

KEI RARO I

Te Declaratory Judgments Act 1908

KEI WAENGANUI I

TE OHU KAI MOANA TRUSTEE LTD, tētahi kamupene, ko tōna tari rēhita kei 158 The Terrace, Te Whanganui-a-Tara me **TE OHU KAIMOANA TRUST**, tētahi tarahitī manatōpū i raro i w 33(2) o te Māori Fisheries Act 2004

Kaiwhakapae

ME

Te Rōia-Matua mō Tōna Korōria mō te Kingi o Aotearoa

Kaikaro

WHAKAPUAKITANGA O TE KERĒME
2 Ōketopa 2023

Brianna Boxall
Te Ohu Kai Moana
158 The Terrace
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Ka mea te kaiwhakapae mā tōna rōia:

Ko ngā pāti

1. Ko te kaiwhakapae ko Te Ohu Kai Moana Trustee Ltd, tētahi kamupene ko tōna tari rēhita kei 158 The Terrace, Te Whanganui-a-Tara. Koia te piki tūranga mō te Treaty of Waitangi Fisheries Commission (i mua, ko Te Māori Fisheries Commission) mō te kaitarahitī rangatōpū o Te Ohu Kaimoana Trust, tētahi tarahitī manatōpū i raro i w 33(2) o te Māori Fisheries Act 2004 (arā, ko **Te Ohu Kaimoana**).
2. Ko te kaikaro ko te Rōia-Matua, e tapaina ana mō Tōna Korōria, mō te Kingi o Aotearoa (arā, ko **te Karauna**).

Tāhaetanga

3. Nā Te Tiriti o Waitangi¹ i whakaae, i whakapūmau hoki te Karauna ki ngā Rangatira, ki ngā hapū, ki ngā tāngata Māori katoa i te tino rangatiratanga o ō rātou mahinga hī ika.
4. I ngā tau i whai ake rā, i kerēme a Ngāi Māori kua takahia ō rātou mana hī ika e te Karauna, e āna tini mahi tae atu ki tāna whakatūranga i te tau 1986 o te Quota Management System (arā, ko **te QMS**) i whakakorengia ai te mana ā-ture o ngā mana Māori ā-tikanga ki te hī ika, ki te mahinga hī ika hoki.
5. I te tau 1988, i whakatau Te Rōpū Whakamana i Te Tiriti o Waitangi e tino hārakiraki ana te QMS o taua wā ki Te Tiriti nātemea i tuku atu te QMS ki ētahi atu hunga kē te tino rangatiratanga o te mana ā-rawa ki te hī ika i whakapūmautia ki a Ngāi Māori i raro i Te Tiriti, engari ehara i te mea me hārakiraki tonu rā te QMS ki Te Tiriti mehemea ka tutuki he whakaaetanga a te Karauna me Ngāi Māori.

¹ Ko ngā tohutoro kei roto i tēnei whakapuakitanga o te kerēme ki “Te Tiriti o Waitangi”, ki “Te Tiriti” he tohutoro ki te tuhinga Māori, ki te tuhinga Ingarihi hoki o Te Tiriti o Waitangi/the Treaty of Waitangi e whakatakotohia ana kei te Treaty of Waitangi Act 1975, Āpitianga 1.

Ko te Whakataunga Hī Ika

6. He pāti te Karauna ki te Whakaaetanga Whakataunga i waenganui i te Karauna me Ngāi Māori o te rā 23 o Hepetema 1992, i whakaaetia e ngā pāti:
 - 6.1 ki te whakaū nā Te Tiriti o Waitangi i whakaae, i whakapūmau te Karauna ki ngā Rangatira, ki ngā hapū, ki ngā tāngata Māori katoa i te tino rangatiratanga o ō ratou mahinga hī ika;
 - 6.2 ki te whakatau i ā rātou tautohetanga, i ā rātou kerēme e toe ana, i ā rātou nawe i raro i Te Tiriti e pā ana ki ngā mana hī ika, ki ngā pānga hī ika, ki te QMS hoki mā tētahi rongoā tika, mā tētahi rongoā whaimana e ai ki ngā mātāpono o Te Tiriti o Waitangi;
 - 6.3 ki te whakaū ka whakaaro rāua tahi he mea tino whakahirahira rawa atu te whakaotinga me te whakatinanatanga o te Whakaaetanga Whakataunga hei whai i tētahi whakataunga tika o ngā kerēme Māori e pā ana ki te mahi hī ika;
 - 6.4 hei whakahua i tā rāua tahi whakaūnga taumaha ko te whakataunga i tutuki i te Whakaaetanga he tohu o te whakataunga o tētahi nawe i tuku iho.
7. I whai atu te Whakaaetanga Whakataunga i tētahi whakataunga hukihuki i te tau 1989 i whakaatatia i roto i te Māori Fisheries Act 1989, ka mutu i whakatinanatia i roto i te Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 (kō ēnei katoa, ko **Te Whakataunga Hī Ika**).
8. Ka whakarite Te Whakataunga Hī Ika mō ēnei e whai ake nei e pā ana ki te mahi hī ika arumoni:
 - 8.1 i unuhia e Ngāi Māori ā rātou wero ā-ture ki te whaimanatanga o te QMS, i keremutua ā rātou whakahaerenga ā-ture, ā, i whakaae rātou kua whakaūhia, kua ea ā rātou kerēme hī ika Māori *“nā runga i ngā painga i tukuna mai e te Karauna ki a Ngāi Māori i raro i te Māori Fisheries Act 1989, i tēnei Ture, i te Whakaaetanga*

