

In the High Court of New Zealand  
Auckland Registry

CIV-2017-404-520

*under:* the Marine and Coastal Area (Takutai Moana) Act 2011

*in the matter of:* an application for recognition of customary marine title  
and for protected customary rights

*between:* **Ngāti Whātua Ōrākei Trust**  
*Applicant*

Originating application for order of recognition of customary  
marine title and protected customary rights

Dated: 30 March 2017

WP

HIGH COURT
30 MAR 2017
AUCKLAND

CB

REFERENCE: J W J Graham (justin.graham@chapmantripp.com)  
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**ORIGINATING APPLICATION FOR ORDER OF RECOGNITION OF  
CUSTOMARY MARINE TITLE AND PROTECTED CUSTOMARY RIGHTS**

**To** the Registrar of the High Court at Auckland

**And** to the Auckland Council

**And** to the Solicitor-General on behalf of the Attorney-General

**And** to the Whenua Haumi Roroa Whenua o Tāmaki Makaurau Limited Partnership

**This document notifies you that—**

- 1 The applicant, Ngāti Whātua Ōrākei Trust (**Ngāti Whātua Ōrākei**), will on apply to the court for orders that:
  - 1.1 recognising that the applicant holds customary marine title in respect of the customary marine title area (**CMT Area**) shaded orange in the map contained in the **Schedule** to this application;
  - 1.2 recognising that the applicant has shared interests in the area shaded yellow, as set out in the map contained in the **Schedule** to this application;
  - 1.3 in addition to, or as an alternative to, the orders at [1.1] and [1.2], a protected customary rights order in respect of the following rights exercisable in respect of the CMT Area:
    - (a) imposition and relief of rāhui;
    - (b) customary fishing rights, including the gathering of kaimoana and manu;
    - (c) trade;
    - (d) right to derive commercial benefit;
    - (e) management and control of access and entry to all wāhi tapu;
  - 1.4 the protection of all other customary activities exercised by the applicants in accordance with tikanga within the CMT Area;
  - 1.5 the applicant may have leave to file further evidence in support of this claim following the determination of its application to engage with the Minister of Treaty of Waitangi

Negotiations pursuant to section 95 of the Marine and Coastal Area (Takutai Moana) Act 2011;

- 1.6 for such further and other relief as the Court may grant; and
  - 1.7 the costs of this application be awarded to the applicant.
- 2 The grounds on which each order is sought are as follows:
- (a) The applicant is the post-settlement governance entity for the Ngāti Whātua Ōrākei hapū, and the trustee under the Ngāti Whātua Ōrākei Claims Settlement Act 2012;
  - (b) The applicant is the mandated entity to make this application;
  - (c) The applicant has mandated Ngarimu Alan Huiroa Blair to be the holder of the order as the representative of Ngāti Whātua Ōrākei and his details are set out in the accompanying affidavit;
  - (d) The CMT Area is the area to which this application relates;
  - (e) As at the signing of the Treaty of Waitangi on 6 February 1840, Ngāti Whātua Ōrākei was an established hapū located in the central Auckland region;
  - (f) The whanau and hapū of Ngāti Whātua Ōrākei have resided in the CMT Area, and have used the waters and land abutting the CMT Area in accordance with tikanga Māori, or customary practices, since at least 1840;
  - (g) Ngāti Whātua Ōrākei have been the primary holders of mana whenua and mana moana within the CMT Area, since at least 1840;
  - (h) The whanau and hapū of Ngāti Whātua Ōrākei have held, used and occupied the CMT Area exclusively from 1840 to the present day without substantial interruption;
  - (i) Ngāti Whātua Ōrākei has applied under the Marine and Coastal Area (Takutai Moana) Act 2011 to engage with the Minister for Treaty of Waitangi Negotiations. The engagement process with the Minister is ongoing and iterative. If Ngāti Whātua Ōrākei's application to the Minister is successful, it will not pursue this application.
- 3 The application is made in reliance on:
- Sections 58, 59, 94, 100, 101, 105, 107 and 109 of the Marine and Coastal Area (Takutai Moana) Act 2011;

- Rule 19.2 of the High Court Rules; and
- The affidavits of Merata Kawharu and Ngarimu Alan Huiroa Blair filed in support of this application.

Date: 30 March 2017



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J W J Graham  
Solicitor for Applicant

This document is filed by Justin Walter John Graham, solicitor for the Applicant, of the firm Chapman Tripp. The address for service of the Applicant is at the offices of Chapman Tripp, Level 38, 23 Albert Street, Auckland.

Documents for service on the Applicant may be delivered to that address or may be served by email provided the documents are sent simultaneously to both [justin.graham@chapmantripp.com](mailto:justin.graham@chapmantripp.com) and [rachael.jones@chapmantripp.com](mailto:rachael.jones@chapmantripp.com)

SCHEDULE

