

IN THE HIGH COURT OF NEW ZEALAND
WELLINGTON REGISTRY

CIV 2011 485 821

IN THE MATTER OF The Marine and Coastal Area (Takutai Moana) Act 2011

AND

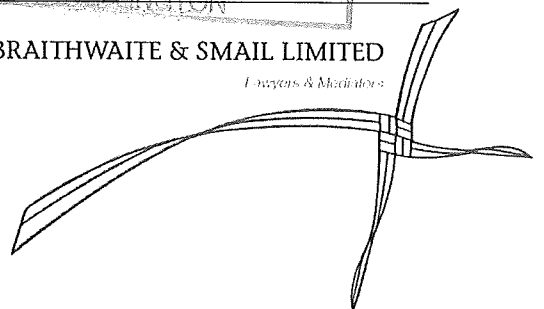
IN THE MATTER OF An application by the Trustees of the Ngāti Pāhauwera Development Trust TORO WAAKA, TANIA HODGES, TUREITI MOXON, CHAANS TUMATAROA-CLARKE, NGAIRE CULSHAW, REX ADSETT AND RICHARD ALLEN on behalf of NGATI PAHAUWERA for Customary Marine Title, Wahi Tapu Protection and Protected Customary Rights, originally filed by WAYNE TAYLOR, RUKUMOANA WAINOHU and KUKI GREEN as an application for protected customary rights.

AMENDED APPLICATION FOR CUSTOMARY MARINE TITLE, WAHI
TAPU PROTECTION AND PROTECTED CUSTOMARY RIGHTS
DATED 15 MARCH 2017

Case Manager
Next Event: / /
17 MAR 2017
THE HIGH COURT
WELLINGTON

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Onehunga
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BRAITHWAITE & SMAIL LIMITED
Lawyers & Mediators



To the Registrar of the High Court at Wellington

and

To the Solicitor General on behalf of the Attorney General; Hawkes Bay Regional Council; Wairoa District Council; Hastings District Council; Napier City Council; Maungaharuru Tangitu Incorporated; and Mana Ahuriri Incorporated.

This document notifies you that—

1. The applicants, will, on behalf of the applicant group Ngāti Pāhauwera, apply to the court for recognition orders for:
 - 1.1. Customary Marine Title in the application area;
 - 1.2. Wahi Tapu Protection in the application area; and
 - 1.3. Protected Customary Rights in the application area.
2. The applicant group Ngāti Pāhauwera are a confederation of hapū centred on Mohaka in Hawke's Bay.
3. The applicant group is represented by the Trustees of the Ngāti Pāhauwera Development Trust who are the applicants in this application.
4. The application area is the area means the common marine and coastal area that is bounded,—
 - 4.1. on the landward side, by the line of mean high-water springs; and
 - 4.2. on the seaward side, by the outer limits of the territorial sea; and
 - 4.3. on the Northern end, by the Northern bank of Poututu Stream; and
 - 4.4. on the Southern end, by the Esk River.

5. The grounds on which each order is sought are as follows:

5.1. Ngāti Pāhauwera holds the application area in accordance with tikanga, has exclusively used and occupied it from 1840 to the present day without substantial interruption and customary marine title has not been extinguished as a matter of law; and

5.2. The application area is a wāhi tapu or wāhi tapu area with which Ngāti Pāhauwera has a connection in accordance with tikanga, and Ngāti Pāhauwera requires prohibitions or restrictions on access to protect it:

5.2.1. In the whole application area:

5.2.1.1. Restriction on access after a drowning, death or a body or kōiwi found, until Ngāti Pāhauwera have taken the necessary steps to deal with the drowning or death and the place where the kōiwi or body was found in accordance with tikanga, for example by performing karakia or completing a period of rāhui, in order to protect the wāhi tapu by restoring the tapu to the correct level; and

5.2.1.2. Prohibitions on polluting, littering, gutting fish onto the beach or into the water, over-exploitation or wasting of resources or restriction on access to only those who do not do these actions; and

5.2.2. In the parts of the application area which are parts of rivers (between the mouths of any rivers in the application area and the upriver boundary of the common marine and coastal area);

5.2.2.1. Prohibition on going to the toilet in the rivers or restriction on access to only those who do not do this; and

5.3. Ngāti Pāhauwera have customary rights to:

5.3.1. take, utilise, gather, manage and/or preserve all natural and physical resources including sand, stones, gravel, pumice, driftwood, kokowai, wai tapu, inanga and kokopu, as and when required, for purposes and to the extent determined by Ngāti Pāhauwera subject to tikanga. Ngāti Pāhauwera have exercised these rights since 1840, continue to exercise them in the application area and they have not been extinguished as a matter of law; and

5.3.2. utilise, manage and/or preserve tauranga waka; and

5.3.3. utilise, manage and/or preserve traditional routes of travel (including for trading purposes); and

5.3.4. utilise, manage and/or preserve the application area as a place to demonstrate manaakitanga to visitors including tourists; and

5.4. The further grounds as set out in the affidavit of Toro Edward Reginald Waaka dated 13 March 2017.

6. The application is made in reliance on Part 3 of the Marine and Coastal Area (Takutai Moana) Act 2011.

7. The applicants name the Trustees of the Ngāti Pāhauwera Development Trust as the persons to be the holder of the order as the representative of Ngāti Pāhauwera.

8. The contact details for Ngāti Pāhauwera are:

The Trustees of the Ngāti Pāhauwera Development Trust

Physical Address: 15 Shakespeare Road

Bluff Hill

Napier 4110

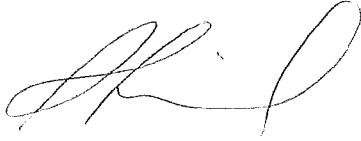
Postal Address: P O Box 405

Napier 4140

Phone: +64 (6) 838 6869
Fax: +64 (6) 838 6870
Email: admin@npdt.co.nz

9. The contact details for the persons named to hold the order are as set out at 8 above.

Date: 15 March 2017

Signature: 
(solicitor for applicants)

This document is filed by Roimata Norah Smail, solicitor for the applicants, of the firm Braithwaite & Smail Limited. The address for service of the applicants is 15 Shakespeare Rd, Bluff Hill, Napier 4110.

Documents for service on the filing party may be left at that address for service or may be—

- (a) posted to the solicitor at P O Box 13 243, Onehunga, Auckland 1643;
or
- (b) emailed to the solicitor at roimata@braithwaitesmail.co.nz.

