

IN THE HIGH COURT OF NEW ZEALAND  
WELLINGTON REGISTRY

CIV-2017-404-578 B

UNDER THE

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

AND

IN THE MATTER

of an application by **Robert  
Gabel** on behalf of Ngāti Tara  
for orders recognising  
Customary Marine Title and  
Protected Customary Rights

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**Amended Originating Application on Notice  
for Orders Pursuant to the Marine and Coastal Area (Takutai Moana) Act  
2011**

**Dated: 18 December 2017**

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**TamakiLegal**  
Barristers & Solicitors

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

and

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

**This document notifies you that —**

1. The Applicant Robert Roy Gabel (“the Applicant”) did, 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 seeks a Recognition Order for Customary Marine Title (“CMT Order”) under the requirements of s 58 of the Act.
3. The Applicant seeks 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 seeks 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 Tara (“the Applicant Group” or “Ngāti Tara”).
6. Ngāti Tara is a hapū of Te Paatu.
7. Ngāti Tara are located at Parapara in Te Taitokerau.

**Representative of Applicant Group/Holder of the order**

8. The person who will be the representative of the Applicant Group and the holder of any Recognition Orders made is Robert Roy Gabel.

9. The contact details for the named representative, Robert Roy Gabel, are as follows:
- a. Mailing Address: 62 Gillies Avenue, Kawakawa
  - b. Telephone: 027 540 8145
  - c. Email: robert.gabel@xtra.co.nz
10. The contact details for the Applicant Group are the same as those for Robert Roy Gabel.

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

11. The Affidavit of Robert Roy Gabel in support of this application was filed with the Originating Application on April 3, 2017 and remains unchanged.

### **Specified Area Amended**

12. The Specified Area to which this application relates has been amended and is now the common marine and coastal area, as defined in s 9 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 northern end of Tokerau Beach to the outer limits of the territorial sea; and
  - d. on the southward side by a line that extends from the coast at Rangikapiti Head, near Rangikapiti Pa, to the outer limits of the territorial sea.

("the Amended Specified Area")

13. A map showing the Amended Specified Area is **attached** and marked 'A.'

#### **Grounds for CMT 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 the wāhi tapu as part of any CMT Order made under s 78 of the Act.
20. For the purposes of this application, the Applicant 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**

#### *Te Aroaro o Mania*

21. Te Aroaro o Mania is a toka (rock) that is of significance to the Applicant Group.
22. Visiting the area within which Te Aroaro o Mania is located to pay homage is important to the Applicant Group.

#### *Tauranga Waka Access and Use*

23. A tauranga waka is a place from which waka (canoe/boats) are launched.
24. Ngāti Tara utilise a tauranga waka situated along the Aurere (Awapoko) River to launch their vessels out to sea.

#### *Kaitiakitanga*


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

### **Grounds for Protected Customary Rights Order**

28. The customary rights described above;
  - a. Have been exercised since 1840;

- b. continue to be exercised by Ngāti Tara in the Specified Area in accordance with tikanga; and
- c. are not extinguished as a matter of law.

Dated: 18 December 2017



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

### **Memorandum**

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

Documents for service on the Applicant 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)

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### Map of Amended Specified Area for the Ngāti Tara Application

