

IN THE HIGH COURT OF NEW ZEALAND
WELLINGTON REGISTRY

CIV: 2017 485 219

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

AND IN THE MATTER OF an application by **MITA MICHAEL RIRINUI**
as Chairperson of the **NGĀTI HE HAPU**
TRUST for and on behalf of **NGĀTI HE** 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**

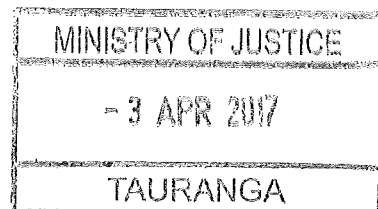
Dated: 3 April 2017



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

- To:** the Registrar of the High Court at Wellington
- And to:** the Attorney General of New Zealand
- And to:** the Minister of Local Government as the territorial authority for Motiti Island
- And to:** Bay of Plenty Regional Council

This document notifies you that:

1. The Applicant applies to the High Court for orders pursuant to s 98 of the Marine and Coastal Area (Takutai Moana) Act 2011 (**Act**) recognising that Ngāti He holds:
 - 1.1 Customary Marine Title pursuant to s 58 of the Act including recognition of waahi tapu pursuant to s 78 of the Act; and
 - 1.2 Protected Customary Rights pursuant to s 51 of the Act.

Applicant

2. The Applicant is the Chairperson of the Ngati He Hapu Trust established by trust deed dated 23 October 2013 to represent Ngāti He (**Trust**). The Trust was mandated to represent Ngāti He by hapu members at a Ngati He hui a hapu.
3. The Trust is recognised by the Ngai Te Rangi Settlement Trust as the representative of Ngāti He and an appropriate entity to receive Treaty of Waitangi settlement assets and distributions.

Ngāti He

4. Ngāti He is a hapu of Ngai Te Rangi.
5. The founding ancestor of the hapu is Turāpaki.
6. Ngati He source their mana, tino rangatiratanga and kaitiakitanga from:
 - 6.1 the Ngai Te Rangi conquest of Tauranga Moana; and
 - 6.2 the acquisition of rights through ahi kaa and whanaungatanga.
7. Ngati He has continuously exercised mana, tino rangatiratanga and kaitiakitanga in their rohe since the seventeenth century to the present day.
8. Ngati He retains ownership of blocks of Maori freehold land adjacent to or including the common marine and coastal area. Such blocks include:
 - 8.1 Maungatapu No.2;

- 8.2 Maungatapu No 1P;
- 8.3 Lot 1 DP South Auckland 14986 – Maungatapu marae Maori reservation;
- 8.4 Maungatapu No 3;
- 8.5 Waitaia 2A;
- 8.6 Te Ahipoutu;
- 8.7 Te Ngaio No 1;
- 8.8 Lot 2 DP South Auckland 18945;
- 8.9 Section 1 SO Plan 59391 and Part Ranginui No 4 block;
- 8.10 Ranginui 12;
- 8.11 Ranginui No 1B; and
- 8.12 Ranginui 2B.

Application Area

- 9. The area to which this application relates is the common marine and coastal area (as defined in s 9 of the Act) in the following area:
 - 9.1 Around the Maungatapu peninsular;
 - 9.2 in and around the Waimapu estuary;
 - 9.3 along the Te Papa peninsular through Te Awanui and to Mauao and out to the coast;
 - 9.4 in and around Te Tahuna o Rangataua (Rangataua Harbour) including the souther side of the Matapihi peninsular; and
 - 9.5 along the coast from Mauao to Te Tumu and out to sea.

Recognition order for Customary Marine Title

- 10. The Applicant repeats paragraphs 4-8 and seeks a recognition order for Customary Marine Title for the Application Area on the grounds that the Application Area:
 - 10.1 is held in accordance with the tikanga of Ngati He; and
 - 10.2 has been exclusively used and occupied by Ngati He from 1840 to the present day without substantial interruption.
- 11. The order for customary marine title should be in the name of the trustees of the Ngati He Hapu Trust as representatives of Ngati He.

Recognition order for Protected Customary Rights

- 12. The Applicant repeats paragraphs 4-8 and seeks a recognition order for the following Protected Customary Rights in the Application Area:

- 12.1 exercise of kaitiakitanga over the moana, awa, islands, islets, rocks and waters of Ngati He;
 - 12.2 exercise of kaitiakitanga over waahi tapu, sites of significance, customary resource gathering areas and generally within the common marine and coastal area;
 - 12.3 collecting customary resources from the common marine and coastal area;
 - 12.4 seeding or gathering fish and seafood;
 - 12.5 the mooring, launching and landing of waka;
 - 12.6 planting, cultivating or gathering plants and aquatic flora;
 - 12.7 extracting minerals;
 - 12.8 collecting stone, wood and other natural resources; and
 - 12.9 nohoanga.
13. The Applicant seeks a recognition order on the following grounds:
- 13.1 Ngati He has exercised the Protected Customary Rights in the Application Area since 1840;
 - 13.2 Ngati He continues to exercise the Protected Customary Rights in accordance with tikanga in the Application Area; and
 - 13.3 the Protected Customary Rights have not been extinguished by law.
14. The recognition order for the Protected Customary Rights should be in the name of the trustees of the Ngati He Hapu Trust as representatives of Ngati He.

Affidavit and legal principles

15. This application is made in reliance on:
- 15.1 the affidavit of Mita Michael Ririnui sworn on 3 April 2017; and
 - 15.2 *Re Tipene* [2016] NZHC 3199.

Date: 3 April 2017



S T Webster
Counsel for Ngāti He Hapu Trust