

CIV-2017-404-537

IN THE HIGH COURTS OF NEW ZEALAND
AUCKLAND REGISTRY

CIV-2017-

IN THE MATTER OF

the Marine and Coastal Area
(Takutai Moana) Act 2011
(the Act)

AND IN THE MATTER OF

an application by JOSEPH
ROBERT KINGI for an order
recognising Customary
Marine Title and Protected
Customary Rights of Nga
Puhi nui tonu, Ngati Rahiri,
Ngati Awa, Ngati Tahu and
Ngaitawakeat Northland, *Rohē*
~~Kaipara and Mahurangi coast.~~
Auckland and

**JOSEPH ROBERT KINGI APPLICATION
FOR RECOGNITION ORDERS PURSUANT TO THE MARINE AND COASTAL
AREA (TAKUTAI MOANA) ACT 2011**

Dated 27th March 2017

HIGH COURT
FW: 113/17
31 MAR 2017
1335
AUCKLAND

WP

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RIGHTLAW

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To: The Registrar of the High Court at AUCKLAND;

and to: Local authorities (Regional and/or District Councils) with statutory functions in the application area) *Auckland City Council*

and to: Local authorities with statutory functions relating to land adjacent to the application area) *Department of Conservation, Transit,*
The Solicitor General on behalf of the Attorney-General.

and to:

This document notifies you that:

1. JOSEPH ROBERT KINGI apply to the High Court for an order pursuant to s98 of the Marine and Coastal Area (Takutai Moana) Act 2011 ("the Act") to recognise the customary marine title and protected customary rights of Nga Puhi nui tonu, Ngati Rahiri, Ngati Awa, Nga Tahuu and Ngaitawake in Northland, Kaipara and Mahurangi coast.

Protected Customary Rights

2. *Nga Puhi nui tonu, Ngati Rahiri, Ngati Awa, Nga Tahuu and Ngaitawake* ancestors utilised the common marine and coastal area for *fishing, gathering shellfish, seaweed, stones, pumice, semi precious stones, shells, drift wood, whale and whale bones;*

The Applicant Group:

3. The *Nga Puhi nui tonu, Ngati Rahiri, Ngati Awa, Nga Tahuu and Ngaitawake* whakapapa to *NGA TUPUNA* ; *Papatuanuku = Ranginui = Tangaroa, Puhi Moana Ariki, Kupe - Kuramarotini, Nukutawhiti, Ruanui, Hauangiangi, Tahuu Nui O Rangi, Punateahiahi, Ahuaiti = Rahiri, Uenuku ki te Marangai, Kaharau ki te Hauauru, Auha, Te Hotete, Kauteawha, Hongi Hika, Ururoa, Pomare I, II, Taurapoho, Mahia, Tupoto, Tamati Waka Nene, Patuone, and Patuone, Tinana, waka Nene, Te Hotete. . JOSEPH ROBERT KINGI* was appointed to make this application for and on behalf of the *Nga Puhi nui tonu, Ngati Rahiri, Ngati Awa, Nga Tahuu and Ngaitawake* on 27th March 2017.

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Area to which the application relates:

4. The area to which this application relates is the common marine and coastal area (as defined in s9 of the Act) that is bounded:
 - a. on the landward side by the line of mean high-water springs;
 - b. on the seaward side by the outer limits of the territorial sea;
 - c. on the Northward side by a line that extends from the coast abutting Miranda. And Waikato heads including any islands] to the outer limits of the territorial sea; and
 - d. on the southward side by a line that extends from the coast abutting North Cape including any islands to the outer limits of the territorial sea.
5. The area includes the common marine and coastal area surrounding the following islands: All islands and reefs lying off shore from the coastline to a distance of 12 nautical miles

Grounds on which the protected customary rights order is sought:

