

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

CIV-2017

CIV-2017 -485-201

IN THE MATTER

of an application by the **Te Upokorehe Treaty Claims Trust** on behalf of Te Upokorehe for a recognition order of protected customary rights and/or customary marine title under the Marine and Coastal Area (Takutai Moana) Act 2011 ("the Act")

**APPLICATION PURSUANT TO s.100 OF THE ACT FOR A RECOGNITION
ORDER OF PROTECTED CUSTOMARY RIGHTS AND/OR CUSTOMARY
MARINE TITLE**

Dated: 3 April 2017

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TE UPOKOREHE MARINE AND COASTAL AREA (TAKUTAI MOANA) CLAIM

1. This application is made to the High Court for a recognition order of protected customary rights (s.51 of the Act) and/or customary marine title (s.58 of the Act) by the applicants named herein, Te Upokorehe Treaty Claims Trust on behalf of the whanau and hapu of Te Upokorehe Iwi for customary marine title and protected customary rights as the Tangata Whenua Tuuturu and Kaitiaki at the Ohiwa harbour.

Who is this application for?

2. This application is for Te Upokorehe Iwi. Te Ūpokorehe are a unique people as they can trace their origins back to Te Hapuoneone which existed at a time that predates the arrival of the Mataatua waka and other waka that arrived at the Ohiwa harbour. Their history is so entwined with the Ōhiwa Harbour and the surrounding lands that it has become an integral part of their culture, their society and their very existence.

Name of person, representative group or legal entity making the application

3. This claim is filed by the Te Upokorehe Treaty Claims Trust (“TUTCT”). The Trust was established in 2010 for the purpose of dealing with Te Upokorehe’s Treaty issues.

Area claimed

4. As required under section 9 of the Act the marine and coastal area claimed in this application is as follows: commencing at the midpoint of the Waioweka River mouth, then due north in a straight line to the 200 nautical mile Exclusive Economic Zone (“EEZ”); turning due west along the EEZ, to a point directly opposite the midpoint of the Maraetotara Stream mouth; turning due south to the Maraetotara Stream, to Puhikoko, to

Pukemoremore; entering the midpoint of the Waimana River at Pukemoremore, following the Waimana River south to where the Parau Stream meets the Waimana River, up the Parau ridge to Taumataohine, down the ridgeline to the midpoint of the Waimana River to Whakarae; leaving the Waimana River where Te Waiti Stream meets the Waimana River; heading due east to Kaharoa, to Kairakau, to Oraukurangi; to the Oponae Stream mouth (ie where the Oponae Stream meets the Waioweka River), then following the midpoint of the Waioweka River north to the midpoint of the Waioweka River mouth. (*see Appendix 1 map*).

Customary Practices

5. The customary practices that have been carried out since at least 1840 are outlined in the affidavit of Kahukore Baker, on behalf of Te Upokorehe Treaty Claims Trust, which is filed with this application. A brief summary of those activities includes:
 - (a) Harvesting Kaimoana;
 - (b) Fishing;
 - (c) Exercising kaitiakitanga;
 - (d) Exercising mana motuhake and tino rangatiratanga;
 - (e) Using resources for medicinal and healing purposes; and
 - (f) Resource extraction and Recovery.

6. These activities were carried out in accordance with the tikanga of Te Upokorehe and were carried out for the:
 - (a) Sustenance of Te Upokorehe;
 - (b) Well-being of the people;
 - (c) Protection and sustainability of resources for the future; and
 - (d) Preservation, protection, promotion and enhancement of the whenua, moana, taiao and the people.

7. These activities have been carried out since 1840, and continue to be carried out today, as required by Te Upokorehe. The only time there has been any interruption to the activities mentioned in this application, and the

affidavit of Kahukore Baker, is because of unlawful activities, or because the tikanga of the people dictates that the activity should not be continued.

8. Further evidence on these activities may be provided once it is approved by the appropriate people.

Other Applications

9. To our knowledge, there is at least one claim filed in relation to this area. The claim is made by Adriana Edwards, and it's number is CIV 2011-485-817.



Hearing location

10. Te Upokorehe prefers to have the hearing held in the rohe of Te Upokorehe at a marae, or other culturally appropriate venue. An application for this will be made in due course.

