

In the High Court of New Zealand
Wellington Registry

CIV-2017-485-207

In the matter of

the Marine and Coastal Area (Takutai
Moana) Act 2011

And in the matter of

an application by Ngāti Apakura
represented by the Apakura Runanga
Inc. Trust for orders that recognise their
customary marine title and protected
customary rights under that Act

NGĀTI APAKURA APPLICATION FOR RECOGNITION ORDERS

Dated 29 March 2017

Counsel: Tom Bennion / Emma Whiley

Bennion Law

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To: The Registrar of the High Court at Wellington

And to: the Otorohanga District Council

And to: the Waikato Regional Council

And to: the Solicitor-General on behalf of the Attorney-General

THIS DOCUMENT NOTIFIES YOU THAT:

1. The Apakura Runanga Trust Inc. on behalf of the applicant group, Ngāti Apakura, will on 29 March 2017 apply to the Court for recognition orders under the Marine and Coastal Area (Takutai Moana) Act 2011 (the Act) relating to a particular area of the common marine and coastal area (as defined in s 9 of the Act) that extends from the coast abutting:

the Kawhia harbour, commencing at Kahua Point, and traveling anti-clockwise around the Kawhia harbour including Tauratahi Point, Matatua Point, Te Puru Point, Motutarakatua Point, Mangaora Inlet, Puti Point, Te Kaapi Point, Tiritirimatangi Peninsula, Mahoe Point, Te Aute Point, Rakaunui Inlet, Kaitawa Inlet, Okura Point, Te Rangiora Point, Ohaua, Kowhai Point, Totara Point, Urawhitiki Point, Albatross Point and Paparua Point and includes the common marine and coastal area surrounding the following islands within the Kawhia Harbour: Te Motu Island, Matukaraka Island, Ngatokakairiri Island and Kaiwhai Island defined as “the Apakura Rohe Moana”.
2. The Apakura Rohe Moana is bounded on the landward side by the line of mean high-water springs and on the seaward side by the outer limits of the territorial sea.
3. The Apakura Rohe Moana is marked in the map attached to this application and labelled **Appendix A**.
4. The orders sought are protected customary rights and customary marine title in the Apakura Rohe Moana arising from:
 - 4.1. Pre-1840 permanent occupation of the Apakura Rohe Moana and use of the adjoining foreshore, seabed and seas and up until today without substantial interruption;

- 4.2. The taking of kaimoana found in the Apakura Rohe Moana including pipi, pūpū, tuna, tāmure (snapper) and mangō (shark);
 - 4.3. The taking of seabirds;
 - 4.4. Taking of aquatic plants;
 - 4.5. Navigation and passage over these areas in waka, and landing of waka;
 - 4.6. Bathing and recreation;
 - 4.7. Collection of sand, stones, shingle and detritus;
 - 4.8. Designation of wāhi tapu
 - 4.9. Imposition of rāhui;
 - 4.10. Allowing others to undertake activities;
 - 4.11. All ways of life and cultural practices associated with the above takings and uses including cultural practices founded in spiritual beliefs including the saying of karakia tawhito, karanga, imposition of rahui, exercise of kaitiakitanga and mana, naming of places in the sea and foreshore to specify fishing areas, reefs and people who had authority over them; and
 - 4.12. All other related customary uses of the Apakura Rohe Moana.
5. Ngāti Apakura have undertaken the activities listed in paragraph 4, prior to 1840 and continue to undertake these activities in the Apakura Rohe Moana in accordance with tikanga.

DESCRIPTION OF APPLICANT GROUP

6. Ngāti Apakura are an iwi that historically (pre-1840) occupied an inland rohe at Waipā and a coastal rohe at Kawhia. The Kawhia marae, Maketu and Mokai Kainga, both have strong Apakura affiliations.
7. Ngāti Apakura is represented today by the Apakura Runanga Trust Inc. whose members whakapapa from the eponymous Ngāti Apakura ancestors, Apakura and Whatihua.
8. The Apakura Runanga Trust Inc. is a registered incorporated charitable trust (registration number CC51407) that was set up in 2014 to represent the district Apakura identity in the Te Rohe Pōtae (King Country) region (including the Kawhia harbour).

**GROUND ON WHICH THE PROTECTED CUSTOMARY RIGHTS
RECOGNITION ORDER IS SOUGHT**

9. Ngāti Apakura, through the Apakura Runanga Trust Inc. seeks a protected customary rights recognition order on the grounds that its protected customary rights relating to the Apakura Rohe Moana may be recognised by an order of the Court made on an application under section 100 of the Act.
10. Pursuant to s 98 of the Act, the Court may make a recognition order if it is satisfied that the application for protected customary rights meets the requirements of s 51(1) of the Act.
11. Ngāti Apakura meets the requirements in s 51(1) of the Act because it:
 - 11.1. has exercised the rights before and since 1840;
 - 11.2. continues to exercise those rights in the Apakura Rohe Moana in accordance with tikanga in either exactly the same or a similar way, or in a way that has evolved over time; and
 - 11.3. is applying for rights that have not been extinguished as a matter of law.

