

IN THE HIGH COURT OF NEW ZEALAND
AUCKLAND REGISTRY

No: CIV: 2017-404-579

UNDER THE

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

AND

IN THE MATTER

of an application by **Waimarie Kingi** on behalf of Ngā Hapū o Tangaroa ki Te Ihu o Manaia tae atu ki Mangawhai, 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
Date: 3 April 2017

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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 **Whangarei District Council**, the **Kaipara District Council** and the
Solicitor General on behalf of the Attorney General.

This document notifies you that —

1. The Applicant **Waimarie Kingi** (“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 Ngā Hapū o Tangaroa ki Te Ihu o Manaia tae atu ki Mangawhai (“the Applicant Group”).
6. The Applicant Group is made up of seven affiliated hapū of Ngāpuhi, all with strong links to the coastal and marine area. These hapū are:
 - a. Te Waiariki;
 - b. Ngati Korora;
 - c. Ngati Takapari;

- d. Ngati Kahu;
- e. Ngati Tū;
- f. Te Parawhau; and
- g. Patuharakeke.

Representative of Applicant Group/Holder of the order

- 7. The person who will be the representative of the Applicant Group and the holder of any Court Order awarded is Waimarie Kingi.

Contact Details

- 8. Contact details for the Applicant and for the Applicant Group are:
 - i. Telephone number: 09 4370216
 - ii. Mailing Address: Patatua North Road, RD 5, Whangarei 0175
 - iii. Email: waimarie.kingi@gmail.com

Affidavit in Support of Application

- 9. An Affidavit by Waimarie Kingi is **attached** to this application ("the Affidavit").

Particular Area to which Application Relates

- 10. The specific common marine and coastal area to which this application relates is described as follows:
 - a. The northern coastal boundary is Te Ihu o Manaia (Middle Gable-Mainland).

- b. The southern coastal boundary is the northern bank at the mouth of the Mangawhai River.
 - c. From Te Ihu o Manaia, the area extends seaward in a north-north-east direction to the islands of Tawhitirahi and Aorangi Islands, which are also known as the Poor Knights Islands.
 - d. From the northern bank at the mouth of the Mangawhai River, the area extends north-east to a point below Marotiri and Taranga Islands, which are also known as the Hen and Chicken Islands.
 - e. The area extends 12 nautical miles seaward and includes the above-mentioned islands and Moturewa Island, Kukutauwhao Island, Sugarloaf Rock and High Peak Rocks.
11. The coastal and marine area described above shall henceforth be referred to as "the Specified Area".
12. A map showing the Specified Area is **attached** to the Affidavit of Waimarie Kingi in support of this application.

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. Various wāhi tapu and wāhi tapu areas, of importance to the Applicant Group are located within the Specified Area.
18. 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.
19. 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.

Description of Protected Customary Rights

Kaitiakitanga

20. The Applicant Group have practiced kaitiaki responsibilities in and around the Specified Area.
21. The kaitiaki role involves, in part, the passing on of Maori lore and ecological wisdom to the younger generations
22. The kaitiaki role of the Applicant Group also involves conservation, protection and supervision of the Specified Area.

Tauranga Waka

23. There is a traditional tauranga waka at Whatupuke in the Hen and Chicken Islands.
24. The Applicant Group continue to launch waka from this tauranga waka.

Grounds for Protected Customary Rights Application

25. The PCRs 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