</u>	<u>Outstanding</u>		<u>ASCV 25</u>
<u>Motunau Island</u>	<u>Outstanding Natural Character</u>	<u>Outstanding</u>	<u>A77 (the island) A78( the marine area)</u>	<u>ASCV9 and 25</u>
<u>Te Poroiti (Reef)</u>	<u>Outstanding Natural Character</u>	<u>Outstanding – part of Otaiti identified feature</u>		<u>ASCV 25</u>
<u>o Karapu (Reef)</u>	<u>Outstanding Natural Character</u>	<u>Outstanding – part of Otaiti identified feature</u>		<u>ASCV 25</u>
<u>Te Papa (Reef)</u>	<u>Outstanding Natural Character</u>	<u>(NA)</u>		<u>ASCV 25</u>
<u>Motiti Island margin (which incorporates the water and many small islands and reef systems around it).</u>	<u>High Natural Character</u>	<u>Outstanding</u>	<u>A75 (Motiti Island), includes Including Nukutai Reef (Motiti Islets: Motu Kaha Kaha (A27); Turi Tea (A28); Motu Pa Tiki (A29); Motu Arua (A30) and Te Haupapa Tiotio VMX24)</u>  <u>Coastal herbfields, pohutukawa-karo treeland and coastal rockland.</u>	<u>ASCV 25</u>
<u>Motuputa Island (located within the Motiti Island margin)</u>	<u>High Natural Character</u>	<u>Outstanding</u>	<u>A79</u>	<u>ASCV 25</u>
<u>Taumaihi Island (located within the Motiti Island margin)</u>	<u>High Natural Character</u>	<u>Outstanding</u>	<u>B133 Boulder Tombola Pohutukawa forest, flaxland, bracken fernland and coastal herbfields.</u>	<u>ASCV 25</u>



**Please note:** ASCV 25 and ASCV 9 list individual wahi tapu and wahi taonga.

Outstanding Natural Feature and Landscape

<u>Motiti Island margin and associated islands, reefs and shoals – ONFL 44</u>		<u>Map Sheet 43a</u>
<p><b>Description:</b></p> <p>Motiti Island is the only permanently inhabited offshore island along the Bay of Plenty Coastline. Motiti is less intact than the other features within the grouping and less natural. Its coastline is considered to have high natural character and is included in the feature. The landward boundary of the ONFL on Motiti Island is similar to the high natural character area identified in Appendix I to the RPS. The small islands immediately surrounding Motiti are also included. The offshore islands of Motuhaku and Motunau are relatively small rocky islands with some coastal vegetation located upon the upper plateau of the islands. Other reefs and shoals exist around this wide grouping of islands including the Astrolabe Reef, Brewis Shoal and o Karapu Reef which form part of a wider complex of island features in the area and are included in the ONFL.</p>		
<p><b>Current uses:</b></p> <p>Motiti Island is the only island within this ONFL with man-made modifications. Current uses within the ONFL on Motiti Island include:</p> <ul style="list-style-type: none"> <li>• <u>Walking tracks and roads</u></li> <li>• <u>Fishing</u></li> <li>• <u>Limited agricultural and horticultural farming</u></li> </ul> <p>The surrounding reefs, shoals, rocky outcrops are also widely used for commercial and recreation fishing and diving.</p>		
<b>Evaluation</b>		<b>Rating</b>
<i>Natural science factors</i>	<p>Representativeness: The Motiti Island interior is a farmed rural landscape but the coastal margins retain significant landscape values that are expressive of cultured nature. The Astrolabe Reef and Motunau Island are known as nationally significant scenic dive sites, more recently the Astrolabe has been affected by the grounding of the cargo ship Rena.</p>	H
	<p>Research and education: Significant research surrounding the Astrolabe and associated reefs as a result of the grounding of the Rena.</p>	H
	<p>Rarity: The small islands along with the associated reefs and shoals, supporting marine and coastal habitats are not common within the region, but are not rare or threatened in the New Zealand context.</p>	M-H



<i>Aesthetic values</i>	<u>Coherence: High degree of aesthetic coherence relating to the vegetation patterns surrounding Motiti Island's margin and the entire coverage of the smaller islands.</u>	H
	<u>Vividness: Motiti Island and Astrolabe Reef are highly vivid landscapes due to visual connection and more recent media coverage of the reef as a result of the grounding of the cargo ship Rena.</u>	M-H
	<u>Naturalness: Motiti Island is heavily modified for agricultural, horticultural and residential activities. The area identified within the ONFL supports the interface of native vegetation cover on land unsuitable for farming, along the coastal fringe. Indigenous vegetation consists of a narrow fringe of good quality pohutukawa forest around the coastal margin of the land with moderate diversity and regional significance. It is an excellent example of natural processes. The island's coastal margins support a range of seabirds, shorebirds and other native bird species.</u> <u>Motuhaku and Motunau Island are unmodified and have national significance. They are an excellent example of natural processes with no modifications to the coastal processes.</u>	H
	<u>Intactness: Motiti Island margins remain largely intact. The remaining islands are highly intact. The majority of the reefs and shoals are intact with some wrecks, including the remains of the wreckage MV Rena on Otaiti /Astrolabe Reef.</u>	M-H
<i>Expressiveness (Legibility)</i>	<u>The outer islands and Motiti Island's margins, along with the reefs and shoals are highly expressive of the natural processes that have formed them.</u>	H
<i>Transient values</i>	<u>The seasonal changes of the indigenous vegetation (i.e. pohutukawa) and associated terrestrial and marine wildlife is valuable. The dynamic character of open water and coastal marine processes, such as tides, swells, currents, water clarity, fish and seabird migration reflect the highly transient nature of the environment.</u>	
<i>Shared and recognised values</i>	<u>Highly recognised and valued. The waters, shoals and rocky outcrops surrounding Motiti are widely recognised for their natural science, aesthetic and recreational values – particularly as places to dive and fish. There are strong taāngata whenua associated values with these features. The presence of shipwrecks including the MV Rena and Tahoma, are also recognised features of the maritime history of the area.</u>	
<i>Māori values</i>	<u>Kainga, mahinga kai, taunga ika. Motiti has a rich Māori history. The island and surrounding island and reefs have ancestral interests to various hapū and tribes of the Bay of Plenty area. The coastal marine area is identified as an area of Significant Cultural Value (ASCV 25) in Schedule 6.</u>	
<i>Historical associations</i>	<u>Landscape contains many archaeological sites, recorded in the New Zealand Archaeological Association Site Recording Scheme, which comprise physical evidence of past human activity.</u>	



**Natural Character Attributes**

<b>Name</b>	<b>Level of natural character</b>	<b>General description of area</b>	<b>Elements that describe natural character</b>	<b>Water</b>	<b>Land cover and land use</b>	<b>Terrestrial biotic</b>	<b>Abiotic systems and landform</b>	<b>Perceptual</b>
<b>Motiti Island Margin (Map 21) RPS</b>	<b>High</b>	Motiti Island is the only inhabited offshore island along the Bay of Plenty Coastline. As a flat plateau the island has been developed into cropping and grazing blocks. Much of the island's coastal vegetation has been cleared with pohutukawa extending along the rocky shoreline. The margin includes the beaches.	1 Vertical rocky cliffs clad with pohutukawa and native coastal bush cover along the immediate edge. 2 The coastal intertidal zone displays the dominant natural processes surrounding the island.	1 Some permanent modification around parts of the island has occurred to provide for ferry, vehicle and pedestrian access to the shoreline.	1 Motiti Island is heavily modified for agricultural, horticultural and residential activities. 2 The area identified supports the interface of native vegetation cover on land unsuitable for farming, along the coastal fringe.	1 Indigenous vegetation consists of a narrow fringe of good quality pohutukawa forest with some areas of exotic species including wilding pines around the coastal margin of the land with moderate diversity and regional significance.	1 Excellent example of natural processes with modifications to the coastal processes that have provided landing areas to enable access to and from the island.	Motiti Island has a part of its coastline which are inaccessible. Modifications to some parts contribute to the remoteness.



