

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

CIV-2017-485-000221

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

AND

IN THE MATTER OF an application by the Trustees of the Ngāti Kahungunu ki Wairarapa Tamaki nui-ā-Rua Settlement Trust, on behalf of the applicant group Ngāti Kahungunu ki Wairarapa Tamaki nui-ā-Rua for Recognition Orders for Customary Marine Title, Wāhi Tapu Protection and Protected Customary Rights

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

30 MARCH 2017

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Lawyers & Mediators

Case Manager

Next Event: / /

30 MAR 2017

THE HIGH COURT
WELLINGTON

TO the Registrar of the High Court at Wellington

AND TO the Solicitor General on behalf of the Attorney General

AND TO the Greater Wellington Regional Council; Horizons Regional Council; Tararua District Council; Masterton District Council, South Wairarapa District Council; and Carterton District Council

This document notifies you that—

1. The applicants, the Trustees of the Ngāti Kahungunu ki Wairarapa Tamaki nui-ā-Rua Settlement Trust, will, on behalf of the applicant group Ngāti Kahungunu ki Wairarapa Tamaki nui-ā-Rua, apply to the court for recognition orders for:
 - 1.1. Customary Marine Title in the application area;
 - 1.2. Wāhi Tapu Protection in the application area; and
 - 1.3. Protected Customary Rights in the application area.
2. The applicant group Ngāti Kahungunu ki Wairarapa Tamaki nui-ā-Rua are a collective of Ngāti Kahungunu hapū with customary rights and interests in Wairarapa and Tamaki nui-ā-Rua. The applicant group is represented by the Trustees of the Ngāti Kahungunu ki Wairarapa Tamaki nui-ā-Rua Settlement Trust, the applicants in this application.
3. The application area is the area means the common marine and coastal area that is bounded—
 - 3.1. on the landward side, by the line of mean high-water springs; and
 - 3.2. on the seaward side, by the outer limits of the territorial sea; and
 - 3.3. on the Northern end, by a point just north of Poroporo at latitude: - 40.44568 and longitude: 176.62323; and

- 3.4. on the Southern end, by Turakirae Head at latitude: -41.43767 and longitude: 174.91848; and
 - 3.5. as depicted in the map of the Ngāti Kahungunu ki Wairarapa Tamaki nui-ā-Rua area of interest annexed to this application.
4. The grounds on which each order is sought are as follows:
- 4.1. Ngāti Kahungunu ki Wairarapa Tamaki nui-ā-Rua holds the application area in accordance with tikanga, has exclusively used and occupied it from 1840 to the present day without substantial interruption and customary marine title has not been extinguished as a matter of law; and
 - 4.2. The application area is a wāhi tapu or wāhi tapu area with which Ngāti Kahungunu ki Wairarapa Tamaki nui-ā-Rua has a connection in accordance with tikanga, and Ngāti Kahungunu ki Wairarapa Tamaki nui-ā-Rua requires the following prohibitions or restrictions on access to protect it:
 - 4.2.1. In the whole application area:
 - 4.2.1.1. Access is restricted to only those parts of the application area where there has not been a drowning, death or a body or kōiwi found, or where Ngāti Kahungunu ki Wairarapa Tamaki nui-ā-Rua have taken the necessary steps to deal with the drowning or death and the place where the kōiwi or body was found in accordance with tikanga, for example by performing karakia or completing a period of rāhui, in order to protect the wāhi tapu by restoring the tapu to the correct level; but
 - 4.2.1.2. The appropriate members of Ngāti Kahungunu ki Wairarapa Tamaki nui-ā-Rua may take the necessary steps to deal with the drowning or death and the place where the kōiwi or body was found in accordance with

tikanga, for example by performing karakia or completing a period of rāhui; and

4.2.1.3. Pollution, littering, gutting fish onto the beach or into the water, over-exploitation or wasting resources is prohibited in the application area; and

4.2.2. In the parts of the application area which are parts of rivers (between the mouths of any rivers in the application area and the upriver boundary of the common marine and coastal area) urinating and defecating in the rivers is prohibited

4.3. Ngāti Kahungunu ki Wairarapa Tamaki nui-ā-Rua have customary rights to:

4.3.1. take, utilise, gather, manage and/or preserve all natural and physical resources including sand, shells, stones, gravel, pumice, driftwood, kōkōwai, wai tapu, inanga and kōkopu, as and when required, for purposes and to the extent determined by Ngāti Kahungunu ki Wairarapa Tamaki nui-ā-Rua subject to tikanga;