Whakataunga hoki ...” (wehenga 9 o te Ture Whakataunga, rārangi 4.3 o te Whakaaetanga);

- 8.2 i ohiatia e Ngāi Māori te QMS, ā, i whakaaetia he pūnaha tika ā-ture, he pūnaha arotau mō te whakahaerenga toitū o te mahinga hī ika arumoni i Aotearoa (rārangi 4.2 o te Whakaaetanga); ā
- 8.3 i riro i a Ngāi Māori te 10 ōrau o te rahinga mō ērā puringa hua i roto kē i te QMS, te 20 ōrau o te rahinga mō ērā puringa hua ka kuhuna ā muri ake rā ki roto i te QMS (kō ēnei katoa, ko **te whakataunga rahinga hua**) me te \$150 miriona kia āhei a Ngāi Māori ki te hoko i tētahi pānga 50 ōrau o Sealords Products Ltd (rārangi 3 o te Whakaaetanga) (kō ēnei katoa, ko **ngā painga o te whakataunga**).
9. Ko tētahi tino kaupapa o te Whakataunga Hī Ika ko te ōwehenga mō ake tonu atu ki a Ngāi Māori o tētahi ōwehenga toitū o te katoa o te rahinga i raro i te QMS.
10. He kupu tohu ō te Whakataunga Hī Ika mā te Karauna te hōnore o te Whakataunga Hī Ika e whakapūmau e ai ki ōna kawenga i raro i Te Tiriti.
11. He kupu tohu ō te Whakataunga Hī Ika mā te Karauna te hōnore o te Whakataunga Hī Ika e whakapūmau e ai ki ōna kawenga i raro i te tikanga.
12. He kupu tohu ō te Whakataunga Hī Ika e kore te Karauna e tango ngā painga o te whakataunga mā te whakatāharahara me te kore whakaaetanga, mā te kāpeneihana i te katoa o te rahinga i raro i te QMS i tohatohaina ki a Ngāi Māori i raro i te Whakataunga, ki te kore he whakaaetanga, he kapeneihana rānei.
13. I whakatūria Te Ohu Kaimoana i raro i te Māori Fisheries Act me tōna aronga ki te kōkiri i ngā pānga o ngā iwi takitahi, o ngā iwi ā-tōpū hei whakawhanake i ngā mahinga hī ika, mātua rā i te hī ika, i ngā mahi e pā ana hoki ki ngā mahinga hī ika, -

- 13.1 hei painga rawa mō ngā mema o ngā iwi, mō te hunga Māori hoki; ā
- 13.2 hei kōkiri i ngā whakaaetanga i whakaaetia i te Whakaaetanga Whakataunga; ā
- 13.3 hei āwhina i te Karauna kia ea ōna kawenga i raro i te Whakaaetanga Whakataunga me Te Tiriti; ā
- 13.4 hei tāpaetanga ki te whakatutukinga o tētahi whakataunga toitū o ngā kerēme, o ngā nawe e kōrerohia ana i roto i te Whakaaetanga Whakataunga.
14. Ka āhei ā-ture Te Ohu Kaimoana kia whakamauria te Karauna ki tōna ake haepapa ki te whakamahi i ōna kawenga i raro i Te Whakataunga Hī Ika, i raro hoki (i roto i taua horopaki) i Te Tiriti.

Te tango anō a te Karauna i ngā whakataunga painga

15. Nā ētahi whakahounga a te Pāremata i whakawhanake te Karauna i tētahi pūnaha ā-ture e āhei ana te Karauna ki te tango anō i ngā whakataunga painga mai i a Ngāi Māori ahakoa kāre he whakaaetanga, kārekau rānei he utu (arā, ko **ngā raupatu mana 28N**).