Conclusion

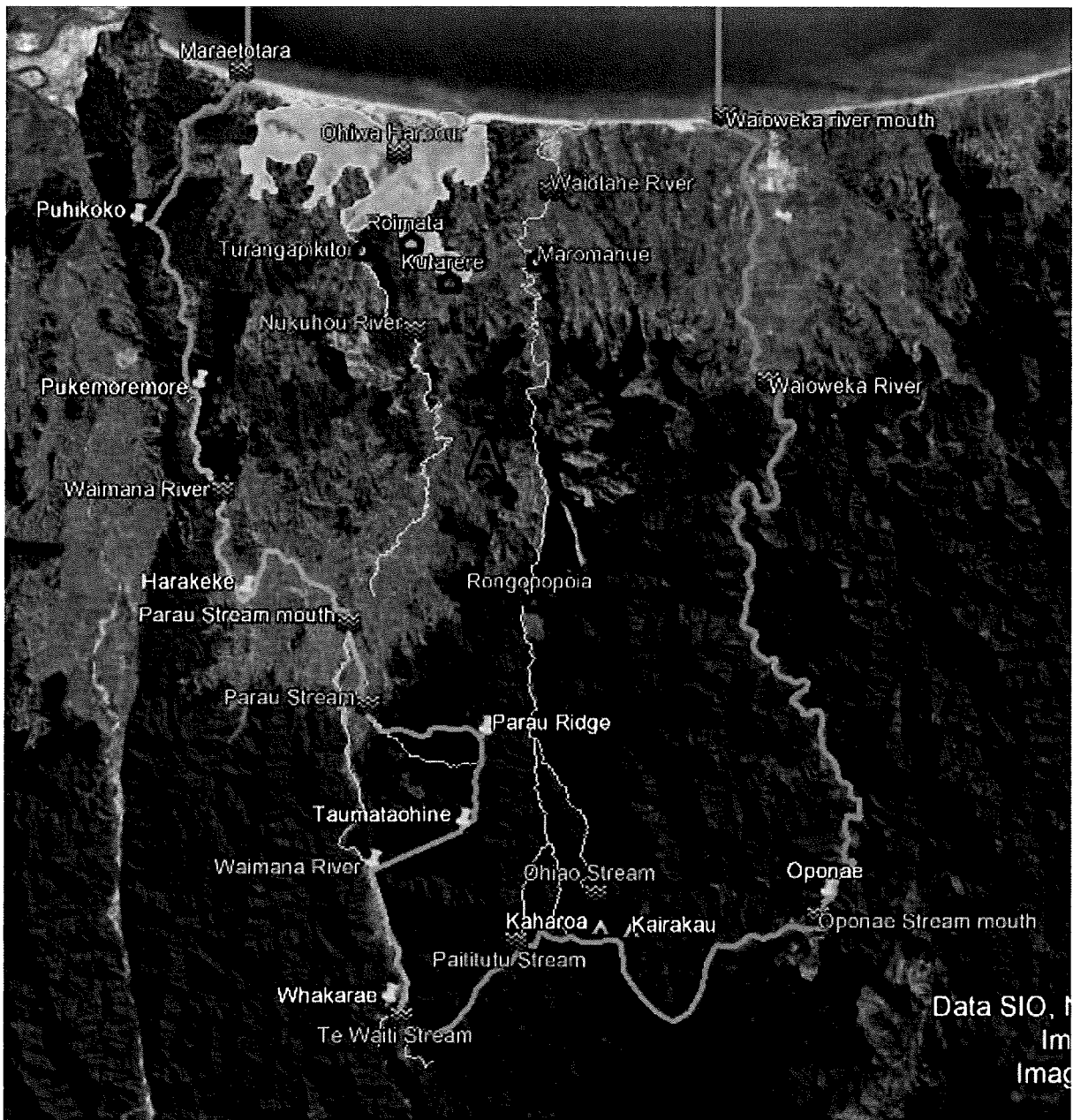
11. This application is made despite the applicant's belief that the Act itself is a breach of Te Tiriti o Waitangi. The application is made for the sole purpose of protecting the rights that will otherwise be removed under the Act.

Dated at Wellington this 3rd day of April 2017.

Robyn Zwaan/ Nicole Scully
Counsel for the Claimants

APPENDIX ONE: Te Upokorehe rohe whenua and rohe moana "Area A"



Area A (Te Upokorehe) Area C (shared Te Upokorehe and Te Whakatōhea)