		<u>coastal cliffs and the indigenous vegetation dominated fringe.</u> <u>Where no significant vegetation is present on the cliffs, the area is up to the top of the cliffs.</u> <u>The small islands immediately surrounding Motiti</u>						
<u>Astrolabe Reef (AR)</u> <u>(Map 21)</u>	<u>Outstanding</u>	<u>Astrolabe Reef is located 25 km northeast of Tauranga, some 7 km north of Motiti Island.</u> <u>The volcanic reef structure rises some 70 – 75 m from the seabed and breaks</u>	<u>1 Dominant volcanic processes and formation of subtidal reef system.</u> <u>2 Dynamic coastal processes occurring.</u> <u>3 The natural environment dominates the reef with the only visible modification</u>	<u>1 No modification to open coastal water body surrounding the reef.</u> <u>2 The reef breaks the water surface at low tide creating large breaking waves in rough seas.</u> <u>3 Reef has regional</u>	<u>Does not apply.</u>	<u>Does not apply.</u>	<u>1 Water movement around the reef enhances natural character.</u> <u>2 The physical structure of the reef remains largely unmodified.</u> <u>The rock formation is expressive of the formative natural</u>	<u>1 Some level of activity around the reef, as a popular dive and fishing location, otherwise a high level of remoteness exists around the reef.</u> <u>2 Activities related to the Rena grounding.</u> <u>3 Breaking</u>



		<p><u>the surface at low tide. The extent of the reef is broadly mapped at points between the sandy bed and the volcanic structure. The reef is renowned for its abundant marine life and is a regular haulout for NZ fur seals. More recently the reef is renowned nationally for the grounding of the now shipwreck</u></p>	<p><u>due to the grounding and wreckage of the Rena.</u></p>	<p><u>significance for seal use and fish communities with high abundance and diversity. 4 Some modification due to the presence of Rena wreckage and sediment contamination.</u></p>			<p><u>processes created by volcanic activity and the ocean. 3 Vertical rock faces, underwater caves and tomes and large boulders are distinctive of the natural processes. 4 The Rena shipwreck has damaged a small part of the overall physical reef</u></p>	<p><u>waves across the reef outcrops with remnant of shipwreck below the waterline 4 Perceptions are of a natural reef system impacted by the Rena grounding and wreckage. The wreck is now not visible above water and perceptual values relate to the underwater experience of visitors.</u></p>
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<b>Aro i te Moana - Marine Natural Character Assessment</b>				<b><u>Ngā āhuatanga motuhake - Attributes (with elements that enhance or diminish natural character)</u></b>			
<b><u>Te Ingoa o te Wāhi</u></b>	<b><u>Ko te toitū o ngā āhuatanga taketake o te wāhi</u></b>	<b><u>He pitopito kōrero mō ngā āhuatanga o te wāhi</u></b>	<b><u>Ko ngā mana atua, mana taāngata hoki i pū mai ai ngā āhuatanga taketake</u></b>	<b><u>Te Wai tai - Takutai Moana Coastal Water &amp; Seabed</u></b>		<b><u>Te Korowai o Papatūānuku me ōna āhuatanga ahurei</u></b>	<b><u>Ngā āhuatanga tuku iho</u></b>
<b><u>Name of site</u></b>	<b><u>Level of Natural Character</u></b>	<b><u>General description of the area</u></b>	<b><u>Elements that describe natural character</u></b>	<b><u>Marine biotic processes</u></b>	<b><u>Marine abiotic processes</u></b>	<b><u>Landcover &amp; Use Terrestrial Biotic</u></b>	<b><u>Perceptual</u></b>
<p><b>Motiti Natural Environment Area Map 21a</b></p> <p>This table includes the water, sand and rocky bottoms and the cluster of reefs to the north west of Motiti, and east near to Motunau island.</p> <p>The Motiti Natural Environment Area also includes the Coastal Marine Area surrounding Motiti Island, the islands of Motunau and Motuhaku and surrounding Te Tau o Taiti /Astrolabe reef.</p> <p><i>Advice note: The natural character attributes in the Motiti Natural Environment Area identified in Map 21A are</i></p>	<p><b>Teitei High</b></p> <p><i>Kāore anō kia aromatawaitia katoatia tēnei wāhi. Kua tohua ngā wāhanqa hei āhuatanga tūturu i roto i te Rohe Moana me te whakarite i te taumata o te āhua tūturu.</i></p> <p>This area has not been assessed as an integrated whole. Component parts are identified as natural features within the Motiti Natural Environment Area and ascribed a ranking of natural character.</p> <p><i>E taunakitia ana kia whakamātautātia te wāhi whāiti hei</i></p>	<p><b>1</b> <i>E kapi ana te rohe i ngā wai tata ki te 200m atu i te takutai o te Moutere o Motiti, ka neke mai i te 5 ki te 15 kiromita ki te moana e uru mai ai ngā tokarāranqi iti ake.</i></p> <p>The area covers the waters beyond approximately 200m off shore from Motiti Island, extending between 5 and 15 kilometres seaward to take in a number of smaller reefs.</p> <p><b>2</b> <i>The isolated position of the area around</i></p>	<p><b>1</b> <i>Ko ngā tokarāranqi tūturu, ngā motu me ngā kohatu i roto i tētahi rohe ka horoia, ka tiakina e Te Moananui-a-Kiwa. Nā ētahi o ngā para paenga, parataiao i ahu mai i te paenga o te Taioma, ā, me te pokea e ngā mahi hi ika i whakarekēhia ai te āhua tūturu.</i></p> <p>Natural reefs, islands and rocks within an area washed and sustained by the Pacific Ocean. Some wreckage and debris as a</p>	<p><b>1</b> <i>E huhua ana te tini a Tangaroa i te Pāpāmoana me te moana, otirā he maha, he kanorau.</i></p> <p>An abundance of biological life exists in the seabed and ocean surrounding the reefs which is characterised by relatively high populations and diversity.</p> <p><b>2</b> <i>I waho atu i te taha moana ko ngā toka me te nohoanga o ngā momo ika maha, arā ko ngā uri a Tangaroa e noho ana i te Pāpāmoana.</i></p>	<p><b>1</b> <i>Kāore he whakarekētanga o ngā ngaru o te moana, te rere o te wai, te ia rānei o Tangaroa me ngā tauira kawenga parataiao o te Rohe Moana.</i></p> <p>No modification to the natural wave action, water movements or currents of the open coastal water body and sediment transport patterns surrounding Motiti.</p> <p><b>2</b> <i>He tino kaha te pātuki o ngā ngaru ki te Rohe Moana. I ngā wāhi pāpaku he kohatu mai i ngā</i></p>	<p><i>Kāore i te hāngai.</i></p> <p>Does not apply</p>	<p><b>1</b> <i>Ko te whakaaro he wāhi moana tūturu, pūnaha tokarāranqi i pā kinohia e te paenga o te Rena, ngā ipu nui me ngā parataiao.</i></p> <p>Perceptions are of a natural marine area, reef system impacted by the Rena wreckage, containers and debris.</p> <p><b>2</b> <i>Ko te āhuatanga o te wai tai he riporipo tōna tohu ki te taāngata i uta mā te ahunga me te kaha o te rere o te wai – mā te tae, te reka, me te rongō i te ahunga o te</i></p>



Aro i te Moana - Marine Natural Character Assessment				Ngā āhuatanga motuhake - Attributes (with elements that enhance or diminish natural character)			
<i>Te Inqoa o te Wāhi</i>	<i>Ko te toitū o ngā āhuatanga taketake o te wāhi</i>	<i>He pitopito kōrero mō ngā āhuatanga o te wāhi</i>	<i>Ko ngā mana atua, mana tāāngata hoki i pū mai ai ngā āhuatanga taketake</i>	<i>Te Wai tai - Takutai Moana Coastal Water &amp; Seabed</i>	<i>Te Korowai o Papatūānuku me ōna āhuatanga ahurei</i>	<i>Ngā āhuatanga tuku iho</i>	
<i>Name of site</i>	<i>Level of Natural Character</i>	<i>General description of the area</i>	<i>Elements that describe natural character</i>	<i>Marine biotic processes</i>	<i>Marine abiotic processes</i>	<i>Landcover &amp; Use Terrestrial Biotic</i>	<i>Perceptual</i>
<i>separately assessed for Astrolabe, AR – above the 75m contour, Motohaku Island (SCH), Motonau Island, MOTU and Motiti Island margin (Motiti) in appendix J and identified in Map 21.</i>	<i>whakarite i te āhua tūturu o ngā wāhi motuhake o te rohe taha moana. Site specific examination is recommended to determine the natural character of specific areas of the coastal marine area.</i>	<i>Motiti in the Bay of Plenty renders the sense of its remoteness. Nā te noho wehe o Motiti i roto i te Moana a Toi ka noho pāmamao mai. 3 E mōhio whānuitia ana ko te Rohe Moana te 'ōātaka kai' o te huhua o ngā uri a Tangaroa. The Motiti Natural Environment area is renowned as a 'food cupboard' for its abundant marine life.</i>	<i>result of the grounding of the MV Rena, the Taioma wreck and fishing pressure modify natural character. 2 Ngā Tauranga tia kukume o te hukarere o ngā Aturere. The anchors that connect to the winds and tides, pathway of the yellow-fin tuna. 3 Ko te hononga o te whenua ki ngā motu iti me ngā tokarārangī: ko te wai moana e herehere katoa ana i ēnei. Ko te wai e pā ana ki Motiti ko taua wai anō o ngā motu iti me ngā tokarārangī. Ko te wai moana e papaki ana i ngā</i>	<i>Further out from the foreshore are the breeding rocks and habitat of the many species of fish which are the descendants of Tangaroa who occupy the sea floor. 3 He maha ngā tokarārangī me ngā wāhi whakahirahira, nohoanga hoki mō ngā tino momo, arā – Tāmure; Kahawai; Maomao; Tarakihi; Moki; Araara; Parore; Haku; Aturere; Kupu; Kumukumu; Patikirori; Mango; Wheke; Kōura; Pāua; Kuku; Tipa; Tio; Kina; Rori; Kārengo.</i>	<i>kirikiri, i ngā wai hōhonu he putunga parataiao me ngā rauiti mai i te whenua. The Motiti Natural Environment area is affected by a moderately high wave-energy environment. Near-shore substrate is coarser than deeper waters which tend to accumulate sediments and finer grained materials from land. 3 He whakarekētang a nā te paenga o te Rena, ngā para me ngā kino o ngā parataiao. Some modification due to the presence of</i>	<i>hau. The tidal waters are characterised by the rippling currents signalling to the people in the land through the direction and strength of flow – through the colour, through the taste, and feel of the direction of the wind. 3 Ko te tirohanga atu he pūnaha tūturu me ngā tauira tūturu, whakahaere me ngā āhuatanga e mārāma ana, e noho rerekē ana i ētahi atu wāhi. Perceptions are of a natural system with natural patterns, processes and elements</i>	



