

IN THE HIGH COURT OF NEW ZEALAND
WELLINGTON REGISTRY

CIV-2017-485-211

IN THE MATTER OF

an application under the **MARINE AND
COASTAL AREA (TAKUTAI MOANA) ACT
2011**

AND

IN THE MATTER OF

an application by the Trustees of Tupoki
Takarangi Trust (1996) on behalf of the original
owners of Parangarahu 2B1 and Parangarahu
2C and their descendants

Applicant

**An application for recognition orders pursuant to the Marine and Coastal Area
(Takutai Moana) Act 2011**

3 April 2017

KAHUI
LEGAL

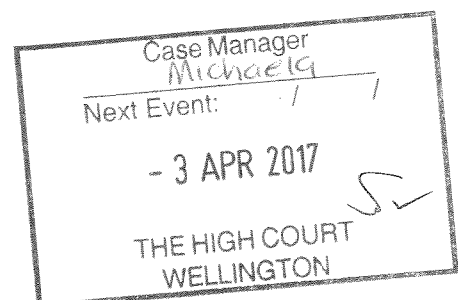
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Counsel: D H Stone / K J Tarawhiti

WELLINGTON



TO: The Registrar of the High Court in Wellington
AND TO: The Solicitor-General on behalf of the Attorney-General
Hutt City Council
Greater Wellington Regional Council

THIS DOCUMENT NOTIFIES YOU THAT:

- A. The applicant, the Trustees of Tupoki Takarangi Trust 1996 (the **Trust**) on behalf of the original owners of Parangarahu 2B1 and 2C Block and their descendants (the **Applicant Group**), will on 3 April 2017 apply to the High Court for orders recognising customary marine title and protected customary rights pursuant to sections 98 and 100 of the Marine and Coastal Area (Takutai Moana) Act 2011 (the **Act**).
- B. The grounds on which the orders are sought are as follows.

Background

1. The owners and beneficiaries of the Trust are direct descendants of those original owners of NgatiAwa, then present in Pito-one Pa, now succeeded by Te Tatau O Te Po Marae. Those original families lived in Pito one Pa and Parangarahu. The Trust represents the owners and their descendants of Parangarahu 2B1 and 2C Blocks (the Applicant Group). The Applicant Group considers that it has continued to exercise mana whenua, mana moana [and kaitiakitanga] over the Parangarahu 2B1 and 2C Blocks coastal area.
2. Sections 94 and 98 of the Act confer on the High Court the jurisdiction to make orders recognising customary marine title and protected customary rights, provided that the Applicant Group meets the tests for customary marine title set out under section 58 of the Act and protected customary rights set out in section 51(1) of the Act.

Orders Sought – section 101(a)

3. The Trust seeks recognition orders from the High Court under section 98 of the Act for:

- (a) customary marine title over the Coastal Marine Area contiguous, adjoining and abutting Parangarahu 2B1 and 2C Blocks (the Trust considers it meets the tests for customary marine title set out under section 58 of the Act); and
- (b) protected customary rights within Coastal Marine Area contiguous, adjoining and abutting Parangarahu 2B1 and 2C Blocks (the Tupoki Takarangi Trust 1996 considers it meets the tests for protected customary rights set out under section 51 of the Act).

Protected customary rights – section 101(b)

4. The Tupoki Takarangi Trust 1996 seeks recognition orders for the exercise of kaitiakitanga as a protected customary right which includes, but is not limited to:
- (a) activities related to spiritual practices (such as rahui);
 - (b) extracting non-nationalised and nationalised minerals, aggregate, rock and other materials;
 - (c) collecting drift wood and other natural resources;
 - (d) temporary and permanent camp-sites for ceremonial activities in the common marine and coastal area;
 - (e) tauranga waka;
 - (f) the gathering, use, planting and cultivating plant species such as flax, tī kouka, karaka, pingao, karengo;
 - (g) the collection and harvesting of rongoa such as kawakawa for illness and general health; and
 - (h) activities associated with the operation of a fishing kainga.

The Applicant Group – section 101(c)

5. The Applicant Group is the original owners of Parangarahu 2B1 and 2C Block and their descendants. The Applicant Group comprises of individuals who descend from Tupoki Takarangi.

