

IN THE HIGH COURT OF NEW ZEALAND  
AUCKLAND REGISTRY

No: CIV: 2017-404-577,

UNDER THE

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

AND

IN THE MATTER

of an application by  
**Ngatokimatawhoaria Waka  
Te Tii-I-Waitangi Maori  
Incorporation**, on behalf of  
**Ngāti Rahiri and Ngāti Kawa**,  
for orders recognising  
Customary Marine Title and  
Protected Customary Rights

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Amended Originating Application on Notice for Recognition Orders  
Pursuant to the Marine and Coastal Area (Takutai Moana) Act 2011  
Dated: 1 May 2017

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**TamakiLegal**  
Barristers & Solicitors

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Case Manager  
- 2 MAY 2017  
THE HIGH COURT  
WELLINGTON

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

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

**To**, and the **Northland Regional Council**, the **Far North District Council** and  
the **Solicitor General** on behalf of the Attorney General.

**This document notifies you that —**

1.        The Applicant Ngatokimatawhoarua Waka Te Tii-I-Waitangi Maori Incorporation (“the Applicant”) 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 Applicant will seek a Recognition Order for Customary Marine Title (“CMT Order”) under the requirements of s 58 of the Act.
3.        The Applicant will seek to include the recognition of wāhi tapu and wāhi tapu areas in any CMT Order made pursuant to s 78 of the Act.
4.        The Applicant will seek a Recognition Order for Protected Customary Rights (“PCR Order”) under the requirements of section 51(1) of the Act.

**The Applicant Group**

5.        The Applicant Group is Ngāti Rahiri and Ngāti Kawa (“the Applicant Group” or “Ngāti Rahiri and Ngāti Kawa”).
6.        Ngāti Rahiri and Ngāti Kawa are hapū of Nga Puhi whose traditional rohe (territory) stems from Pouerua in the Bay of Islands, to Rakau Mangamanga, to Takou Bay.

### **Representative of Applicant Group/Holder of the Order/s**

7. At this stage, the Applicant Group prefers not to name an individual or entity to be the holder of any order awarded.
8. The Applicant Group will continue to hold hui-a-hapū (hapū meetings) as the application progresses to establish and mandate a representative to hold any Court Order that may be awarded.

### **Contact Details**

9. Contact details for the Applicant and for the Applicant Group are:
  - i. Telephone number: 021 0871 3235
  - ii. Mailing Address: 95 Porotu Road, Oramahoe, RD 2, Kaikohe 0472.
  - iii. Email: hapeta.rameka@gmail.com

### **Affidavit in Support of Application**

10. The Affidavit of Hapeta Rameka in support of this Originating Application is attached ("the Affidavit").

### **Particular Area to which Application Relates**

11. The common marine and coastal area to which this application relates runs from Motukokako Island to Cape Brett, then along the coast south-west to Okiato Point, then to the peninsula and through Waikare and Waihaha, then to Opuā, Paihia, to Waitangi and then to Wharau Point. The area includes the many islands that can be found in the Bay of Islands and extends 12 nautical miles from Motukokako Island ("the Specified Area").
12. A map of the Specified Area is at **Page 1** of the Exhibit to the Affidavit.

### **Grounds for CMT Application**

13. The Applicant Group holds the Specified Area in accordance with tikanga.
14. The Applicant Group has exclusively used and occupied the Specified Area from 1840 until the present day.
15. Title to the Specified Area has not been extinguished as a matter of law.
16. 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**

17. The island of Motumarie is located within the Specified Area.
18. If this application for a CMT recognition order is successful, the Applicant Group will seek to include Motumarie, and its surrounding coastal and marine area, as a wāhi tapu recognised in the CMT Order under section 78 of the Act.
19. The Applicant Group has a strong connection with Motumarie and its surrounding coastal and marine area.
20. The Applicant Group requires prohibitions and restrictions on access to Motumarie, and its surrounding coastal and marine area, for the purposes of protecting it as a wāhi tapu.
21. 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 Order**

#### *The Collection of Seaweed*

22. The Applicant Group collects seaweed from the Specified Area, primarily as fertilizer for their plants.
23. Collection of seaweed is carried out in a way that complies with tikanga and conservation standards.

#### *Tauranga Waka*

24. The Applicant Group launches boats from a tauranga waka at Nihonui Point.
25. The use by the Applicant Group of the tauranga waka at Nihonui Point is a traditional, customary practice.

#### *Kaitiakitanga*

26. Kaitiakitanga involves guardianship, conservation, education and protection measures and practices.
27. The Applicant Group practices kaitiakitanga within the Specified Area.
28. Access to all parts of the Specified Area is a key requirement of the Applicant Group's continued practice of kaitiakitanga.

### **Grounds for PCRs Application**

29. The PCRs described above:

- a. have been exercised since 1840;
- b. continue to be exercised by the Applicant Group 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](mailto:darrell@tamakilegal.com)

Date: 1 May 2017



**Darrell Naden**  
**Solicitor for Applicant Group**