<u>Aro i te Moana - Marine Natural Character Assessment</u>				<u>Ngā āhuatanga motuhake - Attributes (with elements that enhance or diminish natural character)</u>			
<u>Te Inqoa o te Wāhi</u>	<u>Ko te toitū o ngā āhuatanga taketake o te wāhi</u>	<u>He pitopito kōrero mō ngā āhuatanga o te wāhi</u>	<u>Ko ngā mana atua, mana tāngata hoki i pū mai ai ngā āhuatanga taketake</u>	<u>Te Wai tai - Takutai Moana Coastal Water &amp; Seabed</u>		<u>Te Korowai o Papatūānuku me ōna āhuatanga ahurei</u>	<u>Ngā āhuatanga tuku iho</u>
<u>Name of site</u>	<u>Level of Natural Character</u>	<u>General description of the area</u>	<u>Elements that describe natural character</u>	<u>Marine biotic processes</u>	<u>Marine abiotic processes</u>	<u>Landcover &amp; Use Terrestrial Biotic</u>	<u>Perceptual</u>
			<p><u>motu iti me ngā tokarāranqi ko taua wai moana anō e pari ana ki ngā motu iti me ngā tokarāranqi. Kāore e uru mai ana he wai rerekē.</u></p> <p>It is a <u>connectedness of the natural landscape features, the small islands and the reefs: it is the ocean water which binds them together. The ocean water that touches Motiti is the same water that touches the small islands and the reefs. There is no different water entering the area.</u></p> <p>4. <u>Ko ngā āhuatanga moana me te</u></p>	<p>There are <u>numerous significant reefs and special places and habitats for many prized species including – Tamure (snapper); Kahawai; Maomao; Tarakihi; Moki; Araara (trevally); Parore; Haku (yellow-tail Kingfish); Aturere (tuna); Kuparu (John Dory); Kumukumu (gurnard); Patikirori (sole); Mango (sharks); Wheke (octopus); Koura (crayfish); Paua (abalone); Kuku (mussels); Tipa (scallops); Tio (oysters); Kina (urchins); Rori (sea</u></p>	<p><u>Rena wreckage, debris and sediment contamination.</u></p>		<p><u>apparent and distinctive of its formation.</u></p>



<u>Aro i te Moana - Marine Natural Character Assessment</u>				<u>Ngā āhuatanga motuhake - Attributes (with elements that enhance or diminish natural character)</u>			
<u>Te Ingoa o te Wāhi</u>	<u>Ko te toitū o ngā āhuatanga taketake o te wāhi</u>	<u>He pitopito kōrero mō ngā āhuatanga o te wāhi</u>	<u>Ko ngā mana atua, mana tāngata hoki i pū mai ai ngā āhuatanga taketake</u>	<u>Te Wai tai - Takutai Moana Coastal Water &amp; Seabed</u>		<u>Te Korowai o Papatūānuku me ōna āhuatanga ahurei</u>	<u>Ngā āhuatanga tuku iho</u>
<u>Name of site</u>	<u>Level of Natural Character</u>	<u>General description of the area</u>	<u>Elements that describe natural character</u>	<u>Marine biotic processes</u>	<u>Marine abiotic processes</u>	<u>Landcover &amp; Use Terrestrial Biotic</u>	<u>Perceptual</u>
			<p><u>pupuhi o te hau, ngā ngaru, te rere o te wai, ngā ia, ngā ika me ngā manu.</u></p> <p><u>Dynamic coastal processes including wind and wave action, water movements, currents, fish and bird life.</u></p> <p><u>5 Ko te taiao tūturu e tino kitea ana.</u></p> <p><u>The natural environment dominates.</u></p>	<p>cucumbers); Karengo (seaweeds).</p> <p><u>4 E pā kinohia ana te tini a Tangaroa me ngā rauropi e ngā ahumahi hī ika me te nui haere o te hunga hī ika.</u></p> <p><u>Populations and biomass are severely impacted and threatened by commercial fishing and increasing recreational and charter fishing.</u></p> <p><u>5 Kei te Rohe Moana te orange mō ngā manu moana me ngā manu whenua.</u></p> <p><u>The Motiti Natural Environment area supports a range of seabirds and shorebirds.</u></p>			



<b>Aro i te Moana - Marine Natural Character Assessment</b>				<b><i>Ngā āhuatanga motuhake - Attributes (with elements that enhance or diminish natural character)</i></b>			
<b><i>Te Inqoa o te Wāhi</i></b>	<b><i>Ko te toitū o ngā āhuatanga taketake o te wāhi</i></b>	<b><i>He pitopito kōrero mō ngā āhuatanga o te wāhi</i></b>	<b><i>Ko ngā mana atua, mana tāngata hoki i pū mai ai ngā āhuatanga taketake</i></b>	<b><i>Te Wai tai - Takutai Moana Coastal Water &amp; Seabed</i></b>	<b><i>Te Korowai o Papatūānuku me ōna āhuatanga ahurei</i></b>	<b><i>Ngā āhuatanga tuku iho</i></b>	
<b><i>Name of site</i></b>	<b><i>Level of Natural Character</i></b>	<b><i>General description of the area</i></b>	<b><i>Elements that describe natural character</i></b>	<b><i>Marine biotic processes</i></b>	<b><i>Marine abiotic processes</i></b>	<b><i>Landcover &amp; Use Terrestrial Biotic</i></b>	<b><i>Perceptual</i></b>
<b><i>nga Tokararangī ko Okarapu, ko te Porotiti, ko Te Papa, Okarapu (reef) (Oka), Te Porotiti (reef) (TePo), Te Papa (reef) (Papa), Map 21a</i></b>	<b><i>Kohure Outstanding</i></b>	<b><i>1 Ka ara mai ēnei tokararangī mai i te Pāpāmoana i ngā wai 40-50m te hōhōnu ki te 30 me te 10m ki raro. Ka huihui mai ngā ika ki te kai, he nui te toiora moana e noho ana ki ngā nohoanga kanorau, haumako hoki o ngā tokararangī.</i></b> <b><i>These rocky reefs rise from the sea floor in water 40-50m deep to between 30 and 10m depth. Fish congregate to feed on the relative abundance of marine life supported by the diverse and rich reef habitats.</i></b>	<b><i>1 He pērā anō mō te Rohe Moana i runga ake.</i></b> <b><i>As for Natural Environment Area above.</i></b>	<b><i>I tua atu i ngā whakamāramatanga mō te Rohe Moana (i runga ake) ka whakapikihia e ēnei kaupapa e whai ake te āhua tūturu.</i></b> <b><i>In addition to the descriptions for Motiti Natural Environment Area (above) the following elements increase natural character:</i></b> <b><i>1 He tino ora ngā wai o te taha moana, ā, ko ōna tokararangī te nohoanga o ngā momo ika rerekē o te papa me roto i te moana, ngā tipu moana me ngā rauropi i raro i te moana.</i></b> <b><i>Highly dynamic coastal waters with reefs supporting a</i></b>	<b><i>I tua atu i ngā whakamāramatanga mō te Rohe Moana (i runga ake) ka whakapikihia e ēnei kaupapa e whai ake te āhua tūturu.</i></b> <b><i>In addition to the descriptions for Motiti Natural Environment (above) the following elements increase natural character:</i></b> <b><i>1 Ko te whakaaro he wāhi moana tūturu, pūnaha tokararangī i pā kinohia e te paenga o te Rena, ngā ipu nui me ngā parataiao.</i></b> <b><i>Perceptions are of a natural marine area, reef system impacted by the Rena wreckage, containers and debris.</i></b> <b><i>2 Ko te āhuatanga</i></b>	<b><i>1 Kāore i te hāngai.</i></b> <b><i>Does not apply</i></b>	<b><i>1 Te tukituki o ngā ngaru i ngā tokararangī. Ko te pupuhatanga o te wai te tohu o te pūnaha tokararangī mai i runga o te moana.</i></b> <b><i>Breaking waves across the reef outcrops. Spectacular water spouts provide visual evidence of reef system from the surface of the water.</i></b> <b><i>2 He pātaka kai ngā tokararangī, ā, e mōhiotia ana he mātāpuna oranga.</i></b> <b><i>The reefs are perceived as a food storehouse and is experienced as a source of sustenance.</i></b>



