

IN THE HIGH COURT OF NEW ZEALAND
AUCKLAND REGISTRY

No: CIV: 2017-400-575

UNDER THE

Marine and Coastal Area
(Takutai Moana) Act 2011,
sections 98 and 100

AND

IN THE MATTER

of an application by Te
Ruunanga o Ngaati Mahuta ki
te Hauaauru on behalf of
Ngaati Mahuta ki te
Hauaauru, for Orders
recognising Customary Marine
Title and Protected Customary
Rights

Originating Application on Notice
for Orders Pursuant to the Marine and Coastal Area (Takutai Moana) Act
2011
Dated: 3 April 2017

TamakiLegal
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HIGH COURT
· 03 APR 2017 ·
AUCKLAND 1447

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**IN THE HIGH COURT OF NEW ZEALAND
AUCKLAND REGISTRY No: CIV:**

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

And

To the **Waikato Regional Council/Environment Waikato** and the **Solicitor General** on behalf of the Attorney General.

This document notifies you that —

1. Te Ruunanga o Ngaati Mahuta ki Te Hauaauru (“the Applicants”), on behalf of Ngaati Mahuta ki Te Hauaauru (“Ngaati Mahuta” or “the Applicant Group”), will, on 3 April, 2017, apply to the Court for Recognition Orders under s 98 of the Marine and Coastal Area (Takutai Moana) Act 2011 (“the Act”).
2. The Applicants will seek a Recognition Order for Customary Marine Title (“CMT Order”) under the requirements of s 58 of the Act.
3. The Applicants will seek to include recognition of wāhi tapu and wāhi tapu areas in a CMT Order under s 78 of the Act.
4. The Applicants will seek Recognition Orders for Protected Customary Rights (“PCR Order”) under the requirements of s 51(1) of the Act.

The Applicant Group

5. Ngaati Mahuta ki te Hauaauru is a composite group of hapū located on the west coast of the North Island in the Kawhia Harbour region and includes, inter alia, Ngaati Rangitaka, Ngaati Ngaahia, Ngaati Huiaarangi, Ngaati Aamaru, Ngaati Te Kiriwai, Ngaati Karere, Ngaati Kawerau and others.
6. Te Ruunanga o Ngaati Mahuta ki te Hauauru (“Te Ruunanga”) represent Ngaati Mahuta in relation to their historical Treaty claims.

7. Te Ruunanga are mandated to bring this Application on behalf of Ngaati Mahuta.

Representative of Applicant Group and Holder of the Orders

8. The entity that will be the representative of the Applicant Group and the holder of any orders awarded by the Court is Te Ruunanga.

Contact Details

9. The contact details for Te Ruunanga and for the Applicant Group are care of Verna Maria Tuteao. They are as follows:
 - i. Telephone number: 021 871 585
 - ii. Mailing Address: 9 Te Ironui Place, Huntington, Hamilton 3210
 - iii. Email: vtuteao@gmail.com

Affidavit in Support of Application

10. The affidavit of Verna Maria Tuteao has been filed in support of the application and is **attached** hereto ("the Affidavit").

Specified Area to which Application Relates

11. The common marine and coastal area to which this application relates is as follows:
 - a. The northern-most mainland coastal boundary marker is Ocean Beach. The boundary line then extends north-west from Ocean Beach to Karewa (Gannet Island). From there, the boundary extends in a radius around Karewa Island to the edge of the territorial sea.

- b. From Ocean Beach, the common marine and coastal area extends southward towards Tauratahi Point, which is the northern head of Kawhia Harbour, and includes Kawhia Harbour. From Urawhitiki Point, which is the southern head of Kawhia Harbour, the boundary continues southward around Albatross Point and then further south to where it ends at Motunau Rocks.
 - c. The boundary line then extends westward from Motunau Rocks to the edge of the territorial sea. From there, the boundary heads north to where it intersects with the boundary that is around Karewa. The northern-most (coastal) boundary marker is Karewa (also known as Gannet Island). From the coastline surrounding Karewa, the boundary extends 12 nautical miles to the edge of the territorial sea.
- 12. The coastal and marine area described above shall hereinafter be referred to as "the Specified Area."
 - 13. A map showing the Specified Area is **attached** to the affidavit of Verna Maria Tuteao filed in support of this application

Grounds for Customary Marine Title Application

- 14. The Applicant Group holds the Specified Area in accordance with tikanga.
- 15. The Applicant Group has exclusively used and occupied the Specified Area from 1840 until the present day.
- 16. Title to the Specified Area has not been extinguished as a matter of law.
- 17. Further grounds for a CMT Order include the following:

- a. Members of the Applicant Group own lands abutting the Specified Area; and
- b. The Applicant Group exercise their non-commercial customary fishing rights within the Specified Area, and have done so from 1840 to the present day

Wāhi Tapu

18. Various wāhi tapu and wāhi tapu areas of importance to the Applicant Group are located within the Specified Area.
19. If this application for a CMT recognition Order is successful, the Applicant Group will seek to include recognition of these wāhi tapu as part of the Order under s 78 of the Act.
20. For the purposes of this application, the Applicant Group reserves the right to apply for the inclusion of additional wāhi tapu with any CMT Order that may be granted where knowledge of the additional wāhi tapu is gained by the Applicant Group as a result of consultation with any Pūkenga appointed by the Court, or as a result of any historical research that is commissioned in relation to the making of the application for a CMT Order.

Protected Customary Rights

21. Protected Customary Rights Orders are sought for each of the following customary activities that are carried out within the Specified Area:
 - a. The extraction of non-Crown minerals such as iron sand for non-commercial purposes;
 - b. The cultivation and/or harvesting of marine species to meet cultural obligations and for whaanau (family) use;

- c. The planting and cultivating of plant species such as harakeke, tii kouka and piingao to mitigate against coastal erosion;
- d. The collection of haangi stones for non-commercial purposes;
- e. The gathering of edible and aquatic plants such as karengo;
- f. The collection of driftwood and other natural resources for non-commercial purposes;
- g. Non-commercial fishing for species not subject to the declarations in section 10 of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992;
- h. The seasonal, non-commercial gathering of tiitii (mutton birds); and
- i. The Applicant Group have practiced kaitiaki responsibilities in and around the Specified Area:
 - i. The kaitiaki role involves, in part, the passing on of Maori lore and ecological wisdom to the younger generations; and
 - ii. The kaitiaki role of the Applicant Group also involves conservation, protection and supervision of the Specified Area.

22. For the purposes of this application, the Applicant Group reserves the right to apply for additional Protected Customary Rights Orders where knowledge of any additional customary rights are gained by the Applicant Group as a result of consultation with any Pūkenga appointed by the Court, or as a result of any historical research that is commissioned in relation to the making of the application for PCR

Orders.

Grounds for Protected Customary Rights Applications

23. The Protected Customary Rights described above:
- a. have been exercised since 1840;
 - b. continue to be exercised by the Applicant Group in/at the Specified Area in accordance with tikanga; and
 - c. have not been extinguished as a matter of law.

Memorandum

This document is filed by **Darrell Naden**, Solicitor for the Applicant Group, of the firm Tamaki Legal Limited. The address for service of the Applicant Group is at the offices of Tamaki Legal Limited, AMI Building, 15 Osterley Way, Auckland, 2104, New Zealand.

Documents for service on the Applicant Group may be left at that address for service or may be –

- posted to the Solicitor at PO Box 75-517, Manurewa, Auckland, 2243, New Zealand; or
- emailed to the Solicitor at darrell@tamakilegal.com

Date: 3 April 2017



Darrell Naden
Solicitor for the Applicant Group