Ko ngā taipitopito

- 15.1 Nā ētahi whakahounga ki te Fisheries Act 1983 i te tau 1986 ka whaihanga ētahi mana tuatahi mō ētahi kaipupuri rahinga hua kia riro mā rātou ētahi anō rahinga hua mai i te Karauna i te wā ka hikitia ngā hao mōrahi e āheitia ana me te kore utu (arā, ko **ngā mana w 28N**).
- 15.2 I whakaritea ngā mana w 28N hei whakakapi i te kapeneihana i noho namatia e te Karauna, i whai i ngā whakatāraharaha hao mōrahi e āheitia ana i whakamahia e te Karauna ki te tango anō i ngā rahinga hua.

- 15.3 I panonitia te QMS e te Karauna i ngā tau 1990 mai i tētahi pūnaha kokoraho ā-tana ki tētahi pūnaha kokoraho ōwehenga hea, ka mutu ko te rahinga hua i whakapūmautia ki te 100 miriona hea mō ia puringa hua. Nā reira, i takahurhia te rahinga o te whakataunga ki te 10 miriona rahinga hea (10%) mō ia puringa hua e noho kē ana i roto i te QMS,² ki te 20 miriona rahinga hea (20%) mō te katoa o ngā puringa hua hou e kuhu mai ana ki te QMS i muri i te Whakataunga.
- 15.4 Ko te takune me te putanga o ngā panoni ki te QMS e whakaritea ana i roto i te Fisheries Act 1996 i taua wā, ko te tohatoha i ngā tūraru me ngā painga o ngā whakatāharahara me ngā whakapikinga ki te katoa o ngā hao mōrahi arumoni e āheitia ana (arā, ko te **TACC**), he tohatoha atu i te Karauna ki ngā kaipupuri rahinga ōwehenga. Ina ka tāharahara, ka piki rānei te TACC i raro i te Ture, ka heke, ka piki rānei te mana hao ā-tau utukore, kapeneihana-kore hoki.
- 15.5 Karekau he panoni i hua ake ki ngā mana w 28N, nā kōnā i puta ai ētahi mea pokerehū ki ērā atu kaipupurirahinga hua (arā, ko **te hēhē o ngā mana 28N**).
- 15.6 Arā, ka hikitia te TACC mō tētahi puringa hua e pā ana ki ngā mana 28N, ko te tukunga iho o ngā whakaritenga o te Fisheries Act, ka tangohia he rahinga hea i ērā atu kaipupuri rahinga, ā, i tukuna ki ngā kaipupuri mana 28N mō ake tonu atu.
- 15.7 Nā reira, kāre ngā kaipupuri mana 28N o mua o ngā e utua ana e te Karauna ina ka whakapikitia tētahi TACC, engari inaiānei ka utua kētia e ērā atu kaipupuri rahinga hua.

² Hāunga ngā wā kāre e āhei ana te Karauna ki te kimi i te katoa o te 10 ōrau mō tētahi puringa hua, i aua wā ka hoatu ētahi hea iti iho me ētahi kapeneihana ā-moni kia ea te noho nama.

- 15.8 Kia whakatāharaharatia te TACC mō tētahi puringa hua, ka hē kē atu te mahi a te hēhē mana 28N, nātemea he āheinga tō ngā kaipupuri mana 28N kia whiwhi i tētahi ōwehenga nui atu anō o te rahinga hua, nui atu i ērā e pupuritia ana e ērā atu kaipupuri rahinga hua ina ka whakapikitia anōtia ngā apa TACC mō taua puringa hua.
- 15.9 Mehemea ka whakatāharaharatia tētahi puringa hua ki te kore mō tētahi wā taupua, ka pēnei te mahi a te hēhē mana 28N: ka hikitia anōtia te TACC, ka tohatohaina te katoa o ngā hea rahinga hua mō taua puringa hua ki ngā kaipupuri mana 28N mō ake tonu atu, me te aha, ka kore katoa ngā hea mō taua puringa hua mō ērā atu kaipupuri rahinga hua.
- 15.10 Ka pēnei te mahi a te hēhē mana 28N: nā te mahi a ngā ture, ka tangohia anōtia ngā rahinga hea mai i a Ngāi Māori i tohatohaina ki a rātou e te Karauna kia tutuki ōna kawenga i raro i te Whakaaetanga Whakataunga, ā, ka whakatāharaharatia, ka waimehatia anōtia te ōwehenga o te katoa o ngā rahinga hua i raro i te QMS i tuaringia ki a Ngāi Māori i raro i te Whakataunga e tutuki ai te haepapa ahumoni o mua atu ki ētahi atu kaipupuri rahinga hua.
16. Kua mōhiotia te hēhē mana 28N mō ngā tau 20 pea.
17. I te tau 2018 i whakatūria tētahi Rōpū Mahi Tahī, e 4 ngā mema nō Fisheries NZ (he wāhanga o te Manatu Ahu Matua), e 3 ngā mema nō te ahumahi kaimoana, nō te Ohu Kaimoana (arā, ko **te Rōpū Mahi Tahī**), ko tōna kaupapa ko te whakaaroaro i ētahi kōwhiringa kia whakatikahia te hēhē mana 28N.
18. I whakaae te Rōpū Mahi Tahī, ka pēnei te pānga a te hēhē mana 28N ki ngā hea ōwehenga o tētahi puringa hua: ka whakatāharaharatia mō ake tonu atu te rahinga hua i riro i raro i te Whakataunga Hī Ika mai i te wā i tuku tuatahitia, i tohatoha tuatahitia rānei ki a Ngāi Māori.