6. The grounds on which this order is sought are that :
 - a. Nga Puhi nui tonu, Ngati Rahiri, Ngati Awa, Nga Tahuhu and Ngaitawake being a coastal group has relied heavily on Blue cod, Moki, hoki, kawhai, trevelly. John dory, teraki, blue nose, kingfish, trumpeter, hapuka, snapper, marlin, sailfish, shark, toheroa, scallops, mussels, oysters, pipis, mutton birds, whale, paua, ling sole, flounder, tuna, lobster, crab, tuatua, cockles, clams, eels, hake, groper, mullet, squid and wetland food stocks foraged by whanau in the estuaries and coastal margins; and
 - b. Nga Puhi nui tonu, Ngati Rahiri, Ngati Awa, Nga Tahuhu and Ngaitawake fishermen sought the deep water fish that were not available around the inner shoreline; and
 - c. Nga Puhi nui tonu, Ngati Rahiri, Ngati Awa, Nga Tahuhu and Ngaitawake also undertakes the following activities in the common marine and coastal area: fishing, gathering shellfish, seaweed, stones, pumice, semi precious stones, shells, drift wood, whale and whale bones.
 - d. Nga Puhi nui tonu, Ngati Rahiri, Ngati Awa, Nga Tahuhu and Ngaitawake has undertaken these activities since and before 1840 and

continues to undertake these activities in the application area, albeit in some instances using modern equipment, and in accordance with tikanga.

7. Nga Puhi nui tonu, Ngati Rahiri, Ngati Awa, Nga Tahuhu and Ngaitawake will deliver more information once funding for research and legal representation is secured.

Grounds on which the customary marine title application is made:

8. The grounds on which this order is sought are that :
 - a. Nga Puhi nui tonu, Ngati Rahiri, Ngati Awa, Nga Tahuhu and Ngaitawake has held the application area in accordance with tikanga since before 1840.
 - b. Nga Puhi nui tonu, Ngati Rahiri, Ngati Awa, Nga Tahuhu and Ngaitawake has exclusively used and occupied the application area from 1840 to the present day without substantial interruption.
9. Nga Puhi nui tonu, Ngati Rahiri, Ngati Awa, Nga Tahuhu and Ngaitawake will deliver more information once funding for research and legal representation is secured.
10. The activities, uses or practices which are claimed to be the subject of and deserving recognition of protected customary rights and/or customary marine title are the exercise of rantatiratanga over the takutai moana foreshore and seabed; the exercise of kaitiakitanga over the takutai moana foreshore and seabed; use of takutai moana as tauranga waka; planting and harvesting of native flora; aquaculture - growth and harvest of kai moana; extraction of fossils, rock, sand and minerals; and complimentary customary activities, uses and practices to be the subject of evidence at the hearing of this application.
11. The purpose for which the activities, uses and practices were and are carried on, exercised and followed include, inter alia:
 - a. The preservation and maintenance of mana motuhake, rangatiratanga and kaitiakitanga of the takutai moana-foreshore and seabed;
 - b. The sustenance and continued observance of customary and traditional practices, integral to tikanga carried out by descendants of Nga Puhi nui tonu, Ngati Rahiri,

Ngati Awa, Nga Tahuu and Ngaitawake;

12. The sustenance and physical, spiritual and cultural well-being of all The activities, uses or practices which are claimed to be the subject of and deserving recognition of protected customary rights and/or customary marine title are the exercise of rantatiratanga over the takutai moana foreshore and seabed; the exercise of kaitiakitanga over the takutai moana foreshore and seabed; use of takutai moana as tauranga waka; planting and harvesting of native flora; aquaculture - growth and harvest of kai moana; extraction of fossils, rock, sand and minerals; and complimentary customary activities, uses and practices to be the subject of evidence at the hearing of this application.
13. The purpose for which the activities, uses and practices were and are carried on, exercised and followed include, inter alia:
 - a. The preservation and maintenance of mana motuhake, rangatiratanga and kaitiakitanga of the takutai moana-foreshore and seabed;
14. The sustenance and continued observance of customary and traditional practices, integral to tikanga carried out by descendants of The activities, uses or practices which are claimed to be the subject of and deserving recognition of protected customary rights and/or customary marine title are the exercise of rantatiratanga over the takutai moana foreshore and seabed; the exercise of kaitiakitanga over the takutai moana foreshore and seabed; use of takutai moana as tauranga waka; planting and harvesting of native flora; aquaculture - growth and harvest of kai moana; extraction of fossils, rock, sand and minerals; and complimentary customary activities, uses and practices to be the subject of evidence at the hearing of this application.
15. The purpose for which the activities, uses and practices were and are carried on, exercised and followed include, inter alia:
 - a. The preservation and maintenance of mana motuhake, rangatiratanga and kaitiakitanga of the takutai moana-foreshore and seabed;
 - b. The sustenance and continued observance of customary and traditional practices, integral to *tikanga* carried out by descendants of Nga Puhi nui tonu, Ngati Rahiri, Ngati Awa, Nga Tahuu and Ngaitawake;

