

**IN THE HIGH COURT OF NEW ZEALAND
WELLINGTON REGISTRY**

CIV-2017-485-195

IN THE MATTER OF The Marine and Coastal Area (Takutai Moana) Act 2011

AND IN THE MATTER OF an application by **JENNIFER TE OHORERE ROLLESTON** for and on behalf of the **IHAKARA TANGITU RESERVE** for recognition orders under the Marine and Coastal Area (Takutai Moana) Act 2011

Applicant

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

Dated 30 March 2017



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Case Manager

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Acting for Koning Webster /

31 MAR 2017

THE HIGH COURT
WELLINGTON

TO: The Registrar of the High Court at Wellington

AND TO: The Attorney General of New Zealand

AND TO: Bay of Plenty Regional Council

AND TO: Western Bay of Plenty District Council

This document notifies you that:

1. The applicant applies for recognition orders for:
 - 1.1 customary marine title pursuant to s 58 of the Act; and.
 - 1.2 protected customary rights pursuant to s 51 of the Act.

Applicant

2. The applicant is a beneficiary of the Ihakara Tangitu Reserve and a member of Pirirakau.
3. The Ihakara Tangitu Reserve is a Maori reservation set apart under Part 17 of Te Ture Whenua Maori Act 1993.

Application Area

4. This application relates to the common marine and coastal area shown as **A** on the attached plan (**application area**).
5. The application area comprises the Waikaraka Estuary at Te Puna, Bay of Plenty:

Grounds for application

6. Pirirakau, a hapu of Ngati Ranginui, are the tangata whenua of Te Puna, Bay of Plenty.
7. The founding ancestor of Pirirakau was Takarua, who had a pa at Raropua overlooking the Waikaraka Estuary.
8. Takarua established the rohe of Pirirakau which includes the Waikaraka Estuary.
9. As at 1840 Pirirakau exercised customary rights over the Waikaraka Estuary.

10. Pirirakau were granted title to Lot 154 Parish of Te Puna following the confiscation of all their land under the Tauranga Lands Act 1866-1867.
11. Parish of Te Puna Lot 154 was subsequently partitioned by the Native Land Court and Maori Land Court.
12. One of these partitions is Allotment 154D5B2 Parish of Te Puna comprising 4.9903 hectares more or less and described in certificate of title SA10D/342 (**allotment 154D5B2**).
13. Allotment 154D5B2 is Maori freehold land located on the Waikaraka Estuary.
14. On 15 October 2009 the Ihakara Tangitu Reserve was set apart over allotment 154D5B2 by *Gazette* notice under Part 17 of Te Ture Whenua Maori Act 1993.
15. The Ihakara Tangitu Reserve comprises 2090m² and is located on the foreshore of the Waikaraka Estuary.
16. The Ihakara Tangitu Reserve is set apart for the purpose of a recreation ground, meeting place, bathing place, customary shellfish gathering place, landing place and waahi whenua for the common use and benefit of the owners of allotment 154D5B2 and their descendants and invitees.
17. The Ihakara Tangitu Reserve is used as tauranga waka and whare waka for the waka taua Takitimu.
18. The beneficiaries of the Ihakara Tangitu Reserve and their invitees use the Ihakara Tangitu Reserve and the Waikaraka Estuary for all the purposes set out in the *Gazette* notice.

Recognition order for customary marine title

19. The applicant repeats paragraphs 6 to 18 and seeks a recognition order for customary marine title for the application area on the grounds that the application area:
 - 19.1 is held in accordance with the tikanga of the beneficiaries of the Ihakara Tangitu Reserve and Pirirakau; and

- 19.2 has been exclusively used and occupied by Pirirakau from 1840 to the present day without substantial interruption.
20. The customary marine title should be in the name of the Ihakara Tangitu Reserve and the holder will be the applicant.

Recognition order for protected customary rights

21. The applicant repeats paragraphs 6 to 18 and seeks a recognition order for the following protected customary rights in the application area:
- 21.1 exercise of kaitiakitanga over the Waikaraka Estuary;
 - 21.2 tauranga waka and whare waka;
 - 21.3 recreation ground;
 - 21.4 meeting place;
 - 21.5 bathing place;
 - 21.6 shellfish gathering place;
 - 21.7 waahi whenua;
 - 21.8 fishing place; and
 - 21.9 gathering of other cultural resources.
22. The applicant seeks a recognition order on the grounds that:
- 22.1 Pirirakau has exercised the protected customary rights in the application area; and
 - 22.2 the beneficiaries of the Ihakara Tangitu Reserve and their invitees continue to exercise the protected customary rights in the application area.
23. The protected customary rights order should be in the name of the Ihakara Tangitu Reserve and the holder will be the applicant.