<b>Aro i te Moana - Marine Natural Character Assessment</b>				<b><i>Ngā āhuatanga motuhake - Attributes (with elements that enhance or diminish natural character)</i></b>			
<b><i>Te Inqoa o te Wāhi</i></b>	<b><i>Ko te toitū o ngā āhuatanga taketake o te wāhi</i></b>	<b><i>He pitopito kōrero mō ngā āhuatanga o te wāhi</i></b>	<b><i>Ko ngā mana atua, mana tāngata hoki i pū mai ai ngā āhuatanga taketake</i></b>	<b><i>Te Wai tai - Takutai Moana Coastal Water &amp; Seabed</i></b>		<b><i>Te Korowai o Papatūānuku me ōna āhuatanga ahurei</i></b>	<b><i>Ngā āhuatanga tuku iho</i></b>
<b><i>Name of site</i></b>	<b><i>Level of Natural Character</i></b>	<b><i>General description of the area</i></b>	<b><i>Elements that describe natural character</i></b>	<b><i>Marine biotic processes</i></b>	<b><i>Marine abiotic processes</i></b>	<b><i>Landcover &amp; Use Terrestrial Biotic</i></b>	<b><i>Perceptual</i></b>
		<p><u>2 He maha ngā āhuatanga hira me ngā tokatū moana i raro i te moana, pēnei i ngā tokarārangī, ngā taunga ika me ngā kai moana.</u></p> <p>There are many significant features and landmarks below sea level including reefs, fishing spots and food resources.</p>	<p><u>Elements that describe natural character</u></p> <p>variety of pelagic and demersal fish species, macrophytes and benthic organisms.</p> <p><u>2 He maha ngā momo ika rerekē me ētahi atu momo a Tangaroa e tino huhua ana, rerekē hoki.</u></p> <p>A wide variety of representative fish species and other marine communities with relatively high abundance and diversity.</p>	<p><u>o te wai tai he riporipo, ā, koinei te tohu ki te tāngata i uta mā te ahunga me te kaha o te rere o te wai – mā te tae, te reka, me te rongō i te ahunga o te hau.</u></p> <p>The tidal waters are characterised by the rippling currents signalling to the people in the land through the direction and strength of flow – through the colour, through the taste, and feel of the direction of the wind.</p> <p><u>3 Ko te tirohanga atu he pūnaha tūturu me ngā tauira tūturu, whakahaere me ngā āhuatanga e mārāma ana, e noho rerekē ana i</u></p>		<p><u>3 He wāhi e haerehia ana ngā tokarārangī, he tino pai mō te ruku me te hī ika, atu i tēnei he wāhi tino pāmamao.</u></p> <p>Some level of activity around the reefs, as popular dive and fishing locations, otherwise a high level of remoteness exists within the area.</p> <p><u>4 He Papa hi ika, mataitai, taunga ika mo nga hapu o te Moutere o Motiti.</u></p> <p>There are many significant features and landmarks below sea level including reefs, fishing spots and food resources utilised by the</p>	



<u>Aro i te Moana - Marine Natural Character Assessment</u>				<u>Ngā āhuatanga motuhake - Attributes (with elements that enhance or diminish natural character)</u>			
<u>Te Ingoa o te Wāhi</u>	<u>Ko te toitū o ngā āhuatanga taketake o te wāhi</u>	<u>He pitopito kōrero mō ngā āhuatanga o te wāhi</u>	<u>Ko ngā mana atua, mana tāngata hoki i pū mai ai ngā āhuatanga taketake</u>	<u>Te Wai tai - Takutai Moana Coastal Water &amp; Seabed</u>		<u>Te Korowai o Papatūānuku me ōna āhuatanga ahurei</u>	<u>Ngā āhuatanga tuku iho</u>
<u>Name of site</u>	<u>Level of Natural Character</u>	<u>General description of the area</u>	<u>Elements that describe natural character</u>	<u>Marine biotic processes</u>	<u>Marine abiotic processes</u>	<u>Landcover &amp; Use Terrestrial Biotic</u>	<u>Perceptual</u>
					<p><u>ētahi atu wāhi.</u> Perceptions are of a natural system with natural patterns, processes and elements apparent and distinctive of its formation.</p> <p>4 <u>Ka whakarei ake te rere o te wai i ngā tokarārangī i te āhua tūturu.</u> Water movement around the reefs enhance natural character.</p> <p>5 <u>Ka noho māori tonu te hanqanqa o ngā tokarārangī. E tohu ana te takoto o ngā toka i tōna waihanqatanga mai i ngā mahi puia me te moana.</u> E tohu ana ngā tīhi, ngā mata</p>		people of Motiti.



<u>Aro i te Moana - Marine Natural Character Assessment</u>				<u>Ngā āhuatanga motuhake - Attributes (with elements that enhance or diminish natural character)</u>			
<u>Te Inqoa o te Wāhi</u>	<u>Ko te toitū o ngā āhuatanga taketake o te wāhi</u>	<u>He pitopito kōrero mō ngā āhuatanga o te wāhi</u>	<u>Ko ngā mana atua, mana tāngata hoki i pū mai ai ngā āhuatanga taketake</u>	<u>Te Wai tai - Takutai Moana Coastal Water &amp; Seabed</u>		<u>Te Korowai o Papatūānuku me ōna āhuatanga ahurei</u>	<u>Ngā āhuatanga tuku iho</u>
<u>Name of site</u>	<u>Level of Natural Character</u>	<u>General description of the area</u>	<u>Elements that describe natural character</u>	<u>Marine biotic processes</u>	<u>Marine abiotic processes</u>	<u>Landcover &amp; Use Terrestrial Biotic</u>	<u>Perceptual</u>
					<p><u>kōhatu poutū, ngā ana me ngā toma i raro moana me ngā toka nui i ngā mahinga tūturu.</u></p> <p>The physical structure of the reefs remain in a natural state. Rock formations are expressive of the formative natural processes created by volcanic activity and the ocean.</p> <p>Pinnacles, vertical rock faces, underwater caves and tomes and large boulders are distinctive of the natural processes.</p> <p>6 <u>He wai tai tino akiaki i ngā tihi, i puta ai ngā hanganga tokarāangi whakameremere.</u></p>		



<u>Aro i te Moana - Marine Natural Character Assessment</u>				<u>Ngā āhuatanga motuhake - Attributes (with elements that enhance or diminish natural character)</u>			
<u>Te Inqoa o te Wāhi</u>	<u>Ko te toitū o ngā āhuatanga taketake o te wāhi</u>	<u>He pitopito kōrero mō ngā āhuatanga o te wāhi</u>	<u>Ko ngā mana atua, mana tāngata hoki i pū mai ai ngā āhuatanga taketake</u>	<u>Te Wai tai - Takutai Moana</u> <u>Coastal Water &amp; Seabed</u>		<u>Te Korowai o Papatūānuku me ōna āhuatanga ahurei</u>	<u>Ngā āhuatanga tuku iho</u>
<u>Name of site</u>	<u>Level of Natural Character</u>	<u>General description of the area</u>	<u>Elements that describe natural character</u>	<u>Marine biotic processes</u>	<u>Marine abiotic processes</u>	<u>Landcover &amp; Use Terrestrial Biotic</u>	<u>Perceptual</u>
					<u>ngā ana me ngā rua kōura.</u> <u>Highly dynamic coastal waters around the pinnacles, creating striking reef structures, caves and crayfish holes.</u> <u>7 Ka rangona i ngā tihī maunga o te Rohe Moana me ōna tokarānqi ko Okarapu, Te Porotiti, Te Papa, me Tokeroa.</u> <u>The mountain pinnacles of the Motiti Natural Environment Area are experienced with their reefs as Okarapu, Te Porotiti, Te Papa, and Tokeroa.</u>		