6. The Trust is an ahu whenua trust established by the Māori Land Court pursuant to Te Ture Whenua Māori Act 1993 and by way of Trust Order dated 14 June 1996, 59 Aotea Minute Book 202-203, Application No.58 596/59596.

The Application Area – section 101(d)

7. The area to which this application relates is the common marine and coastal area (as defined in section 9 of the Act) that is bounded:
 - (a) on the landward side by the line of mean high-water springs;
 - (b) on the seaward side by the outer limits of the territorial sea;
 - (c) on the eastward side by a surveyed line that identifies the eastern boundary of the Parangarahu Block 2B1 and by a surveyed line that identifies the western boundary that identifies the western boundary of the Parangarahu 2C Block.
 - (d) the area identified on the map annexed and marked “A” to this Application.

Grounds on which the Application is made – section 101(e)

8. On behalf of the Applicant Group, the Trust submits that the necessary requirements for customary marine title (section 58 of the Act) are satisfied, in particular:
 - (a) the Applicant Group holds the Application Area in accordance with tikanga since approximately 1835 (section 58(1)(a));
 - (b) the Applicant Group has, in relation to the Application Area exclusively used and occupied the Application Area from approximately 1835 to the present day without substantial interruption (section 58(1)(b));
 - (c) the Applicant Group owns part of the land abutting the Application Area and have done so without substantial interruption, from 1840 to the present day (section 59(1)(a)(i));

- (d) the Applicant Group exercises non-commercial customary fishing rights in the Application Area and have done so from 1840 to the present day (section 59(1)(a)(ii)); and
- (e) as set out in the affidavit of John NgatiAwa Warren in support of this application.

9. The Trust, on behalf of the Applicant Group, seeks leave to file further evidence to support this application at a later date if necessary.

The holder of the recognition orders – section 101(f)-(g)

10. For the purposes of this application, the holder of the recognition orders will be the Trust (or, in the event that the holders must be a natural person, the Trustees of the Trust in their capacity as Trustees).

11. The contact details of the Trust are:

Tupoki Takarangi 1996 Trust

PO Box 38439

Wellington Mail Centre

Affidavits in Support – section 101(h)

12. This application is supported by the affidavit of John NgatiAwa Warren and set out the basis on which the Applicant Group claims to be entitled to the recognition orders for customary marine title and protected customary rights over the Application Area.

Adjournment

1. The Act provides two pathways for the recognition of customary marine title and protected customary rights; namely through:

- (a) a recognition agreement with the responsible Minister on behalf of the Crown made in accordance with section 95 and brought into effect under section 96; and
- (b) an order of the Court made on an application under section 100.

2. In parallel with this application, the Trust have also filed an application with the responsible Minister on behalf of the Crown to enter into a recognition agreement.
3. On that basis, the Trustees seek a six (6) month adjournment from the High Court to undertake discussions with the responsible Minister on behalf of the Crown to enter into a recognition agreement. Should the Trustees require a further adjournment following the initial 6 month period to continue discussions with the Crown to reach an agreement, the Trustees will seek the leave of the High Court.
4. This application is made on reliance on section 58 and 59 of the Act, the affidavit of John Ngati Awa Warren and *Re Tipene* [2016] NZHC 3199.

DATED at Wellington this 3rd day of April 2017



D H Stone / K J Tarawhiti
Counsel for the Applicant

THIS application is filed by **DAMIAN HOHEPA STONE** and **KATE JANINE TARAWHITI**, solicitors of the firm Kahui Legal. The address for service of the Applicant is at the office of Kahui Legal, Solicitors, Level 11, Intilecta Centre, 15 Murphy Street, Wellington.

Documents for service on the Applicant may be left at that address for service or may be:

- (a) posted to the solicitor at PO Box 1654, Wellington;
- (b) transmitted to the solicitor by facsimile on 04 495 9990; or
- (c) emailed to the solicitor at damian@kahuilegal.co.nz and kate@kahuilegal.co.nz.

Documents served on the Applicant should be marked for the attention of D H Stone and K J Tarawhiti.

NO.	REVISION	BY	DATE
A.	TOTAL ISSUE		



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CLIENT
TUPOKI TAKARANGI TRUST

PROJECT
TAKARANGI BLOCK

DRAWN TITLE
BOUNDARY OVERLAY & PASTURE AREAS

DESIGN CONSULTANT

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