19. Kāre te Karauna i mahi whai hua kia whakatikahia te hēhē mana 28N.
20. Kua whakatāharahara tonu, kua whakapiki tonu te Karauna i te TACC e ai ki ngā whakaritenga o te Fisheries Act 1996 i runga i te mōhio mā aua whakataunga e whakaputa ētahi atu raupatu mana 28N.
21. He ngaronga tōtika, he ngaronga ahumoni ki a Ngāi Māori te tango anō i ngā rahinga hea me te whakatōririki a ngā whakataunga rahinga hua. Ka pā tonu ētahi ngaronga anō.

Ko ngā taipitopito (hei tauira noa iho)

- 21.1 I te tau 2009 ka whakapiki te Karauna i te TACC mō LIN7, me te aha anō ka pau mō ake tonu atu te 4 ōrau o ngā rahinga hea i roto i taua puringa hua i tohatohaina ki a Ngāi Māori i raro i te Whakataunga;
- 21.2 I te tau 2016 ka whakapiki te Karauna i te TACC mō SNA7, me te aha anō ka pau mō ake tonu atu te 7.94 ōrau o ngā rahinga hea i roto i taua puringa hua i tohatohaina ki a Ngāi Māori i raro i te Whakataunga;
- 21.3 Hei te tau 2024, hei te takiwā rānei o taua tau, e takune ana te Karauna ki te whakapiki i te TACC mō SNA1 me SNA8: e ai ki te whakatau-tata ko te uara o te whakataunga rahinga ka tangohia pea e te Karauna mai i a Ngāi Māori kia ea ngā mana 28N arā, kei te takiwā o te \$10 miriona te rahi.
22. Ka whiwhi painga tonu te Karauna mai i te hēhē mana 28N, nā tāna whakamahi i taua hēhē kia ea ngā kaipupuri mana 28N utukore ki te Karauna. Ki te kore i pēnei, he kerēme tā rātou ki te Karauna.

Te takahi

23. Nā āna mahi me āna tautauā, e whakapaetia ana i ngā kōwae 15 me te 19 ki te 22 i runga nei, kua takahia te Whakataunga Hī Ika e te Karauna.

24. Nā tāna koretake kia tutuki te hōnore o te Whakataunga Hī Ika, kua takahi tikanga te Karauna.
25. Nā tāna koretake ki te mahi whai hua kia whakatikahia te hēhē mana 28N, ā, nā tāna mahi hei tango haere anō i ngā whakataunga painga mai i a Ngāi Māori, kua takahia hoki ōnā kawenga i raro i Te Tiriti e te Karauna.

Inoi

26. Ka whai te kaiwhakapae i ngā whakapuakitanga e whai ake nei:
- 26.1 Nā tāna mahi kia āheitia ngā raupatu mana 28N, kua takahi te Karauna i te Whakataunga Hī Ika;
- 26.2 E hārakiraki ana ngā whakaritenga o te Fisheries Act 1996 e whakamana ana i ngā raupatu mana 28N ki te Whakataunga Hī Ika;
- 26.3 Kia ea ōna kawenga i raro i te Whakaaetanga Whakataunga me Te Tiriti, me whakatika te Karauna i te hēhē mana 28N;
- 26.4 He kawenga tō te Karauna i raro i te Fisheries Act kia tuku kapeneihana ki a Ngāi Māori mō ngā raupatu mana 28N; me
- 26.5 Tētahi, ētahi whakapuakitanga rānei ki tā te Kōti.
27. Ka whai utu te kaiwhakapae.

Nā Brianna Boxall, te rōia mō te kaiwhakapae, tēnei whakapuakitanga o te kerēme i whakakōnae. Ko te wāhi ratonga mō te kaiwhakapae ko 158 The Terrace, Te Whanganui-a-Tara. He mea tika kia rato ngā tuhinga mō te kaiwhakapae ki taua wāhi ratonga, he mea tika hoki kia imēratia ki te rōia ki: Brianna.boxall@teohu.maori.nz