Areas of Significant Cultural Value

Site Number	Site Name	Description
ASCV 25	Motiti Island and Associated Islands/Reefs and Shoals	<p><u>Tāngata whenua of Motiti are Ngāi te Hapū, Te Patuwai and Te Whānau a Tauwhao ki Motiti.</u></p> <p><u>Motiti Island has a long history of Maioriori and Māori occupation beginning from the ancient 'Uru' ancestors and the arrival of the ancestral migration canoe, Te Arawa waka haurua, which landed at Maketū directly on-shore from Motiti. The first occupant was the esteemed Tohunga, Ngatoroirangi who named the parts of the island and lived there with Waitaha descendants.</u></p> <p><u>There are 30 distinct pā sites, 18 settlements and 20 ancient monuments that are situated throughout Motiti Island and the seabed and foreshore. These areas are located and coded in the "Motiti Island Native/Cultural Policy Management &amp; Administration Plan 2012"; however, the detailed cultural and historical data information regarding wāhi tapu and wāhi taonga is found in the Cultural Heritage Wāhi Tapu document held exclusively in the care of "Korowai Kāhui o Te Patuwai Native Tribal Council". Access to this information is restricted.</u></p> <p><u>Motiti Island Management Plan identifies the reefs surrounding Motiti as mahinga kai, the fish species that was harvested and their cultural and spiritual significance.</u></p> <p><u>The seabed and foreshore boundaries of Ngāti Te Hapū extend out to seven significant historical ocean landmarks anchored to the bottom of the ocean floor. This relates to a proverb that link together the territorial boundary of Moutere o Motuiti.</u></p> <p><u>Ngā Tauranga tai kukume o te hukarere o ngā Aturere (the anchors that connect to the wind and the tides – that pathway of Aturere). Significant wāhi tapu heritage sites are located within the seabed and foreshore boundaries. Sites in the coastal marine area in close proximity to Motiti Island are identified in Appendix 3 to the Motiti Island Environmental Management Plan (MIEMP) and have the same reference point listed below (e.g. A1). Other wāhi tapu sites in the coastal marine area are identified in the Motiti Island Native/Cultural Policy Management &amp; Administration Plan and have the same reference (e.g. VX14). As part of the appeal process further Wāhi tapu sites were added from evidence provided (e.g. VMX21). These sites have been spatially identified in a map attached to this Schedule16B referenced</u></p>



as Motiti Natural Environment Management Area – Values and Attributes.

<u>Traditional area of foreshore and seabed</u>	<u>Reference used in MIEMP</u>	<u>Traditional name of site</u>	<u>Nature of site (wāhi tapu wāhi taonga)</u>
<u>Otungahoro Bay, Motiti north</u>	<u>A1</u>	<u>Otungahoro</u>	<u>Toka of cultural and spiritual significance. Linked to Ahurewa o Marumaru toka.</u>
<u>Marumaru Bay, Motiti north</u>	<u>A2</u>	<u>Ahurewa o Marumaru (Te Rikarika rock)</u>	<u>Toka atua mana. Associated with: Te Maamangi, Koopu whakaairi.</u>
<u>Tumu Bay, Motiti north</u>	<u>A4</u>	<u>Toka o Moropu</u>	<u>Toka atua mana. Rock in the Tumū Bay.</u>
	<u>A5</u>	<u>Toka a Puwhatawhata</u>	<u>Cultural and spiritual observation platform for rituals.</u>
<u>Orongongatea Bay in an area known as “he kāinga tuturu o ngā tipuna” (sacred domain of the ancient ancestors)</u>	<u>A11</u>	<u>Te Ringa Moko Papaki o Tutarehia</u>	<u>Toka ao wairua. Rocks of high spiritual and cultural significance. Associated places: Te Kawakawa (Omahine).</u>
<u>Rotoharekeke Point, Motiti west</u>	<u>A12</u>	<u>Onuku Kino</u>	<u>Toka mana atua. Cultural site for Māori atua. Te haruharu o nuku kino ki te moana o pu maomao.</u>
<u>Wairere Bay, Motiti south</u>	<u>A15</u>	<u>Hani</u>	<u>Toka mana atua. Rock off-shore from Wairere Bay.</u>
<u>Parehua Upanepane o Matarehua</u>	<u>A16</u>	<u>Parehua Upanepane o Matarehua</u>	<u>Pa on Taumaihi Island. Important burial place of Te Hapu and his son Roropukai. Pa of</u>



				<u>Ngatoroirangi.</u>
	<u>Otuhoka Bay, Motiti south</u>	<u>A17</u>	<u>Toka tapu</u>	<u>Toka rere wairua, toka mana atua.</u> <u>Toka of Māori spirits and gods.</u>
		<u>A18</u>	<u>Toku Tai</u>	<u>Traditional marker . Toka here – toka Tauranga waka. Canoe anchorage area.</u>
	<u>Wairanaki Bay, Motiti northwest</u>	<u>A20</u>	<u>Muirtai</u>	<u>Toka tipua, toka mana atua.</u> <u>Highly significant cultural spiritual sacred rock.</u>
		<u>A21</u>	<u>Tahau</u>	<u>Cultural and spiritual observation platform.</u> <u>Associated toka: Muriwai, Takahuri, Horete, Tohu o Punui and Mauao.</u>
		<u>A24</u>	<u>Takahuri</u>	<u>Cultural and spiritual observation platform.</u> <u>Associated with Tahau.</u>
	<u>Huruhi Bay, Motiti east</u>	<u>A30</u>	<u>Motu Arua</u>	<u>Toka ao wairua (spiritual world).</u> <u>Cultural and spiritual observation platform.</u> <u>Associated with: Huruhi, Waewae.</u>
	<u>Okoroa Bay, Motiti west</u>	<u>A31</u>	<u>Manukakawhati</u>	<u>Taonga tukuiho.</u> <u>Rock pointer; determine summer solstice.</u>
	<u>Te Maamangi (MPA 1)</u>	<u>VX12</u>	<u>Otaiti</u>	<u>Toka tipua.</u> <u>Reef; traditional landmark "rapara o te kopu whakaari"; perform spiritual rituals that connect to the island.</u>



		<u>o Karapū</u>	<u>VX13</u>	<u>o Karapū</u> <u>Includes Te Papa reef</u>	<u>Toka tipua.</u> <u>Reef; traditional marker</u> <u>“rapara o te kopu</u> <u>whakaari”; perform</u> <u>spiritual rituals that</u> <u>connect to the island.</u>
		<u>Omaroa</u>	<u>VX14</u>	<u>Omaroa, part of wider</u> <u>area referred to as</u> <u>Okani</u>	<u>Taonga tukuiho.</u> <u>Reef; traditional land</u> <u>markers</u>
		<u>Ru o Tāne</u>	<u>VX15</u>	<u>Rua o Tāne, part of a</u> <u>wider area that</u> <u>includes Matarehua</u>	<u>Taonga tukuiho.</u> <u>Reef; traditional marker.</u>
		<u>Mataraakiitia</u>	<u>VX16</u>	<u>Mataraakiitia</u>	<u>Tino tapu.</u> <u>Reef; traditional marker;</u> <u>battle site where many</u> <u>people lost their lives</u>
		<u>Tokoroa</u>	<u>VX17</u>	<u>Tokoroa</u>	<u>Toka tipua.</u> <u>Reef; heritage site links</u> <u>to star navigation – a</u> <u>traditional marker that</u> <u>forms part of the ancient</u> <u>equilateral triangle that</u> <u>connects Motiti Island</u> <u>and Maketū.</u>
		<u>Motu Haku</u>	<u>VX19</u>	<u>Mōtū Haku</u>	<u>Toka tipua.</u> <u>Island; traditional marker</u> <u>“raparapa ki te whaka rii</u> <u>o te ra”; spiritual rituals</u> <u>connect the rising sun; is</u> <u>a monument/reference to</u> <u>the departure of the</u> <u>ancestors.</u>
		<u>Okani</u>	<u>VX20</u>	<u>Okani</u>	<u>Taonga tukuiho.</u> <u>Reef; traditional land</u> <u>markers</u>