**GROUND ON WHICH THE CUSTOMARY MARINE TITLE RECOGNITION
ORDER IS SOUGHT**

12. Ngāti Apakura through the Apakura Runanga Trust Inc. seeks a customary marine title recognition order on the grounds that its customary marine title relating to the Apakura Rohe Moana may be recognised by an order of the Court made on an application under s 100 of the Act.
13. Pursuant to s 98 of the Act, the Court may make a recognition order if it is satisfied that the application for customary marine title meets the requirements of s 58 of the Act.
14. Ngāti Apakura meets the requirements in s 58 of the Act because it:
 - 14.1. holds the Apakura Rohe Moana in accordance with tikanga;
 - 14.2. has, in relation to the Apakura Rohe Moana, exclusively used and occupied it from 1840 to the present without substantial interruption to its exclusive use and occupation; and
 - 14.3. the customary marine title has not been extinguished as a matter of law.
15. In terms of matters that may be taken into account in determining whether the applicant group's customary marine title exists in the Apakura Rohe Moana:

- 15.1. Ngāti Apakura have owned land abutting the Apakura Rohe Moana and have done so, without substantial interruption, from 1840 to the present day; and
- 15.2. Ngāti Apakura have exercised non-commercial customary fishing rights in the Apakura Rohe Moana and have done so from 1840 to the present day.

PERSON TO HOLD THE ORDERS

16. The Apakura Runanga Trust Inc. will be the holder of the orders as the representative entity of Ngāti Apakura.

APPLICATION MADE IN RELIANCE

17. This application is made in reliance on sections 51(1), 58, 59, 94, 98, 100, and 101 of the Marine and Coastal Area (Takutai Moana) Act 2011 and the affidavit of Mr Stephen Laing which sets out the basis on which Ngāti Apakura are entitled to the recognition orders sought.

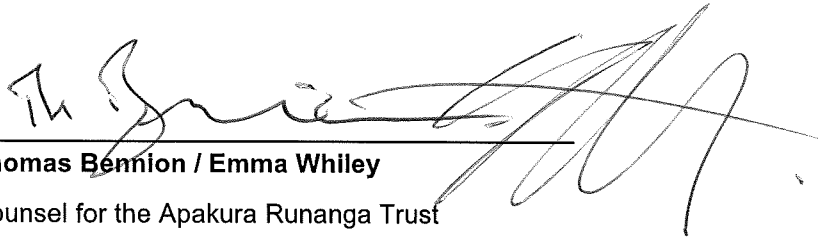
CONTACT DETAILS OF THE APPLICANT AND PERSON NAMED TO HOLD THE ORDER

18. The contact address of the applicant and person named to hold the order is:

Stephen Laing
Secretary Apakura Runanga Trust Inc.
15 Moray Place
Whiritoa
PO Box 117
Whangamata 3643

19. The contract telephone number is: 021 944 748
20. The contract email is: apakurarunangatrust@gmail.com

Dated at Wellington this 26th day of March 2017



Thomas Bennion / Emma Whiley
Counsel for the Apakura Runanga Trust

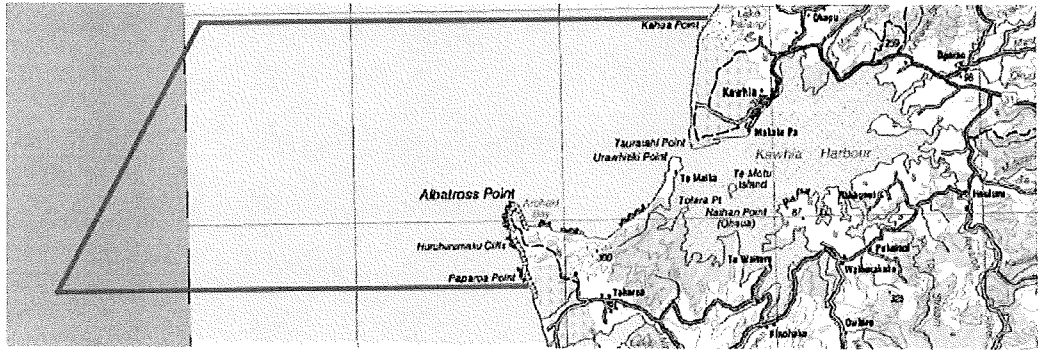
This document is filed by Thomas Bennion, Solicitor for the Apakura Runanga Trust.

The address for service of the Apakura Runanga Trust is at the offices of Bennion Law, First Floor, 181 Cuba Street, Wellington.

Documents for service on the above-named applicant may be left at that address for service or may be:

Posted to the solicitor at PO Box 25-433, Featherston Street, Wellington 6146; or
Transmitted to the solicitor by email to tom@bennion.co.nz.

Appendix A The Apakura Rohe Moana



1. The area is bounded:
 - 1.1. on the landward side, by the line of mean high-water springs; and
 - 1.2. on the seaward side, by the outer limits of the territorial sea; and
2. includes the beds of rivers that are part of the coastal marine area (within the meaning of the Resource Management Act 1991); and
3. includes the airspace above and the water space above the areas described in paragraphs (1.1) and (1.2); and
4. includes the subsoil, bedrock, and other matter under the areas described in paragraphs 1 and 2; and
5. includes the Kawhia Harbour and islands of the Kawhia Harbour being Te Motu Island, Matukaraka Island, Ngatokakairiri Island and Kaiwhai Island.