

In the High Court of New Zealand
Wellington Registry

CIV-2017-485-000210

In the matter of

the Marine and Coastal Area (Takutai
Moana) Act 2011

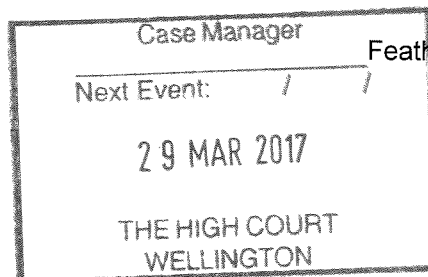
And in the matter of

an application by the Araukuuku Hapū
represented by Clive Moses
Tongaaw'ikau Chairperson of Araukuuku
Hapū seeking recognition orders under
that Act

APPLICATION FOR RECOGNITION ORDERS

Dated 29th March 2017

Counsel: Tom Bennion
Bennion Law
Barristers and Solicitors
PO Box 25433
Featherston Street 6140
Tel: 64-4-4735755
Fax: 64-4-3813276



To: The Registrar of the High Court at Wellington
And to: The Taranaki Regional Council
And to: South Taranaki District Council
And to: the Solicitor-General on behalf of the Attorney-General

THIS DOCUMENT NOTIFIES YOU THAT:

1. Clive Moses Tongaaw'ikau Chairperson of Araukuuku Hapū, on behalf of the applicant group, Araukuuku Hapū, will on 29th March 2017 apply to the Court for recognition orders under the Act relating to a particular area of the common marine and coastal area off the South Taranaki coast described generally as the area between Waihi Stream to Taungatara Stream, bounded on the landward parts by the line of mean high-water springs ("Araukuuku Hapū Application Area") and shown in the attached Map A.
2. The orders sought are protected customary rights and customary marine title in the Araukuuku Hapū Application Area arising from:
 - 2.1. Permanent occupation of land in this coastal area by Araukuuku Hapū and use of the adjoining foreshore and seas for many years before 1840 and up until today without substantial interruption;
 - 2.2. The exercise of Kaitiakitānga;
 - 2.3. Rāhui;
 - 2.4. The use of Tauranga waka (landing, launching, anchoring and mooring of vessels);
 - 2.5. The use of Tauranga ika (anchoring and mooring vessels for fishing purposes);
 - 2.6. The extraction and use of sand, shingle, aggregate, rocks, stone, driftwood, saltwater, pingao, waimaori, nga taonga katoa a Maru me nga taonga katoa a Tangaroa.
 - 2.7. Maara mataitai/non-commercial aquaculture; and
 - 2.8. Using the specified area, including the natural and physical resources within it, for ceremonies associated with burial, baptism and rongoā.

2.9. and all other associated customary uses of the common marine and coastal area in the Application Area.

DESCRIPTION OF APPLICANT GROUP

3. Araukuuku Hapū are an iwi that has occupied their Application Area for many years before 1840. They are represented in this application by the Chairperson of the Araukuuku Hapū who is a descendant of the founders of Araukuuku Hapū.

GROUND ON WHICH THE PROTECTED CUSTOMARY RIGHTS RECOGNITION ORDER IS SOUGHT

4. Araukuuku Hapū through its Chairperson seeks a protected customary rights recognition order on the grounds that its protected customary rights relating to the Araukuuku Hapū Application Area may be recognised by an order of the Court made on an application under s 100 of the Act.
5. 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.
6. The Applicant Group meets the requirements in s 51 (1) of the Act because it:
 - 6.1. has exercised the rights before and since 1840;
 - 6.2. continues to exercise those rights in the Araukuuku Hapū Application Area in accordance with tikanga in either exactly the same or a similar way, or in a way that has evolved over time; and
 - 6.3. 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

7. Araukuuku Hapū through its Chairperson seeks a customary marine title recognition order on the grounds that its customary marine title relating to the Araukuuku Hapū Application Area may be recognised by an order of the Court made on an application under s 100 of the Act.
8. 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.

9. The Applicant Group meets the requirements in s 58 of the Act because it:
 - 9.1. holds the Araukuuku Hapū Application Area in accordance with tikanga;
 - 9.2. has, in relation to the Araukuuku Hapū Application Area, between the Waihi stream to the Waingororo River, exclusively used and occupied it from 1840 to the present without substantial interruption to its exclusive use and occupation; and
 - 9.3. the customary marine title has not been extinguished as a matter of law.
10. In terms of matters that may be taken into account in determining whether the Applicant Group's customary marine title exists in the Araukuuku Hapū Application Area:
 - 10.1. the Applicant Group have owned land adjoining the Araukuuku Hapū Application Area and have done so, without substantial interruption, from 1840 to the present day; and
 - 10.2. the Applicant Group have exercised non-commercial customary fishing rights the Araukuuku Hapū Application Area and have done so from 1840 to the present day.

PERSON TO HOLD THE ORDERS

11. The Chairperson of Araukuuku Hapū will be the holder of the orders as the representative entity of Araukuuku Hapū.

APPLICATION MADE IN RELIANCE

12. 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 Clive Moses Tongaaw'ikau Chairperson of Araukuuku Hapū which sets out in full the basis on which Araukuuku Hapū is entitled to the recognition orders sought.

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

13. The contact address of the Applicant and person named to hold the order is:

Clive Moses Tongaaw'ikau
Chairperson of Araukuuku Hapū
137 Raleigh Street, Brixton, Waitara
The contact telephone number is 021 818 006
The contact email: info@tuutuu.co.nz

Dated at Wellington this 29th March 2017



Thomas H Bennion

Counsel for Clive Moses Tongaaw'ikau, Chairperson of Araukuuku Hapū

This document is filed by Thomas Bennion, Solicitor for Araukuuku Hapū Inc.
The address for service of the Araukuuku Hapū Inc is at the offices of Bennion
Law, First Floor, 181 Cuba Street, Wellington.

Documents for service on the above-named Appellant 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.

Map A – Araukuuku Hapū Application Area