		<u>Manukakawhati</u>	<u>VMX21</u>	<u>Manukakawhati</u>	<u>Rock pointer to determine the summer solstice.</u>
		<u>Nukutai reef</u>	<u>VMX22</u>	<u>Nukutai reef</u>	<u>Part of the Motiti Island Reef system A75 ONF 44</u>
		<u>Otawhao</u>	<u>VMX23</u>	<u>Otawhao</u>	<u>Taonga tukuiho. Reef: traditional land markers</u>
		<u>Te Haupapa Tiotio</u>	<u>VMX24</u>	<u>Haupapa Tiotio</u>	<u>Traditional marker to identify the arrival of the northern tropical tides.</u>
		<p><u>Otāiti is a reef within an area culturally known as Te Maamangi of particular cultural and spiritual significance to Te Patuwai, Ngāti Whakahemo, Ngāti Te Hapū and Ngāti Awa. The source of the mauri (spiritual essence) of Otāiti stems from ancient 'Uru' ancestors and rituals performed by the (high priest) of Te Arawa waka haurua Ngatoroirangi, who spent his last years at Motiti Island. Otaiti is a significant historical site of Te Arawa and is connected to the ancestor tohunga Ngatoroirangi who gave it its name. Otaiti marks the outer gateway to the moana o Te Arawa. It is connected to the geothermal pathways discovered by Ngatoroirangi.</u></p> <p><u>Te Patuwai, the hapū on Motiti Island (of Mataatua waka origins) continue to regard Otāiti as a toka tipua (reef imbued with spiritual and sacred qualities) alongside Mōtū Haku Island to the north east that holds the same status. Otāiti, Mōtū Haku and the Oromai Tāngata ancient rock monuments, that link to a spiritual rock at the rear of Motiti Island named Kopu Whakaari, with the same reverence iwi and hapū on the mainland have towards their maunga or mountain. These areas are also a significant traditional fisheries "kāinga mahinga ika and mahinga mataitai".</u></p>			
<u>ASCV 9</u>	<u>Motunau (Plate) Island</u>	<p><u>Motunau Island is a Māori-owned wildlife sanctuary protected under the Wildlife Act 1953 – gazetted under the Wildlife Sanctuary (Motunau Island) Order 1969. It is rated as a site of Special Wildlife Interest.</u></p> <p><u>Motunau Island traditionally was a mahinga kai area within living memory. Tītī (mutton bird) was taken</u></p>			



	<p>from the island. The rotation of harvesting enabled whānau and hapū access. Although the numbers of Tītī from Motunau were never in large numbers as those taken from Whakaari Island, they were nonetheless an important local mahinga kai and had significant cultural value to Ngāti Whakahemo whānau and hapū.</p> <p>Motunau Island remains in the ownership of Ngāti Whakahemo whānau. It is administered by DoC and three kaitiaki of Ngāti Whakahemo Iwi. Motunau is of high heritage significance to Ngāti Whakahemo as it is part of their 'pātaka kai'.</p> <p>Taonga tukuiho - this site is linked to the study of stars – the road map to the Pacific Ocean.</p>
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Indigenous Biodiversity Area Attributes

<u>Indigenous Biological Diversity Area A</u>	<u>New Zealand Threat Status*</u> - <u>NZCPS Policy 11(a)(i)</u>	<u>International Threat Status*</u> - <u>NZCPS Policy 11(a)(ii)</u>	<u>Threatened or rare ecosystems and vegetation types</u> - <u>NZCPS Policy 11(a)(iii)</u>	<u>Habitat of indigenous species at limit of natural range or rare</u> - <u>NZCPS Policy 11(a)(iv)</u>	<u>Nationally significant area</u> - <u>NZCPS Policy 11(a)(v)</u>	<u>Biodiversity values protected by legislation</u> - <u>NZCPS Policy 11(a)(vi)</u>
Motiti Island IDBA-A75	<p>Flora: <u>Lepidium oleraceum (Threatened – Nationally Vulnerable).</u> <u>New Zealand smpinacn (At Risk-Naturally Uncommon).</u></p> <p>Avifauna: <u>Caspian tern (Threatened – Nationally Vulnerable).</u> <u>North Island kākā (Threatened – Nationally</u></p>	<u>Kākā (Endangered).</u>	<u>Pohutukawa forest and treeland, coastal cliffs, and Sandfields.</u>		<u>Regionally significant</u>	<u>Unprotected</u>



<u>Indigenous Biological Diversity Area A</u>	<u>New Zealand Threat Status*</u> - <u>NZCPS Policy 11(a)(i)</u>	<u>International Threat Status*</u> - <u>NZCPS Policy 11(a)(ii)</u>	<u>Threatened or rare ecosystems and vegetation types</u> - <u>NZCPS Policy 11(a)(iii)</u>	<u>Habitat of indigenous species at limit of natural range or rare</u> - <u>NZCPS Policy 11(a)(iv)</u>	<u>Nationally significant area</u> - <u>NZCPS Policy 11(a)(v)</u>	<u>Biodiversity values protected by legislation</u> - <u>NZCPS Policy 11(a)(vi)</u>
	<u>Vulnerable).</u> <u>Pied Shag (Threatened – Nationally Vulnerable).</u> <u>White-fronted tern (At Risk-Declining).</u> <u>Northern diving petrel (At Risk-Relict).</u> <u>Variable oystercatcher (At Risk – recovering).</u>					
<u>Astrolabe Reef</u> <u>IDBA-A76</u>			<u>Ecosystem uncommon in NZ as it has both tropical fish and a strong pelagic school fish component.</u> <u>Coastal rock stack ecosystems (pinnacles) are naturally rare ecosystems in New Zealand.</u>		<u>Regionally significant</u>	<u>Unprotected.</u>
<u>Motunau (Plate Island)</u> <u>IDBA-A77</u>	<u>Avifauna:</u> <u>Reef heron (Threatened – Nationally Vulnerable).</u> <u>Pied shag (Threatened – Nationally</u>		<u>High quality examples of indigenous vegetation on an offshore island.</u>		<u>Nationally Significant</u>	<u>Protected (Plate Island Wildlife Sanctuary, Department of</u>



<u>Indigenous Biological Diversity Area A</u>	<u>New Zealand Threat Status*</u> - <u>NZCPS Policy 11(a)(i)</u>	<u>International Threat Status*</u> - <u>NZCPS Policy 11(a)(ii)</u>	<u>Threatened or rare ecosystems and vegetation types</u> - <u>NZCPS Policy 11(a)(iii)</u>	<u>Habitat of indigenous species at limit of natural range or rare</u> - <u>NZCPS Policy 11(a)(iv)</u>	<u>Nationally significant area</u> - <u>NZCPS Policy 11(a)(v)</u>	<u>Biodiversity values protected by legislation</u> - <u>NZCPS Policy 11(a)(vi)</u>
	<u>Vulnerable).</u> <u>Red-billed gulls (Threatened – Nationally Vulnerable).</u> <u>Northern little blue penguin (At Risk – declining).</u> <u>White-fronted tern (At Risk – Declining).</u> <u>Fluttering shearwater (At risk – Relict).</u> <u>New Zealand white-faced storm petrel (At Risk – Relict).</u> <u>Northern diving petrel (At Risk – Relict).</u> <u>Herpetofauna:</u> <u>Pacific gecko (At Risk – Relict).</u> <u>Northern tuatara (At Risk – Relict).</u>					<u>Conservation).</u>
<u>Motunau (Plate Island) – marine area IDBA-A78</u>	<u>Fluttering shearwater (At Risk – Relict).</u> <u>White-fronted tern (At Risk – Declining).</u>		<u>Regionally threatened ecosystem containing surface schooling trevally, kahawai and blue maomao. Trevally and kahawai schools are usually</u>		<u>Nationally significant</u>	



<u>Indigenous Biological Diversity Area A</u>	<u>New Zealand Threat Status*</u> - <u>NZCPS Policy 11(a)(i)</u>	<u>International Threat Status*</u> - <u>NZCPS Policy 11(a)(ii)</u>	<u>Threatened or rare ecosystems and vegetation types</u> - <u>NZCPS Policy 11(a)(iii)</u>	<u>Habitat of indigenous species at limit of natural range or rare</u> - <u>NZCPS Policy 11(a)(iv)</u>	<u>Nationally significant area</u> - <u>NZCPS Policy 11(a)(v)</u>	<u>Biodiversity values protected by legislation</u> - <u>NZCPS Policy 11(a)(vi)</u>
			<p><u>accompanied by fluttering shearwater and white fronted terns. Contains a rift in the middle of the island containing a range of deep water species in shallow water (less than 5 metres). Species include cup sponges, hydroids and bryozoans. This is the only example in the Bay of Plenty region.</u></p>			
<p><u>Motuputa Island</u> <u>IDBA-A79</u></p>	<p><u>Flora: Cook's scurvy grass (Threatened – Nationally Vulnerable) (1994).</u></p>		<p><u>Highest quality offshore rock stack in Motiti Ecological District.</u></p>		<p><u>Regionally significant</u></p>	<p><u>Unprotected.</u></p>