Affidavit and legal principles

24. This application is made in reliance on:

24.1 the affidavit of Shadrach Wepiha Rolleston sworn 30 March 2017;

24.2 *Re Tipene* [2016] NZHC 3199.

DATED this 30th day of March 2017

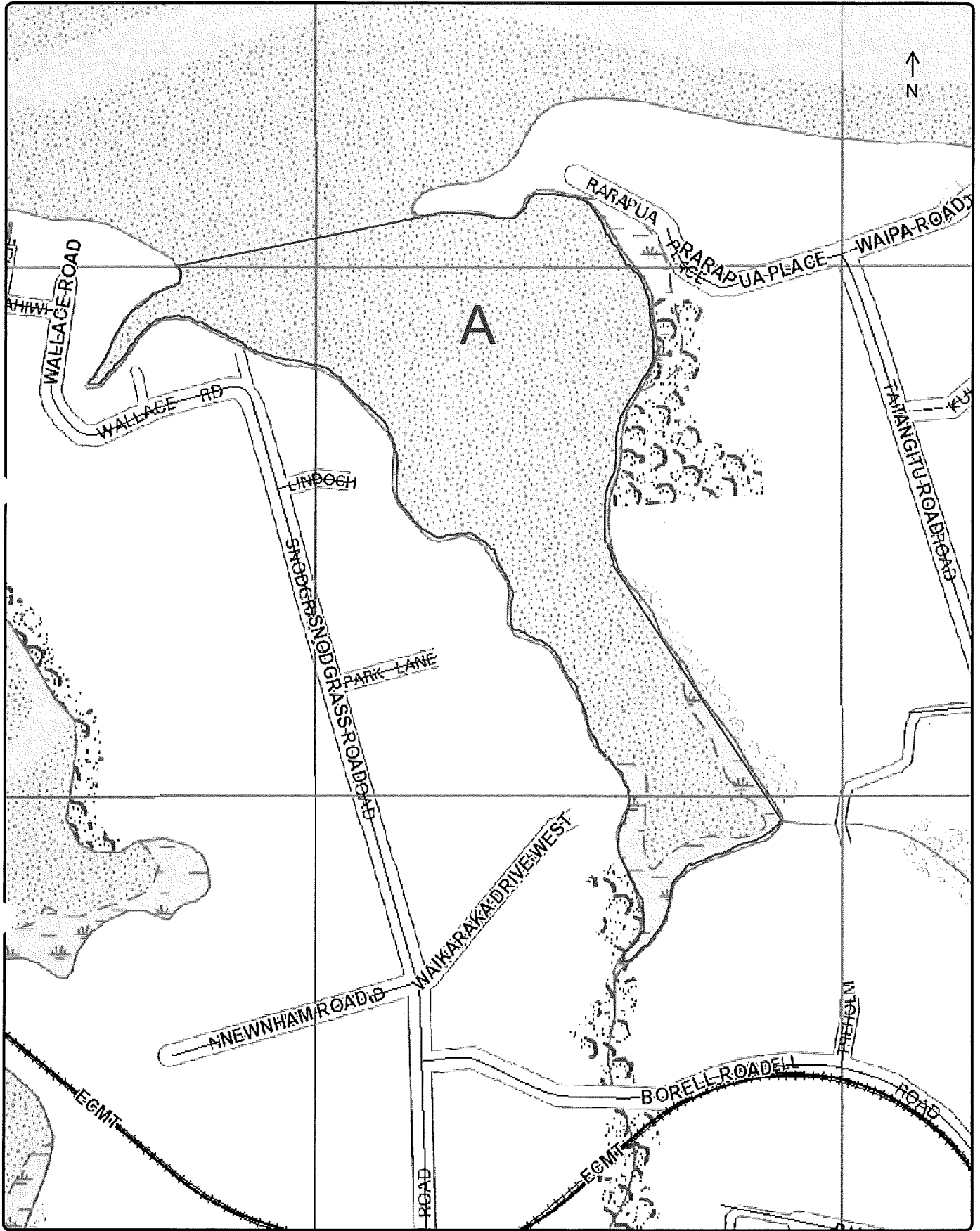


ST Webster
Solicitor for applicant

This application is filed by **KONING WEBSTER LAWYERS**, solicitors for the applicant. The address for service of the applicant is at the offices of Koning Webster Lawyers, Level 1, 34 Gravatt Road, Papamoa.

Documents for service on the applicant may be delivered to that address or may be:

- (a) posted to PO Box 11120, Papamoa 3151;
- (b) transmitted by facsimile on (07) 572 0220; or
- (c) emailed to spencer@kwlaw.co.nz



KEY: — Ihakara Tangitu Reserve Application Area*
 *Indicative area only