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- c. The sustenance and physical, spiritual and cultural well-being of all Nga Puhi nui tonu, Ngati Rahiri, Ngati Awa, Nga Tahuhu and Ngaitawake whanau, hapu and iwi;
 - d. The economic development of Nga Puhi nui tonu, Ngati Rahiri, Ngati Awa, Nga Tahuhu and Ngaitawake whanau, hapu and Iwi; and
 - e. The conservation of natural and physical resources in the takutai moana-foreshore and seabed.
16. The applicants hold, in accordance with *tikanga* customary rights and customary marine title over the marine and coastal area (as defined) as particularised herein. The *tikanga* integral to the descendants of Nga Puhi nui tonu, Ngati Rahiri, Ngati Awa, Nga Tahuhu and Ngaitawake governing these activities, uses and practices will be provided in the evidence from the Nga Puhi nui tonu, Ngati Rahiri, Ngati Awa, Nga Tahuhu and Ngaitawake descendants to be given at hearing.
17. The activities, uses and practices for which the descendants of Nga Puhi nui tonu, Ngati Rahiri, Ngati Awa, Nga Tahuhu and Ngaitawake seek recognition as protected customary rights and/or providing the foundation for customary marine title:
- a. Have been and continue to be carried on, exercised and followed in accordance with *tikanga* of the descendants of Nga Puhi nui tonu, Ngati Rahiri, Ngati Awa, Nga Tahuhu and Ngaitawake in a substantially uninterrupted manner since 1840 in the area of the takutai moana (including public foreshore and seabed) specified herein;
 - b. If interrupted since 1840 then only by unlawful interruption or interference;
 - c. Are not prohibited by any enactment or rule of law; and
 - d. Have not been extinguished as a matter of law.
18. Particulars, sufficient for the purposes of this application (including as to its public notification), as to the scale, extent and frequency of the activities, uses and practices carried on, exercised and followed by the descendants of Nga Puhi nui tonu, Ngati Rahiri, Ngati Awa, Nga Tahuhu and Ngaitawake are included in this application. Whilst the particulars in this schedule are linked, by specific reference, to particular customary uses, activities and practices, they are also generic to all.