<u>Indigenous Biological Diversity Area B</u>	<u>New Zealand Threat Status*</u> - <u>NZCPS Policy 11(b)(i)</u>	<u>International Threat Status*</u> - <u>NZCPS Policy 11(b)(ii)</u>	<u>Threatened or rare ecosystems and vegetation types</u> - <u>NZCPS Policy 11(b)(iii)</u>	<u>Habitat of indigenous species at limit of natural range or rare</u> - <u>NZCPS Policy 11(b)(iv)</u>	<u>Nationally significant area</u> - <u>NZCPS Policy 11(b)(v)</u>	<u>Biodiversity values protected by legislation</u> - <u>NZCPS Policy 11(b)(vi)</u>
<u>Motiti Islets IBDA B132</u>	<u>Coastal herbfields, pohutukawa-karo treeland and coastal rockland.</u>		<u>Coastal herbfields, pohutukawa-karo treeland and coastal rockland.</u>			
<u>Taumaihi Island IBDA B133</u>	<u>Pohutukawa forest, flaxland, bracken fernland and coastal herbfields.</u>		<u>Pohutukawa forest, flaxland, bracken fernland and coastal herbfields.</u>			





[New Definitions to be inserted in the Definitions section]

Motiti Protection Area (MPA) The areas identified in Schedule 16A and on map 43d within which Rules D6A and DD17 apply.

Motiti Natural Environment Management Area (MNEMA) An area of significance to the ~~ta~~ngata whenua of Motiti Island which contains the three Motiti Protection Areas as identified in Schedule 16A and on map 43d



# Attachment E

**IN THE ENVIRONMENT COURT OF NEW ZEALAND  
AUCKLAND REGISTRY**

**I MUA I TE KOOTI TAIAO O AOTEAROA  
TAMAKI MAKAUROA ROHE**

**UNDER** the Resource Management Act 1991  
(RMA)

**IN THE MATTER** of appeals under clause 14 of the First Schedule

**BETWEEN** **MOTITI ROHE MOANA TRUST**

**ENV 2015 AKL 000134**

**NGATI MAKING HERITAGE TRUST**

(ENV-2015-AKL-000140)

**NGATI RANGINUI IWI INCORPORATED  
SOCIETY**

(ENV-2015-AKL-000141)

**Appellants**

**AND** **BAY OF PLENTY REGIONAL COUNCIL**

**Respondent**

**AND** **VARIOUS**

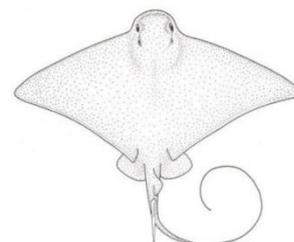
**Section 274 parties**

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**MEMORANDUM FOR MOTITI ROHE MOANA TRUST re MAPPING**

**Dated 10<sup>th</sup> February 2020**

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**MOTITI  
ROHE MOANA**



## May it please the Court

- 1 This Memorandum attaches revised maps to assist the Court address outstanding issues remaining in the Coastal Plan appeals:
  - a. Motiti Natural Environment Management Area (**MNEMA**) “mediation version” with Schedule 16 areas marked in yellow, and showing appropriate protection area on eastern coast of Motiti Island marked in purple.
  - b. Motiti focus area map showing details of bathymetry, reef ecosystems and identified outstanding natural character, landscape features and indigenous biodiversity areas listed and mapped in Schedule 16.
  
- 2 MRMT trustees apologise for delay in filing these maps. Early in the new year the trustees and advisers arranged a meeting with BOPRC Team Leader, Environment Policy & Planning and Coastal Planner on 15 January 2020 for the purpose of discussing MRMT appeal and relief sought. Council staff refused to discuss relief as they explained their role was to work with Councillors who represent their constituents and had indicated Council would not entertain MRMT relief beyond minimal provision for the **3 Motiti Protected Areas** provided in the Interim Decision 21 months ago (11 May 2018) without further direction of the Court. MRMT asked if BOPRC could provide the GIS services to produce the maps of the proposed relief.
  
- 3 A week later on 21 January our project manager followed up with Council coastal planner who confirmed that Council would not provide GIS services but MRMT could use the existing publicly available maps and “Please note that it is best that the Trust uses that as this map as your base map and draw on it the areas you are seeking your relief on. . . It needs to be clear that the Trust have produced their own map.”
  
- 4 MRMT sought GIS capability from a Landscape architect who was on holiday in Bendigo and unable to assist and meanwhile we have had Auckland Anniversary and Waitangi Day holidays (and tangi). Trustees are grateful to Ngati Makino Heritage Trust assisting by providing GIS capacity to prepare the attached maps for the Court.



## Explanation

- 5 The outstanding issues between MRMT and Council concern the very highest natural and intrinsic values within the MNEMA, especially to give effect to a concatenation of values provided under RMA Part 2, functions under s30, and mandatory policies under NZCPS 2010 to maintain and protect indigenous biodiversity and associated habitats and ecosystems and identified areas of outstanding natural character and features etc, and particularly those areas previously identified by Council (in RPS and RCEP schedules) now listed in Schedule 16 and spatially identified in the accompanying Values & Attributes map filed by Council.
- 6 The **first map** responds to Council's various proposals for mapping the MNEMA Protection Areas by showing location of Scheduled high value areas (marked in yellow) with 1 km buffers provided by the mapping methodology shown with dotted yellow lines. These significantly overlap each other forming a combined area requiring protection – shown by the purple line (incorporating most of the mandatory areas on eastern Motiti from Matarehu /Taumaihi Island in the south to Motuputa Island and Nukutai reef in the north).
- 7 Several compromises adjustments have been made:
  - a. A number of individual toka on western Motiti remain unprotected to accommodate ongoing recreational fishing use (noting additional prohibited rule DD 17 #10 restricting dredging, pots, nets, longlines within MNEMA). While continued overfishing is undesirable this arrangement has a small benefit in providing a clear comparison for ongoing monitoring (agreed **Method 29** SaMTAG) between western and eastern Motiti to measure effectiveness of provision of Protection Areas over time.
  - b. The 1 km buffer zone around Horopupu reef (nationally significant tombolo) and Taumaihi Island has been pulled back with a straight line to the coast south of the consented activities of the MAL/Sunchaser SW Barge Landing ramp (RC 62867) avoiding any overlap or conflict.
  - c. The proposed Eastern Motiti Protection Area has been pushed out 100m from the coast from Te Huruhi Point (Ohou Bay) to Hunahuna o Toroa Point (Waihi Bay) to allow for potential future customary fisheries mataitai application



(although the area advanced by Council only applies to the 3 Protected Areas confirmed by the Court).

- d. These amendments avoid purported conflicts addressed by Council memorandum dated 28 January 2020.
- 8 The map also shows 1km protected area around **Nukutai** reef immediately north of Motiti Island (which appears to have been omitted from Council's desktop assessments). Nukutai is critical to the local ecosystem habitat as matauranga records the importance of the reef as Te Arara roa "the pathway of pelagic species" (especially seriously depleted trevally, tarakihi, yellow fin tuna etc) – "*nga Tauranga tai kumekume o te hukarere o nga Aturere*" (Refer SoEs of Nepia Ranapia and Te Atarangi Sayers in merits hearing, November 2017). These threatened important predator species follow the East Auckland current to and around the Island and protection of Nukutai reef is essential to maintenance of biodiversity in the wider MNEMA. It was also the evidence of all ecologists that "bigger marine protected areas are better", particularly if interconnected and nested within a wider marine protection regime (eg Great Barrier Reef, Queensland).
- 9 The **second map** is the Council Motiti focus area – Values and Attributes map (Schedule 16) with details of toka and reefs surrounding Motiti (pink dots) and mapping spatial extent of scheduled areas within the cma, with buffers and the appropriate delineation of the eastern Motiti Protected Area to be provided (purple line).
- 10 MRMT submits that these provisions are appropriate and reflect the overwhelming weight of scientific and cultural evidence.