4.3.2. utilise, manage, preserve and develop tauranga waka for the purposes and to the extent determined by Ngāti Kahungunu ki Wairarapa Tamaki nui-ā-Rua subject to tikanga;

4.3.3. seed and harvest shellfish for non-commercial purposes;

4.3.4. utilise, manage, preserve and develop traditional routes of travel for the purposes and to the extent determined by Ngāti Kahungunu ki Wairarapa Tamaki nui-ā-Rua subject to tikanga;

4.3.5. utilise, manage, preserve and develop the application area as a place to demonstrate manaakitanga to visitors for the purposes and to the extent determined by Ngāti Kahungunu ki Wairarapa Tamaki nui-ā-Rua subject to tikanga;

4.3.6. hold wananga in the application area to teach younger generations and to share knowledge; and

4.3.7. undertake and implement cultural practices such as rahui and blessings in the application area in accordance with Ngāti Kahungunu ki Wairarapa Tamaki nui-ā-Rua tikanga.

Ngāti Kahungunu ki Wairarapa Tamaki nui-ā-Rua have exercised these rights since 1840, continue to exercise them in the application area and they have not been extinguished as a matter of law; and

4.4. The further grounds as set out in the affidavit of Robin Te Huna Potangaroa dated 30 March 2017.

5. The application is made in reliance on Part 3 of the Marine and Coastal Area (Takutai Moana) Act 2011.

6. The applicants name the Trustees of Ngāti Kahungunu ki Wairarapa Tamaki nui-ā-Rua Settlement Trust as the persons to be the holder of the order as the representative of Ngāti Kahungunu ki Wairarapa Tamaki nui-ā-Rua.

7. The contact details for Ngāti Kahungunu ki Wairarapa Tamaki nui-ā-Rua are:

The Trustees of the Ngāti Kahungunu ki Wairarapa Tamaki nui-ā-Rua Settlement Trust

Physical Address: 189 Queen Street Rear, Masterton 5840

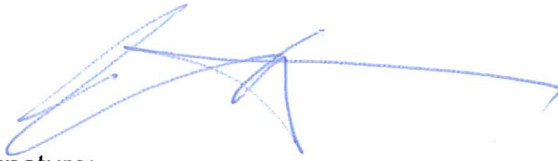
Postal Address: PO Box 756, Masterton 5840

Phone: 06 216 1277

Email: admin@kkwtnr.org.nz

8. The contact details for the persons named to hold the order are as set out at 7 above.

Date: 30 March 2017

A handwritten signature in blue ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Signature:

(Solicitor for applicants)

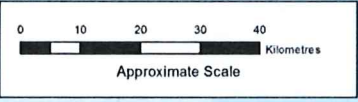
This document is filed by Jennifer Michelle Braithwaite, solicitor for the applicants, of the firm Braithwaite & Smail Limited. The address for service of the applicants is Ngāti Kahungunu ki Wairarapa Tamaki nui-ā-Rua Settlement Trust, 189 Queen Street Rear, Masterton 5840.

Documents for service on the filing party may be left at that address for service or may be—

- (a) posted to the solicitor at PO Box 13 243, Onehunga 1643; or
- (b) emailed to the solicitor at jennifer@braithwaitesmail.co.nz.



This map is for Treaty settlement purposes only. Ngāti Kahungunu ki Wairarapa Tāmaki Nui-ā-Rua and the Crown acknowledge other iwi may also have interests within this area.



OTS - 203 - 01

Hawke's Bay and Wellington Land Districts
 Territorial Authority: Tararua, Masterton, Carterton, Kapiti Coast, South Wairarapa, Central Hawke's Bay and Horowhenua Districts
 Lower Hutt City and Upper Hutt City
 Compiled as a graphic representation
 Boundaries are indicative only



Area of Interest

Areas referred to in the Deed of Settlement between
 Ngāti Kahungunu ki Wairarapa Tāmaki Nui-ā-Rua and the Crown

Approved as to boundaries:
 DRAFT - FOR DISCUSSION
 for Ngāti Kahungunu ki Wairarapa
 Tāmaki Nui-ā-Rua
 PURPOSES ONLY 5/10/2016
 for and on behalf of the Crown