- a. Nga Puhi nui tonu, Ngati Rahiri, Ngati Awa, Nga Tahuhu and Ngaitawake;
 - b. The sustenance and physical, spiritual and cultural well-being of all Nga Puhi nui tonu, Ngati Rahiri, Ngati Awa, Nga Tahuhu and Ngaitawake whanau, hapu and iwi;
 - c. The economic development of Nga Puhi nui tonu, Ngati Rahiri, Ngati Awa, Nga Tahuhu and Ngaitawake whanau, hapu and Iwi; and
 - d. The conservation of natural and physical resources in the takutai moana-foreshore and seabed.
19. The applicants hold, in accordance with *tikanga* customary rights and customary marine title over the marine and coastal area (as defined) as particularised herein. The *tikanga* integral to the descendants of Nga Puhi nui tonu, Ngati Rahiri, Ngati Awa, Nga Tahuhu and Ngaitawake governing these activities, uses and practices will be provided in the evidence from the Nga Puhi nui tonu, Ngati Rahiri, Ngati Awa, Nga Tahuhu and Ngaitawake descendants to be given at hearing.
20. The activities, uses and practices for which the descendants of Nga Puhi nui tonu, Ngati Rahiri, Ngati Awa, Nga Tahuhu and Ngaitawake seek recognition as protected customary rights and/or providing the foundation for customary marine title:
- a. Have been and continue to be carried on, exercised and followed in accordance with *tikanga* of the descendants of Nga Puhi nui tonu, Ngati Rahiri, Ngati Awa, Nga Tahuhu and Ngaitawake in a substantially uninterrupted manner since 1840 in the area of the takutai moana (including public foreshore and seabed) specified herein;
 - b. If interrupted since 1840 then only by unlawful interruption or interference;
 - c. Are not prohibited by any enactment or rule of law; and
 - d. Have not been extinguished as a matter of law.
21. Particulars, sufficient for the purposes of this application (including as to its public notification), as to the scale, extent and frequency of the activities, uses and practices carried on, exercised and followed by the descendants of Nga Puhi nui tonu, Ngati Rahiri, Ngati Awa, Nga Tahuhu and Ngaitawake are referred to in this application. Whilst the particulars in this application are linked, by specific reference, to particular customary
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uses, activities and practices, they are also generic to all.

- a. Nga Puhi nui tonu, Ngati Rahiri, Ngati Awa, Nga Tahuhu and Ngaitawake whanau, hapu and iwi;
- b. The economic development of Nga Puhi nui tonu, Ngati Rahiri, Ngati Awa, Nga Tahuhu and Ngaitawake whanau, hapu and Iwi; and
- c. The conservation of natural and physical resources in the takutai moana-foreshore and seabed.

22. The applicants hold, in accordance with *tikanga* customary rights and customary marine title over the marine and coastal area (as defined) as particularised herein. The *tikanga* integral to the descendants of Nga Puhi nui tonu, Ngati Rahiri, Ngati Awa, Nga Tahuhu and Ngaitawake governing these activities, uses and practices will be provided in the evidence from the Nga Puhi nui tonu, Ngati Rahiri, Ngati Awa, Nga Tahuhu and Ngaitawake descendants to be given at hearing.

23. The activities, uses and practices for which the descendants of Nga Puhi nui tonu, Ngati Rahiri, Ngati Awa, Nga Tahuhu and Ngaitawake seek recognition as protected customary rights and/or providing the foundation for customary marine title:

- a. Have been and continue to be carried on, exercised and followed in accordance with *tikanga* of the descendants of Nga Puhi nui tonu, Ngati Rahiri, Ngati Awa, Nga Tahuhu and Ngaitawake in a substantially uninterrupted manner since 1840 in the area of the takutai moana (including public foreshore and seabed) specified herein;
- b. If interrupted since 1840 then only by unlawful interruption or interference;
- c. Are not prohibited by any enactment or rule of law; and
- d. Have not been extinguished as a matter of law.

24. Particulars, sufficient for the purposes of this application (including as to its public notification), as to the scale, extent and frequency of the activities, uses and practices carried on, exercised and followed by the descendants of Nga Puhi nui tonu, Ngati Rahiri, Ngati Awa, Nga Tahuhu and Ngaitawake as mentioned in this application. Whilst the particulars in this schedule are linked, by specific reference, to particular customary uses,

activities and practices, they are also generic to all.

Contact Details:

6. The *JOSEPH ROBERT KINGI* for *Nga Puhi nui tonu, Ngati Rahiri, Ngati Awa, Nga Tahu and Ngaitawake* is:

C/o G Sharrock

Rightlaw Limited

11 Kaihu Street, Northcote Auckland

7. This application relies on s51(1), s58, s98-113 of the Act and the affidavit of Joseph Kingi, kaumatua of Nga Puhi nui tonu, Ngati Rahiri, Ngati Awa, Nga Tahu and Ngaitawake.

Dated at 30th March on the 2017



JOSEPH ROBERT KINGI