**Dated** this 10<sup>th</sup> day of February 2020



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Trustee and Chairman of the  
**MOTITI ROHE MOANA TRUST**







# Attachment F

BEFORE THE ENVIRONMENT COURT  
AT AUCKLAND

IN THE MATTER: of the Resource Management Act 1991

AND

IN THE MATTER: of appeals pursuant to clause 14 of the  
First Schedule to the Act

BETWEEN

**MOTITI ROHE MOANA TRUST**

(ENV-2015-AKL-000134)

**NGATI MAKINO HERITAGE TRUST**

(ENV-2015-AKL-000140)

**NGATI RANGINUI IWI INCORPORATED  
SOCIETY**

(ENV-2015-AKL-000141)

**Appellants**

AND

**BAY OF PLENTY REGIONAL COUNCIL**

**Respondent**

AND

**VARIOUS**

**Section 274 Parties**

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JOINT MEMORANDUM OF COUNSEL IN RESPONSE TO MEMORANDUM FOR MOTITI  
ROHE MOANA TRUST RE MAPPING

18 February 2020

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TAURANGA

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Lawyer Acting: M H Hill

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MHH-133911-694-1596-8:mhh



**MAY IT PLEASE THE COURT:**

1. This Joint Memorandum of Counsel, by the Respondent, Attorney General and Sunchaser Investments Limited Partnership (**Parties**), responds to the Memorandum for Motiti Rohe Moana Trust dated 10 February 2019 relating to mapping (**MRMT Memorandum**).
2. In the Second Joint Memorandum of Counsel in response to Interim Decision, dated 28 January 2020 (**Second Memorandum**), the parties reserved their right to respond to any further maps provided by MRMT (para 3).
3. MRMT has provided two maps for the Court's consideration:
  - (a) An amended version of map 43d, which is the proposed new coastal plan map showing the "Motiti Protection Areas", being the areas to which the proposed new rules framework would apply (**Map 43d**);
  - (b) An amended "Motiti Focus Area" map, which graphically depicts the values and attributes of the Motiti Natural Environment Management Area (**MNEMA**), proposed to be included for information purposes in a new Schedule 16 to the Coastal Plan (**Values Map**). The purpose of the Values Map is explained at para 38 of the Joint Memorandum of Counsel in Response to Interim Decision dated 25 November 2019 (**First Memorandum**).

**Response****4. Map 43d**

- 4.1 MRMT's proposed Map 43d includes an extensive new area on the eastern side of Motiti Island which is not identified in the Interim Decision as the subject of protection.
- 4.2 The Parties do not support the proposed extension of the protection areas for the following reasons:
  - (a) **No jurisdiction:** For the same reasons set out at paras 14-32 of the Parties' Second Memorandum, there is no jurisdiction for the Court to consider additional areas which may warrant protection over and above the three areas identified for protection in the Interim Decision;



(b) **No evidentiary basis:** Even if the Court considers it has jurisdiction to extend the protection areas, the evidentiary basis for extending protection around Motiti was carefully considered at the hearing of MRMT's appeal and the Court found that protection is not currently justified by the evidence:

(i) At a high level, it is clear that the Interim Decision has focussed protection on areas which exhibit a "concatenation" of significant values based on overlays in the Coastal Plan. All areas proposed for protection in the Interim Decision have either an IBDA A overlay (reflecting NZCPS Policy 11(a) values) and / or are an area of Outstanding Natural Character under the RPS. Some also have an ONFL overlay. The new area identified by MRMT around the north eastern side of Motiti Island is subject only to an ONFL overlay in places, although this does not extend north to Nukutai which is subject only to an ASCV overlay.<sup>1</sup> The suggestion that Nukutai has been omitted from Council's mapping is addressed further below;

(ii) At a more granular level, the Court considered the evidence presented at hearing carefully and determined not to afford protection to the area around Motiti subject to ONFL 44, particularly the land at the Southern end including Taumaihi Island, notwithstanding its undisputed cultural significance. The Court found "*that the focus of ONFL is on physical rather than ecosystem values and attributes. We conclude that there is not sufficient evidence to currently require protection of Taumaihi under s 30(ga)*".<sup>2</sup> Similarly, the Court considered that location within an ASCV "*does not in itself create a direct connection to maintaining indigenous biological diversity under s 30(1)(ga)*." Acknowledging that such values may warrant further investigation through future processes, the Court concluded "*at this stage there is insufficient information to justify all of the ASCV 25 for protection under s 30(1)(ga)*." [137]. The Court reached a similar conclusion in relation to the balance of the MNEMA, being an area of high natural character (Interim Decision, at [139] and [141]).

<sup>1</sup> Area of Significant Cultural Value (specifically ASCV 25 – *Motiti Island and associated islands, reefs and shoals*).

<sup>2</sup> Interim Decision No. [2018] NZEnvC 067, at [80], [99], [126], [131]-[134].



- (c) **Natural justice:** The Interim Decision acknowledges the “balanced” and “proportionate” response taken by the Court when settling on the protection areas. The Court has carefully considered the potential impact on commercial and recreational fishing and on kaitaki (given cultural takes are also prohibited within the protection areas) (at [173] and [177]).
- (i) MRMT’s “adjustments” to the protection areas expressed as “compromises”<sup>3</sup> demonstrate the challenges in balancing competing interests in this public area of the CMA. With respect, only the Court is capable of making those determinations, and it has done so comprehensively and conclusively in the Interim Decision.
- (ii) Since the Interim Decision, the Council has been approached by members of the fishing community and other tāngata whenua who have expressed concern about the potential impact of the protection areas and their perceived exclusion from the process which has led to their creation. While the Council has done its best to explain the process to these parties, any extension of these areas in the manner now proposed by MRMT would undoubtedly give rise to natural justice issues and has the real potential to further undermine the community’s confidence in the ability of both Council and Court processes to enable public participation in issues affecting them.

## 5. Values Map

5.1 It is unclear what MRMT is seeking in relation to this map. As explained at para 38 of the Parties’ First Memorandum, this map was prepared at the request of MRMT. It collates existing references in various planning documents to the values and attributes of the MNEMA and records them in a schedule to the Coastal Plan. It is for information purposes only and has no regulatory effect.

5.2 MRMT appears to be proposing to include the protection areas (as proposed to be expanded by MRMT) to this map. It is unclear whether this is intended to have regulatory effect, or remain for information only, give the notation

<sup>3</sup> MRMT Memorandum, para 7.  
MHH-133911-694-1596-8:mhh



proposed by Council explaining that the Values Map is “*For information only – refer to Schedule 16*” has been removed from MRMT’s version.

- 5.3 For the reasons explained above, there is no jurisdiction, nor justification, for extending the protection areas in the manner proposed.
- 5.4 Even if the proposed reference to the protection areas in the Schedule 16 map is intended for information purposes only, this suggestion is not supported by the Parties. It is considered unnecessary duplication and likely to give rise to confusion because proposed new Coastal Plan Map 43d shows the protection areas. That map, together with the associated rules, has regulatory effect.
- 5.5 MRMT’s memorandum (para 8) suggests that Nukutai reef has been “*omitted from Council’s desktop assessments*”. It is unclear whether this refers to omitting Nukutai from the protection areas, or omitting it from identification on the underlying bathymetry in Map 43d and / or the Values Map. It has not been included in the protection areas because it was not identified in the Interim Decision as warranting protection. Nukutai is not subject to any coastal plan overlay except ASCV 25. Nukutai is however included in the proposed new Schedule 16 which identifies the attributes and values within the MNEMA (entry A75). Although not currently shown in the supporting (static image) map, due to scale, it is anticipated that the online version will be a work in progress and will enable the provision of greater detail and potentially additional spatial layers over time based on monitoring and collaborative engagement processes.

## Conclusion

6. The Coastal Plan was made operative on 3 December 2019 apart from the provisions required to give effect to this appeal, and the final ONFL entry for Matakana Island. There is considerable public interest in bringing finality to planning processes, which was recognised by the Court when bringing MRMT’s merits appeal on for hearing notwithstanding the jurisdictional issue remained live. That matter is now resolved, and the Court is in a position to make a final decision on the most appropriate provisions to give effect to the Interim Decision. It has sufficient information before it to make that decision on the papers.
7. If the Court does not consider it is now in a position to make a final decision, the Parties respectfully seek a judicial teleconference to understanding the Court’s concerns and to address any outstanding procedural issues.



DATED 18 February 2020



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**M H Hill**  
Counsel for Bay of Plenty Regional Council

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**R Dixon**  
Counsel for the Attorney-General



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**M Exton**  
Counsel for Sunchaser Investments Limited Partnership





18 February 2020

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